

ORDINANCE NO. 2020-06

AN ORDINANCE TO REPEAL AND RE-CREATE SECTIONS 745-2, THE DEFINITION OF "PERMANENT STRUCTURE," AND 745-7(3)(h)[6], AND TO CREATE SECTION 745-7(D)(5), REGARDING ZONING CODE TREATMENT OF CHICKEN ENCLOSURES, CHICKEN COOPS AND BEE HIVES IN THE VILLAGE OF FOX POINT

WHEREAS, the Village of Fox Point Village Board, at the request of Village residents, allowed chickens to be kept on residential property within the Village on a limited basis, pursuant to strict regulations, as described in Section 579-17.5 of the Village Code related to keeping of chickens; and

WHEREAS, the Village of Fox Point Village Board, at the request of Village residents, has allowed bees to be kept on residential property within the Village on a limited basis, pursuant to strict regulations, as described in Section 579-17.6 of the Village Code related to beekeeping; and

WHEREAS, the Village Board finds the otherwise applicable fence and structure standards and procedures to be unduly restrictive and onerous as applied to enclosures for keeping chickens and chicken coops, and also for bee hives, and has therefore proposed certain amendments to the Village of Fox Point Zoning Code in this regard; and

WHEREAS, the Village Board of the Village of Fox Point has referred the matter to the Plan Commission of the Village of Fox Point for report and recommendation; and

WHEREAS, the Plan Commission of the Village of Fox Point has recommended to the Village Board of the Village of Fox Point that said amendments to the Zoning Code be made; and

WHEREAS, a public hearing was conducted by the Village Board of the Village of Fox Point on November 10, 2020, after due notice was provided pursuant to Section 745-35 of the Village of Fox Point Village Code and Wisconsin Statutes Section 61.35 and 62.23; 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, the Village Board of the Village of Fox Point having carefully reviewed the recommendation of the Plan Commission of the Village of Fox Point, 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 a zoning amendment on the health, safety and welfare of the community and having given due consideration to the municipal problems involved as well as the impact on the affected

properties hereby determines that the public necessity, convenience, general welfare and good zoning practice requires that the zoning amendment be granted.

NOW, THEREFORE, the Village Board of the Village of Fox Point, Milwaukee County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 745 of the Village of Fox Point Village Code entitled "Zoning," Section 745-2 entitled "Interpretation and Definitions," the definition of "Structure, Permanent:" is hereby repealed and recreated as follows:

Structure, Permanent: A structure placed on or in the ground or attached to another structure in a fixed and determined position and intended to remain in place for a period of more than nine consecutive months, except as follows. An enclosure for the keeping of chickens that is approved pursuant to Section 579-17.5 of this Code, and a hive for keeping bees that is approved pursuant to Section 579-17.6 of this Code, during such time that such permit has been issued and is in effect, shall not be deemed to be a permanent structure for purposes of this Chapter 745.

SECTION 2: Chapter 745 of the Village of Fox Point Village Code entitled "Zoning," Section 745-7 entitled "Accessory Uses and Structures," subsection (B) entitled "Permanent Structures," subsection (3) entitled "Fences, Walls, Architectural Screening Devices, Driveway Gates and Arbors," subsection (h) entitled "Location and Height Restrictions," subsection [6] is hereby repealed and recreated as follows:

[6] The provisions of this Section, the limitations set forth herein, and the requirement for a permit shall not apply to: [a] Lands owned by the state, school district, county, Village or any other publicly held land, where fencing is employed for sport or recreational purposes such as baseball diamonds, backstops, swimming pools, playgrounds or any other public recreational or safety purpose; [b] Private athletic or country clubs, or cemeteries, employing such fencing for similar uses as stated herein; [c] Chicken enclosures for permitted keeping of chickens pursuant to Section 579-17.5 of this Code; [d] Bee hives for permitted beekeeping pursuant to Section 579-17.6 of this Code; [e] Dog kennels or runs less than 120 sq. feet, provided such fencing is located no closer to any lot line of the property than is allowed for a principal structure on the property; [f] Private residential swimming pool fencing; or [g] Tennis court fencing, provided such fencing is located no closer to any lot line of the property than is allowed for a principal structure on the property unless modified pursuant to Section 745-10G(3).

SECTION 3: Chapter 745 of the Village of Fox Point Village Code entitled "Zoning," Section 745-7 entitled "Accessory Uses and Structures," subsection (D) entitled "Temporary Structures," subsection (5) is hereby created as follows:

(5) Enclosures for keeping of chickens that have been approved pursuant to Section 579-17.5 of this Code, and bee hives that have been approved pursuant to Section 579-17.6 of this Code, during such time that such permit has been approved and is in effect, shall not be subject to the requirements of this Chapter 745 except as expressly stated otherwise, and except as follows. The structure in its totality, including any fencing, covered enclosure, chicken coop, hive or any other structure or structural elements, shall be completely removed from the property within 15 days of the lapse, revocation or expiration of the permit. Violation of this section shall be subject to the penalties and remedies described in Sections 745-33 and 745-34 of this Chapter. In the event the requirements of this Chapter 745 differ from Section 579-17.5 regarding any matter regulated therein, or differ from Section 579-17.6 regarding any matter regulated therein, the most restrictive provision shall apply as determined by the Village Manager.

SECTION 4: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or 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 5: EFFECTIVE DATE.

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

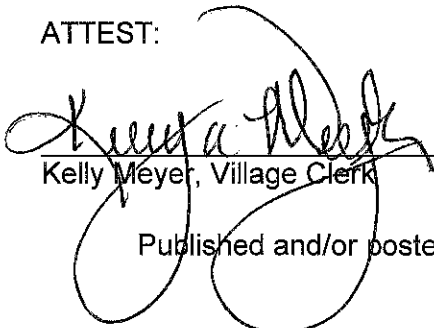
Dated this 10th day of November, 2020.

VILLAGE OF FOX POINT



Douglas H. Frazer, Village President

ATTEST:



Kelly Meyer, Village Clerk

Published and/or posted this 12th day of November, 2020.