

ORDINANCE NO. 1497

An Ordinance amending portions of the Municipal Code Section 9-52 (Animals and Fowl), creating Section 9-52(5) and amending portions of Chapter 18 (Zoning Code). These changes create an ordinance related to the keeping of backyard chickens and create a licensing procedure.

The Common Council of the City of Marshfield do hereby ordain as follows:

SECTION 1. Section 9-52(1) is hereby amended to read as follows:

Sec. 9-52. Animals and fowl.

(1) *Permit required.* Except as provided in section 9-52 (5) of this chapter no person shall keep any horse, mule, donkey, pony, cow, pig, goat, sheep, swine, fowl, or animal raised for fur-bearing purposes within the city, except in an outlying district where there are no residences other than that occupied by the owner or occupant of the premises upon which such animals are kept and within a distance of 200 feet of the structure or fence housing or enclosing such animal, without a special written permit therefore issued by Development Services, after an inspection of the premises and a finding of fact to the effect that no nuisance will be created thereby. Such special permit shall be issued for the keeping of such animals on any lot only in the following cases:

- a. Where such animals were being lawfully kept on such lot prior to the enactment of the ordinance from which this section derives.
- b. Where such animals were being lawfully kept on such lot after the enactment of the ordinance from which this section derives in an area in which there were no residences within a distance of 200 feet of the structure or fence enclosing such animals, and subsequently one or more residences were built, bringing the structure or fence housing the animals within the restricted distance.
- c. As a condition to approval of the application, applicant must register their premises through the Wisconsin Livestock Identification Consortium at www.wiid.org or the Department of Agriculture, Trade, and Consumer Protection (DATCP). Proof of registration must be provided by the applicant upon request by the City.

(1) *Term of permit.* Permits to keep animals under this section shall be renewed annually, and only after a reinspection by the Development Services Department. The renewal fee shall equate to the initial permit fee as established by this Chapter.

(2) *Stables and enclosures.* Standards for stables and enclosures shall be as follows:

- (a) *Construction.* Every stable or other building wherein any animal or fowl covered under this section is kept shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times.
- (b) *Disposal of wastes.* Every such stable or other building occupied by authority of special permit shall, if located within 200 feet of any tenement or apartment house; hotel; restaurant; boardinghouse; retail foodstore; building used for school, religious, or hospital purposes; or residence other than that occupied by the owner or occupant of the premises upon which such creatures are kept shall be provided with a watertight and flytight receptacle for manure, of such dimensions as to contain all accumulation of manure, which receptacle shall be emptied sufficiently often and in such manner as to prevent its becoming a nuisance. Such receptacle shall be kept securely covered at all times, except when opened during the deposit or removal of manure or refuse. No manure shall be allowed to accumulate except in such receptacle.

- (c) *Other improvements which may be required.* The building services supervisor shall, if he deems such measures necessary in order to avoid a nuisance, require that any such building be screened tightly against flies, and that it be provided with running water, drain sewer connection, flooring impervious to water, and that such other measures be taken as may be necessary to ensure proper protection to public health and safety, as conditions precedent to the issuance of any special permit.

SECTION 2. Section 9-52(3)d. is hereby amended to read as follows:

- (d). *Small animals and fowl.* Except as provided in section 9-52 (5) of this chapter, standards for enclosures for small animals and fowl shall be as follows:
1. *Structures.* No chicken coop, dovecote, dog kennel built for or intended for the use of more than two dogs, rabbit warren built for or intended for the use of more than two rabbits, or other yard or establishment where small animals or fowl are kept shall be maintained, nor shall more than two dogs, cats, rabbits, guinea pigs, nor any ducks, geese, chickens, or other fowl be kept, on any premises within the city limits, except in outlying districts where there is no tenement or apartment house; hotel; restaurant; boardinghouse; retail food store; building used for school, religious or hospital purposes; or residence other than that occupied by the owner or occupant of the premises upon which such yard, establishment or creatures are maintained or kept, within a radius of 200 feet of such yard or establishment or structure or area enclosing such creatures, without a special written permit issued after an inspection of the premises and a finding of fact to the effect that no nuisance will be created thereby. Such special permit shall be issued for the maintenance of any such yard or establishment or fowl or animals which were being lawfully maintained or kept on such lot prior to the enactment of the ordinance from which this section derives.
 2. *Existing uses.* Where such yard or establishment or fowl or animals were being lawfully maintained or kept on such lot prior to the enactment of the ordinance from which this section derives in an area in which there were no such buildings or residences within a distance of 200 feet of the structure enclosing such animals, and subsequently one or more such buildings or residences were built bringing the structure or area housing the animals within the restricted distance. Such permit shall be for the term of one year and shall not be renewed without a reinspection. The provisions of this subsection shall not apply to the keeping or maintaining of guinea pigs or other small animals for bona fide medical research purposes by duly qualified persons, or to the keeping or maintaining of small animals or fowl for bona fide pet shop purposes when permitted in the zoning code of the city; provided that such animals are kept and maintained indoors, and provided further that the keeping or maintaining of such small animals does not create a nuisance.

SECTION 3. Section 9-52(5) is hereby created to read as follows:

(5) *Backyard Chickens.* Chickens may be kept on property zoned as single-family residential subject to the regulations set forth in this subsection and the privilege to keep chickens as provided for herein shall be generally referred to as “backyard chickens.”

(a) *Definitions*

1. “*Abutting lot*” shall mean all lots that the applicant’s property contacts at one or more points including lots that only contact the applicant’s property at the corners. The exception is lots that are legally abutting but separated from the applicant’s property by a public or private street, alley, or other right-of-way.
2. “*Chicken*” shall mean hens or pullets only and does not include roosters.
3. “*Chicken-keeper*” shall mean a person who owns one or more chickens on his or her property.
4. “*Chicken enclosure, Chicken coop, housing facilities, enclosure*” shall mean the enclosure inhabited by one or more chickens constructed for such purpose.
5. “*Lot*” means a contiguous parcel of land under common ownership.
6. “*Run*” or “*Pen*” shall mean a fenced or enclosed outdoor space provided for chickens. Runs must be fully enclosed, including all sides and the top.
7. “*Primary Residential Structure*” or “*Principal Structure*” shall mean any building located on a lot used for living purposes.
8. “*Private Nuisance*” shall mean a condition that materially interferes with the ordinary comfort, use or enjoyment of the property of another.

(b) *Permit Required.* No person shall maintain or keep any chicken within city limits prior to obtaining an annual permit from the City. The permit year shall commence on January 1st of every year and shall expire on December 31st of that same year. Prior to obtaining a permit from the City, the applicant shall provide proof of State Livestock Registration.

1. Every Chicken-keeper shall pay the required fee and obtain a permit to keep chickens on single-family property owned and occupied by the permittee.
2. A maximum of four (4) chickens may be kept on single-family residential lots upon the occurrence of all of the following:
 - a. Application: A permit application is submitted including but not limited to the following information: name of applicant, property address, contact number, and a scaled, dimensioned site plan showing property boundaries, locations of existing principal and accessory structures, and the proposed location of chicken coop and run area consistent with the standards of practice listed in this section. The materials accompanying the permit application shall include current proof of premises registration through the Wisconsin Livestock Identification Consortium at www.wiid.org or the Department of Agriculture, Trade, and Consumer Protection (DATCP) and the application fee. The Ordinance Enforcement Officer may deny the application if the applicant fails to provide the information and all required materials listed above.
 - b. Inspection: Upon an approved application, applicant shall be required to schedule an inspection with the Development Services Department and Ordinance Enforcement Officer, or designee. A permit to keep chickens shall not be issued until the inspection has been completed and premises approved.
 - c. R e c e i p t : S u b s e q u e n t t o approval for the construction

of the required coop and run by the Ordinance Enforcement Officer a permit to keep chickens issued by the Development Services Department shall be received by the permittee.

3. Permits are personal to the applicant that is issued the permit, non-transferrable, and do not attach to or run with the land.
4. The fee for the initial permit and renewals shall be as established by the Common Council. Annual permit renewal is required and the renewal fee shall equate to the initial permit fee as established by this Chapter.
5. If the standards of practice set in this Chapter are not met and/or maintained after the issuance of a chicken keeping permit, the permit may be revoked by the City. Once such a permit is revoked, it shall not be reissued for a period of at least two years.

(c) *Standards of Practice.* Every chicken-keeper shall provide the chickens with shelter and bedding as set forth below as a minimum:

1. All chickens shall be kept and maintained within a stationary, detached structure whose sole purpose is the keeping of chickens. Temporary or movable structures or devices are prohibited. An exemption is for chicks which can be incubated indoors for no more than four (4) weeks.
2. The housing facilities shall be structurally sound, moisture proof, and maintained in good repair.
3. Chicken enclosures must be constructed and maintained to allow sufficient space for adequate freedom of movement and retention of body heat for each animal.
4. The chicken enclosure's floor, foundation, and any footings shall be constructed using a hard, cleanable surface such as concrete, wood, linoleum, or hard plastic and shall be resistant to rodents. A dirt floor is not acceptable.
5. A sufficient quantity of clean bedding material shall be provided in order to provide insulation and protection against the cold and dampness and to promote the retention of body heat.
6. Chickens shall be provided enclosures that are enclosed, predator-proof, insulated, and adequately ventilated.
7. Chicken coops shall be constructed to provide at least four (4) square feet per chicken, with a maximum area of forty (40) square feet.
8. Chicken enclosures shall be constructed and maintained so as to prevent rodents from being harbored underneath or within the walls.
9. Chicken feed shall be stored in a vermin-proof container which makes it inaccessible to rodents, vermin, wild birds, and predators.
10. The chicken enclosure shall provide elevated perches to allow chickens to rest in their natural roosting positions.
11. Chickens shall be secured in the enclosure during non-daylight hours.
12. All chicken coops and pen areas shall be set back at least twenty-five (25) feet from an existing principal residential structure on an abutting lot (new homes and additions shall not necessitate relocation of an existing coop). Chicken coops and pens shall be located at least 5 feet from the side and rear lot lines of the subject property.
13. No chicken coop or pen area shall be placed in the front yard or any closer to the front lot line than the principal structure. Additionally, coops and run areas shall be visually screened from direct view of the street and sidewalk with either a solid fence or dense

- hedges of at least 5 feet in height. On corner lots only the view from the front street frontage shall require such screening.
14. The chicken coop shall include a run or pen area of at least 10 square feet per bird for access to sunlight, exercise, soil, and vegetation (maximum area of 80 square feet).
 15. The run/pen area shall be enclosed with a 6-foot fence, or a fence that is less than 6 feet in height provided it is covered with a mesh or other appropriate coverings which may include a roof suitable to prevent chickens from escaping the pen area.
 16. Chickens shall be secured within the chicken coop and pen area at all times. At no time shall the owner(s) allow chickens to roam outside of these areas.
 17. All chicken coops and pen areas shall be kept in a clean, sanitary condition and free from all objectionable odors and shall be subject to the inspection and approval of an Ordinance Enforcement Officer. All chicken enclosures, attached runs/pens, and yards where chickens are kept or maintained shall be cleaned regularly to keep them reasonably free from substances, including but not limited to manure, uneaten feed, feathers, and other such waste so that it does not cause the air or environment to promote the breeding of flies, mosquitoes, or other insects, or to provide a habitat, breeding or feeding place for rodents or other animals, or otherwise be injurious to public health. Manure shall not cause a private nuisance and shall be disposed of either off-site or as fertilizer or mulch for on-site use.
 18. Chickens shall be kept and handled in a sanitary manner to prevent the spread of communicable diseases among birds or to humans.
 19. Any person keeping chickens shall immediately report any unusual illness or death of chickens to the Health Department of the county in which the person's property is located.

(d) *Prohibitions.*

1. The slaughter of chickens within the city is prohibited.
2. No property shall contain more than four (4) chickens.
3. Roosters are prohibited except in Rural Holding (RH-35) Zoning Districts or unless part of an agricultural operation authorized by the City of Marshfield Zoning Ordinance (Chapter 18) of the Municipal Code.
4. Chicken-keeping within the City may only occur on single-family residential lots within single-family residential zoning. Chicken-keeping on lots containing any other land uses is prohibited.
5. Chickens shall not be kept or maintained within a residential structure, including basements, porches, garages, sheds, or similar storage structures. An exemption is permitted for chicks, allowing them to be incubated indoors for a period not to exceed four (4) weeks.
6. The commercial sale of eggs (on or off premises) is prohibited except as otherwise permitted by the State of Wisconsin and United States Department of Agriculture.
7. Chickens with infectious diseases capable of being transmitted from bird to bird or birds to humans, including but not limited to, salmonella, avian influenza, etc., are prohibited and shall be immediately euthanized by a veterinarian.
8. No one other than the owner(s) of the subject property where chickens would be kept may apply for a permit for that property.

(e) *Exceptions.*

1. Chickens, when used by educational institutions, only for educational purposes, do not require a permit and are exempt from the requirements of this Chapter.
2. If no complaints have been made in the prior year, no inspection of the applicant's property is necessary for permit renewal but may be required at the discretion of the Ordinance Control Officers.

(f) Appeals regarding Determinations to Deny Permit.

1. The City of Marshfield elects not to be strictly bound by the provisions of Chapter 68: Wisconsin Statutes in relation to Appeals of Determinations to Deny Chicken-keeping Permits under this Chapter and all appeals shall proceed as follows.
2. Any person denied a permit may file an appeal with the Judiciary and Licensing Committee within ten (10) business days of the date the notice of denial is postmarked.
3. Notices of Appeal shall be filed with the City Clerk's office in writing, specify the reasons for the appeal and bear the signature of the person making the appeal.
4. The Judiciary and Licensing Committee shall decide whether to uphold or reverse the administrative decision of the City Clerk or Designee.
5. The Judiciary and Licensing Committee shall act upon the appeal and issue its written decision within sixty (60) days of the filing of the Notice of Appeal. The decision of the Common Council shall be the final determination in relation to this issue and may be appealed within the time specified and as provided in Section 68.13 Wisconsin Statutes.

(g) Revocations of Permits

1. *Authority.* The Ordinance Enforcement Officer shall have the authority to investigate complaints regarding violations of this Section.
2. Revocation of permits may be commenced by complaint filed by City staff acting in their official capacities or by any abutting property owner.
3. Complaints shall be filed with the City Clerk in writing or electronically, specifying the reasons revocation of the permit is necessary, and bear the signature of the person making the complaint.
4. The City Clerk shall refer the complaint to an Ordinance Enforcement Officer who shall investigate the complaint and may revoke the permit by giving written notice of revocation to the permit holder if the permit holder has failed to correct any violation or violations set forth in a written warning given by the Ordinance Enforcement Officer.
5. Any person(s) aggrieved by the decision of the Ordinance Enforcement Officer may appeal such decision to the Judiciary and Licensing Committee within ten (10) business days of mailing of a written order from the Ordinance Enforcement Officer.
6. The Judiciary and Licensing Committee shall decide whether to uphold or reverse the administrative decision of the Ordinance Enforcement Officer.
7. The Judiciary and Licensing Committee shall act upon the appeal and issue its written decision within sixty (60) days of the filing of the Notice of Appeal. The decision of the Judiciary and Licensing Committee shall be the final determination in relation to this issue and may be appealed within the time specified and as provided in Section 68.13 Wisconsin Statutes.
8. Unless appealed as provided above in which case such appeal shall act as a stay upon

this provision until a final determination is issued by a court of competent jurisdiction, upon revocation of a permit the property owner shall cease all chicken-keeping activity on his or her lot and remove all chicken-keeping structures within thirty (30) days. Failure to do so shall be a violation of this Ordinance. The Ordinance Enforcement Officer shall have the responsibility of enforcing this provision and may take such action as is necessary to abate such violation.

SECTION 4. Section 18-25(4) is hereby amended to read as follows:

(t) Backyard Chickens.

SECTION 5. Section 18-26(4) is hereby amended to read as follows:

(p) Backyard Chickens.

SECTION 6. Section 18-27(4) is hereby amended to read as follows:

(p) Backyard Chickens.

SECTION 7. Section 18-28(4) is hereby amended to read as follows:

(p) Backyard Chickens.

SECTION 8. Section 18-29(4) is hereby amended to read as follows:

(p) Backyard Chickens.

SECTION 9. Section 18-30(4) is hereby amended to read as follows:

(p) Backyard Chickens.

SECTION 10. Section 18-54 (Accessory Land Uses Section) is hereby amended to read as follows:

Rural Holding (RH-35)	Single Family Residential – 2 (SR-2)	Single Family Residential – 3 (SR-3)	Single Family Residential – 4 (SR-4)	Single Family Residential – 6 (SR-6)	Two Family Residential – 6 (TR-6)	Multi-Family Residential – 12 (MR-12)	Multi-Family Residential – 24 (MR-24)	Mobile Home – Residential – 8 (MH-8)	Neighborhood Mixed Use (NMU)	Community Mixed Use (CMU)	Urban Mixed Use (UMU)	Downtown Mixed Use (DMU)	Industrial Park (IP)	Light Industrial (LI)	General Industrial (GI)	Research and Development (RD)	Campus Development (CD) Central Area	Campus Development (CD) Peripheral	Land Uses Permitted: Refer to the detailed definitions and requirements listed for each land use on the following pages. P: By Right C: By Conditional Use Permit
P	P	P	P	P	P												P/ C	P/ C	(20) Backyard chickens including coops and pens

SECTION 11. Section 18-65(20) is hereby created to read as follows:

(20) Backyard Chickens: This land use includes the housing of chickens in a residential setting including the use of chicken coops and pens. Applicants must apply for a permit and meet the requirements of Section 9-52 of the Marshfield Municipal Code.

SECTION 12. Section 18-106(3)(b)(2) is hereby amended to read as follows:

- Decorative fencing, fences encompassing a garden, and other similar fences including pet kennels, and chicken pens, are exempt from a required permit provided they are not located in the required or provided front yard, are setback a minimum of 5 feet from all property lines, and do not exceed 6 feet in height.

SECTION 13. Savings Clause. If any provision of this Ordinance shall be less restrictive than applicable state statute or in conflict with such statutes, as they exist at passage hereof or as they may hereafter be amended, then, in such case, the state statute shall supersede the provision hereof to the extent applicable.

SECTION 14. Severability. If any provision of this Ordinance is found to be unconstitutional or otherwise contrary to law, then such provision shall be deemed void and severed from the Ordinance and the remainder of this Ordinance shall continue in full force and effect.

SECTION 15. This ordinance shall take effect and be in force from and after the day after its passage and publication as provided by law.

ADOPTED: _____

Lois TeStrake, Mayor

APPROVED: _____

ATTEST: _____

PUBLISHED: _____

Jessica Schiferl, City Clerk