

CITY OF HAVERHILL
BOARD OF HEALTH

NOISOME TRADES & NUISANCES
REGULATIONS

SECTION I. AUTHORITY

This regulation is adopted under M.G.L. Chapter 111, Section 31, which gives the Haverhill Board of Health (hereinafter designated as "the Board") authority to make reasonable health regulations, violations for which shall be punished by a fine of not more than one thousand (\$1,000) dollars. This regulation is also adopted under M.G.L. Chapter 111, Section 122, which directs the Board of Health to examine into all nuisances, sources of filth, and causes of sickness within its town, which may, in its opinion, be injurious to the public health and to destroy, remove, or prevent the same. This regulation is also adopted under M.G.L. Chapter 111, Section 143.

SECTION II. GENERAL DEFINITIONS

For the purposes of this regulation, the following words and phrases shall have the following meanings:

BOARD OF HEALTH: The Haverhill Board of Health unless otherwise specified.

DEP: The Massachusetts Department of Environmental Protection.

SECTION III. OFFENSIVE OR NOISOME TRADES

3.00 PURPOSE: This section of this regulation is intended to restrict and/or prohibit a trade or employment which may be harmful to the inhabitants, injurious to their estates, dangerous to the public health, or may be attended by injurious odors.

3.05 DEFINITIONS:

For purposes of this section of this regulation, the following words and phrases shall have the following meanings:

HAZARDOUS MATERIALS: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential hazard to water supplies or to human health if such substance or mixture were discharge to land, water, or air of the City of Haverhill.

NOISOME TRADE: A trade or employment which may be harmful to the inhabitants of the City of Haverhill or injurious to their estates, dangerous to the public health, or may be attended by injurious odors. Without limiting the generality of the foregoing, the following activities are hereby declared to be "noisome trades:"

- Stone quarry and/or sand and gravel pit
- Asphalt batch mix or drum mix plant and/or crushed stone facility
- Anaerobic Digester Facility
- Motor vehicle junkyard
- Pulp & paper mills

- Plastic manufacturing plants
- Sewage sludge treatment / composting operations
- Solid waste management facilities identified in 310 CMR 16.05 (2) which do not require site assignment under 310 CMR 16.00, except those facilities which are conditionally exempt under 310 CMR 16.05 (3).
- Tire recapping facilities
- Piggeries
- Grease/Food Oil Processing Recycling Operations

3.10 SITE ASSIGNMENTS: All noisome trades identified above are prohibited within the City of Haverhill except in places so assigned by the Board of Health. All such assignments shall be entered into the records of the City of Haverhill. Applicants must submit their requests in writing with regards to their specific operation and the Board reserves the right through its agents to require or request additional information.

3.20 APPEAL OF SITE ASSIGNMENT: Any persons, including persons in control of public land, aggrieved by the action of the Board of Health of the City of Haverhill in assigning certain places for the exercise of any noisome trade may, within sixty days, appeal from said assignment to DEP.

3.30 ORDERS OF PROHIBITION: The Board of Health of the City of Haverhill may issue orders of prohibition to persons in violation of this regulation or a particular site assignment. Said order of prohibition shall be served by an officer qualified to serve civil process upon the person or occupant having charge of the premises where such trade or employment is exercised. The Board of Health may levy a fine of up to five hundred dollars upon the person or occupant having charge of the premises where such trade or employment is exercised who refuses or neglects for twenty four (24) hours thereafter to obey said order.

3.40 APPEAL OF ORDER OF PROHIBITION: Whoever is aggrieved by an order of prohibition may, within three days after service of said order upon him, give written notice of appeal to the Board of Health of the City of Haverhill and DEP and file a petition in superior court in Essex County.

3.45 Said trade or employment shall not be exercised contrary to the order while such proceedings are pending unless specially authorized by the Board of Health of the City of Haverhill.

SECTION IV. NUISANCES

4.00 PURPOSE: This section of this regulation is intended to prevent all nuisances, sources of filth and causes of sickness which may be injurious to the public health, safety, or welfare of the inhabitants of the City of Haverhill.

4.05 DEFINITIONS:

For purposes of this section of this regulation, the following words and phrases shall have the following meanings:

NUISANCE: An act or failure to perform a legal duty which causes or permits a condition to exist which injures or endangers the public health, safety or welfare of the inhabitants of the City of Haverhill.

4.10 EXAMINATION INTO NUISANCES: The Board of Health of the City of Haverhill shall examine into all nuisances, sources of filth and causes of sickness within the City of Haverhill which may, in its opinion, be injurious to the public health and shall destroy, remove or prevent the same as the case may require.

4.11: The odor from normal maintenance of livestock or the spreading of manure upon agricultural, horticultural, or farming lands, or noise from livestock or farm equipment used in normal, generally acceptable farming procedures or from plowing or cultivation operations upon agricultural, horticultural, or farming lands shall not be deemed to constitute a nuisance.

4.20 SUPPLY OF WATER: Upon a determination by the Board of Health of the City of Haverhill that the available supply of water for drinking, culinary and or other domestic purposes in any place of habitation, or in any place where food or drink is prepared, handled or served to the public, is so unsafe or inadequate as to constitute a nuisance, the Board of Health may issue a written order to the owner of such place requiring that said owner discontinue the use of the water supply or that said owner supply an alternate water supply safe and adequate for such purposes.

4.30 ABATEMENT OF NUISANCE: The Board of Health of the City of Haverhill shall order the owner or occupant of any private premises, at his own expense, to remove any nuisance, sources of filth or cause of sickness found thereon within twenty-four (24) hours or such other time it considers reasonable.

4.31: If the owner or operator of a farm files a petition for review in district court of such order for abatement within ten days, the operation of said order shall be suspended pending order of the court.

4.35: If the owner or occupant fails to comply with such order the Board of Health of the City of Haverhill may cause the nuisances, sources of filth and cause of sickness to be removed, and all expenses incurred thereby shall constitute a debt due the City of Haverhill.

SECTION V. ENFORCEMENT

5.10: The Board of Health, its agents, officers, and employees, shall have the authority to enter upon privately owned land for the purpose of performing their duties for the administration and review of this regulation, and may make or cause to be made such examinations, surveys, or samples as the Board of Health deems necessary.

5.20: The Board shall have the authority to enforce these regulations and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

5.30: Unless stated otherwise, any person who violates any provision of this regulation or permits issued hereunder, shall be subject to a fine of not more than one thousand (\$1,000) dollars. Each day or portion thereof during which a violation occurs or continues shall constitute a separate offense, and each provision of the regulation or permit that is violated shall constitute a separate offense.

5.40: As an alternative to criminal prosecution in a special case, the Board may elect to utilize the noncriminal disposition procedure set forth in M.G.L. Chapter 40, Section 21D. For the purpose of this provision, the penalty to apply in the event of a violation shall be as follows: \$100.00 for the first offense; \$200.00 for the second offense; \$300.00 for the third offense; and \$300.00 for the fourth and each subsequent offense. Each day on which a violation exists shall be deemed a separate offense.

SECTION VI. APPEAL

6.10: Unless otherwise provided, any person aggrieved by the decision of the Board of Health may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the Commonwealth of Massachusetts.

SECTION VII. SEVERABILITY

7.10: If any portion, or sentence, clause or phrase of this regulation shall be held invalid for any reason, the remainder of this regulation shall continue in full force and effect.

ADOPTED AT A PUBLIC HEARING ON FEBRUARY 16, 2016.

EFFECTIVE DATE MAY 1, 2016

