



Meeting:	Plan Commission
Place:	1293 Washington Ave, Cedarburg
Date/Time:	August 16, 2017 / 7:00PM
Web Page:	www.town.cedarburg.wi.us
Posted:	August 11, 2017

Chairman	David Salvaggio	Town Administrator	Tim Rhode
Plan Commissioner	Rick Goeckner	Town Attorney	Brad Hoeft
Plan Commissioner	Ralph Luedtke	Director of Public Works	Adam Monticelli
Plan Commissioner	Dan Wundrock	Assistant Administrator/Clerk	Eric Ryer
Plan Commissioner	Wayne Pipkorn	Town Treasurer	Charles Pretty
Plan Commissioner	Mark Wittenberg	Deputy Town Clerk	Bonnie Erickson
Plan Commissioner	Edward Downey	Recreation Coordinator	Paul Jungbauer

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE**
- 2. MINUTES OF PREVIOUS MEETINGS**
 - a. Approval of July 19, 2017 Plan Commission Meeting Minutes*
- 3. PUBLIC HEARING**
 - a. None
- 4. OLD BUSINESS**
 - a. None
- 5. NEW BUSINESS**
 - a. Discussion and possible recommendation on Ordinance 2017-5, “An Ordinance to allow for chickens in residential zoning districts”*
- 6. ADJOURNMENT**

*At the Plan Commission’s discretion, the Commission may take comment from the public

Note: A quorum of Town Board of Supervisors may be present at this meeting for the purpose of gathering information and possible discussion on items listed on this agenda. However, unless otherwise noted in this agenda, no official action by the Town Board will be taken at this meeting.

**TOWN OF CEDARBURG
PLAN COMMISSION MEETING MINUTES
July 19, 2017**

Present: David Salvaggio, Ralph Luedtke, Wayne Pipkorn, Mark Wittenberg, Rick Goeckner, Dan Wundrock, Edward Downey

Also Present: Tim Rhode, Town Administrator, Brad Hoeft, Town Attorney

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE

Chairman Salvaggio called the regular meeting to order at 7:00 pm. The meeting began with the Pledge of Allegiance.

2. MINUTES OF PREVIOUS MEETING:

a. Approval of May 17, 2017 Plan Commission Meeting Minutes*

Commissioner Wundrock moved and Commissioner Pipkorn seconded a motion to approve the minutes from May 17, 2017. The motion passed unanimously.

3. PUBLIC HEARING

a. None

4. OLD BUSINESS

a. None

5. NEW BUSINESS

a. Discussion and possible direction regarding a concept plan application by Mark and Lisa Perelshtein of Golden Pearl LLC for a text amendment to the Town Code to allow for daycare in the B-1 Neighborhood Business District, or to rezone the property at 2110 Washington Avenue from B-1 to B-3 Business district*

The applicant was not present. Commissioner Pipkorn made a motion the Plan Commission take items 5b and 5c ahead of item 5a to allow the applicant time to arrive to the meeting. Commissioner Wundrock seconded, and the motion passed unanimously. The Plan Commission then moved to item #5b.

Following item #5c, the Commission briefly discussed #5a. Administrator Rhode noted the applicants were still not present. Chairman Salvaggio noted the building used to be a fireplace shop, and was more recently an auto shop. Commissioner Downey then made a motion to table the item seeing the applicant was not present. Commissioner Wundrock seconded. Commissioner Wittenberg pointed out the applicant was asking for a second driveway off of Pleasant Valley Road. Chairman Salvaggio noted that intersection has many access points which causes for concern. Commissioner Goeckner suggested getting a traffic/accident report for the intersection. Commissioner Downey then called the question, and the motion passed unanimously. The Commission then moved to item #6.

b. Discussion and possible direction on an ordinance to update Article VI of Chapter 320 Zoning of the Town Code regarding nonconforming uses, structures and land*

Town Code is not currently consistent with State Statutes in regards to nonconforming uses. 2011 Wisconsin Act 170, which became effective April 17, 2012, amended the nonconforming use section of the general zoning enabling statutes for counties, cities, villages, and towns and the nonconformity provisions in the state shoreland zoning program. The proposed ordinance would make Town Code once again consistent with State Statutes.

Attorney Hoeft noted that if a nonconforming use is discontinued for a specified period of time, the Town ordinance would not allow that nonconforming use to start back up, and any new use must conform to current Town Code.

Following discussion, Commissioner Pipkorn made a motion that the Plan Commission recommend the Town Board approve an ordinance to update Article VI of Chapter 320 Zoning of the Town Code regarding nonconforming uses, structures and land. Commissioner Wundrock seconded, and the motion passed unanimously.

c. Discussion on the Zoning Map update*

Administrator Rhode explained the Town is working with GRAEF to bring the Zoning Map up-to-date regarding recent zoning changes and land divisions. No motion was made on the matter. The Commission then moved back to item #5a.

6. ADJOURNMENT

Commissioner Downey moved to adjourn the meeting. Commissioner Wundrock seconded, the motion carried unanimously and the meeting was adjourned at 7:24 p.m.

Respectfully Submitted,

Eric Ryer
Assistant Administrator/Clerk

PLAN COMMISSION MEETING MEMORANDUM

TO: David Salvaggio, Chairman
Plan Commission, Town Board

FROM: Eric Ryer, Assistant Administrator/Clerk

MEMO WRITTEN: August 10, 2017

SUBJECT: Agenda Item # 5a: Discussion and possible recommendation on Ordinance 2017-5, "An Ordinance to allow for chickens in residential zoning districts"*

BACKGROUND / PREVIOUS PLAN COMMISSION/BOARD CONSIDERATION

As you well know, the raising/keeping of chickens in residential areas is growing in popularity across the nation. Staff fields sporadic inquiries from residents interested in raising chickens in residential districts. Currently, Town Code does not allow for chickens in residential districts aside from E-1. They are, of course, allowed in agricultural districts. The last time the Plan Commission and Board discussed this item was in the spring/summer of 2013, when an ordinance to allow for chickens in all residential districts following specified requirements and licensing failed on a 3-2 vote. The Town could consider an ordinance allowing chickens as a permitted use or a license basis.

CURRENT DRAFT ORDINANCE

The current draft ordinance is similar to the 2013 version, and would allow chickens in residential districts as a permitted use, not requiring neighbor notification/permission.

The attached draft ordinance includes the following provisions:

- allow for chickens in all residential districts (unless an HOA does not allow it).
- requiring a 40 foot setback from the lot line for any portion of the coop and run. A building permit would be required for the location of the coop and run, no matter how simple, so that the structures can be properly inspected following installation.
- the fence height for the run would be limited to 6 feet in height.
- the Plan Commission should discuss and insert a specified hen per acre limit; no roosters allowed.
- chickens would be for personal use with no associated sales.
- an annual license fee with no neighbor signatures required. The license would allow the Town to track who currently has chickens in the case of complaints/issues.

ACTION REQUESTED

Staff requests the Plan Commission consider a recommendation on the attached ordinance. If recommended for approval, staff will draft a license and site plan documents for the Board to consider along with the ordinance at their September meeting. If approved, the Fee Schedule will need to be updated at a future Board meeting to establish a license fee (~\$25) and annual renewal (~\$10).

ATTACHMENT

- I. Proposed Ordinance 2017-5

**TOWN OF CEDARBURG
ORDINANCE NO. 2017-5**

An Ordinance to Amend Chapter 95: Animals, of the Town of Cedarburg Code of Ordinances, Ozaukee County, Wisconsin, to Permit the Keeping of Chickens in Residential Districts.

WHEREAS, The Town of Cedarburg is a body corporate and politic; and

WHEREAS, the Town Board exercises village powers by Ch. 61, Wis. Stats.; and

WHEREAS, the Plan Commission has reviewed the Town Code regarding the keeping of chickens on residential properties, has reviewed ordinances regulating the keeping of chickens for other Wisconsin communities, has reviewed this ordinance, and has made a favorable recommendation to the Town Board for its adoption; and

WHEREAS, the Town Board held a public hearing regarding the proposed amendments, a notice of which was published twice, once at least ten days prior to the date of the hearing,

NOW, THEREFORE, BE IT ORDAINED by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, that Chapter 95 of the Town of Cedarburg Code of Ordinances is hereby amended to read as follows:

**(The text modified with a strikethrough shall be deleted).
(The text modified with an underline shall be added).**

Chapter 95. Animals

§ 95-13. Protected animals; keeping of wild animals.

C. Wild animals; prohibition on keeping. It shall be unlawful for any person to keep, maintain or have in his possession or under his control within the Town any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the Town any of the following animals, reptiles or insects, except in those situations where a state game farm license has been issued:

(28) Except in properly zoned districts, horses, mules, ponies, donkeys, cows, pigs, goats, sheep, chickens (except domesticated chickens per Section 95-24) or any animal raised for fur-bearing purposes unless otherwise permitted elsewhere in this Code.

(The following text shall replace the current Section 95-24).

§ 95-24. Keeping of domesticated chickens.

A. The keeping of domesticated chickens is permitted as an accessory use in all residential zoning districts in accordance with the regulations prescribed in this section, subject to any private restrictions, land covenants, homeowners association and/or subdivision rules and regulations. The provisions of this section do not apply to E-1 Estate District, which allows for noncommercial agriculture use.

- (1) There must be an insulated coop enclosed on all sides with a roof and doors and a connected fenced-in run area that is fully enclosed to contain the chickens and protect them from predators and the elements. Run fences can be no taller than six feet in height.
- (2) No part of the coop structure or fenced-in run shall be located in the front yard, nor shall it be located closer than forty (40) feet to any residential structure and any property line. A building permit is required for the coop and run. The building permit is to be applied for at the time of license application submittal. A building inspection will occur after all related improvements are made to ensure they are properly located and installed for the number of proposed chickens.
- (3) The coop must be kept clean, dry and in a sanitary condition at all times. There must be an ever-present source of clean water. Nesting boxes must be elevated off the ground.
- (4) There is a (Plan Commission to insert number here) hen per acre limit.
- (5) No person shall keep any rooster.
- (6) In addition to compliance with the requirements of this section, no one shall keep a chicken that causes any nuisance, unhealthy condition, creates a public health threat, or otherwise interferes with the normal use of property and the enjoyment of life by humans or other animals.
- (7) Chickens are for personal (non-commercial) use only and not for any business related purposes (no egg selling, selling of chicks or chickens, or selling of butchered meat or manure).
- (8) Property owners shall be responsible for obtaining a license with fee per the Town Fee Schedule to be paid before chickens are kept on the property. The license shall be renewed annually (license period January 1 – December 31). Applications for a license to keep chickens under this section shall be made to, and on a form prescribed by, the Town Clerk. The license is separate from the building permit for the coop. The building permit application must include a proposed site plan for the coop and run area that shows compliance with all applicable requirements under this section.
- (9) The Town shall have the power, whenever it may deem reasonably necessary, to enter a structure or property where a chicken is kept to ascertain whether the permittee is in compliance with this Section. The permittee shall be responsible for all costs associated with inspections.
- (10) A license may be revoked by the Town if the licensee violates any provision of this section. A new license cannot be issued to the licensee or the licensee's property until one (1) year after the date of revocation.

(The following Section shall be renumbered).

§ 95-24 25. Violations and penalties.

(The above text modified with a strikethrough shall be deleted).

(The above text modified with an underline shall be added).

This ordinance shall be in full force and effect upon its passage and posting as provided by law.

PASSED AND ADOPTED by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, this 6th day of September, 2017.

David M. Salvaggio
Town Chairman

Eric Ryer
Assistant Administrator/Clerk