

SECTION 10 PERFORMANCE STANDARDS

10.3 AGRICULTURAL USE STANDARDS:

10.3.6 Non-Confinement Feeding Areas *(AS AMENDED 18 November 2008)*

A. Purpose:

The purpose of regulating Non-confinement Feeding Areas (NFA) is to satisfy an owner/operator's production objectives while preserving public health and safety by limiting any potential environmental impacts.

B. Defined Land Use:

A NFA is a designated area of land or group of designated areas of land in which "supplemental" backgrounding of livestock takes place. This land use must be subordinate to an established primary use such as traditional crop agriculture or pasturing. Because this **accessory** land use typically takes place during the non-cropping season (from post-harvest to pre seeding) it is also known as "winter feeding". This practice involves the locating of livestock (typically stocker or cull cows) on harvested crop or forage land, for a limited period of time, with a growth ration provided in preparation for market.

1. A NFA must not be definable as:

- a. An "animal feedlot" per Minnesota Animal Feedlot Rules Chapter 7020: Ch 7020 Rules Subp. 3. *"Animal feedlot" means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. **Pastures shall not be considered animal feedlots under these parts.***
- b. An Animal Feeding Operation (AFO) per United States Environmental Protection Agency: *animals have been, are, or will be stabled or confined **and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.***

~~NFA, also referred to as "Winter Feeding Areas", are properties that foster the nontraditional agricultural practice of raising livestock in a non-confinement environment. This involves the temporary practice of supplementary feeding of livestock on harvested crop or forage land. This practice is not to be confused with pasturing as it typically is conducted in harvested cropland and continues past the traditional growing season.~~

C. Definitions

1. **Cow/calf pasture operation:** is a method of raising cattle in which a permanent herd of cows is kept by a farmer or rancher to produce calves for later sale. Cow/calf operations generally raise their stock primarily on pasture and other forms of roughage rather than grain feeds.
2. **Cull Cow:** are those cows that are no longer wanted for milk production or breeding due to poor performance or physical conditions.
3. **Stocker cow:** are those cows that are fed and maintained until they have reached a desirable weight to be sold for beef production
4. **Pasture** refers to:
 - a. areas, including winter feeding areas as part of a grazing area, where grass or other growing plants are used for grazing and where the concentration of animals allows a vegetative cover to be maintained during the growing season, except that vegetative cover is not required:
 - i. in the immediate vicinity of supplemental feeding or water devices;
 - ii. in associated corrals and chutes where livestock are gathered for the purpose of sorting, providing veterinary services, loading and unloading trucks and trailers, and other necessary activities related to good animal husbandry practices; or
 - iii. in associated livestock access lanes used to convey livestock to and from areas of the pasture; or
 - b. agricultural land:
 - i. where livestock are allowed to forage during the winter;
 - ii. that is used for cropping purposes in the growing season; and
 - iii. where the concentration of animals is such that a vegetative cover, whether of grass, growing plants, or crops, is maintained during the growing season, except in the immediate vicinity of temporary supplemental feeding or watering devices.

D. Permitted Use Requirements:

1. **Permitted by Right** provided Performance Standards in this section, specifically E.1 and E.2 are complied with:
 - a. NFAs used for typical cow/calf pasture operators (see MN 7020.0300, Subpart 18.A or subsequent legislation);
 - b. NFAs with a stocking density less than 300 head per NFA.
2. **Interim Use Permit Required:**
 - a. NFAs for cull/stocker cow operations with a stocking density of over four head per acre; or
 - b. NFAs for cull/stocker cow operations exceeding 300 head per NFA. ~~require an Administrative Interim Use Permit to be issued by the Pope County Board of Commissioners. Land & Resource Management Director.~~

E. Performance Standards:

1. ~~Non confinement Feeding Areas~~ **Zoning Districts:** NFAs are ~~permitted~~ **only permissible** in the Agricultural zoning districts (**Non-Intensive Agriculture (A-1)**), ~~and~~ **Agriculture Protection (A-2)**).

2. Setback Requirements:

- a. NFAs must meet the following setbacks:
 - i. Public Water Basins or Wetlands (identified by shoreland designation) = 1000 feet
 - ii. Public Water Watercourses (identified by shoreland designation) = 500 feet
 - iii. Karst features, wetlands, intermittent streams, tile inlets and agricultural drainage ditches = 300 foot radius
 - iv. Private water well = 200 feet
 - v. Municipal well = 1000 feet
 - vi. Residential Dwellings = 600 feet (*measured from a residential dwelling to the boundary of the NFA*)

3. Stocking Density:

- a. Stocking density will be considered based on the results of the 6-year Phosphorus Management calculation as detailed in section 5 below, to ensure phosphorus rates of all NFAs fall within the High Sensitivity screening tool in the Minnesota Rapid Phosphorus Index.
- b. The County Feedlot Officer shall provide a density recommendation to the Director. This recommendation shall be based upon physical characteristics of the site and information contained in the MMP plan.
- c. Only a low density (less than 2 cattle per acre) is allowed within any Wellhead Protection Area from any municipality.
- d. NFA's in excess of two (2) head per acre ~~is~~ are not allowed within ¼ mile of a municipal boundary, unless the municipality annually grants permission. Written permission from the municipality must be provided to the Land and Resource Management Department upon receipt of such permission.
- e. ~~Thirty (30) days prior to moving cattle to feeding sites NFAs, the producer must annually notify the Pope County Feedlot Officer.~~

4. Stormwater Management

- a. Stormwater runoff will be calculated and evaluated through the use of the Minnesota Feedlot Annualized Runoff Model (MinnFARM) as prepared by an appropriate professional for the following areas during winter use:
 - i. Holding areas;
 - ii. Travel lanes; and
 - iii. Stream crossings.
- b. Stormwater Best Management Practices (BMPs) will be employed for all areas utilized for NFAs to ensure stormwater runoff is not discharged to Waters of the State, these BMPs may include but are not limited to:
 - i. Fencing;
 - ii. Permanent vegetative buffers;
 - iii. Berming; and/or
 - iv. Ridge till, etc.

5. Nutrient Management

- a. A manure management plan (MMP) for the NFAs must be completed by a professional Agronomist utilizing the MPCA’s MMP spreadsheet or subsequent guidance documents.
- b. The following must also be prepared by a professional Agronomist and provided with the MMP:
 - i. Map of field locations & acreages;
 - ii. Stocking densities per field;
 - iii. Plan for ensuring no build-up of manure occurs;
 - iv. Manure sampling results; and
 - v. Soil sampling and reporting schedule to Land & Resource Management.
- c. The MMP must conform to Natural Resources Conservation Service Nutrient Management Technical Standards.
- d. A six (6) year Soil Phosphorus Management calculation (following the MPCA Feedlot Inspection P Worksheet or subsequent guidance) must be completed and maintained on a yearly basis by a professional Agronomist, as sampling results are obtained and/or cropping rotations are altered. The results of these calculations must be reported to the Land & Resource Management department on an annual basis.
- e. The Pope County Geological Atlas will be used as a general guide to decipher sensitivity to pollution of the buried aquifers and other related concerns. Sites that are located in areas deemed “High” and “Very High” for aquifer pollution must demonstrate environmental protection with a MMP.
- f. All provisions of the Pope County Land Use **Controls Ordinance** and all of **MN Rules Chapter 7020** dealing with deposition of manure, ~~and all of MN Rules Chapter 7020~~ must be satisfied. ~~Specific additional restrictions are as follows:~~
- g. ~~Only a low density (less than 2 cattle per acre) is allowed within any Wellhead Protection Area from any municipality.~~
- h. ~~NFAs must be 200 feet from any residential well.~~
- i. ~~NFA’s in excess of two (2) head per acre is~~**are** ~~not allowed within ¼ mile of a municipal boundary, unless the municipality annually grants permission. Written permission from the municipality must be provided to the Land and Resource Management Department upon receipt of such permission.~~

F. Compliance & Enforcement

1. Land & Resource Management staff will verify compliance with performance standards through the use of:
 - a. Site visits;
 - b. Collecting photographic evidence including through the use of Unmanned Aerial Vehicles (UAVs) (drones) and other technologies as available; and
 - c. Owner/operator testimony/reporting.

2. An applicator of manure shall be deemed to be in violation of this section if the application produces:
 - a. Runoff that exceeds the nutrient level limits of the waters of the State of Minnesota; and/or
 - b. If soil testing reveals the presence of nutrients which exceed State standards.
3. Failing to adhere to the performance standards listed in this section would be deemed an enforceable ~~Any~~ violations of this ordinance and will be enforceable under Pope County Land Use Controls Ordinance 11.8. Such enforceable violations would include:
 - a. If the owner/operator fails to secure a county issued permit for the nontraditional agricultural practice; and/or
 - b. If the owner/operator fails to notify Pope County Land & Resource Management staff in advance of stocking activities.

G. IUP Application Requirements:

The following requirements are for NFA Interim Use Permit applications:

1. NFA Operations Plan providing the following details:
 - a. Identification of herd, size of herd and date of arrival;
 - b. Steps involved in the processing and sorting of cattle upon arrival including length of time kept in holding area and dates of dispersal to NFAs;
 - c. Management/rotation plan of supplemental feeding locations and watering facilities within the NFAs;
 - d. Provide actual stocking density of each NFA and report to Land and Resource Management on a monthly basis throughout the NFA period; and
 - e. Indicate steps for sorting and loading out for market.
2. Must submit a stormwater management plan per section 10.3.6.E.4.
3. Must submit a nutrient management plan per section 10.3.6.E.5.

H. Administrative Permit Requirements:

~~NFAs with a density of over four head per acre and/or exceeding 300 head require an Administrative Permit to be issued by the Pope County Land & Resource Management Director. No permit shall be issued unless the applicant files a Manure Management Plan (MMP) that conforms to Natural Resources Conservation Service standards to help determine the density of livestock that will be allowed for the proposed location. The County Feedlot Officer is expressly authorized to limit densities for NFAs requiring a permit. This decision shall be based upon physical characteristics of the site, information contained in the MMP plan, and recommendations of the site team.~~

- ~~1. A site team shall review each NFA Administrative Permit application. The site team shall consist of representation from Land & Resource Management (County Feedlot Officer), Natural Resources Conservation Service and the Minnesota Pollution Control Agency.~~
- ~~2. The NFA Manure Management Plan must articulate a plan to apply manure at agronomic rates. MN Rules Chapter 7020 (7020 references the NRCS Nutrient Management Technical Standard) will serve as the basis for requirements that shall be followed unless more stringent standards are adopted in this ordinance. The Pope County Geological Atlas will be used as a general guide to decipher sensitivity to pollution of the buried aquifers and other related concerns. Sites that are located in areas deemed “High” and “Very High” for aquifer pollution must demonstrate environmental protection with a MMP.~~
- ~~3. For the purposes of this ordinance, the practice of using Non-confinement Feeding Areas is, in itself, a land application of manure. Nothing in this part shall be construed as exempting the practice from the limits on land application of Manure set forth elsewhere in the Pope County Land Use Ordinance.~~
- ~~4. The Administrative Permit is a temporary permit that must be renewed annually. This is necessary to reflect changes to the MMP and general operation. Special conditions may be attached to the permit by the site team as deemed necessary.~~
- ~~5. An applicator of manure shall be deemed to be in violation of this section if the application produces runoff that exceeds the nutrient level limits of the waters of the State of Minnesota, or if soil testing reveals the presence of nutrients which exceed State standards. Any violations of this ordinance will be enforceable under Pope County Land Use Controls Ordinance 11.8.~~