

Please substitute. Placed on 1st reading and referred to Housing Committee 3/21/16. 2nd Reading 4/4/16. Recommended for adoption and amended 5/2/16.

ORDINANCE NO. 23-16

BY: Anderson, Bullock, Litten,
Marx, O'Leary, O'Malley.

AN ORDINANCE amending Section 505.18, Certain Animals Prohibited, of the Codified Ordinances of the City of Lakewood, in order to permit the keeping of hens in the City under certain conditions.

WHEREAS, it is necessary and desirable to amend the Code in order to permit the keeping of hens in the City of Lakewood under certain conditions; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government, and the power to enact laws that are for the health, safety, welfare; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 505.18, Certain Animals Prohibited, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

505.18 CERTAIN ANIMALS PROHIBITED.

- (a) No person shall knowingly keep, maintain or have in his possession or under his control within the City any dangerous or carnivorous wild animal or reptile, any vicious domesticated animal, or any other animal or reptile, with vicious or dangerous propensities, except to the extent that an exemption may be applicable pursuant to subsections (c) or (d) hereof.
- (b) For the purposes of this section, there shall be an irrebuttable presumption, that, when kept or maintained within the City, the animals listed below are considered dangerous animals to which the prohibition of subsection (a) hereof, in the absence of an exemption pursuant to subsections (c) or (d) hereof, applies:
 - (1) All crotalid, elapid and venomous colubroid snakes;
 - (2) Apes; Chimpanzees (Pan); gibbons (hylobates); gorillas (Gorilla); orangutans (Pongo); and siamangs (Symphalangus);
 - (3) Baboons (Papoi, Manrillus);
 - (4) Bears (Ursidae);
 - (5) Bovines (Bovidae), includes all members of the bovine family, for example goats, sheep, bison and buffalo;
 - (6) Cheetahs (Acinonyx jubatus);
 - (7) Crocodilians (Crocodilia);
 - (8) Constrictor snakes when fourteen feet in length or more;

- (9) Coyotes (*Canis latrans*);
 - (10) Deer (*Cervidae*), includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose;
 - (11) Elephants (*Elephas* and *Loxodonta*);
 - (12) Foxes (*Canis vulpes*);
 - (13) Gamecocks and other fighting birds;
 - (14) Hippopotami (*Hippopotamidae*);
 - (15) Horses (*Equidae*), includes all members of the horse family, for example donkeys, mules and zebras;
 - (16) Hyenas (*Hyaenidae*); .
 - (17) Jaguars (*Panthera onca*);
 - (18) Leopards (*Panthera pardus*);
 - (19) Lions (*Panthera leo*);
 - (20) Lynxes (*Lynx*);
 - (21) Monkeys, old world (*Cercopithecidae*);
 - (22) Ostriches (*Struthio*);
 - (23) Piranha fish (*Characidae*);
 - (24) Puma (*Felis concolor*), also known as cougars, mountain lions and panthers;
 - (25) Rhinoceroses (*Rhinocerotidae*);
 - (26) Sharks (class *Chondrichthyes*);
 - (27) Snow leopards (*Panthera uncia*);
 - (28) Swine (*Suidae*), including Pot-bellied pigs;
 - (29) Tigers (*Panthera tigris*);
 - (30) Wolves (*Canis lupus*), including wolf hybrids;
 - (31) All game birds, including but not limited to, water fowl, chickens, roosters, ducks, geese, turkeys and common pigeon (other than a homing pigeon).
- (c) Licensed pet shops, menageries, zoological gardens, and circuses shall be exempt from the provisions of subsections (a) and (b) hereof if all of the following conditions are applicable:

- (1) The location conforms to the provisions of the City Zoning Code;
 - (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors;
 - (3) Animals are maintained in quarters so constructed as to prevent their escape; and
 - (4) No person resides within fifty feet of the quarters in which the animals are kept.
- (d) Notwithstanding any of the foregoing, the Director of Public Safety may grant a specific exemption, on a temporary basis, from any of the provisions of this section to any person with a legitimate scientific, educational or commercial purpose for maintaining the prohibited animals, in accordance with the following provisions:
- (1) Written application for exemption shall be filed by any person desiring to obtain an exemption with the Director of Public Safety. The application shall state the applicant's name, address, type and number of animals desired to be kept, general purpose for which the animals will be kept, and a general description of provisions which will be made for safe, sanitary and secure maintenance of the animals.
 - (2) The Director of Public Safety may grant, deny or restrict the terms of an application for exemption; provided, however, that he shall take some official action on an application within 120 days of its filing.
 - (3) In considering the merits of an application for exemption, the Director of Public Safety may cause one or more inspections of the applicant's premises to be made by appropriate employees or representatives of the City, and may also refer the application to persons who are technically knowledgeable with respect to the animals involved for an advisory opinion.
 - (4) In evaluating an application for exemption, the Director of Public Safety shall give consideration to the following criteria:
 - A. The experience and knowledge of the applicant relative to the animals involved;
 - B. Whether the applicant has obtained a federal or state permit relative to the animals involved;
 - C. The relative danger, safety, and health risks to the general public, to persons residing or passing near the applicant's premises, and to the applicant in connection with the animals involved;
 - D. The provisions which have been or will be made for the safe, sanitary and secure maintenance of the animals for the protection of the general public, persons residing or passing near the applicant's premises, and the applicant;
 - E. The provisions which have been or will be made to protect the safety and health of the animals involved;

F. Any other logically relevant information.

- (5) An application for exemption under this subsection (d) shall be denied unless the Director of Public Safety determines that, in view of all the relevant criteria and any restrictions which he may provide, reasonably appropriate measures commensurate with the degree of risk associated with the animals involved have been or will be taken to assure at least a minimum acceptable level of protection from danger to the health and safety of the general public, persons residing or passing near the applicant's premises, and the applicant.
 - (6) An exemption granted pursuant to this subsection (d) may be withdrawn by action of the Director of Public Safety in the event that the Director of Public Safety determines that there has been a change in the conditions or assumptions under which it was originally granted or in the event that the applicant fails to comply with restrictions originally placed on the exemption.
 - (7) The Director of Public Safety shall notify Council at least 30 days prior to any exemption taking effect.
- (e) No exemption granted pursuant to any paragraph of this section shall be construed, nor is it intended by the City as a guaranty or warranty of any kind, whether express or implied to any person, including without limitation the general public, persons residing or passing near the applicant's premises, or the applicant, either in general or individually, as to the danger, or lack thereof, or degree of risk to health or safety of any animal, specifically or generally, or any premises where any animal is maintained or kept pursuant to such exemption.
 - (f) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be as deemed committed for each day during or on which a violation occurs or continues.

be and hereby is repealed, and new Section 505.18, Certain Animals Prohibited, of the Codified Ordinances of the City of Lakewood, is hereby established to read as follows:

505.18 CERTAIN ANIMALS PROHIBITED.

- (a) No person shall knowingly keep, maintain or have in his possession or under his control within the City any dangerous or carnivorous wild animal or reptile, any vicious domesticated animal, or any other animal or reptile, with vicious or dangerous propensities, except to the extent that an exemption may be applicable pursuant to subsections (c), (d) or (e) hereof.
- (b) For the purposes of this section, there shall be an irrebuttable presumption, that, when kept or maintained within the City, the animals listed below are considered dangerous animals to which the prohibition of subsection (a) hereof, in the absence of an exemption pursuant to subsections (c), (d) or (e) hereof, applies:
 - (1) All crotalid, elapid and venomous colubroid snakes;
 - (2) Apes; Chimpanzees (Pan); gibbons (hylobates); gorillas (Gorilla); orangutans (Pongo); and siamangs (Symphalangus);

- (3) Baboons (*Papio*, *Manrillus*);
- (4) Bears (*Ursidae*);
- (5) Bovines (*Bovidae*), includes all members of the bovine family, for example goats, sheep, bison and buffalo;
- (6) Cheetahs (*Acinonyx jubatus*);
- (7) Crocodilians (*Crocodylia*);
- (8) Constrictor snakes when fourteen feet in length or more;
- (9) Coyotes (*Canis latrans*);
- (10) Deer (*Cervidae*), includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose;
- (11) Elephants (*Elephas* and *Loxodonta*);
- (12) Foxes (*Canis vulpes*);
- (13) Gamecocks and other fighting birds;
- (14) Hippopotami (*Hippopotamidae*);
- (15) Horses (*Equidae*), includes all members of the horse family, for example donkeys, mules and zebras;
- (16) Hyenas (*Hyaenidae*); .
- (17) Jaguars (*Panthera onca*);
- (18) Leopards (*Panthera pardus*);
- (19) Lions (*Panthera leo*);
- (20) Lynxes (*Lynx*);
- (21) Monkeys, old world (*Cercopithecidae*);
- (22) Ostriches (*Struthio*);
- (23) Piranha fish (*Characidae*);
- (24) Puma (*Felis concolor*), also known as cougars, mountain lions and panthers;
- (25) Rhinoceroses (*Rhinocerotidae*);
- (26) Sharks (class *Chondrichthyes*);
- (27) Snow leopards (*Panthera uncia*);
- (28) Swine (*Suidae*), including Pot-bellied pigs;

- (29) Tigers (*Panthera tigris*);
 - (30) Wolves (*Canis lupus*), including wolf hybrids;
 - (31) All game birds, including but not limited to, water fowl, chickens, roosters, ducks, geese, turkeys and common pigeon (other than a homing pigeon).
- (c) Licensed pet shops, menageries, zoological gardens, and circuses shall be exempt from the provisions of subsections (a) and (b) hereof if all of the following conditions are applicable:
- (1) The location conforms to the provisions of the City Zoning Code;
 - (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors;
 - (3) Animals are maintained in quarters so constructed as to prevent their escape; and
 - (4) No person resides within fifty feet of the quarters in which the animals are kept.
- (d) Notwithstanding any of the foregoing, the Director of Public Safety may grant a specific exemption, on a temporary basis, from any of the provisions of this section to any person with a legitimate scientific, educational or commercial purpose for maintaining the prohibited animals, in accordance with the following provisions:
- (1) Written application for exemption shall be filed by any person desiring to obtain an exemption with the Director of Public Safety. The application shall state the applicant's name, address, type and number of animals desired to be kept, general purpose for which the animals will be kept, and a general description of provisions which will be made for safe, sanitary and secure maintenance of the animals.
 - (2) The Director of Public Safety may grant, deny or restrict the terms of an application for exemption; provided, however, that he shall take some official action on an application within 120 days of its filing.
 - (3) In considering the merits of an application for exemption, the Director of Public Safety may cause one or more inspections of the applicant's premises to be made by appropriate employees or representatives of the City, and may also refer the application to persons who are technically knowledgeable with respect to the animals involved for an advisory opinion.
 - (4) In evaluating an application for exemption, the Director of Public Safety shall give consideration to the following criteria:
 - A. The experience and knowledge of the applicant relative to the animals involved;
 - B. Whether the applicant has obtained a federal or state permit relative to the animals involved;

- C. The relative danger, safety, and health risks to the general public, to persons residing or passing near the applicant's premises, and to the applicant in connection with the animals involved;
 - D. The provisions which have been or will be made for the safe, sanitary and secure maintenance of the animals for the protection of the general public, persons residing or passing near the applicant's premises, and the applicant;
 - E. The provisions which have been or will be made to protect the safety and health of the animals involved;
 - F. Any other logically relevant information.
- (5) An application for exemption under this subsection (d) shall be denied unless the Director of Public Safety determines that, in view of all the relevant criteria and any restrictions which he may provide, reasonably appropriate measures commensurate with the degree of risk associated with the animals involved have been or will be taken to assure at least a minimum acceptable level of protection from danger to the health and safety of the general public, persons residing or passing near the applicant's premises, and the applicant.
- (6) An exemption granted pursuant to this subsection (d) may be withdrawn by action of the Director of Public Safety in the event that the Director of Public Safety determines that there has been a change in the conditions or assumptions under which it was originally granted or in the event that the applicant fails to comply with restrictions originally placed on the exemption.
- (7) The Director of Public Safety shall notify Council at least 30 days prior to any exemption taking effect.
- (e) Notwithstanding any of the foregoing, female chickens ("hens," for the purpose of this subsection (e)), may be kept in the City only in accordance with the following regulations:
- (1) Zoning Districts. Hens may be kept only in an R1 Residential Single-Family or R2 Residential Single- and Two-Family District.
 - (2) Application, Permit and Renewal. Before the keeping of hens may occur, an annual permit shall have first been obtained from the Director of Public Safety. The permit application must be accompanied by a \$25.00 fee paid to the City. New permit applications shall include the following information: the name, phone number, home address and email address of the applicant; the size and location of the subject property; a proposal containing the number of hens the applicant seeks to keep on the property; a description of any coop or outdoor enclosure providing precise dimensions and the precise location of these enclosures in relation to property lines and adjacent properties, with specifications and drawings if available; a certificate or letter showing that the applicant has taken a class in keeping backyard hens from the Ohio State University Extension or other source approved by the Director of Public Safety; the permission of the property owner for the applicant to keep hens, if the applicant is not the owner; and the applicant's permis-

sion for any city official to enter the lot to determine whether the permit should be granted and the use maintained. Renewal permit applications shall be on a form prescribed by the Director of Public Safety. Both New and Renewal permit applications shall contain a waiver to allow a records check within the city to ensure that the applicant is in compliance with all applicable codes.

- (3) Inspection. Within 30 days of the Director of Public Safety or his or her designee receiving the initial application, he or she shall cause the lot to be inspected. The person(s) inspecting the premises shall determine if the lot dimensions in the application are accurate; determine the feasibility of the applicant meeting the remaining criteria in this subsection (e); and note whether any extraordinary circumstances exist, such as outstanding property citations or unsanitary property conditions, or such as the applicant's proximity to other approved or proposed coops such that a neighborhood may be adversely impacted, that would militate against the granting of the application. For new permit applications, an inspection of the coop and any fencing shall be conducted within 30 days' notice from the applicant that the coop has been installed. A determination shall be made, within 30 days of the inspection, whether the permit should be issued.
- (4) Personal Use; Limitations. Hens may be kept only for personal use by persons residing in the principal structure on the lot on which the hens are kept. No hens may be kept on a lot containing more than three dwelling units. Residents of no more than one dwelling unit within a structure may keep hens on that lot. No more than six hens shall be allowed on any lot.
- (5) Setbacks. Coops or accessory structures housing hens shall be kept at least three feet from the side and rear property lines. All such structures shall be located no less than 20 feet behind the rearmost wall of the principal structure on the lot.
- (6) Enclosure. The base surface of a coop and run must not exceed 80 square feet and six feet in height and shall be exempt from the lot coverage restrictions contained in the Zoning Code. Hens shall not be allowed out of these enclosures unless the rear yard of the property is fenced along the rear and side lot lines, and a resident of the property on which the hens are kept is directly monitoring them within the fenced area of the back yard such that the resident is able to immediately return the hens to the cage or coop if necessary. The manufacturer's specifications for the coop, or otherwise adequate drawings including dimensions, shall be submitted for approval together with the application for the permit. Hens shall be kept in a covered, predator-proof coop that is well-ventilated and designed to be accessed for cleaning. The enclosure shall be of uniform and sturdy design and constructed of quality materials. Fencing, if used, shall be securely fastened to posts of reasonable strength firmly set into the ground and shall be stretched tightly between support posts. The enclosure shall be maintained in good repair at all times so as to protect the aesthetics of the neighborhood and to not present a blighted or untidy appearance to the property or to neighbors. Hens shall have access to an outdoor enclosure or run that is adequately fenced to contain the hens on the property, to prevent them from running at large, and to prevent access by predators. The combined area of the coop and run shall allow at least three square feet

per hen, and shall otherwise be constructed to provide humane conditions and to ensure the health and well-being of the animals occupying it are not endangered by the manner of keeping or confinement.

- (7) Sanitation; Slaughtering. The coop and outdoor enclosure must be kept clean, dry and sanitary; free from debris and offensive odors; and devoid of rodents and vermin. It shall be so located that adequate drainage is obtained, normal drying occurs and standing water is not present. The coop and outdoor enclosure must be cleaned on a regular basis to prevent the accumulation of waste. All feed must be stored in a rodent-proof container. No hens shall be slaughtered except in accordance with, and only if permitted by, Chapter 918 of the Revised Code.
- (8) Number and Transferability. Within the first year of the effective date of this ordinance, no more than 24 non-transferable permits shall be issued pursuant to this subsection (e). At the first anniversary of the effective date of this ordinance and at each anniversary thereafter, an additional 13 non-transferable permits may be issued pursuant to this subsection (e), except that at no time shall the total number of permits issued in the City exceed 50. Initial applications shall be kept on file by the Director of Public Safety and considered in order of their receipt.
- (9) Permit Revocation. The Director of Public Safety may revoke a permit at any time if the permit holder materially fails to adhere to the provisions of this subsection (e).
- (10) Appeal. Any denial of a permit application or revocation of a permit may be appealed to the Board of Building Standards pursuant to section 1173.05.
- (f) No exemption granted pursuant to this section shall be construed, nor is it intended by the City as a guaranty or warranty of any kind, whether express or implied to any person, including without limitation the general public, persons residing or passing near the applicant's premises, or the applicant, either in general or individually, as to the danger, or lack thereof, or degree of risk to health or safety of any animal, specifically or generally, or any premises where any animal is maintained or kept pursuant to such exemption.
- (g) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be as deemed committed for each day during or on which a violation occurs or continues.

Section 2. All existing permits issued pursuant to Resolution No. 8755-14, adopted November 4, 2014 are hereby extended until October 1, 2016.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: 9-3-16
Approved:



President Mayor

~~Approved~~
Adopted:

May 2, 2016

May 2, Hager
Clerk
[Signature]
~~Mayor~~ PRESIDENT