Trustee Bill No. 2
Series of 2011
Town of Bow Mar

Introduced by:

Trustee Guilford

ORDINANCE NO. 268 AN ORDINANCE REGARDING THE CARE AND KEEPING OF CHICKEN-HENS

AN ORDINANCE AMENDING CHAPTER 7, ARTICLE V OF THE BOW MAR MUNICIPAL CODE CONCERNING ANIMALS

WHEREAS, pursuant to the authority set forth in C.R.S. Title 35, Article 5.5 and the Town's general police authority set forth in Title 31, Article 15, the Board of Trustees ("Board") of the Town of Bow Mar ("Town") has determined that it is in the best interest of the public heath, safety and welfare that the Town adopt a revised ordinance regarding animals.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BOW MAR:

Section 1.

a. Sec. 7-1. Definitions shall be amended to include the following definitions.

(1) *Accessory Use.* Accessory Use shall mean a use subordinate to and exclusively for a purpose incidental to the principal use on the lot. Such uses shall not substantially alter the character of the permitted principal use or structure.
(2) *Accessory Building or Structure:* Accessory building or structure means a subordinate building or structure, the use of which is incidental to that of the main residence on the same lot.
(3) *Livestock* means any species of animal commonly kept, bought, sold or boarded as herd or flock animal as a source of food or as a source of income through agricultural sales. This shall include any hoofed animal or rodent; provided, however, that chicken hens numbering three (3) or fewer may be kept pursuant to this Code and shall not be considered livestock or farm animals.
(4) *Chicken or chicken hen* shall mean only *Gallus domesticus*; a domestic fowl and does not include any other type of fowl or poultry.

b. Section 7-111 of the Municipal Code of the Town of Bow Mar shall repealed and replaced by the following language:
(1) All requirements, regulations and standards imposed by this section are intended to apply in addition to any other applicable requirements, regulations, or standards contained elsewhere within this Code. When requirements of this section overlap those of another section, the more stringent of the two (2), as determined by the Town Attorney, shall apply.

(2) The regulations regarding the keeping of chickens shall only apply to Residential Zone District I.

(3) It shall be unlawful for any person to harbor or keep in the Town any livestock including cattle, sheep, livestock, goats, swine, poultry, wild or exotic animals or poisonous or dangerous reptiles, except with respect to chickens maintained in accordance with sub-section (4), (5),(6), (7) and (8) below.

(4) Backyard Hens Permitted. Backyard chicken-hens are permitted within the Town as an accessory use under the following conditions:

   i. No more than three (3) chicken-hens are permitted per lot or property owner or household, whichever is less.
   ii. No roosters or any other [domesticated] fowl, including ducks, quail, geese, turkeys, or pigeons or exotic birds are permitted to reside outdoors on any residential lot within the Town.

(5) All backyard chicken-hen coops shall meet the following nuisance related requirements:

   i. Provide water at all times.
   ii. Be regularly cleaned to control dust, odor, and waste and not constitute a nuisance, safety hazard, or health problem to surrounding properties.
   iii. For the duration of any chicken keeping permit issued by the Town, the covered enclosure in which chickens are kept must be predator resistant and clean so that odors due to excessive dirt, waste, excrement, or old feed do not become a nuisance. Any such nuisance may be abated through enforcement action by the Town.
   iv. The keeping of chickens shall not result in a decibel reading of more than 65dB, measured at the property line of any lot with a valid chicken permit.
   v. Repeat nuisance complaints shall be cause for enforcement action by the Town, including, but not limited to, permit revocation. Three (3) documented offenses pertaining to the same property within two years shall be cause for the revocation of the chicken keeping permit.
   vi. Enforcement of this section shall be in accordance with the nuisance sections of this chapter and the applicable sections of Chapter 10 and 16.
   vii. 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, predator, rodent, and insect-resistant receptacles and disposed of at least once each week.
   viii. No breeding, selling, or trading of offspring is permitted.
   ix. No slaughtering is allowed. The chicken-hens may not be killed except for the purpose of euthanasia when surrendered to a licensed veterinarian or animal shelter.
   x. Chicken-hen owners must adhere to all Federal and State laws and regulations concerning all avian diseases.
   xi. During daylight hours, chicken hens must be provided access to the sun, the covered enclosure, and also have access to an outside enclosure that is adequately fenced to prevent the escape of the chickens and to provide protection from predators.

xii. The chickens must be placed in the covered enclosure between the hours of dusk and dawn to provide protection from predators and reduce noise complaints within the neighborhood.

xiii. The chicken hens must be sheltered or confined in such fashion as to prevent them from coming into contact with wild ducks or geese, or their excrement.

xiv. No chicken hens shall be allowed within 1,000 feet of any body of water unless sufficient measures have been taken to prevent storm water runoff as determined by the Board of Trustees.

(6) All backyard chicken-hen coops, an accessory structure, shall meet the following standards and procedures.

i. The owner(s) of the parcel must consent in writing to allowing chicken hens on the property. Consent letters shall be submitted to the Town Clerk prior to consideration by the Board of Trustees.

ii. Property owners with a contiguous property line to chicken applicant's property line must consent in writing to allow chicken hens on the residential lot wishing to keep chickens. If any abutting property owner with a contiguous property line to the chicken applicant's property line objects, the property owner may appeal to the Board of Adjustment to determine if mitigation measures can be placed on the property to alleviate impacts and concerns. The Board of Adjustment shall hear the application appeal as provided for in Section 16-15.

iii. Backyard chicken-hens are restricted to the rear or backyard of any lot in a Residential Zoning District I. Rear or backyard is defined in Chapter 16-2.

iv. Chicken hens kept within the Town must be provided with a covered enclosure or coop. It is required that such enclosures be predator-resistant, properly ventilated, easily accessed for cleaning and maintenance, and provide not less than four (4) square feet per chicken to be kept in such enclosure.

v. Coop and run space is limited to a maximum of 120 square feet and no portion of any enclosure shall be taller than five (5) feet at the highest point of the roof. Coop and run space shall be covered to prevent access by predatory birds.

vi. Neither the coop nor the outside covered run may be located less than fifty (50) feet from an abutting property line or ninety (90) feet from an inhabited dwelling unit on abutting property, whichever is greater. Variances from these distance requirements shall require written consent from the owner(s) of affected abutting properties.

vii. The setback determined pursuant to this section or any variance approved by abutting owner(s) shall remain applicable, notwithstanding any subsequent change in ownership of any abutting property or properties.

viii. All enclosures shall be constructed of materials that are complementary to existing structures and shall be placed as close to the primary dwelling unit as feasible to mitigate concerns regarding noise.

ix. Solid fencing within the noted enclosure setbacks no higher than five (5) feet is permitted to mitigate noise.

(7) Permits Required:
   i. Any lot owner seeking approval to keep chickens within the Town shall first obtain a permit from the Town. A copy of which shall be attached at all times to the chicken coop.
   ii. The Board of Trustees shall establish a fee by resolution applicable to the administrative, inspection, and enforcement costs to the Town associated with any permit issuance. The initial fee for a chicken hen permit shall be determined by resolution by the Board plus payment of all administration and inspection fees resulting from the keeping of chickens.
   iii. Chicken-hen permits shall be issued by the Town Clerk following the applicant's compliance with this ordinance based upon the review of the permit application by Board of Trustees and an inspection of the accessory structure shall be completed by the Town Building Inspector.
   iv. No permit shall be issued unless the owner obtains the written consent of all neighbors whose property is contiguous to the chicken-hen owner's property line.
   v. Each permit will expire one year after the issuance date. Renewal permits shall be issued by the Town Clerk based on the applicant's continuing compliance with this ordinance, and a renewal fee established by resolution of the Board.

(8) Following revocation, expiration of a permit or the sunset of this Ordinance pursuant to paragraph 10 below, the permit holder shall have a period of thirty (30) days to remove any chicken hens they have on their property.

(9) Violation of this ordinance shall be subject to fines and penalties in accordance with Sections 7-3 through 7-17 of this Chapter and penalties as set forth in Section 1-72 of the Bow Mar Municipal Code, and revocation of the permit.

(10) Unless extended by a decision of the Board, Sections 4, 5, 6, 7, and 8 of this Ordinance shall expire automatically two years after its adoption, at which time all permits issued for the keeping of chicken hens under sub-sections 4 through 8 under this Ordinance shall expire and be of no force and effect.

Section 2.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BOW MAR, COLORADO:

Section 3. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general powers of the Town of Bow Mar, that it is promulgated for the health, safety and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 5. The Town Clerk shall cause notice of contents of this Ordinance to be published in a weekly newspaper of general circulation in the Town of Bow Mar that is qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

Section 6. Introduced as Ordinance No. 268 at a regular meeting of the Board of Trustees of the Town of Bow Mar on the 17th day of October, 2011, and passed on final reading at a regular meeting of the Board of Trustees of the Town of Bow Mar by a vote 4 to 3 on the 21st day of November, 2011.

Adopted this 21st day of November 2011.

ATTEST:

Richard D. Pilgrim
Mayor

Karen V. Reutzel
Town Clerk and Treasurer

PROOF OF PUBLICATION

I certify that the foregoing ordinance was published in the Denver Post, a legal newspaper within the Town of Bow Mar, Colorado on the 4th day of November, 2011.