

## ORDINANCE NO. 254

### AN ORDINANCE REGULATING FOWL, LIVESTOCK AND OTHER ANIMALS, REPEALING PRIOR ORDINANCES (ORD 245), AND DECLARING AN EMERGENCY.

**INTENT:** In the interest of maintaining the City of Adams as a rural community, this ordinance is in keeping with the traditions associated with raising livestock in an agricultural environment.

THE CITY OF ADAMS ORDAINS AS FOLLOWS:

**SECTION 1: SHORT TITLE.** This ordinance may be referred to as the “Livestock Ordinance of the City of Adams.”

**SECTION 2: DEFINITIONS.** Except where the context indicates otherwise, the singular number indicates the plural and the masculine gender includes the feminine, and the following mean:

- a. City – City of Adams.
- b. City Council or “Council” – The governing body of the city.
- c. Planning Commission or “Commission” – The Planning Commission of the City of Adams.
- d. **Committee – One combined group of at least three members of the Council and the Commission with at least one member representing each governing body (for the purpose of inspections).**
- e. Person – A natural person, firm, partnership, association, corporation, or other legal entity.
- f. Person in charge of property – An agent, occupant, lessee, contract purchaser or person, other than the owners, having possession or control of the property.
- g. Livestock – A horse, pony, burrow, mule, bovine, buffalo, yak, sheep, goat, hog (swine), llama, emu, ostrich or other like animals; but not including a dog, cat, non-reproducing pygmy goat, rabbit or small rodent.
- h. Fowl – A duck, goose, male chickens (rooster), pheasant, quail, peacock, pigeon, or other like birds, **but not including female chickens (hens).**
- i. Wild or fur-bearing animal – Fur-bearing animals are animals such as rabbit, chinchilla, mink, ferret, and similar animals that are being housed outdoors. Wild animals are those which are defined in ORS 609.205 to ORS 609.305. Wild animals also include any bear, lion, tiger, leopard, cheetah, ocelot, cougar, or other cat not indigenous to Oregon, except the domestic cat. Wild animals include any monkey, ape, gorilla, or non-human primate. Wild animals also include any wolf or any canine not indigenous to Oregon, except for the domestic dog.
- j. Pygmy Goat – Any genetically small, hobby, and/or compact goat whose body circumference in relation to height and weight is proportionally greater than other breeds of goats; having a maximum height of not exceeding 23 inches for a doe (female), 24 inches for a buck (un-neutered male), and 27 inches for a wether (neutered male), with measurement taken at the highest part of the back at the base of the neck where the shoulder blades almost touch. It does not include bucks of more than six months of age.
- k. Primary lot – The lot containing a person’s principle dwelling.
- l. Front yard – The area being depicted as facing the addressed street.
- m. Keep – To board, house, feed, care for, or otherwise provide shelter or sustenance to an animal.

- n. Nuisance – A cause or source of unreasonable annoyance, the continuing or repeated unreasonable invasion or disturbance of another’s rights, the keeping of an animal in violation of this ordinance, or any act constituting a nuisance as recognized by Oregon common law.

**SECTION 3. APPLICATION.** It shall be unlawful for any person to have, keep or maintain livestock, fur-bearing animals, and fowl within the corporate limits of the City of Adams without first filing a conditional use application and, upon its approval, having obtained a permit from the City Recorder.

All permits required by this ordinance shall be obtained prior to placing livestock, animals or fowl upon a premise.

No person having obtained a permit under the provisions of this ordinance shall keep any greater number of livestock, animals, or fowl than the number presented in the permit. Any increase in the number will constitute the need for a new conditional use application.

Any person wishing to keep livestock, animals, or fowl must first file a conditional use application complete with:

- a. The name and address of the applicant;
- b. The actual location, by tax lot number, where the livestock, animals or fowl are to be kept;
- c. A description of the kind and exact number of livestock, animals and/or fowl to which the permit will apply;
- d. A plot plan showing the shelter or structures and enclosure boundaries for the keeping of livestock, animals or fowl, including the distance of said shelter (natural, portable or permanent) and accommodations from neighboring property and residences;
- e. A description of the type of enclosure showing sufficient ability to contain the livestock, animals and/or fowl to which the permit will apply;
- f. Approval from the Planning Commission showing compliance with City zoning ordinances.

**SECTION 4. HEARING/GRANTING OF PERMIT.** All applications for a conditional use permit **shall conform to the procedures of a Type III (Quasi-Judicial) application outlined in the Development Code under §4.1.500.** Neighbors within 300 feet of property in consideration will be notified of such hearing and allowed the opportunity to comment. In consideration of request for a conditional use permit pursuant to this ordinance, the **Commission and/or** Council shall consider all information deemed relevant, including but not limited to the information set forth in the application, the results of the inspection, and the comments and information made a part of the record. The **Commission and/or** Council shall deny any request for a permit that does not meet the terms of this ordinance.

The **Commission and/or** Council shall have the authority to place conditions upon the keeping of animals regulated by this ordinance that are intended to mitigate or prevent adverse effect on neighboring property, the community, public health and safety, or sanitary conditions on the subject property, and/or to minimize odors, noise, vectors, or other adverse conditions or impacts reasonably to be expected. Such conditions may include, but are not limited to, screening, specifications for enclosures, locations on the subject property where the animals are to be kept, required maintenance and clean up, pest control, and other measures. The **Commission and/or** Council shall also have the authority to

review and amend a granted conditional use permit in order to address adverse impacts which arise after the permit is allowed.

**Upon approval of the application by both the Commission and Council, and upon completion of an inspection of the proposed enclosure by a Committee of Council and Commission members to ensure that the enclosure will not constitute a nuisance or health hazard, the City Recorder shall issue the conditional use permit herein provided for. The permit shall be for two (2) years of a period from July 1st through June 30th of a second following year, unless sooner suspended or revoked, and shall be renewable providing applicant has complied with all provisions of this ordinance. Non-compliance with this ordinance, or any condition of the permit, shall make the permit subject to revocation pursuant to Section 8 of this ordinance.**

**SECTION 5. PROPERTY.** All persons keeping or maintaining livestock, animals, or fowl shall keep all of same within their own fenced area, though no livestock shall be allowed in front yards. All enclosures shall be maintained so as not to allow livestock/animal or fowl access to any public waterway. Damage done by any privately-owned livestock **shall be the sole responsibility of the owner and** will not be the responsibility or liability of the City.

**SECTION 6. SANITARY/ENCLOSURE.** All livestock, animal, or fowl, and all structures and enclosures permitted in this ordinance, shall be kept and maintained at all times in a clean and sanitary condition so that no offensive odors are emitted therefrom, and so as to prevent the same from becoming a breeding place for flies, mosquitos, or other insects and vermin. Accumulations of manure, droppings and/or other materials soiled by waste shall be collected as needed and disposed of in such a manner as to prevent and eliminate fly-breeding and nuisance conditions.

**SECTION 7. INSPECTIONS.** All holders of a conditional use permit under this ordinance shall be subject to impromptu premises inspection. Conditional use permit holders, upon notification of inspection by the City, shall allow Council members access to premises for such inspection. Refusal to allow access to premises for inspection **may be grounds for** revocation of the permit.

**SECTION 8. COMPLAINTS/REVOCATIONS OF PERMIT.** **If** any resident of the City reasonably believes that any livestock, animal, or fowl, or any enclosure, structure, or pasture is offensive, such as by the emission of odors, the breeding of flies, or the presence of insects or vermin, or that a violation of this ordinance or of a condition of an issued permit has occurred, or that the keeping of any animal has become a nuisance, such person may file a complaint in writing with the City Recorder.

Complaints will be referred to the Council for investigation. If upon investigation, the Council determines that a violation of this ordinance exists, the following will occur.

- a. The Council will inform the City Recorder to issue a notice to the violator **of the complaint and** directing said person to **come in** full compliance of this ordinance **and the conditions of the permit** within fourteen (14) days, or less depending on the severity of conditions found;
- b. After **the** period for compliance has **expired**, the City Council shall inspect the premises to **establish** compliance. If continuing, or additional violations are present, the violator will be given a final seven (7) day period to bring the premises into compliance.

- c. If, after the notice referred to in Subsection (b) hereof has been given, the premises are not brought into compliance within the required time, the conditional use permit will be revoked. Upon such revocation, the livestock, animals, or fowl, as the case may be, must be removed **at the owner's expense**.
- d. A person violating a provision of this ordinance, or any order issued under authority of this ordinance, shall, upon conviction, be guilty of a violation punishable by a fine as set forth herein. Such person shall also be subject to any civil remedies available to the City as are provided for by law.
- e. The statement of penalty within this ordinance is not preclusive, and shall not prevent the imposition of any other penalties or remedies that may be available to the City under any other ordinance, statute, regulation, law, or resolution of the City, or under any applicable law or regulation whether local, State, or Federal.
- f. At the **discretion** of the Council, the City may enforce this ordinance otherwise **and** seek abatement of a violation or nuisance by a civil action initiated by the City Attorney, or Special Counsel, in any court of competent jurisdiction, including the Circuit Court of the State of Oregon for Umatilla County. In any legal action, the Court shall have the authority to award to the City all remedies that are provided for in this ordinance, including, but not limited to, directing the defendant to abate the nuisance, imposing fines as set by the Council, and granting the City the right to proceed with abatement and to charge the defendants with the cost thereof and to have such costs be a lien against the subject's property. The court shall also have the authority to allow for any other remedy available **by** law or in equity, including, but not limited to, injunctive relief.

Costs associated with the removal of livestock/animals or fowl will be the responsibility of the violator/**owner**.

Any conditional use permit holder under this ordinance who has a permit revoked **shall be ineligible for any additional conditional use permit for a period of** one year before **eligible to** reapply.

Written notices of violation will be sent certified mail and will be effective the same date as deposited with the United States Postal Service **or other postal carrier**.

**SECTION 9. ENFORCEMENT.** Any person who shall keep, or maintain without a permit, any livestock, animals, or fowl, on premises required by this ordinance to be permitted, shall be guilty of a misdemeanor and, upon conviction thereof may be punished by a fine of \$1000.00. Each day that such premises, livestock, animal, or fowl remains without a permit shall constitute a separate violation.

**SECTION 10. REMOVAL OF ANIMAL CARCASSES.** No person may allow an animal carcass owned, or controlled by them, to remain exposed on public or private property for a period of time longer than 48 hours.

**SECTION 11. FEES.** All rates, fees, or other charges, not including the fine set forth in Section 9 of this ordinance, shall be subject to the approval of the Council and established by resolution of the Council. All lien costs shall be the responsibility of the lien debtor if the City is required to place a lien against real property.

**SECTION 12. SAVINGS CLAUSE.** Ordinance repeal. Except as otherwise provided herein, Ordinance 245 of the City of Adams, Oregon, is hereby repealed. This repeal is prospective only. Violations existing as of the effective date hereof shall continue to be governed by the applicable terms of said ordinances, and any permit issued pursuant to such ordinances shall continue in effect and governed by the terms of those ordinances until the scheduled expiration date of the given permit. All permits issued after the effective date of this ordinance shall be governed hereby to the exclusion of said ordinances.

**SECTION 13. SEVERABILITY.** If any provision, section, sentence, clause, phrase, or other part of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining parts.

**SECTION 14. EMERGENCY CLAUSE.** The adoption of this ordinance, being both a matter of importance to the citizenry, and necessary for the health, safety, and general welfare of the citizens of the City of Adams, an emergency is hereby declared to exist, and this ordinance shall be effective immediately upon passage hereof by the Council and signature by the Mayor.

**SECTION 15. EXCLUSION.** This ordinance shall not apply to a commercial clinic located within the City of Adams operated by a person authorized by the State of Oregon to practice veterinary medicine.

Passed by the Council and signed by the Mayor:

APPROVED: \_\_\_\_\_, Mayor

DATE: \_\_\_\_\_

ATTESTATION: \_\_\_\_\_, City Recorder

DATE: \_\_\_\_\_