

ORDINANCE NO. 2016-13

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF LEBANON,
BOONE COUNTY, INDIANA CONCERNING AMENDMENT TO CHAPTER 91 –
ANIMALS AND FOWL**

WHEREAS, the Common Council of the City of Lebanon, Indiana (“City”), has previously regulated fowl, including chickens, within the corporate limits, such regulation being codified, in part, in the City Code of Ordinances, Chapter 91;

WHEREAS, the City has recently received input from citizens regarding the ownership of chickens within the corporate limits;

WHEREAS, the Common Council of the City now finds that it is in the interests of public health, safety and welfare to further regulate the harboring of chickens within the corporate limits.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Lebanon, Boone County, Indiana, meeting in regular session, as follows:

- Section 1.** The foregoing Recitals are incorporated herein by this reference.
- Section 2.** As of the effective date of this Ordinance, Chapter 91–§ 91.03 of the City Code of Ordinances shall be amended in accordance with **Exhibit A** attached hereto and incorporated therein.
- Section 3.** The remaining portions of Chapter 91 of the City Code of Ordinances are not affected by this Ordinance and shall remain in full force and effect.
- Section 4.** All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby rescinded, to the extent of such inconsistency only, as of the effective date of this Ordinance, such repeal to have prospective effect only.

PASSED AND ADOPTED THIS _____ day of _____, 2017.

LEBANON CITY COUNCIL

Voting For

Voting Against

Abstain

Keith Campbell

Keith Campbell

Keith Campbell

John Copeland

John Copeland

John Copeland

Dan Fleming

Dan Fleming

Dan Fleming

Mike Kincaid

Mike Kincaid

Mike Kincaid

Corey Kutz

Corey Kutz

Corey Kutz

Jeremy Lamar

Jeremy Lamar

Jeremy Lamar

Dick Robertson

Dick Robertson

Dick Robertson

I hereby certify that ORDINANCE 2016-13 was delivered to the Mayor of Lebanon on the _____ day of _____, 2017, at _____ m.

Tonya Thayer, Clerk-Treasurer

I hereby APPROVE ORDINANCE 2016-13
this ___ day of _____, 2017

I hereby VETO ORDINANCE 2016-13
this ___ day of _____, 2017

Matthew T. Gentry, Mayor

Matthew T. Gentry, Mayor

ATTEST:

Tonya Thayer, Clerk-Treasurer

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in the document, unless required by law: Robert S. Schein.

This document prepared by:
Robert S. Schein, Esq.
KRIEG DEVAULT, LLP
(317) 238-6276

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EXHIBIT A

CHICKENS

§ 91.03 OBTAINING A PERMIT FOR CHICKEN FLOCKS.

Persons wishing to harbor a chicken flock shall obtain a permit.

(A) Permit.

- (1) Applications for a permit to harbor a chicken flock shall be made to the City of Lebanon Planning and Zoning Administration and shall include:
 - (a) The name, address, and telephone number of the applicant;
 - (b) The address where the chicken flock is to be harbored;
 - (c) In the case of a rental property, the Planning and Zoning Administrator shall require a "Consent to Harbor Chickens" signed by the property owner.
- (2) A permit must be obtained through the City of Lebanon Planning and Zoning Administration; a one-time permit fee shall be charged to the applicant at the cost of \$25. Permits are granted to the person harboring the chickens and do not run with the property. Permit holders that move can transfer the permit to a new address for a fee of \$10. If the applicant moves to a rental property, consent documentation from the property owner must be provided with the transfer fee; and
- (3) An application for a permit shall be made prior to the harboring of any chickens or the creation of any chicken flock, or within sixty (60) days of the adoption of this code. In the event of a verified complaint and a permit is not on file, the Planning and Zoning Administration and/or their designees shall charge the applicant double for the permit fee; and
- (4) No applicant shall harbor more than one chicken flock within the corporate city limits; and
- (5) The Planning and Zoning Administration and/or their designees shall revoke a permit if the applicant/harbinger is unable to maintain his/her flock so as to not create a nuisance, as evidence by two (2) admitted or determined violations by the Planning and Zoning Administration and/or their designees within twelve (12) consecutive months; and
- (6) Each admitted or verified violation shall carry a fine issued by the Planning and Zoning Administration and/or their designees of \$50; and

- (7) Applicants that have permits revoked will be ineligible for obtaining permits to harbor chickens in the future; and
- (8) An applicant that has a permit revoked and continues to harbor chickens shall be subject to civil action. A lawsuit shall be commenced by the City Attorney or its designee in a court of competent jurisdiction in Boone County, Indiana. If the city is required to utilize the services of the City Attorney or any other attorney or consultant in investigating a possible violation of this code or in enforcing the provisions of this code; and such investigation results in a determination that a violation has occurred, or if the city is successful in its enforcement of the code by way of suit, appeal or other appropriate proceeding; the respondent, defendant or party investigated for a violation shall pay the city's reasonable attorney fees, consulting fees and all costs related to the investigation of the violation and/or the enforcement of this code.

§ 91.04 INSPECTION.

It shall be a condition to the issuance of any permit required by this chapter that:

- (A) The Planning and Zoning Administration of the city, and/or their designees shall be permitted to inspect the chicken flock, structure and/or premises wherein a coop is maintained (or believed to be maintained) and all animals located thereon where such animals are harbored.
- (B) The Planning and Zoning Administration, and/or their designees are authorized to enter the structure or premises wherein a coop is maintained (or believed to be maintained) at reasonable times to inspect the chicken flock, structure and/or premises, subject to constitutional restrictions on unreasonable searches and seizures.
- (C) If the owner or those in possession of a chicken flock, structure or premises wherein a chicken flock is maintained (or believed to be maintained) refuse inspection of said chicken flock or coop, the Planning and Zoning Administration and/or their designees shall obtain an inspection warrant from any court of record in the county in which the chicken flock or coop is located in order to determine if the chicken flock or coop is maintained in accordance with this title.
- (D) All reports of such inspections shall be in writing and maintained by the Planning and Zoning Administration.

§ 91.05 STANDARDS FOR MAINTAINING CHICKEN FLOCKS.

- (A) All harborers of chicken flocks shall:
 - (1) Keep no more than six (6) chickens on the property at one time; and

- (2) At no time possess or harbor roosters, as roosters are not allowed to be harbored within the corporate city limits of Lebanon; and
- (3) At all times contain chickens within a fence. Chickens shall be allowed under the reasonable control of some person. Chickens are not allowed to roam free on any public property; and

For purposes of this provision, REASONABLE CONTROL OF A CHICKEN is defined to mean that the chicken is confined in a chicken coop or by a fence securing the chicken to the owner's premises; and

- (4) Operate in such a manner so as to not constitute a public nuisance or disturb neighboring residents due to noise, odor or damage; and
- (5) Operate in a manner so as to not pose a threat to public health. Harborers shall isolate chickens which are sick or diseased so as to not endanger the health and well-being of other animals and/or humans. When necessary for the protection of the public health and safety, the Planning and Zoning Administration and/or their designees may require the specified chicken be kept or confined in a secure enclosure. The Mayor may revoke all permits in event the public health is deemed necessary and shall be able to collect and cull all chickens if necessary. This provision is subordinate to any local, state or federal code governing the treatment of chickens in the event of a threat to human health; and
- (6) Keep all chickens completely and securely enclosed in a chicken coop on the harborers property at all times; and
- (7) Provide a chicken coop and attached chicken run that are clean, dry and odor-free; and
- (8) Provide a chicken coop that affords shelter from the elements; and
- (9) Provide a chicken coop that, combined, provide adequate ventilation and adequate sun and shade and that are both impermeable to rodents, wild birds and predators, including dogs; and
- (10) Provide chickens with access to feed and clean water at all times, such feed and water shall be unavailable to rodents, vermin, wild birds and predators; and
- (11) Keep the chicken coop, chicken run and surrounding area free from trash and accumulated droppings. The harborer shall dispose of chicken waste and uneaten feed in a timely manner; and

(12) Keep chickens solely for the purpose of producing eggs for personal consumption or donation. At no time shall eggs be offered for sale at the owner's premises.

(B) The chicken coop and chicken run shall:

- (1) Be located at least 10 feet from the property line of any neighboring lot; and
- (2) Chicken coop and run shall be located in the rear yard.

(C) All chicken coops shall comply with the requirements for accessory structures outlined in section 7.10 of the City of Lebanon Unified Development Ordinance as the same may be hereafter amended or replaced.