

ORDINANCE NO. 262

AN ORDINANCE OF UPSON COUNTY, GEORGIA TO AMEND THE CODE OF UPSON COUNTY, AMENDING THE UPSON COUNTY ZONING ORDINANCE, TO ESTABLISH DEFINITIONS OF TERMS, TO SET STANDARDS FOR THE OPERATION, CONSTRUCTION AND PLACEMENT OF COMMERCIAL POULTRY AND SWINE OPERATIONS AND RELATED-STRUCTURES AND APPURTENANCES; PROVIDING FOR REPLACEMENT; REQUIRING MINIMUM ACREAGE AND SETBACKS; REQUIRING POULTRY DRY STACK HOUSES; PROVIDING FOR REPEAL/CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

* * * * *

WHEREAS, OCGA §36-1-20, empowers County governments to protect and preserve the public health, safety and welfare, through the adoption of ordinances, and

WHEREAS, OCGA Chapter 36-66, The Zoning Procedures Law, recognizes and confirms the authority of local governments to exercise the zoning power and establishes minimum procedures for such; and

WHEREAS, Section 410 of the Upson County Zoning Ordinance (UCZO) lists the procedures by which the Zoning Ordinance may be amended; and

WHEREAS, such due notice and due process requirements have been met through a public hearing and published and posted notices; and

WHEREAS, chicken houses or poultry houses generally, have been regulated by Upson County since the adoption of Ordinance No. 166 in June 2004 and Ordinance 240 adopted in May 2015; and

WHEREAS, Upson County, recognizing that the poultry industry and the swine industry are or could be an important part of the County's economic base, desires to create additional standards and protections for both poultry and swine operations and neighboring, residential uses; and

WHEREAS, the Upson County Board of Commissioners has determined that the below-described Zoning Ordinance changes meet the required review standards and serve to enhance the public health, safety, morality or general welfare of Upson County, Georgia, therefore:

BE IT ORDAINED by the Board of Commissioners of Upson County, Georgia, as follows:

SECTION ONE

That the following sections of the Code of Upson County, Georgia, more specifically, of The Zoning Ordinance, are hereby amended to read as follows:

A. Amend Article 2, Section 202. General definitions, to read:

W. (Re-letter appropriately)

Commercial poultry or swine operation – Poultry or swine facilities, houses, barns, structures and uses, owned by any individual, group or company, used to grow, feed, raise and/or sell poultry or swine or poultry or swine products or byproducts, as part of a business operation, as contrasted with raising or owning poultry or swine as a hobby or solely for owner use and consumption. Such commercial poultry or swine operation business owners may be contract growers who invest in and build poultry houses or swine barns/operations, working under contract with a poultry or swine production and processing company (integrator), to raise, feed, grow and care for poultry or swine for the commercial market.

B. Amend Section 504.A.8 to read as follows:

8. Agriculture, excluding ~~chicken houses~~ commercial poultry and swine operations (see Section 504(B)(16), of this ordinance).

C. Reword Section 504.B.16 and renumber as appropriate:

~~16. Poultry houses, providing that all structures and facilities must be set back a distance of 100 feet from all property lines. Commercial poultry and swine operations required to meet all of the standards of Section _____, Commercial Poultry and Swine Operations - Standards for Operation, Structures and Appurtenances, of this ordinance.~~

D. Reword Section 1804.A.26:

Agriculture, excluding commercial poultry and swine operations (see Section 1804.B.4, of this ordinance).

E. Add Section 1804.B.4:

Commercial poultry and swine operations required to meet all of the standards of Section _____, Commercial Poultry and Swine Operations - Standards for Operation, Structures and Appurtenances, of this ordinance.

F. Reword Section 1904.A.51:

Agriculture, excluding commercial poultry and swine operations (see Section 1904.B.7 of this ordinance).

G. Add Section 1904.B.7:

Commercial poultry and swine operations required to meet all of the standards of Section _____, Commercial Poultry and Swine Operations - Standards for Operation, Structures and Appurtenances, of this ordinance.

H. Add Article _____, Section _____, Commercial Poultry and Swine Operations - Standards for Operation, Structures and Appurtenances, as follows:

Section _____ Setbacks

A. All commercial poultry houses, swine barns and structures; enclosed, concentrated feedlot areas and the like; long-term, concentrated holding areas; stockpiles of manure, stack houses, lagoons and other structures or locations for the storage or disposal of waste and/or deceased animals, shall be placed no closer than:

1. two hundred feet (200) from all property lines;
2. one thousand (1000) feet from all existing residential homes, except those of the owner;
3. 2,600 feet (1/2 mile) from any City or County residential zoning district.
4. Accessory structures, such as equipment repair shops, offices and well houses, must only meet the accessory structure setback requirements of the zoning district in which they are constructed.

B. All structure to structure and appurtenance to structure setback distances shall be measured in a straight line from the nearest corner of any principle permitted structure or appurtenance for commercial poultry and swine operations to the nearest corner of a structure to which setback requirements apply.

- C. The Planning Commission may recommend and the Board of Commissioners may require additional setback and/or protective distances and buffers.

Section Minimum Acreage

All new commercial poultry and swine operation construction of one (1) or two (2) houses, barns or other principal structures, enclosed/confined areas and their associated structures and appurtenances, shall be constructed on lots of a minimum size of ten (10) contiguous acres. An additional five acres minimum is required to be added to such parcel, for every one (1) house, structure or enclosed/confined area to be constructed over two (2).

Section Established, Non-Conforming, Poultry and Swine Operations

Where a non-conforming poultry or swine operation structure or appurtenance is constructed and in operation, prior to the initial adoption date of these standards, such houses, structures and appurtenances may be reconstructed within their previous footprint, if significantly damaged or destroyed, regardless of any new Upson County construction and development standards, if:

- A. The significantly damaged/destroyed structures have been in production within the forty-eight (48) months prior to the date of significant damage/destruction; and
- B. the replacement structures are permitted for reconstruction within forty-eight (48) months of the date of significant damage or destruction; and
- C. the replacement structures are in production within the seventy-two (72) months following the date of the significant damage/destruction.

Section Stack Houses Required

Storage of all poultry manure shall be by dry stack house only. Section Agriculture and Nuisance Considerations

Section Agriculture and Nuisance Considerations

No commercial poultry or swine operation or any of its structures or appurtenances shall be or become a nuisance, private or public, if such operations, structures and appurtenances are maintained and/or conducted in accordance with the current industry best management practices (BMPs) and comply with existing laws and regulations of Upson County, the State of Georgia or the federal government. An agricultural use may be found to be a nuisance when it is determined that negligent or improper operation has occurred or BMPs have not been used or maintained for a significant amount of time or structures have not been reasonably maintained.

SECTION TWO

All ordinances or parts thereof in conflict with the terms and provisions of this Ordinance are, and the same hereby, are repealed

SECTION THREE

Should any sentence, paragraph or section of this Ordinance be declared to be invalid, for any reason, such declaration shall not affect the validity of any other sentence, paragraph or section of this Ordinance and all such remaining sentences, paragraphs and sections hereof shall remain valid and of full force and effect, and the Board of Commissioners of Upson County, Georgia, hereby declares that such continuing validity of the remaining portions hereof is its intent as of the date of the enactment hereof.

The foregoing ordinance this day adopted by the Board of Commissioners of Upson County, Georgia, and effective, this 8th day of May, 2018.

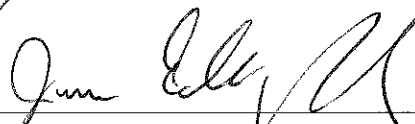
**BOARD OF COMMISSIONERS
OF UPSON COUNTY**

BY:



NORMAN ALLEN, Chairman

BY:



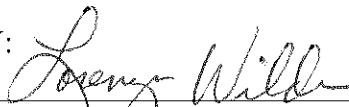
JAMES ELLINGTON, Vice Chairman

BY:



FRANK SPRAGGINS, Commissioner

BY:



LORENZO WILDER, Commissioner

BY:

NOT AVAILABLE TO EXECUTE

RALPH ELLINGTON, Commissioner

ATTEST:


Upson County Clerk