

ENROLLED ORDINANCE 176-57

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE RELATING TO BACKYARD CHICKENS, HOUSEHOLD LIVESTOCK, PLAY STRUCTURES, PRIVATE KENNELS, OFF-SITE AND ON-SITE FARM STANDS, FLOOR AREA OF DETACHED ACCESSORY BUILDINGS, DEVELOPMENT STANDARDS FOR LAKEWOOD FARMS PRESERVE SUBDIVISION AND OTHER MISCELLANEOUS PROVISIONS (RZ87)

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 July 14, 2021; 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.

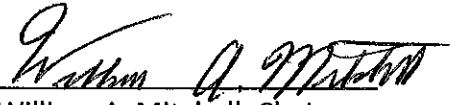
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Town of Mukwonago Zoning Code, adopted by the Town of Mukwonago on November 30, 2020, is hereby amended relative to requirements for backyard chickens, household livestock, play structures, private kennels, off-site and on-site farm stands, floor area of detached accessory buildings, development standards for Lakewood Farms Preserve Subdivision and other miscellaneous provisions, 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 RZ87, 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.

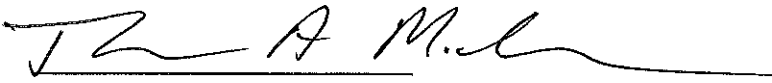
AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE RELATING TO BACKYARD CHICKENS, HOUSEHOLD LIVESTOCK, PLAY STRUCTURES, PRIVATE KENNELS, OFF-SITE AND ON-SITE FARM STANDS, FLOOR AREA OF DETACHED ACCESSORY BUILDINGS, DEVELOPMENT STANDARDS FOR LAKEWOOD FARMS PRESERVE SUBDIVISION AND OTHER MISCELLANEOUS PROVISIONS (RZ87)

Presented by:  
Land Use, Parks, and Environment Committee


  
William A. Mitchell, Chair

**Absent**

Keith Hammitt

  
Thomas A. Michalski

  
Chris Mommaerts

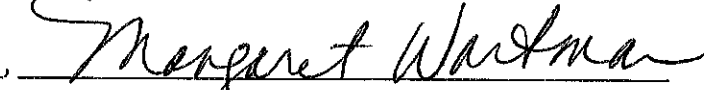
  
Richard Morris

  
Thomas J. Schellinger

**Absent**

Steve Whittow

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

Date: 10/1/2021,   
Margaret Wartman, County Clerk

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

Approved: X

Vetoed: \_\_\_\_\_

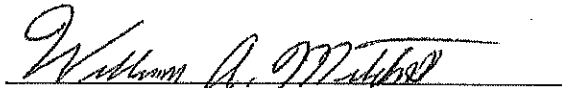
Date: 10/1/2021,   
Paul Farrow, County Executive

COMMISSION ACTION

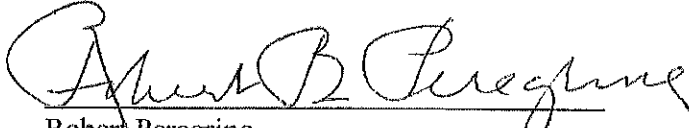
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Mukwonago Zoning Code hereby recommends approval of **RZ87 (Text Amendment)** in accordance with the attached "Staff Report and Recommendation".


PARK AND PLANNING COMMISSION

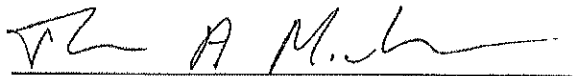
August 19, 2021

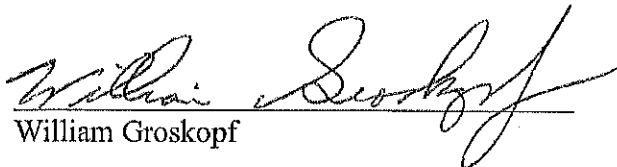
  
William Mitchell, Chairperson

  
James Siepmann, Vice Chairperson

  
Robert Peregrine

  
Richard Morris

  
Thomas Michalski

  
William Groskopf

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

**FILE NO:** RZ87  
**TAX KEY NUMBER:** N/A  
**DATE:** August 19, 2021  
**NAME OF PETITIONER:** Town Board of Mukwonago  
Town of Mukwonago Hall  
W320 S8315 Beulah Road  
Mukwonago, WI 53149

**NATURE OF REQUEST:**

Amend and repeal various sections of Chapter 36 of the Town of Mukwonago Zoning Code relating to backyard chickens, household livestock, play structures, private kennels, off-site and on-site farm stands, floor area of detached accessory buildings, development standards for Lakewood Farms Preserve subdivision and other miscellaneous provisions.

**PUBLIC HEARING DATE:**

July 14, 2021

**PUBLIC REACTION:**

A few residents of the Lakewood Farms subdivision spoke. Some noted that they liked that outbuildings were not allowed within the subdivision, while another resident expressed desire for accessory buildings. The decision to allow or not allow accessory buildings within that planned unit development subdivision was not part of the proposed text amendments being considered. The town planner has indicated that a separate application could be made to seek such a change.

**TOWN PLAN COMMISSION ACTION:**

At their meeting of July 14, 2021, the Town of Mukwonago Plan Commission recommended approval of the proposed text amendments to the Town Board.

**TOWN BOARD ACTION:**

At their meeting of July 14, 2021, the Town of Mukwonago Board unanimously approved the proposed text amendments to Town of Mukwonago Zoning Code.

**COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY (WCCDP) AND THE TOWN OF MUKWONAGO COMPREHENSIVE PLAN:**

The text amendments are minor in nature and generally provide clarification regarding small accessory buildings.

**STAFF ANALYSIS:**

The proposed amendments clarify that smaller buildings used for housing animals, farmstands or play structures do not count as accessory buildings. This allows for individuals to have small

chicken coops, loafing sheds or play structures without having said structures contribute to the maximum number of outbuildings on a property.

The amendments also modify some terms of Planned Development District 14, which governs the Lakewood Farms subdivision. A correction was made to clarify that the minimum ranch home square footage is 2,200 square feet. Clarifiers have been added to cap the number of pool cabanas and gazebos on a lot to one of each type. The design, placement and construction of accessory buildings will no longer be subject to the review of the architectural control committee of the homeowner's association.

The proposed ordinance is attached and the changes are shown in strike-thru and underline within the attached Exhibit A.

**STAFF RECOMMENDATION:**

The Planning and Zoning Division Staff recommends **approval** of the Town of Mukwonago's request. The request allows property owners the flexibility to have small accessory buildings on their properties without having such building count towards the maximum number of accessory buildings on a lot.

Respectfully submitted,

*Jason Fruth*

Jason Fruth  
Planning and Zoning Manager

Attachments: Town Ordinance No. 2021-O-55  
Exhibit A

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ORDINANCE 2021-O-55



**AN ORDINANCE TO AMEND CHAPTER 36 OF THE MUNICIPAL CODE**

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 36 of the Town of Mukwonago Municipal Code, titled "Town Zoning;" and

WHEREAS, the Plan Commission at their meeting on June 16, 2021, recommended various revisions to the zoning code as set forth herein; and

WHEREAS, allowing for proper notice, the Plan Commission and Town Board conducted a joint public hearing on July 14, 2021, to consider the amendment and to accept public comment; and

WHEREAS, the Plan Commission recommended approval at their meeting on July 14, 2021; and

WHEREAS, the Town Board considered the Plan Commission's recommendation at their meeting on July 14, 2021; and

WHEREAS, the Town Board finds that the recommended revisions to the Town's zoning regulations could potentially be interpreted to be a down zoning ordinance because it may decrease the development density of land or reduce the permitted uses of land, and therefore the super majority requirement in s. 66.10015, Wis. Stats, applies to this ordinance, requiring a vote in favor by two-thirds of the members-elect of the Town Board for passage and adoption; 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.** Repeal and recreate the development requirements for “Backyard chickens” as set forth in Appendix B (13.05) to read as follows:

Development Requirements:

**(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 on lots that are 3 acres or smaller.

**(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.

**(k) Status as a building.** One free-standing chicken coop with a roof not exceeding 48 square feet shall not be counted as an accessory building.

**Section 2.** Repeal and recreate the development requirements for “Household livestock” as set forth in Appendix B (13.15) to read as follows:

Development Requirements:

**(a) Not in a subdivision.** The parcel with this use shall not be located in a platted subdivision.

**(b) Number of animals.** On parcels smaller than 20 acres, the number of livestock shall not exceed one head for each full acre over 2 acres of land the number of poultry shall not exceed 20 fowl for

each full acre over 2 acres. This means that there must be at least 3 acres to have any household livestock.

**(c) Prohibited animals.** The following are not permitted on parcels smaller than 20 acres: roosters, pigs, male goats, or fur-bearing animals.

**(d) Buildings.** Nonresidential buildings and other structures for the keeping of household livestock, such as barns, stables, riding arenas, and sheds, are allowed subject to compliance with all other requirements of this chapter.

**(e) Location of buildings.** A building that houses livestock and/or poultry shall be located at least 50 feet from any lot line.

**(f) Manure management plan.** The property owner shall submit a manure management plan to the plan commission for review and obtain approval of the same, if so requested by the plan commission.

**(g) Buildings not a structure.** A loafing shed is not counted as an accessory building, provided (1) the floor area is not more than 240 square feet, (2) it is located within a fenced enclosure, (3) it is constructed so it can be easily moved to another location (i.e., its moveable), (4) it is constructed of exterior building materials similar to the barn/stable, and (5) the number of loafing sheds is limited to the following: 3 to 5 acres - 1; 5.1 to 10 acres - 2; 10.1 to 20 acres - 3; and 20.1 to 35 acres - 4. In the event there are no livestock kept on the property for 6 consecutive months or more, all loafing sheds must be moved off the subject property.

**Section 3.** Create development requirements for “Play structure” as set forth in Appendix B (13.17) to read as follows:

Development Requirements:

**(a) Status as a building.** One play structure with a roofed area not exceeding 64 square feet shall not be counted as an accessory building.

**Section 4.** Repeal and recreate the development requirements for “Private kennel” as set forth in Appendix B (13.19) to read as follows:

Development Requirements:

**(a) Limitation.** The number of dogs is limited based on the parcel size as follows: Less than one acre - 2 dogs; one acre or more but less than 3 acres - 3 dogs; three acres or more but less than 5 acres - 4 dogs; five or more acres - 6 dogs.

**(b) Status as a building.** One free-standing dog enclosure with a roof not exceeding 48 square feet shall not be counted as an accessory building.

**Section 5.** Repeal and recreate the development requirements for “Farmstand, off-site” as set forth in Appendix B (14.03) to read as follows:

Development Requirements:

**(a) Not in a subdivision.** The parcel with this use shall not be located in a platted subdivision.



**(b) Location.** An off-site farmstand shall be located at least 30 feet from the base setback line and at least 20 feet from any other lot line.

**(c) Hours of operation.** If this use is located in a residential zoning district or a planned unit development district that allows residential uses, the hours of operation are limited to sunrise to sunset.

**(d) Number.** No more than one stand is allowed on any one premises.

**(e) Size limitation.** If a structure or building is used, the ground area shall not exceed 100 square feet.

**(f) Road access.** The parcel shall front on and have direct vehicle access to a major road as depicted on the zoning map.

**(g) Removal and clean up.** Within 24 hours following the close of the off-site farmstand, all features solely associated with the off-site farmstand shall be removed and all trash and debris shall be removed.

**(h) Status as a building.** One free-standing building with a roof not exceeding 100 square feet shall not be counted as an accessory building.

**Section 6.** Repeal and recreate the development requirements for “Farmstand, on-site” as set forth in Appendix B (14.04) to read as follows:

Development Requirements:

**(a) Limitation on sales.** Products offered for sale shall be produced on the premises.

**(b) Location.** An on-site farmstand shall be located at least 30 feet from the base setback line and at least 20 feet from any other lot line.

**(c) Hours of operation.** If this use is located in a residential zoning district or a planned unit development district that allows residential uses, the hours of operation are limited to sunrise to sunset.

**(d) Number.** No more than one stand is allowed on any one premises.

**(e) Use of structure.** A structure may be used to store or display products and for sales, provided the following conditions are met:

(1) Term of use. The structure is only used from April 1 through November 30 and is removed no later than December 10.

(2) Floor area. The floor area of the structure shall not exceed 500 square feet.

(3) Structure height. The height of the structure shall not exceed 12 feet.

**(f) Removal and clean up.** Within 24 hours following the close of the on-site farmstand, all features solely associated with the on-site farmstand shall be removed and all trash and debris shall be removed.

**(g) Status as a building.** One free-standing building with a roof not exceeding 100 square feet shall not be counted as an accessory building.

**Section 7.** Add the following definition to Appendix E in alphabetical order to read as follows:

**Loafing shed** A building open on one side that is placed in a pasture or other similar area to provide shelter for livestock

**Section 8.** Repeal and recreate the following definitions in Appendix E to read as follows:

**Lot area** As the context indicates, lot area can refer to the minimum required area, actual area, or proposed area.

Note: See s. 36-712 that describes how lot area is measured.

**Lot width** As the context would indicate, lot width can refer to the minimum required distance, actual distance, or proposed distance.

Note: See s. 36-715 that describes how lot width is measured.

**Section 9.** Repeal and recreate s. 36-719(c) to read as follows:

**Sec. 36-719 Floor area of detached accessory buildings**

(a) *Generally.* The total floor area of detached accessory buildings, whether temporary or permanent, shall comply with the standards in appendix C or D. As stated in s. 36-511, the floor area of rural accessory buildings is not included in this total.

(b) *Exception.* The plan commission may approve a special exception, consistent with the procedures and requirements of article 5, to allow a greater floor area, provided:

- (1) the detached building has no more than 4 side-by-side vehicles facing the right-of-way from which the dwelling unit has street access;
- (2) the detached building is not used for any commercial or industrial purposes, except as otherwise allowed by the chapter; and
- (3) the detached building complies with all other requirements of this chapter.

In making their decision, the plan commission shall consider the factors enumerated in article 5 and must make the following determinations:

- (1) the architecture of the accessory building is compatible with the dwelling unit;
- (2) the accessory building will not be adverse to the public health, safety or welfare;
- (3) the accessory building will not be in conflict with the spirit or intent of this chapter; and
- (4) the accessory building will not otherwise be detrimental to the town or the immediate neighborhood where the structure would be located.

The plan commission may impose such conditions it deems necessary including a requirement for screening and/or landscaping.

(c) *Deed restriction required with approval of special exception.* If the plan commission approves a special exception under subsection (b) above, a deed restriction, in a form approved by the town attorney, shall be filed in the Waukesha County register of deeds office, prior to issuance of the building permit indicating that a special exception has been granted and recording any conditions of approval, including a statement that the accessory building may only be used for personal use and cannot be used for any type of commercial or industrial purpose unless otherwise permitted by this chapter.

**Section 10.** Repeal and recreate the development standards for “Lakewood Farms Preserve (PDD-14)” in Appendix D to read as follows:

Lot size, minimum: 1.5 acres

Lot width, minimum: 200 feet

Side yard offset, minimum: 50 feet

Rear yard offset, minimum: 50 feet

Setback, minimum: 50 feet

Setback from conservancy, wetlands, and floodland, minimum: 75 feet

House floor area, minimum: 2,200 square feet for ranch, 2,800 square feet for 2-story

Garage floor area, minimum: 600 square feet

Floor area ratio (FAR), maximum: 15 percent

Accessory buildings are not allowed except for one pool cabana, accessory to inground pools, and one gazebo provided they are placed in the building envelope of the lot and within 100 feet of the main residence. The footprint of the same shall be no more than 160 square feet. Accessory structures as specified in this part are included towards the impervious surface and floor area calculations.

Open space per lot, minimum: 1.25 acres

Impervious surface, maximum: 10,000 square feet, except 7,500 square feet on Lots 4-9

Note: The property owner can apply for a permeable waiver up to 30 percent as set forth in the conditional use order as amended

**Note:** There are building envelopes on lots 4-9, 11-15, and 27-31

**Note:** There is a no-mow zone on lots 4-9

Unspecified standards: per SE zoning district

**Section 11.** The minimum offset for the A-1 district in Appendix C is changed from 30 feet to 20 feet.

**Section 12.** 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 13.** 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 14.** 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 by a vote in favor by two-thirds of the members-elect of the Town Board, or more, this 14<sup>th</sup> day of July 2021

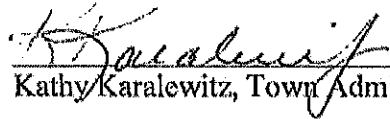
TOWN OF MUKWONAGO



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Peter Topczewski, Town Chair

ATTEST:



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Kathy Karalewitz, Town Administrator

Published and/or posted this 19 day of July, 2021

**EXHIBIT "A"**

STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE 2021-O-\_\_

- Public Hearing Draft -

**AN ORDINANCE TO AMEND CHAPTER 36 OF THE MUNICIPAL CODE**

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 36 of the Town of Mukwonago Municipal Code, titled "Town Zoning;" and

WHEREAS, the Plan Commission at their meeting on June 16, 2021, recommended various revisions to the zoning code as set forth herein; and

WHEREAS, allowing for proper notice, the Plan Commission and Town Board conducted a joint public hearing on July 14, 2021, to consider the amendment and to accept public comment; and

WHEREAS, the Plan Commission recommended approval at their meeting on \_\_\_\_, 2021; and

WHEREAS, the Town Board considered the Plan Commission's recommendation at their meeting on \_\_\_\_, 2021; and

WHEREAS, the Town Board finds that the recommended revisions to the Town's zoning regulations could potentially be interpreted to be a down zoning ordinance because it may decrease the development density of land or reduce the permitted uses of land, and therefore the super majority requirement in s. 66.10015, Wis. Stats, applies to this ordinance, requiring a vote in favor by two-thirds of the members-elect of the Town Board for passage and adoption; 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.** Repeal and recreate the development requirements for “Backyard chickens” as set forth in Appendix B (13.05) to read as follows:

**Development Requirements:**

(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 on lots that are 3 acres or smaller.

(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.

(k) Status as a building. One free-standing chicken coop with a roof not exceeding 48 square feet shall not be counted as an accessory building.

**Section 2.** Repeal and recreate the development requirements for “Household livestock” as set forth in Appendix B (13.15) to read as follows:

Development Requirements:

- (a) **Not in a subdivision.** The parcel with this use shall not be located in a platted subdivision.
- (b) **Number of animals.** On parcels smaller than 20 acres, the number of livestock shall not exceed one head for each full acre over 2 acres of land the number of poultry shall not exceed 20 fowl for each full acre over 2 acres. This means that there must be at least 3 acres to have any household livestock.
- (c) **Prohibited animals.** The following are not permitted on parcels smaller than 20 acres: roosters, pigs, male goats, or fur-bearing animals.
- (d) **Buildings.** Nonresidential buildings and other structures for the keeping of household livestock, such as barns, stables, riding arenas, and sheds, are allowed subject to compliance with all other requirements of this chapter.
- (e) **Location of buildings.** A building that houses livestock and/or poultry shall be located at least 50 feet from any lot line.
- (f) **Manure management plan.** The property owner shall submit a manure management plan to the plan commission for review and obtain approval of the same, if so requested by the plan commission.
- (g) **Buildings not a structure.** A loafing shed is not counted as an accessory building, provided (1) the floor area is not more than 240 square feet, (2) it is located within a fenced enclosure, (3) it is constructed so it can be easily moved to another location (i.e., its moveable), (4) it is constructed of exterior building materials similar to the barn/stable, and (5) the number of loafing sheds is limited to the following: 3 to 5 acres - 1; 5.1 to 10 acres - 2; 10.1 to 20 acres - 3; and 20.1 to 35 acres - 4. In the event there are no livestock kept on the property for 6 consecutive months or more, all loafing sheds must be moved off the subject property.

**Section 3.** Create development requirements for “Play structure” as set forth in Appendix B (13.17) to read as follows:

Development Requirements:

- (a) **Status as a building.** One play structure with a roofed area not exceeding 64 square feet shall not be counted as an accessory building.

**Section 4.** Repeal and recreate the development requirements for “Private kennel” as set forth in Appendix B (13.19) to read as follows:

Development Requirements:

- (a) **Limitation.** The number of dogs is limited based on the parcel size as follows: Less than one acre - 2 dogs; one acre or more but less than 3 acres - 3 dogs; three acres or more but less than 5 acres - 4 dogs; five or more acres - 6 dogs.

(b) Status as a building. One free-standing dog enclosure with a roof not exceeding 48 square feet shall not be counted as an accessory building.

**Section 5.** Repeal and recreate the development requirements for “Farmstand, off-site” as set forth in Appendix B (14.03) to read as follows:

Development Requirements:

(a) **Not in a subdivision.** The parcel with this use shall not be located in a platted subdivision.

(b) **Location.** An off-site farmstand shall be located at least 30 feet from the base setback line and at least 20 feet from any other lot line.

(c) **Hours of operation.** If this use is located in a residential zoning district or a planned unit development district that allows residential uses, the hours of operation are limited to sunrise to sunset.

(d) **Number.** No more than one stand is allowed on any one premises.

(e) **Size limitation.** If a structure or building is used, the ground area shall not exceed 100 square feet.

(f) **Road access.** The parcel shall front on and have direct vehicle access to a major road as depicted on the zoning map.

(g) **Removal and clean up.** Within 24 hours following the close of the off-site farmstand, all features solely associated with the off-site farmstand shall be removed and all trash and debris shall be removed.

(h) Status as a building. One free-standing building with a roof not exceeding 100 square feet shall not be counted as an accessory building.

**Section 6.** Repeal and recreate the development requirements for “Farmstand, on-site” as set forth in Appendix B (14.04) to read as follows:

Development Requirements:

(a) **Limitation on sales.** Products offered for sale shall be produced on the premises.

(b) **Location.** An on-site farmstand shall be located at least 30 feet from the base setback line and at least 20 feet from any other lot line.

(c) **Hours of operation.** If this use is located in a residential zoning district or a planned unit development district that allows residential uses, the hours of operation are limited to sunrise to sunset.

(d) **Number.** No more than one stand is allowed on any one premises.

(e) **Use of structure.** A structure may be used to store or display products and for sales, provided the following conditions are met:

(1) **Term of use.** The structure is only used from April 1 through November 30 and is removed no later than December 10.

(2) **Floor area.** The floor area of the structure shall not exceed 500 square feet.



(3) Structure height. The height of the structure shall not exceed 12 feet.

(f) **Removal and clean up.** Within 24 hours following the close of the on-site farmstand, all features solely associated with the on-site farmstand shall be removed and all trash and debris shall be removed.

(g) Status as a building. One free-standing building with a roof not exceeding 100 square feet shall not be counted as an accessory building.

**Section 7.** Add the following definition to Appendix E in alphabetical order to read as follows:

**Loafing shed** A building open on one side that is placed in a pasture or other similar area to provide shelter for livestock

**Section 8.** Repeal and recreate the following definitions in Appendix E to read as follows:

**Lot area** As the context indicates, lot area can refer to the minimum required area, actual area, or proposed area.

Note: See s. ~~36-712~~ ~~8-712~~ that describes how lot area is measured.

**Lot width** As the context would indicate, lot width can refer to the minimum required distance, actual distance, or proposed distance.

Note: See s. ~~36-7158-715~~ that describes how lot width is measured.

**Section 9.** Repeal and recreate s. 36-719(c) to read as follows:

**Sec. 36-719 Floor area of detached accessory buildings**

(a) *Generally.* The total floor area of detached accessory buildings, whether temporary or permanent, shall comply with the standards in appendix C or D. As stated in s. 36-511, the floor area of rural accessory buildings is not included in this total.

(b) *Exception.* The plan commission may approve a special exception, consistent with the procedures and requirements of article 5, to allow a greater floor area, provided:

- (1) the detached building has no more than 4 side-by-side vehicles facing the right-of-way from which the dwelling unit has street access;
- (2) the detached building is not used for any commercial or industrial purposes, except as otherwise allowed by the chapter; and
- (3) the detached building complies with all other requirements of this chapter.

In making their decision, the plan commission shall consider the factors enumerated in article 5 and must make the following determinations:

- (1) the architecture of the accessory building is compatible with the dwelling unit;
- (2) the accessory building will not be adverse to the public health, safety or welfare;
- (3) the accessory building will not be in conflict with the spirit or intent of this chapter; and
- (4) the accessory building will not otherwise be detrimental to the town or the immediate neighborhood where the structure would be located.

The plan commission may impose such conditions it deems necessary including a requirement for screening and/or landscaping.

(c) *Deed restriction required with approval of special exception.* If the plan commission approves a special exception under subsection (b) above, a deed restriction, in a form approved by the town attorney, shall be filed in the Waukesha County register of deeds office, prior to issuance of the building permit indicating that a special exception has been granted and recording any conditions of approval, including the ~~reduction in the permitted square footage of accessory buildings and a statement that the attached garage~~ accessory building may only be used for personal use and cannot be used for any type of commercial or industrial purpose unless otherwise permitted by this chapter.

**Section 10.** Repeal and recreate the development standards for “Lakewood Farms Preserve (PDD-14)” in Appendix D to read as follows:

Lot size, minimum: 1.5 acres

Lot width, minimum: 200 feet

Side yard offset, minimum: 50 feet

Rear yard offset, minimum: 50 feet

Setback, minimum: 50 feet

Setback from conservancy, wetlands, and floodland, minimum: 75 feet

House floor area, minimum: ~~2,200~~2,000 square feet for ranch, 2,800 square feet for 2-story

Garage floor area, minimum: 600 square feet

Floor area ratio (FAR), maximum: 15 percent

Accessory buildings are not allowed, ~~except on Lots 1 and 33~~ except for one pool Pool cabanas, accessory to inground pools, and one gazebo are allowed on the individual lots. ~~The same shall be provided they are placed in the building envelope of the lot and within 100 feet of the main residence. The footprint of the same shall be no more than 160 square feet. The design, placement, and construction is subject to the Architectural Control Committee of the HOA.~~ Accessory structures as specified in this part are included towards the impervious surface and floor area calculations.

Open space per lot, minimum: 1.25 acres

Impervious surface, maximum: 10,000 square feet, except 7,500 square feet on Lots ~~4-9~~4-10

Note: The property owner can apply for a permeable waiver up to 30 percent as set forth in the conditional use order as amended

Note: There are building envelopes on lots ~~5-10~~4-9, 11-15, and 27-31

Note: There is a no-mow zone on lots ~~5-10~~4-9

Unspecified standards: per SE zoning district

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**Section 11.** The minimum offset for the A-1 district in Appendix C is changed from 30 feet to 20 feet.

**Section 12.** 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 13.** 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 14.** 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 by a vote in favor by two-thirds of the members-elect of the Town Board, or more, this \_\_\_ day of \_\_\_\_\_ 2021.

TOWN OF MUKWONAGO

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Peter Topczewski, Town Chair

ATTEST:

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Kathy Karalewitz, Town Administrator

Published and/or posted this \_\_\_ day of \_\_\_\_\_, 2021

VOTING RESULTS

AYE  22 NAY  ABSTAIN  ABSENT  3

# Ordinance 176-0-061

Ordinance 176-0-061: Amend The Text Of The Town...

 **Passed By Majority Vote**

D1 - Foth	AVE
D2 - Zimmermann	AVE
D3 - Morris	AVE
D4 - Batzko	AVE
D5 - Dondlinger	AVE
D6 - Walz	AVE
D7 - LaFontain	AVE
D8 - Michalski	AVE
D9 - Heinrich	AVE
D10 - Swan	AVE
D11 - Howard	AVE
D12 - Wolff	AVE
D13 - Decker	AVE

D14 - Mommaerts	AVE
D16 - Crowley	ABSENT
D17 - Paulson	AVE
D18 - Nelson	AVE
D20 - Schellinger	ABSENT
D21 - Gaughan	AVE
D22 - Wysocki	AVE
D23 - Hammitt	AVE
D25 - Johnson	ABSENT

September 28 2021 - September 28 2021 07:41:04 PM

