ORDINANCE NO. 46-24

PRINCIPAL SPONSOR: **ALDERPERSON PENI KEELING**
CO-SPONSOR: **ALDERPERSON ROLLIN PIZZALA**
ALDERPERSON BILL SIEL
ALDERPERSON RUTH DYSON
ALDERPERSON CURT WILSON
ALDERPERSON JAN MICHALSKI

TO AMEND SECTIONS 14.02 AND 14.08 OF THE CODE OF GENERAL ORDINANCES FOR THE CITY OF KENOSHA REGARDING THE REGULATION, PENALTIES, AND ENFORCEMENT FOR CERTAIN PROHIBITED ANIMALS AND REGULATED FOWLS

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Section 14.02 of the Code of General Ordinances for the City of Kenosha is hereby amended as follows:

14.02. Certain Animals Prohibited; Fowls Regulated.

A. No person, party, firm or corporation shall, keep, feed or breed any swine, cattle, foxes, beavers, mink, otter, martin, fisher, raccoon, skunk, goats, horses, mules, asses, sheep, pheasants, poultry or bees in the City, except as herein provided. In the A-1 and A-2 Zoning Districts, swine, cattle, goats, horses, sheep, poultry or bees are permitted upon first obtaining a permit from the Administrator of Health, or designee thereof. In the event of the commercial raising of poultry for meat or eggs, a license, as provided in Subsection B., shall be required. Each of the above referenced permits or licenses are hereby conditioned upon said animals being kept in such a manner so as to not constitute a public nuisance or a health hazard. Said permit shall limit the number of animals and impose fencing, setback and maintenance requirements such as are necessary to promote health and sanitation. Vietnamese Potbellied Pigs are allowed in one and two family residential housing units in other than the A-1 and A-2 Zoning Districts, upon the issuance and maintenance of a license therefor under Section 14.024 of the Code of General Ordinances. Notwithstanding the above, killer bees of the African or South American species may not be kept, fed or bred in the City under any circumstances.

Nor shall any person, firm or corporation bring into, keep or maintain under their control, within the limits of the City, any wild animal or any animal which may endanger life or property. The word "animal" as used in this subsection is any living thing that is not human or a plant, and generally is capable of voluntary motion or sensation, and, the term "wild animal" includes, but is not limited to, all animals not indigenous to the North American Continent, and having a dangerous propensity.

Any traveling circus or similar business having suitable structures or facilities for the safeguard of such animals as determined by the City Humane Officer are exempted from the provisions of this subsection.

Also excepted from this Section is any bona fide, accredited school having structures or facilities for the safekeeping of such animals, as deemed appropriate by the City Health Administrator, or designee thereof, and offering protection to persons who may come in contact therewith, providing the head of the school or school system authorizes the keeping or maintaining of designated animals, for educational purposes.

B. **Chickens.**

1. **Definitions.** As used in this Subsection 14.02 B., the following definitions apply.

Chicken means, unless otherwise specified, a hen of the species *Gallus domesticus*. The term does not include Guinea fowl.

Coop means a constructed or prefabricated structure where chickens are kept safe and secure that includes nest boxes for egg-laying and perches on which the chickens can sleep.

Department means the City of Kenosha department of Inspections.

Director means the director of the department, or his or her designee.

Enclosure means an enclosed area abutting a coop, whether it is attached or detached from a coop, in which chickens may roam freely.

Enforcing Officer means a community service officer employed by the City of Kenosha, a humane agent or officer under contract with the City of Kenosha, an inspector, officer, supervisor, or director from the department, or a sanitarian employed by Kenosha County.

Fowl means chickens, ducks, geese, or turkeys.

Keep means prevent or restrain fowl from departing from a premises or a part of a premises.

Licensed Premises means the premises exterior to the principal structure which premises are described by the applicant and upon which activities subject to a requirement for a license under this subsection 14.02 B. are conducted, regardless of whether a license has properly been issued.

Licensee means the person to whom a license under this subsection was issued.

2. **Keep, Feed, or Harbor Any Fowl.** No person, firm, or corporation may keep, feed, or harbor any chickens, without first obtaining a license so to do from the Common Council as hereinafter provided. With the exception of pullets less than eleven (11) weeks of age, no person, firm, or corporation may keep, feed, or harbor any chicken within a principal structure on licensed premises. No person, firm, or corporation may keep, feed, or harbor any fowl other than chickens within the City.

3. **License.** Any person who keeps chickens in the City of Kenosha must obtain an annual license prior to January 1 of each year, or within thirty (30) days prior to acquiring the chickens. The license year commences on January 1 and ends on the following December 31.

   Any applicant for a license or renewal thereof under this Ordinance must file with the City Clerk a fully executed application on a form prescribed by the City Clerk, accompanied by the annual license fee. The form must include a diagram reasonably depicting the location of the proposed coop and enclosure relative to all structures having any portion of the structure within one hundred feet (100 ft.) of the perimeter of the proposed coop or enclosure and relative to the applicant's property lines. On the application form, the applicant will be required to specify the number of chickens that will be kept on the licensed premises. The applicant must also aver on the application form that the applicant has made an application for inclusion of the proposed licensed premises in the Livestock Premises Registry with the Wisconsin Department of Agriculture, Trade and Consumer Protection. The form must require the accurate identification of all of the persons required in 4.b., below, by name and address. If the applicant is leasing the proposed licensed premises, the application must also bear the signature of the landlord indicating consent of the application.

   The fee for the license is two hundred dollars ($200.00). The Clerk must collect a late fee of five dollars ($5.00) from every owner of chickens, if the owner fails to obtain a license prior to April 1 of each year, or fails to obtain a license within thirty (30) days of acquiring the chickens.

   Licenses are not assignable or transferable either to another person, party, firm or corporation or for another location.

   Excepted from the license requirement is any law enforcement agency or agency under contract with the City to care for stray or unwanted animals.

4. **Pre-Grant Hearing**
   a. Prior to review by the Common Council, pursuant to paragraphs 1.03 D. 1.c and D. 5., the license application will be referred to the Committee on Public Safety and Welfare for hearing. The date and time of the hearing must be communicated by the chair of the Public Safety and Welfare Committee to the director with sufficient time to allow the director to mail the notice required herein at least fourteen (14) days in advance of the hearing.
   b. Before a license is issued for the keeping of chickens, the following process must be followed:
      (1) the director will provide notification of the application and the meeting at which the hearing will be held, by first-class U.S. mail, to the following:

          the property owner, if someone other than the applicant,

          all property owners of all properties directly or diagonally abutting the proposed licensed premises, including those across an alley, and

all adult tenants of all properties directly or diagonally abutting the proposed licensed premises, including those across an alley.

The director will take reasonable efforts to provide such notifications to the persons identified in this subparagraph b., at least ten (10) days in advance of the hearing. Failure to provide such notice will not invalidate any action taken at such hearing.

(2) No less than seven (7) days prior to the date the Committee on Public Safety and Welfare first considers the application, the applicant shall contact the Alder for the district in which the license is to be operated.
(3) Property owners, neighboring tenants, or citizens may file written objections with the director in advance of the hearing, which the director will provide to the Committee, and/or may make comments at the hearing.
(4) The Committee may recommend to the Common Council that the license be granted, granted with conditions, or denied.
(5) Taking into account the recommendation of the Committee on Public Safety and Welfare, the comments made before the Committee, and comments further allowed at the Common Council meeting, comments of staff, and the consideration factors listed herein, the Common Council will make its determination.
(6) Within ten (10) days of the decision of the Common Council, the City Clerk/Treasurer will mail to the license applicant and to any objector, the determination on the application. If granted, the City Clerk will issue the license. The previous sentence notwithstanding, if the Common Council grants the license subject to holds to complete work, obtain final inspection, or for any other reason, the City Clerk will issue the license after the holds have been satisfied. The previous sentences in this subparagraph 6 notwithstanding, the license will not be issued by the City Clerk until the department provides to the Clerk verification of livestock premises registration pursuant to the requirements of the Wisconsin Department of Agriculture, Trade and Consumer Protection.
(7) Upon obtaining approval, and after construction of the chicken coop and enclosure, the director will cause an enforcing officer to perform a final inspection to ensure compliance with all requirements.

c. If the hearing cannot or will not be held at the Committee on Public Safety and Welfare, the hearing will be held at a Common Council meeting to be determined by the Mayor within ninety (90) days of the application.

5. **Regulations.**
   a. The principal use of the licensed premises upon which the licensed activity will be conducted must be a single-family dwelling.
   b. No more than four (4) chickens may be kept on the licensed premises.
   c. No coop or enclosure may be located closer than twenty-five (25) feet to any residential structure on an adjacent lot. For purposes of this ordinance, "residential structure" means a habitable structure, which does not include a garage detached from a house.
   d. The licensee must maintain the licensed premises in a sanitary condition such as to prevent obnoxious odors from escaping to any private or public property and such as to not jeopardize the public health, safety and welfare.
   e. Chickens must be provided with an enclosure having a floor space of at least sixteen square feet (16 ft.^{2}) per chicken; at least three square feet (3 ft.^{2}) per chicken of the enclosure must be covered with a watertight covering. The height of the coop or enclosure must not exceed 8 feet. The area of the coop or enclosure must not exceed 120 square feet.
   f. Chickens must be kept in the covered coop or a fenced enclosure at all times.
   g. All enclosures and coops, must be so constructed or repaired as to prevent vermin from being harbored underneath the same or within the walls thereof, and all food products or other products, goods, wares, and merchandise likely to attract or to become infested with or infected by vermin must be so protected as to prevent vermin from gaining access thereto or coming in contact therewith.
   h. The licensee is not allowed to keep any rooster upon the licensed premises upon which the licensed activity will be conducted.
   i. The licensee will not slaughter any chickens or other fowl upon the licensed premises upon which the licensed activity will be conducted.
   j. Animals must be fed and watered at least once a day, except as otherwise might be required to provide adequate veterinary care. The food must be free from contamination, wholesome, palatable and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and size of

the animal. Self-feeders may be used for the feeding of dry food and they must be sanitized as needed, but at least once per week, to prevent molding, deterioration or caking of feed.

k. The licensee must obey any reasonable sanitation directive of the department.
l. Animals must not be kept in a manner as to disturb the peace of the neighborhood or of persons passing to and from upon the streets.
m. The proposed facilities are located in an appropriate zone allowing single-family residences under the City Zoning Ordinance as verified by the director of the department, or designee thereof.
n. The proposed facilities are in compliance with the Building Code and Fire Code, as verified by authorized representatives of enforcing departments.
o. The issuance of a license hereunder does not exempt licensee from obtaining and complying with all other applicable State and City licenses and licenses, including required building permits and Zoning limitations.
p. If required by other laws, a building permit is required for coops and enclosures. The permit fee is the same as for a shed. To the extent a building permit is necessary, the enclosure is subject to compliance with Chapter 9 of the Code of General Ordinances, including, but not limited to, paying reinspection fees that become assessed pursuant to Subsection 9.07 F.
q. Electric service to coops and enclosures cannot be provided by an extension cord or cords.
r. All chickens must be kept in the rear yard as defined in the Zoning Ordinance.
s. All areas where chickens are kept must be maintained in a neat and clean manner, free of undue accumulation of waste such as to cause odors detectable on adjacent properties.
t. By accepting an issued license, the licensee must permit inspections by an enforcing officer at any reasonable hour of the portion of the licensed premises upon which the chickens are kept.

6. **Enforcement.**
   a. Enforcing officers are responsible for the enforcement of this Ordinance, and have the authority and duty to enter any licensed premises to inspect the same. Inspections may be made at any reasonable hour. In the event of an emergency, an inspection may be made at any time. Enforcing officers have the authority to issue and be named in citations or complaints regarding this Ordinance.
   b. The provisions of this Ordinance are enforceable against a licensee and against a non-licensee who is required to be licensed hereunder.
   c. In the event of a dispute as to the species of a bird being kept, it is presumed that the bird is a fowl, but not a chicken, which presumptions are rebuttable.

7. **Renewal License Process.** Licenses are eligible for renewal only if the following process is followed:
   a. The renewal application must be completed and received by the Clerk/Treasurer's Office at least thirty (30) but not more than ninety (90) days before the expiration of the current license.
   b. Licensee must pay a one hundred dollar ($100.00) renewal fee when the renewal application is delivered to the Clerk/Treasurer's Office.
   c. Licensee must schedule an inspection with the department, and the department must conduct the inspection prior to the expiration of the current license to determine compliance with all requirements. If there is an adverse finding from the inspection conducted, and such is not corrected prior to the expiration of the current license, the licensee is not eligible for a renewal and must apply for a new license.
   d. The renewal application and the department's adverse recommendation, if any, will be referred to the Committee on Public Safety and Welfare for determination. Th Committee may grant, grant with exceptions, or deny the renewal application.

   Once this process is completed, the renewal license will be issued by the Clerk/Treasurer's Office. Failure to comply with any part of this process will result in the denial of the renewal license. If a renewal license is denied, the licensee must apply for a new license.

8. **Revocation or Denial of Renewal of License.**
   a. The Committee on Public Safety and Welfare has the right to suspend or revoke any license once granted when it appears that any licensee has violated any of the provisions of this Ordinance, or any Ordinance of the City, or any law, rule or regulation of the State of Wisconsin or the United States, involving cruelty or mistreatment of the animal, or the unlawful possession of the animal or upon recommendation of the department or Kenosha County Health Department. Prior to the revocation of any license, written notice of the reason for such action will be given to the applicant or licensee by the

City Clerk. Such notice must state that the applicant or licensee may request a hearing on such decision by the Committee on Public Safety and Welfare within ten (10) days of receiving the notice. Upon conducting a revocation hearing, the Committee will report its findings of fact, conclusions of law, and recommendations to the Common Council. The Council may revoke any license issued under this subsection.

b. The determination of the Committee on Public Safety and Welfare to deny a renewal license or grant with conditions may be appealed to the Common Council by filing a written notice of appeal with the City Clerk/Treasurer within ten (10) days of the hearing determination.

The chickens, coop, and enclosure must be removed by the former licensee within forty-eight (48) hours of notice of the revocation or non-renewal of the license. For this purpose, notice from the City may be made any means, including in person, telephone call, telephone message, text message to a cell phone, email, first class mail, or posting on the premises; notice has been effectively made if licensee attended the hearing at which the decision was made by the Common Council to revoke or not renew the license.

9. **Penalty.** Any person, party, firm, or corporation who violates any of the provisions of this Ordinance, or hinders, impedes, or obstructs an enforcing officer in the performance of his/her duty of enforcement, upon conviction thereof, may be required to forfeit not more than three hundred dollars ($300.00), plus the cost of prosecution, including all applicable fees and surcharges.

10. **Conflict with Private Covenants**. Nothing in this Section can be construed to license the keeping of chickens when such activity is prohibited by private covenants, conditions or restrictions governing the use of property, or by rules, regulations or orders issued by the Wisconsin Department of Public Health or the Kenosha County Health Department.

Section Two: Section 14.08 of the Code of General Ordinances for the City of Kenosha is hereby amended as follows:

14.08. Penalties.

A. Any person violating Section 14.01.A., shall forfeit fifty dollars ($50.00), together with the costs of the action, and in default of the payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

B. Any person violating Section 14.01.C. shall forfeit not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), together with the costs of the action, and in default of payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

C. Any person convicted of violating Sections 14.01.D.1. or 14.01.D.3. shall forfeit not more than two hundred dollars ($200.00), together with the costs of the action, and in default of payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

D. Any person violating Section 14.02 shall forfeit not less than one hundred dollars ($100.00) nor more than three hundred dollars ($300.00), together with the costs of the action, and in default of the payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

E. Any person violating Section 14.03 shall forfeit fifty dollars ($50.00), together with the costs of the action, and in default of the payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

F. Any person violating Sections 14.04 or 14.05 shall forfeit one hundred dollars ($100.00), together with the costs of the action, and in default of payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

G. Any person violating Section 14.055 shall forfeit not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000.00), together with the costs of the action, and in default of payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

H. 1. Any person violating Section 14.07.B. shall forfeit fifty dollars ($50.00), together with the costs of the action, and in default of payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed ninety (90) days.

2. Any person violating Sections 14.07.F.1., 14.07.F.5., 14.07.F.8. or 14.07.F.10., shall forfeit not less than two hundred dollars ($200.00), nor more than five hundred dollars ($500.00), together with the costs of the action, and in default of payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

I. 1. Any person violating Sections 14.013 or 14.014 of this Chapter or any other provision of Chapter XIV for which there is no separately listed penalty, shall, upon conviction thereof, forfeit not less than one hundred dollars ($100.00) nor more than three hundred dollars ($300.00), plus the costs of prosecution, and in default of such payment of forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

2. Any person violating Section 14.013.D. of this Chapter shall, upon conviction thereof, forfeit not less than three hundred fifty dollars ($350.00) nor more than five hundred dollars ($500.00), together with the costs of the action, and in default of payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

J. Any person who violates Sections 14.06.A., 14.075 or 14.076 of this Chapter or Wis. Stats. § 95.21, ch. 173, ch. 174, or ch. 951, shall, upon conviction, forfeit not more than five hundred dollars ($500.00), together with the costs of prosecution, and in default of payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

L. Except as otherwise provided, anyone violating any of the provisions of this Chapter, upon conviction thereof, shall be subject to a forfeiture not to exceed one thousand dollars ($1,000.00), together with the payment of the costs of prosecution, assessments, fees, and surcharges, and in default of the timely payment thereof, shall either be committed to the County Jail for a period not to exceed ninety (90) days, or the Court may suspend the Defendant's motor vehicle operating privileges until the forfeiture, assessment, surcharges and costs are paid, except that the suspension period may not exceed five (5) years.

M. In addition to the imposition of a forfeiture, the City may seek injunctive relief.

N. Each incident and each day's continuance shall constitute a separate offense.

Section Three: This Ordinance becomes effective upon passage and publication.

ATTEST: _____, City Clerk/Treasurer
MICHELLE L. NELSON

APPROVED: _____, Mayor Date: _____
DAVID F. BOGDALA

Passed:

Published:

Drafted By:

CITY ATTORNEY'S OFFICE