

ORDINANCE NO. 09-003

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MANHATTAN, MONTANA PROVIDING FOR THE AMENDMENT OF TITLE 5, CHAPTER 4, AND ADDING SECTION 5-4-12 OF THE MANHATTAN TOWN CODE AUTHORIZING AND REGULATING THE KEEPING OF DOMESTIC CHICKENS WITHIN THE CORPORATE LIMITS OF THE TOWN OF MANHATTAN, MONTANA.

WHEREAS, it is the intent of the Manhattan Town Council to provide for and protect the health, safety and welfare of the citizens of Manhattan, promote residential harmony and ensure properly maintained domestic chickens through effective regulation; and

WHEREAS, the Manhattan Town Council acknowledges that having chickens within an urban environment has the potential to affect the interests of others; and

WHEREAS, certain minimum standards for keeping chickens are necessary to protect the health, welfare and quality of life of both the animals and citizens of Manhattan; and

WHEREAS, it is the intent of the Manhattan Town Council to provide and maintain, for the citizens of Manhattan, opportunities for the healthy consumption of locally produced foods and products; and

WHEREAS, the Manhattan Town Council acknowledges that the act of food production on one's own property may affect the quality of life of its residents; and

WHEREAS, the Manhattan Town Council acknowledges that the husbandry of an appropriate number domestic female chickens may provide a sustainable and cost-effective food source.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Manhattan, Montana;

Section 1

That Section 5-4-3 of the Manhattan Town Code shall be amended to read as follows:

Prohibited Animals: It shall be unlawful for any person to keep or maintain within the town limits any cattle, sheep, horses, swine, llamas, alpacas, bison, ostriches, rheas, emus, goats, turkeys, ducks, geese or other fowl. This section shall include the keeping of all animals deemed by the council to be offensive or bothersome.

Section 2

That Title 5, Chapter 4, Section 12 of the Manhattan Town Code is hereby adopted as follows:

5-4-12: KEEPING OF CHICKENS

A. Keeping of Chickens Lawful: Subject to the standards in this Chapter, it shall be lawful to keep female domestic chickens (hens) over the age of three (3) months, or either sex domestic chickens under the age of three (3) months, or any combination thereof not to exceed the total allowed per permit holder.

B. Specific Standards for Chickens:

1. No male chickens (roosters) over the age of three (3) months are permitted.
2. No chickens may run at large within the corporate limits of the Town of Manhattan. All chickens must be contained within the permittee's property boundary.
3. The permittee shall provide the chickens with a covered, predator-proof chicken house that is thoroughly ventilated, of sufficient size to admit free movement of the chickens. The chicken house must be adjacent to and provide free access to the chicken enclosure. Any heat source or electrical facilities installed in a chicken house must comply with all adopted building and electrical codes of the Town of Manhattan.
4. Chickens shall be secured within the chicken house from sunset to sunrise.
5. Chicken enclosures and houses must be kept in a neat and sanitary condition at all times and must be cleaned on a regular basis so as to prevent offensive odors.
6. Chickens shall have continuous access to adequate food and water.
7. Stored feed must be kept in rodent-proof and predator-proof container.
8. Chickens shall be maintained in a healthy condition. Ill chickens shall either receive appropriate medical care or be culled.
9. No chicken house or chicken enclosure shall be located in a front yard. No chicken house shall be located closer than 20 feet to any structure inhabited by someone other than the chicken owner, custodian, or keeper; not closer than 10 feet to any neighbor's property line or public alley; and not closer than 20 feet from any property line along a public street or roadway. Chicken houses may be moveable but must comply with all standards of this section.

10. No chicken shall be kept in a manner so as to create noxious odors or noise of aloud, persistent and habitual manner.
11. No chickens shall be slaughtered within the public view.
12. The number of chickens shall be limited to 4 chickens on a 3,000 square foot lot and 1 chicken for each additional 1000 square feet up to a maximum of 15 chickens per permit holder.

C. Permits Required:

1. Prior to the keeping of any chicken(s), a party seeking to keep chickens shall obtain a permit from the Town of Manhattan. A permit fee of \$30.00 shall be paid upon application and upon each renewal. The fee may be revised by resolution of the Town Council from time to time. Only one permit shall be issued per household. Issuance of a permit is a discretionary act. Permits must be renewed on or before January 1 of each year and are delinquent if not renewed by March 1 of each year.
2. The owner of the chickens shall keep a copy of all signed Town approval documents for inspection upon request by the Town or an agent thereof. It shall be a violation of this chapter to refuse to provide such documents when requested.
3. A permit for chickens under this section does not relieve any party from any requirement to obtain any other permit or other necessary approvals for any structure, fence, lighting, heat source, etc. as required by the Manhattan Town Code.
4. A party wishing to keep chickens shall submit an application to the Town of Manhattan. The application shall contain the following:
 - a. A sketch identifying the property boundaries and showing the lot area in square feet, the location of all structures on the property and distances between said structures and between the property boundaries. The sketch must also indicate the locations (s) of the chicken enclosure and chicken house.
 - b. The name, address, and signed statement of the property owner, if different from the applicant, consenting to the keeping of the applied for number of chickens on the property.
 - c. The number of chickens to be kept in accordance with Section B12.
 - d. A description of the enclosure and chicken house, including materials used and cubic footage(s).

- e. A sworn statement that all statements contained in the application are true and that the permit holder shall keep the chickens in compliance with the terms of the permit, application and this section.
 - f. The application must be accompanied by written approval (i.e. petition format) of the application by eighty percent (80%) of the property owners within two hundred feet (200') in any direction from the property line of the residence of the applicant. Name and addresses of the property owners and/or occupants shall be supplied by the applicant. Each property shall only be allowed to one signature on the application.
 - g. If granted, the permit must be renewed each year. All new and existing permits must be renewed on or before January 1 of each year. The renewal must be accompanied by written approval as set out under subsection (f) and with the property owner's consent, if applicable.
- 5. The Town Council may review any permit granted under this section upon formal complaint about the chickens and/or against the person holding the permit. In the event that a complaint is made and is substantiated, the permit may be revoked by the Town Council. In the even the permit is revoked, the chicken owner shall then have no longer than thirty (30) days to remove any chickens from the property.
 - 6. A permit to keep chickens is specific to the permit holder and the location of the permit. A person wishing to move chickens to a different property shall obtain a new permit. A new resident of a property who intends to keep chickens shall obtain a new permit regardless of whether chickens were kept on the property or continue to be kept on the property.
 - 7. Approval of a permit to keep chickens authorizes the permit holder to keep only the number of chickens in the manner described on the application and permit.
 - 8. Changes to the standards contained in this section shall require any permit holder to comply with any new standard, regulation, or condition and no notice to a permit holder is required prior to enforcement of any new standard beyond that required for adoption of a new or revised ordinance.

D: Penalty:

Violation of this chapter is punishable as set forth in Section 1-4-2 of this Code. In addition thereto, the court may, upon conviction thereof, terminate all ownership rights in the chickens, order that the chickens be permanently removed from the city limits, or order that the chickens be destroyed at the owner's expense. It is the intent of the Town Council to impose absolute liability for the offenses described in this Chapter.

Section 3:
Repealer

All provisions of the ordinances of the Town of Manhattan in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other provisions of the ordinances of the Town of Manhattan not in conflict with the provisions of this ordinances shall remain in full force and effect.

Section 4:
Savings Provision

This ordinance does not affect the rights and duties that matured, penalties that were incurred or proceedings that were begun before the effective date of this ordinance.

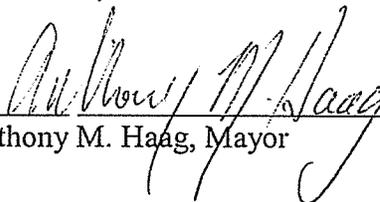
Section 5
Severability

That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Manhattan Town Code as a whole.

Section 6
Effective Date

This ordinance shall be in full force and effect thirty (30) days after final adoption.

FINALLY PASSED, ADOPTED AND APPROVED by the Town Council of the Town of Manhattan, Montana on second reading at a regular session thereof held on the 12th day of January, 2010. The effective date of this ordinance is March 9, 2010.



Anthony M. Haag, Mayor

ATTEST:



Vicki Ellison, Clerk/Treasurer