

1010.4

ORDINANCE NO. _____

AN ORDINANCE relating to the process for the establishment and operation of confined hog facilities in Lyon County, Kentucky, and relating to the establishment of certain setback distances.

WHEREAS, the Lyon County Fiscal Court is empowered and authorized by KRS 67.083 to enact ordinances and issue regulations governing control of animals and abatement of public nuisances; public sanitation and vector control; conservation, preservation and enhancement of natural resources including soils, surface and groundwater, air, vegetation and wildlife; regulation of commerce for the protection and convenience of the public; and management of solid wastes; and

WHEREAS, confined hog facilities can be significant sources of air pollution, odors, surface and groundwater pollution, and if improperly sited, constructed or operated, can create a public nuisance; and

WHEREAS, 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, be it ordained by the Fiscal Court of the County of Lyon, Commonwealth of Kentucky:

Section I. It shall be unlawful for any person (which includes an individual, firm, partnership, corporation, association, government agency, or business entity of any kind) to construct, establish or operate a confined hog facility in Lyon County, Kentucky, without complying with the requirements set forth herein.

Section II. "Confined hog facility" as used in this Ordinance shall include, but not be limited to, hog waste holding ponds or lagoons, confined hog barns, farrowing houses, gestation barns, nursery barns, feeding floors, and finishing floors, with over 500 swine per farm or per farm operation.

Section III. When a person decides to construct a confined hog facility in Lyon County, the person shall provide written notice to the Lyon County Judge-Executive thirty (30) days prior to the beginning of construction and/or operation. The notice must contain the following information:

1. A blueprint showing building design configuration, both exterior and interior, dimensions and construction materials.
2. A survey plat prepared by a registered land surveyor of the real estate on which the proposed facility will be constructed as well as the surrounding area to show compliance with setback requirements hereinafter provided.

3. A list of names and mailing addresses of all adjoining property owners.

4. A statement of manure management which shall identify all recorded manure easement agreements, if any, that have been obtained for the facility including a manure disposal plan. The plan shall include the annual gallons of animal waste that will be land applied and the number of acres that have been designated to receive this waste.

5. A statement of the responsible parties who will supervise the construction and initial operation of the facility.

6. A statement of a plan for runoff management of waste disposal.

Section IV. Any such plans for waste disposal and management must be in compliance with KRS 424.40-100 et seq. and any and all Kentucky Administrative Regulations established to implement said statute, and specifically 01 KAR 5.037.

All solid and liquid manure waste generated by each facility shall be disposed of by either injection method land application or by trucking said waste to an approved facility. Each applicant shall be required to maintain or dispose of all produced waste in a manner that is consistent with the current existing nutrient management plan and requirements set forth by the Natural Resources Conservation Service or the Kentucky Division of Water. There shall no open storage of waste nor shall there be under any circumstance any open application of liquid or solid manure as fertilizer or disposal.

Section V. Setbacks:

1. Confined hog facilities and waste treatment lagoons shall be located at least 1500 feet from a property boundary line or public roadway. Should the owner of any affected property give written consent to a lesser setback requirement, then this guideline shall be modified by the language of the written consent and filed in the office of Lyon County Clerk.

2. In addition to the setback described above, no confined hog facility or waste treatment lagoon shall be located within 2500 feet of any church, public school, or accredited private school.

3. Distances will be measured from the nearest corner of a building or the lagoon to the nearest corner of the affected property.

Section VI. If any section, provision, or any part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not be affect the validity of the Ordinance as a whole or any section provision, or part thereof no adjudged invalid or unconstitutional.

Section VII. The County Judge-Executive, or his/her designee, shall have the right to inspect such facilities to insure compliance with the provisions of this Ordinance.

Section VIII. 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.

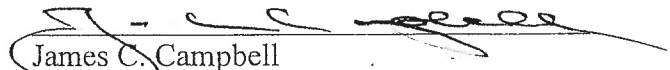
A. Each day following the expiration of notice above-referenced shall constitute a separate offense.

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:

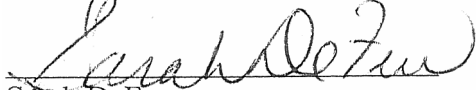
- A. Order the correction of the violation, within a specified reasonable time period;
- B. Impose a fine of not less than \$50.00 nor more than \$100.00 for each violation;
- C. Assess court costs against the defendant; and/or
- D. Impose other requirements and conditions which the Court deems reasonable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

INTRODUCED and publicly read on first reading on this the 8 day of May, 2008.
Publicly read on Second Reading on 16th day of June, 2008
PUBLICLY READ AND adopted ~~on second reading~~ on this the 17 day of July, 2008

LYON COUNTY FISCAL COURT


James C. Campbell
Lyon County Judge/Executive

ATTEST:


Sarah DeFew