

MONROE COUNTY ORDINANCE ~~102813~~ 102813

MONROE COUNTY AGRICULTURAL DEVELOPMENT ORDINANCE

WHEREAS, the County Commission of Monroe County, Missouri, desires to promote responsible agricultural development in the County and to establish reasonable land controls for the operation of Concentrated Animal Feeding Operations in the County pursuant to Sections 640.710.5 and 192.300 of the Revised Statutes of the State of Missouri: and

WHEREAS, the adoption and enforcement of the language contained in this ordinance is found to be necessary and in the best interests of the health, safety and welfare of all citizens in Monroe County, Missouri; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSION OF MONROE COUNTY, MISSOURI, AS FOLLOWS:

I. DEFINITIONS

A. **ANIMAL UNIT**: A unit of measurement to compare various animal types at a concentrated animal feeding operation. 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. 10 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

B. **ANIMAL WASTE**: Any animal excrement, animal carcass, feed waste, animal water waste or any other waste associated with animals.

C. **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 produce 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.

- D. **APPLICATION:**
Any animal waste water or animal waste applied, injected, knifed, sprayed or placed on or into the soil.
- E. **CONCENTRATED ANIMAL FEEDING OPERATION "CAFO":**
All land and/or a lot, facility, parcel, operating location in which animals have been, are or will be stabled or confined and fed or maintained for a total of One hundred twenty (120) 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 CAFO does not include a feeding operation that has a capacity of less than three hundred (300) AU.
- F. **LAND:**
Any lot parcel, lot or other area of land owned or leased by the CAFO.
- G. **LEASE:**
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 waster water to the leased premises.
- H. **OCCUPIED DWELLING:**
Any permanent residence in which a person or persons live in as their primary home the majority (over 50%) of the year, or any church, school or business or Public Building which has been in use at any time during a time period of 12 months immediately prior to the date upon which an application for a permit is filed with the Department of Natural Resources (DNR) and or the County Commission for the construction of a CAFO.
- I. **OWNER:**
Anyone who owns, either individually and/or with any other persons, any of the following interests in the CAFO Building and in Buildings or in the real property upon which a CAFO is situated:
1. Fee simple title;
 2. A leasehold interest;
 3. Any interest in any entity which holds fee simple title; or
 4. Any interest in any entity which has a leasehold interest.
- J. **PERMIT:**
Written authorization issued by the Monroe County Commission to construct, modify or operate a CAFO.
- K. **PERSON:**
Includes natural person or persons and also includes corporation, partnerships, associations and other business or charitable entity.

- L. **POPULATED AREA:**
A Populated Area is a cluster of thirteen (13) or more Occupied Dwellings excluding CAFO owned occupied dwellings that exist within a radius of one half mile from the center of the nearest CAFO Confinement building, confinement lot, or other confinement area, or waste handling facility as measured in a straight line from the occupied dwelling in the one half mile radius to the center of the nearest CAFO confinement building, Confinement lot, or other confinement area, or waste handling facility.

- M. **SETBACK:**
The distance from the center of the CAFO facility to the nearest occupied dwelling excluding CAFO owned occupied dwellings, as measured in a straight line from the occupied dwelling, to the center of the CAFO confinement building, confinement lot, or other confinement area, or waste handling facility.

- N. **WET HANDLING WASTEWATER:**
Animal wastewater containing Fifty Percent (50%) or more moisture in the waste or contaminated by Fifty Percent (50%) or more waste contact, including processed generated and contaminated rainfall runoff containing Fifty Percent (50%) or more moisture.

- O. **DRY HANDLING WASTE:**
Manure (feces and urine), litter, bedding, or feed waste from animal feeding operations containing less than Fifty Percent (50%) moisture in the waste.

II. CLASSIFICATION OF CONCENTRATED ANIMAL FEEDING OPERATIONS

- A. Class I D CAFO is one that has a capacity of 300 to 1100 AU.
- B. Class I C CAFO is one that has a capacity of 1101 to 2300 AU.
- C. Class I B CAFO is one that has a capacity of 2301 to 4000 AU.
- D. Class I A CAFO is one that has a capacity of 4001 or more AU.

III. PERMIT REQUIREMENTS FOR ALL CAFOS

- A. No CAFO shall be constructed, operated, used or established within MONROE COUNTY, Missouri, unless a permit has been issued by the MONROE COUNTY Commission. 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 Five Hundred Dollars (\$500) for all classes of CAFOS. If granted, said permit shall be valid for the existence of said CAFO. The County Commission shall have sixty days to review the application materials and, if necessary, may extend this review process. During the review process, the CAFO owner shall be responsible for providing all information necessary for the County Commission to determine the CAFO owners compliance with this Ordinance. The County commission shall assess the CAFO owner's compliance with ordinance from

a time frame consisting of the date the CAFO owner applied for a permit from the Missouri Department of Natural Resources and or the Monroe County Commission which ever is earlier. If the CAFO is issued a permit by the Missouri 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 after its review process. If the proposed CAFO is small enough that it will not be subject to Missouri Department of Natural Resources regulation, then they must 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 dead animals and 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. Any CAFO permitted by Monroe County or a CAFO that exists under the Grandfather clause of this Ordinance, is not required to obtain a permit from Monroe County for either the normal maintenance of, or remodeling, or reconstruction of the CAFO due to reaching it's life expectancy or rebuilding of the CAFO due to destruction by fire or acts of God as long as there is no change in the classification of the CAFO.
- C. 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 obtaining a permit from the County Commission,
- D. 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.
- E. 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.

IV. RULES APPLICABLE TO ALL CAFOS

- A. All CAFOS constructed after the effective date of this Ordinance must comply with the regulations of the Department of Natural Resources with respect to disposal of animal wastewater for wet handling wastewater systems and dry handling waste systems.
- B. Animal waste and animal waste water will not be sprayed 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 five hundred (500) feet 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 300 feet of an occupied dwelling which existed prior to the date construction began on the CAFO. Dry animal waste will not be applied within 300 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. The CAFO must then file the written permission with the County Commission. Only after the CAFO secured the written permission for variance and filed the written permission with the County Commission then the CAFO may 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 300 feet of any sink hole or well or spring or within 100 feet of any pond, 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.
- E. No CAFO will be located within one half (1/2) mile of a populated area which is defined by this ordinance to be an area having thirteen (13) or more Occupied dwellings excluding CAFO owned occupied dwellings that exist within a radius of one half (1/2) mile from the center of the nearest CAFO confinement building, confinement lot, or other confinement area, or waste handling facility or lagoon as measured in a straight line as defined in Section I, L.
- F. No CAFO shall be located within one (1) mile of the Mark Twain Lake. Said distance shall be measured in a straight line from the property line of The United States of America to the center of the nearest CAFO confinement building, confinement lot, or other confinement area, or waste handling facility or lagoon.
- G. No CAFO will be located within one (1) mile of any incorporated town or village. Said distance shall be measured in a straight line from the town or village boundary line nearest to the center of the CAFO confinement building, confinement lot, or other confinement area, or waste handling facility or lagoon.

V. RULES APPLICABLE TO CLASS 1B, 1C AND 1D CAFOS

- A NO Class 1D CAFO will be located within 1500 feet of an occupied dwelling.
NO Class 1C CAFO will be located within 2500 feet of an occupied dwelling.
NO Class 1B CAFO will be located within 3500 feet of an occupied dwelling.

All measurements for all clarifications of CAFOS will be measured in a straight line from any of the occupied dwellings to the center of the nearest CAFO confinement building, confinement lot, or other confinement area, or waste handling facility. 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 DNR, or the County Commission if CAFO is not permitted by DNR.

- B. All setbacks are based on Deep Pit designed CAFOS if after the enactment of this ordinance a lagoon is permitted by DNR for a CAFO then the set back will be increased on any and all classifications of CAFOS. The increased setback for a CAFO with a lagoon will be increased one thousand (1000) feet per each classification of CAFO. This increased set back also includes 1A CAFOS.

VI. RULES APPLICABLE TO CLASS 1A CAFOS

- A. NO CLASS 1A CAFO will be located within 4500 feet of an occupied dwelling as measured in a straight line from the occupied dwelling to the center of the nearest CAFO confinement building, confinement lot or other confinement area or waste handling facility. This setback requirement will increase by five hundred (500) feet for each 1000 AU of authorized capacity in excess of 4001 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.
- B. No Class 1A CAFO shall be located within one and one half (1 1/2) mile from any other CAFO. Measurement will be in a straight line from the center of each respective CAFO building, confinement lot, or other confinement area, or waste handling facility or lagoon. All other location of CAFO set back rules also apply.
- C. No proposed Class ID, IC or IB CAFO seeking a permit to build within 1000 feet or less of any other separately owned class 1D, IC or IB CAFO will come under the discretion of the County Commission whether to allow a permit after the commission determines the accumulative affect of separately owned CAFO's would have on the set back rules in Section V, (A).

VII VARIANCE TO SETBACK RULES

The County Commission may authorize a variance from the strict application of the standards and criteria established in this ordinance with respect to setback requirements by the CAFO Owner obtaining the written consent of the owners of all occupied dwellings within the setback area. Said written consent must be filed with the County Commission along with a formal written request by the CAFO seeking the variance for the commission's consideration.

VIII APPLICATION OF AN ORDINANCE

- A. "GRANDFATHER CLAUSE" EXEMPTION

CAFOS in existence on the effective date of this ordinance are exempt from the

terms and conditions of this ordinance so long as the CAFO continues to operate upon the same real property. The purpose of this section is to provide what is normally referred to as "grandfather clause" protection for existing CAFO'S. However, if the CAFO changes its operation in any way, an increase of animal units, or in the planning, design, or construction phase or application phase with the Department of Natural Resources, then this "grandfather clause" protection does not apply to the change. Even if the change does not change the classification of the CAFO a permit must be obtained from the Monroe County Commission. (Refer to Section III, A through D.)

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 the effective date of this ordinance, 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 the effective date of this ordinance 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 120 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 as well as documentation outlined in I, F and G must be filed with the County Commission within 120 days of the transfer of the real property. This 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 is 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 transfer the "grandfather clause" exemption with a tract of real property less than the entire tract upon which he operated the CAFO. If transfer is less than the entire tract then documentation as outlined in I, F and G must be filed with the County Commission within 120 days of the transfer of the Real Property.

IX VIOLATION OF ORDINANCE

Any person violating this ordinance shall be subject to punishment of up to one (1) year in the County jail or by a fine up to One Thousand Dollars (\$1,000.00) or by

combination of imprisonment and a fine within that range 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.

X. **SEVERABILITY**

If any section, paragraph, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of this ordinance. No statement contained in this ordinance shall be construed to interfere with any additional requirements that may be imposed by the Monroe County Commission or any other entity having lawful authority over CAFOS.

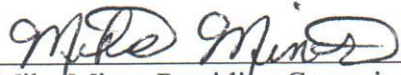
XI. **REPEAL OF ORDINANCES NOT TO AFFECT LIABILITIES, ETC.**


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.


XII. **EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage by the Monroe County Commission on the date and year written below.

This Ordinance is accepted by the undersigned Monroe County Commissioners and will become enforceable on this 28th day of October, 2013.


Mike Minor Presiding Commissioner


Mike Whelan Eastern Dist. Commissioner


Glenn E. Turner Western Dist. Commissioner

ATTEST:


Sandra Francis County Clerk