

ORDINANCE NO. 2018-1

AN ORDINANCE AMENDING THE OFFICIAL ZONING CODE OF THE TOWN OF MARKLE, INDIANA, MODIFYING SECTION 1020: LIVESTOCK OPERATIONS.

WHEREAS, it is in the best interest of the citizens of Markle to have regulations governing livestock operations; and

WHEREAS, the Markle Plan Commission considered Docket MPC-18-001, a request for text amendments to Section 1020: Livestock Operations of the Town of Markle Zoning Ordinance, at a public hearing on January 10, 2018. By a vote of 7 to 0, the Plan Commission passed down a favorable recommendation to the Town Council of Markle. Official certification of the Plan Commission proceedings is attached and is incorporated hereto as Exhibit A; and

WHEREAS, the adoption of this ordinance pays reasonable regard to the following: the comprehensive plan of Markle, the current conditions and the character of current structures and uses in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout Markle, and responsible development and growth; and

WHEREAS, the adoption of this ordinance will protect the public health, safety, and general welfare of the citizens of Markle.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Markle, Indiana that Section 1020: Livestock Operations of the Town of Markle Zoning Ordinance be amended to read as follows:

SECTION 1020: LIVESTOCK OPERATIONS

A. Purpose and Intent

It is the purpose and intent of this Section to provide for livestock operations within Huntington County. Two classes of livestock operations have been established based upon the intensity of use. Accordingly, minimum standards have been established for each class of livestock operation in order to assure the compatibility of livestock operations with other uses permitted in the applicable district. These minimum standards are intended to provide protection for existing residential, commercial, industrial, and public buildings from being encroached upon by new livestock operations, as well as protecting approved livestock operations from being encroached upon by new residential, commercial, industrial, and public buildings.

B. Application for Livestock Operation

1. An application for livestock operation approval shall be submitted on a form provided by the Department.
2. The application form shall be submitted to the Department along with the following information:
 - a. A site plan of the property:
 1. The boundaries, dimensions, and total gross acreage of the property;
 2. The location and setback from property lines of all existing and proposed buildings, confinement areas, pits, ponds, lagoons, holding tanks, and wells;
 3. The location of existing easements, watercourses, county drains, well and septic tank locations; and other important physical features on the property;
 4. The location of the property in relation to the surrounding road system;
 - b. A site plan showing the boundaries of the property and all existing dwelling units, commercial buildings, and subdivision lots within one thousand (1,000) feet of the property.

- c. A site plan showing the boundaries of the property and the land application areas for waste, including dimensions and total acreage.
- d. A waste management plan, which shall include a proposal for the storage and disposal of waste.
- e. Any additional information requested by the Department, which relates to compliance review.

C. Application Review

Application for a livestock operation shall be reviewed by the Executive Director as follows:

1. Classification as a minor livestock operation or intensive livestock operation shall be made based upon the definitions described in Section 1020(D) and (E).
2. Compliance with the provisions of Section 1020(F).
3. If the provisions of Section 1020 are adhered to, and if all required and requested information is submitted, the Executive Director can issue a minor livestock operation permit for those operations classified as minor, or intensive livestock operation permit for those operations classified as intensive.
4. The standards set forth in Section 1020(F) shall be incorporated as minimum conditions of approval.

D. Minor Livestock Operations

Minor livestock operations shall be defined as a tract of land or tracts of adjacent lands with no more than the following numbers of livestock per acre based on the tracts(s) of land upon which the livestock and livestock buildings are located:

1. 10 finishing hogs; or
2. 4 sows; or
3. 1 cow; or
4. 25 nursery pigs (under 40 lbs.); or
5. 2 feeder cattle; or
6. 2 heifers (replacement); or
7. 100 turkeys; or
8. 150 laying hens; or
9. 150 pullets; or
10. 150 broilers; or
11. 5 veal calves; or
12. 5 sheep; or
13. 5 goats; or
14. 4 horses; or
15. Limits for other livestock not enumerated herein shall be determined by the Executive Director based upon type or size of livestock.

E. Intensive Livestock Operation

1. Intensive livestock operations shall be defined as any proposed livestock operation or an expansion of an existing livestock operation exceeding the per acre limits set forth in Section 1020 (D) above or any one operation regardless of acreage which has livestock numbers exceeding the following:
 - a. 400 sows; or
 - b. 1,000 finishing hogs; or
 - c. 1,000 nursery pigs; or
 - d. 300 cattle; or
 - e. 30,000 poultry; or
 - f. 500 veal calves

2. Where a livestock operation involves less than 400 sows, 1,000 finishing hogs, 1,000 nursery pigs, 300 cattle, 30,000 poultry, 500 veal calves, but there are more than one kind of species of animals, the number of animals in the operation shall be divided by 400 in the case of sows, 1,000 in the case of finishing hogs or nursery pigs, 500 in the case of veal calves, 300 in the case of cattle and 30,000 in the case of poultry and the resulting percentages shall be added together. If the total of such percentages equals or exceeds one hundred, then the operation is an intensive livestock operation as defined herein. If the total of such percentages is less than one hundred and complies with the acreage restrictions of Section 1020 (D) above, then the operation is a minor livestock operation.

F. General Provisions

1. The following setbacks shall be maintained for a minor livestock operation building, pen, or confined feeding area:
 - a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;
 - b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways if four (4) lanes wide;
 - c. Twenty-five (25) feet from any side or rear property line; and
 - d. One hundred (100) feet from any water well, which services a dwelling unit.
2. The following setbacks shall be maintained for an intensive livestock operation building, pen, or confined feeding area:
 - a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;
 - b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways, if four (4) lanes wide;
 - c. Twenty-five (25) feet from any side or rear property line;
 - d. One hundred (100) feet from any water well, which services a dwelling unit;
 - e. Five hundred (500) feet from any dwelling unit other than the dwelling unit(s) on the property;
 - f. One thousand (1,000) feet from any commercial, industrial, or public building; and
3. The following setbacks shall be maintained for any pit, pond, lagoon, or structure open to the sky or not completely contained in a holding tank with cover, and utilized for storage of livestock waste:
 - a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;
 - b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways if four (4) lanes wide;
 - c. Fifty (50) feet from any side or rear property line;
 - d. One hundred (100) feet from any water well, which services a dwelling unit;
 - e. One thousand (1,000) feet from any dwelling unit other than the dwelling unit(s) on the property;
 - f. One thousand (1,000) feet from any commercial, industrial, or public building;
4. The following setbacks shall be maintained for any holding tank with cover which is separate from a livestock building and which is utilized for the storage of livestock waste:
 - a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;
 - b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways if four (4) lanes wide;
 - c. Fifty (50) feet from any side or rear property line; and
 - d. One hundred (100) feet from any water well, which services a dwelling unit.
5. The following setbacks shall be maintained for the land application of waste:

- a. One hundred (100) feet from any water well, which services a dwelling unit;
 - b. One hundred (100) feet from any dwelling unit other than the dwelling unit(s) on the property; and
 - c. One hundred (100) feet from any commercial, industrial, or public building.
6. All new dwelling units, commercial buildings, industrial buildings, and public buildings shall adhere to the separation distances listed in Section 1020(F)(2), (3) and (5) above.
7. A dwelling unit, commercial building, industrial building, or public building is considered existing on a site under the following circumstances:
- a. If the building exists on the property; or
 - b. If a building permit, which remains valid, is issued; or
 - c. If the lot upon which the building is to be constructed is in a recorded subdivision or part of an approved and valid preliminary plat.
8. A pit, pond, or lagoon is considered existing on a site if an Improvement Location Permit, which remains valid, has been issued; or, the pit, pond, or lagoon exists on the property.
9. Disposing of Waste
- a. Sufficient land shall be available for disposing of the waste from the operation. The following minimum land area shall be available for disposal of waste:
 1. One acre for each 45-nursery pigs;
 2. One acre for each 11 sows;
 3. One acre for each 20 finishing hogs;
 4. One acre for each 5-feeder cattle;
 5. One acre for each 6 heifers (replacement);
 6. One acre for each 300 turkeys, ducks, geese
 7. One acre for each 15 veal calves;
 8. One acre for each 3 cows;
 9. One acre for each 450 laying hens;
 10. One acre for each 590 pullets;
 11. One acre for each 690 broilers;
 12. One acre for each 10 horses;
 13. One acre for each 20 sheep or goats.
 14. Limits for other livestock not enumerated herein shall be determined by the Executive Director by comparing body weight and animal wastes with those, which are enumerated.
 - b. Fifty (50) percent of the application land must be within two (2) miles of the livestock operation building and must either be owned by the owner of the livestock operation or if not, the owner of the livestock operation must present and submit to the Executive Director an agreement granting permission to apply wastes on the area. This agreement shall be signed by the livestock operator and the owner of the property, which is available for waste application, and must be duly notarized to be acceptable.
 - c. A current, valid agreement must be on file at all times with the Department. If an agreement is not on file, the livestock operator is limited to the maximum number of livestock per acre based upon land owned by the owner of the livestock operation.
 - d. The handling and application of waste from the livestock operations must meet all additional requirements and standards set forth by the Indiana Department of Environmental Management (IDEM) and Environmental Protection Agency (EPA)
- G. Requirements for Domesticated Livestock
- Small quantities of domesticated livestock may be kept as an accessory use in all zoning districts provided the following standards are met:
1. The use must be accessory to a single-family detached or two-family dwelling as the principal use on the same lot or parcel and shall be for personal use only. Breeding, raising of animals for slaughter, and selling of animal products (e.g. eggs) is strictly prohibited.

2. The caretaker or owner of the animal(s) must reside on the same lot as the animal(s).
3. The number and type of domesticated livestock permitted within the Town limits shall be determined by separate ordinance(s) adopted by the Town Council. All other domesticated livestock not expressly permitted by the Town Council in this manner will be prohibited.
4. Permitted domesticated livestock shall not be considered a minor livestock operation or be required to follow the general provisions of Section 1020 (F).
5. Waste must be collected and removed or composted regularly. All animal remains must be disposed of and removed from the site within 24 hours.
6. All housing or structures for domesticated livestock shall follow the side and rear setbacks required for accessory structures on a permanent foundation for the applicable zoning district, or the setbacks prescribed by Town Council ordinance, whichever is greater (more stringent). Domesticated livestock housing or structures shall be permitted only within the rear yard of the property, not in a front or side yard.

H. Requirements for Existing Livestock Operations

1. An approval of a minor or intensive livestock operation, which was granted in accordance with Ordinance 1980-2, which became effective June 1, 1980, and was in compliance with the requirements of Ordinance 1980-2 upon the adoption of this Ordinance, shall remain valid. Any increase in the number of livestock, which would change the status of the operation from minor to intensive; or any new construction of feeding areas, pits, ponds, lagoons, or holding tanks; or, any existing application lands or application lands established after the effective date of this Ordinance, shall require compliance with the regulations of this Ordinance.
2. It is the responsibility of the livestock operator to assure all information on file with the Department regarding their operation is accurate.

I. Access to Property/Inspections

The Executive Director may inspect any building, structure, or property at any reasonable time for the purpose of administering and enforcing the provisions of this Section. Inspection of the building(s), structure(s), or property shall be for the purpose of verifying number of livestock; setback distances; location of building(s), structure(s), and waste storage facilities; and location of waste application lands.

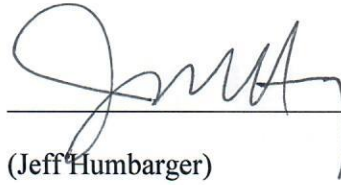
J. Appeals

Any livestock operation determination made by the Director may be appealed to the Board of Zoning Appeals in accordance with applicable law.


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Adopted this 17th day of January, 2018.

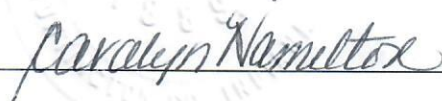
TOWN COUNCIL OF MARKLE, INDIANA


_____ as
(Jeff Humbarger) President

_____ as
(Mark Hamilton) Member


_____ as
(Rick Bower) Member

ATTEST:


_____ as
(Carolyn Hamilton) Clerk-Treasurer