

RULES & REGULATIONS OF THE BOARD OF HEALTH

Article 1307: CONTROL and FEEDING of AQUATIC BIRDS

(Adopted 10/22/07)

1307.1 INTENT AND PURPOSE

The large number of Aquatic birds attracted by feeding and baiting in and around Kingston increases the presence of harmful bacteria, which present a threat to public health and well being. Fecal matter from Aquatic birds contributes to the phosphate loading of water bodies thereby resulting in lessened water quality. Large numbers of Aquatic birds feeding, trampling and defecating cause damage to terrain and constitute a nuisance and health hazard to citizens.

It is the intent of this health regulation to minimize the attraction of these birds by restricting their feeding and other acts that encourage the birds to halt their migrations and to reside in the Town of Kingston.

It is also the intent that this health regulation shall apply to all land and waterways located within the boundaries of the Town of Kingston, New Hampshire.

1307.2 DEFINITIONS

For the purpose of this regulation, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this regulation clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- A. Aquatic birds.** Aquatic birds consist of the following 5 groups of birds; Long-legged waterbirds, Waterfowl, Migratory and resident waders, Marsh birds, and Seabirds.
- B. Feed or Feeding.** Includes the provision or dissemination of food in any manner in the vicinity of aquatic birds.

- C. Long-legged waterbird.** Include but are not limited to Egrets, Herons, Ibis.
- D. Marsh birds.** Include but are not limited to Grebes, Coots, Swampheens.
- E. Migratory and Resident waders,** Include but are not limited to Plovers, Stints, Oyster catchers.
- F. Person,** Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.
- G. Seabirds,** Include but are not limited to Petrels, Shearwaters, Gulls, Terns, Cormorants.
- H. Shoreland Protection District,** shall mean the same district as defined in the Town of Kingston Ordinances Article 205.3.A.
- I. Waterfowl,** Includes:
 - a. **Migratory waterfowl,** Ducks, geese and swans and any other waterfowl falling under the jurisdiction of the United States Fish and Wildlife Service;
 - b. **Domestic waterfowl,** Nonnative geese, ducks and swans not retained in agricultural operations.
- J. Waterways,** A general term referring to lakes, ponds, streams, creeks, and storm water basins.

1307.3 PROHIBITED ACTS

- A.** No person or persons shall feed, cause to be fed or provide food for Aquatic birds within the Shoreland Protection District in any manner that increases public health risks. This regulation is not intended to prohibit the raising of domestic waterfowl, except that domestic waterfowl must be securely contained or penned in an enclosure in an area so as to prevent fecal matter from the waterfowl entering into any waterways.

- B.** No person or persons shall create or foster any condition or allow any condition to exist or continue which results in a congregation or congestion of aquatic birds.
- C.** It shall be unlawful for any person to introduce or drop off any aquatic birds on any publicly owned land or waterways within the boundaries of the Town of Kingston.

1307.4 ENFORCEMENT; VIOLATIONS AND PENALTIES

- A.** This regulation shall be enforced by the Health Officer.
- B.** Any person found to be in violation of this regulation shall be ordered to cease immediately
- C.** Any person who violates any provision of this regulation shall be subject to a fine of \$275.00 per offense.
- D.** Each day that a violation continues or exists shall constitute a separate offense. Each section of this chapter that is violated shall also constitute a separate offense.

1307.5. SEVERABILITY

Should any section or provision of this regulation be declared by a Court of appropriate jurisdiction to be invalid, such decision shall not invalidate any other section or provisions of this regulation.

Article 1307 of the rules and regulations of the Kingston Board of Health (Control and Feeding of Aquatic Birds) shall take effect after its adoption, approval, and publication in accordance with, and pursuant to the authority granted by RSA 147:1.