

**ORDER OF THE PIKE COUNTY BOARD OF SUPERVISORS
ESTABLISHING A LAND USE ORDINANCE TO REGULATE HOGS, HOG PENS,
HOG FARMS, AND THE KEEPING AND MAINTENANCE OF HOGS**

WHEREAS, Section 19-3-40, Mississippi Code Annotated, provides that the Pike County Board of Supervisors shall have 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, Section 19-3-40, Mississippi Code Annotated, enables the Board of Supervisors to take such actions such as the regulation of swine-concentrated animal feeding operations, hogs, hog pens, hog farms, and the keeping and maintenance of hogs; and

WHEREAS, any regulation pursuant to Section 19-3-40 requires that any such action concerning swine-concentrated animal feeding operations and hogs must apply countywide; and

WHEREAS, Section 19-3-41, provides that the Pike County Board of Supervisors has further authority to regulate swine-concentrated animal feeding operations and hogs and the housing of hogs since such matters are matters of county policy and are subject to the police powers of the county; and

WHEREAS, given the nature of swine and hogs, the places they are kept and the hog density being incorporated into commercial hog farming operations, the County finds that it is necessary to prescribe certain regulations for hogs, hog pens, hog farms, and the keeping and maintenance of hogs; and

WHEREAS, the Board of Supervisors, in order to promote the

health, safety and general welfare of Pike County, and to provide for the best interest of Pike County, finds it necessary to establish regulations describing the keeping and maintaining of swine-concentrated animal feeding operations, hogs, hog pens, hog farms, and the keeping and maintenance of hogs; and

WHEREAS, the issue of swine concentrated animal feeding operations has been addressed by the Mississippi Legislature in Senate Bill No. 2895; and

WHEREAS, Senate Bill No. 2895 provides for a Permit Board which is to be the exclusive administrative body for the purpose of issuing, re-issuing, modifying, revoking or denying permits pursuant to certain conditions, limitations, and exceptions as set out therein, including permits for air pollution control, and all other permits within the jurisdiction of the permit Board; and

WHEREAS, Senate Bill No. 2895 provides, among other things, that the Permit Board shall not issue any permit for a new swine concentrated animal feeding operation unless the applicant certifies that the proposed new operation or expanding operation complies with all applicable local regulations and ordinances which are otherwise valid under law, of those jurisdictions which have adopted regulations and ordinances pertaining to swine concentrated animal feeding operations before the effective date of Senate Bill No. 2895, 1998 Regular Session; and

WHEREAS, Senate Bill No. 2895 provides that new swine concentrated animal feeding operations and any expansion to an existing swine concentrated animal feeding operation shall be

exempt from all applicable local regulations and ordinances of those jurisdictions which adopted regulations and ordinances pertaining to swine concentrated animal feeding operations after the effective date of Senate Bill No. 2895, 1998 Regular Session; and

WHEREAS, Senate Bill No. 2895 provides that the permit Board shall not issue any permit for a new swine concentrated animal feeding operation or the expansion of an existing swine concentrated animal feeding operation before January 1, 2000, unless the application was received before February 28, 1998, unless an applicant demonstrates an animal waste management system that is innovative in significantly reducing the effects of the operation on the public health, welfare, or the environment which is approved by the Permit Board.

NOW, THEREFORE, BE IT ORDERED as follows:

SECTION I. Definitions: The following terms shall have the corresponding meaning for purposes of this order as follows:

A. Commercial Hog Farm: All hog pens, hog farms, or any location of property, business, residence or enterprise where hogs are kept for any period of time regardless of duration at which the number of hogs is:

1. > One Thousand (1,000) or more hogs; or
2. Any hog operation requiring a state, federal, or agency permit of any kind.

B. Hogs: Any and all animals commonly referred to as hogs, pigs, boars, sows, or swine regardless of age, sex, or number of

animals.

C. Non-Commercial Hog Farm: All hog pens, hog farms, any location of property, business, residence or enterprise where hogs are kept for any period of time regardless of duration which do not qualify as a commercial hog farm as defined by this order.

SECTION II. Location Restrictions

A. Commercial hog farms shall not be located within 3.0 miles of the established City Limit of any municipality located in Pike County, nor within 3.0 miles of any densely populated unincorporated area, nor within three miles of any recognizable river, stream, creek or tributary.

B. Commercial hog farms shall not be located within 0.5 miles of the property line of any adjacent property owner measured in a straight line from the nearest boundary/property line encompassing a commercial hog farm operation, to include the spray field, without the express written consent of the adjacent property owner or owners in a form suitable for recording within the public land records of Pike County, Mississippi. Said consent to become an easement for the required buffer area to run with the land and be binding upon the heirs, successors and assigns of the consenting property owner or owners.

SECTION III. Notice Requirements

A. Prior to the commencement of any development or construction, all commercial hog farms located within Pike County, Mississippi shall provide written notice to the Pike County Board of Supervisors in a form acceptable to the Board which shall

contain the following information:

1. The owner and/or operator of the proposed commercial hog farm.
2. The proposed location within the county including the street address and an engineer's survey acceptable to the County describing the area encompassing the commercial hog farm operation to include the location of all buildings and spray field.
3. The approximate number of hogs that will be located upon the property.
4. A statement by the proposed owner/operator that all required State, Federal and Agency permits have been acquired and are not under any appeal.

B. No permit shall be required for the operation of a commercial hog farm unless authorized by the Mississippi Legislature or a court of competent jurisdiction.

SECTION IV. State, Federal and Agency Permits

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 land use order shall be subject to a fine of not less than \$100.00 (One Hundred Dollars) per day and not to exceed \$2,000.00 (Two Thousand Dollars) per day for each violation of the terms and conditions of this order.

SECTION VII. Enforcement

Enforcement of the land use regulations shall be by injunctive relief in the Chancery Court of Pike County, Mississippi and/or for the collection of fines and penalties to be pursued in the Justice or Circuit Courts of Pike County.

SECTION VIII. Existing Operations and Activities

This ordinance shall not apply to existing hog operations in the county, unless those operations seek to expand the number of hogs and shall, because of said proposed increase, require a state, federal or agency permit of any kind. Furthermore, in the event any such operation or activity which is grandfathered into compliance shall cease for a period of sixty (60) days, such operation or activity shall become subject to these land use regulations and must, prior to recommencement of operations, comply with all the terms and conditions set forth herein.

SECTION IX. State Law Compliance

The owner and/or operator of any commercial hog farm or non-commercial hog farm shall be required to comply with all laws of the State of Mississippi concerning hogs and hog farms including but not limited to Section 69-13-1, which is the general stock law of the State of Mississippi, and all laws concerning nuisances.

SECTION X. 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 XI. Conflicting Orders Repealed

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

SECTION XII. Effective Date

The above and foregoing order, being first reduced to writing,

was read, considered and adopted, at a regular meeting of the Pike County Board of Supervisors held at 9:00 A.M. on Tuesday, May 5, 1998, first section by section and then as a whole.

This order shall become effective and be enforced from and after 9:00 A.M., May 5, 1998.

After full discussion of this matter, Supervisor T. A. Paulk, that the foregoing order be adopted and said motion was seconded by Supervisor Carroll Fortenberry, thereafter, the order was put to a vote and this order PASSED with the following vote:

Supervisor Theodore Bullock voted Yea

Supervisor Lexie Elmore, voted Yea

Supervisor Aubrey Matthews, voted Yea

Supervisor Tommy Paulk, voted Yea

Supervisor Carroll Fortenberry, voted Yea

THIS, the 5th day of May, 1998.

PIKE COUNTY BOARD OF SUPERVISORS

BY: Theodore Bullock
THEODORE BULLOCK, PRESIDENT

ATTEST:

JOEL RODNEY BARR, CHANCERY CLERK
PIKE COUNTY, MISSISSIPPI
CLERK OF THE BOARD

BY: Joel Rodney Barr