

## Article III

### Special Animal Provisions

#### 270-14 FEEDING OF THE WILDLIFE REGULATIONS

#### 270-15 OVERVIEW

a) **BACKGROUND:** Middleton is surrounded by a rural and natural landscape. Therefore, it is a common occurrence for wildlife to live in close proximity to the residents and businesses of Middleton, with wildlife interactions increasing in their frequency. People intentionally and unintentionally provide food sources and other attractants to wildlife that can create or exacerbate conflicts. Wild animals are opportunistic feeders, and will return to a found site habitually. Once this easy food reward is established, human to wildlife conflicts is prolonged and increasingly difficult to mitigate. When wildlife is conditioned to seek food sources within a yard or trash, it creates a public health nuisance and can threaten public safety as well as endanger humans, pets, livestock, property, as well as the wildlife itself. This regulation is intended to focus on the human behaviors that contribute to habituating wildlife to neighborhoods and populated areas.

b) **PURPOSE:** The intent of this Regulation against Feeding of Wildlife is to protect the health and welfare of both people and wildlife by prohibiting the intentional and unintentional feeding of wildlife.

c) **DEFINTITIONS:**

**Attractant-** Any substance including food (human and pet), bird seed, livestock feed, minerals, compost, other nutritive substances, scents, waste products or refuse, that attracts wildlife intentionally or unintentionally.

**Board-** The Middleton Board of Health.

**Farming-** Lawful agricultural pursuits including but not limited to; growing crops, crop bearing plants, or raising livestock where revenue from said activities represents a majority of income to the individual, company, or corporation.

**Garbage/ Trash/ Refuse-** Any waste that can reasonably attract wildlife including, but not limited to; food, food packaging, organic waste, soiled diapers, or scented cooking waste such as cooking oils, grease, and seasoning.

**Investigating Authority-** Town or State personnel charged with determining if an animal attractant issue is occurring on a property. Investigative authorities can include, but are not limited to; Town and State law enforcement officers, Massachusetts Environmental Police, Middleton Animal Control Officer, Middleton Board of Health members, State Department of Public Health Officials, Agents or appointed officers, and personnel of the MA Division of Fisheries and Wildlife.

**Person-** Any resident, occupier, company, firm, corporation, tax payer, student, rental guest, organization, or other business.

**Town-** The Town of Middleton and/ or the Middleton Board of Health.

**Wildlife/ Rodent Proof Waste Receptacles**- A fully enclosed container that effectively prevents bears and other wildlife from accessing the contents inside. This includes, but is not limited to; heavy duty secured containers, metal topped latching dumpsters, enclosed storage areas such as sheds or other buildings. At a minimum the containers should have latching mechanisms and reinforced covers/ lids.

**Wildlife**- Any undomesticated animals including, but not limited to; rodents, fox, deer, raccoons, skunks, seagulls, opossums, coyotes, deer, moose, and bears.

**270-16 FEEDING OF WILDLIFE PROHIBITED**

- a) No person shall intentionally or unintentionally feed, use, place, provide, give, expose, deposit, scatter, distribute, or store any attractant that provides a lure or enticement to wildlife on any property in the Town of Middleton.
- b) Determination of where attractants are serving as a lure or enticement to wildlife will be made by an Investigating Authority, as defined above. The landowner or person responsible for the premises where problems with wildlife feeding have occurred will be notified in writing of the attractant issue. The Investigative Authority may offer guidance and suggestions on potential solutions but ultimately the onus is with the person in violation of these regulations.
- c) Failure of the person to respond to a notice of an attractant issue and remove or contain the attractant in such a manner as to make it inaccessible to wildlife within 7 days may be construed as evidence that the feeding of wildlife was done with the knowledge or consent of the landowner or responsible person and was intentional.

**270-17 GARBAGE, TRASH, REFUSE CONTAINERS OR ENCLOSURES**

- a) In responding to an attractant issue, the Investigating Authority shall make a determination as to whether or not the refuse containers on the premises are the source of the wildlife feeding problem.
- b) If the refuse containers are determined to be the source of the wildlife feeding problem the landowner, person responsible for the premise, or business owner shall replace them with a more secure wildlife container or permanent structure. Failure to comply with an order to replace or secure refuse containers identified as attractants within 7 days will constitute a violation of this section.
- c) If a container is marketed as wildlife (bear) proof and is either damaged or ruptured by wildlife so that it may allow access to the attractant, repair or replacement must be made within 7 days after the damage is discovered.
- d) Any outdoor compactor containing any material edible to wildlife must not be accessible by wildlife. No trash or materials may be exposed and doors must be kept closed and latched with a wildlife proof mechanism except when loading or removing refuse. If damaged, allowing access by wildlife, repairs or replacement must occur within 7 days after damage is discovered or written notification by an Investigative Authority, whichever event happens first.

**270-18 EXCEPTIONS**

- a) Any individual, company, or corporation that is duly licensed by the Commonwealth of Massachusetts or entitled under law to possess wildlife of any kind, provided that if the normal possession of said wildlife is determined to be causing an attractant issue or public safety threat, the attractant is removed or contained within 48 hours.

- b) Any action that is officially sanctioned by the Commonwealth of MA that would require feeding, baiting, or luring wildlife for management purposes, scientific projects, and research or study.
- c) Any individual, company, corporation that is engaged in farming as defined in section I(c).
- d) This regulation shall not be interpreted so as to prohibit bird feeders or bird feeding. If a bird feeder or bird feed is determined to be the feeding source for nuisance wildlife, causing an attractant issue, or a public safety threat the bird feeder and seed debris shall be removed within 48 hours.

#### **270-19 PENALTIES**

- a) These regulations may be enforced by the use of the non-criminal citations as put forth in MGL Chapter 40, section 21D.
- b) The first violation will be the identification of an attractant issue by an Investigating Authority and subsequent written warning along with education. The written warning will include a date for compliance which will be no later than 7 days following receipt of the written warning.
- c) The second violation will result in a written Notice of Violation and fine of \$50.00.
- d) The subsequent violations will result in a written Notice of Violation and fine of \$100.00.
- e) If not in compliance on day 8, the second violation fee of \$50.00 will apply, on day 9 and so forth, the subsequent daily violation fees of \$100 will apply until compliance is met.

#### **270.20 HEARING**

- a) Any individual, company, or corporation aggrieved by an Order issued under the authority of these regulations may appeal to the Board of Health by filing a written petition for a hearing before the Board, which must be submitted within 7 days of receipt of the Order.
- b) The Public Hearing shall be held at the next scheduled Board meeting but in no case earlier than fourteen (14) days of the request.
- c) The Public Hearing shall be advertised in a Legal Notice in a local paper at least fourteen (14) days in advance of the date of the hearing. The cost of the Legal Notice for a variance shall be borne by the applicant.
- d) At the hearing the petitioner and any other affected parties shall be given an opportunity to be heard, present documentary evidence, and to show why the issued order should be modified or withdrawn. Failure to hold a hearing within the specified time frame shall not affect the validity of any order.
- e) The Board shall sustain, modify, or withdraw an order with a majority vote and shall inform the petitioner in writing within fourteen (14) days after the hearing.
- f) Any person aggrieved by the decision of the Board may seek relief in any court of competent jurisdiction, as provided by laws of the Commonwealth of Massachusetts.

#### **270.21 SEVERABILITY**

In the event that any provision, section, or sentence of these regulations shall be deemed invalid, unreasonable, or unenforceable by a governing body it shall be stricken from these regulations or amended. The remaining provisions and sections of these regulations shall continue in full effect and

remain binding. Further, should these regulations omit any statutory or regulatory requirements which would otherwise render these regulations illegal, the Feeding of Animals Regulations shall be deemed amended to the minimum extent necessary to comply with the Statutes.

**270.22 EFFECTIVE DATE**

The Feeding of Animals Regulations as outlined in this document shall take effect immediately following the affirming vote of the Board of Health on 02/05/2025.

As well as the M.G.L dealing with Public Nuisances.

George Demeritt  
George Demeritt Chairperson BOH

Paul LeBlanc  
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Judy Schneider  
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