

STATE OF MISSISSIPPI  
COUNTY OF NESHOPA

ORDINANCE NO. 104

ORDINANCE OF THE NESHOPA COUNTY BOARD OF SUPERVISORS  
REGULATING NEW AND EXPANDING SWINE CONCENTRATED  
ANIMAL FEEDING OPERATIONS

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WHEREAS, the issue of swine concentration 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, water pollution control, and all other permits within the jurisdiction of the Permit Board;

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 or the expansion of an existing swine concentrated animal feeding operation unless the applicant certifies that the proposed new operation or expanded 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 concentration 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 and significantly reducing the effects of the operation on the public health, welfare, or the environment which is approved by the Permit Board; and

WHEREAS, Section 19-3-40, Mississippi Code Annotated, provides that Neshoba 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 new and expanding swine concentrated animal feeding operations; and

WHEREAS, any regulation pursuant to Section 19-3-40 requires that any such action concerning hogs must apply countrywide; and

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

WHEREAS, given the nature of swine concentrated animal feeding operations, the county finds that it is necessary to prescribe certain regulations for new and expanding swine concentrated animal feeding operations; and

WHEREAS, the general stock law of the State of Mississippi, Section 69-13-1 of the Mississippi Code, provides that any person or persons owning or having under their control any swine, shall not permit such swine to run at large upon the open or unfenced lands of another person but shall keep such swine confined in a safe enclosure or upon lands belonging to such person or persons; and

WHEREAS, the Board of Supervisors in order to promote the health, safety and general welfare of Neshoba County, and to provide for the best interest of Neshoba County, finds it necessary to establish regulations pertaining to new and expanding swine concentrated animal feeding operations.

NOW THEREFORE BE IT ORDAINED as follows:

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

A. Swine Concentrated Animal Feeding Operations: All hog and swine operations located in Neshoba County whether operated by individual, partnership or corporation where swine are kept and fed for any period of time regardless of duration at which the number of swine is:

1. Fifteen (15) or more sows, or
2. One Hundred (100) or more swine, or
3. A sufficient number of swine to require a state, federal or agency permit of any kind.
4. A sufficient number of swine in order to meet the definition of a swine concentrated animal feeding operation, whether new or expanding, as defined by the laws of the State of Mississippi or any board or agency which defines a sufficient number of swine for a new or expanding swine concentrated animal feeding operation.

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

SECTION II. Location Restrictions

A. New or expanding swine concentrated animal feeding operations shall not be located within 2 miles of any municipality located in Neshoba County.

B. New or expanding swine concentrated animal feeding operations shall not be located within 1.0 mile of any residential

dwelling or development; provided however, any owner and/or occupant of any residential dwelling or development within 1.0 mile of any swine concentrated animal feeding operations can waive the one (1) mile requirement by signing a written waiver authorizing the location of said feeding operation within 1.0 mile of their location.

### SECTION III. Permit Requirements

This ordinance of the Board of Supervisors is made for the purpose of regulating swine concentrated animal feeding operations in Neshoba County to the extent allowed by law. It is recognized by the Board that the 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, water pollution control, and all other permits within the jurisdiction of the Permit Board. Further, this ordinance is to work subject to and in conjunction with any permit requirements as set out by the Permit Board provided for in Senate Bill No. 2895, and all applicable laws of the State of Mississippi, agencies and the Permit Board, including all future modifications, changes and amendments.

### SECTION IV. Permit Compliance

All new and expanding swine concentrated animal feeding operations must comply with, obtain and remain in good standing concerning all State, Federal, Agency and Permit Board permits for operation of a new and expanding swine concentrated animal feeding

operation. In the event a necessary permit is not obtained or a permit is denied, revoked, rescinded, suspended or is not properly obtained, the applicant, owner, and operator of the hog farm shall be subject to all remedies and fines as set out in this order.

SECTION V. Remedies

A person or business who operates or causes to be operated concentrated animal feeding operations in violation of the locational restrictions of this order or without a valid permit as required by the State, Federal, Permit Board or Agency laws and regulations 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 ordinance.

SECTION VI. Fines for Violation

In addition to the injunctive remedies provided for in this ordinance 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 ordinance shall be subject to a fine in such amount or amounts as authorized and prescribed by the State of Mississippi, Federal laws, Permit Board and Agency laws and regulations. The County in prosecuting criminal violations and assessing fines shall only prosecute such violations and assess such fines as the County is specifically authorized to prosecute and assess by the laws of the State of Mississippi, Federal laws and Agency laws and regulations. All criminal prosecutions and fines authorized by the laws of the State of Mississippi, Federal laws, and Agency laws and regulations which are to be prosecuted and

assessed by any state agency, federal agency or any other person, entity or body authorized by law shall be exclusively prosecuted and assessed by all such entities.

SECTION VII. Enforcement

The Neshoba County Board of Supervisors shall designate and provide for a designee to see that all terms and conditions of this ordinance are complied with. In the event of any non-compliance, Neshoba 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, Federal laws and agency laws and regulations shall be pursued in the appropriate court in the State of Mississippi, the federal court system, administrative proceeding, or where appropriate by the County if authorized expressly to do so. If the laws of the State of Mississippi, Federal laws or Agency laws or regulations apply, all such laws and regulations shall control as the exclusive authority.

SECTION VIII. Existing Operations and Activities

All swine concentrated animal feeding operations which are in existence at the time of this ordinance are hereby grandfathered into compliance with this ordinance. 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 ordinance and must comply with all terms and conditions herein. In the event that any operation or activity that is not currently a swine concentrated

animal feeding operation attains the number of swine or any existing operation which currently does not meet the definition of such an operation but expands or obtains the number of swine to meet the definition of a swine concentrated animal feeding operation, then any such operation shall become a swine concentrated animal feeding operation and shall comply with all terms and conditions of this order.

SECTION IX. State Law Compliance

Any operator of any swine concentrated animal feeding operations shall be required to comply with all laws of the State of Mississippi concerning swine concentrated animal feeding operations and all laws concerning swine, 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 ordinance 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 ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION XII. Effective Date

This ordinance shall be in full force and effect from and after May 18, 1998.

The above and foregoing ordinance, having been reduced to writing, the same was introduced and read, and a vote was taken



thereon, first section by section, and then upon the ordinance as a whole with the following results:

Those present and voting "AYE" and in favor of adoption of each section of the foregoing ordinance:

Supervisor Gary Chamblee, District 1	AYE
Supervisor Mike Allen, District 2	AYE
Supervisor Harold Reynolds, District 3	AYE
Supervisor Aubrey Nicholson, District 4	AYE
Supervisor James Young, District 5	AYE

Those present and voting "NAY" or against any section of the foregoing ordinance:

NONE

Those present and voting "AYE" and in favor of the adoption of the foregoing ordinance as a whole:

Supervisor Gary Chamblee, District 1	AYE
Supervisor Mike Allen, District 2	AYE
Supervisor Harold Reynolds, District 3	AYE
Supervisor Aubrey Nicholson, District 4	AYE
Supervisor James Young, District 5	AYE

Those present and voting "NAY" or against the ordinance as a whole:

NONE

WHEREUPON the foregoing ordinance was unanimously passed,  
adopted and approved on the 18th day of May, 1998.

NESHOBA COUNTY BOARD OF SUPERVISORS

BY: Mike Allen  
Mike Allen, President

ATTEST:

Larry McMillan  
Clerk, Board of Supervisors

STATE OF MISSISSIPPI  
COUNTY OF NESHOBA

I, the undersigned Clerk of the Board of Supervisors of Neshoba County, Mississippi, do hereby certify that the above and foregoing Ordinance was passed by the Neshoba County Board of Supervisors on the day above mentioned.

IN TESTIMONY WHEREOF, witness my hand and official seal of the Neshoba County Board of Supervisors on this the 18th day of May, 1998.

Larry McMillan  
CLERK, BOARD OF SUPERVISORS