

PETTIS COUNTY ORDINANCE NO. 96-1

PETTIS COUNTY CONCENTRATED ANIMAL FEEDING OPERATION ORDINANCE

Pursuant to 192.300, RSMO. The Pettis County Commission adopts this ordinance to regulate the operation of Concentrated Animal Feeding Operations (CAFO) in Pettis County, Missouri and to prescribe the penalties for violations of these regulations and shall supersede all others.

I. DEFINITIONS

- A. "Application" means the injection, knifing, spraying or placing in any other manner of animal waste or animal wastewater onto or into the land.
- B. "Animal unit" is a unit of measure to compare various animal types. One animal unit, which is referred to as "AU" in this ordinance, equals the following:
1. 1 beef feeder or slaughter animal
 2. 2.5 swine over 55 pounds
 3. 15 swine under 55 pounds
 4. 0.7 dairy cows
 5. 100 broiler chickens
 6. 55 turkeys
 7. 30 laying hens
 8. 10 sheep
 9. 0.5 horses
- C. "Animal waste" means any animal excrement, animal carcass, feed waste, animal water waste or any other waste associated with animals.
- D. "Animal waster water" means 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.
- E. "Concentrated Animal Feeding Operation" (CAFO) is an animal feeding operation that meets both of the following criteria:
1. A ground cover of vegetation is not sustained or is not reasonably expected to be sustained over at least fifty percent (50%) of the animal confinement area; and
 2. At any time has 300 or more AU,
- F. "Lease" means a written contract for the exclusive use of real property, which contract specifically grants unto the lessee the right to apply animal waste and animal waste water to the leased premises.
- G. "Occupied dwelling" means any residence, or any church, school or business which has been in use at any time during the 12 months period immediately prior to the date upon which a permit is issued by the Department of Natural Resources (DNR) for the construction of a CAFO.
- H. "Owner" of a CAFO means 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. Fee simple title;
 2. A leasehold interest;
 3. Any interest in an entity which holds fee simple title; or
 4. Any interest in any entity which has a leasehold interest
- I. "Permit" means written authorization issued by the Pettis County Commission to construct, modify or operate a CAFO.

- J. "Persons" includes natural persons and also includes corporations, partnerships, associations and any other business or charitable entities.
- K. "Populated area" means an area having at least 10 occupied dwellings, excluding CAFO owned occupied dwellings, within one square mile.
- L. "Setback" means the distance from the CAFO facility to the nearest occupied dwelling not on CAFO property, as measured in a straight line for the occupied dwelling to the nearest CAFO confinement building, confinement lot, or other confinement area, or waste handling Facility.
- M. Wet Handling Wastewater – water containing waste or contaminated by waste contact, including process-generated and contaminated rainfall runoff.
- N. Dry Handling Waste – manure (feces and urine), litter, bedding, or feedwaste from animal feeding operations.
- O. Land – means any 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.

II. CLASSIFICATION OF CONCENTRATED ANIMAL FEEDING OPERATIONS

- A. A Class ID CAFO is one that has a capacity of 300 to 1100 AU.
- B. A Class IC CAFO is one that has a capacity of 1101 to 1650 AU.
- C. A Class IB CAFO is one that has a capacity of 1651 to 2000 AU.
- D. A Class IA CAFO is one that has a capacity of 2001 or more AU.

III. PERMIT REQUIREMENTS FOR ALL CAFO'S

- A. All CAFO's must obtain a permit from the Pettis County Commission to operate in this County. To apply for a permit the CAFO must submit to the County Commission all of the Application materials submitted to the Department of Natural Resources plus an application Fee of \$5.00. If the CAFO is issued a permit by the Department of Natural Resources and if The proposed CAFO meets the setback requirements of this Ordinance, then the County Commission shall also issue a permit. If the proposed CAFO is small enough that it will not be subject to Department of Natural Resources regulation, then to apply for a County Commission 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 disposing of animal waste and the name and address of the owner of the proposed CAFO plus 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.
- B. It will be a violation of this ordinance and unlawful for any person to operate a farming facility which comes within the definition of a CAFO without first getting a permit from the County Commission.
- C. It will be a violation of this ordinance and unlawful for any person to operate a farming facility with a number of AU in excess of the number specified in the permit issued by the County Commission.
- D. It will 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.
- E. Violations of Section III B and III C and IIID of this Ordinance will be punishable by imprisonment in the County jail for a term of up to one year or by a fine of up to \$1,000 or by combination of imprisonment and a fine.

IV. RULES APPLICABLE TO ALL CAFO'S

- A. All CAFOs constructed after June 7, 1996 must 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 as specified in the permit issued by the County Commission. The land must be in a contiguous tract for all wet-handling systems. For purposes of this ordinance, a CAFO is deemed to be constructed upon the date the Department of Natural Resources issues a construction permit for the facility, or the date upon which a permit is obtained from the County Commission for such facility.
- B. Animal waste and animal wastewater will not be applied on land with a maximum natural slope greater than 10%. The maximum natural slope will be determined in accordance with the procedures used by the Soil Conservation Service.

- C. Animal wastewater will not be applied within a quarter mile of an occupied dwelling which existed prior to the date construction began on the CAFO. Animal waste water injected or knifed into the soil will not be applied within 500 feet of an occupied dwelling which existed prior to the date construction began on the CAFO. Dry animal waste will not be applied within 500 feet of an occupied dwelling which existed prior to the date construction began on the CAFO. This rule will not apply to dwellings owned by the CAFO. The owner of an occupied dwelling may agree to a variance from this rule. To secure such a variance, the CAFO must have the written permission of the owner of the occupied dwelling, and such written permission must be renewed annually. The CAFO must then file the written permission with the County Commission. Only after the CAFO secured the annual written permission for variance and filed the written permission with the County Commission may the CAFO apply dry animal waste or animal waste water in variance to this rule.
- D. Animal waste and animal waste water will not be applied within 500 feet of any sink hole or well or spring or other water supply or 50 feet from any stream (including intermittent streams) or strip pits. This rule will not apply to waste lagoons on the CAFO property, but will apply to all other wells, water supplies, streams, ponds, strip pits, lakes, springs and sink holes on the CAFO property.

V. RULES APPLICABLE TO CLASS 1B, 1C AND 1D CAFO'S

- A. No CAFO will be located within 1 mile of any Class 1A CAFO. No class 1B CAFO or 1C or 1D within $\frac{3}{4}$ of a mile of any Class 1B CAFO. No Class 1C or no Class 1D will be located within $\frac{1}{2}$ mile of any class 1C CAFO. No class 1D will be located within $\frac{1}{4}$ mile of any class 1D CAFO. This distance will be measured from the nearest point of one CAFO's confinement and waste containment system to the nearest point to another CAFO's confinement and waste containment system.
- B. No Class 1D CAFO will be located within 1,000 feet of an occupied dwelling. No Class 1C CAFO will be located within $\frac{1}{4}$ mile of an occupied dwelling. No Class 1B CAFO will be located within $\frac{1}{2}$ mile of an occupied dwelling. This rule will not apply to occupied dwellings owned by the CAFO or to dwellings not in existence at the time the CAFO is first issued a permit by the DN R, or the County Commission if CAFO is not permitted by DNR.

VI. RULES APPLICABLE TO CLASS 1A CAFOS

- A. No Class 1A CAFO will be located within 1 mile of any other Class CAFO. The distance will be measured from the nearest point of one CAFO's confinement and waste containment system to the nearest point of another CAFO's confinement and waste containment system.
- B. No Class 1A CAFO will be located within $\frac{3}{4}$ mile of an occupied dwelling. This setback requirement will increase by $\frac{1}{4}$ mile for each 500 AU of authorized capacity in excess of 2,000 AU. This rule will not apply to occupied dwellings owned by the CAFO or to the dwellings not in existence at the time the CAFO is first issued a permit by the DNR, or the County Commission if CAFO is not permitted by DNR.
- C. No Class 1A CAFO will be located within 2 miles of a populated area. This setback will increase $\frac{1}{4}$ mile for each 500 AU of authorized capacity in excess of 2,000 AU.

VII. VARIANCE TO SETBACK RULES

- A. A CAFO may secure a variance from the requirement that CAFOs not be located within certain distances of occupied dwellings by getting the written consent of the owners of all occupied dwellings within the setback area. This written consent must be filed with the County Commission.

VIII. APPLICATION OF AN ORDINANCE

A. GRANDFATHER CLAUSE" EXEMPTION

CAFOs in existence on June 7, 1996, are exempt from the terms and conditions of this ordinance so long as the CAFO continues to operate 1} upon the same real property, 2} within the same classification. If a CAFO in existence on June 7, 1996, increases its number of animal units so that the classification changes, then the CAFO must meet all requirements of this ordinance.

The purpose of this section is to provide what is normally referred to as "grandfather clause" protection for existing CAFOs. However, if the CAFO changes its operation in any of the ways mentioned above, then this "grandfather clause" protection does not apply.

A person who owns or operates a CAFO on June 7, 1996, may own or operate another CAFO without losing this "grandfather clause" protection for the CAFO which existed on June 7, 1996, so long as the newer CAFO (1) is a separate and distinct operation, (2) the real property upon which the new CAFO is situated within the guidelines of the Pettis County Ordinance No. 96-1.

B. TRANSFER OF OWNERSHIP OF CAFO WITH "GRANDFATHER CLAUSE" EXEMPTION

If ownership of all of the real property upon which a CAFO that existed on June 7, 1996 is transferred to another person or entity, then this exemption continues to exist for the CAFO so long as the CAFO does not lose the exemption for any of the reasons stated above in paragraph A.

If ownership of any portion of a CAFO that existed on June 7, 1996 is transferred to another person or entity, then the "grandfather clause" exemption offered by this section remains with the original owner unless the original owner transfers part or all of the "grandfather clause" exemption to the new owner.

In order to transfer all of the exemption, the original owner must so state in a written document executed at the time of the transfer of the real property. A copy of this written document must be filed with the County Commission within 60 days of the transfer of the real property.


In order to transfer any part of the exemption less than the entire exemption, the original owner must state in a written document the number of animal units of exemption being transferred to the new owner. This written document must be executed at the time of the transfer of the real property, and a copy of the written document must be filed with the County Commission within 60 days of the transfer of the real property.

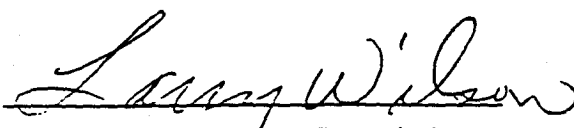
There is no limitation on the number of times a "grandfather clause" exemption, or any part thereof, may be transferred.

C. TRANSFER OF "GRANDFATHER CLAUSE" EXEMPTION DUE TO DEATH OF OWNER

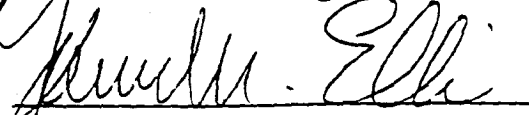
If real property upon which a CAFO exempt from the provisions of this ordinance by virtue of this "grandfather clause" is transferred to a person because the original owner dies, then the exemption applies to the new owner. An original owner may by will transfer the "grandfather clause" exemption with a tract of real property less than the entire tract upon which he operated the CAFO.

This Ordinance is accepted by the undersigned Pettis County Commissioners and will become enforceable on this 30 day of December, 1997.


Jim McMullin-Presiding Commissioner


Larry Wilson-Western Commissioner

ATTEST: 
Pam Doane-County Clerk


Jim Ellis-Eastern Commissioner