

STATE OF INDIANA

BEFORE THE TOWN COUNCIL OF SELLERSBURG, INDIANA

ORDINANCE NO. 2014 -010

AN ORDINANCE AUTHORIZING CHICKENS WITHIN AREAS ZONED R-1

WHEREAS, this Town Council of Sellersburg, Indiana (“Council”) is the town legislative body and the president of the town council is the town executive pursuant to I.C. 35-5-2; and,

WHEREAS, the Town of Sellersburg (hereinafter “Town”) has received interest from several residents about chickens and chicken coops; and,

WHEREAS, this Council has studied other municipalities around the State of Indiana to determine how chicken coops in areas zoned R-1 have been implemented and what benefit it is to the said communities; and,

WHEREAS, this Council desires to allow residents living in areas zoned R-1 the ability to have chicken coops provided they follow strict guidelines set forth below.

NOW THEREFORE BE IT ORDAINED by this Town Council of Sellersburg, Indiana the following:

CHICKENS; CHICKEN COOPS; & CHICKEN RUNS

DEFINITIONS:

Chicken – means Gallus gallus domesticus, a domestic bird typically kept on a farm. This definition does not include other fowl, such as, but not limited to, peacocks, turkeys, or waterfowl.

Chicken Coop – means an enclosed structure for housing chickens that provides shelter from the elements.

Chicken Flock – means one chicken or a group of two or more chickens which:

- a) Contains no more than five hens and no roosters;
- b) Is issued a permit by the Town of Sellersburg Commissioner of Buildings and Code Enforcement;
- c) Is not otherwise permitted by Section 73 of the Town of Sellersburg Municipal Code as the same may be hereafter amended or replaced; and
- d) Resided in an area zoned R-1.

Chicken Run – means an enclosed outside yard for keeping chickens.

OBTAINING A WAIVER AND A PERMIT FOR CHICKEN FLOCKS.

Except as provided in this title it shall be unlawful for any person to harbor chickens in all zone areas. Exceptions areas zoned A. Persons wishing to harbor a chicken flock in an area zoned R-1 shall obtain both a waiver and a permit. Permits shall not be issued in all other zoned areas other than R-1.

a) Waiver. All persons wishing to harbor a chicken flock shall obtain written waivers by all owners of adjacent lots indicating that said owner does not oppose the harboring of chicken flocks at the applicant's address and therefore waives the prohibition of this chapter. An adjacent lot is one whose boundary line touches the boundary line of applicant's lot, or is separated from the applicant's lot only by an intervening alley or other right-of-way, but does not include lots with an intervening right-of-way classified as a neighborhood street or higher on the town's master thoroughfare plan. All waivers shall be in a form provided by the town.

- i. Where an applicant receives waivers from all owners of all adjacent lots and complies with all other requirements of this title for chicken flocks, the applicant shall be permitted to replenish the chicken flock upon the death or loss of any chicken;
- ii. An applicant who harbored chickens on May 1, 2013 may obtain a permit pursuant to subsection (b)(5) of this section without obtaining waivers hereunder, and the applicant will thereby be permitted to retain a chicken flock but shall not replace any chicken upon its death or loss. Should such applicant subsequently obtain waivers from all owners of all adjacent lots, then this class of harborers shall be allowed to replenish his/her flock pursuant to subsection (a)(1) about; and
- iii. The written waiver as provided in subsection (a) of this section is effective when it is filed with the Town of Sellersburg Commissioner of Buildings and Code Enforcement and shall expire five (5) years from its effective date.

b) Permit.

- i. Applications for a permit to harbor a chicken flock shall be made by the owner of the property to the Town of Sellersburg Commission of Building and Code Enforcement and shall include:
 1. The name, address, and telephone number of the applicant;

2. The description (breed, sex, age and coloration) of each chicken in the chicken flock;
 3. The address where the chicken flock is to be harbored, and the zoning district in which such address is located (which must be a district listed in subsection (d) of the definition of “chicken flock” of this title); and,
 4. A statement indication whether the applicant has ever been convicted of the offense of cruelty to animals.
- ii. The permit to harbor chicken flock shall not be transferable to another person or to another location;
- iii. No applicant shall harbor more than one chicken flock within the town;
- iv. If the applicant withholds or falsifies any information on the permit application, no permit shall be issued and any permit previously issued on false or withheld information shall be revoked;
- v. An application for a permit shall be made prior to the harboring of any chickens or the creation of any chicken flock, except where the applicant harbored chickens on May 1, 2013 in which case the harbored shall submit an application for a permit no later than ninety days after the effective date of the ordinance codified in this chapter. Where the applicant harbored chickens on May 1, 2013, the applicant must reduce his/her flock to no more than five hens and no roosters, and comply with all other requirements of this title pertaining to chicken flocks within ninety days from the effective date of the ordinance codified in this chapter. A person who harbored chickens on May 1, 2013 but fails to apply for a permit within this timeline shall have not entitlement to continue to harbor any chicken unless and until such person meets all requirements of this section for this section for chicken flocks and obtains a permit for same;
- vi. All permits shall be conditioned upon a passing inspection by the Town of Sellersburg Commission of Buildings and Code Enforcement or their designees and compliance with this chapter; and
- vii. The Town of Sellersburg Commission of Buildings and Code Enforcement may refuse to grant or renew a permit and may revoke a permit if applicant/harbored is unable to maintain his/her flock so as to not create a nuisance, as evidenced by

three substantiated violations of this chapter within twelve consecutive months.

- c) No person previously convicted of cruelty to animals or the equivalent shall be registered or issued a permit without prior review by the animal control commission.

INSPECTION.

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

- a) The Town of Sellersburg Commissioner of Buildings and Code Enforcement and/or their designees shall be permitted to inspect the structure and/or premises wherein a kennel is maintained (or believed to be maintained) and all animals located thereon where such animals are harbored.
- b) All reports of such inspections shall be in writing and maintained by the Town of Sellersburg Commission of Buildings and Code Enforcement.
- c) The Town of Sellersburg Commissioner of Buildings and Code Enforcement, and/or their designees are authorized to enter the structure or premises wherein a kennel is maintained (or believed to be maintained) at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures.
- d) If the owner of those in possession of a structure or premises wherein a flock is maintained (or believed to be maintained) refuse inspection of said flock, the Town of Sellersburg Commission of Buildings and Code Enforcement, and/or their designees may obtain an inspection warrant from any court of record in the county in which the flock is located in order to determine if the flock is maintained in accordance with this title.

STANDARDS FOR MAINTAINING CHICKEN FLOCKS.

- a) All harborers of chicken flocks shall:
 - i. Operate in such a manner so as not to constitute a public nuisance or disturb neighboring resident due to noise, order or damage;
 - ii. Operate in such 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 or humans. When necessary for the protection of the public health and safety, the director of animal care and control may require the specified animal be kept or confined in a secured enclosure. 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;

- iii. Comply with all of the provisions of Town's code regarding general animal care;
- iv. Not slaughter chickens on harborer's property;
- v. Keep all chickens completely and securely enclosed and under the control of the harborer on the harborer's property at all times;
- vi. Provide both a chicken coop and attached chicken run that afford a combined twelve square feet per chicken;
- vii. Provide a chicken coop that affords shelter from the elements;
- viii. Provide a chicken coop and attached chicken run that, combined, provide adequate ventilation and adequate sun and shade and that are both impermeable to rodents, wild birds and predators, including dogs;
- ix. Provide chickens with access to feed and clean water at all times, such feed and water shall be unavailable to rodents, wild birds and predators; and
- x. Provide adequate safeguards to prevent unauthorized access to the chickens by members of the public; and
- xi. 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.

b) The chicken coop and chicken run shall:

- i. Provide a sight fence or shrub screening of at least four feet in height around both coop and run if visible to occupants of neighboring lots;
- ii. Be located at least twenty (20) feet from any building not owned or occupied by the harborer, that is used or capable of being used for human habitation; and
- iii. Be located at least twelve (12) feet from the property line of any neighboring lot.

- c) All chicken coops and chicken runs shall comply with the requirements for accessory structures outlined in the Town of Sellersburg Zoning and Building Codes as the same may be hereafter amended or replaced.

This ordinance will be in full force and effect upon its promulgation and adoption as supported by the signatures below.

So Ordained this ____ day of _____, 2014

Paul J. Rhodes
Council President

Brian K. Meyer
Council Vice President

James H. LaMaster
Council Member

Michael N. Lockhart
Council Member

Terry Langford
Council Member

Attest: David L. Kinder
Clerk-Treasurer