



## Office of the City Attorney

201 Delafield Street, Suite 330  
Waukesha, Wisconsin 53188-3646

Telephone (262) 524-3520  
Fax (262) 650-2569  
Email [attorneys@waukesha-wi.gov](mailto:attorneys@waukesha-wi.gov)

Brian E. Running  
*City Attorney*  
Miles W.B. Eastman  
*Assistant City Attorney*  
Julie M. Gay  
*Assistant City Attorney*  
Anne Marie Iselin  
*Assistant City Attorney*  
Karen J. Krueger  
*Legal Assistant*

January 19, 2023

### Memorandum

To: O&L Committee  
From : Brian Running  
Re: Discussion Draft of Chicken Ordinance

The latest discussion draft of a chicken ordinance follows, for your consideration of Ald. Rick Lemke's referral. The annotations should be self-explanatory. The majority of this is taken from already-existing chicken ordinances in other communities.

Please note that, as always, this is a discussion draft, not a proposed final ordinance. Think of it as a checklist of items that you can consider for inclusion in an ordinance. Of course, you are free to consider adding provisions that are not in this draft.

#### **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. [This Section applies only to Parcels zoned residential.]

*Option: Applicable to all zones within city, with certain aspects varying by zone. For example, sale of eggs prohibited only in residential zones.*

**(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)** 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.
- (d)** Keep, Keeping, or Kept means to have anywhere on a premises.
- (e)** Parcel means a parcel of real property in the City having a unique tax parcel number.
- (f)** Section means this Municipal Code §33.06.

- (3) **Keeping Certain Fowl Prohibited.** The keeping of Fowl, except Chickens, is prohibited in [the City of Waukesha][residential zones]. The only Fowl that may be kept in the [City of Waukesha][residential zones] is Chickens, subject to the requirements of this Section. [if allowed in certain zones, specify which]

*These other fowl are prohibited because they are generally very noisy and the larger birds produce more manure, increasing the odor and flies problem.*

*Optionally, there could be a grace period for already-kept fowl other than chickens.*

- (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 for the Parcel, and is not personal to the applicant. 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.

*The requirement of a permit serves several purposes. It allows for a review of plans and notice to the applicant of the requirements of this Section, and it allows tracking of the location of chicken-keepers in the city, which is useful for correlation with rat complaints and other issues.*

- (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.

*Requiring submission of plans before a permit is issued allows violations of this Section to be avoided before they happen – for instance, setback and yard restrictions, and enclosure construction requirements.*

- (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 shall not be issued for Parcels with duplex or multi-family dwellings.

*This restriction is for the benefit of residents on the Parcel that don't want to live with chickens, and will head off complaints from those residents.*

- (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 the permit.

*If complaints are received, there has to be a means to investigate and determine if a violation has occurred. The chicken-keeping permit is a privilege, not a right. We require the right to inspect with other permitted activities, too.*

- (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.

*This is a state law requirement, including it in our code serves to notify applicants of this state law.*

**(9) General Regulations.**

- (a)** No more than four Chickens may be Kept per Parcel.

*This is an arbitrary number, derived from the enclosure size requirement. 16 square feet per chicken results in a minimum enclosure size of 8' by 8' for four chickens, which is a pretty good-sized structure. This could be tied to lot size, allowing more on larger lots.*

- (b)** Keeping of roosters is prohibited.

*This is a nearly-universal prohibition in all municipal chicken ordinances. Roosters are noisy.*

- (c)** Chickens may not be slaughtered on the premises for which the permit was issued.

*Alternatively, slaughtering on-premises could be allowed indoors.*

- (d)** Chickens shall be provided with fresh water and adequate amounts of feed regularly.

- (e)** Chickens and eggs may not be sold.

*This prohibition is to avoid commercial impacts in neighborhoods, e.g., buyers coming and going. Realistically, that potential problem can be controlled by limiting the number of chickens – four chickens will produce two to four eggs per day on average, not enough to sell as a practical matter. The idea behind the ordinance is for chicken-keeping to be a hobby, not a commercial venture in residential zones.*

- (f)** Eggs shall not be hatched.

*Also to avoid commercial aspects of chicken-keeping – plus, it would require a rooster, which is a no-no.*

- (g)** Manure and soiled bedding shall be removed from the enclosure daily, and disposed of in a sealed container.

*Accumulation of manure leads to odor and flies, which is a leading cause of neighbor complaints. Alternatively, manure can be composted, but there is a very specific, fairly labor-intensive method of “hot composting” that must be used to kill pathogens and to reduce the ammonia content, and it is doubtful that most people would do it correctly.*

*If they don't do it correctly, then composting just produces a large pile of chicken manure. Dustin Nolan, our solid-waste disposal guru, says that sealing it up and putting it into the garbage for collection is the preferred method of disposal.*

- (h) 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.

*This potentially covers odor, noise, flies, rodents, etc., so it's a blanket requirement for chicken keepers to be good neighbors.*

- (i) Chickens must be Kept at all times within a full enclosure, as defined in subsection (9), and may not be allowed to roam freely on Parcels.

*We have seen from experience that free-range chickens will turn a lawn to bare dirt in no time, and neighbors are not keen on that. Additionally, free-range means that feed will be scattered all over the area, which is the prime attraction for rodents, especially rats. Free range chickens also attract all manner of predators, including foxes, coyotes, skunks, raccoons, hawks, and cats, and neighbors will not be happy about that.*

- (j) Any illness or death of a Chicken must be reported to the Department.

*Avian flu outbreaks are a possibility, and avian flu can be spread to humans and wild birds. Early detection is important.*

- (k) Dead Chickens shall be removed from the premises immediately and disposed of in accordance with law. [ref law][add disposal language to 33.01]

- (l) 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 or placed on a hard surface such as concrete or patio blocks, 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.

*These construction requirements are to keep chickens and their feed in the enclosure, and to keep predators and rodents out. Chicken wire will keep chickens in, but it won't*

*keep rats out. Rats will also easily burrow under a fence if there's no solid surface on the other side. Rats are attracted by chicken feed, of course, but they are also attracted to eggs. Also, isolating chickens from wild birds reduces the chances of avian flu being spread to them.*

- (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.

*This is for humane treatment of the animals. 16 square feet is 4' by 4', so it's not a large area. This is for the entire enclosure, not just a coop. A separate coop requirement could be much smaller, as long as the chickens have room to move outside the coop.*

- (i) Enclosures must provide adequate shelter for Chickens from weather and the elements.
- (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 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. [need addition to 22.58]

**(11) Penalties.** Violations of this Section may result in the following penalties:

- (a) Revocation of the permit. Once a permit is revoked, no new permit shall be issued for that Parcel for a period of five years. [add appeal process]
- (b) Forfeitures as provided in Municipal Code §25.05.