

ORDINANCE NO. 97-3, AS AMENDED BY ORDINANCE NO. 060909

AN ORDINANCE ESTABLISHING HEALTH REGULATIONS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS; PROVIDING STANDARDS FOR THE PERMITTING OF CONCENTRATED ANIMAL FEEDING OPERATIONS; PROVIDING DEFINITIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY.

WHEREAS, § 192.300, RSMo, provides that the County Commission may make and promulgate Ordinances as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county; and

WHEREAS, § 192.300, RSMo, provides that the County Commission may establish reasonable fees to pay for any costs incurred in carrying out such Ordinances and that any such fees generated shall be deposited in the county treasury and shall be used to support the public health activities for which they were generated; and

WHEREAS, § 192.300, RSMo, provides that any person, firm, corporation or association which violates any such Ordinance adopted, promulgated and published by the County Commission is guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law; and

WHEREAS, the County Commission has full power and authority to initiate the prosecution of any action under § 192.300, RSMO; and

WHEREAS, H.B. No. 1207, 1288, 1408 & 1409 of the Missouri 88th General Assembly, § 640.710.5, RSMo, recognizes that local controls may be used to regulate concentrated animal feeding operations; and

WHEREAS, health standards and criteria for concentrated animal feeding operations consistent with state law have been prepared based upon state law and professional studies presented to and considered by the Livingston County Commission as well as the experience of the members of the Livingston County Commission with local conditions; and

WHEREAS, the adoption and enforcement of said standards is hereby found to be necessary in order to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into Livingston County;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LIVINGSTON COUNTY, MISSOURI, AS FOLLOWS:

1 DEFINITIONS

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular. For purposes of this Ordinance, the following words, terms and phrases shall have the following meanings unless otherwise indicated:

- 1.1 ANIMAL UNIT (“AU”). A unit of measurement to compare various animal types at a concentrated animal feeding operation. One animal unit equals the following: 1.0 beef feeder or slaughter animal; 0.5 horse; 0.7 dairy cow; 2.5 swine weighing over 55 pounds; 15 swine under 55 pounds; 10 sheep; 30 laying hens; 55 turkeys; 100 broiler chickens or an equivalent animal unit. The total animal units at each operating location shall be determined by adding the animal units for each animal type.
- 1.2 ANIMAL UNIT EQUIVALENT. An equivalent animal type and weight that has a similar amount of manure produced as one of the animal unit categories set forth in the definition of “animal unit” herein. This also applies to other animal types which are not specifically listed.
- 1.3 ANIMAL WASTE: Any animal excrement, animal carcass, feed waste, animal water waste, or any other waste associated with animals.
- 1.4 ANIMAL WASTE WATER: Any animal excreta, any liquid which comes into contact with any manure, litter, bedding or other raw material or intermediate or final material or product used in or resulting from the production of animals or products directly or indirectly used in the operation of a CAFO, or any spillage or overflow from animal watering systems, or any liquid used in washing, cleaning or flushing pens, barns, or manure pits, or any liquid used in washing or spraying to clean animals, or any liquid used for dust control on the premises of a CAFO.
- 1.5 APPLICATION: The injection or incorporation of animal waste or animal waste water into the land.
- 1.6 COMMENCE CONSTRUCTION: To place permanent construction of a structure on a site. The following activities constitute the commencement of construction:
 - 1.6.1 pouring slabs or footings, or
 - 1.6.2 any work beyond the stage of excavation, including the first permanent framing or assembly of any part of a structure on its piling or foundation, or

- 1.6.3 placing a manufactured home on a permanent foundation, or
- 1.6.4 the erection of any wall, ceiling, floor, or other structural part of a building, or
- 1.6.5 in the case of a livestock lagoon, the excavation of a lagoon to its full required vertical and horizontal dimensions.

The following activities do NOT constitute the commencement of construction: land preparation, such as clearing, grading, and filling; excavation for a basement, footings, piers, or foundations; the erection of temporary forms; installation of streets, driveways or sidewalks; or the installation on property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

- 1.7 CONCENTRATED ANIMAL FEEDING OPERATION (“CAFO”) All land and/or a lot, facility, parcel, or operating location in which animals have been, are or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period and a ground cover of vegetation is not sustained over at least fifty percent (50%) of the animal confinement area. A “concentrated animal feeding operation” shall not include any land area, structure, lot, yard, or corral or other area which does not meet the numerical threshold for animals as set forth in the classification system of § 2 of this Ordinance. For purposes of this definition, the “Concentrated Animal Feeding Operation” or “CAFO” means and refers collectively to an animal production facility including a Feedlot and any waste disposal system. For purposes of this definition, “animal confinement area” includes the buildings or structures, including Feedlots, in which animals are confined, but does not include contiguous land used as plant filter areas over which liquid waste is applied and/or other areas upon which grass or crops are used for waste disposal, landscaping, or land upon which crops or other vegetation are raised independent from the animal feeding operations. A CAFO does not include a feeding operation that has a capacity of less than three-hundred (300) AU.
- 1.8 CONFINEMENT BUILDING: any structure that:
 - 1.8.1 has a full or partial roof supported by columns or walls and that is used for the housing or enclosure of animals, or
 - 1.8.2 anything that is constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, and that is used or designed for housing or enclosure of animals.
- 1.9 CONFINEMENT LOT: any area of land that is fenced or enclosed, and that is used to confine animals.

- 1.10 CONSTRUCTION PERMIT: A construction permit/letter of approval required of a CAFO by the Missouri Department of Natural Resources pursuant to the Missouri Clean Water Law.
- 1.11 COUNTY HEALTH PERMIT: Written authorization issued by the Livingston County Commission to construct, modify or operate a CAFO.
- 1.12 DNR PERMIT: A permit is issued by the Missouri Department of Natural Resources that authorizes the construction of a CAFO.
- 1.13 DRY HANDLING WASTE: Manure (urine or feces), litter, bedding, or feedwaste from animal feeding operations.
- 1.14 FEEDLOT. Any land area, structure, lot, yard, or corral or other area, whether enclosed with a roof or unenclosed, wherein livestock are confined in close quarters for the purpose of fattening, feeding, growing, raising, or birthing such livestock for final shipment to market or slaughter. Without limiting the generality of the foregoing definition, a lot or structure which contains three hundred (300) AU's per acre for the foregoing purposes shall be considered a Feedlot. A "Feedlot" does not include unenclosed pasture areas which are used for the raising of crops or other vegetation upon which livestock are allowed to graze or feed.
- 1.15 FLOODPLAIN. The Floodplain shall include any area within those boundaries shown as "Zone A" on the following maps, which maps are hereby incorporated by reference as if set forth in their entirety herein:
- (1) Flood Hazard Boundary Map, Panel 25 of 225, Community-Panel Number 290814 0025 A, dated December 15, 1983.
 - (2) Flood Hazard Boundary Map, Panel 50 of 225, Community-Panel Number 290814 0050 A, dated December 15, 1983.
 - (3) Flood Hazard Boundary Map, Panel 75 of 225, Community-Panel Number 290814 0075 A, dated December 15, 1983.
 - (4) Flood Hazard Boundary Map, Panel 100 of 225, Community-Panel Number 290814 0100 A, dated December 15, 1983.
 - (5) Flood Hazard Boundary Map, Panel 125 of 225, Community-Panel Number 290814 0125 A, dated December 15, 1983.
 - (6) Flood Hazard Boundary Map, Panel 150 of 225, Community-Panel Number 290814 0150 A, dated December 15, 1983.
 - (7) Flood Hazard Boundary Map, Panel 175 of 225, Community-Panel Number 290814 0175 A, dated December 15, 1983.
 - (8) Flood Hazard Boundary Map, Panel 200 of 225, Community-Panel Number 290814 0200 A, dated December 15, 1983.

- (9) Flood Hazard Boundary Map, Panel 225 of 225, Community-Panel Number 290814 0225 A, dated December 15, 1983.
- (10) Flood Hazard Boundary Map, Map Index for Community-Panels 25, 50, 75, 100, 125, 150, 175, 200, and 225, dated December 15, 1983, which Map Index shall be consulted in order to determine the applicability of a map set forth in paragraphs (1) through (9) hereto to a particular area or tract within the County.

The aforementioned Flood Hazard Boundary Maps are part of the National Flood Insurance Program and are published by the Federal Emergency Management Agency, and may be obtained by contacting the Map Service Center, P.O. Box 1038, Jessup, MD 20794-1038 (1-800/358-9616), which information is provided solely for the convenience of any applicant for a County Health Permit and shall not be considered binding on the County. An official copy of said maps shall be maintained in the Office of the County Clerk.

- 1.16 LAND: Any plot, parcel, lot or other area of land owned or leased by the CAFO to qualify for the capacity of “1 acre per 4 AU” formula for wet handling or “1 acre per 8 AU” formula for dry handling.
- 1.17 LEASE: A written contract for the use of real property, which contract specifically grants unto the lessee the exclusive right to apply animal waste and animal waste water to the leased premises.
- 1.18 LIVESTOCK: Cattle, sheep, swine, poultry, and other animals or fowl, which are being produced primarily for use as food or food products for human consumption.
- 1.19 LIVESTOCK LAGOON: Any area designed for the biological stabilization, treatment and/or storage of liquid wastes generated by a Feedlot.
- 1.20 NUTRIENT APPLICATION LEVELS: The levels of nutrients applied to the Plant Filter Area.
- 1.21 OCCUPIED DWELLING/ESTABLISHMENT: Any residence, or any church, school or business that:
 - 1.21.1 has been in use at any time during the 12 month period immediately prior to the date that a DNR permit is issued or, that a county application for a Class II facility is submitted to the County Commission,
 - 1.21.2 commences construction before the DNR permit is issued and is completed within twelve (12) months after construction was commenced; or commences construction before a county health permit application for a

Class II facility is submitted to the county commission and is completed within twelve months after construction was commenced;

1.21.3 is owned by a member of the United States armed forces, and would be occupied but for the owner's deployment.

1.22 OPERATING PERMIT: An operating permit and/or letter of approval required of a CAFO by the Missouri Department of Natural Resources pursuant to the Missouri Clean Water Law.

1.23 OWNER: Anyone who owns, either individually and/or with any other persons, any of the following interests in the real property upon which a CAFO is situated:

1.23.1 Fee simple title,

1.23.2 A leasehold interest,

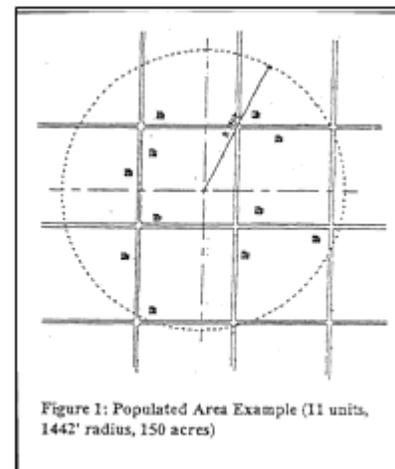
1.23.3 Any interest in an entity which holds fee simple title; or

1.23.4 Any interest in any entity which has a leasehold interest.

1.24 PERSON: Includes natural persons and also includes corporations, partnerships, associations and any other business or charitable entities, including a natural person who has supervisory authority over the operation of a CAFO, whether or not such person is an owner of the CAFO, and a natural person who applies animal waste or animal waste water originating from the CAFO.

1.25 PLANT FILTER AREA. Land used or reserved for the application of liquid wastes from a Livestock Lagoon.

1.26 POPULATED AREA: Any circular area inscribed by a radius of 1,442 feet and a circumference of 9,059 feet (such area including not more than approximately one hundred fifty (150) acres and having at least ten (10) occupied dwellings / establishments, which area is not on CAFO property, as measured in a straight line from the nearest occupied dwelling / establishment to the nearest CAFO confinement building, confinement lot, or other confinement area, or waste handling facility. (See Figure 1)



1.27 SETBACK: The distance for the CAFO facility to the nearest occupied dwelling / establishment not on CAFO property, as measured in a straight line from the occupied dwelling / establishment to the nearest CAFO confinement building, confinement lot, other confinement area, or water handling facility.

- 1.28 SLOPE. The vertical drop divided by the horizontal distance of a land area multiplied by one-hundred, and expressed as a percentage.
- 1.29 WASTE HANDLING FACILITY OR “WHF”: Any building or structure designed for the biological stabilization, treatment and/or storage of liquid wastes generated by a Feedlot.
- 1.30 WET HANDLING WASTEWATER: Water containing waste or contaminated by waste contact, including process-generated and contaminated rainfall runoff.

2 CLASSIFICATION OF CONCENTRATED ANIMAL FEEDING OPERATIONS

- 2.1 A Class IA CAFO is one that has capacity at least seven thousand (7,000) AU.
- 2.2 A Class IB CAFO is one that has a capacity between three thousand (3,000) AU and six thousand nine hundred and ninety-nine AU (6,999) inclusive.
- 2.3 A Class IC CAFO is one that has a capacity between one thousand (1,000) AU and two thousand nine hundred and ninety-nine (2,999) AU inclusive.
- 2.4 A Class II CAFO is one that has a capacity of at least three hundred (300) AU, but less than one thousand (1,000) AU.

3 PERMIT REQUIREMENTS FOR ALL CAFOS

- 3.1 No CAFO shall be constructed, operated, used, or established within Livingston County unless a County Health Permit has been issued by the Livingston County Commission. To apply for a County Health Permit the proposed CAFO shall submit to the County Commission all of the application materials submitted to the Missouri Department of Natural Resources for an operating permit and an application fee as established by the Livingston County Commission pursuant to Section 10 of this Ordinance. The County Commission shall not accept an application for a County Health Permit unless proof of notification as required by Section 3.2 herein is provided. If the CAFO is issued an Operating Permit and if the proposed CAFO meets the requirements of this Ordinance, then the County Commission shall also issue a County Health Permit. If the proposed CAFO is not subject to regulation by the Missouri Department of Natural Resources (“DNR”), then to apply for a County Health Permit the proposed CAFO shall submit a plan to the County Commission showing the location of the proposed facility, the number of proposed animal units, the proposed method and location of animal waste disposal and the name and address of the owner of the proposed CAFO as well as the name and address of the owner of the land on which the CAFO will be located, if different from the owner of the CAFO. In such case, if the County Commission determines that the proposed CAFO complies in every

respect with the terms of this Ordinance, then the County Commission shall issue a County Health Permit.

3.2 Prior to filing an application to acquire a County Health Permit, the owner or operator of any concentrated animal feeding operation shall provide the following information to the County Commission and to all adjoining property owners of property located within one and one-half times the buffer distance as specified in Section 5.2 of this Ordinance for the size of the proposed facility:

- 3.2.1 The number of animals anticipated at such facility by type of animal;
- 3.2.2 The waste handling plan and general layout of the facility;
- 3.2.3 The location and number of acres of such facility; and
- 3.2.4 Name, address, telephone number and registered agent for further information as it relates to Sections 3.2.1 to 3.2.3 herein. (See Appendix A)

3.3 At least one public hearing shall be held by the County Commission before approving any County Health Permit. Such public hearing may be continued from time to time and additional hearings may be held. The receipt and consideration of evidence at said hearings shall comply with the requirements of § 536.070, RSMo.

3.4 It shall be a violation of this Ordinance and unlawful for any person to operate a CAFO without first obtaining a County Health Permit from the County Commission.

3.5 It shall be a violation of this Ordinance and unlawful for any person to operate a CAFO with a number of Animal Units in excess of the number specified in the permit issued by the County Commission.

3.6 It shall be a violation of this Ordinance and unlawful for any person to apply animal waste or animal waste water in a manner inconsistent with the requirements of this Ordinance.

4 RULES APPLICABLE TO ALL CAFOS

Prior to issuance of a County Health Permit, the County Commission shall make findings of fact and conclusions of law as to the following:

4.1 The proposed CAFO shall be in compliance with all provisions of this Ordinance, as applicable.

4.2 No lagoon shall be constructed, operated or established unless it is designed, inspected, and approved by a registered engineer retained by the applicant.

- 4.3 All Livestock Feedlots and Livestock Lagoons shall be designed in such a manner as to avoid the degradation the quality of surface or subsurface waters, water courses or other bodies of water.
- 4.4 All Livestock Feedlots and Livestock Lagoons shall be designed in such a manner as to avoid the degradation of air quality. In no event shall the concentration of gases at the boundary of the land resulting from the operation of a Livestock Lagoon or Livestock Feedlot exceed the following levels:

Gas	Maximum Allowable Concentration ¹	Exposure Period ²
Carbon Dioxide (CO ₂)	5000	not applicable
Ammonia (NH ₃)	5	not applicable
Hydrogen Sulfide (H ₂ S)	10	2 hours
Methane (CH ₄)	1000	not applicable
Carbon Monoxide (CO)	50	One hour

¹ In parts of pure gas per million parts of atmospheric air.
² The time during which the effects of the noxious gas are felt by an adult human or a 150-pound livestock.

- 4.5 The applicant shall demonstrate that the soils on the premises, including a soil-plant filter area, are suitable for and compatible with the proposed Livestock Feedlot operations with respect to the location of Livestock Lagoons and the application of liquid, slurry or solid animal waste onto or into the soil on the premises. Further, no animal waste from a Livestock Lagoon shall be applied when soils are water saturated, frozen, or covered with snow, or when other soil conditions would result in waste runoff.
- 4.6 The Livestock Feedlot or Livestock Lagoon shall demonstrate that it shall at all times be operated in compliance with any required local, state or federal permits, licenses or other approvals, and in compliance with all applicable state and local laws and regulations.
- 4.7 The CAFO shall own or lease one acre of land for each 4 AU of capacity for wet handling systems or must own or lease one acre for each 8 AU of capacity for a dry waste handling system. The applicant shall provide a nutrient management plan that addresses environmental monitoring and reporting, including nitrogen, phosphorus and potassium levels in the soil. The nutrient management plan shall comply with the Missouri Department of Natural Resources (DNR) *Concentrated*

Animal Feeding Operations Best Management Practices (Feb.24, 2006), which document is hereby incorporated by this reference, and standards promulgated by the United States Environmental Protection Agency (EPA) for nutrient management (hereinafter the “Current Nutrient Management Standards”). If the DNR or EPA adopt regulations or publish guidance documents that supersedes the standards listed above, the Livingston County Commission may accept compliance with those regulations or documents in lieu of the Current Nutrient Management Standards if it finds that they provide equal or greater protection of water quality.

- 4.8 Animal waste and animal waste water shall not be applied to land with a slope greater than 10%.
- 4.9 Animal waste water shall be injected, knifed, or incorporated into the soil and shall not be applied within one thousand (1000) feet of an occupied dwelling/ establishment which existed prior to the date the CAFO is constructed. Dry animal waste shall not be applied within one thousand (1000) feet of an occupied dwelling /establishment which existed prior to the date the CAFO is constructed. This rule shall not apply to occupied dwellings / establishments owned by the CAFO. The owner of an occupied dwelling / establishment may apply for a variance from this rule as part of the application for a County Health Permit.
- 4.10 Animal waste and animal waste water shall not be applied within one-thousand (1,000) feet of any sink hole or well or spring or other water supply or one-hundred (100) feet from any stream (including intermittent streams) or strip pits. This rule shall not apply to waste lagoons on the CAFO property, but shall apply to all other wells, water supplies, streams, ponds, strip pits, lakes, springs and sink holes on the CAFO property. No Feedlot or Livestock Lagoon shall be located within a Floodplain.
- 4.11 No County Health Permit shall be issued for a livestock and/or poultry manure storage system or other system of manure storage that is of like and similar nature that prevents feedlot runoff unless such manure storage system is in compliance with all Missouri Department of Natural Resources (“DNR”) regulations for the control of wastes from livestock feedlots, poultry lots and other animal lots and said manure storage system has obtained a permit from DNR, if necessary, for the pollution control devices to be installed.
- 4.12 If the applicant for a County Health Permit or the operator of the CAFO does not own all of the land which will be used for the spreading of waste, the applicant shall provide an enforceable lease, easement, or other written agreement as part of the application for a County Health Permit. The length of the agreement shall be such that the CAFO has adequate time to make other alternative arrangements

in the event that the existing lease, easement, or other written agreement cannot be renewed. Such proof must annually be provided to the commission on the anniversary of the issuance of the permit.

- 4.13 Any person selling, giving, purchasing, receiving or dispersing animal waste within Livingston County will be held responsible for full compliance with the Livingston County Health Ordinance.
- 4.14 No Class IA, Class IB, or Class IC shall be erected, constructed, developed, used, operated, expanded, occupied or otherwise established unless the owners and any other persons responsible for operation of the waste management systems have been certified in accordance with the requirements of 10 CSR 20-14 (July 30, 2001), which provision is incorporated by reference as is set forth in its entirety herein.

5 SETBACK REQUIREMENTS

- 5.1 No Class IA CAFO shall be located within one and one half mile of any Class IA or Class IB CAFO and no Class IA CAFO shall be located within one mile of any other Class IC or Class II CAFO. No Class IB, Class IC or Class II CAFO shall be located within one mile of any Class IB CAFO. No Class IC or Class II CAFO shall be located within three quarters (3/4) mile of any Class IC CAFO. No Class II CAFO shall be located within one-half (1/2) mile of any Class II CAFO. This distance shall be measured from the nearest point of one CAFO’s confinement or waste containment system to the nearest point of another CAFO’s confinement or waste containment system.

Setback Distances	Class IA	Class IB	Class IC	Class II
Class IA	1.5 mile	1.5 mile	1 mile	1 mile
Class IB	1.5 mile	1 mile	1 mile	1 mile
Class IC	1 mile	1 mile	3/4 mile	3/4 mile
Class II	1 mile	1 mile	3/4 mile	1/2 mile

- 5.2 The County Commission shall require at least but not more than the following buffer distances between the nearest Feedlot or Livestock Lagoon and any public building or Occupied dwelling / establishment:

5.2.1 For a Class II and Class IC CAFO, two thousand (2,000) feet;

5.2.2 For a Class IB CAFO, three thousand (3,000) feet; and

5.2.3 For a Class IA CAFO, four thousand (4,000) feet.

Size of Concentrated Animal Feeding Operation	Minimum Distances from Occupied Dwelling/Establishment
Class IA	4000'
Class IB	3000'
Class IC	2000'
Class II	2000'

- 5.3 Section 5.2 shall not apply to occupied dwelling / establishments owned by the CAFO or to dwellings not in existence at the time of issuance of the County Health Permit.
- 5.4 No CAFO shall be located within two (2) miles of an incorporated area.
- 5.5 No CAFO shall be located within one-hundred (100) feet of the property line or within one-hundred (100) feet of any public use area or conservation area.
- 5.6 No Class IA, IC, IB or Class II CAFO shall be located within one (1) mile of a populated area.

6 FINANCIAL GUARANTEES

- 6.1 No health permit shall be issued unless adequate security has been furnished to ensure proper cleanup and disposal as required by sections 6.2 and 6.3 hereto.
- 6.2 A cash, surety bond or irrevocable letter of credit shall be furnished to the Livingston County Treasurer for any manure storage system. A manure storage system may include one or more lagoons at any single CAFO. If the bond is a surety bond, the surety shall be approved by the County Commission and found to be of reputable character and financially sound with respect to the obligation incurred. The bond shall be furnished before construction and during the operating period. The bond shall remain with the County Treasurer until the operator has complied with all Federal, State and Local laws in operation of the facility and until the prompt clean up and proper disposal of any waste improperly handled or disposed of at the facility and restoration of the premises upon which the facility is operated. If a cash bond is posted, all interest earned thereon shall become part of the bond subject to terms and conditions, including the condition of release. The County Commission shall give approval before release of the bond.
- 6.3 The cash, surety bond or irrevocable letter of credit schedule is as follows:

6.3.1	Class II	-	\$ 15,000.00
6.3.2	Class IC	-	\$ 30,000.00
6.3.3	Class IB	-	\$ 50,000.00
6.3.4	Class IA	-	\$100,000.00

7 VARIANCE

Where, due to an extraordinary or exceptional situation or condition of a specific piece of property, the strict application of this Ordinance would result in peculiar and exceptional difficulties to, or an exceptional and demonstrable undue hardship upon, the owner of the property as an unreasonable deprivation of use as distinguished from the mere grant of a privilege, the County Commission may authorize, as part of the application for a County Health Permit, a variance from the strict application so as to relieve said demonstrable difficulties or hardships, provided the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the regulations, standards and criteria established in this Ordinance.

8 APPLICATION OF ORDINANCE

A CAFO in existence at the time of the enactment of this Ordinance is exempt from its terms and conditions; provided, however, that before a CAFO in existence at the time of the enactment of this Ordinance may expand or change its operation in terms of a change of classification or amount or manner in which animal waste or animal waste water is applied or disposed of, the CAFO shall be in compliance with this Ordinance in every respect and shall obtain a new County Health Permit.

9 DISPOSAL OF DEAD ANIMALS AND AFTER BIRTHING MATERIAL

The proper disposal of dead animals and after birthing material shall be completed within twenty-four (24) hours from the time of occurrence.

10 ADMINISTRATIVE FEES

10.1 No application for approval of a County Health Permit shall be accepted until the applicant has paid all processing fees as set forth below. Fees paid shall be non-refundable except as provided in Section 10.4 below.

10.2 The fee amount shall not exceed the amount needed to recover the cost of inspection, investigation and review of the proposed application, which fee amounts are based upon the anticipated costs of review, inspection and investigation, and which fee amounts have taken into consideration the need for special investigative services including geologic inspections, hydrologic

inspections, groundwater monitoring, soils evaluation, and other unique costs of a scientific or technical nature associated with the processing of the application. For purposes of this Ordinance, the initial administrative fee amounts shall be as follows:

Classification of CAFO	Initial Fee
Class IA	\$10,000
Class IB	\$5,000
Class IC	\$2,500
Class II	\$2,500

In the event the cost to the county exceeds the above amounts, the additional cost will be assessed to the applicant with a maximum fee of twice the administrative fee listed above.

10.3 There shall be established with the County Treasurer an escrow fund, for each application for a County Health Permit, for the purposes of reimbursing the County Commission for services rendered in connection with administration of this Ordinance. Said escrow account shall include the proceeds of project review fees established pursuant to this Section. The funds contained in said escrow account shall be used solely to reimburse the County Commission for actual costs associated with administration of this Ordinance, for actual services rendered for investigation, administration and processing of a County Health Permit including costs associated with the retaining and compensation of experts on scientific and technical issues associated with the application, and costs associated with public hearings. The County Treasurer shall disburse payments based upon billings supplied by the County Commission and approved by the County Commission.

10.4 The applicant for a County Health Permit may apply to the County Commission for a credit against the fee previously paid in the event that a portion of the costs of review and processing is duplicative, pursuant to the standards of applicable case law or statutes then in effect. After the approval, conditional approval or denial of a county health permit, the County Treasurer shall refund to the applicant any unexpended or unencumbered balance of the escrow account established pursuant to this Section for said application.

11 VIOLATION OF ORDINANCE

11.1 Any person violating this Ordinance shall be subject to punishment by imprisonment or fine as provided by law. Each day a person operates a CAFO in

violation of this Ordinance, and each time a person applies animal waste or animal waste water in a manner inconsistent with the requirements of this Ordinance, shall be considered a separate offense.

11.2 The County Health Permit shall remain valid only if the CAFO authorized by said permit is operating in compliance with the criteria and standards established by this Ordinance and the County Health Permit. If the CAFO is not operated in compliance with this Ordinance or any condition of the County Health Permit, the County Health Permit may be revoked. An evidentiary hearing would be held prior to a revocation order. If a County Health Permit is revoked, no CAFO may be used, established, constructed, or operated thereon unless and until a new County Health Permit is obtained in accordance with the procedures, criteria and standards established in Sections 1 through 11 of this Ordinance.

12 SEVERABILITY

The chapters, sections, paragraphs, sentences, clauses, and phrases of Ordinance 97-3, as amended by Ordinance No. 060909 are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any Court of competent jurisdictions, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same would have been enacted by the Board of County Commissioners without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

13 REPEAL OF ORDINANCES NOT TO AFFECT LIABILITIES, ETC.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released, or discharged but may be prosecuted, enjoined, and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

14 EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage by the Board of County Commissioners, except as provided above.

PASSED AND APPROVED THIS _____ DAY OF _____, 2009

Eva Danner, Presiding Commissioner

Ken Lauhoff, Eastern District Commissioner

Todd Rodenberg, Western District Commissioner

ATTEST:

Kelly Christopher
County Clerk

APPENDIX “A”

The application shall be prepared by a professional engineer licensed by the Missouri Board for Architects, Professional Engineers and Land Surveyors (hereinafter “Professional Engineer”). The Application to be covered by this permit shall include the following:

1. Any and all applications for other governmental approval for the proposed CAFO, including any application for a construction permit from the DNR, or any current or previous NPDES permit number if applicable.
2. Facility owner’s name, address and telephone number.
3. Facility operator’s name, address and telephone number.
4. Types of waste handling practices to be used for processing wastes (such as containment in a waste storage pond plus land application). The applicant shall provide, as part of the application for a County Health Permit, all of the information required by 10 CSR 20-8.
5. Name of receiving water(s) to which wastewaters are (or may be) discharged from the facility (receiving waters include canals, laterals, rivers, streams, etc.)
6. The type of livestock and number of animals confined, in AU’s or, where animals will be included that are not listed in the definition of AU’s, the number of animal unit equivalents.
7. A sketch of the operation, including control facilities, diversion ditches, building structures, feeding areas, slope, direction of overland and surface water flow, and proximity to surface waters.
8. A site plan, at a scale of one inch equals one hundred (100) feet, showing the following:
 - a. Each confinement area;
 - b. Each lagoon or other waste disposal facility;
 - c. All plant filter areas;
 - d. All land areas in which the slope is greater than ten percent (10%);
 - e. All rivers, streams, and wetlands;
 - f. All intended areas for waste dispersal including waste distribution buffering zones.
9. A current (as of the date of the application) vicinity map, at a scale of 1 inch equals five hundred (500) feet, showing all occupied dwellings / establishments and populated areas, water sources, water wells, ponds, rivers, streams, and lakes within a two-mile radius of the property. A list of all adjoining properties, owners and addresses are to be included.
10. Construction plans and specifications for the liner system for each lagoon. The design shall include a detailed explanation of the construction techniques and equipment necessary to

achieve ninety five percent (95%) of the standard Proctor density under final conditions. The design shall also include quality assurance and quality control procedures to be followed during construction of the liner.

11. A report, certified by a Professional Engineer, which demonstrates that the water consumed or utilized by the proposed CAFO on a daily, monthly and annual basis shall not exceed the available groundwater supplies or the capacity of any water source, treatment or distribution facilities which will serve the proposed CAFO.
12. The applicant shall submit a soils map of the entire property based upon an on-site soils investigation, soil interpretative data, and a soils engineering report which includes a rating of the suitability of the soils for livestock waste management which shall be based upon a description of soil properties and their variability, available water capacity, bulk density, cation-exchange capacity, depth to bedrock or cemented pan, depth to high-water table, flooding, rock fragmentation, intake rate, permeability rate, soil Ph, ponding, salinity, slope and sodium adsorption. Said soils engineering report shall be consistent with part 651 of the AWMFH. The foregoing submission shall be prepared by a professional licensed in the State of Missouri.
13. A report which provides the nutrient values for the CAFO; soil-plant filter size, in acres; plant species to be grown in the plant filter areas including expected yields, harvest methods and uses of the harvest; and the nutrient removal capabilities based upon the type(s) of plant species utilized in the soil-plant filter areas.
14. A sworn statement indicating whether the owner or any operator has had a permit or license revoked by any federal, state or local environmental or health agency within the past five (5) years.



Agricultural Waste Management Field Handbook

NEH Part 651 – Agricultural Waste Management Field Handbook (AWMFH)

Documents available for download require [Microsoft Word](#) or [Adobe Acrobat](#).

AA = Adobe Acrobat

MW = Microsoft Word

651.01 – [Chapter 1, Laws, Regulations, Policy and Water Quality Criteria](#)

Vermont Supplement – None

651.02 – [Chapter 2, Planning Considerations](#)

Vermont Supplement – None

651.03 – [Chapter 3, Agricultural Wastes, and Water, Air, and Animal Resources](#)

Vermont Supplement - None

651.04 – [Chapter 4, Agricultural Waste Characteristics](#)

Vermont Supplements:

4-8-1 Dairy Manure Production Factor

4-23-1 Typical Values for Total Nutrient Content of Manure

4-A-1 Environmental Quality Tech Note N5 – Silage Leachate & Water Quality

4-B-1 Base Flow Silage Leachate Control

4-C-1 Environmental Problems with Silage Effluent

4-D-1 AEM Reference Sheet – Silage Storage

651.05 – [Chapter 5, Role of Soils in Waste Management](#)

Vermont Supplement – None

651.06 – [Chapter 6, Role of Plans in Waste Management](#)

Vermont Supplement – None

651.07 – [Chapter 7, Geologic and Ground Water Considerations](#)

Vermont Supplements:

7-23 Earth Lined Manure Storage Flow Chart

7-C-1 Geology Tech Note 5 – SEEPAGE

7-D-1 Guidelines for the Use of Soil Liners with Ag. Waste Management Practices

651.08 – [Chapter 8, Siting Agricultural Waste Management Systems](#)

Vermont Supplements

8-31-1 Field Waste Stacking Areas - Location Criteria (MW)

651.09 – [Chapter 9, Agricultural Waste Management Systems](#)

Vermont Supplement – None

http://www.vt.nrcs.usda.gov/technical/Engineering/AWMFH_VT.html

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651.10 – Chapter 10, Agricultural Waste Management System Component Design

Vermont Supplements

- 10-2-1 Roof Runoff Structure – Gutter Selection Size
- 10-10-1 Guidelines for Gravity Flow Gutters for Manure Removal in Milking Barns
- 10-62-1 Sizing Animal Mortality Composting Facilities (MW)
- 10-66-1 Milking Wastewater Infiltration System (AA)
- 10-78-1 On-Farm Methods for Composting Livestock Carcasses (Graves)
- 10-C-32 Calculating Runoff from Paved and Unpaved Animal Holding/Feeding Areas
- 10-D-32 Discussion of Background Considerations in the Development of Appendix 10D of the AWMFH

651.11 – Chapter 11, Waste Utilization

Vermont Supplement – None

651.12 – Chapter 12, Waste Management Equipment

Vermont Supplement – None

651.13 – Chapter 13, Operation, Maintenance and Safety

Vermont Supplement – None

651.14 – Chapter 14, Agricultural Chemicals - None

Vermont Supplement – None

651.15 – Chapter 15, Computer Software and Models

Vermont Supplement – None

651.16 – Chapter 16, Sampling and Monitoring – None

Vermont Supplement – None

651.17 – Chapter 17, Conservation Planning – None

Vermont Supplement – None

Conversion Factors and Tables

Vermont Supplement – None

Glossary

Vermont Supplement – None