

**GORDON COUNTY
STATE OF GEORGIA**

**RESOLUTION TO AMEND
UNIFIED LAND DEVELOPMENT CODE**

Whereas, The Gordon County Board of Commissioners recognizes that farming is a large part of the history and heritage of Gordon County. Poultry farming is an important element of the Gordon County economy. Some new poultry farms have been built in Gordon County with substantially larger chicken houses with much higher concentrations of poultry located on the farm. In some circumstances, these poultry farms have been built in the vicinity of existing residential neighborhoods. The residents have complained that odor, dust and noise from these new farms have negatively impacted their use, enjoyment and value of their property. The Georgia Supreme Court has determined “a thing that is lawful and proper in one locality may be a nuisance in another. In other words, a nuisance may consist merely of the right thing in the wrong place.” May v. Brueshaber, 466 S.E.2d 196,265 Ga. 889 (Ga., 1995). In that same spirit, the Board of Commissioners requires the proposed Dry Litter Poultry Operation will be compatible with the character of the surrounding neighborhood and will not cause hurt, inconvenience, harm or devaluation of adjacent properties. The Board of Commissioners seeks to find a fair balance between the right to farm and the rights of citizens to be free from unreasonable interference with their right to enjoy and use their property.

Whereas, In some circumstances, the complaints have been associated with allegations of poor management practices by the Poultry Farmer. This ordinance seeks to establish a complaint resolution process that will provide notice to growers and integrators when complaints are received so that remedial steps can be taken, if necessary, to resolve the complaint.

Whereas, The Gordon County Board of Commissioners finds that there is a legitimate public need to adopt this ordinance to protect the right to farm in Gordon County while also protecting the health, safety and welfare of its residents from unreasonable interference from certain new large scale poultry farms.

Whereas, Notice of intent to amend the Unified Land Development Code has been duly advertised, a public hearing has been held, public comment has been received, the proposed ordinance has been read at least twice in regular meetings of the Board of Commissioners and the requirements of the Zoning Procedures Act have been followed.

Now Therefore, the Gordon County Board of Commissioners hereby amends the Unified Land Development Code by adopting and adding Section 4.03.02(K) *Standards for Dry Litter Poultry Operations*. In the following form and content:

4.03.02(K)

Standards for Dry Litter Poultry Operations.

1. Purpose. a. The Gordon County Board of Commissioners recognizes that farming is a large part of the history and heritage of Gordon County. Poultry farming is an important element of the Gordon County economy. Some new poultry farms have been built in Gordon County with substantially larger chicken houses with much higher concentrations of poultry located on the farm. In some circumstances, these poultry farms have been built in the vicinity of existing residential neighborhoods. The residents have complained that odor, dust and noise from these new farms have negatively impacted their use, enjoyment and value of their property. The Georgia Supreme Court has determined “a thing that is lawful and proper in one locality may be a nuisance in another. In other words, a nuisance may consist merely of the right thing in the wrong place.” May v. Brueshaber, 466 S.E.2d 196,265 Ga. 889 (Ga., 1995). In that same spirit, the Board of Commissioners requires the proposed Dry Litter Poultry Operation will be compatible with the character of the surrounding neighborhood and will not cause hurt, inconvenience, harm or devaluation of adjacent properties. The Board of Commissioners seeks to find a fair balance between the right to farm and the rights of citizens to be free from unreasonable interference with their right to enjoy and use their property.

b. In some circumstances, the complaints have been associated with allegations of poor management practices by the Poultry Farmer. This ordinance seeks to establish a complaint resolution process that will provide notice to growers and integrators when complaints are received so that remedial steps can be taken, if necessary, to resolve the complaint.

c. The Gordon County Board of Commissioners finds that there is a legitimate public need to adopt this ordinance to protect the right to farm in Gordon County while also protecting the health, safety and welfare of its residents from unreasonable interference from certain new large scale poultry farms.

2. Definition Dry Litter Poultry Operation. A Dry Litter Poultry Operation (DLPO) in Gordon County, Georgia is an agricultural enterprise where poultry are kept and raised in concentrated situations. DLPO’s congregate poultry, feed, and manure, dead poultry, and production operations on a relatively small land area. Feed is brought to the poultry rather than the poultry grazing or otherwise seeking feed in pastures, fields, or on rangeland. A DLPO is a Poultry feeding operation containing or designed to contain more than 125 thousand broiler chickens, or 82 thousand laying hens or pullets concentrated on site for more than 30 days during the year.

3. Application Submittal Requirements. All applications for a permit to operate a Dry Litter Poultry Operation shall require a conditional use permit issued by the Board of Commissioners or its designee. The procedure for consideration of the Conditional Use Permit shall be the same as a request for re-zoning pursuant to Chapter 10 of the Unified Land Development Code. The following information shall be submitted with a Conditional Use application:

a. Development and Design Plan. A comprehensive, detailed site plan showing and identifying significant onsite and proposed features, to include:

- (1) The boundaries of the parcel of land by survey.
- (2) Any existing and proposed structures on the property.
- (3) Any water impoundments and/or waterways on the property.
- (4) Any existing and proposed septic systems.
- (5) Any existing and proposed screening.
- (6) Any public roadways directly serving the parcel of land.
- (7) Required setbacks. See ULDC S 4.03.02.
- (8) Required buffer zones as described in ULDCS 4.03.02J.
- (9) Any existing and proposed utility lines.
- (10) Existing and proposed topographic contours at vertical intervals of five feet maximum (U.S.G.S topographic maps may be used for existing contours).
- (11) The design of the chicken houses, stack houses and operations should minimize the impacts of the poultry house on adjacent properties. For example, the ventilation fan exhausts should be directed away from the closest property lines of adjoining properties.

b. Nutrient (waste) management plan. The Design and Development Plan shall include a Nutrient (Waste) Management Plan (NMP) that establishes the methods by which waste generated as part of the Dry Litter Poultry Operation will be managed and disposed of including any temporary storage of such waste if managed on-site. The NMP shall, at a minimum, include best management practices and procedures necessary to implement applicable waste limitations and standards. A copy of the plan must be maintained on site and available for inspection by the Ordinance Officer upon his request.

4. Notice required. The Applicant for a conditional use permit to construct and operate a DLPO shall notify owners of adjacent property and the public pursuant to Section 10.00.07 of the ULDC.

5. Additional requirements, review criteria, and standards.

a. Odors, Noise and Dust. Dry Litter Poultry Operations shall be operated in such a manner as to not constitute a nuisance as defined by law or cause hurt, inconvenience, harm or devaluation of adjacent properties due to emissions of odors, dust or particulate matter.

b. Character of the neighborhood and surrounding community. The Board of Commissioners should consider the concentration of Dry Litter Poultry Operations in the area; zoning classification of adjacent properties; level of traffic, driveway locations and road conditions; DLPO's may be 24 hour per day operations; scale and design of buildings; noise, odor or vibration; proximity of existing residences; and, similar impacts associated with the proposed

land use.

c. Nuisance. No Dry Litter Poultry Operation shall be operated as a nuisance. *See*, O.C.G.A. §41-1-1.

d. Setbacks. The specific setback requirements for Dry Litter Poultry Operations set forth herein are intended to minimize the adverse effects commonly associated with such operations, provided that larger setbacks or other conditions may be imposed as conditions so as to minimize adverse effects on surrounding property in cases involving, but not limited to, uncommonly large operations, unusual topographical conditions, or proximity to sensitive natural, scenic, or historic areas, municipal boundaries, and residential areas.

(1) No Dry Litter Poultry Operation shall be constructed in any location where any portion of the Confinement Area is 200 feet or less from the property boundaries of the parcel on which the Confinement Area is to be constructed.

(2) No Dry Litter Poultry Operation shall be constructed in any location where any portion of the Confinement Area is 500 feet or less from any Residence.

(3) No Dry Litter Poultry Operation shall be constructed in any location where any portion of the Confinement Area is 1,500 feet or less from any building or property that is regularly used as a school, hospital, church, a public park, a public recreational area, a senior center, a nursing home or retirement home, a restaurant, or public community center.

(4) No Dry Litter Poultry Operation shall be constructed in any location where any portion of the Confinement Area is 200 feet or less from any perennial stream.

e. Air quality protection. The County and Ordinance Officer may refer to and use State and Federal air quality standards and guidelines in determinations of appropriateness and enforcement.

f. Dead poultry disposal. Dead poultry shall be disposed of in a way that does not adversely affect ground or surface water and does not compromise public health. Any dead poultry shall be disposed of upon discovery by removal for rendering, incineration, burial or composting as approved by the Georgia Department of Agriculture and by the Environmental Protection Division of the Georgia Department of Natural Resources.

6. Existing Operations. Existing Dry Litter Poultry Operations which were in operation at the time the Zoning Ordinance of Gordon County, Georgia (hereinafter "Ordinance") was amended to include this Section 4.03.02(K), and which do not meet the requirements as described in this Section 4.03.02(K) shall be allowed as existing uses. No agricultural facility, agricultural operation, any agricultural operation at an agricultural facility, agricultural support facility, or any operation at an agricultural support facility shall be or shall become a nuisance, either public or private, as a result of changed conditions in or around the locality of such facility or operation if the facility or operation has been in operation for one year or more. The provisions of this subsection shall not apply when a nuisance results from the negligent, improper, or illegal

operation of any such facility or operation. (See, O.C.G.A. S. 41-1-7).

7. Complaint Process. The County Ordinance Officer shall be authorized to investigate allegations of violations of this code section as he would other code and ordinance violations in Gordon County. In addition, if the Ordinance Officer receives a credible complaint that a Dry Litter Poultry Operation has become a nuisance or is in violation of the codes and ordinances of Gordon County, he should follow the following complaint resolution process.

(1) The complaint should be documented in writing including the date, name and address of the complainant and nature of the complaint. The Ordinance Officer should contact the grower or its agent and inform him/her of the nature of the complaint. The grower will assist the Ordinance Officer in the investigation of the complaint including compliance with bio-security protocols and access to the property subject to the complaint for inspection.

(2) As soon as practical, the Ordinance Officer will visit the Dry Litter Poultry Operation and investigate the complaint. If violations are found or probable cause exists to believe the operation is not in conformance with Gordon County Codes or Ordinances, the Ordinance Officer will inform the Owner, Operator or his agent on the premises of the violation. The Ordinance Officer will determine if a citation should be issued based upon the nature or severity of the violation. If the Ordinance Officer believes that probable cause exists that the operation constitutes a nuisance or is in violation of the law, he may also notify the appropriate departments in State and Federal Government and regulatory agencies that may have jurisdiction such as the EPA, EPD, and the Department of Agriculture;

(3) The Integrator's have expressed an interest in protecting the integrity of their operations and good community relations. If the Owner, operator or agent has been notified of a violation or nuisance by the Ordinance Officer (whether cited or not), he shall immediately notify the integrator of the violation. The purpose of the notice to the integrator is to allow the integrator to determine if the best management practices of the integrator and industry are being implemented by the grower and to give the grower an opportunity to remediate or eliminate the violation. While remediation or elimination is preferred, it will not serve as a defense to a violation, but may be considered in mitigation of punishment. Nothing in this section is intended to create or expand any liability for the integrator beyond that which may exist under law.

(4) The provisions of this Section 7 for a Complaint Process are procedural in nature. Therefore, they may be applied to all Dry Litter Poultry Operations including those in existence prior to adoption of this ordinance.

8. Violations and Penalties. Any person violating any of the provisions of this article shall be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) per violation or by imprisonment for a period not to exceed sixty (60) days, or both. Once an operator is notified of a violation, each day of operation thereafter in violation of this article may be deemed a separate offense.

It is further Resolved that this amendment shall be effective upon execution of this Resolution on July 11, 2017 and the Moratorium on construction of new poultry operations in Gordon County is hereby lifted.

So Resolved, this 11th Day of July, 2017.

**BOARD OF COMMISSIONERS
GORDON COUNTY GEORGIA**

By: _____
Becky Hood, Board Chair

Attest: _____
Annette Berry, County Clerk

(SEAL)