

ENROLLED ORDINANCE 178-102

APPROVE TOWN OF MERTON ORDINANCES NO. 17.03 AND NO. 17.44 TO ALLOW
FOR THE RECREATIONAL KEEPING OF CHICKENS ON SMALLER PROPERTIES
(RZ143)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Merton Town Board on January 22, 2024; and

WHEREAS, Town of Merton Ordinances No. 17.03 and No. 17.44 amend Section 17.03 and create Section 17.44(1)(a)11 of the Town of Merton Zoning Code to allow for the recreational keeping of chickens on smaller properties; 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 amendments to the Town of Merton Zoning Code, approved by the Town of Merton Board by Town of Merton Ordinances No. 17.03 and No. 17.44, to allow for the recreational keeping of chickens on smaller properties, as 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, are hereby approved.

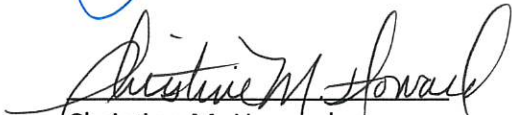
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Merton.

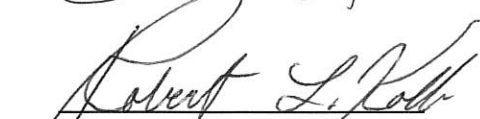
APPROVE TOWN OF MERTON ORDINANCES NO. 17.03 AND NO. 17.44 TO ALLOW FOR THE RECREATIONAL KEEPING OF CHICKENS ON SMALLER PROPERTIES (RZ143)

Presented by:
Land Use, Parks, and Environment Committee


Tyler J. Foti, Chair



Jennifer Grant


Christine M. Howard

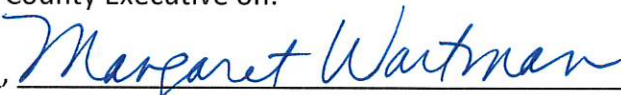

Robert L. Kolb


Brian Meier


Chris Mommaerts


Gary J. Szpara

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

Date: 3/29/24, 
Margaret Wartman, County Clerk

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

Approved: X
Vetoed: _____

Date: 3/29/24, 
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 Text of the Town of Merton Zoning Code hereby recommends approval of **RZ143 (Town of Merton Board)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

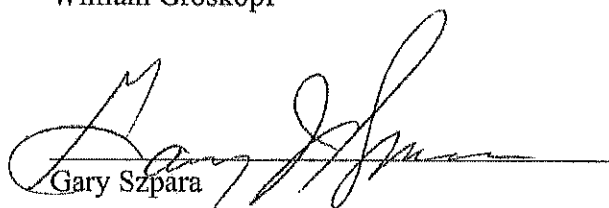
February 28, 2024

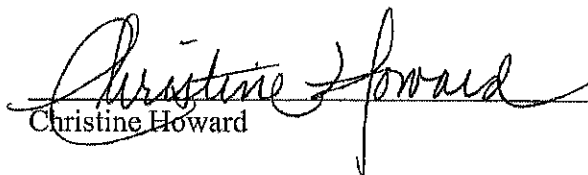

James Siepmann, Chairperson


Robert Peregrine


Richard Morris

Absent
William Groskopf


Gary Szpara


Christine Howard

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

DATE: February 28, 2024

FILE NO.: RZ143

APPLICANT: Town of Merton Board
P.O. Box 128
North Lake, WI 53064

REQUEST:
Text amendments to the Town of Merton Zoning Code to amend Section 17.03 and create Section 17.44(1)(a)11. relating to the keeping of chickens.

PUBLIC HEARING DATE:
January 17, 2024

PUBLIC COMMENT:
One person asked whether the new rules would apply to lots of more than three acres. The Town Planner clarified that the rules for larger parcels would not change; the provisions would allow for chickens to be kept on smaller properties with a limited number of chickens permitted.

TOWN PLAN COMMISSION ACTION:
On January 17, 2024, the Town of Merton Plan Commission unanimously recommended approval of the request to the Town Board.

TOWN BOARD ACTION:
On January 22, 2024, the Merton Town Board of Supervisors unanimously approved the request.

STAFF ANALYSIS:
The Town of Merton is proposing to create provisions to allow for the keeping of chickens on smaller properties. The new rules would allow up to five chickens on properties of at least 40,000 square feet. Chickens would be required to be kept in pens and coops to eliminate conflicts with neighbors, dogs, etc. The ordinance is similar to the county codes and many other town ordinances in making this accommodation. The proposed ordinance would prohibit roosters, commercial use or slaughtering. Coops and pens are allowed in rear yard areas and the ordinance contains standards to ensure animal health and sanitation. Feed must be stored in an enclosed structure or sealed container and waste must be managed so as to not create a nuisance.

STAFF RECOMMENDATION:
Based on the above analysis, the Planning and Zoning Division Staff recommends **approval** of the request. The new provisions will allow a new option for a limited number of chickens on smaller parcels within the town. The provisions include safeguards such that the use should not become a nuisance to neighbors.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning & Zoning Manager

Attachments: Town Ordinance No. 17.03 and 17.44

STATE OF WISCONSIN:

TOWN OF MERTON:

WAUKESHA COUNTY:

Ordinance No. 17.03 Definitions and Ordinance No. 17.44 A-1 Agricultural District

ORDINANCE CREATING SECTIONS 17.03 AND 17.44(1)(a)11. OF THE MUNICIPAL CODE OF THE TOWN OF MERTON

NOW THEREFORE, the Town Board of the Town of Merton, Wisconsin do ordain as follows:

SECTION 1: The following provision of Section 17.03 of the Town Code is hereby created to read as follows:

Recreational chicken activities. The keeping, breeding, and raising of chickens as an accessory use to a principal residential use or to supplement the household food supply, as provided in this section. Recreational chicken activities is not an agricultural use or farm use.

SECTION 2: Section 17.44(1)(a)11. of the Town Code is hereby created to read as follows:

11. Recreational chicken activities.

- a. Ownership of property. A property owner may utilize its property for recreational chicken activities upon compliance with this section. Leasing property for recreational chicken activities is prohibited.
- b. Minimum lot size. The minimum lot size for property utilized for recreational chicken activities is 40,000 square feet. Except as provided in this section, all structures utilized for recreational chicken activities shall comply with all dimensional requirements of the particular zoning district, including but not limited to offset, setback, and height, and the accessory building regulations. Any building or structure housing chickens shall be at least 30 feet from all property lines.
- c. Number and type of recreational chickens. Up to five chickens are permitted. Roosters are prohibited.

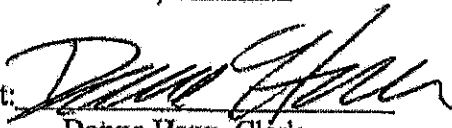
- d. No commercial use. No commercial activities shall be permitted as part of the recreational chicken activity, including but not limited to, bartering, the sale of eggs, live or dressed chickens, live chicks, and feathers. All products produced by the chickens shall be for the personal consumption of the occupants of the property utilized for the recreational chicken activity.
- e. Slaughtering of chickens. The slaughtering of chickens is prohibited and any deceased chicken shall be promptly removed from the property.
- f. Feed; waste. All feed shall be stored in an enclosed structure or sealed container. All waste generated by the chickens shall be promptly disposed in accordance with applicable State of Wisconsin laws and regulations.
- g. Coop and pen regulations. The property owner engaged in recreational chicken activities shall install one chicken coop and one pen to be utilized for recreational chicken activities. Free ranging of chickens is prohibited and chickens must be kept within a coop or pen at all times. The coop and pen shall be located behind the rear line of the principal residence as the structure faces any road, and be at least 10 feet from any portion of the principal residence. The coop and pen shall each be limited to no more than 50 square feet. The coop shall have a roof, sides, and a floor, be kept dry and well-ventilated with fans for warmer months and well-insulated with heating for the winter months. The coop shall not be counted for purposes of determining the maximum number of accessory buildings permitted on a lot. The pen shall be fenced at least 42 inches in height with the top and sides of the pen being covered with fencing to prevent intrusion or escape.
- h. Ceasing of use. The property owner shall notify the Town if the property owner ceases to use the property for recreational chicken activities. The chicken coop, pen, fencing, and all structures utilized for recreational chicken activity shall be removed no later than six months after a property ceases to be used for recreational chicken activities.
- i. Permit. Prior to engaging in recreational chicken activities on property less than three acres, a property owner shall obtain a permit from the Town Clerk and pay the required fee in accordance with the Town's fee schedule. To obtain a permit, the property owner shall provide an accurate, scaled site plan or plat of survey depicting all property lines, public rights-of-way, the location of the residence and any appurtenances, the size and location of the proposed coop and pen, together with a drawing of the coop and pen.
- j. Compliance with law; inspection. A property owner engaged in recreational chicken activities shall comply with all local, Waukesha County, State of Wisconsin, and federal laws and regulations. The Town may inspect any property utilized for recreation chicken activities to ensure compliance with this section. Any person that violates this section shall be subject to the penalties set forth in this chapter and the revocation of the permit issued under section 17.44(1)(a)11.i.

SECTION 2: All ordinances or parts of this Ordinance conflicting or contravening the provisions of this Ordinance are hereby repealed.

SECTION 3: This Ordinance shall take effect upon passage and posting or publication as provided by law.

PASSED AND ADOPTED by the Town Board of the Town of Merton, Waukesha County, Wisconsin this 22, day of January, 2024.

By: 
Tim Klink, Chairman

Attest: 
Donna Hann, Clerk

Date Adopted: 1-22-2024

Date Published: 1-23-2024

Effective Date 1-23-2024

VOTE RESULTS >

Ordinance 178-O-104

Ordinance 178-O-104: Approve Town Of Merton Ordinances No. 17.03 And No. 17.44 To Allow For The Recre Properties (RZ143)

 **Passed By Majority Vote**

21 YES | 1 NO | 0 ABSTAIN | 3 ABSENT

D1 - Foti	M	AVE	D10 - Thieme	ABSENT	D19 - Enriquez	AVE
D2 - Weil		ABSENT	D11 - Howard	AVE	D20 - Schellinger	AVE
D3 - Morris	S	AVE	D12 - Wolf	AVE	D21 - Gaughan	AVE
D4 - Batzko		AVE	D13 - Decker	AVE	D22 - Szpara	AVE
D5 - Grant		ABSENT	D14 - Mommaerts	AVE	D23 - Hammitt	AVE
D6 - Walz		AVE	D15 - Kolb	AVE	D24 - Bangs	AVE
D7 - LaFontain		AVE	D16 - Crowley	AVE	D25 - Johnson	NAY
D8 - Koremenos		AVE	D17 - Meier	AVE		
D9 - Heinrich		AVE	D18 - Nelson	AVE		