



MINIDOKA COUNTY

COMMUNITY DEVELOPMENT

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Confined Animal Feeding Operation (CAFO) Application

(Chapter 17 Minidoka County Zoning Ordinance)

Name of Proposed CAFO: _____
Animal Species to be confined: _____
Number of Proposed Animal Units: _____ Number of Acres: _____

Applicant/Authorized Agent Information:
(Attach additional pages if necessary)

Name: _____
Address: _____
City: _____
State: _____ Zip: _____
Contact Phone #: _____
Email: _____

Property Owner(s) of Record
(Attach additional pages if necessary)

Name: _____
Address: _____
City: _____
State: _____ Zip: _____
Contact Phone #: _____
Email: _____

Property Information:

Physical location of Property: _____
Property Legal Description: (Complete Legal Description; attach if necessary) _____

Existing use of Property: _____
Current Zoning Designation of the Property: _____

CHAPTER 12

CONFINED ANIMAL FEEDING OPERATION

SECTION:

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8-12-1: **APPLICABILITY:** This chapter shall apply to all confined animal feeding operations located in Minidoka County.

8-12-2: **REGULATIONS/SETBACKS:** In addition to all other regulations specified in this Title, all new confined animal feeding operations (CAFOs) shall comply with the following setbacks and other provisions:

- A. City Areas of Impact: All new Industrial CAFOs shall be located not less than one (1) mile outside the defined areas of impact of any incorporated municipality within Minidoka County as identified on the zoning map of Minidoka County. All new Commercial CAFOs shall be allowed to locate within a cities area of impact only within the proper zoning district and with the granting of a Special Use Permit approved by the county Planning and Zoning Commission.
- B. Subdivisions: The closest inside edge of the retaining wall of any new CAFO waste lagoon, or other structures containing liquid waste, and the outside edge of any composting yard of any new CAFO shall be located at least one (1) mile from any legally platted subdivision or planned unit development with visible improvements such as a highway district or county approved and accepted road.

- C. Dwellings: The closest inside edge of the retaining wall of any new CAFO waste lagoon or other structure containing liquid waste, or the outside edge of any composting yard for the waste generated from a confined animal feeding operation shall be located from any existing dwelling, church, school or any other building designed for human occupancy, not located within the designated CAFO site the following distances for each CAFO category.
1. Industrial CAFO : One thousand three hundred twenty feet (1320')
 2. Commercial CAFO: One thousand feet (1000')
 3. Domestic CAFO: Five hundred feet (500')
- D. Property Line: The closest inside edge of the retaining wall of the waste lagoon, or other structures containing liquid waste, and the outside edge of any composting yard of any new CAFO shall be located at least four hundred feet (400') inside the existing property lines of the designated CAFO site.
- E. Corrals: The outside edge of all corrals of any new CAFO shall be located at least four hundred feet (400') from the nearest existing dwelling, church, school, or any other building used for human occupancy, not located within the designated CAFO site.
- F. Proximity to Right of Way: Any structure confining animals in a CAFO, whether barn, corral, or other structure, must have external boundaries no less than one hundred feet (100') from the external boundary of any public right of way.
- G. Health Authority: Locations of waste lagoons, corrals, wells, and septic systems of any new CAFO shall conform to state of Idaho and health authority regulations and specifications.
- H. Lights: lights for all new CAFOs shall be placed and shielded to direct the light source down onto and inside the property lines of the CAFO.
- I. Floodway: The external boundary of a CAFO shall not be less than one thousand three hundred twenty feet (1,320') from any floodway as defined by the Minidoka County flood damage prevention ordinance and accompanying map.
- J. Water: No CAFO shall be located within an area that is a high water table area or wetland area in regards to the water table level as determined by a soil survey map from the natural resources conservation service (NRCS).
- K. Proximity to Well: No barn, corral or other structure in which livestock are confined in a CAFO, or any lagoon or other structure containing liquid waste generated from a CAFO, or the outside edge of any composting yard for the waste generated from a CAFO, shall be located nearer than four hundred feet (400') from any domestic well and one thousand feet (1000') from any public water system not located within the boundaries of the designated CAFO site.
- L. Proximity to Residential Low or Agricultural Low: Any structure confining animals in a Commercial CAFO or Industrial CAFO, whether barn, corral, or other structure, must have external boundaries no less than five thousand two

hundred eighty feet (5,280') from the external boundary of any land in Minidoka County that is zoned Residential Low or Agricultural Low.

- M. All barns, corrals or other structures in which livestock are confined in a CAFO, or any lagoon or other structure containing liquid waste generated from a CAFO, or any composting or manure stacking yard for the waste generated from a CAFO, shall be located within the boundaries of the designated CAFO site.

8-12-3: CLASSIFICATION AND PERMITTED DENSITIES FOR CAFOS:

Classes of Confined Animal Feeding Operations are classified in the different levels as established in this chapter and chapter 2 of this title. Confined Animal Feeding Operations subject to the requirements of this chapter include all new operations or expanding operations, which meet the definitions of Confined Animal Feeding Operations as defined in this Title.

- A. Industrial CAFO: A contiguous parcel of land upon which there is one or more confinement areas, and upon which there are confined one thousand (1,000) or more livestock animal units of large livestock or eighty-five thousand (85,000) or more head of fowl and/or furbearers.
- B. Commercial CAFO: A contiguous parcel of land upon which there is one or more livestock confinement areas, and upon which there are confined more than two hundred (200), but less than one thousand (1,000) livestock animal equivalent units of large livestock or more than one thousand five hundred (1,500), but less than eighty-five thousand (85,000) head of fowl and furbearers.
- C. Domestic CAFO: A contiguous parcel of land upon which there is one or more livestock confinement areas, and upon which there are confined at least twenty five (25), but no more than two hundred (200), livestock animal equivalent units of large livestock; and/or at least five hundred (500), but no more than one thousand five hundred head of fowl and/or furbearers.
- D. Zoning: Confined Animal Feeding Operations shall be permitted only as established in the official schedule of zoning regulations – Land Uses.

8-12-4: DEFINITIONS: For the purpose of this chapter, certain terms, phrases or words used herein shall be defined. The definitions for this chapter are found in Chapter 2 of this Title.

8-12-5: LOCATION:

- A. Proximity To Property Line: On parcels containing less than twenty (20) acres where the numbers of livestock do not exceed the animal unit restrictions for the zone in which they are located and where livestock are permitted, the barn, corral, pen, coop, or hutch for the keeping of livestock shall not be located closer than four hundred feet (400') from the nearest dwelling, church, school, or other building used for human occupancy other than buildings owned by the owner of the CAFO. Pastured animals may graze to the fence line. However, pastured animals that are watered or supplemented with any feed shall not be watered or fed in an area located closer than four hundred feet (400') from the property line.

8-12-5

B. Location Of Facilities: On any lot on which livestock are permitted, the location of the facilities necessary to house, feed, or care for such animals shall comply with all regulations in regards to setbacks contained in this title.

8-12-6: **APPLICATION FOR NEW CAFO PERMIT:** Owners of real property upon which a new confined animal feeding operation will be established must file an application for such CAFO with the office of the Zoning Administrator for Minidoka County, Idaho, upon a form approved by the Minidoka County Planning and Zoning Commission. The application for a new CAFO permit must be in writing and shall contain the following information:

- A. Personal Information: Complete names, addresses and telephone numbers of every owner of real property within the proposed confined animal feeding operation. If applicant is not the owner of real property within the proposed site of operation, applicant shall also disclose complete names, addresses and telephone numbers of all applicants, and shall furthermore state and clarify their interest(s) in the proposal.
- B. Legal Description: The complete legal description of the real property contained within the confined animal feeding operation, including the number of acres for each description and the geographic information system (GIS) data and global positioning satellite (GPS) data in digital file format that meets County mapping department's requirements for each parcel.
- C. Uses of Property: A statement of the current and historical uses of the real property described in the application.
- D. Zoning: The present zoning district designation of all real property within the CAFO.
- E. Description Of Operation: A narrative description describing the proposed CAFO, including the species of animals that will be confined, the number of animals that will be confined and a description of the structures and other facilities that will be required to confine, feed and care for the animals and remove the solid and liquid waste produced from the CAFO.
- F. Boundary Map: A map showing the boundaries of the real property comprising the confined animal feeding operation, including any real property within one mile of any external boundary of the confined animal feeding operation. The map, which must be drawn to a scale of not less than eight inches (8") to the mile, must show the following:
 - 1. Land Uses: Existing land uses;
 - 2. Water Bodies: Existing ditches, canals, live streams or other bodies of water;
 - 3. Wells: Wells (domestic or agricultural) within a one mile radius of any proposed barn, corral, lagoon, other structure for containing liquid waste, feed storage area or feed storage structure associated with the proposed CAFO;

4. Structures: The dimensions and locations of barns, corrals, lagoons, other structures for containing liquid waste, compost yards, feed storage areas, and feed storage structures on the proposed CAFO site;
5. Residences and Roads: The location of all residences, other buildings intended for human occupancy, and all public roads on the CAFO site and within a one mile radius of the CAFO boundaries;
6. Distances: The map must show the following distances expressed to the nearest ten feet (10'):
 - a. External Boundaries To Residences: Distances from external boundary lines of the confined animal feeding operation to residences or other buildings intended for human occupancy outside the CAFO boundaries.
 - b. Lagoons: Distances from lagoons to external boundary lines of the confined animal feeding operation area and to all residences or other buildings intended for human occupancy shown on the map.
 - c. External Boundaries To Highways: Distances from external boundary lines of the confined animal feeding operation to public highways or floodways.
- G. Topographical Map: A separate topographical map shall be submitted showing elevation contours at intervals of not less than twenty feet (20'), or at such other intervals as approved by the Zoning Administrator.
- H. Waste Management: A narrative concerning the waste management aspect of the CAFO site, including, but not limited to, the exact means and methods by which the applicant proposes to dispose of liquid and solid waste generated from the confined animal feeding operation. The narrative statement shall include a description of the means and methods by which the applicant will ensure that solid and liquid waste will not escape the boundaries of the confined animal feeding operation, or enter the waters of the United States of America.
- I. Water Rights: A writing from the Department of Water Resources of the State of Idaho, including a profile of all water rights necessary for the operation of the confined animal feeding operation or, if those rights have not yet been granted, proof that an application for transfer or other suitable application has been filed with the department of water resources which, if granted, would allow sufficient water rights to permit a lawful operation of the new confined animal feeding operation.
- J. Siting Advisory Team Report: Written comment on, and the approval from, the State of Idaho Siting Advisory team. The applicant will bear the responsibility for any fees or costs incurred that are not part of the application fee. Fees associated with any site advisory team are not part of the initial CAFO permit application.

- K. Statement Of Compliance: A notarized statement that the applicant will, as a condition of permit approval, construct and operate the confined animal feeding operation and nutrient management plan acres in keeping with the lawful directives of the state of Idaho Department of Agriculture or State of Idaho Department of Environmental Quality with respect to location and construction of lagoons, the application of liquid and solid waste from the CAFO and other matters within the jurisdiction of the Department of Agriculture or DEQ.
- L. Comment Letters: Applicant shall supply proof that letters have been requested from the highway districts having jurisdiction over public roads shown within or immediately adjacent to the CAFO site as designated on the previously described map and from any canal company owning ditches or canals that are within or immediately adjacent to the CAFO site as designated on the previously described map, fire districts, as well as any utility company or other easement holders of record pertaining to land within or abutting the designated CAFO site. Response letters from highway districts, canal companies, utility companies or other easement holders should recommend conditions that the Commission should consider imposing as conditions of approval, or provide written comments otherwise relative to the proposal.
- M. Lighting: The map accompanying the application must show the location of all corral or yard lights, and the application shall otherwise demonstrate that the lights have been designed to reflect downward and onto the CAFO to prevent escape of light and glare outside the boundaries of the CAFO area.
- N. Demonstration Of Setback Compliance: Compliance with all setback rules under this chapter must be demonstrated.
- O. Neighboring Property Owners: A list of names and addresses of all property owners owning real property located within one mile of the external boundaries of the CAFO.
- P. County Weed Plan: A plan developed in conjunction with the Minidoka County Weed Department setting forth suitable methods, managements and practices for controlling weeds on and involved with the proposed development herein. Weeds shall be defined by state of Idaho noxious weed statutes, laws and regulations.
- Q. Fee: A nonrefundable fee, in an amount set by the county, must be included with any application for a new CAFO.
- R. Until all items listed herein are submitted to the satisfaction of the zoning Administrator, any application made with the zoning department is deemed only to be lodged, but not to be filed. Applications shall be considered and determined based upon the regulations existing as of the date of filing of the application, unless otherwise provided for by action of the Board of County Commissioners.

8-12-7

8-12-7: **OTHER AGENCIES OF GOVERNMENT:** It is recognized that CAFOs governed by this chapter are subject to the scrutiny and regulation of other governmental agencies including, but not limited to, the Department of Agriculture for the State of Idaho, the Department of Environmental Quality for the State of Idaho, Environmental Protection Agency of the United States of America, and the Idaho State Department of Water Resources. In order to commence operation, the owners or operators of a new CAFO must comply with the laws, rules and regulations administered by those other agencies and remain in compliance therewith. It is not the intention of this chapter to impose a redundant set of regulations on CAFOs, but rather, it is intended that new CAFO owners demonstrate an ability to comply with those laws, rules and regulations as a condition of the issuance of a permit under this chapter.

8-12-8: **APPLICATION REFERRAL TO COMMISSION, HEARING PROCESS, AND DECISION PROCESS:** The Zoning Administrator shall review every application submitted under this chapter. If the Administrator determines that the application is complete the Administrator shall refer the application to the Planning and Zoning Commission for a hearing on the CAFO application.

A. Hearing:

1 . Prior to the hearing of a new CAFO application:

i. A written notice shall be published by the Zoning Administrator at least 30 days prior to the date of hearing; and

ii. Notice shall be posted on the premises by the applicant not less than one (1) week prior to hearing; and

iii. Written notice shall also be sent at least 20 days prior to the date of hearing by the Zoning Administrator by U.S. Mail, First Class Postage Prepaid, to every person listed by the applicable county tax assessor as owning real property located within one mile of any external boundary of the CAFO described in the application notifying such persons and the public that:

- a. Submittal: A new application for confined animal feeding operation permit has been received;
- b. Date: The date upon which the application was received by the county;
- c. Name And Address: The names and addresses of all of the applicants;
- d. Legal Description: The exact legal description of the real property comprising the proposed CAFO;
- e. Nature of Operation: The nature of the proposed confined animal feeding operation: and
- f. Animal Units: The number of animal units that will be confined thereon.

2. The notice shall further state that a public hearing will be held prior to the issuance of the permit and give the date, time and place of such hearing. The Zoning Administrator shall prepare and file at least two (2) days prior to the hearing, an affidavit of publication, posting and mailing indicating that the notice given is in compliance.
- B. Support Or Objection: All persons to whom notice is mailed shall be advised in that notice that they and others who can establish that their substantial rights would be affected by the approval or denial of the permit may file written objections or supporting statements with the planning and zoning commission secretary no later than ten (10) days prior to the hearing setting forth in that writing that person's support or objection to the issuance of the new CAFO permit.
1. Written objections shall set forth each requirement of law (local, state or federal) which the objecting party believes the CAFO permit would violate.
 2. Written statements shall also set forth either that the party making the statement owns property within one (1) mile of the external boundaries of the CAFO site described in the application and/or otherwise setting forth the substantial rights that would be affected by the approval or denial of the permit.
 3. Additionally, any party desiring to file any document(s) shall file such document(s) at least ten (10) days prior to the hearing, with the Planning and Zoning Commission secretary.
- C. Testimony At Hearing: Any person who files a statement in support or objection to the issuance of a new CAFO permit may be allowed to testify at the public hearing. In the written statement, the person making the statement shall indicate whether or not such person desires to testify at the hearing.
1. Prior to the hearing the Planning and Zoning Commission shall determine which of those persons who desire to testify will be permitted to testify at the hearing. In this regard, Idaho Code Section 67-6529 will be utilized as a guideline, in providing that
"only members of the public with their primary residence within one (1) mile radius of the proposed site may provide comment at the hearing. However, this distance may be increased by the . . ." Commission.
 2. All statements of support or objections shall be made a part of the record at the hearing, but no person except the applicant shall be permitted to testify at the hearing unless they have previously filed a written statement of support for or objection to the issuance of the permit.

3. A transcribable record of the hearing and the deliberation of the Commission toward a decision shall be kept for a period of time not less than six (6) months, nor shall they be required to be kept for a period of time not to exceed twelve (12) months, after the Planning and Zoning Commission's final decision on the matter.
4. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense.

D. Rules of Procedure: The Planning and Zoning Commission may adopt rules of procedure not inconsistent with the provisions of this title or state law for the conduct of its business and procedures for hearings.

E. Decision: After the hearing, the Planning and Zoning Commission shall approve, disapprove, or approve with conditions the application by written decision. If the application is approved or approved with conditions a permit shall be issued for the CAFO with such conditions as the commission determines.

F. State Approval before commencement of operations: If the CAFO is approved, then the Owner or Operator shall submit a letter from the state of Idaho department of agriculture approving the design of the waste management system under grade A sanitation requirements in the case of a new dairy wishing to produce grade A milk, and a letter approving the nutrient management plan, in the case of all CAFOs.

8-12-9: **PERMIT DEVELOPMENT:** Any permit obtained under this chapter shall be valid for a period of three (3) years from final written decision of the board. Any permit that was presented as being phased over a longer period of time shall be considered commenced when construction has started for the first phase of the project. Any permit obtained under this chapter must be occupied by the operator within four (4) years of issuance by the board.

8-12-10: **RIGHT TO OCCUPY AND COMMENCE OPERATION:** Any person to whom a new CAFO permit is issued shall not commence operations on the new CAFO or allow animals to occupy the new CAFO without first having submitted written proof to the satisfaction of the Zoning Administrator for Minidoka County, Idaho, that the CAFO has been constructed in conformance with the application and that the agencies deemed relevant to the new CAFO application by the Administrator which may include, but not be limited to the Department of Agriculture, the State of Idaho Department of Environmental Quality, the Department of Water Resources for the State of Idaho, and the United States of America Environmental Protection Agency have inspected the completed facility and approved it ready for the commencement of use.

8-12-11

8-12-11: TRANSFERABILITY AND DISCONTINUANCE:

- A. The ownership of a CAFO permit may be transferred to a new owner of the CAFO by application to the Zoning Administrator stating that the new owner will assume all duties and responsibilities of the previous owner under the existing CAFO permit and any agreements then in force with respect to that permit.
- B. The holder of an existing or new CAFO permit who, once having begun operations, discontinues its operations for a period not in excess of ten (10) years may reestablish such use without obtaining a new permit, as provided by Idaho Code 67-6538.
- C. The holder of a CAFO permit that fails to install improvements with which to commence operations for a period in excess of three (3) years from the date the permit is authorized by the Commission shall be required to qualify for and obtain a permit as a new CAFO prior to commencement of operations.

8-12-12: EXPANSION and/or MODIFICATION OF WASTE MANAGEMENT SYSTEM:

Any holder of a CAFO permit issued in and by Minidoka County may file an application with the Planning and Zoning Commission for an amendment to the permit to allow for a new or modified waste management system component of the CAFO permit. Such application must meet the requirements of section 8-12-6 of this chapter and must show all required approvals required by this chapter for the new or modified waste management system. The Planning and Zoning Commission may issue an amended permit upon receiving satisfactory evidence of the applicant's compliance with the provisions of this chapter.

8-12-13: ANIMAL REPORTING REQUIREMENTS / RANDOM INSPECTIONS: Once approved and under operation, the Owner or Operator shall submit an annual report to the Minidoka County Administrative Office describing the quantities and types of animals confined on the facility, the number of acres required under its currently approved nutrient management plan, including designation of owned acreage and export acreage, including legal descriptions and the global positioning satellite (GPS) data in format suitable to the County mapping department for each parcel not previously reported. This report shall be filed by December 31st of each year. Additionally, the Owner or Operator shall allow any authorized County officer or employee to enter on to its facility for purposes of ensuring compliance with county regulations which are applicable to the operation and for purposes of ensuring the operation does not exceed the permitted number and type of animal units.

8-12-14

8-12-14: **COUNTY OFFICER OR EMPLOYEE ENTRY AUTHORIZED:** It shall be unlawful and a misdemeanor to interfere with, hinder or refuse to allow any authorized County officer or employee to enter upon private or public property to enforce the provisions of this Chapter.

8-12-15: **EXISTING OPERATIONS:**

1. Prior Use Permit: Owners of CAFOs which were in existence prior to February 12, 1992, were required to obtain a "prior use CAFO permit" to qualify for the enhanced "prior use" or "grandfather" rights extended under section 8-12-18 of this chapter. Those existing CAFOs, to obtain a "prior use CAFO permit", were required to submit applications that contained the following:
 - a. Description Of Operation: A full description of the operation and facilities including location and maximum capacity of the facilities and the numbers and type of livestock located on the parcel at the time of application.
 - b. Site Plan: The application was to accompanied by an owner drawn or owner submitted site plan of the facilities and structures located on the CAFO.
2. Approval: A "prior use CAFO permit or update" was thereafter issued by the Zoning Administrator upon receipt of a complete application and the fee. Prior use CAFO permits were only issued for applications filed by January 1, 2000. After such date no further prior use permits or updates were issued.
3. Transferability: A "prior use CAFO permit" may be transferred to a new owner of the CAFO by application to the Zoning Administrator stating that the new owner will assume all duties and responsibilities of the previous owner under the existing CAFO permit and any agreements then in force with respect to that permit.

8-12-16: **ENHANCED "GRANDFATHER" RIGHTS FOR HOLDERS OF PRIOR USE CAFO PERMITS:**

1. Enhanced "Grandfather" Rights: Notwithstanding the provisions of chapter 3 of this title regarding nonconforming uses, the holder of a prior use CAFO permit shall be entitled to expand or increase the size of the CAFO operation as follows:

- a. A nonconforming Confined Animal Feeding Operation may be changed to a conforming use by meeting the requirements of this chapter.
 - b. A nonconforming Confined Animal Feeding Operation may make improvements; provided that the number of animal units does not increase.
 - c. Any improvements made to a nonconforming Confined Animal Feeding Operation shall not increase in any manner a non-complying existing condition of the operation.
 - d. A nonconforming Confined Animal Feeding Operation shall lose its nonconforming or grandfather use rights if the operation ceases for more than three (3) years.
2. Holders of Prior Use CAFO Permits: Holders of prior use CAFO permits who desire to expand their operations under this section shall file an application for expansion of prior use CAFO permit with the office of the Zoning Administrator which outlines the nature and size of the expansion. Such applicants shall not be required to meet the standards for new CAFOs, except they shall be required to demonstrate compliance with county livestock density regulations and overall size of operations regulations, as well as all state and federal regulations applicable to their operation.
 3. Review of Prior Use CAFO Permit: Upon receipt of an application to expand a prior use CAFO permit the Zoning Administrator shall review the same for completeness and compliance with the limitations of this chapter and submit the application to the Planning and Zoning Commission for review and approval.

8-12-17: **DISCONTINUANCE OF USE:** The holder of a "prior use" CAFO permit who discontinues its operations for a period not in excess of ten (10) years may reestablish such use without obtaining a new permit. Prior use CAFO uses that are discontinued for a period in excess of ten (10) years shall be required to obtain a permit as a new CAFO to reestablish operations.

8-12-18: **APPEALS:** An applicant, any person who receives a mailed notice of an application for issuance of a CAFO permit under this chapter, or any person whose substantial rights are affected by the issuance or denial of a CAFO permit may appeal the decision of the Planning and Zoning Commission by filing a notice of appeal stating the basis for such appeal together with a specification of the provisions of the law the decision is deemed to violate within fourteen (14) days of the date of the signing of the Planning and Zoning Commission decision, and paying a fee set by the county. Appeals shall be filed and heard in conformance with subsection 8-3-10 of this title.

Title 8 CHAPTER 12 Chapter 19

ENCLOSED AND TOTALLY CONFINED POULTRY CAFO OPERATIONS

SECTION:

8-12-19-1: Applicability

8-12-19-2: Procedure

8-12-19-3: Definitions

8-12-19-4: Zones Allowed

8-12-19-5: Development Density

8-12-19-6: Setbacks

8-12-19-7: Application Requirements for New Poultry CAFO Permit

8-12-19-8: Permit Hearing Process

8-12-19-9: Right to Occupy and Commence Operation

8-12-19-10: Transferability and Discontinuance

8-12-19-11: Permit Development

8-12-19-12: Reporting Requirements/Random Inspections

8-12-19-13: County Officer or Employee Authorized Entry

8-12-19-14: Appeals

8-12-19-1: APPLICABILITY:

A. The regulations established in this chapter shall apply to all new poultry confined animal feeding operations (P-CAFO), the operation's facilities and to conversions and expansions of existing poultry CAFOs and facilities that constitute a totally confined system and dry manure system. The Zoning Administrator shall interpret this ordinance and any applications made pursuant thereto to ensure that said applications or permits issued thereafter under this Chapter are in accordance with the terms and provisions hereunder set forth.

B. These regulations shall not apply to any Unconfined or Semi-confined poultry CAFO or facility. Any poultry CAFO or facility not covered by this ordinance shall meet the requirements of Minidoka County Code, Title 8, Chapter 12.

8-12-9-2: PROCEDURE:

A. All newly proposed poultry CAFOs, and all conversions and expansions of existing poultry CAFOs shall be required to obtain a poultry CAFO permit as is hereinafter set forth in this Chapter 12, Title 8, Minidoka County Code.

B. All newly proposed poultry CAFOs, and all conversions and expansions of existing poultry CAFOS which exceeds capacity to house 50,000 poultry shall also be required to obtain a special use permit under Chapter 3B of Title 8, Minidoka County Code before commencing any building or operations as a poultry CAFO.

8-12-19-3: DEFINITIONS:

- A. Dry Litter Operation — any poultry facility that doesn't use water or waste water to harvest or transport manure from poultry housing.
- B. Environmentally Controlled - poultry housing that has solid sides and end walls with all openings sealed except for fan exits and ventilation intakes, allowing no access to outside open pens. The housing is climate controlled for temperature and moisture.
- C. Hatchery — A commercial establishment dedicated to the hatching of poultry eggs to provide day old chicks to the poultry industry.
- D. Large Poultry CAFO — A poultry facility where more than 1,500 birds can be housed. The birds are housed at a single physical site and may include multiple buildings.
- E. Poultry Cafo Classifications;
 - (i) Domestic Poultry CAFO – at least five hundred (500) but no more than one thousand five hundred (1,500) head of fowl.
 - (ii) Commercial Poultry CAFO – more than one thousand five hundred (1,500) but less than eighty-five thousand (85,000) head of fowl.
 - (iii) Industrial Poultry CAFO – more than eighty-five thousand (85,000) but less than four million two hundred thousand (4,200,000) fowl.
- F. Liquid Waste Operation — any poultry facility that uses water or waste water to harvest or transport manure from poultry housing to a storage structure.
- G. Poultry - domesticated male or female chickens that are housed for the production of meat or eggs, and includes Commercial Layers, Layer Breeder, Broiler, Broiler Breeder and Pullets.
- H. Poultry CAFO Boundary — A legally described parcel or parcels of land

containing a Poultry CAFO to be used for establishing setbacks between new and existing facilities.

- I. Poultry Facility — Includes all coops, barns, pens, manure storage areas, and dead poultry disposal areas used in conjunction with poultry production and which are on the same site as the poultry operation. Adjacent sites under common ownership are considered the same facility for purposes of this definition.
- J. Production Area — the area expressed in square feet of poultry housing used in the raising of poultry not including mechanical, worker or office space.
- K. Totally Confined — a "Totally Confined" poultry facility refers to any poultry facility where all birds are housed within enclosed structures and where no open pens are utilized, and where any activity associated with poultry raising or waste management from poultry raising activity is handled within a totally enclosed and confined structure.
- L. Unconfined — an "Unconfined" poultry facility includes any poultry CAFO or facility where any birds are raised in open pens with or without shades and are subject to the elements, and also where any function associated with poultry raising or waste management from poultry raising activity is not handled in an enclosed facility.

8-12-19-4: ZONES ALLOWED:

- A. Large Poultry CAFOs may be sited in the prime agricultural and multiple use zones, as long as appropriate permits therefore are granted by the County.
- B. Large Poultry CAFOs will not be permitted nor sited in any zone other than as listed in 8-6-2 provisions of this Title.
- C. Hatcheries will not be permitted nor sited in any zone other than as listed in 8-6-2 provisions of this Title.

8-12-19-5: DEVELOPMENT DENSITY:

Based upon information presented to the County by industry experts, and in an effort to avoid existing density requirements related to nutrient management planning, the county will permit based on the following criteria:

- A. A Large Poultry CAFO must own 4 sq feet of contiguous land for every 1 sq foot of production area, which land shall be designated to the particular P-CAFO and may not be used to satisfy any other density requirements of Minidoka County in siting any animal feeding operation. Any reduction in land size for the Poultry CAFO shall automatically require the Poultry CAFO to reduce numbers of birds to stay in balance.
- B. A Large Poultry CAFO may not exceed maximum size of four million two

hundred thousand (4, 200,000) birds at any one time.

8-12-19-6: SETBACKS:

A. The following minimum setbacks are applicable to all poultry operations under this Chapter. These minimum setbacks may be increased by action of the Planning and Zoning Commission, if in the determination of the Commission, additional setback is needed to provide for the protection of health, safety or general welfare of the County.

(1) 400 feet from poultry housing or any Poultry CAFO structure to any dwelling, church, school or other building designed for human occupancy not located on the designated CAFO site. 100 foot setback from property line(s) and public right of way(s) to all poultry facility buildings and storage areas.

(2) Poultry facility improvements and storage areas under this Chapter shall only be built within Flood Zone "C" or those areas designated by "D" as established by the most current version of the Flood Insurance Rate Map produced by the Federal Emergency Management Agency (FEMA).

(3) 400 foot setback from poultry facility buildings and storage areas to any water wells documented by Idaho Department of Water Resources, or any other wells known to the applicant or its agents, which are located on the designated poultry CAFO site.

(4) All lighting shall be placed and shielded to direct the light source down onto and inside the property lines of the designated poultry CAFO site.

(5) All facilities and storage areas for confining poultry and / or poultry waste shall be located within the boundaries of the designated poultry CAFO site.

(6) The external boundaries of any large poultry CAFO must be at least five thousand two hundred eighty feet (5,280') from the external boundary of any property in Minidoka County that is zoned as Agricultural Low, Residential or City Impact/Buffer zone.

(7) The external boundary of any large poultry CAFO structure under this Chapter must be located at least one thousand three hundred twenty feet (1,320') from any existing legally platted subdivision or planned unit development with visible improvements such as a highway district or county approved and accepted road.

(8) A Large Poultry CAFO must maintain a minimum bio-security distance between Large Poultry CAFOs to protect existing operations from the impacts of new operations. This will be accomplished by each poultry CAFO of 50,000 birds or less having a one (1) mile buffer extending from its external boundaries; any poultry CAFO in excess of 50,000 birds shall have and provide a two (2) mile buffer extending from its external boundaries. No proposed Large Poultry CAFO can be sited within an existing bio-security buffer area. No proposed bio-security buffer may intersect an existing bio-

security buffer area.

(9) All poultry CAFO facilities shall have environmentally controlled barns for all poultry housing.

(10) All transport of litter to, from and between any poultry CAFO facility which is permitted hereunder shall be fully covered during transportation and holding.

(11) Any land applied litter of a large Poultry CAFO that is permitted hereunder shall not be applied in the bio-security area of another poultry CAFO facility.

B. Additional setbacks and requirements for new poultry CAFOs or expanding poultry CAFOs which exceed a capacity to house 50,000 poultry. These additional setbacks are:

(1) Poultry CAFOs under this subsection shall not propose a litter disposal system that relies on land application of raw untreated litter or application of composted poultry CAFO waste to land.

(2) Poultry CAFOs under this subsection shall have a litter disposal system that is fully enclosed and treats or manufactures the litter into a useable commercial product which may include, but not necessarily be limited to energy or fertilizer pellets.

(i) The treatment, processing, or manufacturing may be done on site or off site;

(ii) Treatment, processing or manufacturing may be done by the poultry CAFO permit holder or by contract through and with a third party;

(iii) Third party contracts hereunder must contain the conditions imposed by the Planning and Zoning Commission and be approved by the County Prosecuting Attorney;

(iv) Any entity providing storage, treatment, processing and/or manufacturing related hereto, that is located in Minidoka County must have applied for and have been granted a conditional use permit under Title 8, Chapter 3, Minidoka County Code before commencing any such operation.

8-12-19-7: APPLICATION REQUIREMENTS FOR NEW POULTRY CAFO PERMIT:

Owners of real property upon which a new poultry CAFO will be established must file an application for such poultry CAFO with the office of the zoning administration for Minidoka County, Idaho. The application for a new poultry CAFO must be in writing and shall contain the following information:

A. Personal Information: Complete names, addresses and telephone numbers of every owner of real property within the proposed confined animal feeding operation. If applicant is not the owner of real property within the proposed site of operation, applicant shall also disclose complete names, addresses and telephone numbers of

all applicants, and shall furthermore state and clarify their interest(s) in the proposal.

B. Legal Description: The complete legal description of the real property contained within the confined animal feeding operation, including the number of acres for each description and the geographic information system (GIS) data and global positioning satellite (GPS) data in digital file format that meets County mapping department's requirements for each parcel.

C. Use and Zoning — The present zoning district designation and a description of the current and historical uses of the proposed CAFO site shall be stated.

D. Site Map — a map showing the boundaries of the poultry CAFO site and all improvements and storage areas on the poultry CAFO. The map must be drawn to a standard scale of at least 1"=100 ft or as approved by the Zoning Administrator. The map must show the following:

- (1) **Water Bodies:** existing ditches, canals, live streams or other bodies of water.
- (2) **Wells:** All wells located within the site as documented by Idaho Department of Water Resources (IDWR), or any other wells known to the applicant or its agents.
- (3) **Structures:** the dimensions and locations of barns and waste storage areas.
- (4) **Lighting —** the location of any light towers located on the site.
- (5) **Residences and Roads:** the location of all buildings intended for human occupancy and roads on the poultry CAFO site.
- (6) **Distances:** the map must show the following distances expressed to the Nearest 10 feet:
 - (i). Shortest distance from property line and public right of way to facility barns and waste storage areas.
 - (ii). A note specifying the square footage of actual production space for the site.
- (7) **Flood zones or designated areas** as established by the most current version of the Flood Insurance Rate Map produced by the Federal Emergency Management Agency (FEMA).

E. Vicinity Map — a map showing the boundaries of the poultry CAFO site and the surrounding property within 2 (2) miles of the poultry CAFO site. The map must be drawn to scale of not less than 8 inches to the mile (8"=1 Mile, or 1"=660 ft) and must show the following:

- (1) **Water Bodies:** existing ditches, canals, live streams or other bodies
- (2) **Wells:** All wells located within the two (2) miles radius as documented by

Idaho Department of Water Resources (IDWR), or any other wells known to the applicant or its agents.

- (3) Residences and Roads: the approximate location of all buildings intended for human occupancy and roads within two (2) miles of the poultry CAFO site.
- (4) Distances: the map must show the following distances expressed to the nearest 10 feet:
 - (i). Shortest distance from the external poultry CAFO boundary to a dwelling, church, school or other building designed for human occupancy not located on the designated poultry CAFO site.
 - (ii). Shortest distance from any manure storage area to a dwelling, church, school or other building designed for human occupancy not located on the designated poultry CAFO site.
 - (iii). Shortest distance from the external boundaries of the poultry CAFO to Flood Zones A or B, as designated by FEMA on the Flood Rate Insurance Map. If this distance exceeds 5,280', affixing a note to that effect on the map will be sufficient showing.

F. Topographical Map — A separate topographical map shall be submitted showing elevation contours for the poultry CAFO site.

G. Waste management — A narrative description of the waste management system which includes the proposed means the facility will employ to dispose of all waste including, litter and dead animals. The narrative shall include a description of the means and methods by which the applicant will ensure that waste will not escape the boundaries of the poultry CAFO or enter the waters of the US. This description shall include a copy of the facility's approved nutrient management plan (NMP). The acres required for the waste management system, as determined by the NMP shall be identified and described as set forth in Minidoka County Code 8-13-7B. Such identified acres shall not be used for density or NMP purposes for any other poultry CAFO.

H. Third party contracts for waste disposal shall be allowed subject to the approval of the Minidoka County Prosecuting Attorney for facilities that are not included within, or governed by section 8-12-9-6B. All such third party contracts must remain in effect during the term of the poultry CAFO permit; however third party contracts may be substituted during the term of the permit so long as they meet any applicable governmental regulations for waste disposal. The applicant shall also include the geographic information system (GIS) data and global positioning satellite (GPS) data in digital file format that meets County mapping department's requirements to identify the land in each third party contract. Once land is contracted hereunder, it cannot be contracted at the same time for any other operational density requirement or approved nutrient management plan requirement for any other facility or use in Minidoka County. If contracted land is withdrawn and the same amount of substitute land is not contracted in its place, then the permit holder shall permanently reduce the number of birds that can be housed at the poultry CAFO to meet density requirements herein set

out.

I. Neighboring property owners — a list of names and addresses of all property owners owning real property located within one mile of the external boundaries of the poultry CAFO.

J. A writing from the department of water resources of the state of Idaho, including a profile of all water rights necessary for the operation of the confined animal feeding operation or, if those rights have not yet been granted, proof that an application for transfer or other suitable application has been filed with the department of water resources which, if granted, would allow sufficient water rights to permit a lawful operation of the new confined animal feeding operation.

K. Fee: A nonrefundable fee, in an amount set by the county must be included with any application for a new poultry CAFO.

L. Until all items listed herein are submitted to the satisfaction of the Zoning Administrator, any application made with the zoning department is deemed only to be lodged, but not to be filed. Applications shall be considered and determined based upon the regulations existing as of the date of filing of the application, unless otherwise provided for by action of the Board of County Commissioners.

8-12-19-8: PERMIT HEARING PROCESS:

The Zoning Administrator shall review every poultry CAFO and SUP application submitted under this chapter. If the Administrator determines that the applications are complete the Administrator shall refer the applications to the Planning and Zoning Commission for a hearing on the poultry CAFO and SUP applications. Special use permits shall be reviewed, referred, noticed and heard in accordance with provisions of Chapter 3, Title 8, and shall be heard in conjunction with poultry CAFO permits hereunder.

A. Hearing:

(1). Prior to the hearing of a new poultry CAFO permit:

(i). Hearing and notice procedures shall be in accordance with Section 8-3-9 and Idaho Code Section 67-6529

(2). The notice shall further state that a public hearing will be held prior to the issuance of the permit and give the date, time and place of such hearing. The applicant shall prepare and file, with the planning and zoning secretary, at least two (2) days prior to the hearing, an affidavit of publication, posting and mailing indicating that the notice given is in compliance with subsections A and B of this section.

B. Support Or Objection: All persons to whom notice is mailed shall be advised in that notice that they and others who can establish that their substantial rights would

be affected by the approval or denial of the permit may file written objections or supporting statements with the Planning and Zoning Commission secretary no later than ten (10) days prior to the hearing setting forth in that writing that person's support or objection to the issuance of the new poultry CAFO permit.

(1). Written objections shall set forth each requirement of law (local, state or federal) which the objecting party believes the poultry CAFO permit would violate.

(2). Written statements shall also set forth either that the party making the statement owns property within one (1) mile of the external boundaries of the poultry CAFO site described in the application and/or otherwise setting forth the substantial rights that would be affected by the approval or denial of the permit.

(3). Additionally, any party desiring to file any document(s) exceeding one (1) one-sided, 8 "1/2" x 11" sized page, shall file such document(s) at least ten (10) days prior to the hearing, with the Planning and Zoning Commission secretary. The Planning and Zoning Commission reserves the right to reject any proffered documentation that violates the intent of this regulation.

C. Testimony At Hearing: Any person who files a statement in support or objection to the issuance of a new poultry CAFO permit shall indicate in such statement whether or not such person desires to testify at the hearing.

(1). Prior to the hearing the Planning and Zoning Commission shall determine which of those persons who desire to testify will be permitted to testify at the hearing.

(2). All statements of support or objections shall be made a part of the record at the hearing, but no person except the applicant shall be permitted to testify at the hearing unless they have previously filed a written statement of support for or objection to the issuance of the permit.

(3). A transcribable record of the hearing and the deliberation of the Commission toward a decision shall be kept for a period of time not less than six (6) months, nor shall they be required to be kept for a period of time not to exceed twelve (12) months, after the Planning and Zoning Commission's final decision on the matter.

(4). Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense.

D. Rules of Procedure: The Planning and Zoning Commission may adopt rules of procedure not inconsistent with the provisions of this title or state law for the conduct of its business and procedures for hearings.

E. Decision: After the hearing the Planning and Zoning Commission shall approve, disapprove, or approve with conditions the application by written decision. If the application is approved or approved with conditions a permit shall be issued for the poultry CAFO with such conditions as the commission determines.

8-12-19-9: RIGHT TO OCCUPY AND COMMENCE OPERATION:

Any person to whom a new poultry CAFO permit is issued shall not commence operations on the new poultry CAFO or allow poultry to occupy the new poultry CAFO without first having submitted written proof to the Zoning Administrator for Minidoka County, Idaho that the poultry CAFO has:

- A. been constructed in conformance with the application and
- B. that the agencies deemed relevant to the new poultry CAFO application by the Administrator have inspected the completed facility and approved it ready for the commencement of use and
- C. the facility has in place a valid water right(s) to permit the lawful operation of the facility.

8-12-19-10: TRANSFERABILITY AND DISCONTINUANCE:

The ownership of a poultry CAFO permit may be transferred to a new owner of the poultry CAFO by application to the Zoning Administrator stating that the new owner will assume all duties and responsibilities of the previous owner under the existing poultry CAFO permit and any agreements then in force with respect to that permit. The holder of an existing or new poultry CAFO permit who discontinues its operations for a period not in excess of ten (10) years may reestablish such use without obtaining a new permit as provided by Idaho Code 67-6538.

8-12-19-11: PERMIT DEVELOPMENT:

Any permit obtained under this chapter shall be valid for a period of 3 years from final written decision of the board. Any permit that was presented as being phased over a longer period of time shall be considered commenced when construction has started for the first phase of the project. Any permit obtained under this chapter must be occupied by the operator within 4 years of issuance by the board.

8-12-19-12: REPORTING REQUIREMENTS / RANDOM INSPECTIONS:

A. Once approved and under operation, the Owner or Operator shall submit an annual report to the Minidoka County Administrative Office describing the quantities and types of poultry confined on the facility, the number of acres required under its currently approved nutrient management plan, including designation of owned acreage and export acreage, including legal descriptions and the global positioning satellite (GPS) data in format suitable to the County mapping department for each parcel not previously reported. This annual report shall also verify that any third party contracts for export concerning waste management under this Chapter remain in force; or alternatively, shall detail any amendments, alterations or cancellations of such contracts. This report shall be filed by June 1st of each year.

B. Additionally, the Owner or Operator shall allow any authorized County officer or employee to enter on to its facility for purposes of ensuring compliance with county regulations which are applicable to the operation. Any County officer or employee acting hereunder shall follow the Bio Security Plan as established by the Facility and as approved and accepted by the County Zoning Administrator. If there is no mutually agreed upon Bio Security Plan, the County representative may enter the property immediately to ensure compliance with public health and welfare issues.

8-12-19-13: COUNTY OFFICER OR EMPLOYEE AUTHORIZED ENTRY:

It shall be unlawful and a misdemeanor to interfere with, hinder or refuse to allow any authorized County officer or employee to enter upon private or public property to enforce the provisions of this Chapter, or to enforce any other provision arising hereunder .

8-12-19-14: APPEALS:

An applicant, any person who receives a mailed notice of an application for issuance of a poultry CAFO permit under this chapter, or any person whose substantial rights are affected by the issuance or denial of a poultry CAFO permit may appeal the decision of the Planning and Zoning Commission by filing a notice of appeal stating the basis for such appeal together with a specification of the provisions of the law the decision is deemed to violate. Appeals shall be filed and heard in conformance with subsection 8-3-10 of this title.

