

ORDINANCE 2022-31

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF LEBANON,
INDIANA, CONCERNING AMENDMENT TO CHAPTER 35- ORDINANCE VIOLATIONS
BUREAU**

WHEREAS, the City of Lebanon (the “City”) is a duly formed municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council (the “Council”);

WHEREAS, it is the duty and responsibility of the Council to maintain public order and safety of the City;

WHEREAS, IC 33-36-2-1 permits the establishment of an Ordinance Violations Bureau;

WHEREAS, the Council previously establish an Ordinance Violations Bureau with the adoption of Ordinance 81-21 on November 23rd, 1981;

WHEREAS, it is deemed necessary to amend Chapter 35 of the Lebanon City Code to clarify and optimize the collection of fines and fees by the Ordinance Violations Bureau;

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

Section 1. The foregoing Recitals are incorporated herein by this reference.

Section 2. As of the effective date of this Ordinance, Chapter 35 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 35 of the City Code of Ordinances are not affected by this Ordinance and shall remain in full force and effect.

Section 4. As of the effective date of this Ordinance, Chapters 72, 75, and 103 of the City Code of Ordinances shall be amended in accordance with **Exhibit B** attached hereto and incorporated therein.

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 All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby rescinded, to the extent of such inconsistency only, as of the effective date of this Ordinance, such repeal to have prospective effect only.

Section 5. This ordinance shall be in full force and effect upon its adoption.

* * * * *

ALL OF WHICH IS ADOPTED this _____ day of _____, 2021 by the Lebanon Common Council of the City of Lebanon, Indiana.

Voting For

Voting Against

Abstain

Keith Campbell

Keith Campbell

Keith Campbell

John Copeland

John Copeland

John Copeland

Morris Jones

Morris Jones

Morris Jones

Mike Kincaid

Mike Kincaid

Mike Kincaid

Sierra Messenger

Sierra Messenger

Sierra Messenger

Dick Robertson

Dick Robertson

Dick Robertson

Brent Wheat

Brent Wheat

Brent Wheat

ATTEST:

Tonya Thayer, Clerk-Treasurer

I hereby certify that Ordinance No. 2022-31 was delivered to the Mayor of Lebanon on the _____ day of _____, 2021, at _____ m

Tonya Thayer, Clerk-Treasurer

I hereby APPROVE ORDINANCE 2022-31
this _____ day of _____, 2021, at
_____ : _____ .m.

I hereby VETO ORDINANCE 2022-31 this
_____ day of _____, 2021, at
_____ : _____ .m.

Matthew T. Gentry, Mayor

Matthew T. Gentry, Mayor

ATTEST:

Tonya Thayer, Clerk-Treasurer

EXHIBIT A

CHAPTER 35: ORDINANCE VIOLATIONS BUREAU

§ 35.01 ESTABLISHED.

There is hereby established an Ordinance Violations Bureau of the c City. (Prior Code, § 2-86) (Ord. 81-21, passed 11-23-1981)

~~**§ 35.02 AUTHORITY TO ACCEPT FINES, COLLECT FEES.**~~

~~The Ordinance Violations Bureau is hereby authorized to accept fines imposed for violations of the terms of the city code from those persons charged who wish to plead guilty to the charges; the Violations Bureau is further authorized to collect fees established for copies of accident reports, theft reports and vandalism reports. Charges for copies of theft and vandalism reports shall be \$3 each. (Prior Code, § 2-87) (Ord. 81-21, passed 11-23-1981)~~

§ 35.03 CLERK-TREASURER DESIGNATED CHIEF CLERK OF BUREAU; DEPUTY CLERK.

The Clerk-Treasurer is hereby designated as the ~~Chief Violations~~ **Chief Violations** Clerk of the Ordinance Violations Bureau, **to be the administrator of the Ordinance Violations Bureau. The Clerk-Treasurer** shall keep the records of the Bureau in a manner as he or she may direct. The Clerk-Treasurer, **as he or she deems appropriate and necessary**, is authorized to appoint a Deputy Ordinance Violations Clerk.

(Prior Code, § 2-88) (Ord. 81-21, passed 11-23-1981)

§ 35.04 Procedure

The Clerk of the Ordinance Violations Bureau, or his or her designee, shall accept written appearances, waivers of trial, admissions of violations, and payments of civil penalties in the amount and for the violation provided below (but not in excess of two hundred fifty dollars (\$250.00)), receipt for said payment, and account for all payments per the State Board of Accounts guidelines.

The Clerk of the Ordinance Violations Bureau, or his or her designee, shall have the authority to declare an ordinance violation subject to this Chapter null and void, or to reduce the fine imposed, upon the showing of extenuating circumstances.

§ 35.05 Ordinance Violations Subject to this Chapter; Penalty Schedule; Payment Methods

The following schedule of Ordinances and Lebanon City Code provisions shall be subject to the jurisdiction of the Ordinance Violations Bureau. The first and subsequent occurrence of the same violation within one (1) calendar year shall be subject to the civil penalty set forth herein. Civil penalties under this Ordinance may be paid in person, by mail, or to an agent or agents designated by the Lebanon Common Council.

Ordinance	First Occurrence	Second Occurrence	Third or Subsequent Occurrence
Chapter 72: Stopping, Standing and Parking	\$25.00	\$50.00	\$50.00
Chapter 75: Golf Carts	\$50.00	\$100.00	\$100.00
Chapter 130: Fireworks	\$75.00	\$150.00	\$300.00

Chapter 75 Violations: If two violations occur in a calendar year, it will result in a suspension of the golf cart permit.

§ 35.06 Admissions; Right to Trial

A person charged with an ordinance violation subject to this Chapter may waive their right to trial by entering an admission of the violation with the Clerk of the Ordinance Violations Bureau, or his or her designee. Upon an admission, the Clerk of the Ordinance Violations Bureau, or his or her designee, shall assess and receive from the violator the monetary amount prescribed above.

In the event a person charged with an ordinance violation elects to exercise the right to trial, the person shall appear before the Clerk of the Ordinance Violations Bureau, or his or her designee, and deny the violation or enter a written denial with the Clerk of the Ordinance Violations Bureau, or his or her designee. The Clerk of the Ordinance Violations Bureau, or his or her designee, may then schedule said defendant for trial in the normal course.

§ 35.07 Failure to Satisfy Civil Penalty; Failure to Appear before Clerk

If a person (1) denies an ordinance or code violation subject to this Chapter, (2) fails to satisfy a civil penalty assessed by the Clerk of the Ordinance Violations Bureau, or his or her designee, after the person entered an admission of the violation, or (3) fails to deny or admit the violation, the Clerk of the Ordinance Violations Bureau, or his or her designee, shall report this fact to the official having the responsibility to prosecute ordinance violation cases under this Chapter.

EXHIBIT B

CHAPTER 72: STOPPING, STANDING, AND PARKING

§ 72.99 PENALTY.

~~(A) Any person who shall violate any provisions of this chapter shall be subject to the following penalties within a calendar year:~~

- ~~(1) For the first violation, pay a penal sum of \$10. This sum may be paid to the Traffic Violations Clerk of the city within a period of 24 hours of receiving notice thereof. The penalty for payment between 24 hours and 48 hours shall be \$15. In the event payment is not made within 48 hours, the violator shall be subject to answer charges of violation in the City Court and, if proven guilty, be subject to a fine of not more than \$25, plus court costs.~~
- ~~(2) For the second violation, pay a penal sum of \$15. This sum may be paid to the Traffic Violations Clerk of the violation in the City Court and, if proven guilty, be subject to a fine of not more than \$25, plus court costs.~~
- ~~(3) For the third violation, pay a penal sum of \$25. This sum may be paid to the Traffic Violations Clerk of the city within a period of 24 hours of receiving notice thereof. The penalty for payment between 24 hours and 48 hours shall be \$50. In the event payment is not made within 48 hours, the violator shall be subject to answer charges of violation in the City Court and, if proven guilty, be subject to a fine not to exceed \$100, plus court costs.~~
- ~~(4) In the event the violations set out in divisions (A)(1), (A)(2) and (A)(3) above, are consecutive violations in the same day, the city may, in addition to imposing the above penalties, order the violator's vehicle impounded and towed away. The violator will be charged with the costs of the service.~~
- ~~(5) In the event that a violator has complied with division (A)(1) of this penalty section and has no further violations within a six month period, then the violation shall be purged from the record. In the event that the violator complies with division (A)(1) above and within the six month period receives a second or third ticket which would cause him or her to be charged under divisions (A)(2) or (A)(3) above, and later, after the second violation has no further violations within a six-month period, then the charge against the violator shall be purged from the record.~~

~~(Prior Code, § 16-55.5)~~

~~(B) A violation of either or any of the above provisions of division (A) above~~

~~shall amount to a city ordinance violation and, upon conviction of such, the violator shall be fined in a sum not to exceed \$25. Each day of the violation shall constitute a new and separate offense.~~

~~(Prior Code, § 16-55.21)~~

~~(C) Any violation of § 72.02 shall constitute a violation punishable by a fine of not more than \$25. For purposes of enforcing provisions of § 72.02, summons and court citations may be issued by all authorized police officers. Additionally, upon request of the Street Commissioner, vehicles in violation of § 72.02 may be towed and/or impounded as in the case of abandoned vehicles.~~

~~(D) The penalty for violation of § 72.06 shall be a fine of \$50 for the first violation in a calendar year and \$100 for each subsequent violation in the same calendar year. If the violation is not paid to the Clerk Treasurer within 30 days of its issuance, or is denied by the individual receiving the citation, the citation will be referred to the City Court for prosecution, in which case the individual may also be assessed court costs.~~

~~(E) Any person who shall violate any provisions of § 72.26 shall be subject to the following penalties:~~

~~(1) For each violation, pay a penal sum of \$15. This sum shall be paid to the Clerk Treasurer's office within ten calendar days of the date of the violation. In the event the payment is not made within ten calendar days, the penal sum increases to \$25 and the Clerk Treasurer's office will forward a letter to the violator, giving them ten calendar days from the date of the letter to pay the sum. In the event payment is not made, the violator shall have the option of paying the sum of \$50 within 30 days of the violation, or the case will be referred to the City Attorney for prosecution and if a violation is found, be subject to a fine of not less than \$50 plus court costs.~~

~~(2) Any vehicle found in violation of § 72.26 for two or more successive days shall be impounded and towed at the violator's expense.~~

~~(Ord. 81-10, passed 7-27-1981; Ord. 82-9, passed 5-10-1982; Ord. 84-13, passed 6-25-1984; Ord. 02-03, passed 3-11-2002; Ord. 06-07, passed 4-10-2006; Ord. 10-08, passed 6-28-2010; Ord. 2014-02, passed 2-24-2014)~~

Violations of this Chapter are subject to the penalties and jurisdiction of the Ordinance Violations Bureau, as set forth in the Lebanon Code of Ordinances, Chapter 35, provided, however, that in addition to those penalties set forth in Chapter 35, all authorized Lebanon Police Officers and the Street Commissioner, and his or her designees, may also tow or impound vehicles in violation of any provision of this Chapter 72 if it is deemed appropriate or necessary.

CHAPTER 75: GOLF CARTS

§ 75.99 PENALTY.

~~A violation of the provisions of the city code pertaining to this traffic regulation occurring after the adoption of this chapter shall amount to an ordinance violation and upon a finding of the violation, the violator shall be fined a sum of \$50 for the first violation and \$100 for subsequent violations. Each time of the offense shall constitute a new and separate offense. If two violations occur in a calendar year, it will result in a suspension of the golf cart permit.~~

Violations of this Chapter are subject to the penalties and jurisdiction of the Ordinance Violations Bureau, as set forth in the Lebanon Code of Ordinances, Chapter 35.

CHAPTER 130: FIREWORKS

§ 130.99 PENALTY.

~~—(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.~~

~~—(B) If the property does not follow the guidelines of § 130.01(D), a penalty shall be imposed.~~

~~—(C) (1) Any person and/or property owner who violates the provisions of § 130.03 shall be guilty of an infraction, punishable by fines as follows:~~

~~—(a) First offense: up to \$75;~~

~~—(b) Second offense: up to \$100;~~

~~—(c) Third offense: up to \$150;~~

~~—(d) Fourth offense: up to \$200;~~

~~—(e) Fifth offense: up to \$250;~~

~~—(f) Sixth and subsequent offenses: up to \$300.~~

~~—(2) Each day or continued violation (even if on the same day) constitutes a separate and additional offense.~~

~~—(D) Any person violating any of the terms of § 130.06(A) may be punished by a fine of not less than \$5 nor more than \$100.~~

~~(Prior Code, § 17-7)~~

~~—(E) (1) Violation of § 130.07 shall result in a minimum fine of \$100 per occurrence and the cost of cleanup.~~

~~— (2) Parents and/or legal guardians and custodians shall be liable for the monetary loss caused by acts of children consistent with the provisions of state law.~~

~~— (3) Enforcement of the provisions of § 130.07 shall be in the City Court upon the filing of a verified complaint, approved by the City Attorney and signed by any law enforcement officer, the City Building Inspector, City Fire Chief, City Street Commissioner, City Utilities General Manager or Parks Director or his or her authorized designees.~~

Violations of this Chapter are subject to the penalties and jurisdiction of the Ordinance Violations Bureau, as set forth in the Lebanon Code of Ordinances, Chapter 35.