

ORDINANCE NO. 2001-6

**AN ORDINANCE TO AMEND
THE ZONING ORDINANCE
IN THE TOWN OF MUKWONAGO
AS IT RELATES TO
HOBBY KENNELS FOR DOGS AND POTBELLIED PIGS**

WHEREAS, it has come to the attention of the Town Plan Commission and Town Board that regulations of household pets in the Town of Mukwonago may be unduly restrictive to the extent that the same may prohibit the keeping of some domesticated animals regarding which the Town does not have significant health, safety or welfare concerns; and

WHEREAS, in particular, residents of the Town of Mukwonago have suggested that the keeping of potbellied pigs in the Town of Mukwonago can be done in a manner that poses no risk to human safety, will not create a nuisance and would not adversely affect the neighborhoods in which the potbellied pigs are located, provided that certain minimum standards are met~ and

WHEREAS, the Town of Mukwonago Plan Commission had an opportunity to discuss this issue at its meetings of May 9, 2001, June 6, 2001, August 1, 2001, and September 5, 2001, and directed Town Staff to prepare a draft ordinance to allow potbellied pigs to be kept in the Town of Mukwonago under certain circumstances; and

WHEREAS, upon receipt of the draft ordinance from Town Staff, the Town Plan Commission directed that the Town Clerk schedule the matter for public hearing; and

WHEREAS, the Town Clerk for the Town of Mukwonago scheduled the matter for public hearing pursuant to Section 22.02 of the Town of Mukwonago Zoning Ordinance; and

WHEREAS, upon publication of the required notice of public hearing as required by Section 23 of the Town of Mukwonago Zoning Ordinance, a public hearing was held jointly before the Town of Mukwonago Town Board and Town of Mukwonago Plan Commission on October 3, 2001, pursuant to Section 22.02(3HB) and (4) of the Town of Mukwonago Zoning Ordinance; and

WHEREAS, the Plan Commission for the Town of Mukwonago has recommended to the Town Board of the Town of Mukwonago that a Zoning Ordinance amendment be made to clarify the hobby kennel permit requirements and to allow potbellied pigs to be kept in the Town of Mukwonago in the limited circumstances described in the ordinance prepared by Town Staff: and

WHEREAS, the Town Board for the Town of Mukwonago, having carefully reviewed the recommendation of the Plan Commission for the Town of Mukwonago, having carefully reviewed the draft ordinance, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety and welfare of the community, the immediate neighborhoods in which said uses may be located, and having given due consideration to the municipal problems involved as well as the impact on the surrounding properties as to the noise, dust, smoke and odor, and others, hereby determines that the proposed rezoning ordinance will not violate the spirit or intent of the Zoning Ordinance for the Town of Mukwonago, will not be contrary to the public health, safety or general welfare of the Town of Mukwonago, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factors and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendations found in the Town of Mukwonago Master Plan,

NOW, THEREFORE, the Town Board for the Town of Mukwonago, Waukesha County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The Town of Mukwonago Zoning Ordinance Section 2, entitled Definitions, subsection 2.02 entitled Specific Words and Phrases, subsection 2.02(64a) entitled Regulated Household Pets is hereby created as follows:

(64a) Regulated Household Pets:

All dogs and potbellied pigs (as defined herein) are regulated household pets.

SECTION 2: The Town of Mukwonago Zoning Ordinance Section 2, entitled Definitions, subsection 2.02 entitled Specific Words and Phrases, subsection 2.02(14a) entitled Dog is hereby created to read as follows:

(14a) Dog:

A domestic mammal (*Canis familiaris*) closely related to the common wolf, but not including coyotes, wolf mixes or hybrids of wolves or coyotes.

SECTION 3: The Town of Mukwonago Zoning Ordinance Section 2, entitled Definitions, subsection 2.02, entitled Specific Words and Phrases, subsection 2.02(58a), entitled Potbellied Pig is hereby created as follows:

(58a) Potbellied Pig:

A pig that is white, black or pinto in color, stands less than 14 inches at the shoulders and less than 30 inches in length when grown, weighs less than 220 pounds, that is distinguished by having erect ears, a straight tail with a plume at the end, and hair on the back that does not part, and is kept by its owners as a household pet.

SECTION 4: The Town of Mukwonago Zoning Ordinance Section 2, entitled Definitions, subsection 2.02, entitled Specific Words and Phrases, subsection 2.02(43) entitled Kennel, Hobby, is hereby repealed and recreated as follows:

(43) Kennel, Hobby:

A non-commercial establishment, structure or premises, accessory to the principal use of the property where more -than the number of regulated household pets (as defined herein), six months minimum of age as are permitted by right are kept for such purposes as pets, field trials, shows or hobbies. The occasional raising of not more than two litters of dogs per year on a premises for sale or disposal of said dogs, within six months of said birth shall not be considered a hobby kennel.

SECTION 5: The Town of Mukwonago Zoning Ordinance, Section 9 entitled R-I-I Rural Home District, subsection 9.01 entitled Use Regulations, subsection 9.01(J) entitled Hobby Kennel is hereby repealed as recreated as follows:

(J) Hobby Kennel.

Number of Dogs Limited. The keeping of dogs by right, and the keeping of dogs by hobby kennel use permit, is limited to the number of dogs described below:

- a. **One Acres or Less.** On parcels one acre or less in size, no more than two dogs required to be licensed by State statute shall be kept on the parcel. Hobby kennel use permits cannot be issued for parcels one acre or less in size.
- b. **One to Three Acres.** On parcels more than one acre in size, but less than three acres in size, no more than two dogs required to be licensed by State statute shall be kept on the parcel. Hobby kennel use permits may be issued f or parcels more than one acre in size.
- c. **Three Acres or Larger.** On parcels three acres or larger in size, no more than three dogs required to be licensed by State statute shall be kept on the parcel. Hobby kennel use permits may be issued for parcels three acres or larger in size.

2. **Number of Potbellied Pigs (as defined herein) Limited.** Potbellied pigs are prohibited in the Town of Mukwonago, regardless of the size of the parcel on which the pigs would be located, except upon the issuance of a hobby kennel use permit. Hobby kennel use permits may be granted to allow keeping of potbellied pigs, up to the numbers described as follows:
 - a. **Less Than Three Acres.** Hobby kennel use permits for potbellied pigs shall not be issued for parcels less than three acres in size.
 - b. **Three Acres or Larger.** Hobby kennel use permits for potbellied pigs may be issued for parcels three acres or larger in size, subject to the regulations described in subsection 3, below, and subject to the numbers of potbellied pigs being restricted to the following: the hobby kennel use permit may allow no more than two potbellied pigs on a parcel that is three acres but less than four acres in size; and no more than three potbellied pigs on a parcel that is four acres or larger.
3. **Potbellied Pigs Regulations.** The keeping of potbellied pigs by hobby kennel use permits is subject to the following regulations, in addition to any specific conditions that may be imposed by the Town of Mukwonago Plan Commission:
 - a. Potbellied pigs (as defined herein) must be spayed or neutered prior to four months of age.
 - b. Commercial activities such as sale or breeding of potbellied pigs (as defined herein) is prohibited.
 - c. Potbellied pigs (as defined herein) may only be allowed by hobby kennel use permit if they are kept as household pets, residing in the residence, with only limited periods of time outdoors.
 - d. Prior to the issuance of a hobby kennel use permit, all owners of potbellied pigs (as defined herein) shall present proof that the potbellied pigs have been tested to be free from Pseudorabies and Brucellosi.
 - e. Potbellied pigs (as defined herein) must be vaccinated no less than annually by a veterinarian who is licensed in the State of Wisconsin.

5. One Hobby Kennel Use Permit Per Parcel.

There shall be no more than one hobby kennel use permit allowed on any one parcel in the Town of Mukwonago.

6. Nuisances.

In all cases, regardless of the number of dogs or potbellied pigs on a parcel, if the keeping of any number of dogs or potbellied pigs accessory to the principal use becomes a nuisance to the neighborhood as may be determined by the Town Plan Commission or Town Board, such use shall be terminated or the nuisance abated. The keeping of a potbellied pig without a hobby kennel use permit, and the keeping of more dogs than are permitted by right on a property without a hobby kennel use permit, is declared to be a public nuisance. Where necessary, the Town Plan Commission or Town Board may take appropriate steps to abate such nuisance.

SECTION 6: The Town of Mukwonago Zoning Ordinance Section 3, entitled General Provisions, subsection 3.08 entitled Conditional Uses, subsection 3.08(4) entitled Conditional Uses Permitted, subsection R-1 entitled Commercial Stables, subsection 5 is hereby repealed and recreated as follows:

The keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 7: The Town of Mukwonago Zoning Ordinance Section 3, entitled General Provisions, subsection 3.08 entitled Conditional Uses, subsection 3.08(4) entitled Conditional Uses Permitted, subsection R-1 entitled Private Stables, subsection 5 is hereby repealed and recreated as follows:

The keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 8: The Town of Mukwonago Zoning Ordinance Section 7, entitled A'E Exclusive Agricultural Conservancy District, subsection 7.02. entitled Regulations, subsection 7.02(1), entitled Permitted Uses, subsection 7.02(1)(H), subsection 7.02(1)(H)(1) is hereby repealed and recreated as follows:

Private stables on parcels of less than 20 acres subject to a written refuse disposal plan being submitted to and approved by the Plan Commission if requested by the Town, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of lot area and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 9: The Town of Mukwonago Zoning Ordinance Section 7, entitled A-E Exclusive Agricultural Conservancy District, subsection 7.02, entitled Use Regulations, subsection 7.02(1), entitled Permitted Uses, subsection 7.02(1)(H), subsection 7.02(1)(H)(4) is hereby repealed and recreated as follows:

Commercial stables on parcels of less than 20 acres are not permitted but may be allowed as conditional uses pursuant to Section 3.08(4)(R-1) and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been Issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 10: The Town of Mukwonago Zoning Ordinance Section 7, entitled A-E Exclusive Agricultural Conservancy District, subsection 7.02 entitled Use Regulations, subsection 7.02(2) entitled Conditional Uses, subsection (A) is hereby repealed and recreated as follows:

Commercial stables on parcels less than 20 acres in size pursuant to Section 3.08(4)(R-1) provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 11: The Town of Mukwonago Zoning Ordinance Section 8, entitled A-B Agricultural Land Preservation District, subsection 8.03, entitled Use Regulations, subsection 8.03(1) entitled Permitted Uses, subsection B.03(1)(E), subsection 8.03(1)(E)(1) is hereby repealed and recreated as follows:

Private stables on parcels of less than 20 acres subject to a written refuse disposal plan being submitted to and approved by the Plan Commission if requested by the Town, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of lot area and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 12: The Town of Mukwonago Zoning Ordinance Section 8, entitled A-P Agricultural Land Preservation District, subsection 8.03, entitled Use Regulations, subsection 8.03(1) entitled Permitted Uses, subsection 8.03(1)(E), subsection 8.03(1)(E)(4):

Commercial stables on parcels of less than 20 acres are not permitted but may be allowed as conditional uses pursuant to Section 3.08(4)(R-1) and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 13: The Town of Mukwonago Zoning Ordinance Section 8, entitled A-P Agricultural Land Preservation District, subsection 8.03, entitled Use Regulations, subsection 8.03(2), subsection (A) is hereby repealed and recreated as follows:

Commercial stables on parcels less than 20 acres in size pursuant to Section 3.08(4)(R-1) provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 14: The Town of Mukwonago Zoning Ordinance Section 9, entitled R-H Rural Home District, subsection 9.01 entitled Use Regulations, subsection 9.01(1) entitled Permitted Uses, subsection 9.01(1)(K) is hereby repealed and recreated as follows:

Private stables subject to a written refuse disposal plan being submitted to and approved by the Plan Commission if requested by the Town, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of open lot area and provided that the keeping of hogs, pigs of any kind (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 15: The Town of Mukwonago Zoning Ordinance Section 9, entitled R-H Rural Home District, subsection 9.01 entitled Use Regulations, subsection 9.01(2) entitled Conditional Uses, subsection 9.01(2)(HA) is hereby repealed and recreated as follows:

Commercial stables on parcels five acres or greater in size may be allowed as conditional uses pursuant to Section 3.08(4)(R-1) provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 16: The Town of Mukwonago Zoning Ordinance Section 10, entitled A-1 Agricultural District, subsection 10.02, entitled Use Regulations, subsection 10.02(1), entitled Permitted Uses, subsection 10.02(1)(A), subsection 10.02(1)(A)(1) is hereby repealed and recreated as follows:

Private stables on parcels of less than 20 acres subject to a written refuse disposal plan being submitted to and approved by the Plan Commission if requested by the Town, provided that not more than one horse or other head of livestock are kept for each full open acre over two acres of lot area and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 17: The Town of Mukwonago Zoning Ordinance Section 10, entitled A-1 Agricultural District, subsection 10.02, entitled Use Regulations, subsection 10.02(1), entitled Permitted Uses, subsection 10.02(1)(A), subsection 10.02(1)(A)(4) is hereby repealed and recreated as follows:

Commercial stables on parcels of less than 20 acres are not permitted but may be allowed as conditional uses pursuant to Section 3.08(4)(R-1) and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 18: The Town of Mukwonago Zoning Ordinance Section 10, entitled A-1 Agricultural District, subsection 10.02 entitled Use Regulations, subsection 10.02(2) entitled Conditional Uses, subsection 10.02(2)(A) is hereby repealed and recreated as follows:

Commercial stables on parcels less than 20 acres in size pursuant to Section 3.08(4)(R-1) and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 19: The Town of Mukwonago Zoning Ordinance Section 11, entitled S-E Suburban Estate District, subsection 11.01 entitled Use Regulations, subsection 11.01(2) entitled Conditional Uses, subsection 11.01 (2)(A) is hereby repealed and recreated as follows:

Commercial stables on parcels three acres or greater in size may be allowed as conditional uses pursuant to Section 3.08(4)(R-1) and provided that the keeping of hogs, pigs of any type (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued), male goats or fur-bearing animals shall not be permitted on less than 20 acres.

SECTION 20: The Town of Mukwonago Zoning Ordinance Section 12, entitled R-1 Residential District, subsection 12.01 entitled Use Regulations, subsection 12.01(1) entitled Permitted Uses, subsection 12.01(1)(A) is hereby repealed and recreated as follows:

Any permitted use as authorized and regulated in the Rural Home District, except that the keeping of poultry or domestic livestock (except potbellied pigs as defined herein for which a hobby kennel use permit has been issued) shall not be permitted on any lot.

SECTION 21: SEVERABILITY.

The several sections of this ordinance are declared to be severable, If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions. sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 22: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

DATED this 29'th day of October , 2001