

ENROLLED ORDINANCE 170-58

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE BY CREATING SECTION 82-4 AND SUBSECTION 82-52 REGARDING THE KEEPING OF BACKYARD CHICKENS IN CERTAIN ZONING DISTRICTS (ZT-1818)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Mukwonago Town Board on August 5, 2015, and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.62, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Town of Mukwonago Zoning Code, adopted by the Town of Mukwonago on February 27, 2007, is hereby amended, to create Section 82-4 and Subsection 82-52 regarding the keeping of backyard chickens in certain zoning districts, more specifically described in the “Staff Report and Recommendation” on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference ZT-1818, is hereby approved.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Mukwonago.

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

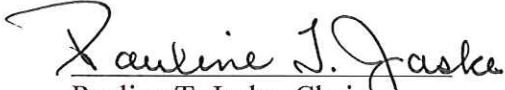
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.


Adopted by the Waukesha County Board: 10/27/15
Approved by the Waukesha County Executive: 10/30/15
Published: 11/07/15

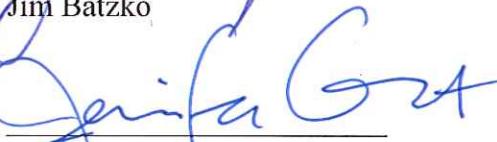
Referred on: 10/08/15	File Number: 170-O-059	Referred to: LU
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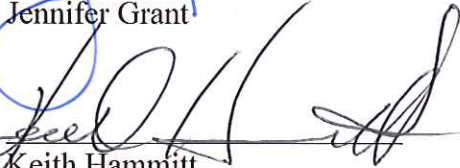
AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE BY CREATING SECTION 82-4 AND SUBSECTION 82-52 REGARDING THE KEEPING OF BACKYARD CHICKENS IN CERTAIN ZONING DISTRICTS (ZT-1818)

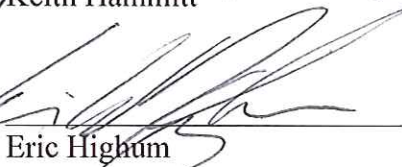
Presented by:
Land Use, Parks, and Environment Committee


Pauline T. Jaske, Chair

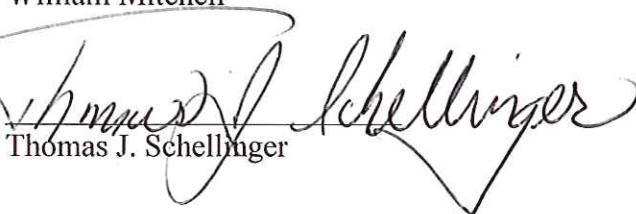

Jim Batzko


Jennifer Grant



Keith Hammitt


Eric Highum


William Mitchell


Thomas J. Schellinger

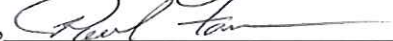
The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 10/27/2015, 
Kathleen Novack, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed: _____

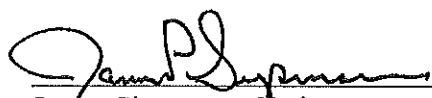
Date: 10-30-15, 
Paul Farrow, County Executive

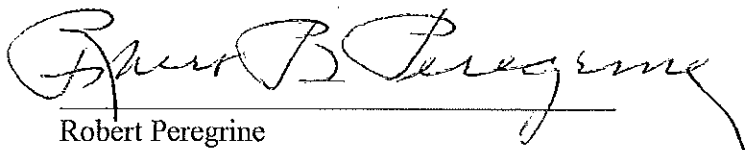
COMMISSION ACTION

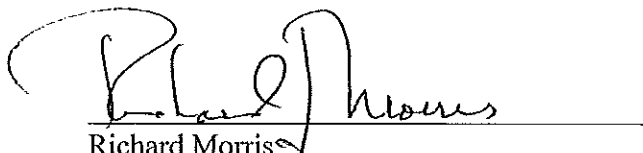
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Mukwonago Zoning Ordinance hereby recommends approval of ZT-1818 (Text Amendment) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

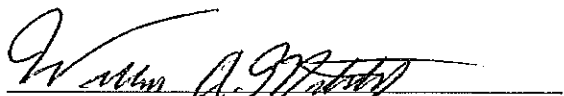
September 17, 2015


James Siepmann, Chairperson



Robert Peregrine


Richard Morris

(Absent)
Gary Goodchild


William Mitchell

(Absent)
William Maslowski


Keith Hammitt

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
TEXT AMENDMENT

FILE NO.: ZT-1818

DATE: September 17, 2015

PETITIONER: Town of Mukwonago Board
Town of Mukwonago Hall
W320 S8315 Beulah Road
Mukwonago, WI 53149

NATURE OF REQUEST:

Amend Section 82-4 to create a definition for “backyard chickens” and create Subsection 82-52 of the Town of Mukwonago Zoning Code regarding the keeping of backyard chickens in certain zoning districts. (Town Ordinance 2015-O-29).

PUBLIC HEARING DATE:

August 5, 2015.

PUBLIC REACTION:

Several residents spoke in support of the proposed ordinance amendments.

TOWN PLAN COMMISSION:

On August 5, 2015, the Town of Mukwonago Plan Commission voted to recommend adoption of the proposed ordinance to the Town Board with a vote of 5 “ayes” and one “no”.

TOWN BOARD ACTION:

On August 5, 2015, the Town of Mukwonago Board approved the Zoning Ordinance Amendments as recommended by the Town Plan Commission by a unanimous vote.

OTHER CONSIDERATIONS:

The Town of Mukwonago is proposing provisions for the keeping of chickens on smaller properties. The provisions would allow for chickens to be kept on lots of three acres or less in the R-H Rural Home District, EC Environmental Corridor District, A-1 Agricultural District, S-E Suburban Estates District and the R-1 and R-2 Residential Districts.

The maximum number of “backyard chickens” would be five females per property. The Town is requiring that chickens be kept in enclosures and that the enclosures be located at least 25’ from property lines and not be located in the front yard. Enclosures would be required to be 50’ from all existing dwelling units on adjoining properties. The proposed requirements stipulate that chickens shall not cause nuisance or unhealthy conditions.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that the proposed text amendments be **approved**. The proposed amendments allow for rural residential residents to keep a limited number of chickens on smaller properties. The Town has introduced various rules and criteria relative to location of enclosures and housekeeping requirements to ensure that chickens do not become a nuisance to neighbors.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Attachment: Town Ordinance 2015-O-29

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RECEIVED

AUG 28 2015

AN ORDINANCE TO AMEND CHAPTER 82 OF THE TOWN OF MUKWONAGO MUNICIPAL CODE TO ALLOW BACKYARD CHICKENS IN CERTAIN ZONING DISTRICTS

DEPT OF PARKS & LAND USE

WHEREAS, the Town Board for the Town of Mukwonago adopted a zoning code for the Town of Mukwonago in 1953 and has amended it from time to time since then; and

WHEREAS, that zoning code is codified as Chapter 82 of the Town of Mukwonago Municipal Code, titled "Zoning;" and

WHEREAS, the Town of Mukwonago Plan Commission desires to amend the zoning code to allow backyard chickens in certain zoning districts; and

WHEREAS, the Plan Commission prepared a draft ordinance; and

WHEREAS, the Town Clerk for the Town of Mukwonago has properly referred the matter to the Waukesha County Park and Planning Commission, pursuant to Section 82-265(c) of the Town of Mukwonago Zoning Code; and

WHEREAS, the Town Board has conducted the necessary investigation, and scheduled a public hearing for the Plan Commission and the Town Board, pursuant to Section 82-265(c)(2) of the Town of Mukwonago Zoning Code; and

WHEREAS, upon due notice as required by Section 82-267(a), the Plan Commission and Town Board held a joint public hearing on August 5, 2015 pursuant to Section 82-265(d) of the Town of Mukwonago Zoning Code; and

WHEREAS, within a reasonable time after the hearing, the Plan Commission has reported its recommendation to the Town Board; and

WHEREAS, the Town Board for the Town of Mukwonago, after carefully reviewing the recommendation of the Plan Commission for the Town of Mukwonago and having given the matter due consideration having determined that all procedural requirements and notice requirements have been satisfied, and having based its determination on the effect of the adoption of the ordinance on the health, safety and welfare of the community and the preservation and enhancement of property values in the community, and having given due consideration to the municipal problems involved hereby determine that the ordinance amendment will serve the public health, safety and general welfare of the Town of Mukwonago, will enhance property values in the Town and will not be hazardous, harmful, noxious, offensive or a nuisance, and will not unduly limit or restrict the use of property in the Town or for any other reason cause a substantial adverse effect on the property values and general desirability of the Town.

NOW, THEREFORE, the Town Board for the Town of Mukwonago, Waukesha County, does hereby ordain as follows:

SECTION 1. Section 82-4 of Chapter 82 of the Town of Mukwonago municipal code entitled "Zoning," is hereby amended to include the definition for backyard chickens set forth in this section in alphabetical order.

Backyard chickens means a place where chickens are kept for the use and enjoyment of those living on the premises.

SECTION 2. Section 82-52 of Chapter 82 of the Town of Mukwonago municipal code entitled "Zoning," is hereby created to read as follows:

82-52 Backyard chickens

(a) *Legislative intent.* The keeping of chickens on residential lots in the Town of Mukwonago is consistent with the Town's rural character and desire to foster sustainable agriculture while addressing issues related to public health, safety, and welfare.

(b) *Generally.* Backyard chickens are allowed as an accessory use to a single-family residence in the following zoning districts on lots that are 3 acres or smaller: Rural Home (R-H), Environmental Corridor (EC), Agricultural (A-1), Suburban Estates (S-E), Residential (R-1), and Residential (R-2).

(c) *Number.* No more than 5 female chickens may be kept. The keeping of roosters is prohibited.

(d) *Enclosure requirements.* Chickens shall be provided with a covered enclosure that is (1) predator-proof; (2) thoroughly ventilated; (3) of sufficient size to allow the free movement of the chickens; and (4) designed to be easily accessed, cleaned, and maintained by the owners. Chickens must be kept in the covered enclosure or a fenced enclosure at all times.

(e) *Enclosure considered a structure.* A covered enclosure is considered a structure and is subject to all applicable restrictions in this chapter.

(f) *Setback requirements.* The covered enclosure housing chickens shall be located at least 25 feet from all property boundary lines and shall not be located in the front yard. In addition, the covered enclosure shall be located at least 50 feet from all existing dwelling units on adjoining properties. In the event a dwelling unit is constructed on an adjoining property after the covered enclosure is established under this chapter and the new dwelling is less than 50 feet from the enclosure, the enclosure is not required to be moved.

(g) *General care and maintenance.* The keeping of chickens shall not cause any nuisance or unhealthy condition, or otherwise interfere with the normal use of any property.

(h) *Registration required.* The owner, operator, or tenant shall register the premise where chickens are kept with the Wisconsin Department of Agriculture, Trade and Consumer Protection as required by state law and maintain such registration for so long as may be required.

(i) *Storage of feed.* Feed for the chickens shall be kept indoors or in a sealed container if kept out of doors.

(j) *Licensing.* The keeping of chickens under this section shall comply with any licensing requirements established by the Town of Mukwonago.

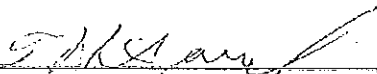
SECTION 3. SUBMITTAL TO WAUKESHA COUNTY. The Town of Mukwonago Town Clerk is directed to send three signed copies of this ordinance to the Waukesha County Clerk for approval of the Waukesha County Board of Supervisors.

SECTION 4. SEVERABILITY. Several sections of this ordinance are declared to be severable and if any section or portion thereof shall be declared by a decision of the 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 which shall remain. The remainder of the ordinance shall remain in full force and effect and any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

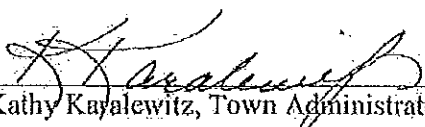
SECTION 5. EFFECTIVE DATE. This ordinance shall take effect immediately upon passage and posting or publication as provided by law following approval by the Waukesha County Board of Supervisors.

Adopted this 5th day of August 2015

TOWN OF MUKWONAGO


Thomas Stefanowski, Town Chairman

ATTEST:


Kathy Kayalewitz, Town Administrator/Clerk

Published and/or posted this 5 day of August 2015

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-10/27/15

NUMBER-1700059

- | | |
|--------------------------|--------------------------|
| 1 R. KOLB.....AYE | 2 D. Zimmermann.....AYE |
| 3 R. MORRIS.....AYE | 4 J. BATZKO.....AYE |
| 5 J. BRANDTJEN..... | 6 J. WALZ.....AYE |
| 7 J. GRANT.....AYE | 8 E. HIGHUM.....AYE |
| 9 J. HEINRICH.....AYE | 10 D. SWAN.....AYE |
| 11 C. HOWARD.....AYE | 12 P. WOLFF.....AYE |
| 13 P. DECKER.....AYE | 14 C. PETTIS..... |
| 15 B. MITCHELL.....AYE | 16 M. CROWLEY.....AYE |
| 17 D. PAULSON.....AYE | 18 L. NELSON.....AYE |
| 19 K. CUMMINGS.....AYE | 20 T. SCHELLINGER....AYE |
| 21 W. ZABOROWSKI.....AYE | 22 P. JASKE.....AYE |
| 23 K. HAMMITT..... | 24 S. WHITTOW.....AYE |
| 25 G. YERKE..... | |

TOTAL AYES-21

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-21