

Ordinance 2022-4

This ordinance was approved by a 6-1 vote, 10/17/2022.

§ 109-23 Keeping chickens on residential parcels.

A.

Purpose. The purpose of this section is to provide standards for the keeping of a limited number of domesticated chickens and other poultry on residential parcels in the Village of Theresa on a noncommercial basis while limiting the potential adverse impacts on the surrounding neighborhood. The Village recognizes that the keeping of backyard chickens helps provide locally produced affordable and sustainable food. In addition, the keeping of such chickens can also provide animal companionship, weed and insect control, and nitrogen-rich fertilizer. The Village of Theresa recognizes, however, that potential adverse impacts may result from the keeping of domesticated chickens as a result of odor, unsanitary waste removal and storage practices, noise, improper living conditions, nonconfined poultry leaving the owner's property, and the attraction of predators, rodents, or insects. This section is intended to balance these interests. This section is not intended to apply to indoor nonpoultry birds kept as pets, including, but not limited to, parrots and parakeets, or to the lawful transportation of fowl through the Village of Theresa.

B.

Definitions. The following definitions shall be applicable in this section:

CHICKEN

Includes the following types of poultry and fowl: chickens (laying hens).

CHICKEN COOP

A structure, enclosure or building for the sheltering of chickens or other poultry. An existing shed or garage may be utilized for this purpose if it meets the standards in this section, including required distances to property lines and neighboring residences, and the area in the structure dedicated to sheltering of poultry does not exceed the maximum dimensions permitted for a freestanding dedicated chicken coop. Also known as a "hen house" or "chicken house."

CHICKEN PEN

An outdoor fenced area for poultry grazing and exercise use associated with a chicken coop structure. Also known as a "run."

CHICKEN TRACTOR

A moveable lightweight, wire-sided chicken enclosure without a floor that can be moved about the yard to allow chickens to temporarily graze new areas while being safely contained.

C.

Where permitted. Chickens may be raised on parcels zoned RS Single-Family Residential District where a principal residence exists on the parcel.

D.

Permit required. No chickens may be kept in the Village of Theresa on parcels with a residential zoning classification specified in Subsection **C** above except pursuant to a permit obtained from the Village Clerk-Treasurer under this section. Only one permit may be issued to a single residential parcel. A permit will only be issued to the property owner. A permit may be issued upon the applicant's meeting of the application requirements below and the husbandry and location standards of this section:

(1)

Site plan. The applicant shall provide a site plan with an application with the following minimum information:

(a)

The dimensions of the proposed chicken coop, which should allow for no less than three square feet per chicken, and any associated pen.

(b)

The proposed location of a coop and associated pen.

(c)

Property boundaries and the distance of the coop and pen from all lot lines and principal structures located on the adjacent lots.

(d)

Reporting the number of chickens (not to be greater than six) to be kept at this address.

(2)

Fee. The applicant shall make payment of a one-time permit fee of \$30 at the time of the permit application. No fee is refundable in whole or in part.

(3)

Inspection consent. Application and issuance of a permit under this section constitutes consent by the applicant to the Village of Theresa Police Department or agents named by the Police Department to enter upon the

applicant's property to ascertain compliance with this section and with the terms of the permit, for as long as the permit is in effect.

(4)

Permit issuance; appeals.

(a)

Permits will be issued by the Village Clerk-Treasurer upon finding that all conditions for a permit have been met. and approved by the Village Board. Written notice of the granting or denial of an application shall be provided to the applicant and to any person who has filed an objection to the granting of a permit. If a permit is denied, the Village will provide details for such denial.

(b)

The Village may specify maximum size limits or other conditions for a chicken coop and/or pen as a condition of permit issuance.

(c)

Any person aggrieved by the granting or denial of a permit may have such grant or denial reviewed by the Village Board by filing a written request for review with the Village Clerk-Treasurer no later than 10 days after the mailing date of the notice of grant or denial.

(d)

Permits issued under this section are not transferable.

(5)

Permit revocation; citizen complaints.

(a)

Revocation grounds. A permit issued under this section may be revoked by an enforcement official upon a finding that:

[1]

The permittee has committed a violation of this section or has committed multiple violations.

[2]

The permittee has made a material misstatement or omission with his/her permit application.

(b)

Citizen complaints. A citizen may file a written complaint for consideration by the enforcement officials. Upon review, a revocation action may be initiated by the enforcement official.

(c)

Revocation procedures. The enforcement official shall provide written notice to the permittee upon the revocation of a permit, and shall include in the notice a listing of the reasons for the revocation and a notice of the permittee's appeal rights as provided in this subsection. The enforcement official shall also provide a copy of the notice to any person who has filed a written and signed complaint regarding the permittee, and shall also provide to any such person notice of a nonrevocation on the basis of such complaint.

(d)

Permit revocation appeals. Any person aggrieved by the revocation or nonrevocation of a permit may appeal such decision and have the action reviewed by the Village Board by filing a written request for review with the Village Clerk-Treasurer no later than 10 days after the mailing date of the notice of action.

E.

Chicken coop standards and chicken pens/runs. A coop with pen shall be provided and shall be designated to provide safe and healthy living conditions for the chickens while minimizing adverse impacts to other residents in the neighborhood. Chickens shall be provided with a building or structure ("coop") that meets the criteria set forth below:

(1)

Location. The coop with pen shall be located no closer than five feet to a lot line, and no closer than 25 feet to any residence other than that of the permittee, and may not be located in the street or alley. The coop must be located in the rear yard of the lot with a residence on it.

(2)

Space per chicken. Each mature chicken shall have a minimum of three square feet of coop floor space.

(3)

Nesting boxes. There shall be at least one nesting box per four mature chickens in the coop.

(4)

Elevated perches. The coop shall include elevated perches.

(5)

Soundness of construction. The coop must be structurally sound, moisture-proof, kept in good repair, and attractively finished and maintained. Coop

structures shall have a roof and sides, be enclosed on all sides, have at least one door, and be of a design that is secure from predators, including, but not limited to, dogs, cats, raccoons, skunks, rats, coyotes, fox, and hawks. Access doors must be able to be closed and locked to prevent the escape of chickens and the entry of predators. Fixed coops shall be moisture-resistant and be either raised up off the ground or placed on a hard surface such as concrete, patio block, or gravel. (May require a building permit.) Chicken coops shall be constructed and located to reasonably minimize the collection of standing water. A coop, with attached pen, may be of a moveable design to facilitate grazing, providing such unit meets the standards of this section.

(6)

Windows; ventilation. The coop shall have adequate windows and vents to provide the proper light and ventilation. A coop must have at least one window. Window and vent openings shall be covered with predator- and bird-proof wire of less than one inch openings. Coops shall be located in a manner so as to provide both shade and adequate sunlight.

(7)

Chicken run access. The coop must provide access to the chicken pen/run.

(8)

Temperature. The coop must be maintained at an internal temperature of not less than 25° F. A heating bulb may be utilized.

F.

Chicken pens/runs. Chickens shall at all times be provided with an outdoor fenced area that meets the criteria set forth below:

(1)

Space per chicken. Each mature chicken shall have a minimum of six square feet of ground space within a chicken pen.

(2)

Fencing/mesh size. The chicken pen shall be covered with wire fencing or stout aviary netting with a mesh size of not more than one inch openings. The roof of the pen can have a solid roof to prevent entry by predators.

(3)

Fencing burial. If the chicken pen is not mobile, side fencing must be buried at least one foot underground around the entire periphery of the pen to prevent burrowing by predators or rodents.

G.

Miscellaneous requirements.

(1)

Number limits; other poultry species. The maximum number of chickens which may be kept on a residential parcel is six.

(2)

Roosters. Only female chickens are permitted on residential parcels. No roosters older than 4 months old are allowed in the Village of Theresa.

(3)

Food and water. Chickens shall be provided with access to adequate clean water and food at all times; steps shall be taken to keep such water and food unavailable to predators and rodents.

(4)

Confinement standards. Chickens shall be kept confined in a coop or pen enclosure at all times, except during daylight hours when they may be on an appropriate chicken harness and leash with direct supervision or in a secure mobile run called a tractor.

(5)

Manure storage and removal; sanitary standards.

(a)

The coop shall be cleaned daily, with droppings, uneaten food, feathers, and other daily waste removed from the coop enclosure. Provision shall be made for the storage and removal of chicken manure and other waste generated. All stored manure shall be contained in a fully enclosed building or in a predator-proof container with a lid.

(b)

Feed shall be stored in a predator-proof container. Uneaten or spoiled feed shall be removed.

(c)

The coop, pen, and surrounding area shall be kept free from trash and excessive accumulated droppings and shall at all times be clean and well-maintained.

(d)

Mobile chicken coops or pens shall be moved daily to prevent excessive manure or pathogen accumulation.

(e)

If a chicken dies, it shall be disposed of promptly in a sanitary manner.

(6)

Lighting. Only motion-activated lighting may be used as a regular means of illuminating the exterior of a coop.

(7)

Noise and odor impacts.

(a)

Perceptible noise from chickens shall not be persistent or be of such loudness at the property boundaries to disturb persons of reasonable sensitivity.

(b)

Odors from chickens, chicken manure, or other substances related to the keeping of chickens shall not be perceptible at the property boundaries.

(8)

Slaughtering of chickens. No slaughtering of chickens shall take place outside or within public view.

(9)

Restrictive covenants. While the Village is not an enforcement authority for private restrictive covenants/bylaws in place for certain subdivisions, it is the responsibility of the permittee to also investigate and be in compliance with any applicable land division restrictive covenants on the keeping of poultry within that subdivision.

H.

Sale of eggs; commercial activities. A permittee or family member of a permittee may sell eggs laid by the chickens permitted under this section from the residence for which the permit has been issued, provided the permittee complies with all other applicable laws. The sale of such eggs is not considered a commercial use or a home occupation. Chickens may not be kept for any type of commercial purposes. It shall be unlawful for any person to hatch or keep live poultry within the Village on a residential-zoned parcel for the purposes of sale or breeding.

I.

Fighting fowl prohibited. The raising or keeping of poultry or fowl for fighting purposes and actual fighting activities are prohibited in the Village of Theresa.

J.

Penalties.

(1)

A forfeiture may be assessed for any violation of this section. Violators shall, upon conviction thereof, be subject to a penalty as provided in §**109-22**. Each week that a violation of this section continues shall be deemed a separate violation. Any violation hereunder shall be deemed a separate violation for each chicken kept in violation of this section.

(2)

In addition to a forfeiture penalty, any violation of the provisions of this section or of the permit shall be grounds for the enforcement authorities of the Village of Theresa to remove the chickens and the chicken-related facilities. Nothing in this section, including, but not limited to, the issuance of a permit, shall be construed as limiting the Village from abating nuisance-type conditions on a property.

§ 109-22**Violations and penalties.** ^[1]

A.

Any person violating § **109-16**, **109-17**, **109-18**, **109-19**, **109-20** or **109-21** may be subject to a forfeiture of not less than \$50 and not more than \$250. This subsection shall also permit the Village Attorney to apply to a court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this chapter.

B.

Anyone who violates §§ **109-2**, **109-3**, **109-4** and **109-5** and **109-23** of this chapter or Ch. 174, Wis. Stats., may be subject to a forfeiture of not less than \$30 and not more than \$250 for the first offense and not less than \$100 and not more than \$400 for any subsequent offenses.