

Lac qui Parle County Feedlot Ordinance

Adopted

THURSDAY, AUGUST 21, 1997

AMENDED

TUESDAY, MARCH 20, 2001

Foreword

Livestock producers represent a vital link to the economic vitality of Lac qui Parle County, Minnesota. The vision of the Task Force was to create a document that balances sound agronomic principles with social and environmental issues. This Feedlot Ordinance unites long-term agricultural goals with the public's concern for the preservation of a pleasant and sustainable environment.

Acknowledgments

Thank you to everyone for their professionalism, dedication and commitment in creating this Feedlot Ordinance.

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1 **SECTION 1—STATUTORY AUTHORIZATION AND POLICY**

2 **SUBDIVISION 101: STATUTORY AUTHORIZATION**

3 The Lac qui Parle County Feedlot Ordinance is adopted pursuant to the authorization and
4 policies contained in Minnesota Statutes, Chapters 115 and 116 and the Planning,
5 Development, Zoning Enabling Legislation in Minnesota Statutes, Chapter 394.

6 **SUBDIVISION 102: POLICY**

7 An efficient and profitable livestock industry is an economic benefit to Lac qui Parle County
8 and to the State of Minnesota. It provides a value added opportunity to our crop based
9 agriculture and creates service industries which provide employment and further economic
10 activity. An efficient industry also produces high quality food and fiber for consumers at
11 reasonable prices. The manure produced in livestock production have the potential, when
12 improperly stored, transported or disposed, to contribute to air, surface water, and ground
13 water pollution. When properly utilized such wastes contribute to soil fertility and structure
14 and enhance efficient crop production. The following Ordinance has been promulgated to
15 reduce risk of pollution of natural resources from feedlots.

16 This Ordinance addresses production sites as well as storage and land application. These
17 rules comply with the policy and purpose of the State of Minnesota statutes regarding control
18 of pollution. The goal of this Ordinance is to address economic and environmental needs
19 as they specifically relate to necessary stipulations of livestock feedlots and established
20 farmsteads and urban areas to optimize the general welfare of the citizens of Lac qui Parle
21 County. All existing and future feedlots in Lac qui Parle County shall comply with the
22 standards set forth within the Minnesota Pollution Control Agency (MPCA) Chapter 7020
23 rules and updates, and this Ordinance.

24 **SECTION 2—GENERAL PROVISIONS AND DEFINITIONS**

25 **SUBDIVISION 201: TITLE**

26 This Ordinance shall be known, cited and referred to as the "Lac qui Parle County Feedlot
27 Ordinance" and shall be referred to herein as this or the Ordinance.

28 **SUBDIVISION 202: JURISDICTION**

29 The jurisdiction of this Ordinance shall include all lands in Lac qui Parle County, Minnesota,
30 excepting those located within incorporated cities.

31 **SUBDIVISION 203: ENFORCEMENT**

32 Enforcement of the provisions of this Ordinance shall be as proscribed in Subdivision 701.4
33 of this Ordinance.

34 **SUBDIVISION 204: INTERPRETATION**

35 In their interpretation and application, the provisions of this Ordinance shall be held to be
36 minimum requirements and shall be liberally construed in favor of the County and shall not
37 be deemed a limitation or repeal of any other powers granted by State Statutes.

38 **SUBDIVISION 205: SEVERABILITY**

39 If any section, clause, provision, or portion is adjudged unconstitutional or invalid by court
40 or competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

41 **SUBDIVISION 206: ABROGATION AND GREATER RESTRICTIONS**

42 It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements,
43 covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions,
44 the provisions of this Ordinance shall prevail.

45 **SUBDIVISION 207: COMPLIANCE**

46 Any feedlot shall be in full compliance with the terms of this Ordinance and other applicable
47 regulations.

48 **SUBDIVISION 208: RULES**

49 For the purpose of this Ordinance, certain terms and words herein are interpreted as follows:

- 50 1. The word "person" includes a firm, association, organization, partnership, trust, company,
51 or corporation as well as an individual.
- 52 2. The word "shall" is mandatory and not discretionary, and the word "may" is permissive.
- 53 3. Words used in the past tense shall include the present and future; and words used in the
54 singular shall include the plural, and the plural the singular.
- 55 4. The term "used for" shall include the terms "arranged for," "designed for," "intended for,"
56 "maintained for," and "occupied for."
- 57 5. All distances, unless otherwise specified, shall be measured horizontally.

58 **SUBDIVISION 209: DEFINITIONS**

59 209.1 ***Agriculture.*** The use of land for agricultural purposes, including farming, dairying,
60 pasturage, agriculture, horticulture, floriculture and animal and poultry husbandry and
61 the necessary accessory uses for packing, treating or storing the produce; provided,
62 however, that the operation of any such accessory use shall be secondary to that of the
63 normal agricultural activities.

- 64 209.2 **Animal Manure.** Is poultry, livestock or other animal excreta, or a mixture of excreta
65 with feed, bedding and other materials.
- 66 209.3 **Agriculture Structure.** Any structure existing or erected and used principally for
67 agricultural purposes, with the exception of dwelling unit.
- 68 209.4 **Animal Unit.** A unit of measurement. For the purpose of this Ordinance any animal not
69 listed on the Animal Unit Equivalent chart of this Ordinance shall be defined as the
70 average weight of the animal divided by one thousand (1000) pound.

ANIMAL UNIT EQUIVALENT	
ANIMAL(S)	EQUIVALENT
A. Dairy Cattle	
Mature Cow (whether milked or dry) over 1,000 pounds	1.4 animal unit
Mature Cow (whether milked or dry) under 1,000 pounds	1.0 animal unit
Heifer	0.7 animal unit
Calf	0.2 animal unit
B. Beef Cattle	
Slaughter steer or stock cow	1.0 animal unit
Feeder cattle (stocker or backgrounding) or heifer	0.7 animal unit
Cow and calf pair	1.2 animal unit
Calf	0.2 animal unit
C. Swine	
Over 300 pounds	0.4 animal unit
Between 55 and 300 pounds	0.3 animal unit
Under 55 pounds (and separated from sow)	0.05 animal unit
D. Horses	
Horse	1.0 animal unit
E. Sheep	
Sheep or lamb	0.1 animal unit
F. Chickens	
Laying hen or broiler, if the facility has a liquid manure system	0.033 animal unit
Chicken over 5 pounds, if using a dry manure system	0.005 animal unit
Chicken under 5 pounds, if using a dry manure system	0.003 animal unit
G. Turkeys	
Over five pounds	0.018 animal unit

97	Under five pounds	0.005 animal unit
98	H. Duck	
99	Duck	0.01 animal unit
100	I. Animals not listed in item A to H	
101	Type 1: _____	Average weight of the animal in pounds divided by 1,000 pounds
102	Type 2: _____	
103	(Animal Unit Amendment adopted on March 20, 2001)	

104 **Source:** *Minnesota Pollution Control Agency*

105 209.5 **Board of Adjustment.** A quasi-judicial body with power and duties as defined in Section
106 3 of the Ordinance.

107 209.6 **Conditional Use.** A land use or development as defined by Ordinance that would not
108 be appropriate generally but may be allowed with appropriate restrictions as provided by
109 official controls upon a finding that: 1.) Certain conditions as detailed in the Zoning
110 Ordinance exists; 2.) The use or development conforms as detailed in the Zoning
111 Ordinance exist; 3.) Is compatible with the existing neighborhood.

112 209.7 **County.** Lac qui Parle County

113 209.8 **County Board.** Lac qui Parle County Board of Commissioners.

114 209.9 **Dwelling.** Any building or part thereof designed or used exclusively for residential
115 purposes by one or more human beings.

116 209.10 **Earthen Storage Manure Basin.** Dike or excavated structure, often lined with clay
117 or synthetic liner, in which manure is stored. The basin is emptied at least once a
118 year. It is designed by a professional engineer or NRCS/SWCD Technician.

119 209.11 **Farm.** A tract of land, which is principally used for agricultural activities such as the
120 production of crops, animals. A farm may include agricultural dwellings and accessory
121 buildings and structures necessary to the operation of the farm and must meet the
122 definition of "farm" under Minnesota's Green Acres Law M.S.A., Chapter 273.111.

123 209.12 **Farmstead.** A development area designed and arranged to support farm activities. A
124 variety of structures, storage area, and other facilities, including adjacent windbreaks and
125 shelter belts, typically comprise a farmstead. The area may contain one or more Farm
126 Dwellings. A livestock Feedlot may be present within the defined area of a Farmstead,
127 but for the purpose of this Ordinance, Livestock Feedlots shall not be considered to be
128 part of a Farmstead. A Farmstead has boundaries which can be approximately defined
129 and differentiated from surrounding fields and pastures and the Administrator shall
130 determine such boundaries as necessary.

131 209.13 **Feedlot, Existing.** An existing feedlot which is currently in operation at the passage of
132 this Ordinance, or within the previous five (5) years.

133 209.14 **Feedlot, Livestock.** A lot or building or combination of lots and buildings intended
134 for the confined feeding, breeding, raising, or holding of animals and specifically
135 designed as a confinement area in which manure may accumulate, or where the
136 concentration of animals is such that a vegetative cover cannot be maintained within the
137 enclosure. For the purposes of this Ordinance, open lots used for feeding and rearing
138 of poultry (poultry ranges) shall be considered animal feedlots. Pastures shall not be
139 considered feedlots. The Administrator shall define the area covered by a feedlot.

140 209.15 **Feedlot, New.** An animal feedlot constructed and operated on a site where no animal
141 feedlot existed previously or where a preexisting animal feedlot has been abandoned or
142 unused for a period of five (5) years or more.

143 209.16 **Hardship.** As used in connection with the granting of a Variance means the property in
144 question cannot be put to a reasonable use if used under the conditions allowed by the
145 official controls; the plight of the landowner is due to circumstances unique to the
146 property not created by the landowner; and the Variance, if granted will not alter the
147 essential character of the locality. Economic considerations alone shall not constitute a
148 hardship if a reasonable use for the property exists under the terms of the Ordinance. No
149 Variance may be granted that would allow any use that is prohibited in the zoning district
150 in which the subject property is located.

151 209.17 **Incorporated.** When manure is surface mechanically applied and mechanically
152 incorporated within forty-eight (48) hours of application.

153 209.18 **Injected.** When manure is mechanically injected or tilled into the soil during the manure
154 application.

155 209.19 **MPCA.** Minnesota Pollution Control Agency.

156 209.20 **NRCS.** National Resources Conservation Service.

157 209.21 **Ordinary High Water Level (OHWL).** The boundary of public waters and wetlands, and
158 shall be an elevation delineating the highest water level which has been maintained for
159 a sufficient period of time to leave evidence upon the landscape, commonly that point
160 where the natural vegetation changes from predominantly aquatic to predominantly
161 terrestrial. For watercourses, the ordinary high water level is the elevation of the top of
162 the bank of the channel. For reservoirs and flowage, the OHWL is the operating
163 elevation of the normal summer pool.

164 209.22 **Owner.** Any individual, firm, association, syndicate, partnership, corporation, trust or
165 other legal entity having sufficient property interest in a property to commence and
166 maintain proceedings under this Ordinance, or the owner of record.

167 209.23 **Pastures.** Areas where grass or other growing plants are used for grazing and where the
168 concentration of animals is such that a vegetative cover is maintained during the growing
169 season except in the immediate vicinity of temporary supplemental feeding or watering
170 devices.

171 209.24 **Person.** Any individual, firm, partnership, corporation, company, association, joint stock
172 association or body politic; including any trustee, receiver, assignee, or other similar
173 representative thereof.

- 174 209.25 **Planning Commission.** A quasi-judicial body with powers and duties as defined in
175 Section 3 of the Ordinance.
- 176 209.26 **Public Water.** Any waters as defined in Minnesota Statutes, Section 103G.005,
177 Subdivisions 14 and 15. A body of water capable of substantial beneficial public use.
178 This shall be construed to mean, for the purposes of this Ordinance, any body of water
179 which has the potential to support any type of recreational pursuit or water supply
180 purpose. The term "protected water" is synonymous with the term "public water" for the
181 purpose of this Ordinance.
- 182 209.27 **Residence.** Is any dwelling which is currently occupied or has been occupied for a
183 period of sixty (60) days within five (5) years of the permit application.
- 184 209.28 **Road.** A public right-of-way affording primary access by pedestrians and vehicles to
185 abutting properties, whether designed as a street, highway, parkway, road, avenue,
186 boulevard, lane, service road, place or however otherwise designed. Acceptance of a
187 road for maintenance purposes by a unit of government is not necessary for designation
188 as a road.
- 189 209.29 **Road, Private.** An unplatted access to more than one lot or parcel, including leased or
190 rental properties where public access is limited.
- 191 209.30 **Setback.** The minimum horizontal distance between a structure, sewage treatment
192 system or other facility and an OHWL, top of a bluff, road, highway, property line or
193 other facility.
- 194 209.31 **Use.** The purpose for which land or premises or a building thereon is designated,
195 arranged or intended, or for which it is or may be occupied or maintained.
- 196 209.32 **Use, Agricultural.** Means that use of land for the production of food or fiber, their
197 storage on the farm, and/or the raising thereon of animals.
- 198 209.33 **Variance.** Any modification or variation of this Ordinance where it is determined that,
199 by reason of exceptional circumstances, the strict enforcement of this Ordinance would
200 cause unnecessary hardship.
- 201 209.35 **Waiver.** The intentional or voluntary written relinquishment of a landowner's
202 right under this Ordinance, which Waiver would negate the necessity of a Variance
203 hearing for any feedlot proposing to be built within two thousand (2000) feet from a
204 neighboring residence under this Ordinance. Such properly signed and notarized
205 Waiver would have the same effect as a decision of the Board of Adjustment.
- 206 209.34 **Waterway.** A natural or constructed channel that is shaped or graded and is established
207 in sustainable vegetation for the stable conveyance of run-off.
- 208 209.36 **Wetland(s).** A surface water feature classified as a wetland(s) in the United States
209 Fish and Wildlife Service Circular No. 39 (1971 edition), and refers to land which is
210 annually subject to periodic or continual inundation by water and commonly referred to
211 as a bog, swamp, marsh or slough.

212

SECTION 3—ADMINISTRATION

213 SUBDIVISION 301: FEEDLOT ADMINISTRATOR

214 301.1 **Appointment.** The County Board shall appoint a Feedlot Administrator, hereafter called
 215 the Administrator, who shall administer and enforce the provisions of this Ordinance. The
 216 County Board may authorize the Administrator to appoint such Assistant Feedlot
 217 Administrator(s) as are necessary and to designate their power and duties within the
 218 limits of the Ordinance.

219 301.2 **Powers and Duties.** The Administrator shall have the following powers and duties and
 220 may delegate them to the Assistant Administrator(s.)

221 1. To receive and review applications for permits and issue permits only if such permit
 222 request is in full conformance with the provisions of this Ordinance.

223 2. To receive and review application requests for action by the Board of Adjustment and/or
 224 the County Planning Commission and provide such information, data and testimony as
 225 may be necessary for action to be taken.

226 3. To make inspections to discover violations and check for compliance with this
 227 Ordinance. If violations of this Ordinance are discovered the Administrator shall notify
 228 the violator(s) and take such other steps as are necessary to correct the violation.

229 4. To maintain records of all actions taken pursuant to the provisions of this Ordinance.

230 5. To assist the public in complying with and understanding their responsibilities and rights
 231 under this Ordinance.

232 6. To identify and locate jurisdiction and zoning district boundaries and public waters by
 233 on-site investigation, interpretation of official maps and other appropriate methods.

234 SUBDIVISION 302: BOARD OF ADJUSTMENT

235 302.1 **Membership.** There is hereby created a Board of Adjustment consisting of three (3) to
 236 seven (7) members appointed by the County Board.

237 1. No elected officer of the County nor any employee of the County Board shall serve as
 238 a member of the Board of Adjustment.

239 2. Members shall be appointed to three year terms except that when the Board of
 240 Adjustment is first established. Terms shall be staggered so that no more than two (2)
 241 terms end at the same time.

242 3. Whenever a Board of Adjustment member leaves in the middle of a term, for any reason,
 243 a replacement member shall be appointed to complete the remaining portion of said term.

244 4. One member of the Board of Adjustment shall also be a member of the Planning
 245 Commission.

246 302.2 **Decisions.** All decisions of the Board of Adjustment shall require the affirmative vote
247 of a simple majority of the members present.

248 302.3 **Duties.** The Board of Adjustment shall have the following powers and duties:

249 1. The Board of Adjustment shall hear and act on requests for Variances from the provisions
250 of this Ordinance.

251 2. The Board of Adjustment shall hear and decide appeals from an order, requirement,
252 decision or determination made by the Administrator.

253 3. The County Board may assign additional duties and responsibilities to the Board of
254 Adjustment including but not restricted to:

255 A. The establishment of rules for the conduct of public hearings;

256 B. The authority to elect a Chairperson and Vice Chairperson from among its members.

257 4. The Board of Adjustment shall decide such other issues as are specifically defined in this
258 Ordinance.

259 **SUBDIVISION 303: PLANNING COMMISSION**

260 303.1 **Membership.** There is hereby created a Planning Commission consisting of not less than
261 five (5) or more than eleven (11) members appointed by the County Board. Two (2)
262 member(s) shall be appointed from each County Commissioner District. One (1) member
263 shall be appointed from the County Board.

264 1. No more than one (1) voting member of the Planning Commission shall be an officer or
265 employee of the county.

266 2. One (1) member of the Planning Commission shall also be a member of the Board of
267 Adjustment.

268 3. Members shall be appointed to three (3) year terms except when the Planning
269 Commission is first established, then terms shall be staggered.

270 4. Whenever a Planning Commission member leaves in the middle of a term, for any reason,
271 a replacement member shall be appointed to complete the remaining portion of said term.

272 5. No voting member of the Planning Commission shall have received, during the two (2)
273 years prior to appointment, any substantial portion of income from business operations
274 involving the development of land within the county for urban and urban related
275 purposes.

276 303.2 **Decisions.** All decision of the Planning Commission shall require the affirmative vote
277 of a simple majority of the members present.

278 303.3 **Duties.** The Planning Commission shall have the following powers and duties:

279 1. The Planning Commission shall make recommendations to the County Board on
280 Conditional Use Permits and plans.

281 2. The County Board may assign additional duties and responsibilities to the Planning
282 Commission including but not restricted to:

283 A. The establishment of rules for the conduct of public hearings;

284 B. The authority to elect a Chairperson and Secretary/Treasurer from among its
285 members;

286 C. The authority to order the issuance of some or all categories of Conditional Use
287 Permits in accordance with the rules that it has adopted for the conduct of business.

288 3. The Planning Commission shall decide such other issues as are specifically defined
289 in this Ordinance.

290 **SUBDIVISION 304: PERMITS**

291 No person shall operate and/or construct an animal feedlot with fifty (50) or more animal
292 units (ten (10) or more animal units within a Shoreland Management District) without
293 first obtaining a Certificate of Compliance, making application with the appropriate state
294 and/or local authorities and meeting the standards set forth in this Ordinance and that of
295 MPCA Chapter 7020 Rules and Updates. All other applications may be considered for
296 a Conditional Use Permit issued by the County.

297 304.1. **Certificate of Compliance.** The Administrator shall issue a Certificate of Compliance
298 for each activity requiring a permit as specified in the Ordinance. This certificate will
299 specify that the feedlot conforms to the requirements of this Ordinance. Any use,
300 arrangement, or construction at Variance with that authorization by permit shall be
301 deemed a violation of this Ordinance and shall be punishable as provided by this
302 Ordinance.

303 304.2 **Interim Permit.** The Administrator may issue an Interim Permit for a feedlot of three
304 hundred (300) or less animal units.

305 304.3 **Local, State and Federal Permits.** Prior to granting a permit, the Administrator shall
306 determine that the applicant has obtained all necessary federal, state and local permits.

307 304.4 **Validity.** A Certificate of Compliance will remain valid if there are no changes in the
308 operation and the operator is in compliance with the Ordinance and the current laws and
309 regulations. The owner of a proposed or existing animal feedlot of fifty (50) or more
310 animal units (ten (10) or more animal units within Shoreland Management Districts) shall
311 make an application to the MPCA for a Certificate of Compliance when any of the
312 following conditions exist:

- 313 1. A new feedlot is proposed where a feedlot did not previously exist;
- 314 2. Expansion of an existing feedlot or animal facility (increase animal units);
- 315 3. Remodeling or modification of an existing feedlot or animal facility;
- 316 4. A change in the operation of an animal feedlot that would affect the storage, handling,
317 utilization, or disposal of animal manure;
- 318 5. A change of ownership;
- 319 6. An existing feedlot is to be restocked after being abandoned for five (5) or more years.;
- 320 7. An inspection reveals that the feedlot is creating a potential pollution hazard;
- 321 8. A National Pollutant Discharge Elimination System (NPDES) permit application is
322 required under state or federal rules and regulations;
- 323 9. Other actions as specified in the Ordinance.

324 **SUBDIVISION 305: APPEALS**

325 Appeals of decisions of the Administrator shall be heard by the Board of Adjustment
326 provided that the person making the appeal files an application for a hearing within thirty
327 (30) days after the decision to be appealed was delivered to the applicant by the
328 Administrator. The following procedure shall be followed:

- 329 305.1 **Application.** The person making the appeal shall apply for a hearing before the Board
330 of Adjustment on forms provided by the Administrator.
- 331 305.2 **Notice and Hearing.** The Board of Adjustment shall, within thirty (30) days after receipt
332 of the completed application, schedule a hearing on the appeal.
 - 333 1. At least ten (10) days prior to the hearing a notice shall be published in the official county
334 newspaper.
 - 335 2. The Board of Adjustment shall make their decision within ten (10) days of the public
336 hearing and shall base their decision on the provisions of this Ordinance.

337 **SUBDIVISION 306: VARIANCES**

338 An application for a Variance may occur where the applicant determines that by reason
339 of exceptional circumstances, strict enforcement of the provisions of this Ordinance
340 would cause an unnecessary hardship.

- 341 306.1 **Application and Hearing Procedures.** The following application and hearing process
342 shall be followed in applying for and deciding requests for a Variance.