

**VILLAGE OF MUKWONAGO
WAUKESHA AND WALWORTH COUNTIES**

ORDINANCE NO. 983

**ORDINANCE TO CREATE SECTION VI OF CHAPTER 14
OF THE VILLAGE OF MUKWONAGO MUNICIPAL CODE
REGARDING KEEPING DOMESTICATED CHICKENS**

The Village Board of the Village of Mukwonago do ordain as follows:

SECTION I

Section VI of Chapter 14 of the Municipal Code of the Village of Mukwonago is hereby created to read as follows:

Sec. VI. Keeping of Domesticated Chickens

- (a) *Purpose.* This section is intended to establish a process and the recommended threshold conditions under which small scale keeping of domestic chickens for personal use and enjoyment on residentially zoned lots may be considered for approval through Staff review.
- (b) *Definitions.* All terms herein shall have the meaning described below:
 - Domestic(ated) chicken(s)* means *Gallus domesticus*.
- (c) *Conditions.* Keeping of domesticated chickens on a non-commercial basis and subject to the following conditions may be permitted unless one or more of these conditions has been specifically waived or modified by the Zoning Administrator, having first determined that relief or digression from such condition(s) in a specific circumstance is warranted, that such waiver or modification is unlikely to result in adverse impacts upon the surrounding properties, neighborhood or the village as a whole, and that the final plan will uphold the spirit and intent of this division:
 - 1. Upon the issuance of a permit as provided for hereunder, a residential property owner may keep up to four domesticated chickens;
 - 2. The minimum size requirements for a hen house (a hen house is required) is not less than three cubic feet of space per bird and the hen house must connect to a secure and fully ventilated pen (also required) which contains not less than seven cubic feet of space per bird and an appropriately sized nesting box (also required) shall be provided at the rate of not less than one box per every two birds. Pens shall be properly sized as will permit full spread of the kept birds wingspan and allow the bird(s) to walk/run. The structural floor of the coop shall not exceed 60 square feet and the height shall not exceed 6' as measured from the coop's grade level to its highest point. The applicants shall include "to scale" building plans for the structures and enclosures related to the keeping of chickens with their applications;
 - 3. No person shall keep a rooster or a crowing hen;
 - 4. No chickens may be kept within a principal residence or garage;

5. Chicken keeping shall be conducted only by the owner occupant (or a tenant with the property owners express written consent for the use) of a property zoned and used for single family detached residential purposes only. No chicken may be kept at mobile homes, condominiums, apartment complexes, duplexes, or any other multiple-family property;
6. No person shall keep chickens in any location on the property other than in the back yard;
7. Hen houses and chicken pens shall not be located closer than 75 feet from the ordinary high water mark of any lake, river, or stream;
8. If a chicken dies, it must be disposed of promptly in a sanitary manner;
9. Chickens shall be kept and handled in a sanitary manner;
10. Chickens shall be kept as pets and for personal use only. No owner shall engage in chicken breeding or fertilizer production for commercial purposes including, but not limited to, farmer's markets;
11. The slaughtering of chickens is prohibited unless it is accomplished/processed at a properly licensed off-premises facility;
12. Chickens must be kept in a hen house and chicken pen at all times. Chickens shall always be secured within the hen house during non-daylight hours;
13. All structures and enclosures related to the keeping of chickens must be at least 50 feet from a neighboring principal residence, at least five feet from the side and rear property lines, and at least five feet from the residence upon the property where the chickens are kept. A survey shall be provided with the application showing the location of all structures and enclosures, including structures related to the keeping of chickens;
14. Noise from chickens may not be loud enough at the property boundaries to disturb a person of ordinary sensitivity;
15. The hen house and pen system shall be properly designed, laid-out on/over a hard surface and maintained as will provide safe and healthy living conditions for the chickens while minimizing adverse impacts to other residents in the neighborhood through use of materials, colors, architecture and spatial site layout that are complimentary to the existing buildings on the premises and the surrounding area;
16. All coops, attached runs/enclosures and yards where chickens are kept or maintained shall be cleaned regularly to keep them reasonably free from substances, including but not limited to, manure, uneaten feed, feathers and other such waste, that it does not cause the air and environment to become noxious or offensive or to be in such condition as to promote the breeding of flies, mosquitoes or other insects, or to provide habitat, breeding or feeding place for rodents or other animals, or otherwise be injurious to the public health, and so as not to constitute a public nuisance;

17. The hen house shall be enclosed on all sides and have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator and bird-proof wire or fence of no more than one-inch openings;
 18. All enclosures for the keeping of chickens must provide adequate ventilation as well as sun protection, and be sanitary, insulated, weatherproof and impermeable to rodents, wild birds, and predators, including dogs and cats and similar. It must also be structurally sound, moisture-proof and maintained in good repair with sufficient space for freedom of movement and retention of body heat with elevated perches for natural roosting position. The nesting boxes must be elevated off the ground;
- (d) License Requirements. No person shall own, harbor, keep, or maintain domestic chickens on residentially zoned Village lots without first obtaining a license.
1. Applications for a license shall be made prior to acquiring a licensable domestic chickens, on such forms as provided by the Village.
 2. Approval from the owners of abutting lots must be secured prior to acquiring chickens. Abutting property shall mean all lots that the applicant's property comes into contact with at one or more points, except for lots that are legally abutting but separated from the applicant's property by a public or private street, alley or other right-of-way. Said consent must be signed and notarized by the property owner(s).
 3. Applicants shall register with the Wisconsin Department of Agriculture, Trade and Consumer pursuant to §95.51, Wis. Stats., and provide proof of registration with the Department prior to obtaining a Village license.
 4. Applicants shall state on the licensing the number of planned chickens, the plan to dispose of manure and other waste, as well as their intended coop design and materials plan. A diagram describing the location of the coop and any attached run/enclosure in relationship to lot boundaries and nearby structures shall also be necessary.
 5. Applicant shall pay an initial license fee, as well as a subsequent annual fee thereafter, as provided in the Village of Mukwonago application process.
- (e) Sanitation.
1. Applicants shall pay a license fee in an amount established from time to time by the Village Board.
 2. Chickens that become ill shall receive veterinary care on-site or at a veterinary office. Chickens ill with an infectious disease capable of being transmitted from bird to bird or from birds to humans, including but not limited to, salmonella pullorum, avian influenza, are prohibited and shall be immediately euthanized by a veterinarian or immediately removed from the Village and humanely killed at a properly licensed off premises facility. Any person keeping poultry shall immediately report any unusual illness or death of chickens to the Waukesha County Health Department and the Wisconsin Department of Agriculture, Trade and Consumer.
 3. A dog or cat which kills or injures a chicken shall not, for that reason alone, be

considered a dangerous animal.

4. Deceased chicken shall be disposed of immediately in a safe manner, which may include trash disposal after placing the deceased bird in a sealed bag consistent with John's Disposal guidelines or taking the deceased chicken to a vet to be disposed.
5. All waste including manure shall be disposed of in a safe and adequate manner that does not create a public nuisance consistent with John's Disposal guidelines. Composting of manure shall be done in a dedicated, enclosed container at least 50 feet from any residential structure on adjacent lots and at least five feet from all lot lines.

(f) Inspection and Enforcement.

1. The Village can deny any application if the proper information is not provided.
2. License fees shall not be prorated or refundable.
3. Village Staff, Police Officers or a Waukesha County Humane Officer shall have the power, whenever it may deem reasonably necessary to enter a property related to any animal abuse or neglect reports.
4. Violations of this chapter may constitute a public nuisance under Wisconsin Statutes Chapter 34 of the Village Code. The Village may maintain action to recover damages or abate a public nuisance pursuant to Wisconsin Statutes Chapter 823 and Secs. 34-27, 34-29 and 34-30 of the Mukwonago Village Code.
5. A license issued hereunder may be revoked by the Village of Mukwonago upon determination that the licensee has failed to comply with the provisions of this code or state law. Once a license has been revoked, it shall not be reissued for a period of at least three years.
6. Licenses shall not be transferable. Only the owner of the proposed licensed real property is eligible to obtain a poultry keeping license.
7. The provisions of this chapter are not exclusive and may be used in combination with each other or with any other section of this code or state statute applicable to this subject matter.
8. In the event that the license holder fails to keep chickens as allowed under the permit, for a period of six months, the license holder shall remove the structure(s) and enclosure(s) related to the keeping of chickens and restore the site to its pre-license condition.

(g) Violation and Penalty.

Any person who violates any provision of this Ordinance shall, upon conviction, be subject to a penalty as provided for in this Code. Each day that a violation continues shall be considered a separate offense and will be subject to an additional forfeiture. This provision shall not be considered the Village's exclusive remedy. The Village may pursue injunctive relief as it may deem necessary.

SECTION II

All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed.

SECTION III


The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the Ordinance.

SECTION IV


This Ordinance shall take effect upon passage and publication as approved by law, and the Village Clerk shall so amend the Code of Ordinances of the Village of Mukwonago, and shall indicate the date and number of this amending ordinance therein.

PASSED AND ADOPTED by the Village Board this 16th day of September, 2020.

APPROVED:


Fred Winchowky, Village President

Countersigned:


Diana Dykstra, Village Clerk/Treasurer