

Town of Cheshire, Board of Health
DRAFT Piggery Regulations 1_8_19

1.0 PURPOSE AND AUTHORITY

In recognition that the inappropriate operation of a piggery has the potential to be injurious to the public health and the environment, the Board of Health of the Town of Cheshire ("Board") adopts these regulations in accordance with and under authority derived from Massachusetts General Law Chapter 111, Sections 31, 125A and 143.

2.0 DEFINITIONS

Abutter: Owners of land next to or directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the Property upon which the Pigs or Piggery are located as they appear in the most recent applicable tax list, notwithstanding that land of any such owner is located in another city or town.

Applicant: Person who applies for a permit to operate a Piggery or keep Pigs.

Best Management Practice: A method, process, or activity, that is believed, based upon other proven experiences or situations, to be more effective at delivering a particular outcome and/or as identified by the UMASS Amherst Extension or Massachusetts Department of Agriculture as being Best Management Practices.

Board: The Cheshire Board of Health

Breeding Operation: A Piggery at which a boar capable of impregnating a sow and a sow are located together.

Certified Abutters List: A list of Abutters commonly containing map, lot, location, owner and mailing address as provided by the Town of Cheshire according to their usual procedures.

Dwelling: Any building, shelter or structure used or intended for human habitation.

Facility: The total accommodations for keeping or housing of Pigs, including, but not limited to, pens, pastures, operational confines, barns, stables, sheds or other structures used for the intent of providing shelter or confinement for Pigs, storage of manure or other wastes, or related uses.

Garbage: Any meat waste, or meat waste combined with food waste, resulting from handling, preparation, cooking and consumption of foods, including animal carcasses or parts thereof not permitted. The term "meat" is broadly defined to include red meat, poultry or fish/seafood. Some examples of foods that, so long as they are not contaminated by meat waste, are **not** defined as "garbage" include:

- (a) Milk and dairy products
- (b) Candy and candy waste
- (c) Bakery products and bakery waste
- (d) Table (non-fertile) eggs

(e) Produce

Health Agent: Any person duly appointed by the Cheshire Board of Health to act on the Board's behalf.

NCRS: United States Department of Agriculture National Resources Conservation Services.

Noisome Impact: Malodorous and excessively persistent odors or excessive number of flies.

Nuisance: Any unsanitary condition, which the opinion of the Board is conducive to, or results in an excess of, breeding flies, creation of malodors, vermin infestation, liquid effluent, runoff, disease carriers, noise, dust, loose animals or other conditions that occur in such concentrations and of such duration as to be a nuisance or injurious or, on the basis of current information, potentially injurious to human health or unreasonably interfere with the comfortable enjoyment of life and property.

Operator: The owner of the pigs, as well as any agent or designee of said owner, who is responsible for the care and maintenance of the pigs and piggery.

Person: An individual, partnership, corporation, firm, association, trust or group, including, but not limited to, private, non-profit and governmental agencies.

Pig: A weaned Pig over ten (10) weeks of age.

Piggery: A Facility where three or more Pigs over the age of 10 weeks, or 10 or more Piglets are kept.

Piglet: A nursing Pig, less than ten (10) weeks of age.

Property: The lot or other contiguous lots in common ownership on which the Piggery is located.

Site Owner: The person who owns the land the Piggery is located on.

Town: The Town of Cheshire

3.0 APPLICABILITY

These regulations apply to all persons that own, lease, license or operate a Piggery on property located within the Town of Cheshire.

- 3.1 Any Person who keeps three or more Pigs, or ten or more Piglets, shall apply for a Permit from the Board pursuant to these regulations.
- 3.2 No Person may keep Pigs except as provided in these Regulations.
- 3.3 The keeping of a single Pig or pair of Pigs, or fewer than 10 Piglets is not subject to these Regulations, but shall be subject to all other applicable laws and Board of Health regulations.

4.0 PERMIT REQUIREMENTS

No person shall own, lease, license or operate a Piggery on property located within the Town of Cheshire without first obtaining a valid Piggery Permit from the Board of Health.

4.1 General Permit Provisions

- 4.1.1 All Piggery Permits shall expire on December 31st of each year unless sooner revoked.
- 4.1.2 The Board of Health may require approval from the Building Department, Zoning Board of Appeals and/or Conservation Commission, or any other relevant Board or Commission, prior to the issuance of the permit.
- 4.1.3 No permit shall be issued, or pigs kept on site, unless the Operator, or a designee of the Operator who is responsible for operating the Piggery, resides on the property where the Piggery is located.
- 4.1.4 The Applicant acknowledges the right of the Board of Health and its Agents to inspect the Piggery as a condition of receiving or renewing a permit or in response to a complaint, in accordance with Section 7.0 of these regulations.
- 4.1.5 Unless otherwise set forth herein, the Board may issue a permit for a new Piggery hereunder only after a public hearing has been held in accordance with generally accepted practices of the Board, and as detailed in Section 4.3.
- 4.1.6 Permits may be revoked, modified or not reissued based upon a reasonable basis found by the Board following notice and a public hearing. Such basis may include, but is not limited to, violation of any term of a Permit issued under these Regulations.
- 4.1.7 Any Permit issued hereunder may be revoked by the Board or its Agent without a public hearing, if, in the opinion of the Board or its Agent, conditions exist that may endanger the health, safety or welfare of the pigs, or the general public by creating a public health nuisance. The permit holder shall have the right to appeal the revocation at a public hearing of the Board within ten (10) days of the revocation in the event no hearing was held prior to revocation.
- 4.1.8 No Permit issued hereunder shall be transferable to a new holder without the prior approval of the Board, following a public hearing.
- 4.1.9 Any change in names or contact information of the Owner or Operator must be provided to the Board within 48 hours of such change.
- 4.1.10 Any Operator must also register with the Cheshire Animal Inspector, and permission to inspect the Facility where Pigs are kept granted in accordance with MGL Section 7 of Chapter 129.

4.2 Permit Application Content and Requirements

A complete new or renewal application, on a form established by the Board of Health, and accompanied by the effective fee, must be submitted by the Site Owner or Operator at least 30 days prior to renewal or the start of operations. Incomplete applications will be rejected with no right of hearing. The application may include such information as the Board deems necessary to ensure the operation will not cause a nuisance or have an adverse effect on public health, safety or the environment or the pigs' health and safety, and shall include, without limitation, the following:

- 4.2.1 Name and address of the Facility Owner and the Operator of the Piggery, if different.
- 4.2.2 Contact information for the Operator or other designated individual where the Operator or other designated individual may be reached 24 hours a day, 7 days per week.

- 4.2.3 A site plan, with a scale of not less than 1" to 20' showing the Property to be used, location of all existing or proposed fences, structures and buildings located within the Property, location of any existing or proposed Dwelling on the Property or abutting properties which are within 250 feet of the Piggery Facility, all potable water wells, surface water or other water supplies within 300 feet of the Piggery, and all Wetlands within 300 feet of the Piggery.
- 4.2.4 A detailed explanation of how the performance standards set forth herein will be met, including a plan for manure and waste management (Manure Management Plan) that meets the requirements of Section 6.1.
- 4.2.5 The maximum number of Pigs, including Piglets, that will be kept at the Piggery.
- 4.2.6 Certified Abutters' List, with a copy of the Assessors' map outlining the Property and abutting properties within 1,000 feet of the Facility property line.
- 4.2.7 A copy of the relative section of a USGS Topographic Map.
- 4.2.8 Certification that all information provided by the Applicant is true and accurate to the Applicant's best knowledge and belief. Submission of a false or inaccurate application, or any supporting information to an application, is a violation of these regulations and will cause the application to be rejected without a hearing or constitute grounds to revoke the permit, without hearing.

4.3 Public Hearing

The Board shall hold a public hearing and find that the Piggery complies with these Regulations and will not be a Nuisance or have a Noisome Impact before a new permit may be granted to any Piggery within the Town boundaries.

- 4.3.1 The Applicant shall notify all abutters within 300 feet of the proposed facility of the intent to operate a Piggery at the intended location with the date, time and place of the public hearing.
- 4.3.2 The Applicant shall provide evidence of notification by collecting property owner's signatures OR by certified/return receipt requested letter.
- 4.3.3 Abutters shall be notified at least ten (10) business days before the hearing.
- 4.3.4 At the Applicant's expense, the Board shall place an advertisement in a local newspaper to notify the public of the hearing stating the purpose, time, date and location of the hearing at least ten (10) days prior to the scheduled date of the hearing.

5.0 Site Location and Setback Requirements

5.1 No Piggery Facility shall be located closer than the following:

- 5.1.1 300 feet to a dwelling located on an adjacent property, a school, church, public park, playground, hospital, nursing home, rest home or public building.
- 5.1.2 100 feet to any adjoining property lot lines
- 5.1.3 200 feet to the line of any public or private way or street, highway, court or passageway
- 5.1.4 500 feet to any public water supply and its tributary streams
- 5.1.5 150 feet to any private water supply or irrigation supply and its tributary streams
- 5.1.6 200 feet to any surface or subsurface drain
- 5.1.7 Wetland setbacks as governed by the Massachusetts Wetlands Protection Act.
- 5.1.8 100 feet to any milk handling area or human food crop area

- 5.2 All manure disposal or storage areas shall be located no closer than the following:
- 5.2.1 200 feet from any ground water used as a potable water source.
 - 5.2.2 500 feet from an abutter's dwelling
 - 5.2.3 50 feet from a floodplain
 - 5.2.4 There must be at least a 25-foot-wide vegetated buffer zone between any manure storage or disposal and Wetlands or watercourses and adjacent property lines.

6.0 Piggery Operations Performance Standards

Best Management Practices for the keeping of Pigs and Piglets shall be employed at all times including, but not limited to, the control or elimination of odor, flies and vermin.

6.1 Manure Management (Manure Management Plan)

- 6.1.1 All manure and other byproducts shall be maintained in such a way that they do not become a Nuisance to abutters or the public.
- 6.1.2 All manure and other byproducts shall be contained within an earthen berm or other suitable feature or structure, and kept in such a manner that they do not runoff onto uncontained areas or abutting properties.
- 6.1.3 All locations of manure stockpiles, pits or lagoons shall be carefully chosen to minimize the impacts on abutting properties and Wetlands and watercourses, with due consideration of slopes and prevailing winds. No manure shall, except in the cultivation of and use of soil in ordinary methods of agriculture, be put on the ground within 200 feet of the high-water mark of any water supply. Manure shall not be piled or stacked in a manner where stormwater or flooding will carry the manure into surface waters.
- 6.1.4 No Piggery Operator shall willfully or through negligence cause, suffer, allow or permit drainage or liquid effluent containing urine or fecal matter to be discharged in runoff, or to flow upon the surface of the ground onto neighboring property, public ways, Wetlands or watercourses.
- 6.1.5 No Piggery Operator shall willfully or through negligence, cause, suffer, allow or permit unreasonable odor which cause a Nuisance or have a Noisome Impact on neighboring properties or in the public ways.
- 6.1.6 When manure spreading is part of the Manure Management Plan, it may only be spread upon the ground when such ground is in condition to plow and must be plowed under within 24 hours.
- 6.1.7 All feeding pads and areas must be cleaned at intervals sufficient to maintain sanitary conditions and avoid the ponding of mud and animal waste.
- 6.1.8 Manure and refuse in outdoor pens shall be cleaned and managed so that it will not constitute a Nuisance.
- 6.1.9 Manure and soiled bedding shall be handled and treated as necessary to prevent the escape of odors and the excessive attraction and/or breeding of flies and/or vermin.
- 6.1.10 Odor control measures must be part of the Manure Management Plan.
- 6.1.11 Drainage from Piggery shall be directed to pretreatment areas designed by a Registered Professional Engineer licensed to practice in the Commonwealth of Massachusetts and approved by the Massachusetts Department of Environmental Protection in the following cases:
 - 6.1.11.1 When located within 200 feet of a Wetland or watercourse

6.1.11.2 When the Board determines it is necessary to protect the public and/or environmental health

6.2 Feeding

- 6.2.1 Foodwaste and Garbage may only be fed to Pigs in accordance with 330 CMR 11.00.
- 6.2.2 All feeding of Pigs shall occur upon cement or other arrangement acceptable to the Board. All feeding arrangements shall be designed in a manner that minimizes waste, prevents rodent infestation and facilitates regular cleaning.
- 6.2.3 All methods of feeding shall be designed in such a way that Pigs can be excluded from the feeding bins or feed areas.
- 6.2.4 Food may not be stored upon the ground. All food shall be stored under cover or on cement.
- 6.2.5 No food or manure shall be allowed to accumulate around the feeding area or platform or on the ground.
- 6.2.6 Clean water shall be provided at all areas where Pigs are kept and shall be readily available, adequate and from a potable water source, preferable under pressure from swine fountains. Adequate water shall also be available for cleaning purposes.

6.3 Buildings/structures

- 6.3.1 All buildings, structures or pens used to house Pigs shall be properly constructed and ventilated and comply with all building codes and shall be designed, arranged, located and maintained so as to minimize odors and to prevent harborage, shelter or feeding of vermin. Such buildings shall be so designed and constructed so that the accumulation of offensive material can be readily removed. Piggery housing must be constructed and maintained to provide adequate dry space, control dust, odors and disease, and nurture the health of the animals.
- 6.3.2 All roofs shall be water and weather tight.
- 6.3.3 Walls shall be suitably treated with whitewash, paint or other materials approved by the Board to prevent absorption of odors and waste.
- 6.3.4 All buildings used for housing of Pigs shall be kept in a clean and satisfactory condition.

6.4 Fencing

Outdoor pasture or corrals are encouraged.

- 6.4.1 The free-ranging of Pigs upon the land without barriers or fencing is prohibited.
- 6.4.2 Fencing shall be adequately designed, installed and maintained to restrict the movement of Pigs at all times of the year.
- 6.4.3 Fencing shall be of strong woven wire fencing or other suitable durable fencing that will contain the Pigs as approved by the Board.

6.5 Quarantine Confinement

- 6.5.1 In the event that a quarantine of the Pigs is issued, the Operator shall confine the Pigs subject to the quarantine in a manner that allows for the testing of the animals as prescribed by the Massachusetts Department of Agriculture (MDAR).

The Operator shall take all other actions as directed by the Board of MDAR to implement the quarantine.

6.6 Solid Waste Rules

- 6.6.1 All state and Town laws and regulations pertaining to the transportation and disposal of solid waste, including, but not limited to, the prohibition of the burial or burning of manure or solid waste other than permitted agricultural materials, are incorporated herein by reference.
- 6.6.2 Dead animals shall either be composted or taken away within 24 hours by a licensed rendering hauler. The Board may approve other disposal as permitted by law or Best Management Practice.

6.7 Emergency Contact

- 6.7.1 Emergency contact numbers shall be posted on site and provided to the Board, such that the Operator or the Operator's designee may be reached at any time in the event of an emergency.

7.0 Inspections

7.1 Right to Inspect

- 7.1.1 All Piggeries shall be inspected at least once annually, and more often as necessary, to ensure the Piggery is permitted, located and operated in accordance with these regulations. Inspections may be done with or without prior notice to the Operator.
- 7.1.2 Any Agent or designee of the Board may enter onto any Property at which Pigs are located and enter any buildings or parts thereof in conducting a routine inspection or in response to a complaint.
- 7.1.3 It is a violation of these regulations to prevent, obstruct or interfere with an inspector or other person having authority in the performance of any of that inspector's duties, or hinder, obstruct or interfere with such inspection or examination, or secrete or remove any animal for the purpose of preventing it from being inspected.

8.0 Fees

Fees shall be set by the Board annually and published as part of its Fee Schedule.

9.0 Enforcement

These regulations and permits hereunder shall be enforced by the Board and its authorized Agents for the Town of Cheshire. The Board or its Agent may pursue all civil and criminal remedies for violations, including violation notice, administrative order or criminal court action, as applicable.

9.1 Critical Violations

- 9.1.1 Any violation hereof that is deemed an immediate threat to the public health and welfare by the Board or its Agent, or any permit holder who has been the subject of three (3) or more violations within a six (6) month period shall be deemed a Critical Violation and the Piggery Permit shall be revoked immediately hereunder.
- 9.1.2 A hearing shall be held upon the matter by the Board within 30 days.

9.1.3 A person found guilty of a Critical Violation may be subject to a fine of up to \$1,000 per day upon conviction.

9.2 Non-critical Violations

9.2.1 A Non-Critical Violation is any violation not deemed an immediate threat to the public health or welfare. A Person who has received a Non-critical Violation, and who does not correct said violation in the time period set in the notice, shall be subject to a fine of [does the town have a non-criminal disposition by law in accordance with MGL c. 40, section 21D?]

9.3 Notification of any violation shall be in writing that will include the nature of the violation and the number of days in which the violation must be corrected.

9.4 Each day of non-compliance herewith shall be deemed a separate offense hereunder.

9.5 Written orders to enforce the provisions of these regulations hereunder, may include, without limitation:

9.5.1 Cease and desist from actions in violation of the regulations

9.5.2 Actions to remediate conditions that violate the regulations or otherwise cause a nuisance, or an adverse impact on public health, safety, the environment or health and safety of the Pigs.

9.5.3 Removal of any or all of the Pigs

9.5.4 Suspension and/or termination of Piggery operations and the revocation of the Permit.

9.6 Past violations of any type and the Applicant's resolution thereof, or not, of said violations, may be considered by the Board in any permit renewal or revocation process.

10.0 Variances

Any Applicant for, or holder of a Permit hereunder, may request a variance from any of the provisions herein.

10.1 The Board may grant the request for a variance upon a showing that the enforcement of such a provision would, in the Board's determination after review of the evidence presented by the Applicant, result in a significant hardship or manifest injustice for the Applicant or Permit Holder and will not be detrimental to the public health or welfare or to the welfare and health of the Pigs. The Board, in its discretion, may limit the term of a variance.

10.2 Said hardship shall not be solely based upon economic circumstances.

11.0 Appeals

Decisions and orders of the Board shall be final. Any Applicant or Permit Holder aggrieved by a final decision of the Board may appeal said decision to a court of competent jurisdiction.

12.0 Severability

If any provision of these Rules and regulations shall be declared invalid or not enforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

13.0 Effective Date

This regulation shall be effective as of _____. The regulation will remain in effect until modified or repealed by the Cheshire Board of Health.