

ORDINANCE NO. 2023 – 5

AN ORDINANCE TO REPEAL AND RE-CREATE CERTAIN SECTIONS OF CHAPTER 42 OF THE VILLAGE OF WAUKESHA MUNICIPAL CODE ENTITLED “ZONING” TO UPDATE THE CHAPTER AND CODIFY PREVIOUSLY ENACTED REVISIONS

WHEREAS, the Village of Waukesha passed a Zoning Code as the Town of Waukesha in 1948, and that Zoning Code was amended in 1956, 1979 and 2022; and

WHEREAS, the Village Board for the Village of Waukesha has initiated this proposed Zoning Code amendment and has referred the matter to the Village Plan Commission for report and recommendation pursuant to Wisconsin Statutes Section 62.23(7)(d)(2); and

WHEREAS, pursuant to Wisconsin Statutes Section 62.23(7)(d)(1)b class 2 notice was published on May 25, 2023 and June 1, 2023 for the hearing held by the Village Board and Village Plan Commission, which occurred on June 8, 2023 and continued on July 13, 2023; and

WHEREAS, the Village Board received a report and recommendation from the Village Plan Commission in favor of adopting the ordinance to repeal and re-create certain sections of the Zoning Code for the Village of Waukesha; and

WHEREAS, the Village Board finds that this Zoning Code amendment will benefit the health, safety and welfare of the Village of Waukesha by updating these provisions of the Village’s Zoning Code; and

WHEREAS, the Village Board finds that this change to the Village Zoning Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

WHEREAS, further the Village Board of the Village of Waukesha having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such amendment on the health, safety and welfare of the community, hereby determine that the amendment will not violate the spirit or intent of the Zoning Code for the Village of Waukesha, will not be contrary to the public health, safety or general welfare of the Village of Waukesha, and the amendment is consistent with the Village of Waukesha Comprehensive Plan.

NOW THEREFORE, the Village Board for the Village of Waukesha, Waukesha County, Wisconsin does hereby ordain as follows:

SECTION 1. Chapter 42 of the Village of Waukesha Municipal Code entitled “Zoning,” Article I entitled “Introduction,” Section 42-4 entitled “Definitions,” Subsection (b) entitled

“Specific Words and Phrases,” the definition of “Horse Boarding Stable and Equestrian Facility,” is hereby created and placed alphabetical order as follows:

(b) Specific words and phrases

Horse Boarding Stable and Equestrian Facility means a tract of land or structure(s) where horses other than owned by the owner(s) or resident(s) of the property are boarded; horses are kept for hire or sale; horses are trained (other than owned by the owner(s) or resident(s) of the property), compete, are shown, or used for commercial recreational purposes; and/or horse riders train, compete or receive lessons.

SECTION 2. Chapter 42 of the Village of Waukesha Municipal Code entitled “Zoning,” Article I entitled “Introduction,” Section 42-4 entitled “Definitions,” Subsection (b) entitled “Specific Words and Phrases,” the definition of “Riding Academies” is hereby repealed.

SECTION 3. Chapter 42 of the Village of Waukesha Municipal Code entitled “Zoning,” Article II entitled “General Provisions,” Section 42-34 entitled “General Use Regulations,” Subsection (h) entitled “Keeping of Female Chickens,” is hereby repealed and re-created as follows:

(h) *Keeping of female chickens.*

- (1) Purpose and intent. It is the desire of the village board to permit residents in single-family residential zoning districts, to keep a small number of female chickens on their property on a non-commercial basis, as a permissible accessory use, while also protecting neighbors and the community from noise, odors, and other negative aspects of raising chickens. This section does not limit the keeping of poultry or domestic livestock for lots at least three (3) acres in size in accordance with the provisions of the respective zoning district.
- (2) The keeping of female chickens for non-commercial use is permitted for all single-family residences and limited to 10 adult female chickens.
- (3) Only female chickens may be kept.
- (4) Roosters or female chickens that crow are not permitted.
- (5) All female chickens must be provided adequate shelter with appropriate ventilation. Coops shall conform to the provisions of Sec 42-36(e) Accessory Buildings, subsection (d) of this section, and the location requirements of the applicable zoning district. However, structures dedicated to the keeping of female chickens shall not be considered in the calculation of the maximum floor area of structures.
- (6) All female chickens must be allowed to roam outside of the shelter in a confined yard. The confined area must respect the mandatory offset requirements of the district.
- (7) All feed must be stored in sealed containers to prevent attracting vermin.

SECTION 4. Chapter 42 of the Village of Waukesha Municipal Code entitled "Zoning," Article III entitled "Zoning Districts," Section 42-83 entitled "A-1 Agricultural District," Subsection (b) entitled "Use Regulations," Subsection (1) entitled "Permitted Uses," Subsection d. entitled "Horse Boarding Stable and Equestrian Facility," is hereby created as follows:

d. Horse Boarding Stable and Equestrian Facility.

The following shall be required:

1. A Site Plan and Plan of Operation shall be submitted for review per the requirements of Sec 42-30. Architectural and landscaping requirements as established do not apply, but the Plan Commission and Village Board may impose landscaping and buffering requirements in order to ensure compatibility with surrounding properties.
2. The Site Plan(s) shall include the location of:
 - (i) Horse stables;
 - (ii) Indoor/outdoor arenas;
 - (iii) Pastures/other outdoor areas and fencing limits;
 - (iv) Feed and hay storage;
 - (v) Manure storage;
 - (vi) Dimensioned off-street parking areas to accommodate vehicles and trailers for regular use and events; and
 - (vii) Location of any proposed portable sanitary facilities for regular use and special events.
3. The Plan of Operation shall include the:
 - (i) Maximum number of employees;
 - (ii) Maximum number of horses on site (owned/boarded/special events);
 - (iii) Proposed hours of operation for daily activities and special events;
 - (iv) Proposed frequency and type of special events;
 - (v) Maximum number of attendees for special events; and
 - (vi) Proposed number of portable sanitary facilities for regular use and special events.
4. The owner of the property or an employee of the operation shall reside on site.
5. The minimum contiguous property area shall be 15 acres.
6. The maximum number of boarded horses including the owner/operator's horses shall be limited to one for the first three acres and one for each additional full acre of property.
7. Parking for horse trailers shall be limited to the owner/operator, boarders, and special events. The location, quantity, and any required screening of trailer parking shall be

determined based on the proposed use through the review process. There is no guarantee of a trailer parking space for every boarder.

8. Buildings used for shelter of horses or other livestock, or events shall be located a minimum of 50 feet from all property lines.
9. Adequate fencing shall be installed and maintained in good repair to contain all horses.
10. Adequate food, forage, water, pasture, and shelter for horses shall be provided.
11. All buildings involved in the operation and accessible by the public shall meet State Commercial Building Codes.
12. Sanitary facilities shall be accessible to the public at all times during hours of operation. Horse boarding and equestrian operations shall require restroom facilities that meet the Commercial Building and Plumbing code and a sanitary permit from Waukesha County for the proposed use for permanent facilities. Portable sanitary facilities meeting ADA requirements may be approved for use for seasonal operations (May 14 through September 16) and during special events. Portable facilities used for special events shall only be allowed on the property during such events and for reasonable periods before and after events. Portable sanitary facilities must be routinely cleaned and regularly serviced as recommended by a portable sanitary facility professional and shall be screened from the view of adjacent roads and properties.
13. The owner/operator shall obtain stormwater management or erosion control permits if required by Waukesha County.
14. At no time shall the volume of any public address (P.A.) system exceed a maximum of 65 dB at any property line, and use shall be limited to the hours between 9:00 am and 10:00 pm.
15. No outdoor storage related to the boarding stable/equestrian facility operation or unscreened refuse containers will be permitted. Any refuse container shall be screened on all sides to be reviewed and approved by the Plan Commission and Village Board.
16. A manure management plan including standard manure disposal practices shall be prepared in coordination with the Waukesha County Land Resources Division and submitted to the Village for review and approval.
17. The owner/operator shall be responsible for any clean-up of manure or mud resulting from the operation on the adjacent roadway.
18. Special events and show events shall be limited to horse-related activities (excluding rodeos) and may be approved as part of the plan of operation by the Plan Commission and Village Board with limits as to the maximum number and type of events per year and maximum number of attendees. The maximum length for an event is two (2) days. Hours of operation of events shall be limited to the hours between 9:00 am until 10:00 pm.
19. Signage shall only be permitted per Sec 42-41 of the Village of Waukesha Code of Ordinances.

20. Exterior lighting shall be designed to illuminate only the subject premises as security lighting and shall not shine upon neighboring properties. Any outdoor arena lighting shall follow the lighting requirements within Sec 42-30(h). Any lighting of the outdoor arena shall cease within one hour of the end of an outdoor special event.

SECTION 5. Chapter 42 of the Village of Waukesha Municipal Code entitled "Zoning," Article III entitled "Zoning Districts," Section 42-84 entitled "RE Single-Family Residence Estate District," Subsection (b) entitled "Use Regulations," Subsection (1) entitled "Permitted Uses," Subsection a, is hereby repealed and re-created as follows:

- (1) Permitted uses.
 - a. Any permitted use permitted in the A-1 Agricultural District, provided the minimum land area is 15 acres or greater, and excluding Horse Boarding Stables and Equestrian Facilities.

SECTION 6: CONTINUATION OF EXISTING PROVISIONS

The adoption of this Zoning Code and the repeal of ordinances provided for in Sec. 1 of this Adoption Ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- a. Any ordinance adopted subsequent to the enactment of this Adoption Ordinance.
- b. Any ordinance adopted establishing the applicable zoning district/classification(s) of specific land(s) within the Village.
- c. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this Adoption Ordinance or any action or proceeding brought for the enforcement of such right or liability.
- d. Any offense or act committed or done before the effective date of this Adoption Ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- e. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this Adoption Ordinance brought pursuant to any legislative provision.
- f. Any conditional use, license, right, easement, or privilege heretofore granted or conferred.
- g. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.

h. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the Village.

SECTION 7: SEVERABILITY

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section of 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.

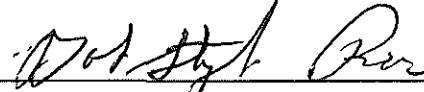
SECTION 8: EFFECTIVE DATE

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Passed and approved this 13th day of July, 2023.

VILLAGE OF WAUKESHA, WI

By:



Bob Stigler, Village President

ATTEST:



Kristine Snyder, Village Clerk/Treasurer