

**IN THE MATTER OF AMENDING THE ORDINANCE
REGULATING ALL COUNTY AGRICULTURAL
ENTERPRISES REQUIRING A PERMIT FROM THE
DEPARTMENT OF ENVIRONMENTAL QUALITY OR
ANY FEDERAL AGENCY.**

The matter of amending the County's ordinance regulating all county agricultural enterprises requiring a permit from the Department of Environmental Quality or any Federal Agency came on for discussion by the Board.

After discussing same, the Board decided to amend said ordinance to read as follows:

**AN ORDINANCE REGULATING ALL COUNTY
AGRICULTURAL ENTERPRISES REQUIRING
A PERMIT FROM THE DEPARTMENT OF
ENVIRONMENTAL QUALITY OR ANY
FEDERAL ENVIRONMENTAL AGENCY**

WHEREAS, Section 19-3-40 of the Mississippi Code of 1972 and other statutes provide that the Clay County Board of Supervisors has the power to adopt any ordinance with respect to county affairs, property, and finances, for which no specific provision has been made by general law and which is not inconsistent with the Mississippi Constitution, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi; and

WHEREAS, said Section 19-3-40 also enables the Board of Supervisors to take such actions such as the regulating of all agricultural enterprises requiring a permit from the Department of Environmental Quality or any Federal environmental regulatory agency; and

WHEREAS, said Section 19-3-40 also provides for such regulation as a matter and exercise of said county's police power; and

WHEREAS, the Clay County, Mississippi, Board of Supervisors finds that it is necessary in order to promote the health, safety and general welfare of Clay County, Mississippi, to establish regulations to permit the conducting of any agricultural enterprise required to have a permit from the Department of Environmental Quality or any Federal environmental agency.

NOW, THEREFORE, BE IT ENACTED THAT:

SECTION 1. Permit Requirements

A. All agricultural enterprises in Clay County, Mississippi, required to obtain a permit from the Department of Environmental Quality or any Federal environmental agency must obtain a permit

from the Clay County, Mississippi, Board of Supervisors before beginning operations. Such application shall be made to the Board of Supervisors in writing and contain the following information:

1. The name of the person making the application.
2. The owner and/or operator of the proposed agricultural enterprise.
3. The proposed location with the county including the street address and a copy of a deed or other document containing a sufficient legal description of the property upon which the agricultural enterprise is to be located.
4. The approximate number of animals that will be located upon the property.
5. A statement that the proposed agricultural enterprise location complies with the locational restrictions of this order.
6. A statement by the proposed applicant that all required State, Federal and Agency permit have been acquired or will be acquired before the commencement of operation of the agricultural enterprise and that all such permits will stay current.
7. A statement by the proposed applicant saying that in the event the applicant, owner, or operator of the proposed agricultural enterprise is denied the renewal or extension of a required permit that has been obtained, the applicant, owner or operator shall cease operation immediately and that if the operation is not ceased immediately, the applicant, owner, or operator shall be subject to all remedies and fines as set out by this order.
8. All applications must be signed by the applicant, owner or operator of the proposed agricultural enterprise under oath.

B. A permit shall be required for each proposed agricultural enterprise and a permit must be obtained from the County before the commencement of any operations or business of the agricultural enterprise.

C. Upon an applicant, owner, or operator making application to the Board of Supervisors, the Board of Supervisors shall have forty-five (45) days to consider the application and to grant or deny the permit to the applicant, and at its option to conduct an on-site inspection of the proposed agricultural enterprise. The Board shall reflect its decision by a resolution spread upon its minutes reflecting the grant or denial of a permit for operation of an agricultural enterprise. The Board of Supervisors may place reasonable restrictions on the applicant as a condition of the granting of any permit, including but not limited to the number of animals that may be housed on any land controlled directly or indirectly by the applicant and restrictions on where such agricultural enterprises may be located.

D. All permits granted shall be valid for a period of five (5) years. Once granted, all

applicants must submit a renewal application to the Board of Supervisors fifteen (15) days before the expiration of any permit which has been granted pursuant to this order. In the event the applicant applying for renewal is in good standing and is not in violation of any of the terms or conditions of this order, the applicant's permit shall continue in duration for another five (5) year term. The five (5) year term of any permit or renewable permit that is granted is conditioned upon compliance of the applicant with all applicable terms and conditions of this order and any non-compliance of the applicant shall subject the applicant to all remedies and fines as set out in this order.

SECTION II. State, Federal and Agency Permit

All agricultural enterprises must comply with, obtain, and remain in good standing concerning all State, Federal and Agency permits for operation of such agricultural enterprises. In the event a necessary permit is not obtained, the applicant, owner, and operator of the agricultural enterprise shall be subject to all remedies and fines as set out in this order.

SECTION III. Remedies

A person or business who operates or causes to be operated an agricultural enterprise without a valid permit or otherwise violates this order is subject to a suit for injunction as well as prosecution for criminal violations and liability for fines as prescribed in this order.

SECTION IV. Fines for Violation

In addition to the injunctive remedies provided for in this order as well as prosecution for criminal violation of laws of the State of Mississippi, Federal laws, and agency laws and regulations, any person or business entity which violates any of the terms and conditions of this order shall be subject to a fine in the amount of not less than \$50.00 or more than \$1,000.00 and, in addition, shall be liable for all court costs and attorneys' fees incurred by Clay County or any third party in obtaining an injunction or other legal remedies in enforcing this ordinance.

SECTION V. Enforcement

The Clay County Board of Supervisors shall designate and provide for a designee to see that all terms and conditions of this order are being complied with. In the event of any non-compliance, Clay County shall use the courts of the State of Mississippi to obtain any injunctive remedy. The collection of fines and penalties imposed by the laws of the State of Mississippi shall be pursued in the appropriate court in the State of Mississippi.

SECTION VI. Existing Operations and Activities

All such existing agricultural enterprises, operations and activities at the time of this order

are hereby grandfathered into compliance with this order. However, in the event any such operation or activity which is grandfathered into compliance shall cease for a period of thirty (30) days, such operation or activity shall be deemed a new operation or activity and shall be subject to all terms and conditions of this order and must comply with all terms and conditions herein.

SECTION VII. State Law Compliance

Any applicant, owner or operator of any agricultural enterprise shall be required to comply with all laws of the State of Mississippi concerning such agricultural enterprise.

SECTION VIII. Separability

If any section, sub-section or clause of this order shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, sub-sections, and clauses shall not be affected thereby.

SECTION IX. Conflicting Orders Repealed

All orders or parts of order in conflict with the provisions of this order are hereby repealed.

SECTION X. Effective Date

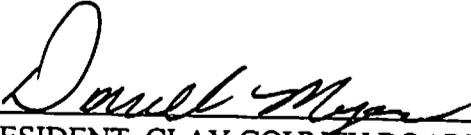
This order shall be enforced from and after the 31st day of March, 1998.

The above and foregoing order, being first reduced to writing was read, considered and adopted, first section by section, and then as a whole.


After full discussion of this matter, Supervisor Luke Lummus moved that the foregoing order be adopted and said motion was seconded by Supervisor Shelton Deanes, the order was put to a vote and this order passed and was adopted with the following vote:

Supervisor Albert Donald, District One	"Yea"
Supervisor Luke Lummus, District Two	"Yea"
Supervisor Darrell Myers, District Three	"Yea"
Supervisor Shelton Deanes, District Four	"Yea"
Supervisor David Winfield, District Five	"No"

This, the 28th day of May, 1998.


PRESIDENT, CLAY COUNTY BOARD OF
SUPERVISORS

ATTEST:


HARMON A. ROBINSON, CLERK

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