

ENROLLED

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND
LEGISLATIVE SESSION, 2016
BILL 2016-11

Introduced: August 2, 2016

BY: The County Council President.

AN ACT to amend Chapter 225 of the Wicomico County Code, titled “ Zoning” Part 3, titled “Basic Definitions and Interpretations,” Article VI, titled “Terms Defined,” Section 225-25 and Part 8 titled “Special Standards for Particular Uses,” Article XX, titled “Uses and Standards Enumerated,” Section 225-106, titled “ Poultry houses,” to regulate the construction, location and use of poultry houses.

WHEREAS, the County Council recognizes that changes are occurring in the poultry growing sector of the local economy, as well as in many other counties on the Eastern Shore. These changes necessitated a review of the regulations governing poultry houses to support agriculture, minimize land use conflicts and protect areas used or designed for residential use, and

WHEREAS, it appears advisable to amend Sections 225-25 and 225-106 upon the favorable recommendation of the Department of Planning, Zoning and Community Development to regulate the construction of said poultry houses in Wicomico County, and

WHEREAS, the County Council of Wicomico County, Maryland hereby finds that an emergency measure amending the Zoning Code to establish criteria under which poultry houses will be permitted is required in order to provide for the health, safety and welfare of the citizens of Wicomico County.

SECTION I: BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION, that Chapter 225 of the Wicomico County Code, titled “ Zoning” Part 3, titled “Basic Definitions and Interpretations,” Article VI, titled “Terms Defined,” Section 225-25 and Part 8 titled “Special Standards for Particular Uses,” Article XX, titled “Uses and Standards Enumerated,” Section 225-106, titled “ Poultry houses” are hereby amended, to read as follows:

Chapter 225
ZONING

Part 3
Basic Definitions and Interpretations

Article VI
Terms Defined

§225-25 Definitions of Basic Terms.

B. Definitions. As used in this chapter, the following terms shall have the meaning indicated:

POULTRY HOUSE

ANY STRUCTURE, INCLUDING ALL RELATED BUILDINGS AND APPURTENANCES, DESIGNED AND USED FOR THE GROWING OF POULTRY. THIS INCLUDES, BUT IS NOT LIMITED TO, FANS, FEED BINS, LITTER STORAGE, MANURE SHEDS, INCINERATORS, COMPOSTERS, AND COLD STORAGE.

TUNNEL VENTILATION FAN(S)

EXHAUST FANS, 48 INCHES OR GREATER IN DIAMETER, ENGINEERED FOR STATIC-PRESSURE CONTROLLED AIR EXHAUST, WHICH WOULD EXHAUST AIR ON ONE END OR MIDDLE OF A POULTRY HOUSE. AIR INLETS ARE LOCATED ON THE OPPOSITE END OF THE TUNNEL VENTILATION FAN(S). OTHER SIDEWALL AND END-OF-HOUSE FANS ARE NOT CONSIDERED TO BE TUNNEL VENTILATION FANS, AS THEY ARE USED ONLY TO PREVENT STAGNANT AIR POCKETS, THUS IMPROVING ANIMAL WELFARE.

Part 8

Special Standards for Particular Uses

Article XX

Uses and Standards Enumerated

§225-106 Poultry Houses.

~~A. Setback requirements. Poultry houses shall be set back a minimum of 100 feet from all property lines.~~

~~B. In nonconforming situations, the existing poultry house(s) may be enlarged without the permission of the Board of Appeals, provided that the enlargement does not extend any further into the current minimum required setbacks.~~

A. EXCEPT AS OTHERWISE RESTRICTED BY THIS CHAPTER, POULTRY MAY BE KEPT, RAISED, OR BRED FOR THE USE OF PERSONS RESIDING ON THE PROPERTY, PROVIDED THAT ANY STRUCTURAL ENCLOSURE (NOT TO INCLUDE FENCING) DOES NOT EXCEED 256-SQUARE FEET, GROSS FLOOR AREA. THE STRUCTURAL ENCLOSURE SHALL BE SET BACK FROM A PROPERTY LINE AS PRESCRIBED IN SECTION 225-70.

B. THE FOLLOWING STANDARDS APPLY TO ALL NEW POULTRY HOUSES LOCATED WITHIN AN AGRICULTURAL-RURAL (A-1), TOWN TRANSITION (TT), VILLAGE CONSERVATION (VC), GENERAL COMMERCIAL (C-2), REGIONAL COMMERCIAL (C-3), OR LIGHT INDUSTRIAL (I-1) ZONING DISTRICT.

1. BUFFER. A LANDSCAPING PLAN SHALL BE SUBMITTED TO THE COUNTY ZONING ADMINISTRATOR DEMONSTRATING A VEGETATIVE BUFFER FOR THE VISUAL SCREENING OF ACTIVE PORTIONS OF THE POULTRY OPERATION. THIS INCLUDES ALL RELATED STRUCTURES AND APPURTENANCE. A VEGETATIVE BUFFER WOULD NOT BE REQUIRED IF SUFFICIENT VEGETATION IS IN PLACE ON OR ADJACENT TO THE SITE AS DETERMINED BY THE ADMINISTRATOR. A VEGETATIVE BUFFER WOULD NOT BE REQUIRED IF THE IMMEDIATELY ADJACENT PROPERTY IS SUBJECT TO A RECORDED OPEN SPACE OR AGRICULTURAL EASEMENT.

THE VEGETATIVE BUFFER IS TO BE ESTABLISHED AS FOLLOWS:

- (a) A MINIMUM OF THREE (3) STAGGERED ROWS OF PLANT MATERIALS WITH 10 FT. CENTER SPACING SHALL BE PLACED AT A WIDTH OF 10 TO 20 FEET BETWEEN ROWS. THE FURTHEST ROW FROM THE POULTRY OPERATION MUST CONSIST OF EVERGREEN TREES.
- (b) PLANT MATERIAL IS TO BE A MINIMAL OF AT LEAST ONE GALLON STOCK, OR APPROXIMATELY 18", WHEN PLANTED.
- (c) BUFFERS SHALL BE INSTALLED IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES IN ORDER TO ENSURE GROWTH AND PLANT MATERIAL SURVIVAL.
- (d) WARM SEASON GRASSES ARE TO BE PLANTED AT EACH BANK OF TUNNEL EXHAUST FANS, EVEN THOSE BETWEEN HOUSES. THESE SHOULD BE PLANTED WITHIN 20 FEET OF THE FANS, AS PRACTICAL. THESE GRASSES ARE TO BE QUART SIZE PLANTED THREE FEET APART, OR PLUG SIZE AT 2 FT. SPACING, AND SHOULD HAVE A MATURE HEIGHT OF AT LEAST FIVE FEET. WHEN FEASIBLE, ROWS SHOULD EXTEND AT LEAST 10 FEET PAST THE FANS.
- (e) ALL REQUIRED BUFFERS SHALL BE PRESERVED AND MAINTAINED SO AS TO EFFECTIVELY PROVIDE VISUAL SCREENING. DEAD OR DYING BUFFER MATERIALS SHALL BE REPLACED WITH SIMILAR PLANT MATERIALS ON A REGULAR BASIS. MODIFICATIONS TO APPROVED BUFFERS MAY BE MADE BY THE ZONING ADMINISTRATOR.

2. SETBACKS.

- (a) THERE SHALL BE A MINIMUM 400 FOOT SETBACK FROM ANY RESIDENTIAL DWELLING NOT LOCATED ON THE SAME PARCEL OR PARCELS UNDER COMMON OWNERSHIP OR LEASE, AS WELL AS ANY SCHOOL, PLACE OF RELIGIOUS ASSEMBLY, NURSING HOME, DAYCARE CENTER, MANUFACTURED HOME PARK, SUBDIVISION OF 10 OR MORE HOMES, OR AN APPROVED HEALTH DEPARTMENT SEPTIC SYSTEM LOCATION TO SERVE ANY OF THE ABOVE.

- (b) THERE SHALL BE A MINIMUM 200 FOOT SETBACK FROM ALL PROPERTY LINES.
- (c) THE SAME SETBACKS SPECIFIED IN PARAGRAPHS (a) AND (b) ABOVE SHALL APPLY IN REVERSE TO ADJACENT DEVELOPMENT, PROXIMATE TO ACTIVE OR INACTIVE POULTRY HOUSES, INCLUDING THOSE REFERENCED BELOW IN SUBSECTION E(2).
- (d) FOR THE PURPOSES OF THIS SUBSECTION AND SUBSECTION C BELOW, A DWELLING AS DEFINED IN THIS CHAPTER IS FURTHER DEFINED AS ONE USED AND/OR GENERALLY MAINTAINED FOR RESIDENTIAL OCCUPANCY, AS DETERMINED BY THE ZONING ADMINISTRATOR.
- (e) FOR THE PURPOSES OF THIS SUBSECTION, AND SUBSECTION C BELOW, A POULTRY HOUSE PROPOSAL HAVING BEEN CERTIFIED BY THE DIRECTOR OF PUBLIC WORKS AS TO THE SUBMISSION OF A COMPLETE STORMWATER MANAGEMENT APPLICATION, SHALL NOT BE BOUND BY INCREASED SETBACK REQUIREMENTS OTHERWISE RESULTING FROM A SUBSEQUENT ESTABLISHMENT OF USE(S) ON AN ADJACENT PROPERTY.

3. ROAD ACCESS. NEW POULTRY HOUSE(S) THAT DIRECTLY ABUT AND GAIN ACCESS TO A COUNTY ROAD, SHALL HAVE AN ACCESS WAY OF SUFFICIENT DESIGN AND CONSTRUCTION, WITH A MINIMUM OPENING WIDTH OF 60 FT. AN IMPROVEMENTS CONSTRUCTION PLAN WOULD BE FURNISHED TO THE DIRECTOR OF PUBLIC WORKS BEFORE A FINAL APPROVAL OF THE STORMWATER DESIGN/SITE PLAN SUBMISSION. THE DIRECTOR OF PUBLIC WORKS IS TO CONFIRM THAT THE PLAN SPECIFICATIONS ARE REASONABLY SUFFICIENT TO SERVE THE COMPLEX PROPOSED AND TO PROTECT THE PUBLIC INTERSECTION. REQUIRED PLAN SPECIFICATIONS INCLUDE ACCESS WIDTH, INTERSECTION ROUNDINGS, GRADING, STABILIZATION, AND SIGHT DISTANCE.

C. NEW POULTRY HOUSE CONSTRUCTION LOCATED WITHIN THE R-8, R-15, R-20 AND R-30 RESIDENTIAL ZONING DISTRICTS MAY ONLY BE ESTABLISHED BY SPECIAL EXCEPTION GRANTED BY THE BOARD OF APPEALS. SHOULD THE SPECIAL EXCEPTION BE GRANTED, THE FOLLOWING RESTRICTIONS SHALL APPLY IN ADDITION TO THOSE LISTED IN SUBSECTION (B) OF THIS SECTION.

1. SETBACKS

- (a) THERE SHALL BE A MINIMUM OF 500 FOOT SETBACK FOR TUNNEL VENTILATION FAN(S) FACING AWAY FROM ANY RESIDENTIAL DWELLING NOT LOCATED ON THE SAME PARCEL OR PARCELS UNDER COMMON OWNERSHIP OR LEASE, AS WELL AS ANY SCHOOL, PLACE OF RELIGIOUS ASSEMBLY, NURSING HOME, DAYCARE CENTER, MANUFACTURED HOME PARK, OR AN APPROVED HEALTH DEPARTMENT SEPTIC SYSTEM LOCATION TO SERVE ANY OF THE ABOVE.

(b) THERE SHALL BE A MINIMUM OF 600 FOOT SETBACK FOR TUNNEL VENTILATION FAN(S) FACING TOWARD ANY RESIDENTIAL DWELLING NOT LOCATED ON THE SAME PARCEL OR PARCELS UNDER COMMON OWNERSHIP, AS WELL AS ANY SCHOOL, PLACES OF RELIGIOUS ASSEMBLY, NURSING HOME, DAYCARE CENTER, MANUFACTURED HOME PARK, OR AN APPROVED HEALTH DEPARTMENT SEPTIC SYSTEM LOCATION TO SERVE ANY OF THE ABOVE.

D. MODIFICATIONS OR WAIVERS. ANY OF THE ABOVE STATED REQUIREMENTS SET FORTH IN SUBSECTIONS (B) AND (C) OF THIS SECTION MAY BE MODIFIED BY SPECIAL EXCEPTION BY THE BOARD OF APPEALS. IN ADDITION TO CONSIDERING THE CRITERIA SET FORTH IN SUBSECTION 225-155(C) OF THIS CHAPTER, IT SHALL BE DEMONSTRATED THAT THERE ARE CIRCUMSTANCES ATTRIBUTABLE TO THE SPECIFIC PROPOSAL RELATIVE TO SOILS, LAND COVER, OWNERSHIP RELATIONS, AND/OR PROPERTY RESTRICTIONS OF RECORD TO JUSTIFY THE REQUESTED MODIFICATION.

E. LEGAL NONCONFORMING SITUATIONS.

1. AN EXISTING POULTRY HOUSE OR POULTRY HOUSE COMPLEX MAY BE REPLACED AND/OR ENLARGED UP TO TWENTY-FIVE PERCENT (25%) OF THE FOOTPRINT OF AN EXISTING INDIVIDUAL POULTRY HOUSE, OR UP TO TWENTY-FIVE (25%) OF THE TOTAL COMPLEX FOOTPRINT THROUGH THE CONSTRUCTION OF AN ADDITIONAL POULTRY HOUSE(S). THIS MAY BE DONE WITHOUT ACTION BY THE BOARD OF APPEALS, PROVIDED THAT THE ENLARGEMENT/REPLACEMENT OF AN EXISTING STRUCTURE DOES NOT EXTEND TO WITHIN 100 FT. OF A PROPERTY LINE, AND ANY NEWLY SITED STRUCTURE DOES NOT EXTEND TO WITHIN THE THEN CURRENT MINIMUM SETBACKS.
2. FOR THE PURPOSES OF THIS SECTION AN EXISTING POULTRY HOUSE IS DEFINED AS A STRUCTURE ORIGINALLY CONSTRUCTED FOR THE GROWING OF POULTRY, MAINTAINED FOR A USE PERMITTED IN THE ZONING DISTRICT, AND NOT NECESSARILY USED FOR THE GROWING OF POULTRY WITHIN ANY SPECIFIED TIME PERIOD.

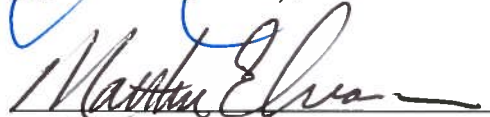
SECTION II. BE IT FURTHER ENACTED THAT INDIVIDUAL POULTRY HOUSE PROPOSALS CERTIFIED BY THE DIRECTOR OF PUBLIC WORKS AS HAVING SUBMITTED A COMPLETE STORMWATER MANAGEMENT APPLICATION TO THE COUNTY PRIOR TO THE EFFECTIVE DATE SPECIFIED IN SECTION III WOULD BE EXEMPT FROM THE ABOVE STATED REQUIREMENTS SET FORTH IN SECTION 225-106 (B) AND (C) PROVIDED THAT A COMPLETE BUILDING PERMIT APPLICATION IS SUBMITTED WITHIN 6 MONTHS OF SAID EFFECTIVE DATE. [NOT FOR CODIFICATION]

SECTION III. BE IT FURTHER ENACTED THAT this Bill is an emergency measure. AN INCREASE IN THE NUMBER OF POULTRY HOUSES HAS SHOWN THE INADEQUACY OF CURRENT ZONING RULES. FOR THE PRESERVATION OF THE WELFARE OF RESIDENTS AND FARMERS, THE COUNTY COUNCIL FINDS IT NECESSARY TO ENACT AN EMERGENCY BILL TO SET RULES THAT WILL RESPECT THE RIGHT TO FARM IN WICOMICO COUNTY BUT ALSO TAKE INTO ACCOUNT THE NEED FOR GREATER SEPARATIONS FROM RESIDENCES AND THE NEED TO CONFORM TO THE COMPREHENSIVE PLAN IN TERMS OF WHERE FARMS MAY BE LOCATED. ~~necessary for the immediate preservation of the public health, safety and welfare.~~ The Bill shall be known as Bill No. 2016-11 of Wicomico County, Maryland, and shall take effect and become effective immediately after its final passage. In the event a proper Petition for Referendum thereof shall be timely filed the Bill shall remain in force, but shall stand repealed thirty (30) days after rejection by a majority of the qualified voters of the county voting in any such referendum.

Certified correct as passed and adopted by the County Council of Wicomico County, Maryland this 6th day of September, 2016.

WICOMICO COUNTY, MARYLAND


BY: John T. Cannon, President


BY: Matthew E. Creamer, Secretary

I HEREBY CERTIFY that copies of the above Bill are available to the public, the press and other news media at the time of its introduction.


Matthew E. Creamer, Secretary

Explanation:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

~~Strike out indicates material deleted from law.~~

~~CAPITAL—STRIKE OUT~~ indicates matter stricken from Bill by Amendment.

Underlining indicates Amendments to Bill.

COUNTY COUNCIL
OF
WICOMICO COUNTY, MARYLAND

BILL NO. 2016-11
INTRODUCED BY: President of the County Council.
Date: August 2, 2016

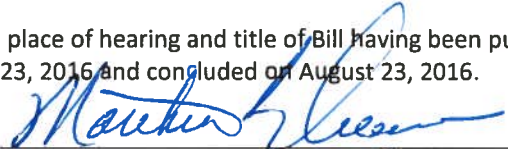
Legislative Day No. 15

Introduced, read first time, ordered posted and public hearing scheduled on: August 23, 2015

Time: 6:00 p.m.

AN ACT to amend Chapter 225 of the Wicomico County Code, titled "Zoning" Part 3, titled "Basic Definitions and Interpretations," Article VI, titled "Terms Defined," Section 225-25 and Part 8 titled "Special Standards for Particular Uses," Article XX, titled "Uses and Standards Enumerated," Section 225-106, titled "Poultry houses," to regulate the construction, location and use of poultry houses.

PUBLIC HEARING: Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on August 23, 2016 and concluded on August 23, 2016.



Council Administrator

CERTIFICATION

The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the 6th day of September, 2016.



Council Administrator

Presented to the County Executive for approval this 7th day of September, 2016 at 9:00 a.m./p.m. (5 days §411)



Council Administrator

BY THE EXECUTIVE:



County Executive

APPROVED
Date: 9/15/16
(21 days §411)

VETOED
Date: _____

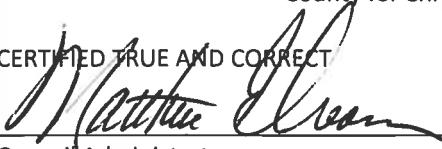
EFFECTIVE DATE:

This Bill having been approved by the County Executive and returned to the Council, becomes law on September 15, 2016 and effective on: September 15, 2016. (60 days §311)

ENROLLMENT:

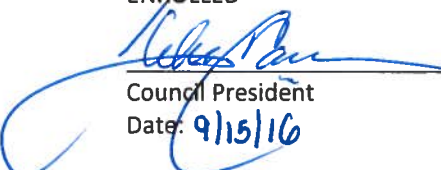
Legislative Bill No. 2016-11 is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT



Council Administrator
Date: 9/15/16

ENROLLED



Council President
Date: 9/15/16