

CHAPTER 10 CONFINED ANIMAL FEEDING OPERATIONS

1.0 Existing Confined Animal Feeding Operations

- A. A copy of the CAFO Ordinance shall be given to all new applicants and any existing Animal Feeding Operations who choose to register.
- B. Any decision can be appealed through the appeal process of Clark County Development Code.
- C. This ordinance shall be in full force and effect immediately upon passage and publication as required by law.
- D. Any ordinances or resolutions, which are in conflict with this ordinance, are hereby repealed, but only in so far as the conflict exists.
- E. If any portion of this ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the ordinance shall remain in effect.

General

This ordinance does not relieve any non-registered confined animal feeding operation from any obligation or penalty for non-compliance with this ordinance.

- A. An animal feeding operation, which has previously received a special use permit from the County, need not re-apply under this ordinance.
- B. Any CAFO existing as of the effective date of this ordinance, which has not previously received a condition use permit from the County, shall have one (1) year after the effective date of this ordinance to register with the Administrator. The owner must provide proof that the operation has been active at some time in the last five (5) years and is in compliance with the requirement of any appropriate State or Federal Agencies. If the County has animal unit equivalency on file prior to the effective date of this ordinance, that number shall be transferred to an animal number. If the CAFO is under the jurisdiction of the Idaho State Department of Agriculture, it will have to provide a letter of compliance as to the conformity to ISDA regulations applicable to this type of CAFO (including compliance with their Nutrient Management Plan). CAFOs not registering during the allotted time will be listed as a non-conforming CAFO but will have the right to operate under the previous conditions of special use permit issued to it.
- C. Any existing CAFO as of the effective date of this ordinance which has not registered after the allotted time allowed and has not previously received a special use permit will not be recognized as a CAFO and will have no right which could be transferred to subsequent owners.
- D. All existing CAFOs in Clark County as of the effective date of this ordinance shall be granted a CAFO siting permit if requested, unless it is determined that they are not in compliance with State and Federal regulations at the time of the request. Issuance of a siting permit accepts the facilities in an "as is" condition in regards to setbacks.
 - 1. Pastured Animal Exemption: Pastured animals are not considered to be a confined livestock operation and, therefore, they do not need a permit, nor are they regulated as

to the number of animals that an owner can have on their property. (See the definition of "Pasture" in Chapter 12.)

2.0 Expansion of Existing or Non-Conforming CAFOs

- A. A non-registered CAFO shall not make improvements or increase in size or capacity prior to going through the new CAFO application process if they have failed to register during the time allotted.
- B. Existing CAFOs that have chosen to register for a CAFO siting permit shall be able to expand to the animal number able to be controlled under the Nutrient Management Plan specifically designed and approved for it or any amendment made thereafter to remain compliant with State and Federal regulations.
- C. Included in the application for an Animal Number or Non-Conforming Expansion Permit:
 - 1. The name, address, and telephone number of the applicant.
 - 2. Legal address and description of the existing CAFO.
 - 3. Total acreage owned by the CAFO and zoning district.
 - 4. Written notification from the governing agencies as to compliance to state and federal regulations.
 - 5. The existing animal number of the CAFO and type of animals.
 - 6. Proposed animal number (able to be reached within 10 years).
 - 7. Detailed site plan showing the following information which occurs within a one (1) mile radius (minimum size of 18" X 24" and minimum scale of 1" = 100 feet):
 - 4. Building locations (existing and proposed)
 - 5. Public water supply wells
 - 6. Irrigation wells
 - 7. Existing monitoring or injection wells
 - 8. Irrigation canals and laterals
 - 9. Rivers, streams, springs, reservoirs and wetlands
 - 10. Any proposed improvements, including but not limited to wells, corrals, roads, etc.
 - 11. Traffic access
 - 12. Location of residences not owned by the CAFO
 - 13. Outdoor lighting plan
 - 14. Setbacks of proposed improvements
 - 15. Approximate time frame to complete construction or stages construction will be completed.

16. All ISDA, DEQ, IDWR, EPA and SWDH public records for the operator, operator facility(s) and owners or owners of leased land for the existing CAFO including but not limited to:
 - a) Pending and past complaints, violations and fines
 - b) Water rights for wells and irrigation
 - c) Water test including nitrates, phosphorous and coliform.
 - d) Any fees necessary to furnish the above-mentioned records shall be paid by the applicant.
9. The applicant shall submit with the application a fee in the amount set by resolution of the Board.
10. The Administrator shall approve or disapprove the application within thirty (30) days of receiving the completed application. Written notification from the County shall be mailed to the applicant at that time.
11. All decisions made by the Administrator may be appealed to the Zoning Commission within twenty (20) days of notice of the Administrator's decision.
12. Landscaping, architectural and/or screening improvements may be made conditions of the approval.
13. Any major modifications made after the Administrator's decision will require the applicant to re-submit the application with the necessary changes made.

*All existing registered CAFOs applying for an Animal Number Expansion permit will adhere to the setbacks stated in this ordinance for new CAFOs for any new improvements made. However, variances can be approved by the Board if the existing facility cannot realistically accommodate these setbacks. The Administrator may seek the advice of any regulating state or federal agency as to their opinion on the matter and if compliance would still be possible with the proposed variance. Any application including a variance shall include an additional fee set by the Board to cover the additional time and costs incurred.

3.0 Areas Allowing Confined Animal Feeding Operations

Confined Animal Feeding Operations are permitted in the rural living zone. No CAFO's are allowed within a one mile of a Residential Zone as defined in the Clark County Comprehensive Plan.

4.0 Areas Prohibiting new CAFOs

No new CAFOs shall be permitted in the following zones or areas:

- A. Any Residential zone
- B. Any Commercial or Industrial Zone
- C. Historic sites, as defined by State and/or Federal regulation
- D. Wetlands, as defined by State and/or Federal regulation
- E. 100 year flood zone (Except existing CAFOs applying for Animal Number Expansion Permits)

- F. Within one (1) mile of the any Residential Zone as defined in the Clark County Comprehensive Plan.

5.0 Outdoor Lighting

All outdoor lighting systems and/or fixtures shall be installed in such a way that the light will be directed into the CAFO property boundaries.

6.0 CAFO Siting Permits

- A. A CAFO siting permit application is required for new CAFOs or those not in existence or registered within one (1) year of the effective date of this ordinance.
- B. A CAFO siting permit and required building permits are required prior to commencing any construction of the new CAFO facility, its waste treatment system, or any improvement made to the site to aid in the construction of the new facility (excepting land leveling).
- C. Application for a siting permit shall contain the following information:
 - 1. A site plan;
 - 2. A valid water right or a copy of an application to appropriate water or an application to change the point of diversion, place, or nature of use of an existing water right that has been filed with the Idaho Department of Water Resources, which, if approved, will provide an adequate supply for the operation; and
 - 3. A fee in the amount set by resolution of the Board.
- D. Upon receiving the application requirements set forth, the application will then be sent to the CAFO Site Advisory Team for their review and report.

Members of the CAFO Advisory Team

- 1. A representative from the Idaho State Department of Agriculture;
 - 2. A representative from the Idaho Department of Water Resources;
 - 3. A representative from the Idaho Department of Environmental Quality; and
 - 4. Administrator from Clark County.
- E. Within approximately thirty (30) working days from receiving the application, the CAFO Site Advisory Team will complete their report at which time the application may then proceed to the next stage of the application process.

*By law, the CAFO Site Advisory Team will review any application if it meets the definition of a CAFO, per this ordinance. However, if time allows they will also look at applications for lesser animal numbers at the request of the Board, per IDAPA 02.04.18.

Vacancy of Use:

If the CAFO is vacant for two (2) years or longer, the permittee or registrant of the CAFO Siting permit shall notify the County within thirty days of the two (2) year timeframe. The County may, by written request, require that the owner declare their intentions with respect to the continued non-use of the CAFO. If the permittee elects to continue non-use, they shall be required to follow

the process outlined in Idaho Code 67-6538. Failure to do so will render the CAFO in violation and subject to the revocation of their CAFO Siting permit. A CAFO will lose its permit if the operation is vacant for ten (10) years.

7.0 Application Process, Notice of Hearing, and Public Hearing Procedure

All new CAFOs as defined by this ordinance shall apply for and receive a siting permit prior to commencing construction or operation. All CAFOs shall require a public hearing.

- A. Application review: The Administrator shall review the application for completeness. (See application requirements in Chapter 9.) After receiving notice that the application is complete, it shall be sent to the CAFO Site Advisory Team for their report.
- B. Upon completion of the CAFO Site Advisory Team's report, the Administrator shall set the matter for public hearing before the Zoning Commission, who shall make a recommendation to approve or deny the application to the Board. After receipt of the recommendation, the Board shall hold a second public hearing on the application, who shall follow the same hearing procedures as the Commission.
- C. Hearing notice: Notice of time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the County at least (15) days prior to such hearing. The property shall be physically posted with a public hearing sign. The applicant shall provide the Administrator with such fee as may be set by the Board and shall provide the Administrator with the names and addresses of all landowners within one (1) mile of the affected site. The Administrator shall then send a notice of the public hearing by first class mail to all property owner(s) within one (1) mile of the proposed location. Proof of service shall be made public record.
- D. All Comprehensive Plan amendments, subdivision permits or rezone applications within one (1) mile of the proposed location shall send notice of the public hearing to the CAFO owner/operator by first class mail. Proof of service shall be made a part of the public record.
- E. Idaho Law: Per Idaho Code 67-6529(2), the Board shall hold at least one (1) public hearing affording the public an opportunity to comment on each proposed site before the final siting of such facility.
- F. Public hearing-procedure:
 1. The hearing shall be conducted in accordance with the provisions of the Clark County Development Code Chapter 2 or other appropriate county ordinances. The hearing shall be recorded.

8.0 Application Criteria for New CAFO Permit

Prior to approval of a siting permit for a new CAFO application, the applicant shall meet the following application requirements:

- A. General Requirements:
 1. The name, address, and telephone number of the applicant.
 2. Legal address and description of the CAFO including latitude and longitude coordinates.

3. Total acreage owned by the CAFO.
4. Zoning district.
5. Maximum number of proposed animals on site.
6. Detailed site plan showing the boundaries of the real property comprising the CAFO, including any real property within one mile of any external boundary of the CAFO. The plan, which must be drawn to a scale of not less than eight inches (8") to the mile, must show the following:
 - a) private and community domestic wells
 - b) irrigation wells
 - c) existing monitoring wells
 - d) injection wells (as documented by the IDWR)
 - e) irrigation canals and laterals
 - f) rivers, streams, springs, reservoirs and designated wetlands within one (1) mile radius of the proposed facility
7. The applicant's plan must be in compliance with and not be in violation of any federal, state or local law or ordinance.
8. The applicant must not have begun construction of new improvements for a CAFO at the proposed location other than land leveling.
9. Applicant's plan must meet the setback and lighting requirements of this ordinance. Variances may be requested if submitted with the application.

B. New CAFO Minimum Setbacks and Other Design Standards

1. The closest edge of lagoons or waste treatment systems shall be located at least five hundred (500) feet away from any residence not belonging to the permittee of the CAFO. Residences not belonging to the CAFO permittee shall be constructed at least five hundred (500) feet away from existing closest edge of lagoons or waste treatment systems.
2. The closest inside edge of the retaining wall of any lagoon storm runoff containment or waste treatment shall be at least two hundred (200) feet inside the property lines.
3. The closest inside edge of the retaining wall of any storm runoff containment or corral shall be located at least one hundred (100) feet from a domestic well.
4. The closest inside edge of the retaining wall of any lagoon, storm runoff containment or corral shall be located at least one thousand (1,000) feet from a public drinking water supply.
5. The closest edge of corrals and feed storage areas shall set back a minimum of fifty (50) feet from public road rights of way, including prescriptive right-of-way easements.
6. The closest edge of corrals shall be located at least five hundred (500) feet away from any residence not belonging to the permittee of the animal feed operation.

7. The closest edge of silage, haylage, potatoes or any other feed product resulting from the ensilage process which is stored in the open air shall be located at least five hundred (500) feet from any existing residence not belonging to the permittee of the CAFO and/or county/city impact area and/or residential zone.
8. All new residences shall adhere to the setbacks set forth as required by this ordinance.
9. All new CAFOs shall be located at least one (1) mile from platted and existing subdivisions prior to CAFO application.
10. Landscaping, screening and architectural improvements may be made conditions of approval.

9.0 Transfer of a Siting Permit

Siting permits may be transferred provided that:

- A. The new permittee shall file a transfer statement form with the Administrator within thirty (30) days from the date of purchase, lease or transfer. The transfer statement form shall include the date of transfer, names and mailing addresses of both the transferor and transferee.
- B. The previous permittee shall provide a signed statement, stating that the CAFO is in compliance with all terms of the original permit and all local, state and federal rules and regulations.

10.0 Building Permit

A building permit shall be required before construction shall commence on any new or expanding facility where applicable. A Certificate of Occupancy is required before the occupancy or use of expanded or new facilities.

A. Building Permit

1. Prior to commencing construction of a new facility or improvements to an expanding facility, the permittee shall obtain all building permits required by Clark County as applicable to the facility.

B. Change Orders

1. If the permittee desires to make major changes to the proposed facilities authorized under the permit, the permittee shall present a written change order request to the Planning and Zoning Administrator. The request shall clearly specify any of the proposed changes being requested; including an explanation and justification for such changes along with such other documentation as will be necessary for a decision. If the proposed change involves the relocation of major improvements such as but not limited to the waste treatment system, free-stall barns and corrals, the permittee will have to adhere to the setbacks found herein.
2. The Administrator shall then make a decision and provide written notification to the permittee of the decision.
3. Any appeals of the decision shall go through the available means for appeal as stated in Clark County Development Code.

C. Construction

Construction of the CAFO must be commenced within two (2) years of the issuance of the permit and completed within five (5) years, or it shall expire, unless other time frames were addressed in the original application and approved.

11.0 Nutrient Management Plans

All CAFOs who are required to have a Nutrient Management Plan per the Idaho Department of Agriculture shall follow and be in compliance with the approved Nutrient Management Plan. Nutrient Management Plans prepared utilizing the “Idaho One Plan” are to be kept confidential or as required per Idaho Code 22.2718.4f.