

City of Waukesha, Wisconsin

Ordinance No. 2023 – 4

**An Ordinance Creating Section 33.07 of the Waukesha Municipal Code,
Regarding the Keeping of Chickens and Other Fowl**

The Common Council of the City of Waukesha do ordain as follows:

Section 1. Section 33.07 of the Waukesha Municipal Code is created to read in its entirety as follows:

33.07. Chickens and Other Fowl.

- (1) Purpose and Applicability.** The purpose of this Section is to regulate the keeping of Chickens and prohibit the keeping of other Fowl to ensure humane treatment of the animals, avoid public nuisances and other adverse impacts on neighboring properties, and control rodent infestation.
- (2) Definitions.** Capitalized terms have the following meanings:
 - (a)** Chicken means the species *Gallus gallus domesticus*.
 - (b)** Department means the City of Waukesha Community Development Department.
 - (c)** Enclosure means the entire space within which Chickens are Kept, including both a coop and a run.
 - (d)** Fowl means larger domesticated birds commonly raised and kept for their meat or eggs. The term includes, but is not limited to, ducks, geese, turkeys, guinea hens, pheasants, and peafowl.
 - (e)** Keep, Keeping, or Kept means to have anywhere on a premises.
 - (f)** Parcel means a parcel of real property in the City having a unique tax parcel number.
 - (g)** Section means this Municipal Code §33.07.
- (3) Keeping Certain Fowl Prohibited.** The keeping of Fowl, except Chickens, is prohibited in the City of Waukesha. The only Fowl that may be kept in the City of Waukesha is Chickens, subject to the requirements of this Section. There shall be a grace period of 180 days from the effective date of this Section for individuals and Parcels to come into compliance with this Section.

- (4) Permit Required.** A permit issued by the Department is required for the keeping of Chickens. An application and non-refundable fee shall be required for the permit. The fee shall be according to the fee schedule set and amended from time to time by the Department. The permit shall be valid for only the Parcel indicated in the application, and is not assignable or transferable to any other individual or Parcel. The permit shall be valid for a period of two years, and may be renewed upon application and payment of the renewal fee, provided there have been no violations of this Section associated with the permit.
- (5) Plans and Approval Required.** Plans for enclosures and a site plan showing the location of the enclosure in relation to property boundaries, structures on the premises, and structures on adjoining properties must be submitted with the permit application, and plans must be approved by the Department before a permit may be issued.
- (6) Permit Limitations.** No more than one permit may be issued for any Parcel, regardless of the number of dwelling units on the Parcel. Permits may be issued for non-owner-occupied Parcels only with the written consent of the owner of the Parcel. Permits shall not be issued for Parcels with duplex or multi-family dwellings, except that if the owner of the Parcel is an occupant of one of the dwelling units, then a permit may be issued to that owner.
- (7) Inspection.** All premises for which a permit has been issued shall be available for inspection by the Department. A refusal to allow inspection will result in a revocation of or refusal to renew the permit.
- (8) Livestock Premises Registration.** Permits shall not be issued until the applicant has registered the premises on which Chickens will be Kept with the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, pursuant to Wis. Admin. Code ATCP 17.02.
- (9) General Regulations.**

 - (a)** No more than four Chickens may be Kept per Parcel, except that six chickens may be Kept on Parcels greater than one acre in area. There shall be a grace period of 180 days from the effective date of this Section for individuals and Parcels to come into compliance with this Section.
 - (b)** Keeping of roosters is prohibited.
 - (c)** Chickens may only be slaughtered indoors and out of the view of the public.
 - (d)** Chickens shall be provided with fresh water and adequate amounts of feed regularly.
 - (e)** Eggs shall not be hatched.
 - (f)** Manure and soiled bedding shall be removed from the enclosure regularly and frequently enough to avoid odors and attraction of insects. Manure and soiled bedding shall be disposed of in a sealed container.
 - (g)** Chickens may not be Kept in any manner that causes a public nuisance under Chapter 12 of this Municipal Code, or that tends to interfere unreasonably with the normal use of property or enjoyment of life, or that causes a public health threat.

- (h) Chickens must be Kept at all times within a full enclosure, as defined in subsection (10), and may not be allowed to roam freely on Parcels.
- (i) Dead Chickens shall be removed from the premises immediately and disposed of in accordance with law.
- (j) In general, humane practices must be employed at all times in the Keeping of Chickens.

(10) Enclosure Requirements.

- (a) Enclosures shall be constructed in a sturdy and workmanlike manner.
- (b) Enclosures shall be mounted off the ground, placed on a hard surface such as concrete or patio blocks, or have a floor of hardware cloth, such that burrowing animals may not go into the enclosure.
- (c) Enclosures shall be enclosed on all sides, including the top.
- (d) Enclosures must be covered with solid material or hardware cloth. Chicken wire is not permitted for enclosures.
- (e) Enclosures must not be able to be entered by rodents or predators.
- (f) Feed must be kept in closed rodent-proof containers.
- (g) If an enclosure is mounted off the ground, it must be constructed so that feed cannot fall through the bottom onto the ground. Any feed falling outside of the enclosure must be cleaned up daily.
- (h) Enclosures shall provide at least 16 square feet of area per Chicken, including coop area.
- (i) Enclosures must include a coop providing adequate shelter for Chickens from weather and the elements. Coops must provide at least 3 square feet of area per Chicken.
- (j) Open-flame heaters are prohibited.
- (k) No enclosure or coop shall be located closer than 25 feet to any residential dwelling on an adjacent lot unless consent is given by the current owner of the adjacent lot. Consent must be in writing, and provided to the Department with the permit application.
- (l) Enclosures are accessory uses, subject to the yard restrictions, setback requirements, and other regulations in Municipal Code §22.58.

(11) Violations. Violations of this Section shall result in the application of the following procedure:

- (a) Compliance orders shall be issued to the permit holder by the Building Inspection Division.

- (b) If the permit holder fails to comply timely with compliance orders, then:
 - (i) Inspection and re-inspection fees may be assessed.
 - (ii) Citations may be issued, with forfeitures as provided in Municipal Code §25.05.
 - (iii) The permit may be revoked or refused for renewal.
- (c) If a permit is revoked or refused for renewal, no new permit shall be issued to that permit holder or for that Parcel for a period of 2 years.

(12) Appeal of Revocation or Refusal to Renew. A revocation or refusal to renew a permit issued under this Section may be appealed to the Administrative Review Appeals Board by the filing of a written notice of appeal with the City Clerk-Treasurer within 10 days of receipt of notice of the revocation or refusal to renew. Upon appeal, the permit holder and the City shall have an opportunity to present evidence to the Board at a hearing held after reasonable notice. The Board shall determine whether the Department had sufficient grounds under this Section for revocation or refusal to renew the permit, and shall not grant waivers or variances from the requirements of this Section. Except as provided otherwise by this section, procedure for appeals shall be as provided in Municipal Code §2.11(3)(b), and the review procedures provided by Wisconsin Statutes Chapter 68 shall not apply. Appeals from the Board's decision shall be made by certiorari to the Circuit Court within 30 days of receipt of the Board's decision.

Section 2. All ordinances, or portions of ordinances, inconsistent with this ordinance are hereby repealed.

Section 3. This Ordinance shall be effective the day after its publication.

Passed the 7th day of March, 2023.

Shawn N. Reilly, Mayor

Attest: Gina L. Kozlik, City Clerk