

**TOWN OF FORT ANN
COUNTY OF WASHINGTON, STATE OF NEW YORK**

**AN ORDINANCE PROVIDING FOR THE REGULATION SMALL FARM
OPERATIONS IN THE TOWN OF FORT ANN**

Be it enacted by the Town Board of the Town of Fort Ann, County of Washington, State of New York, as follows:

This Ordinance is enacted to provide animal control, safety and welfare, not provided by the Agriculture and Market Law of the State of New York.

SECTION 1. Purpose. The Town of Fort Ann (the “Town”) is an agricultural community home to many farms and farmers. However, small farm operations and hobby farms, that are not otherwise regulated are at risk of becoming private and/or public nuisances. Pursuant to Town Law Section 130, the purpose of this ordinance is to promote the public health, safety and welfare of the community including the protection and preservation of the property of the Town of Fort Ann and its inhabitants, and of the peace and good order therein by regulating and controlling activities of animals within the Town of Fort Ann and to provide for its enforcement thereof.

Further, a clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town of Fort Ann. It is declared that improperly disposed of fecal matter and droppings from animals on property within the Town of Fort Ann promotes and increases the spread of disease and illness among the inhabitants and animals of the Town of Fort Ann and that such improper disposal has the potential to adversely affect the health, safety and welfare of the citizens of the Town, necessitating the prohibition thereof.

SECTION 2. Prohibited Acts. Any owner or custodian of any livestock in the Town of Fort Ann, shall be in violation of this Ordinance if such animal:

- (a) Enters onto another’s property or permits feces and waste to leave their property without permission from the adjoining property owner.
- (b) Enters on public property without being controlled by a leash, reins, or other means of direct control of said animal.
- (c) Is not in full compliance with this ordinance.
- (d) Is not in full compliance with all New York State Laws covering livestock.

SECTION 3. Regulations. All owners and custodians of any livestock in the Town of Fort Ann shall comply with the following:

(a) No property owner, tenant, or custodian shall keep, harbor, or maintain any livestock on their property where said parcel of land is less than one (1) acre in total area.

(b) Any property owner, tenant, and/or custodian must provide adequate shelter for all livestock on the property in accordance with the following:

- a. The shelter must provide a minimum of one hundred (100) square feet of free space for each animal;
- b. The shelter must be located not less than seventy five (75) feet from any dwelling;
- c. The shelter must be located not less than seventy five (75) feet from any property line.

(c) Any property owner, tenant, and/or custodian must provide an adequate corral for all livestock on the property in accordance with the following:

- a. The corral must be fully enclosed and securely confine all livestock
- b. The corral must provide a minimum of four hundred (400) square feet of free space for each animal contained therein.
- c. The boundary of the corral must be located not less than seventy five (75) feet from any property line.

(d) Any owner or custodian of livestock shall be responsible for the disposal of feces as follows:

- a. All shelters and barns must be cleaned no less than daily to remove all feces and dispose in a safe and sanitary manner.
- b. All corrals and outdoor areas must be cleaned no less than once per seven days to remove all such feces and dispose in a safe and sanitary manner.
- c. The safe and sanitary manner for the disposal of feces shall be based upon the volume generated by the livestock present on the property, but in no event shall the owner or custodian fail to meet the following minimum requirements:
 - i. All open-air piles, lagoons and/or storage areas shall be no less than two hundred (200) feet from any adjoining property line and water course.
 - ii. All self-contained receptacles used for the storage of feces must be wholly contained in a suitable, nonbiodegradable receptacle designed to be water tight, and shall be located no less than seventy five (75) feet from all adjoining property lines.
- d. Livestock that has deposited its feces upon any Town property or upon the property of another, shall immediately remove such feces and cause it to be disposed of in a safe and sanitary manner. A person will be considered to have disposed of feces in a safe sanitary manner if such feces are immediately collected and placed in a suitable bag and placed in a suitable container for the collection of garbage and refuse.

SECTION 4. Responsibility. All livestock within the Town shall be under the control of the owner or custodian at all times, and shall not cause harm, annoyance, or other infringement to any other person's right to peaceful enjoyment of their property, public lands, or public waters. The owner or custodian of such livestock must correct such action of harm, annoyance, or other infringement, and shall be responsible for any physical damage caused to person or property, and to pay any fines and penalties as imposed by the Town.

SECTION 5. Existing Facilities. All property owners, tenants, and custodians of any livestock in the Town shall bring their property into compliance or apply for a waiver within sixty (60) days of the effective date of this Ordinance. Such existing facilities that do not fully meet the regulations and requirements of this Ordinance may be granted a temporary permit for a period of three (3) months after the effective date of this Ordinance. At the end of such three (3) month period, such existing facility which has been issued a temporary permit as provided for herein must fully comply with all regulations and requirements contained in this Ordinance and obtain a permit; otherwise, such existing permitted facility shall be terminated and the person operating such activity shall immediately cease and desist from operating or conducting same and shall remove the livestock from the property.

SECTION 6. Variances. The Town Board may, in its discretion, grant a variance the requirements of this Ordinance.

(a) Any property owner, tenant, or custodian of livestock may file an application with the Town Enforcement Officer for a variance from an of the provisions of this Ordinance. The application shall include the following information:

- a. The name and address of the applicant and property location;
- b. The nature and location of the property and the livestock proposed to be kept thereon;
- c. A site plan depicting the property, including but not limited to, property lines and physical features, proposed shelter(s) and corral locations, feces disposal location(s), structures on the subject and adjoining properties, watercourses on the subject and adjoining properties, well locations on the subject and adjoining properties, and septic locations on the subject and adjoining properties;
- d. The reason for which the variance is requested, including the hardship that will result to the applicant or public if the variance is not granted;
- e. Evidence from a licensed veterinarian as to the nature of the variance being requested showing the livestock are presently in good health and that if the variance were granted, the livestock would not be detrimentally impacted by the same;
- f. A presentation of adequate proof that compliance with this Ordinance would impose an arbitrary or unreasonable hardship upon the applicant without equal or greater benefit to the public;
- g. The names and addresses of all owners of contiguous land within 500 feet of the property. The applicant in like manner shall give notice of the application by certified mail, return receipt requested, to all property

owners surrounding the sound source site within a radius of 500 feet from the borders of said site.

(b) Upon prior reasonable public notice the Town Board shall hold a hearing on the variance application. The Town Board, upon reviewing all input from the hearing and obtaining any additional information as deemed necessary, shall then pass upon the application by resolution to approve, disapprove, or approve with conditions, the grant of said variances.

(c) The grant of any such variance by the Town Board shall be personal to the applicant and is non-transferrable. If the property or entity is ever sold, transferred, or conveyed, the subsequent owner shall apply for a variance.

SECTION 7. Agricultural District. This Ordinance does not affect and hereby exempts from its application any farm operations located in an Agricultural District.

SECTION 8. Enforcement. This Ordinance shall be enforced by the Town of Fort Ann's Enforcement Officer and at all times by any police officer as defined by the NYS Criminal Procedure Law. The Enforcement Officer and/or police officer may act upon any written complaint, or observation, of an alleged or possible violation of this Ordinance. Any appearance ticket for a violation of this Ordinance shall be administered pursuant to the New York State Criminal Procedure Law.

SECTION 9. Penalties.

(a) Any person who violates any provision of this ordinance shall be deemed guilty of a violation and, upon conviction thereof, shall be subject to penalties in the following manner:

- a. Upon a first conviction, by a fine not less than \$50 and not more than \$250 or by imprisonment for a period not to exceed seven days, or by both such fine and imprisonment.
- b. Upon a second conviction, by a fine not less than \$100 and not more than \$1,000 or by imprisonment for a period not to exceed 10 days, or by both such fine and imprisonment.
- c. Upon a third or subsequent conviction, by a fine not less than \$250 and not more than \$3,000 or by imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment.

(b) If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct violation.

SECTION 10. Not applicable. This Ordinance shall not apply to cats or dogs.

SECTION 11. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this Ordinance or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder

thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this Ordinance, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 12. Repealer. This Ordinance shall supersede all prior Ordinances, local laws, rules and regulations relative to animal confinement within the Town of Fort Ann and they shall be, upon the effective date of this Ordinance, null and void.

SECTION 13. Effective Date. This Ordinance shall take effect ten (10) days after publication and posting, or immediately upon personal service as provided by Section 133 of the Town Law.