

## STAFF REPORT

### Ordinance Amendment

**Initiator:** Pope County Land and Resource Management Department

**Ordinance Title and History:** Pope County Land Use Controls Ordinance

With the adoption of the Pope County Land Use Controls Ordinance (LUCO) by the Board of County Commissioners in December of 1999, county wide zoning and performance standards were instituted. The primary objectives of county wide zoning and land use planning is for the protection of public health, safety and welfare through limiting the degradation of sensitive environmental features, preserving valuable soil resources for agriculture purposes, providing for the housing needs of the community and ensuring the long-term sustainability of commercial and industrial development. These functions and uses work in tandem to limit disorderly development and to provide for a more stable population and tax base in Pope County.

**Sections:** The following sections of the LUCO are under consideration for amendment:

#### Section 10.3.6 Non-Confinement Feeding Areas

This part of the ordinance was adopted in 2008 in response to recognition of the practice of using crop production land to house cattle for purpose of gain in advance of sending to market. The cattle were not necessarily local pasture cows nor necessarily part of the property owner's stock. This practice typically takes place from late fall/early winter to late spring time. There were some concerns relating to environmental impacts including and ongoing debate regarding whether or not this practice can be defined as a feedlot and whether or not a State Disposal System (SDS) Permit is necessitated. The current standard defines a threshold at which a locally issued permit is necessary for this particular land use, the timeline for the permit (annual), submittals in defense of application, site team make up, and permitting authority.

**Discussion:** Staff has initiated the proposed amendments in compliance with the following goal as established in the 2018 Pope County Comprehensive Land Use Plan.

#### *Land Use Compatibility*

4. *Ensure that land use regulations are clear, promote greater certainty in the land development process, and are consistent with the goals of the Comprehensive Plan and the well-being of the County's residents and landowners.*



- a. *Conduct a thorough review of the County's zoning and subdivision ordinances to identify those parts which are unclear or inconsistent with the Comprehensive Plan or other county policies and make the appropriate amendments.*

Throughout the years there have been amendments to the official zoning map as well as the text of the ordinance. This proposed amendment relating to Section 10.3.6 is an effort to provide for clearer application and performance standards. In addition, staff is proposing to amend the issuance of the permit from an annual permit that is authorized by the Pope County Land & Resource Management to an Interim Use permit that is approved by the Board. An Interim Use permit can be granted for an extended time, such as five or six years. Having the permit issued in this manner will be beneficial to both the agriculture operator as well as the department. The current process is very time consuming for both parties and does not lend itself to market driven planning decisions, i.e., we recognize that operational decisions have to be made early in the year regarding contracts, logistics, feed purchases and land preparation. The current process, results in departmental administrative decisions that are not made until late in the season. This is due to the timeliness of application and supporting information as well as departmental work load. Therefore, if we can amend the ordinance by creating a permitting process that the operator is subject to on an intermittent-longer term basis rather than an annual basis, it would be a positive step in support of alternative agricultural practices.

### **Applicable Statutes**

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Proposed ordinance changes are subject to the criteria and procedures as prescribed in Section 11.7 of the Land Use Controls Ordinance and Minnesota Statute 394 including:

- 394.24 Official Controls
- 394.25 Forms of Control
- 394.26 Public Hearing



## Supplemental Information

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**Supplemental Information Attachment 1:**  
***DRAFT - Section 10.3.6 Non-Confinement Feeding Area***  
***(Land & Resource Management, May 2022)***

## **SECTION 10 PERFORMANCE STANDARDS**

### **10.3 AGRICULTURAL USE STANDARDS:**

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

##### **A. Purpose:**

Non-confinement Feeding Areas (NFAs), also referred to as “Winter Feeding Areas”, are properties that foster the 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.

For the purposes of this ordinance, the practice of using NFAs 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 Controls Ordinance.

##### **B. Permitted Use Requirements:**

###### **1. Interim Use Permit:**

- a. NFAs with a density of over four head per acre and/or exceeding 300 head require an ~~Administrative~~ Interim Use Permit to be issued by the Pope County Board of Commissioners. ~~Land & Resource Management Director.~~

##### **C. Application Requirements:**

The following requirements are for NFA Interim Use Permit applications:

###### **1. NFA 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;
- e. Indicate steps for sorting and loading out for market.

##### **D. 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 = 1000 feet
  - ii. Public Water Watercourses = 500 feet
  - iii. Karst features, wetlands, intermittent streams, tile inlets and agricultural drainage ditches = 600 feet

- 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*)
- vii. From the centerline of roads with the following functional classifications; Arterial, Major Collectors and Minor Collectors = 150 feet
- viii. From the centerline of roads of the following functional classification; Local = 50 feet
- ix. Property Line = 25 feet (*not applicable where contiguous parcels are under common ownership*)

### 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. Only a low density (less than 2 cattle per acre) is allowed within any Wellhead Protection Area from any municipality.
- c. 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.
- d. Thirty (30) days prior to moving cattle to ~~feeding sites~~ NFAs, the producer must annually notify the Pope County Feedlot Officer.
- e. The County Feedlot Officer shall provide a density recommendation to the Board. This recommendation shall be based upon physical characteristics of the site and information contained in the MMP plan.

### 4. Stormwater Management

- a. Stormwater runoff will be calculated and evaluated through the use of the Minnesota Feedlot Annualized Runoff Model (MinnFARM) 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) must be completed utilizing the

- MPCA's MMP spreadsheet or subsequent guidance documents.
- b. The MMP must conform to Natural Resources Conservation Service Nutrient Management Technical Standards.
  - c. The following must also be 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.
  - 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.~~

## 6. Compliance & Enforcement

- a. Land & Resource Management staff will verify setbacks and stocking densities through the use of:
  - i. Site visits;
  - ii. Collecting photographic evidence;
  - iii. Unmanned Aerial Vehicles (UAVs) (drones); and
  - iv. Owner/operator testimony/reporting.
- b. An applicator of manure shall be deemed to be in violation of this section if the application produces:
  - i. Runoff that exceeds the nutrient level limits of the waters of the State of Minnesota; and/or
  - ii. If soil testing reveals the presence of nutrients which exceed State

standards.

- c. ~~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:~~
  - i. ~~If the owner/operator fails to secure a county issued permit for the nontraditional agricultural practice; and/or~~
  - ii. ~~If the owner/operator fails to notify Pope County Land & Resource Management staff in advance of stocking activities.~~

**E. 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.~~