

FILLMORE COUNTY

FEEDLOT ORDINANCE

Amended November 25, 2003
Amended May 20, 2014

Fillmore County Feedlot Ordinance

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SECTION 1

Statutory Authority

AN ORDINANCE REGULATING THE PERMITTING, LOCATION, DEVELOPMENT AND EXPANSION OF FEEDLOTS, PROTECTING THE NATURAL ENVIRONMENT, AND SAFEGUARDING THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF THE CITIZENS OF FILLMORE COUNTY.

This Fillmore County Feedlot Ordinance, herein after referred to as “this Ordinance” is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapters 115 and 116 Code of Federal Regulations Title 40 Section 122.23., and Minnesota Pollution Control Agency Rules, Parts 7020.0200 - 7020.2225, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

SECTION 2

Policy

An adequate supply of healthy livestock, poultry, and other animals is essential to the well being of Fillmore County Citizens and the State of Minnesota. These domesticated animals provide our daily source of meat, milk, eggs, and fiber. Their efficient, economic production must be the concern of all consumers if we are to have an abundance of high quality, wholesome food at reasonable prices. This Ordinance is intended to provide an agricultural district that will allow suitable areas of the county to be retained in agricultural use; regulate scattered non-farm development; regulate wetlands and woodlands, which, because of their unique physical features, provide a valuable natural resource.

The County will view the agricultural district as a zone in which land is used for agricultural production. Owners, residents, and other users of property in this zone or neighboring properties may be subjected to inconvenience or discomfort arising from normal and accepted agricultural practices and operation, including but not limited to noise, odors, dust, operation of machinery of any kind including aircraft, the storage and disposal of manure, and the application of fertilizers, soil amendments, herbicides, and pesticides. Owners, residents, and users of this property or neighboring property should be prepared to accept such inconveniences or discomfort from normal operations, and are hereby put on official notice that this declaration may prevent them from obtaining a legal judgment against such normal operations. The reverse is also true, agricultural producers within the agricultural district will also have to accept increased traffic patterns, the ideologies of non-agricultural land owners and other social differences derived by the users of other land uses within the Agricultural District.

These rules comply with the policy and purpose of the State of Minnesota in regard to the control of pollution as set forth in Minnesota State Statutes Chapters 115 and 116, and Code of Federal Relations Title 40 Section 122.23. Experience has shown that the environment, residential and agricultural uses of land can be incompatible. The purpose of this Ordinance is to regulate the

management of manure, and the uses and development of land in Fillmore County, which may adversely affect the health, safety, and general welfare of the public.

SECTION 3

Purpose

The purpose of this Ordinance may be summarized by the statement “All producers of domestic animals in Fillmore County shall take all prudent measures possible to keep animal manure from entering waters of the state as defined by Minnesota Rule, Chapter 7020”. This Ordinance is established to provide guidance to producers of domestic animals as to what practices are acceptable and those that are not acceptable. This Ordinance also provides penalties for producers that practice manure handling procedures that encourage the runoff of manure into the waters of the state.

SECTION 4

General Provisions

1. **Jurisdiction.** The provisions of this Ordinance shall apply to all animal feedlots that exceed fifty (50) animal units outside of shore land and ten (10) animal units within shore land or deemed as a pollution problem and as defined in this Ordinance, and to all areas of Fillmore County outside incorporated limits of municipalities except those municipalities that have adopted the Fillmore County Zoning Ordinance.
2. **Compliance.** The use of any land for the establishment, expansion, or management of an animal feedlot shall comply with the provisions of this Ordinance, the Fillmore County Zoning Ordinance, and the provisions of the MPCA rules.
3. **Administration.** The Fillmore County Feedlot Officer or designee, in cooperation with the MPCA, shall enforce the provisions of this Ordinance and the rules found in Minnesota Rule Chapter 7020.
4. **Enforcement.** Any violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional use permits, shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to this Ordinance.
5. **Interpretation.** In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Fillmore County by providing for the commonly approved animal husbandry practices used in the management of animal feedlots.

6. **Severability.** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
7. **Amendment.** This Ordinance may be amended by the action of a public hearing held by the Planning Commission and approved by Fillmore County Board of Commissioners.
8. **Greater Restrictions.** Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

SECTION 5

Minnesota Chapter 7020 Rules

Minnesota Rule Chapter 7020, relating to feedlots, is hereby adopted in its entirety by reference and made a part of this ordinance as if fully set forth herein. If there are any inconsistencies between the standards found in this Ordinance and the State standards, or if the State standards are amended, the State standards as amended shall govern.

SECTION 6

Registration Required

Registration is required for a feedlot of ten (10) animal units or more if it is located within a shore land, a feedlot of fifty (50) animal units or more if it is located outside of shore land, or has been deemed a potential pollution hazard.

SECTION 7

Permits Required

A County Feedlot Permit shall be required when any of the following conditions exist:

1. In addition to obtaining a County Feedlot Permit, all feedlots of one-thousand (1,000) animal units or more, or meeting the requirements for a NPDES permit, must apply to the MPCA for a Feedlot Permit.
2. An inspection by MPCA staff or County Feedlot Officer reveals that the feedlot is creating a potential pollution hazard.
3. Construction or expansions of animal feedlots of fifty (50) animal units or more must obtain a Feedlot Permit.

4. Land use permit to begin construction shall not be issued until the Fillmore County Feedlot Officer, or designee, or the MPCA has issued a Feedlot Permit and registration has been updated.

SECTION 8

Conditional Use Permit Requirements

1. All feedlots larger than 1,000 animal units or more shall obtain a Conditional Use Permit from the County and a National Pollutant Discharge Elimination System permit (NPDES) from the MPCA before construction may begin.
2. The construction of an earthen storage pit for the storage of manure shall require a Conditional Use Permit from the County, regardless of size.
3. Aerial irrigation of manure may be permitted by Conditional Use Permit if a solid separator with screens that exist prior to another storage compartment for the liquid portion of the manure. Aerial irrigation of the liquid portion of the manure may take place only if in accordance with Minn. Rule 7020.2225 setbacks to protected waters, sensitive areas, and as deemed appropriate with a Conditional Use Permit under the recommendation of the Planning Commission and approval of the County Board of Commissioners.
4. The County Board shall deny a Conditional Use Permit for a feedlot if it determines that the proposed feedlot may have the potential for significant effect to:
 - a. the environment
 - b. the protection of the public health, safety, comfort, convenience, and general welfare of the public
 - c. the County's promotion of the orderly development and/or maintenance, of agricultural, residential, recreational, public, commercial and industrial areas
 - d. the compatibility of different land uses and the most appropriate use of land throughout the county, or
 - e. preserving the value of property.

SECTION 9

New Animal Feedlots and Expansion of Existing Animal Feedlot Facilities

The construction of all new animal feedlots, and the expansion of existing animal feedlots over 999 animal units shall require an onsite evaluation by the County Feedlot Officer and the County Planning Commission. No new or existing animal feedlot shall exceed a capacity of 2,000 animal units.

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SECTION 10 Feedlot Setbacks

A feedlot shall adhere to all setbacks for building construction in the Ag District as determined in Section 604 of the Fillmore County Zoning Ordinance. The following shall be the minimum setback requirements for new feedlots or the expansion of existing feedlots:

<u>Category</u>	<u>Expansion</u>	<u>New</u>
*Homes within city limits	away from closest neighbor	½ mile 50 a.u.'s or more; must be 1,000' away from the closest neighbor, and must meet a 94% odor offset, whichever is greater
*Homes in the Ag district	must meet a 94% odor offset rating and be located in the same general direction and footprint as the original feedlot	300 feet
Sinkhole	300 feet away from	300 feet
Floodplain	prohibited	prohibited
Bluff Impact Zone	prohibited	prohibited
Scenic Trails District	100' of C/L of trail	100' of C/L of trail
Abandoned Rock Quarries	prohibited	prohibited
Well	100 feet	100 feet

*** For the purpose of this ordinance the City of Rushford Village will be treated similar to a township.**

New feedlots or new construction on existing feedlots shall meet a 99% odor annoyance free rating at the closest city limits line, and feedlots greater than 50 animal units shall meet a 94% odor annoyance free rating for residential zoning districts, public parks, churches, public schools or dwellings that are not designated as accessory to the feedlot, as determined by the OFFSET Odor Evaluation Modeling as developed and modified by the University of Minnesota Department of Bio-systems and Agricultural Engineering.

New dwellings that are not designated as necessary to the feedlot in agriculturally zoned districts shall not be located within 1,000 feet, and/or 94% OFFSET Odor Evaluation Modeling distance from any existing feedlot, whichever is greater.

SECTION 11 Manure Storage Requirements

1. All new manure storage structures constructed in Fillmore County shall meet all MPCA standards and shall be reviewed by the Fillmore County Feedlot Officer or designee.
2. Contractors performing work on new or existing manure storage structures are required to have proof of a surety bond and insurance, whereas landowners who perform their own construction on new or existing manure storage structures are not required to have a proof of a surety bond or insurance.
3. All owners or users of open constructed manure storage areas (manure storage without a building on top) shall be required to notify the County Feedlot Officer or designee within 24 hours that the pit has been pumped and is ready for a compliance inspection. The purpose of the inspection is to look at and to help maintain the integrity of the manure storage area.

SECTION 12
Manure Spreading Requirements

The following shall be the minimum setback requirements for the land application of manure.

Setbacks for land application of manure from the following:	Daily haul, or land applied and incorporated within 24 hours:	Incorporated in one pass:
RA District (Rural Residential)	1,000 feet	none
Dwellings	500 feet	none
Church	500 feet	250 feet
Well	100 feet	100 feet

Agreements between affected neighbors may be an exception to minimum setback requirements for the land application of manure.

SECTION 13
Manure Transportation

1. All forms of animal manure must be transported in a manner that the manure being transported is not deposited on a public road.
2. No on-road parking for the purpose of loading and unloading of manure is allowed.

SECTION 14
Commercial Manure Applicator

1. All persons who own and/or operate a manure applicator for hire shall first obtain a Commercial Operator's License from the Minnesota Department of Agriculture.
2. Commercial manure applicators shall abide by all land application procedures established by this Ordinance and any other applicable Minnesota Statute or Rule.
3. Any costs that accrue for road cleanup due to land application of manure, mud or manure deposited on public roads shall be the responsibility of the commercial applicator.

SECTION 15

Abandonment

Owners and operators of feedlots shall have joint and several liabilities for cleanup, closure, or remediation of abandoned feedlots.

SECTION 17

Disposal of Animal Carcasses

1. The disposal of animal carcasses shall be consistent with the Minnesota Board of Animal Health Regulations, Minnesota Rules Chapter 1721.
2. Animal carcasses, whether whole, partial, or ground-up shall not be disposed of in a manure storage structure.
3. Composting of animal carcasses is allowed under the guidelines from the Minnesota Department of Agriculture and Minnesota Board of Animal Health rules.

SECTION 18

Violations

Any person, firm, or corporation who violates any provisions hereof, or who fails to comply with of the provisions hereof, or makes any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense.

SECTION 19

Enforcement

1. **Stop Work Orders.** Whenever any work is being done contrary to the provisions of this Ordinance, the Fillmore County Feedlot Officer may order the work stopped by written notice personally served upon the operator of the feedlot. All activities shall cease and desist until subsequent authorization to proceed is received from the Fillmore County Feedlot Officer or designee.

2. **Revocation.** Any person who fails to comply with the conditions set forth on any feedlot related permit, may be subject to revocation upon written notice personally served upon the operator of the feedlot.
3. **Interference Prohibited.** No person shall hinder or otherwise interfere with the Fillmore County Feedlot Officer or designee, in the performance of duties and responsibilities required pursuant to this Ordinance.
4. **Access to Premises.** Upon the request of the Fillmore County Feedlot Officer, the applicant, permittee or any other person shall allow access to the affected premises for the purposes of regulating and enforcing this Ordinance. Refusal to allow access to the Fillmore County Feedlot Officer shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.
5. **Injunctive Relief and Other Remedies.** In the event of a violation of this Ordinance, the Zoning Office may institute appropriate actions or proceedings, including requesting injunctive relief to prevent, restrain, correct, or abate such violations. All costs incurred for corrective action may be recovered by the County in a civil action in any court of competent jurisdiction or at the discretion of the county. The costs of the relief may be certified to the County Auditor/Treasurer as a special tax against the real property. These and other remedies, as determined appropriate by the county, may be imposed upon the applicant, permittee, installer, or other responsible person either in addition to or separate from other enforcement actions.

SECTION 20

Severability and Validity

It is hereby declared to be the intention that the provisions of this Ordinance are severable in accordance with the following:

1. If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provisions of the Ordinance not specifically included in said judgment.
2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings or structures.

SECTION 21

Ordinance Repealed

Section 728 of the Fillmore County Zoning Ordinance adopted October 15, 1996 is hereby repealed.

EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

Passed and approved this 25th _____ day of November _____, 2003 by the County of Fillmore.

Chairman, Board of Commissioners

Attest: _____
County Coordinator

DRAFT