

**TOWN OF OAK CREEK**

**ORDINANCE NO. 650**

**AN ORDINANCE AMENDING, MODIFYING AND ADDING TO VARIOUS SECTIONS OF TITLE 6, ANIMALS, OF THE OAK CREEK MUNICIPAL CODE; REPEALING ALL CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the Town of Oak Creek Comprehensive Plan - 2015 (the “Comp Plan”) provides direction for the Town to develop regulations that permit and encourage the raising of food and animals (also known as urban agriculture) within all performance districts and that allows a greater number and types of animals to be raised while considering potential impacts to adjacent properties (hereinafter “Proposed Regulations”); and

**WHEREAS**, the Board of Trustees of the Town of Oak Creek (Board) directed Town staff and the members of the Oak Creek Planning Commission to develop Proposed Regulations and bring a recommendation forward to the Board; and

**WHEREAS**, Town staff and members of the Planning Commission, in a joint work session held with the Board on January 10, 2019, made a recommendation to the Board that the Board move forward with amending Title 6 – Animals at various sections to implement the Proposed Regulations in accordance with the direction provided in the Comp Plan; and

**WHEREAS**, the Board considered the Proposed Regulations at a public meeting held on February 14, 2019; and

**WHEREAS**, a draft of this Ordinance No. 650 amending said Title 6 - Animals was presented and discussed at the said regular meeting of the Board on February 14, 2019. Public comment was received at said meeting; and

**WHEREAS**, Mayor Pro Tem Wisecup made a motion to approve proposed Ordinance No. 650 as written. Trustee Gagne seconded the motion. The motion passed unanimously.

**NOW, THEREFORE**, be it ordained by the Board of Trustees of the Town of Oak Creek as follows:

**SECTION 1. AMENDMENTS TO CHAPTER 6.04.** The following sections of Chapter 6.04 – Animals, of the Oak Creek Municipal Code, are hereby amended to read as follows (additions are underlined, deletions are struck-through):

**6.04.010 - Definitions.**

The definitions and terms used in this chapter, unless the context otherwise indicates, are defined as follows:

- A. "Harboring." means ~~the~~ occupant of any premises in or on which a dog, ~~or~~ cat or other domesticated animal is kept or to which it customarily returns daily for food and care for a period of three consecutive days or longer is harboring the dog, or cat or other domesticated animal within the meaning of this chapter.
- B. "Owner" means every person in possession or control of any dog, ~~or~~ cat or other domesticated animal, or who harbors any dog, ~~or~~ cat or other domesticated animal, or who shall permit any dog, ~~or~~ cat or other domesticated animal to remain about his premises. Any such dog, ~~or~~ cat or other domesticated animal shall be deemed to be "owned" by said owner for the purposes of this chapter.
- C. "~~Pet~~Domesticated animal" means and includes dogs, cats, rabbits, pigs, rodents, birds, nonpoisonous reptiles and any other species of animal which is sold or retained as a household pet, but shall not include skunks, nonhuman primates and any other species of wild, exotic or carnivorous animal that may be further restricted in this chapter.
- D. "Livestock" means and includes any species of horse, cattle, buffalo, sheep, goat, llama, or other equine or bovine animals.
- E. "Rabies vaccination" means the inoculation of a dog or cat by a licensed veterinarian with a rabies vaccine approved by the Colorado Department of Health.
- F. "Running at large" means to be off the premises of the animal owner and not under the control by leash, cord or chain not in excess of ten feet in length, of the animal owner or of an authorized agent of the animal owner over twelve years of age; provided however, that a dog, and cat or other domesticated animal confined within the vehicle of its owner shall be deemed to be upon the owner's premises.
- ~~"Stock animal" includes any species of horse, cattle, buffalo, sheep, goat, swine or llama.~~
- G. "Vicious dog" means any dog which has, without substantial provocation and on one or more occasions, upon the streets, sidewalks or any public ground or place within the Town:
1. Bitten or otherwise attacked human beings; or
  2. In a vicious or terrorizing manner approached human beings with the apparent intent to attack; or
  3. Run after, bitten, or barked at horses, bicycles or any other vehicles or means of conveyance.
- H. "Wild animal" includes all species of animals that exist in a natural unconfined state and are usually not domesticated, and shall include all offspring of crossbred domestic and wild animals.

**6.04.150 - Restrictions on animals.**

- A. It is unlawful for the owner or person having charge, care, custody or control of any dog to allow such dog at any time to run at large. The owner or person charged with responsibility for a dog found running at large shall be strictly liable for a violation of this section regardless of the precautions taken to prevent the escape of the dog and regardless of whether or not he knows the dog is running at large.
- B. The Police Department and animal control officer are authorized to trap cats running at large. Cats, not wearing an Oak Creek license tag or otherwise not identifiable, shall be considered abandoned and will be euthanized, by the animal control officer, if not claimed by the owner within seventy-two hours after capture. An impoundment/redemption fee will be charged.
- C. It is unlawful for any person to chain, stake out, or tether any dog in any unenclosed premises in such a manner that the dog may go beyond the property line unless such person has permission to use the affected property.

D. It is unlawful for any owner, possessor or person who keeps any animal to permit such to destroy or damage the real or personal property of one or more other persons, or any public property. Animals damaging property and on the property of another may be trapped in a humane manner and held for the animal control officer or taken to a humane shelter.

E. Every person convicted of a violation of this section shall pay at least a minimum fine, which can be suspended at the discretion of the judge, in the amount of sixty-five dollars. No person who is convicted twice for violations occurring within a twelve-month period shall be eligible to pay such sixty-five dollars for violation of this section, but instead shall appear in court and be subject to general penalty set forth in Section 1.20.010 of the Oak Creek Municipal Code on such second conviction. For purposes of this section, the date when the actual violation occurred will control regardless of the date of conviction.

F. It is unlawful for any owner, possessor or person who keeps any animal to fail or forthwith pick up, remove and dispose of in a sanitary fashion any and all animal litter attributable to such animal. In addition to any penalty therefor, the failure to pick up, remove and dispose of all animal litter is hereby declared to be a nuisance and shall be subject to abatement as provided in Section 8.08.070.

G. No person shall ~~wilfully~~ willfully ride or drive any animal or animals other than pet animals upon any sidewalk or through any Town park, unless clearly posted to allow such activity or unless specific permission is granted by the Town Board.

H. No person shall own or keep any swine, hogs or pigs except for domesticated pigs under the following conditions:

1. No individual pig shall exceed one hundred and fifty (150) pounds in weight.
2. Pigs are limited to two (2) per household, and are only permitted on properties with single family or duplex dwellings.
3. Female pigs shall be spayed and male pigs shall be neutered by the age of four (4) months. No unaltered male or female pigs shall be kept or permitted to breed in the Town municipal limits.
4. Pigs must at all times wear a harness bearing an identification tag including the owner's name, address, and telephone number.
5. Provisions under section 6.04.150 regarding leashing of dogs shall also apply to domesticated pigs.

**SECTION 2. AMENDMENTS TO CHAPTER 6.08.** The following sections of Chapter 6.08 – Livestock, of the Oak Creek Municipal Code, are hereby amended to read as follows (additions are underlined, deletions are struck-through):

### **Chapter 6.08 - LIVESTOCK**

#### **Sections:**

- |                 |   |
|-----------------|---|
| <b>6.08.010</b> | <b>Definitions</b>  |
| <b>6.08.020</b> | <b>Maintenance of livestock or poultry <del>prohibited.</del></b> |
| <b>6.08.030</b> | <b>Livestock-Not to run at large.</b>                             |
| <b>6.08.040</b> | <b><del>Running at large defined.</del></b>                       |

**6.08.010 - Definitions.**

In the interpretation of this chapter, the following definitions should be observed unless it is apparent from the context that a different meaning is intended.

- A. “Goats” shall refer to Nigerian Dwarf or Pygmy female (doe) or wethered (neutered) male goats.
- AB. “In the Town” means and includes all territory over which the Town has, or shall hereafter acquire, the jurisdiction for the exercise of its Police powers or other regulatory powers.
- BC. “Livestock” means and includes any animal or other dumb creature, including specifically but not limited to, horses, cows, pigs, sheep or goats. species of horse, cattle, buffalo, sheep, goat, llama, or other equine or bovine animals, and for the purposes of this chapter 6.08 includes poultry, rabbits, and bees.
- D. “Property” means a lot or contiguous lots under common ownership.
- CE. “Poultry” means any birds other than chickens and domesticated birds such as parakeets and parrots, including, but not limited to chickens, ducks, geese, turkeys, pheasant and pigeons.
- E. “Running at large” applies livestock driven or straying away from the property or premises of the owner or keeper thereof or from any point without the Town, into and upon the streets, alleys, public parks or other public places of the Town, or upon the property or premises owned, held or occupied by any person within the Town, and the term shall also apply to such animals when picketed in excess of 24 hours; provided however, that such term shall not apply to animals driven through the Town upon and along the streets thereof for which specific permission is granted by the Town Board.

**6.08.020 - Maintenance of livestock or poultry prohibited.**

- A. It is unlawful for any person, owner, or keeper to harbor livestock of any type or number in the Town or fowl within the city without approval and written authorization of the Town Board, except in accordance with the provisions of this chapter.
- B. It is unlawful for any person, owner, or keeper to harbor chickens within the city except in accordance with section 6.08.020 C. The principal use of any property on which the keeping or harboring of livestock is conducted must be for a single family or duplex dwelling.
- C. The keeping or harboring of chickens-poultry shall be allowed only upon compliance with the following criteria and restrictions:
  - 1. The principal use of the property on which the keeping or harboring of chickens is conducted must be for a single family dwelling or a two family dwelling. Keeping of roosters shall be prohibited on any property in the Town;
  - 2. The privilege of keeping or harboring of chickens-poultry shall be revoked by the Town Board following a hearing upon a finding of two substantiated violations of this section 6.08.020 chapter or the conditions under which approval to keep and harbor chickens was given by the Town;
  - 3. The number of hens allowed shall not exceed four; Poultry may be kept in the following numbers:
    - a. On a property less than one-half (1/2) acre in size, up to eight (8) poultry may be kept.
    - b. On a property one-half (1/2) acre to one (1) acre in size, up to a total of twelve (12) poultry may be kept.
    - c. On a property more than one (1) acre in size, up to six (6) additional poultry may be kept for every additional one-half (1/2) acre.

4. ~~No roosters, breeding, selling or trading of offspring will be permitted;~~ On any property where more than twelve (12) poultry are kept, the property owner shall be required to notify the Town of the numbers of poultry to be kept on the property prior to the poultry reaching an age of twelve (12) weeks.
  5. ~~The hens-~~ Poultry shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times;
  6. Buildings connected with the keeping poultry must ~~Must~~ maintain all Town Land Use Code setbacks and not encroach within public easements.
  7. Must maintain rodent proof metal food storage containers;
  8. Must maintain proper disposal of all waste to discourage predators, rodents and insects;
  9. Must maintain proper storage of fertilizer to discourage predators, rodents and insects;
  10. A person shall keep ~~hens~~poultry and their outside facilities in the backyard or side yard only;
  11. Four square feet of coop space ~~per bird~~ and one hundred square feet of run per bird are required;
  14. A clean living environment is required;
  15. Noise, odor and visual nuisance are prohibited;
  16. Free roaming ~~chickens~~poultry at large are prohibited;
  17. No organic materials furnishing food for flies shall be allowed to accumulate on the premises. All manure and other refuse must be kept in tightly covered fly-proof receptacles and disposed of at least once each week;
  18. The owner shall be responsible for any occurrence involving maiming or death of ~~one or more chickens~~poultry or significant damage to a chicken coop or enclosure by a bear, skunk, fox, coyote, raccoon, dog, or any other predator;
  19. The owner must adhere to all federal and state laws and regulations concerning all avian diseases.
  20. The property where poultry are harbored shall be subject to inspection by the Town to ensure compliance with these requirements.
- D. The keeping or harboring of goats shall be allowed only upon compliance with the following criteria and restrictions:
1. Goats may only be kept in the following numbers with the exception of nursing kidlets belonging to does located on the property, until weaned or up to sixteen (16) weeks of age whichever occurs first:
    - a. On a property less than one-half (1/2) acre in size, goats numbering no less than two (2);
    - b. On a property of more than one-half (1/2) acre in size, goats numbering no more than four (4).
  2. Goats must be vaccinated for rabies and other diseases.
  3. No buck goats shall be allowed.
  4. Enclosures (fences), including shelters, shall be located so that they are positioned at the rear (backyard) of the property.
  5. Enclosures shall be a minimum of two hundred (200) square feet per goat.
  6. Enclosures shall be constructed with durable construction materials.

7. Shelters shall be provided at all times. Shelters shall be a fully enclosed, well ventilated structure, with a door that may remain open for easy access to the outside enclosure area.
8. Shelters for goats shall maintain all Town Land Use Code setbacks and shall not encroach in to public easements. .
9. The property where goats are harbored shall be subject to inspection by the Town to ensure compliance with these requirements.

**6.08.030 - Livestock—Not to run at large.**

No horses, asses, mules, cattle, sheep, goats, or swine livestock shall be permitted to run at large within the corporate limits of the Town.

~~6.08.040—Running at large defined.~~

~~The term "running at large" applies to any such animals, specified in Section 6.08.030, driven or straying away from the property or premises of the owner or keeper thereof or from any point without the Town, into and upon the streets, alleys, public parks or other public places of the Town, or upon the property or premises owned, held or occupied by any person within the Town, and the term shall also apply to such animals when picketed; provided however, that such term shall not apply to animals driven through the Town upon and along the streets thereof.~~

**SECTION 3. ADDING CHAPTER 6.10.** Chapter 6.10 – Insects is hereby added to Title 6 of the Oak Creek Municipal Code, and is to read as follows:

**Chapter 6.10 Insects**

**Sections:**

**6.10.010 Definitions.**

**6.10.020 Keeping of Bees.**

**6.10.030 Densities.**

**6.10.010 Definitions**

- A. "Apiary" shall mean a place where bee colonies are kept.
- B. "Bee" shall mean any stage of the common domestic honey bee, *Apis mellifera* species.
- C. "Colony" shall mean a hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood.
- D. "Hive" shall mean a structure intended for the housing of a bee colony.
- E. "Property" means a lot or contiguous lots under common ownership.

**6.10.020 Keeping of Bees.**

- A. It is unlawful for any person, owner, or keeper to harbor bees within the Town except in accordance with the provisions of this chapter.
- B. The keeping of bees shall be permitted only upon compliance with the following criteria and restrictions:

1. It shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others.
2. All beekeepers shall provide movable frames for all hives which contain bees, and shall make provisions so the bees in such hives shall construct combs in the frames in such a way that these combs may be removed from the hives for inspection without injuring other combs in the hive.
3. In each instance in which any colony is situated within twenty-five (25) feet of a public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary. It is a defense to prosecution under this section that the property adjoining the apiary tract in the vicinity of the apiary is undeveloped property for a distance of at least twenty-five (25) feet from the property line of the apiary tract.
4. Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, bibcocks, pet water bowls, birdbaths or other water sources where they may cause human, bird or domestic pet contact.
5. Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.
6. In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to re-queen the colony. Queens shall be selected from stock bred for gentleness and non-swarming characteristics.
7. In apiaries, the name and telephone number of the beekeeper shall be branded, painted or otherwise clearly marked upon the structure of at least two (2) hives and placed at opposite ends of the apiary. Instead of marking the hives, the beekeeper may conspicuously post a sign setting forth the name and telephone number of the beekeeper. It is a defense to prosecution under this subsection that a colony is kept on the same property upon which the owner resides.
8. Noise, odor and visual nuisance are prohibited.

#### **6.10.030 Densities**


- A. It shall be unlawful to keep more than the following number of colonies on any property in the Town, based upon the size or configuration of the tract on which the apiary is situated:
  1. One-quarter ( $\frac{1}{4}$ ) acre or less property size - two (2) colonies;
  2. More than one-quarter ( $\frac{1}{4}$ ) acre but less than one-half ( $\frac{1}{2}$ ) acre property size - four (4) colonies;
  3. More than one-half ( $\frac{1}{2}$ ) acre but less than one (1) acre property size - six (6) colonies;
  4. One (1) acre or larger property size - eight (8) colonies; and

5. Regardless of property size, where all hives are situated at least two hundred (200) feet in any direction from all property lines of the property on which the apiary is situated, there shall be no limit to the number of colonies.

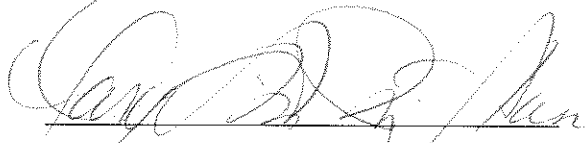
**SECTION 4. SEVERABILITY, CONFLICTING ORDINANCES REPEALED.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. All other ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall take effect and be in full force and effect thirty (30) days after adoption and publication pursuant to C.R.S. § 31-16-105.

**INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED** this 14<sup>th</sup> day of February, 2019.

  
\_\_\_\_\_  
Nikki Knoebel, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Alice Page-Allen  
Town Administrator/Clerk

