

1010.3

**COMMONWEALTH OF KENTUCKY
LYON COUNTY FISCAL COURT**

**AN ORDINANCE CREATING REGULATIONS
FOR POULTRY PRODUCTION AND
POULTRY HOUSE CONSTRUCTION WITHIN
LYON COUNTY, KENTUCKY**

WHEREAS, in order to protect the citizens and environment of Lyon County, Kentucky, from the dangers and potential dangers caused by poultry production in Lyon County, and

WHEREAS, poultry production can be a somewhat noxious or offensive use, the Lyon County Fiscal Court has determined that there is a necessity to act to regulate the production of poultry in Lyon County, Kentucky, in balance with the citizens' right to the use, enjoyment and value of their property.

NOW, THEREFORE, it is hereby ordained by the Fiscal Court of the County of Lyon, Commonwealth of Kentucky, as follows:

DEFINITIONS: The following definitions shall apply for the purposes of this ordinance:

- a. Poultry Operation- Any activity involving the housing and/or raising of poultry in excess of 500 chickens or more;
- b. Existing Poultry Operation- A Poultry Operation in place and operating on the date this ordinance becomes effective;
- c. New Poultry Operation- A Poultry Operation in place and operation after the date this ordinance becomes effective.

A. New and Expanded Poultry Operation

In addition to complying with all federal and state regulations relating to Poultry Operations the following guidelines apply:

1. Poultry Operations shall be located no closer than 1,500 feet from another Poultry Operation, as measured from the nearest Poultry House on each tract. A Poultry Operation shall be a minimum of 2,000 feet from a city limit.
2. A Poultry Operation with less than four poultry houses shall be a minimum of 1,000 feet from the nearest dwelling not owned by a poultry producer with the tunnel ventilation fan outlets a minimum of 1,250 feet from the nearest dwelling.
3. A Poultry Operation with four or more poultry houses shall be a minimum of 1,500 feet from the nearest dwelling not owned by the poultry producer with tunnel ventilation fan outlets a minimum of 1,750 feet from the nearest dwelling.

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4. A Poultry Operation shall meet the following setback restrictions which are expressed in the minimum number of feet which the Poultry House must be from the item in question:
 - a) public school, active church, or public park – 2,500 feet minimum
 - b) property line – 150 feet minimum
 - c) primary roadway – 500 feet minimum
 - d) secondary roadway – 300 feet minimum
 5. Setbacks relating to dwellings, churches and property lines may be waived by the owner of these facilities by obtaining a sworn affidavit from the owner that he/she is agreeable to the waiver.
 6. When a Poultry Producer entity decides to construct a Poultry House in Lyon County, the producer shall apply to the County Engineer for a permit for construction and/or operation of a Poultry House notify the County Judge-Executive thirty (30) days prior to the beginning of construction and/or operation. The application notice must contain the following information:
 - A. The name, address and telephone number of the entity seeking the permit to construct a Poultry House and the same such information for anyone having the contractual authority to direct the manner of construction of the Poultry House, or the manner in which poultry will be housed. Any such entity exercising such authority shall ensure that the operator of the Poultry facility has applied for and granted a permit.
 - B. The location of the proposed facility, the acreage of the site and the number of houses proposed.
 - C. Certification that all applicable portions of this ordinance will be complied with.
 - D. Number of chickens proposed for the facility.
 - E. Any setback waivers obtained from surrounding property owners.
 - F. Verification reflecting distances where nearest homes are located in relation to proposed Poultry House, composters and litter facilities.
 7. The Poultry Operation must have a litter storage building and a composter built on site. The litter storage building shall be of sufficient size to accommodate the normal volume of litter. The composter may be built in the litter storage building or may be built separately.
 8. Poultry Houses shall be situated on the farm as to create the least possible impact on neighboring homes and residents. This shall include, but is not limited to, directing exhaust fans away from the nearest neighboring homes.

B. New And Existing Poultry Operations

1. Poultry Operations shall be limited to a maximum of six Poultry Houses per 35-acre tract.
2. If federal, state or local setback restrictions are insufficient to address the odors and dust on neighboring properties from the Poultry Farm, the owner of the Poultry Operation may be required to provide a screening of sufficient length and height to absorb and dissipate odors and dust.
3. The Operator of each Poultry Operation shall employ best management practices to control odor and dust. Incineration shall not be employed as a mortality disposal method.
4. Poultry Operations in compliance with this ordinance at the time operations commence shall be exempt from subsequent setback violations due to construction on adjoining parcels, including, but not limited to, the building of new homes, churches, and schools. In addition, any such construction shall not prevent the otherwise compliant expansion of the operation.
5. Upon receipt of a complaint relating to a specific Poultry Operation, the Solid Waste Engineer or his designee shall contact the appropriate State Regulatory Agency regarding the complaint. The Solid Waste Engineer or his designee shall document the complaint and take necessary follow up actions to insure a proper resolution of the complaint.
6. It is the intention of the Lyon County Fiscal Court to make this law severable in the event any portion of it is determined to be unconstitutional, unlawful, or contrary to existing regulation. Thus, any offending objection would be severed and stricken from this ordinance, without affecting the balance of the ordinance.

C. Notice And Penalties


1. Whenever a violation is discovered, the County Attorney or Sheriff, Health Department representative or their designee, may issue a notice to the owner of the property to abate, resolve or remedy the violation. Said notice shall be mailed to the owner at his last known address, as determined from the current tax assessment roll, and shall advise the owner(s) that the violation must be abated with a reasonable time limitation of not less than ten (10) nor more than thirty (30) days. If the whereabouts of the offending party cannot be determined, publication in a newspaper with at least weekly county wide publication, shall be considered sufficient notice.
2. If, after proper notice as outlined above, the offending party has not satisfactorily corrected the alleged violation, the Sheriff, Health Department representative, or any aggrieved party may initiate a prosecution by filing a complaint in the County Attorney's Office.
 - A. Each day following the expiration of notice above-referenced shall constitute a separate offense.

3. If, after the filing of a complaint and the provision of a due process opportunity to be heard, the Lyon District Court determines that the defendant is in violation of this ordinance, said Court may:


- A. Order the correction of the violation, within a specified reasonable time period;
- B. Impose a fine of not less than \$50.00 nor more than \$100.00 for each violation;
- C. Assess court costs against the defendant; and/or
- D. Impose other requirements and conditions which the Court deems reasonable and appropriate under the circumstances.

INTRODUCED and publicly read on first reading on this the 10 day of April, 2008.
Publicly read ~~and on second reading~~ on 8 day of May 2008,
PUBLICLY READ AND adopted ~~on second reading~~ on this the 16 day of June 2008

LYON COUNTY FISCAL COURT


James C. Campbell
Lyon County Judge/Executive

ATTEST:


Sarah DeFew

PREPARED BY:

R. Brandon Knoth
Lyon County Attorney