

Article V: Use Requirements by District

Section 500. [A-1] Intensive Agricultural District

Section 500.01 Intent

The A-1 zoning district is comprised entirely of farmland used for intensive commercial agriculture including animal containment facilities/structures (including feeding operations) for poultry (including chicken houses), swine, and livestock, and dairy production, and related waste storage/handling structures. Intensive agricultural facilities shall have adequate land areas for their operation, any plan required by the Water Quality Control Act for the disposal of waste and required setbacks and buffers. The uses of land authorized in the A-1 zoning district may result in odors, dust, noise, or other effects that may not be compatible with other zoning districts. However, the operations on land zoned A-1 shall be conducted in compliance with all applicable county, state, and federal laws and regulations, including land use, water quality, health, and environmental standards.

The specific setback and buffer requirements for the A-1 zoning district set forth herein are intended to minimize the adverse effects commonly associated with intensive agricultural uses, provided that larger setbacks or other conditions may be imposed as conditions in the rezoning of particular property to A-1 so as to minimize adverse effects on surrounding property in cases involving, but not limited to, uncommonly large operations, unusual topographical conditions, or proximity to sensitive natural, scenic, or historic areas, municipal boundaries, and residential areas.

To minimize adverse effects and to allow flexibility for expansion of existing poultry farms in operation on or before September 8, 2015, the legacy setbacks of 200 feet from any property line (see 500.03) shall remain in place for poultry operations with 300,000 square feet or less of poultry house floor space. For farms that wish to expand above 300,000 square feet of floor space, a 600-foot setback from all property lines shall be required. The total square feet of poultry house floor space shall not exceed 400,000 square feet unless additional setbacks are imposed. For up to every 100,000 square feet of floor space that is added an additional setback of 100 feet is required (i.e. up to 500,000 square feet of floor space shall require 700-foot setbacks). The maximum floor space allowable shall be 650,000 square feet. Any change to any existing operations requires approval from the Oglethorpe County Zoning Board and final approval by the Oglethorpe County Board of Commissioners.

For purposes of this Section, all poultry houses and related facilities located on contiguous or adjacent property under common ownership, lease, or control shall be considered a single poultry operation, regardless of the number of parcels, tracts, or lots involved. Any poultry houses or operations owned, leased, or controlled by the same individual or individuals, corporation, partnership, limited liability company, or other entity, or by entities with overlapping ownership or management, shall be aggregated and treated as a single poultry operation for purposes of applying maximum poultry house floor area and setback requirements. Subdivision of property, transfer of parcels to affiliated entities, or the use of multiple ownership structures shall not be used to circumvent the maximum poultry house floor area or setback requirements established by this Ordinance

Section 500.02 Non-conforming Uses

Existing intensive agricultural facilities and operations, which were in operation at the time the Zoning Ordinance of Oglethorpe County, Georgia (hereinafter "Ordinance") was adopted, and which do not meet the requirements for new or expanded intensive agricultural uses and facilities as described in this Section 500, shall be grandfathered as existing nonconforming uses for purposes of the Ordinance, provided that said facilities/operations were registered with the County as a nonconforming use within one year of the original adoption of the Ordinance. Such nonconforming uses shall not have to comply with the location and setback restrictions set forth herein for structures/facilities in existence as of the date of the original adoption of this Ordinance provided that such uses and structures/facilities are in compliance with applicable state and federal regulations for water and air quality. Such facilities and operations shall comply with all applicable state and federal regulations. If permitting of such facilities or operations is required by the state or federal government, then a copy of each such permit shall be provided to the Oglethorpe County Planning Department ("Planning Department") by the owner of such land.

Section 500.03 Construction or Expansion of Animal Containment Facilities on Property Zoned A-1 as of September 8, 2015

- a. This Subsection 500.03 shall be applicable to property zoned A-1 as of September 8, 2015.
- b. On property zoned A-1 as of September 8, 2015, the construction or expansion of animal containment or waste storage/handling structures shall require the submission to the Planning Department of a Comprehensive Site Development Plan and building permit, copies of any other applicable permits/approvals, information on the proposed water source and projected usage of water for the operations, and compliance with the requirements set forth in Subsection 500.06 of this Ordinance. Approval of such new or expanded structures by the Zoning Board or the Board Commissioners is required on land which was zoned A-1 as of September 8, 2015.
- c. For property which, as of September 8, 2015, are:
 - i. Zoned A-2.
 - ii. Adjacent to real property zoned A-1, and
 - iii. Under common ownership with such adjacent A-1 zoned property, the construction on such property of an animal containment facility shall first require said real property to be rezoned to A-1 by the Board of Commissioners pursuant to the submission of a rezoning application and applicable fees as prescribed by Amendment Section of this Development Ordinance. Said real property shall be subject to the legacy setbacks set forth in this Subsection 500.03 of this Ordinance and not those set forth in Subsection 500.04. Such property shall be subject to the provisions of Subsection 500.06 of this Ordinance.
- d. Legacy Setbacks- Property which is zoned A-1 as of September 8, 2015, shall be subject to the following setbacks for the construction or expansion of animal containment and waste storage/handling structures for swine/livestock/dairy and for poultry, in addition to any other applicable requirements:

Distance From	Structures for Swine/Livestock/Dairy	Structures for Poultry
Property Line	400 feet	200 feet <i>See Note Below</i>
Existing Residential Structures ¹	1,320 feet for 1,000 or less animal units; 2,640 feet for more than 1,000 animal units	600 feet
Property Line of Existing Public Use Areas, including Parks and Recreation Facilities, Schools and Child Care Centers, Health Facilities, Places of Worship or Public Assembly, and Identified Significant Historic District or Sites	1,320 feet for 1,000 or less animal units; 2,640 feet for more than 1,000 animal units	600 feet
Municipal Boundaries	1.5 miles	1 mile

¹ The required setback from an existing residential structure may be waived in writing by the owner of such structure.

NOTE: Additional Poultry Property Line Legacy Setbacks: For poultry house facilities in operation before September 8, 2015, with a total floor area of 300,000 square feet or less, the minimum setback from property lines shall be 200 feet. For poultry house facilities with a total floor area greater than 300,000 square feet, the minimum setback from property lines shall be 600 feet. The maximum floor area shall not exceed 400,000 square feet; however, the maximum floor area may be increased to 650,000 square feet with the addition of 100' of setback per 100,000 square feet of floor space. (i.e. Up to 500,000 square feet of floor space shall require 700-foot building setbacks from all property lines)

Section 500.04 Requirements for Construction of Animal Containment and Waste Storage/Handling Structures Facilities on Property Zoned A-1 after September 8, 2015.

- a) This Subsection 500.04 shall be applicable to real property which is rezoned to A-1 after September 8, 2015, except for property which is rezoned pursuant to Section 500.03.c of this Ordinance.
- b) The rezoning of property to A-1 after September 8, 2015, shall require the following:
 - 1) The Applicant shall attend a pre-application conference with Planning Department staff to review:
 - i. the evaluation standards for such rezonings.
 - ii. the requirements for such a rezoning.
 - iii. the costs to apply for such a rezoning; and
 - iv. the process which will be followed by the County in considering the application. Applicant, upon the request of Planning Department staff, shall confirm by signed writing his or her understanding of the foregoing.

- 2) The Applicant, upon the request of Planning Department staff, will be encouraged to participate in an optional informal preliminary conference with neighbors (as identified by Planning Department staff) likely to be impacted by the rezoning. The conference will be organized and facilitated by Planning Department staff and will occur either prior to or promptly after submission of the formal rezoning application. The purpose of such a conference will be to:
 - i. Apprise the Applicant of the opposition likely to be faced in the formal rezoning process.
 - ii. Allow affected neighbors to understand, at an early stage, the nature of the proposed rezoning; and
 - iii. Facilitate a dialogue between the Applicant and affected neighbors to minimize community polarization. The refusal of the Applicant to participate in such a conference shall not be grounds for denial of such a rezoning application.
- 3) Submission of a rezoning application and fees as required by law.
- 4) Submission of a comprehensive site development plan.
- 5) Submission of copies of all required permits and approvals.
- 6) Submission of information regarding the proposed water source and projected usage of water by the operation.
- c) Upon completion of the grading contemplated by the rezoning, "as built" site plans shall be submitted to the Planning Department.
- d) The specific location and orientation of animal containment and waste handling/storage structures on A-1 land may vary from that depicted on the initially submitted comprehensive site development plan provided that all applicable setbacks and other requirements are observed. The "as built" site plan shall accurately depict the location and orientation of such structures.
- e) Animal containment and waste storage/handling structures, and related pits and litter storage (including stack houses) constructed on land rezoned to A-1 after September 8, 2015, shall, in addition to all other applicable requirements, be subject to the following setbacks for Swine/Livestock/Dairy and for Poultry

Distance From	Structures for Swine/Livestock/Dairy	Structures for Poultry
Property Line of A-1 Property	400 feet	20 feet ¹
Property Line of non-A-1 Property	400 feet	600 feet ² See Note Below
Existing Residential Structures	1,300 feet for 1,000 or less animal units/2,640 feet from more than 1,000 animal units ²	600 feet ²
Property Line of Existing Public Use Areas, including Parks and Recreation Facilities, Schools and Child Care Centers, Health Facilities, Places of Worship or Public Assembly, and Identified Significant Historic District or Sites	1,320 feet for 1,000 or less animal units; 2,640 feet for more than 1,000 animal units	1,320 feet ¹
Municipal Boundaries	1.5 miles ¹	1 mile ¹

¹ Setback is not waivable or reducible.

² Setback may be waived in writing by the owner of affected property/structure.

NOTE The maximum floor area shall not exceed 400,000 square feet, however the maximum floor area may be increased to 650,000 square feet with an addition of 100' of setbacks per 100,000 square feet of floor space. (i.e. Up to 500,000 square feet of floor space shall require 700-foot building setbacks from all property lines)

Section 500.05 Additional Requirements for Animal Containment and Waste Storage/Handling Structures for Poultry on land which is rezoned, or sought to be rezoned, to A-1 after September 8, 2015

- a) Road frontage shall be visually screened from land containing animal containment and waste storage/handling structures for poultry with either vegetation or terrain.
- b) Property in areas of a residential/commercial character depicted on the A-1 Restricted Overlay map prepared by, and on file with, the Planning Department shall not be rezoned to A-1.

Section 500.06 Provisions Applicable to A-1 Zoned Property and Animal Containment Facilities,

Regardless of When Such Property was Zoned A-1

- a) All property zoned A-1, regardless of when it was zoned or rezoned to that classification, and all animal containment facilities thereon, shall be subject to and comply with all applicable requirements of this Subsection 500.06, in addition to any other applicable requirements.
- b) If, after a tract is zoned or rezoned to A-1, such land is not actively used for intensive agricultural purposes within twelve (12) months of such rezoning, or ceases such uses for any twelve-month period thereafter, the County may, at its discretion, initiate a review of the zoning classification of said tract and consider the rezoning of said tract to A-2. For purposes of this provision, periods in which intensive agricultural uses have ceased for the purpose of authorized upgrades, construction, repairs or maintenance on such tract shall not be counted toward said twelve (12) month period. The County may also initiate such a review twelve (12) months after the time set forth by state regulations for the voluntary closure of such intensive agricultural operations on such tract.
- c) **Air Quality Protection** - The intensive agricultural operations and the operation of animal containment facilities shall not exceed allowable emissions of substances or compounds regulated by state or federal Clean Air Acts, or the Clean Air Act Amendments of 1990, or any future amendments to either, or any other applicable statute or regulation.
- d) **Storm Water Management** – All proposed intensive agriculture operations must conform to section 605 of this ordinance.
- e) **Dead Animal Disposal** - Dead animals shall be disposed of in a way that does not adversely affect ground or surface water and does not compromise public health. Any dead animal shall be disposed of within seventy-two (72) hours of discovery by removal for rendering, cremation, burial or composting as approved by the Georgia Department of Agriculture and by the Environmental Protection Division of the Georgia Department of Natural Resources.
- f) **Notice and Waiver of Agricultural Adjacency and Reciprocal Setbacks** – The applicable required minimum setbacks specified in this Section 500 shall be applied to any non-agricultural use proposed for property adjoining/abutting or adjacent to any existing A-1 zoned property unless an agricultural adjacency waiver as prescribed by this subsection has been duly signed and recorded.
- g) When a non-agricultural use is proposed for property abutting A-1 zoned property or will be located within the required minimum setbacks for such districts, the developer or owner of such abutting property shall be provided by the Planning Department with a “Notice of Agricultural Adjacency” at the time an application for a building or occupancy permit or for a change in zoning classification or land use is filed. As a condition of and prior to any action on such application, the applicant shall be required to sign a waiver on a form provided by the Planning Department which will indicate that such applicant understands that there is an ongoing agricultural land use adjacent to the subject property which could produce odors, noise, dust, and other effects which may not be compatible with the applicant’s use, development, or enjoyment of the subject property. Said waiver shall indicate that the applicant agrees, by executing the form, to waive any objection to such effects and to the uses and operations on such adjacent land, and not to bring any action against the adjacent land owners or any local government based on a claim that the agricultural uses of such adjacent property, or the effects therefrom, constitute a nuisance, provided that such adjacent land is operated in accordance with this Ordinance and with all applicable local, state, and federal laws and regulations.
- h) **Form of Notice and Waiver** - The above referenced notice and waiver of agricultural adjacency shall be in substantially the following form:

You are hereby notified that all or part of the property you are proposing to use or build upon abuts or is located within the required minimum setback of agricultural land with one or more existing intense agricultural operations. You may be subject to inconvenience or discomfort from lawful agricultural operations. Discomfort and inconvenience may include, without limitation, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. You should be prepared to accept such discomfort and inconveniences as a normal and necessary aspect of living on or using land in an area with a strong rural character and an active agricultural sector. Your signature constitutes an agreement not to bring any action against adjacent landowners whose property is agricultural land or in agricultural use or operation, or against the local government, asserting that the adjacent agricultural operation or use constitutes a nuisance.

[Signature of Applicant]
- i) **Effect of Failure to Give Notice or Obtain Waiver** – The failure of the County or its employees to provide the notice or to obtain the waiver referenced in Subsection 500.06(g) shall not be the basis for any action against,

or any liability of, the County or its employees. The giving of, or the failure to give, such notice and obtaining, or failing to obtain, such waiver shall in no way be deemed to alter Georgia law regarding nuisance.

- j) **Nuisance Shield** – An intensive agricultural operation that is in compliance with the requirements of this Ordinance and the requirements of any applicable local, state, and federal laws and regulations shall be presumed not to be a nuisance. This provision shall not be construed so as to conflict with state law.
- k) **Waste Storage and Treatment Structure and Facility Requirements**
 - 1) **Dry Manure Handling/Storage** - Dry or solid manure is that which has had the addition of sufficient bedding to absorb all liquids, thereby making the manure shakable and preventing waste seepage/drainage. All handling and storage/treatment facilities for dry manure shall comply with all applicable regulations of appropriate state and federal agencies, in addition to all setback requirements and any other applicable requirements specified in this Ordinance.
 - 2) **Wet Manure Handling/Storage** - The term “liquid manure/waste” shall include manure in a liquid, slurry, or semi-solid state as well as all wastewater, seepage, drainage or contaminated runoff emanating from animal containment or manure/waste storage/treatment facilities. All handling and storage/treatment facilities for liquid manure shall comply with all applicable regulations of appropriate state and federal agencies, in addition to all setback requirements and any other applicable requirements specified in this Ordinance.
 - 3) **Closure Requirements for Facilities Using Waste Storage/Handling Structures/Facilities**

The following performance requirements shall apply to all intensive agricultural operations, existing and new:

 - i. **Required Closure** - When no longer required by the operation, waste storage/handling structures/facilities shall be properly closed or converted to another use in compliance with all applicable regulations of appropriate state and federal agencies. No operation shall permanently abandon a lagoon or earthen basin.
 - ii. **Certification of Proper Closure** - Written certification from the Natural Resources Conservation Service or an independent registered professional engineer certifying that proper closure of the waste storage/handling structures/facilities has been carried out shall be submitted to the Planning Department within 90 days after such closure.

Section 500.07 Permitted Uses

In the A-1 Intensive Agricultural District, the following uses are permitted:

- a) Intensive agricultural uses including, but not limited to, dairy farms, hog farms, farrowing houses, animal containment structures, including poultry/chicken houses (both for broilers and layers) and related waste storage/handling structures, livestock feedlots or holding lots, and accessory buildings and uses customarily incidental to the intensive agricultural operation such as waste lagoons, basins or pits, stack houses, barns, sheds, and storage structures directly related to the agricultural use.
- b) Wholesale and retail sales of agricultural products raised on the property. Adequate off-street parking must be provided at the site. Any structures used for such sale shall not be located closer than one hundred (100) feet to any side or rear property line or two hundred (200) feet to any existing adjacent residence under separate ownership. The sale of said products and commodities shall not adversely affect existing adjacent residential uses or impede traffic in the area.
- c) Single-family detached dwelling or individual manufactured housing (Class A, B, or C) used as single-family dwelling in accordance with Specific Provisions Section of this Development Ordinance, along with customary accessory buildings and uses.
- d) Home occupations in accordance with the provisions of Specific Provisions Section of this Development Ordinance.
- e) Small scale solar farms in accordance with the Specific Provisions Section of this Development Ordinance .

Section 500.08 Conditional Uses

In the A-1 Intensive Agricultural District, the following uses may be permitted if approved by the Board of Commissioners as specified in Amendments Section of this Development Ordinance.

- a) Commercial Slaughterhouses, for the slaughter and sale of poultry, pork, and beef, provided that the slaughterhouse is not located closer than three hundred (300) feet from any side or rear property line or five hundred (500) feet from any existing adjacent residence under separate ownership. A Comprehensive Site Development Plan shall be required as part of the application for such as conditional use.
- b) Livestock Sales Pavilion provided any structures used for such sales shall be located no closer than one hundred (100) feet to any side or rear property line or four hundred (400) feet to any adjacent residence under

separate ownership, and adequate off-street parking shall be provided at the site. Such use shall not adversely affect existing adjacent residential uses or impede traffic in the area.

- c) Telecommunications/Transmission Towers and Antennas in accordance with the Specific Provisions Section of this Development Ordinance.
- d) Large Scale Solar Farms in accordance with the Specific Provisions Section of this Development Ordinance.

Section 500.09 Spatial Requirements in the A-1 Zoning District

- a) A-1 zoned property used for animal containment facilities or for swine, dairy, livestock or poultry feeding operations must have a minimum area of 30 acres and have a minimum width of 400 feet.
- b) A-1 zoned property used for a single-family dwelling (where permitted) must have minimum area of 1.5 acres and a minimum lot width of 200 feet.
- c) Unusual topographical or soil conditions may necessitate larger minimum area or lot width requirements for certain properties than those prescribed in this subsection. Moreover, certain uses may require larger lot sizes as determined by the Oglethorpe County Health Department. In no case shall the minimum lot area be less than deemed necessary for safe and adequate sewage disposal and water supply as determined by the Health Department and the County Sanitarian.

Section 500.10 Minimum Front Yard Setbacks in the A-1 District

In addition to all other setback requirements, the following front yard setbacks shall be required for structures in the A-1 District:

- a) Arterial Streets/Highway- 100 feet from right-of-way line or 150 feet from centerline of street if no established right-of-way.
- b) Collector Streets- 50 feet from right-of-way line or 80 feet from centerline if no established right-of-way.
- c) Local Streets and Private Access Drives/Easements - 20 feet from right-of-way line or 50 feet from centerline if no established right-of-way.
- d) For property rezoned to A-1 after September 8, 2015, the front yard setbacks provided in this Subsection 500.05.e may be increased as a condition of a rezoning to A-1 based upon the zoning and uses of property in the vicinity of the rezoned property.

Section 500.11 Setbacks from Water Sources

In addition to all other minimum setback requirements, animal containment and waste storage/handling structures for livestock, dairy and poultry shall be subject to the following minimum setbacks from the indicated water sources:

Water Source	Required Minimum Setback
Broad River, Oconee River, Perennial Streams/streams and lakes ¹	As specified in applicable state and federal regulations, and in Environmental Protection Provisions of this Development Ordinance.
100 year flood plain	Structures prohibited in 100 year floodplain
Wetlands	As specified in applicable state and federal regulations, and in Environmental Protection Provisions of this Development Ordinance.
Municipal water supply watersheds ²	Structures prohibited, as specified in Environmental Protection Provisions of this Development Ordinance.
Public and private drinking water supply wells, other open wells and sinkholes	As specified in applicable state and federal regulations.
Significant Groundwater Recharge Areas (as defined in the Georgia Department of Natural Resources Rules for Environmental Planning Criteria)	As specified in Environmental Protection Provisions of this Development Ordinance.

Section 500.12 Requirements for Land Application of Dry Manure/Litter and Liquid Manure/Slurry/Wastewater

- a) Compliance with Local, State and Federal Regulations – Land application of dry manure/litter and liquid manure/slurry/wastewater shall comply with all applicable local, state, and federal regulations.
- b) Setbacks – All land application of dry manure or liquid manure/slurry/wastewater shall comply with the following required setbacks:
 - 1) Setbacks for application of liquid manure/slurry/wastewater from residences and public areas- For Existing Residential District/Use (R, R-1, R-2, R-3) (without a waiver from the owner), and for public use areas, such as parks and recreational facilities, schools and child care centers, health facilities, places of worship or public assembly, the minimum setback for the application of liquid manure/slurry/wastewater shall be 50 ft. from the property line (if injected into soil, or if applied using a method that prohibits drift and incorporated into soil within the same day, or subjected to approved physical, biological, or biochemical treatment to prohibit drift and odor) or 150 feet from the property line (if untreated or not injected into soil or without incorporation into soil within the same day).
 - 2) Setbacks for application of dry manure/litter from residences and public areas-The minimum setbacks for the application of dry manure/litter shall be 100 feet from residential structures in existing residential districts (R, R-1, R-2, R-3) (without a waiver from the owner) and 100 feet from the property line for public use areas, such as parks, recreational facilities, schools, child care centers, health facilities, places of worship or public assembly.
 - 3) Setbacks from water sources for application of dry manure/litter and liquid manure/slurry/wastewater:

¹ Excluding farm ponds/lakes located and contained entirely within the confines of the owner/operator's property and which have no outlet to waters of the State (not including ephemeral or intermittent streams).
² Including municipal water supply reservoirs.

Water Source	Required Minimum Setback
Broad River, Oconee River	200 feet from the banks, or width of the 100 year flood plain, whichever is greater, as specified in the Environmental Protection Provisions of this Development Ordinance.
Perennial Streams/streams and lakes ¹	100 feet from the banks, or width of the 100 year flood plain, whichever is greater, as specified in the Environmental Protection Provisions of this Development Ordinance.
100 year flood plain	Prohibited in 100 year flood plain, as specified in the Environmental Protection Provisions of this Development Ordinance.
Wetlands	As specified in applicable state and federal regulations, and in Environmental Protection Provisions of this Development Ordinance.
Municipal water supply watersheds ²	Prohibited in stream buffer areas as specified in the Environmental Protection Provisions of this Development Ordinance.
Public and private drinking water supply wells, other open wells and sinkholes	As specified in applicable state and federal regulations.
Significant Groundwater Recharge Areas (as defined in the Georgia Department of Natural Resources Rules for Environmental Planning Criteria)	As specified in Environmental Protection Provisions of this Development Ordinance.

¹ Excluding farm ponds/lakes located and contained entirely within the confines of the owner/operator's property and which have no outlet to waters of the State (not including ephemeral or intermittent streams).

² Including municipal water supply reservoirs.