

ORDINANCE NO. 9965 (N.S.)

AN ORDINANCE AMENDING TITLE 6 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO THE PREVENTION AND CONTROL OF FLY BREEDING ON COMMERCIAL POULTRY RANCHES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that this ordinance will clarify and update Title 6, Division 4, Chapter 3, of the San Diego County Code of Regulatory Ordinances by clarifying definitions and updating language to reflect currently industry standards and practices on commercial poultry ranches, for the benefit of the citizens of the County of San Diego.

Section 2. Title 6, Division 4, Chapter 3, of the San Diego County Code of Regulatory Ordinances, relating to the prevention and control of fly breeding on commercial poultry ranches, is amended to read as follows:

**CHAPTER 3. PREVENTION AND CONTROL OF FLY BREEDING
ON COMMERCIAL POULTRY RANCHES**

SEC. 64.301. PURPOSE.

Commercial poultry ranches may serve as a source for fly breeding, which if unregulated may endanger the public. The purpose of this chapter is to adopt regulations to prevent fly breeding hazards on commercial poultry ranches in the unincorporated area of the County, which may constitute a threat to the public health and safety. This chapter also establishes the Fly Abatement and Appeals Board to assist in determining whether a fly breeding hazard exists and what methods shall be used to abate the hazard. In administering this chapter, there shall be taken into account factors of proximity of human populations, population density, the determination of other sources of fly breeding and the implementation of the standards provided in this chapter to promote the public health and safety.

SEC. 64.302. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Annual proposal" means the written proposal submitted to the Director by a commercial ranch owner or operator describing the owner or operator's plan to control fly breeding. The proposal shall provide for manure management and disposal, water system maintenance, waste water management, dead poultry and waste egg disposal, water system maintenance, chemical control of flies and other information that the Director may require, depending on the particular circumstances that exist on a ranch.

(b) "Commercial poultry ranch" means a facility where 300 or more poultry are kept or maintained for the primary purpose of producing poultry, poultry products or eggs for sale or other distribution.

(c) "Director" means the Director of the County Department of Environmental Health and any person appointed or hired by the Director to administer and enforce this chapter.

(d) "Fly breeding hazard" means the existence of a condition on a commercial poultry ranch resulting from failure to comply with (1) the standards for fly prevention and control established by this chapter or (2) the ranch annual proposal that, (A) the Director approves, (B) the Director modifies and the rancher accepts or (C) the Fly Abatement and Appeals Board approves following a hearing.

(e) "Poultry" means any domesticated bird, including a chicken, duck, turkey, goose or guinea fowl.

(f) "Spent hens" means any poultry which is no longer used for production of eggs or poultry products.

SEC. 64.303. FLY ABATEMENT AND APPEALS BOARD -- FORMATION.

(a) The Board of Supervisors shall appoint five persons to serve on a Fly Abatement and Appeals Board (FAAB). The FAAB shall be composed of two persons who are owners or operators of a commercial poultry ranch, one person who is a graduate in biological or environmental health sciences, knowledgeable in fly control procedures and not associated with the Department of Environmental Health or any commercial poultry ranch and two persons who are representatives of the community at large, not associated with any commercial poultry ranch and one of whom is a business owner. All appointments under this section shall be for a term of three calendar years.

(b) The FAAB shall choose a chairperson, vice chairperson and a secretary from its members.

SEC. 64.304. FLY ABATEMENT AND APPEALS BOARD POWERS.

The FAAB shall have the authority to conduct public hearings as provided by in this chapter. Three members of the FAAB shall constitute a quorum. An action by the FAAB requires a quorum to be present and at least three concurring votes. The FAAB shall determine based upon the evidence presented at a public hearing whether a violation of this chapter has occurred and what procedures a rancher shall utilize to correct the violation. If the FAAB determines that a fly breeding hazard exists it shall issue an order to abate the fly breeding hazard within a specified period of time. The order of abatement may include, but not be limited to: (a) removal, repair, maintenance, construction, reconstruction, replacement and reconditioning of structures, appliances, fringe areas or equipment, (b) removal, transportation, disposal and treatment of refuse, manure or other substance or media capable of supporting fly breeding (c) the application of chemical or biological agents, or other substances and (d) the use of mechanical means to prevent, control, eradicate or eliminate sources or causes of fly breeding media or conditions.

SEC. 64.305. INSPECTION BY THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL HEALTH.

The Director is authorized to inspect a commercial poultry ranch whenever the Director has reasonable cause to believe that a fly breeding hazard exists on the ranch. The Director shall have the authority to inspect all commercial poultry ranches at least once a year to determine compliance with this chapter. If the Director receives a complaint implicating a commercial poultry ranch the Director shall also have the authority to inspect the surrounding area to confirm that the fly breeding hazard does not exist somewhere other than the commercial poultry ranch implicated in the complaint.

SEC. 64.306. STANDARDS FOR PREVENTION AND CONTROL OF FLY BREEDING.

The standards in Sections 64.307, 64.308, 64.309, 64.310 and 64.311 are established to provide effective fly control practices in accordance with recognized integrated pest management practices for the prevention and control of fly breeding on commercial poultry ranches. These standards shall apply to all commercial poultry ranches, unless the Director approves an alternative practice for fly breeding prevention and control in the proposal applicable to a specific ranch.

SEC. 64.307. CONSTRUCTION AND MAINTENANCE STANDARDS.

(a) Structures and equipment for ground and cage operations shall be constructed to facilitate the drying and removal of manure and shall provide moisture drainage away from all manure.

(b) Watering and cooling systems shall be installed to prevent backflow and maintained to prevent overflowing, splashing or leaking on manure and feed.

(c) Waste water shall be managed by using a drainage system specified in the approved annual proposal to prevent and control fly breeding and to keep waste water away from manure.

(d) Poultry housing operations shall be designed and maintained to allow adequate ventilation and weather protection by proper spacing, elevation and roofing designs.

(e) Feed storage facilities shall be designed and maintained to prevent adult fly emergence.

(f) Any person proposing to construct, operate or maintain a commercial poultry ranch or any building, structure or enclosure on a commercial poultry ranch after September 1, 1985 shall follow the principles provided in the University of California, Division of Agricultural Sciences, Leaflet 2505, titled, "Integrated Management of Pest Flies on Poultry Ranches." A copy of Leaflet 2505 shall be maintained in the Office of the Clerk of the Board of Supervisors as Document No. 677041.

SEC. 64.308. FLY CONTROL THROUGH MANURE MANAGEMENT STANDARDS.

(a) A commercial poultry ranch owner or operator who employs the drying and coning operation method of manure management shall comply with the following requirements for the prevention and control of fly breeding unless otherwise approved by the Director and specified in the approved annual proposal:

(1) The process shall begin on at least a six inch pad of dry manure to harbor predators and parasites and to provide absorbent surface for fresh droppings, unless otherwise approved by the Director. A proportionately deeper pad of dry manure shall be required if the area beneath the poultry cages is below the levels of the aisles.

(2) Any system used for watering the poultry shall be maintained to prevent water from reaching the manure and feed.

(3) All wet manure created by water leaks or poultry shall be thoroughly removed and if necessary, be replaced with an adequate base of dry poultry manure.

(4) Whenever manure is removed from under the cages a six inch pad of dry manure shall be left to provide absorbent surfaces and facilitate the forming of new cones and maintain a habitat for predators and parasites. This may be done by one of the following methods:

(A) Removing every other row and then pushing half of the manure from the remaining row into the "cleaned out" row.

(B) Cleaning so as to leave at least a six inch pad of dry manure in each row.

(C) Cleaning out all manure and replacing it with at least a six inch pad of dry manure.

(5) The poultry house aisles and adjacent areas shall be cleaned of feathers and other debris at intervals specified in the approved annual proposal to eliminate pupation areas for fly larvae.

(b) A commercial poultry ranch owner or operator who employs the frequent manure removal operation method of manure management shall comply with the following requirements unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Manure shall be removed from under poultry cages at least once weekly or more frequently if necessary to prevent larvae and pupae from completing their life cycles and emerging as adult flies.

(2) Whenever manure is removed from underneath poultry cages larvae and pupae shall also be removed from the aisle and adjacent areas.

(3) The aisles and adjacent areas of the poultry housing shall be cleaned of feathers and other debris at intervals specified in the approved proposal to prevent larvae and pupae from completing their life cycles and emerging as adult flies.

SEC. 64.309. MANURE MANAGEMENT STANDARDS.

(a) Manure removed from a ranch shall be managed and disposed of in a manner that will not cause a threat to the public health and safety from fly breeding at any other location.

(b) Manure on the ranch shall be disposed of by any of the following methods, provided that there is sufficient area available for whichever method is selected, unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Incorporating manure into an effective rolling windrow decomposing or drying operation that prevents any larvae and pupae in the manure from completing their life cycle.

(2) Spreading manure thinly to dry on a manure pad or designated area and harrowing often enough to dry or discing manure under, provided that fly larval migration, pupation and adult emergence are prevented.

SEC. 64.310. STANDARDS FOR CONTROL OF OTHER FLY BREEDING SOURCES.

(a) Dead poultry shall be removed from poultry housing at least once a day and immediately disposed of by one of the following methods, unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Placed in a fly-tight container or structure for the proper off-site removal. Dead poultry shall be removed from the ranch at least weekly. Containers and structures shall be kept clean to prevent fly breeding.

(2) Placed in a fly-tight disposal pit.

(3) Incinerated or cremated.

(4) Placed in manure on a dry pad for an effective decomposition process.

(b) Waste eggs shall be disposed of by one of the following methods, unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Placed daily in the dead poultry disposal pit.

(2) Placed in a fly-tight container or structure and removed from the ranch at least weekly.

(3) Placed in rolling windrows or thin bed dried.

Waste eggs shall not be disposed of in manure underneath a poultry cage.

(c) Spoiled, unused, spilled feed shall be managed by one the following methods, unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Keeping feed storage areas dry.

(2) Frequently removing and properly disposing of spoiled, unused and spilled feed.

(3) Placing spoiled, unused or spilled feed in rolling windrows or thin bed drying the feed.

(d) Spent hens shall be disposed of by one of the following methods, unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Picked up by a rendering company.

(2) Sold for any legal use.

(3) Placed on the dry pad in the manure and into an effective decomposition process, provided that fly larval migration, pupation and adult emergence are prevented. A ranch owner or operator using this method shall notify the Director within 24 hours whenever spent hens are removed from poultry houses and placed into the decomposition process.

SEC. 64.311. GENERAL RANCH OPERATION STANDARDS.

(a) A commercial poultry ranch shall maintain adequate equipment and personnel available to implement a ranch's manure management program for fly prevention and control.

(b) A ranch shall use appropriate State of California registered pesticides to control life stages of fly populations in accordance with the approved annual proposal. Appropriate pesticides including traps and baits shall be used to control adult fly populations.

(c) Dropping boards used in speeding the drying process shall be cleaned frequently enough so that any larvae and pupae cannot complete their life cycles and emerge as adult flies, unless otherwise approved by the Director and specified in the approved annual proposal.

SEC. 64.312. ANNUAL PROPOSAL FOR PREVENTION AND CONTROL OF FLY BREEDING.

An owner or operator of a commercial poultry ranch shall, on or before December 31 of each year, review with the Director and file with the Director, on a form provided by the County, a proposal for the prevention and control of fly breeding on his or her commercial poultry ranch for the next calendar year. The proposal may be amended periodically with the Director's prior approval.

In the event the Director determines that the proposal submitted will not adequately prevent and control fly breeding to the extent necessary to protect the public health and safety, the Director may modify the proposal after review with the commercial poultry rancher. The Director shall provide written notice of any proposal modification to the rancher. The rancher may within 10 days, appeal any proposal modification to the FAAB. The FAAB shall hear the appeal and make a final decision approving, rejecting or modifying the proposal. The FAAB's decision shall be binding on the rancher. If a rancher does not appeal a proposal modification the rancher shall comply with the modified proposal.

SEC. 64.313. REINSPECTION FEE.

If the FAAB issues an order of abatement to correct a fly breeding hazard to any commercial poultry ranch owner or operator the Director shall reinspect the ranch to determine if the rancher has complied with the abatement order. The rancher shall pay the Director a \$50 reinspection fee within 30 days from the date the Director bills the rancher for the reinspection fee. If the reinspection fee is not paid on or before the due date, the rancher shall also owe a penalty as provided in section 65.104 of this code.

SEC. 64.314. NOTICE OF VIOLATION.

If the Director determines after inspection, that the owner or operator of a commercial poultry ranch has violated this chapter or an approved annual proposal for prevention and control of fly breeding, the Director may issue a notice of violation.

SEC. 64.315. PROCEDURES TO CORRECT VIOLATIONS.

(a) The Director may issue a written notice of violation to the owner or operator of a commercial poultry ranch to correct a violation within a time period the Director deems appropriate, up to 14 days.

(b) If the owner or operator of the ranch fails to correct the violation within the time allowed in the written notice of violation, the Director is authorized to issue a written order directing the owner or operator to appear before the FAAB. The order to appear shall describe the violation and direct the owner or operator to appear at a public hearing in not less than seven days or more than 15 days.

(c) If the Director issues three or more notices of violations to a ranch owner or operator within a 12 month period, the Director may also serve with the third and any subsequent notice of violation, a written order to appear before the FAAB.

SEC. 64.316. APPEAL OF NOTICE OF VIOLATION.

A commercial poultry ranch owner or operator may appeal a notice of violation issued by the Director to the FAAB. The appeal shall be in writing and postmarked within seven days of the date of the notice of violation. The appeal shall be sent to the Director, who shall schedule a hearing date with the FAAB not less than seven days, nor more 15 days after receiving a notice of appeal. The commercial poultry ranch owner or operator shall be notified in writing of the hearing date, time and place at least five days prior to the hearing. When an appeal is filed, corrective action in response to the notice of violation shall be stayed pending the decision of the FAAB, which shall be final. If the FAAB determines that the Director was justified in issuing the notice of violation, in whole or in part the FAAB shall issue an appropriate abatement order.

SEC. 64.317. HEARING.

On the date, time and place specified in the written order or notice to appear, the FAAB shall convene and conduct a public hearing and shall, upon evidence presented,

determine whether a violation has occurred and what steps are necessary to correct the violation.

SEC. 64.318. ABATEMENT.

If the FAAB issues an order of abatement, any person who intentionally or negligently violates the order shall be liable for a civil penalty of up to \$500 for each day in which a violation occurs. The civil penalties prescribed herein shall be assessed and recovered in a civil action brought in the name of the County of San Diego. In determining the amount to be assessed the court shall consider to the extent of harm caused by the violation, the length of time over which the violation occurs and corrective action, if any, taken by the ranch owner or operator.

SEC. 64.319. SERVICE OF NOTICE OR ORDER.

Each notice or order given or made under this chapter shall be served upon the owner or operator of the commercial poultry ranch subject to the notice or order. If the Director is unable to personally serve the owner or operator the Director shall post the notice or order in a conspicuous place on the ranch and serve the owner or operator by mail.

SEC. 64.320. PROHIBITED CONDUCT.

It shall be unlawful for an owner or operator of a commercial poultry ranch to:

- (a) Fail to comply with the standards for the prevention and control of fly breeding on commercial poultry ranches in sections 64.307 - 64.311 of this chapter.
- (b) Fail to comply with the provisions of the approved proposal for the prevention and control of fly breeding on commercial poultry ranches.
- (c) Restrain, hinder, obstruct or threaten any officer or employee of the Department of Environmental Health in the performance of that person's duties pursuant to this chapter.
- (d) Fail to file a proposal for the prevention and control of fly breeding as required by section 64.312.
- (e) Fail to comply with any final order of the FAAB.

SEC. 64.321. ADDITIONAL REMEDIES.

The civil and criminal provisions of this chapter are in addition to any other existing remedy authorized by law.

Section 3. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the San Diego Commerce newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 7th day January, 2009.