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LISA M MINIX, RECORDER

STARKE COUNTY, KNOX, IN

RECORDED AS PRESENTED

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ORDINANCE 2015-0921

**ORDINANCE FOR THE REGULATION OF
CONCENTRATED ANIMAL FEEDING OPERATIONS**

Be it enacted by the County of Starke as follows:

The Code of the County of Starke is hereby adding thereto a new chapter, to be Chapter _____, Concentrated Animal Feeding Operations to read as follows:

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THIS ORDINANCE IS APPLICABLE TO NEW CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO) AND ACTIVE ANIMAL FEEDING OPERATIONS (AFO) THAT WISH TO EXPAND SUCH THAT AFTER THE EXPANSION IT WOULD BE DEFINED AS A CAFO.

1. INTENT & PURPOSE

Establishing a procedure for the permitting of CAFO'S.

Regulation the location, development and the expansion of CAFO'S.

Protecting CAFO'S from residential, commercial and public land use conflicts.

Protecting agriculture's ability to grow and change.

Protecting the land, water, and air resources of Starke County.

Protecting Starke County's taxpayer's property values.

Protecting human welfare, health, safety and well-being.

2. DEFINITIONS

"Animal Feeding Operation, AFO

A lot or facility, other than an aquatic animal production facility, where both of these conditions are met:

A. Animals, other than aquatic 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

B. Crops, vegetation, forage growth, or post harvest residues are not sustained in the normal growing season over at least fifty percent (50%) of the lot or facility.

Reference 327 IAC 5-4-3(b)(3)

"Concentrated Animal Feeding Operation, CAFO"

An AFO that stables or confined as many as or more than the number of animals specified in any

of the following categories. Two (2) or more AFOs under common ownership are considered to be a single CAFO, if the AFO's adjoin each other or use a common area for land application of manure, litter, or process wastewater.

- A. Seven hundred (700) mature dairy cows, whether milked or dry.
- B. One thousand (1,000) veal calves.
- C. One thousand (1,000) cattle other than mature dairy cows or veal calves. Cattle include, but are not limited to, heifers, steers, bulls, and cow/calf pairs.
- D. Two thousand five hundred (2,500) swine each weighing fifty-five (55) pounds or more.
- E. Ten thousand (10,000) swine each weighing less than fifty-five (55) pounds.
- F. Five hundred (500) horses.
- G. Ten thousand (10,000) sheep or lambs.
- H. Fifty five thousand (55,000) turkeys.
- I. Thirty thousand (30,000) laying hens or broilers, if the AFO uses a liquid manure handling system.
- J. One hundred twenty five (125,000) chickens, other than laying hens, if the AFO uses other than a liquid manure handling system.
- K. Eighty two thousand (82,000) laying hens, if the AFO uses other than a liquid manure handling system.
- L. Thirty thousand (30,000) ducks, if the AFO uses other than a liquid manure handling system.
- M. Five thousand (5,000) ducks, if the AFO uses a liquid manure handling system.

Reference 327 IAC 5-4-3(b)(4) & 5-4-3(b)(7)

“Shall”

Means that the requirement is mandatory, rather than optional.

“Non-Farm Residence”

An occupied dwelling or house located in Agriculture Zoned Property that is not controlled by the owner and/or operator of a CAFO.

“Waste Management System”

Any method of managing manure at a site, including: 1) manure storage structure, 2) manure transfer system, 3) manure treatment systems, such as a constructed wetland, vegetative management system, or wastewater treatment system, 4) feedlot, 5) confinement building, 6) waste liquid handling, storage, and treatment system. Reference 327 IAC 16-2-44

3. DEVELOPMENT STANDARDS

CONFORMANCE REQUIREMENTS

A Concentrated Animal Feeding Operation (CAFO) shall meet all applicable requirements of the Federal, State or Local government. In addition, CAFO applicants shall meet the following requirements.

- a) Obtain a pre-application permit from the Planning Commission of Starke County prior to the submission of a permit application for approval from the Indiana Department of Environmental Management (IDEM)
 - a. A pre-application permit shall be granted to the CAFO upon submittal of the application to the Planning Commission if the CAFO ordinance requirements are met.

- b. A CAFO is a "proposed" CAFO, for purposes of this ordinance, when a pre-application permit is submitted.
- c. A CAFO is an "existing" CAFO, for purposes of this ordinance, when approval and a permit from IDEM is issued.
- b) CAFO waste management system, compost facility, and mortality staging shall not be within one hundred fifty (150) feet of any county road centerline. Any other developed portions of the facility shall abide by existing zoning setbacks for like structures.
- c) The minimum lot size on which a CAFO shall be permitted is ten (10) acres.
- d) CAFO'S shall only be allowed on agriculturally zoned property.
- e) A CAFO waste management system, compost facility, and mortality staging shall not be located within one hundred fifty (150) feet of any side or rear property line unless permission for a reduced setback is granted by the adjoining landowner.
- f) Adequate truck loading areas and access shall be provided. Ingress and egress shall be designed to avoid creation of traffic hazards and congestion, odor, dust, noise or drainage impacts.
- g) All CAFO'S shall obtain a "Route Permit" from the County Highway Department.
- h) A copy of the Indiana Department of Environmental Management approval shall be submitted to the Planning Commission prior to receiving a Building Permit.

4. ODOR SETBACKS

- a) Minimum setback for any CAFO waste management system from non-farm residences shall be as follows:
 - 1. Seven hundred fifty (750) feet as long as the CAFO includes three (3) odor controls prior to the start-up of the operation.
 - 2. One thousand (1,000) feet as long as the CAFO includes two (2) odor controls prior to the start-up of the operation.
 - 3. One thousand three hundred twenty (1320) feet as long as the CAFO includes one (1) odor control prior to the start-up of the operation.
 - 4. One thousand five hundred seventy (1570) feet when the CAFO does not include any odor control prior to the start-up of the operation. Operations that do not include odor controls shall increase the minimum setback by two hundred fifty (250) feet for each multiple greater than one (1) (rounded up to the nearest whole number), above the animal numbers required to be a CAFO.
(i.e. A dairy with seven hundred (700) mature cows without odor controls would require a one thousand five hundred seventy (1570) foot setback; A dairy with one thousand five hundred (1500) mature cows without odor controls would require a one thousand eight hundred thirty (1830) foot setback; $\{[1,500-700]/700-1=0.14, \text{ round up to } 1, 1,570 \text{ feet} + [1 \times 250 \text{ feet}]\}$).
 - 5. Odor controls include, but are not limited to, the controls listed in Table 1. Proven odor controls are listed in Table 1 for reference. Other proven odor controls not listed in Table 1 may be used to determine the required setback.

Table 1: Proven Odor Controls

| | |
|----------------------------------|----------------------------------|
| Diet Manipulation/Feed Additives | Liquid separation |
| Shelterbelts | Anaerobic treatment lagoon |
| Vegetation screens | Anaerobic digester |
| Windbreak walls | Manure storage surface accretion |

| | |
|------------------------------------|---|
| Biofilters | Reduced anaerobic lagoon loading rate |
| Biomass filters | Aerobic treatment |
| Air filters | Ozonation |
| Aerodynamic deduster (air cleaner) | Urine/feces segregation |
| Wet scrubber (ventilation air) | Permeable covers (i.e. geotextile) |
| Catalytic converter | Impermeable covers |
| Vegetable oil spray (dust control) | Pit additives (i.e. biological, chemical) |

- b) A new CAFO shall not locate the waste management system within a two (2) mile buffer from the city limits of the cities of Knox, North Judson, and Hamlet.
- c) An active animal feeding operation (AFO) that expands such that it is defined as a CAFO shall not locate a new waste management system within a two (2) mile buffer from the city limits of Knox, North Judson, and Hamlet or any closer that the setback between an existing waste management system and the city limits of Knox, North Judson and Hamlet (whichever is least restrictive).
- d) A new CAFO shall not locate the waste management system within a minimum of one thousand five hundred seventy (1570) feet or the prescribed setback from a non-far residence required by this ordinance (whichever is greater) of an incorporated city or town limits.
- e) An active animal feeding operation (AFO) that expands such that it is defined as a CAFO shall not locate a new waste management system within a minimum of one thousand five hundred seventy (1570) feet, the prescribed setback from a non-farm residence required by this ordinance, or any closer that the setback between an existing waste management system and the city or town limits of an incorporated city or town (whichever is least restrictive).
- f) If the setback between an existing CAFO and non-farm residence is less than the setback prescribed in subsection (a) above, the existing CAFO may expand at the same location provided the new or expanded waste management system does not reduce the existing setback between the CAFO waste management system and non-farm residence unless written permission is given by the owner of the non-farm residence.
- g) An existing AFO proposing to expand such that after the expansion it would be defined as a CAFO may expand at the same location provided the following:
 - 1. If the setback between the existing AFO and non-farm residence is less than the setback prescribed in subsection (a) above, the existing AFO may expand at the same location provided the new or expanded waste management system does not reduce the existing setback between the AFO waste management system and non-farm residence, unless written permission is given by the owner of the non-farm residence.
 - 2. If the setback between the existing AFO and non-farm residence is greater than the setback prescribed in subsection (a) above, the existing AFO may expand at the same location provided the new or expanded waste management system location maintains the setback distances prescribed in subsection (a) above, unless written permission is given by the owner of the non-farm residence.
- h) A newly constructed non-farm residence shall not be located within the required setback by subsection (a)(4) of Section III of this ordinance from an existing or proposed CAFO waste management system for the number of animals at the existing or proposed CAFO. The minimum setback shall be 1,570 feet.

- i) If a variance is granted by the BZA for a non-farm residence from the setback standards of this ordinance, the party obtaining the variance/rezone shall be required to enter into the following covenant protecting the CAFO's right to operate:

"In accepting this deed, grantees acknowledge that surrounding land is agricultural in usage; and grantees, and their successors in interest, are precluded from attempting to enjoin any farm operation within the prescribed setback of [(required setback)] required by the Starke County Concentrated Feeding Operation Ordinance because of nuisances which might result from said operation."

- j. If a variance/rezone is granted for a new subdivision development in an agriculturally zoned property there shall be a condition of receiving a variance/rezone, the grantee must sign and agricultural clause that must be accompanied by a deed restriction to successive owners:

"Grantee/owners of said lot(s) and their successors in title are on notice and understand that this residence/subdivision will be built in a predominantly agricultural area and that farming operations, to include animal feeding operations and other livestock operations may be practiced in the area of this residence/subdivision. With this understanding, grantee/all owners of the lot(s) in this subdivision and their successors in title forego their right to bring claim against any agricultural operation in the area who has not been negligent."

5. SETBACK EXCEPTIONS

- a) Grandfathered Non-conforming Uses. Any existing CAFO legally established prior to (date of adoption), 2015, shall be considered legal non-conforming use.
- b) A non-farm residence may agree to a reduced setback between a new or expanding CAFO and to non-farm residence. A written agreement between the non-farm residence and CAFO must be filed with the Planning Commission prior to the issuance of a building permit.

6. ENVIRONMENTAL PROTECTION

- a) The operator of a new, expanding, or existing CAFO shall comply with all State laws and rules; including the laws and rules administered by IDEM and with any permits granted by IDEM.
- b) All applicants who have or had ownership in any CAFO/AFO in the State of Indiana or any other state during the five years prior to the date of obtaining a pre-application permit must not have any unresolved violations with the Indianan Department of Environmental Management or any other corresponding or comparable local, state or federal regulatory agency. All such outstanding violations must be resolved before a building permit will be issued by the Planning Commission.
- c) CAFO'S shall abide by 312 IAC 12 Water Well Drilling and Ground Water and register all wells capable of withdrawing over one hundred thousand (100,000) gallons per day or seventy (70) gallons per minute with the Department of Natural Resources.
- d) A CAFO shall follow all manure application rules as defined in their IDEM permit and in accordance with their manure management plan.
- e) A CAFO/AFO shall not locate any portion of the waste management system within the flood plain unless a Federal Emergency Management Agency, National Flood Insurance Program "Floodproofing Certificate" for non-residential structures is provided and the waste

