

ORDINANCE NO. 322

AN ORDINANCE REGULATING THE KEEPING OF CERTAIN ANIMALS AND FOWL WITHIN THE CITY LIMITS OF THE TOWN OF SUGAR CITY, COLORADO; PROVIDING FOR PERMITS FOR SUCH ANIMALS AND FOWL; PROVIDING A PENALTY; AND REPEALING ANY ORDINANCE IN CONFLICT HEREWITH.

WHEREAS, the Board of Trustees of the Town of Sugar City, Colorado, has previously enacted Ordinance Nos. 172, 172-A, 172-B and 172-C regulating the keeping of certain animals and fowl within the City limits of the Town of Sugar City; and

WHEREAS, the Board of Trustees, in its judgment deems it in the best interests of the Town of Sugar City, Colorado, to repeal Ordinance Nos. 172, 172-A, 172-B and 172-C in their entirety and enact Ordinance No. 322; and

WHEREAS, the Board of Trustees is authorized to adopt this ordinance pursuant to state law, including but not limited to, C.R.S. § 31-15-401(1)(b) and C.R.S. § 31-23-401(1)(m)(I); and

WHEREAS, the Board of Trustees finds that the keeping of certain animals and fowl within the Town of Sugar City, Colorado without sanitary regulations promotes fly and rodent breeding and results in an increase of disease and that it is necessary to the preservation of the health of the residents of the Town that the keeping of such animals within the limits of the Town should be regulated; and

WHEREAS, the Board finds that it is in the best interest of the citizens of the Town of Sugar City, Colorado, and in the best interest of the public health and safety, to adopt this ordinance as an emergency ordinance in order to timely address and respond to violations of this ordinance. Therefore, the Board of Trustees herewith further finds, determines and declares that it is necessary for this ordinance to take effect immediately upon adoption, provided the same has been adopted and signed by the Mayor and approved by three-fourths of the entire Board of Trustees.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUGAR CITY, COLORADO AS FOLLOWS:

Section 1. Definitions.

- a. The word "animal" or "animals" herein shall include any cattle, horses, mules, sheep, goats, swine or other hard-footed animals.
- b. The word "fowl" shall include chickens, ducks, geese, turkeys, guineas, pigeons and like fowl.

- c. The word "person" shall mean any person, persons, firm, partnership, corporation or association.

Section 2. Permit Required.

- a. No person shall permit any animal, rabbit or fowl kept or maintained by such person to be at large within the corporate limits of the Town of Sugar City.
- b. No person shall keep or maintain animals, rabbits, or fowl within the corporate limits of the Town of Sugar City, unless such person has a valid permit so to do.
- c. Application for a permit to keep animals, rabbits or fowl shall be made in writing to the Town Clerk, shall designate the premises for which a permit is sought and the number and kind of animals and/or fowl to be kept there. Following application, the Town Clerk shall cause the premises to be inspected by a committee from the Board of Trustees, the same to be appointed by the Mayor, and if all conditions herein provided are complied with shall authorize issuance of the permit. A permit shall continue to the end of the calendar year unless revoked as herein provided, shall be issued upon the payment of a permit or application fee of \$20.00, shall be valid only for the premises described on the face thereof, and shall designate the maximum number and kind of animals and/or fowl that may be kept at the designated premises.
- d. Application for a permit to keep no more than two (2) male fowl capable of crowing (roosters) shall be made in writing to the Town Clerk, shall designate the premises for which a permit is sought and the number of male fowl capable of crowing (roosters) to be kept at the designated premises. Following application, the Town Clerk shall cause the premises to be inspected by a committee from the Board of Trustees, the same to be appointed by the Mayor, and if all condition herein provided are complied with shall authorize issuance of the permit. A permit shall continue to the end of the calendar year unless revoked as herein provided, shall be issued upon the payment of a permit or application fee of \$30.00, shall be valid only for the premises described on the face thereof, and shall designate the maximum number of male fowl capable of crowing (roosters) that may be kept at the designated premises.

Section 3. Permit Conditions.

The committee to be appointed under Section 2 above shall authorize issuance of a permit to any person to keep animals, rabbits, or fowl on certain described premises within the Town of Sugar City, upon the determination that the following conditions or requirements are complied with:

- A. For animals there shall be at least one acre of land exclusive of the residence and/or business building.
- B. The number of animals shall not exceed one animal per one-fourth acre of land.

- C. All manure shall be removed daily from the Town of Sugar City; provided this provision shall not apply to manure spread as fertilizer upon cultivated ground or lawns.
- D. Spillage and left over from animal, rabbit and fowl feedings must be removed or so disposed of as to prevent fly or rodent propagation or creation of odors.
- E. The shed, shelter, pen, or enclosure for animals shall not be closer than 25 feet to any dwelling house, place of business, or street.
- F. The shed, shelter, coop or enclosure for rabbits or fowl shall not be closer than 25 feet to any place of business, dwelling or street.
- G. All sheds or other shelters for such animals, rabbits or fowl shall be kept free of rodents and shall be thoroughly sprayed with insect spray and a deodorant at intervals of not less than twice each week during the months of June to September, inclusive, of each year, and shall be kept in good repair and a fresh covering of straw, wood shavings or corn cobs shall be placed on the floor each day.
- H. Upon submission to the Board of Trustees of an application for variance to the conditions set forth in paragraphs (A), (B), (E), and (F) above the Board of Trustees shall set the matter for a public hearing at which time the Board of Trustees shall receive testimony regarding the condition for which a variance is sought. The Board of Trustees shall consider the following factors in determining whether a variance will issue:
 - a. Whether the variance sought will adversely impact the character of the neighborhood by noise, odor or other circumstance;
 - b. Whether the variance sought will have a negative impact on the health or safety of the neighborhood;
 - c. The type of animal for which the permit is sought;
 - d. The length of time for which the permit is sought;
 - e. The reason the variance is sought and availability of possible alternatives to the variance;
 - f. Whether any adverse impact may be effectively mitigated by the imposition of additional permit conditions.
- I. Whether the Board of Trustees grants a variance to any condition, the Board of Trustees has the authority to impose special conditions in order to mitigate any potential adverse impacts of issuing an animal permit. The special permit conditions may be enforced in the same manner as the specific conditions set forth herein.

- J. Notice. Notice of a variance hearing shall be posted for 10 days prior to the hearing and delivered to the owner or possessor of each property located within 300 feet of the property for which the variance is sought. The notice shall contain the location, date and time of the hearing, the type of animal involved and the condition for which the variance is sought.
- K. Upon issuance of any animal permit, all special conditions shall be printed upon the permit together with any condition waived.

Section 4. Revocation or Denial.

- a. The committee of Trustees provided for herein may recommend the revocation of any permit upon satisfactory evidence that the permittee is violating or has violated any of the conditions set forth in this ordinance. Upon such recommendation being filed with the Town Clerk, the Clerk shall cause written notice thereof to be mailed to the permittee notifying said permittee that a hearing on such recommendation will be held at a Board of Trustees meeting in not less than 10 days from the date of mailing such notice, specifying the time and place of said hearing. If upon such hearing, said Board of Trustees finds that the permittee has violated conditions herein provided for such permit, the Board may revoke said permit and the permittee shall be allowed 48 hours within which to rid the premises of such animals' rabbits or fowl.
- b. Upon the denial of a permit under the provisions of this ordinance, the Town of Clerk shall cause written notice of such denial to be mailed to the applicant, notifying said applicant thereof. An applicant desiring to appeal such denial, shall, within ten days of receipt of notice of such denial, so notify the clerk in writing, requesting a hearing before the Board of Trustees. Upon receipt of such request for hearing, the Clerk shall give notice to the applicant of such hearing in the manner provided in paragraph (a) of this section for hearings upon revocation. Upon any such hearing of a denial of permit, hereunder, the Town Board of Trustees shall, following such hearing, either direct that such permit be issued or affirm the denial of the permit.

Section 5. Swine and Roosters.

Notwithstanding the provisions heretofore set forth, no more than two (2) male fowl capable of crowing (roosters) shall be kept by any person within the corporate limits of the Town of Sugar City, and no swine shall be kept by any person within the corporate limits of the Town of Sugar City.

Section 6. Sanitary Regulation and Inspection.

The premises upon which animals are kept shall be maintained in sanitary conditions and shall at all reasonable hours be subject to inspection by representatives of the Board of Trustees. It shall be unlawful for any person to refuse such inspection.

Section 7. Non-conforming Use and Keeping of Animals and Fowl.

The lawful keeping of certain animals and fowl within the City limits of the TOWN OF SUGAR CITY, COLORADO, existing at the time of the adoption of this amendment may continue although such keeping does not conform and comply with the requirements and regulations specified in Ordinance No. 322 subject to the following condition and specifications:

- A. A non-conforming use and keeping of animals and fowl shall be made to conform to the provisions of Ordinance No. 322 within a period of one year after the adoption of this amendment.
- B. Any non-conforming use or keeping of animals or fowl which has ceased by discontinuance or abandonment for a period of 90 days shall thereafter conform to the provisions of Ordinance No. 322
- C. No non-conforming use or keeping of animals or fowl may be moved to any other part or parcel of land located within the City limits of the TOWN OF SUGAR CITY, COLORADO.
- D. No non-conforming use or keeping of animals or fowl shall be enlarged by number of animals or fowl nor shall any animal or fowl be replaced after the death or sale of said animal or fowl, which death or sale takes place during the non-conforming use or keeping.
- E. Any non-conforming use or keeping of animals or fowl may not be changed to a use or keeping of any other animal or fowl.

Section 8. Penalties.

Violation of any of the requirements of this ordinance, or failure to continue to comply with any conditions herein set forth shall constitute a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding \$300.00 or by imprisonment in the town jail not exceeding 90 days. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable hereunder.

Section 9. Repeal.

Ordinances 172, 172-A, 172-B and 172-C shall be repealed upon approval of this ordinance. All orders, bylaws, ordinances and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

Section 10. Severability.

The provisions of this ordinance are severable and if any part of this ordinance shall be held invalid, the remainder of this ordinance shall remain valid and enforceable.

Section 11. Emergency Clause.

Because the keeping of certain animals and fowl within the Town of Sugar City without sanitary regulations promotes fly and rodent breeding and results in an increase of disease, the Board of Trustees of the Town of Sugar City hereby finds and declares that an emergency exists; that this ordinance is necessary for the immediate preservation of the public peace, health and safety and therefore, this ordinance shall take effect upon its passage and publication in accordance with the laws of the State of Colorado.

INTRODUCED, READ, PASSED, ADOPTED, APPROVED AND ORDERED
PUBLISHED this 16th day of September, 2020.

BOARD OF TRUSTEES OF THE TOWN
OF SUGAR CITY, COLORADO

By: *Nathanael Dinsmore*
Nathanael Dinsmore, Mayor

ATTEST:

David Moreland
David Moreland, Town Clerk