

ORDINANCE NO. 347

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF YUCAIPA, CALIFORNIA, AMENDING
REQUIREMENTS REGARDING THE MANAGEMENT OF
MANURE AT POULTRY RANCHES AND AMENDING
CIVIL FINES ASSOCIATED WITH CODE VIOLATIONS
AT POULTRY RANCHES**

WHEREAS, on May 9, 2016, and May 23, 2016 City Council heard exclusive public testimony regarding the excessive levels of flies and odor associated with poultry ranch operations in the North Bench neighborhood of the City; and,

WHEREAS, on June 13, 2016, at its regularly scheduled meeting the City Council conducted a public hearing, considered further public testimony and the written and oral reports submitted by staff, and introduced the Ordinance; and,

WHEREAS, on June 27, 2016, at its regularly scheduled meeting the City Council took and considered further public testimony and oral reports presented by staff, and re-introduced the Ordinance with revisions related to the manure management timelines; and considered adoption of the Ordinance; and,

WHEREAS, the City Council finds it necessary and appropriate to adopt amendments to the Municipal Code to protect the public health, safety and welfare from impacts of poultry ranch operations in the community, and to require such operations to conform to the customs and standards followed by similar operations in San Bernardino County; and

WHEREAS, the City Council finds that this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15061(b)(3) of the State CEQA Guidelines, 14 Cal. Code Regs. § 15000, et seq., because it can be seen with certainty that the Ordinance has no potential for resulting in a significant effect on the environment, directly or indirectly.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF YUCAIPA DOES ORDAIN AS FOLLOWS:

Section 1. The City Council hereby amends Section 8.16.080 (“Commercial poultry ranches-public nuisance”) of Chapter 8.16 (“Nuisances”) of Title 8 (“Health and Safety”) of the Yucaipa Municipal Code to read as follows:

“8.16.080 Commercial Poultry Ranches-Public Nuisance.

Commercial Poultry Ranches that operate without an approved manure management plan are hereby declared to constitute a public nuisance and shall cease operations, subject to the following:

- A. Abatement of premises declared a public nuisance by this Ordinance shall be subject to the following:

Owners, operators and/or proprietors of commercial poultry ranches may demonstrate voluntary abatement of the public nuisance by providing documentation of the following actions, provided in writing to the Director of Community Development:

1. All ranch operations shall at all times be conducted in accordance with the requirements of an approved Manure Management Plan. Said Manure Management Plan shall be prepared in accordance with the standardized format contained in Exhibit "A" attached to Ordinance No. 347 and incorporated herein by this reference, and it shall substantially address all of the items contained in the "Guidelines to Manure Management Plans" contained in Exhibit "B" attached to Ordinance No. 347 and incorporated herein by this reference. Each Manure Management Plan shall be submitted to the County Vector Control Program before December 1st of each year for review and approval no later than December 31st of each year with a copy submitted to the City of Yucaipa. All ranch operations shall employ the frequent cleanout method of manure management unless the City of Yucaipa and County Vector Control Program approve an equally effective method that also minimizes fly breeding hazards and excessive odors such as a cage free (ground operation) method except that the coning and drying method of manure management shall be prohibited.
2. Each Manure Management Plan shall be specifically tailored to minimize fly breeding hazards and excessive odors, and it shall include, but not be limited to, all of the following mandatory requirements, or appropriate alternatives, if it can be clearly demonstrated that such alternative measures will be equally effective in controlling excessive fly breeding and odors:
 - a) Ranch operations employing the frequent cleanout method of manure management shall remove manure from under poultry cages at least every 72 hours (not including Federal Holidays) or more frequently if necessary to prevent larvae and pupae from completing their life cycles and emerging as adult flies. Whenever manure is removed from underneath poultry cages, larvae and pupae shall also be removed from the aisle and adjacent areas. 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. 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) The on-site storage of poultry manure (raw or processed) shall not exceed three days, and "thin-spreading" of raw poultry manure shall be prohibited. The manure will be removed from the subject Property on an as-needed basis as it is expelled from the poultry houses and immediately transported to an authorized location other than the poultry ranch. In no case shall on-site storage of poultry manure (raw or processed) exceed 72 hours (not including Federal Holidays) from the time the manure was produced and not from cleanouts that may occur pursuant to paragraph 2.a., above.

- c) Operable spray equipment shall be maintained on each ranch at all times, in addition to a minimum number of mechanical bait stations. The numbers and types of bait stations shall be determined by the County Vector Control Program.
- d) An aggressive program to establish viable populations of "beneficial" organisms within any breeding place for flies. Said program should be developed in conjunction with the recommendations of the University of California Agricultural Extension, and it shall employ predatory organisms in sufficient numbers as to be readily apparent during all routine inspections.
- e) Emergency manure management procedures to be implemented when excessive fly breeding has not been brought under control within the initial two (2) day Notice of Violation period.
- f) A ranch capital improvement program which addresses technical and physical upgrades to each ranch in a five (5) year time frame that will reduce fly breeding hazards and excessive odors.

B. All poultry ranch operations shall employ the following standards for control of other fly breeding sources:

- (a) Dead poultry shall be removed from poultry houses at least every two days (not including Federal Holidays) and immediately disposed of by one of the following methods, unless otherwise approved by the County Vector Control Program and specified in the approved annual manure management plan:
 - 1. Placed in a fly-tight container or structure for the proper off-site removal. Containers and structures shall be kept clean to prevent fly breeding. Dead poultry shall be removed from the ranch at least every two days (not including Federal Holidays).
 - 2. Placed in a fly-tight dead poultry disposal pit.
- (b) Waste eggs shall be disposed of by one of the following methods, unless otherwise approved by the County Vector Control Program and specified in the approved annual proposal:
 - 1. Placed daily in a fly-tight dead poultry disposal pit.
 - 2. Placed in a fly-tight container or structure and removed from the ranch at least every two days (not including Federal Holidays).In no event shall waste eggs be disposed of in manure underneath a poultry cage.
- (c) Spoiled, unused, and spilled feed shall be managed by one the following methods, unless otherwise approved by the County Vector Control Program 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.
- (d) Spent hens shall be disposed of by one of the following methods, unless otherwise

approved by the County Vector Control Program and specified in the approved annual proposal:

1. Picked up by a rendering company.
2. Sold for any legal use.

- C. In addition to any and all violations of the County Health Code, a violation of any of the provisions of this Ordinance, or any condition of a use permit or license issued pursuant to this Ordinance, or any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is deemed and declared to be a public nuisance and may be abated as such by the City.”

Section 2. The City Council hereby amends Section 1.13.060 (“Civil fine and late payment fees”) of Chapter 1.13 (“Administrative Citations”) of Title 1 (“General Provisions”) of the Yucaipa Municipal Code to read as follows:

“1.13.060. Civil fine and late payment fees

A.

1. The civil fine imposed pursuant to this chapter for a particular violation shall be set forth in the administrative citation schedule established by resolution of the city council, provided that if a violation is classified as an infraction in the code, such civil fine shall not exceed one hundred dollars (\$100.00) for the first offense, two hundred dollars (\$200.00) for the second offense within one year, and five hundred dollars (\$500.00) for a third offense within one year as provided by subdivision (b) of Section 25132 and subdivision (b) of Section 36900 of the California Government Code. The administrative citation schedule shall specify the amount of any late payment charges imposed for failure to timely pay the fine. The city may impose a lesser fine of fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense within one year, and two hundred fifty dollars (\$250.00) for a third offense within one year if it is determined that the responsible person has not committed the same offense within a five-year period.
2. The civil fine imposed pursuant to this chapter for a particular violation of Section 8.16.080 (“Commercial poultry ranches-public nuisance”) of Chapter 8.16 (“Nuisances”) of Title 8 (“Health and Safety”) of the Yucaipa Municipal Code shall be set forth in the administrative citation schedule established by resolution of the city council, provided that if a violation is classified as an infraction in the code, such civil fine shall not exceed one hundred dollars (\$100.00) for the first offense, two hundred dollars (\$200.00) for the second offense within one year, five hundred dollars (\$500.00) for a third offense, and one thousand dollars (\$1,000) for a fourth offense within one year as provided by subdivision (b) of Section 25132 and subdivision (b) of Section 36900 of the California Government Code. The administrative citation schedule shall specify the amount of any late payment charges imposed for failure to timely pay the fine. The city may impose a lesser fine of fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense within one year, two hundred fifty dollars (\$250.00) for a third offense, and five hundred dollars (\$500.00) for a fourth offense within one year if it is determined that the responsible person has not committed the same offense within a five-year period.

- B. Any person who fails to pay the city, on or before the due date, any civil fine imposed shall be liable for the payment of any applicable late payment charge as set forth in the administrative citation schedule established by a resolution of the city council. The amount of a late charge may be modified from time to time by a resolution of the city council.
- C. Civil fines and any late charges due shall be made payable to the city and paid at such location or address as stated in the citation, or as may otherwise be designated by the city manager.
- D. The due date for the city's receipt of the civil fine shall be twenty-one (21) calendar days from the issuance of the citation. Thereafter, a late charge shall be due and owing.
- E. Payment of a civil fine shall not excuse or discharge the responsible person from the duty to immediately abate a violation of the code, nor from any other responsibility or legal consequences for a continuation or repeated occurrence(s) of a violation of the code.
- F. Abatement of a violation shall not excuse the obligation of the responsible person to pay a civil fine, or any late charge imposed on that untimely payment of the civil fine.
- G. No interest or penalties shall accrue during the pendency of any timely appeal of the citation."

Section 3. Severability.

If any section, subsection, subdivision, sentence, clause, or phrase in this ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

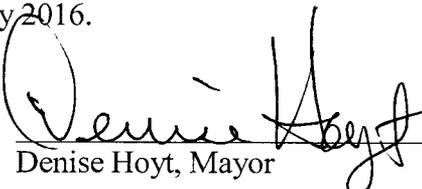
Section 4. Effective Date.

This ordinance shall take effect thirty (30) days after the date of its adoption by the City Council.

Section 5. Publication and Posting.

The City Clerk is hereby directed to cause the following summary of this ordinance to be published by two (2) insertions in the Yucaipa News Mirror, a newspaper of general circulation that is printed, published, and circulated in the City of Yucaipa, and hereby designated for that purpose by said Council of the City of Yucaipa: "Ordinance No. 347 amends Section 8.16.080 ("Commercial poultry ranches-public nuisance") of Chapter 8.16 ("Nuisances") of Title 8 ("Health and Safety") of the Yucaipa Municipal Code regarding the operations of poultry ranches citywide amending regulations and standards for manure management and standards to regulate other fly breeding sources and to include increased civil fines for non-compliance"

PASSED, APPROVED and ADOPTED this 11th day of July 2016.

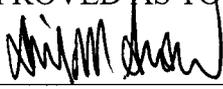

Denise Hoyt, Mayor

ATTEST:



for _____
Jennifer Shankland, City Clerk

APPROVED AS TO FORM:



David Snow, City Attorney