

McLEOD COUNTY

FEEDLOT MANAGEMENT ORDINANCE 2003



approved on 6/24/03

TABLE OF CONTENTS

SECTION 1	TITLE.....	3
SECTION 2	STATUTORY AUTHORITY	3
SECTION 3	INTENT AND PURPOSE.....	3
SECTION 4	GENERAL PROVISIONS	3
SECTION 5	DEFINITIONS.....	4
SECTION 6	ADMINISTRATION.....	9
SECTION 7	PERMITS AND REGISTRATION.....	11
SECTION 8	SETBACK REQUIREMENTS.....	15
SECTION 9	LAND APPLICATION OF MANURE.....	18
SECTION 10	PROHIBITED FEEDLOT ISSUES.....	19
SECTION 11	MANURE STORAGE AND TRANSPORTATION	19
SECTION 12	VIOLATIONS AND ENFORCEMENT	20
SECTION 13	ABANDONMENT.....	21
SECTION 14	EFFECTIVE DATE AND ADOPTION OF ORDINANCE	22

**McLEOD COUNTY
FEEDLOT MANAGEMENT ORDINANCE**

AN ORDINANCE REGULATING THE PERMITTING, LOCATION, DEVELOPMENT, OPERATION, AND EXPANSION OF FEEDLOTS, FOR THE PURPOSE OF PROMOTING BEST FARM MANAGEMENT PRACTICES AND TO PROTECT THE NATURAL ENVIRONMENT, PUBLIC HEALTH AND SAFETY, AND GENERAL WELFARE OF McLEOD COUNTY.

THE McLEOD COUNTY BOARD OF COMMISSIONERS DOES HEREBY ORDAIN:

SECTION 1 TITLE

This Ordinance shall be known, cited and referred to as the McLeod County Feedlot Management Ordinance.

SECTION 2 STATUTORY AUTHORITY

This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapters 115 and 116, and Minnesota Pollution Control Agency Rules, Chapter 7020, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

SECTION 3 INTENT AND PURPOSE

The production of farm animals and other agricultural products is an important part of the history, environment, and economy of McLeod County. Livestock, poultry, dairy products, and other agricultural commodities are produced within the County for consumption in Minnesota, the United States, and foreign countries. The continued health of the agricultural community and the production of these products is essential to the economic well being of the County and its residents.

The County also contains a wealth of natural resources including an abundance of surface and ground water. These resources must be protected from pollution to ensure the health of the public and to maintain safe, high quality water for recreational, residential, agricultural, and commercial use. The following regulations have been established to protect natural resources and the quality of life in McLeod County while recognizing the importance of animal agriculture and the beneficial uses of animal manure in the production of agricultural crops.

It is the intent and purpose of this Ordinance to allow for the continued production of agricultural commodities and to maintain a healthy agricultural community within the County while ensuring that animal feedlots and animal wastes are properly managed to protect the health of the public and the County's natural resources.

Therefore this Ordinance is adopted for the purpose of:

- Establishing a procedure for the registration and/or permitting of feedlots.
- Regulating the location, development, operation, and expansion of feedlots.
- Promoting best farm management practices.
- Protecting ground and surface water resources.
- Minimizing environmental problems.

SECTION 4 GENERAL PROVISIONS

4.001 Jurisdiction

The jurisdiction of this Ordinance shall apply to all the areas of McLeod County outside the incorporated limits of municipalities. In cases where a joint planning ordinance is effective in a joint planning area the ordinance that is more restrictive will supersede.

4.002 Scope

From and after the effective date of this Ordinance and subsequent amendments, the use of all land and every building or portion of a building used for a feedlot or as part of a feedlot in McLeod County shall be in conformity with the provisions of this Ordinance. Pre-existing structures which are not in conformity with the setback and area provisions of this Ordinance but were in conformity with the standards established by the McLeod County Zoning Ordinance shall be permitted if a potential pollution hazard does not exist.

4.003 Application

- (a) In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare.
- (b) Where the conditions imposed by any provision 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.

4.004 Measurements

All stated and measured distance shall be taken to the nearest integral foot. If a fraction is one-half ($\frac{1}{2}$) foot or less, the integral foot next below shall be taken. When measuring setback distances from a residence to a feedlot, the measurement shall be made from the closest corner or point of the feedlot to the closest corner or point of the residence and the shortest distance for any other setback.

4.005 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 McLeod County Zoning Ordinance, and the provisions of Minnesota Pollution Control Agency rules, Chapter 7020.

SECTION 5 DEFINITIONS

5.001 For the purpose of this Ordinance, certain terms of words used herein shall be interpreted as follows:

- (a) The word "shall" is mandatory, and not discretionary; the word "may" is permissive; the word "person" shall include individuals, businesses and corporations;
- (b) Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular;
- (c) Words shall be given their common usage if not defined;
- (d) The word "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for";
- (e) The masculine gender shall include the feminine and neuter;
- (f) The word "Board" includes the "county commissioners," the "Board of County Commissioners" or any other word or words meaning the "McLeod County Board of Commissioners."

5.002 Agency

The Minnesota Pollution Control Agency as established in Minnesota Statutes, Chapter 116.

5.003 Animal Manure

Poultry, livestock or other animal excreta or mixture with feed, bedding or other materials.

5.004 Animal Unit

The unit of measure used to compare differences in the production of animal manures that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this rule, animal units equivalents will correspond with those

identified in MN Rule Chapter 7020:

The number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds.

5.005 Board

The McLeod County Board of Commissioners.

5.006 Building

Any structure used or intended for supporting or sheltering any use or occupancy.

5.007 Building, Agricultural

All buildings, other than residences, which are incidental to a farming operation.

5.008 McLeod County Certificate of Compliance

A form from the McLeod County Feedlot Officer to the owner of an animal feedlot stating that the feedlot meets county requirements. Completion of the application for the McLeod County certificate of compliance will meet the requirement of registration under MN Rule Chapter 7020.0350.

5.009 Church

A building used for public worship with a tax-exempt status.

5.010 Commissioner

The Commissioner of the Minnesota Pollution Control Agency whose duties are defined in Minnesota Statutes, Section 116.03.

5.011 Conditional Use Permit

A permit specifically and individually granted with provisions by the County Board after recommendations thereon pursuant to the provisions of the McLeod County Zoning Ordinance.

5.012 Domestic Fertilizer

An animal manure that is put on or incorporated into the soil to improve the quality or quantity of plant growth; or animal manure that is used as compost, soil conditioners, or specialized plant beds.

5.013 Drainage Way

Any natural or artificial water course, including but not limited to streams, rivers, creeks, ditches, channels, canals, conduits, culverts, waterways, gullies, ravines, or washes, in which waters flow in a definite direction or course, either continually or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.

5.014 Dwelling

Two or more rooms within a structure, which are arranged, designed or used as living quarters for one (1) family only. Individual bathrooms and complete kitchen facilities, permanently installed, shall be included for each dwelling. A mobile home with the above accommodations located in areas approved for mobile homes shall be considered a dwelling unit. A camper trailer, camper bus or tent are not considered dwelling units.

5.015 Facility

All buildings and structures relating to the feedlot including but not limited to barns and earthen or cement manure storage pits.

5.016 Family

An individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a residential unit.

5.017 Family, Immediate

Persons related by blood, marriage, or certified legal instrument.

5.018 Farm

A tract of land or lands, which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. A farm may include agricultural residences and accessory buildings and structures necessary to the operation of the farm. It may be individually, jointly, or corporately owned.

5.019 Feedlot Officer

The County Environmentalist will be appointed by the Board of Commissioners to administer the provisions of this ordinance. This employee shall have the same duties and powers as a Feedlot Officer as defined by MN State Rule 7020.

5.020 Feedlot, Animal

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. Pastures shall not be considered animal feedlots under these rules. Fish farms (aquaculture) shall be considered feedlots for the purpose of this Ordinance.

5.021 Feedlot,(Existing) Animal

An animal feedlot that has fulfilled permitting or registration requirements with McLeod County or MPCA within 5 years immediately prior to July 1, 2003 and meets the following conditions:

- (a) The feedlot has not been abandoned or unused for a time not to exceed a continuous 5 year period,
- (b) The feedlot facility has had at least 10 animal units on-site for at least 6 continuous months in a continuous 5 year time period unless permitted for less than 10 a.u.

5.022 Feedlot, (New) Animal

An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where an existing feedlot has been abandoned or unused for a continuous 5-year period, or a feedlot has not fulfilled permitting or registration requirements with the county or MPCA within 5 years immediately prior to July 1, 2003 or has not had at least 10 a.u. on-site for 6 continuous months within a continuous 5-year time period.

5.023 Feedlot, (Expanded) Animal

An animal feedlot expanding over its permitted number of animal units or if not permitted, an increase in lot size or building area for animals, or construction of a permanent manure holding structure.

5.024 Feedlot, Operator

An individual, or corporation, a group of individuals, a partnership, joint venture, owner or any other business entity having charge or control of one or more livestock feedlots, poultry lots, or other animal lots.

5.025 Feedlot Permit

A document issued by the Agency or the County which contains requirements, conditions, and compliance schedules relating to the discharge of animal manure pollutants. There are four types of permits issued: interim permit, construction short-form permit, SDS permit, and NPDES permit. This term can also apply to a McLeod County certificate of compliance or registration form.

5.026 Feedlot, Runoff

The movement of water from a feedlot, either in the form of rainfall, snow melt, or as water from a waterway, ditch, drainage way, etc. passing over a feedlot, carrying particles of manure into a body of water or to a channelized flow environment and thereby constituting a potential pollution hazard.

5.027 Flood

A temporary rise in the flow or stage of a stream flow or in the stage of wetland or lake that results in the inundation of normally dry areas.

5.028 Flood Frequency

The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

5.029 Flood Fringe

That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for McLeod County.

5.030 Flood Plain

The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

5.031 Holding Pond

A storage facility usually earthen, where feedlot runoff and other diluted wastes are stored before final disposal. It is not designed for treatment of waste.

5.032 Interim Permit

A permit expiring no longer than twenty-four (24) months from the date of issuance, identifying the necessary corrective measures to abate potential pollution hazards.

5.033 Incorporated

Incorporation of manure shall include these processes: Mold board plowing, chisel plowing, discing, or injecting.

5.034 Lagoon, Animal

An impoundment made by excavation of earth fill and/or construction of an earthen berm for the biological treatment of animal or other agricultural waste.

5.035 Lakes

Lakes are classified according to the Shoreland Management Section of the McLeod County Zoning Ordinance.

5.036 Manure Storage Area

An area where animal manure or runoff containing animal manure is stored or placed until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site.

5.037 MPCA

The Minnesota Pollution Control Agency.

5.038 NPDES

National Pollutant Discharge Elimination System Permit means a permit issued by the agency for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations (CAFO's).

5.039 NRCS

The National Resource Conservation Service of the United States Department of Agriculture, a federal agency.

5.040 Owner

Any person having possession control or title to an animal feedlot.

5.041 Parcel

A distinct, legally described piece of land under individual, joint, or corporate ownership.

5.042 Pastures

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

5.043 Person

Includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

5.044 Potential Pollution Hazard

A condition which indicates a potential for pollution of land and/or waters including, but not limited to:

- (a) An animal feedlot or manure storage area whose construction or operation will allow a discharge of pollutants to surface water or ground water of the state in excess of applicable standards, including, but not limited to, MN Rules Chapter 7050 and 7055, during a rainstorm event of less magnitude than the 25 year (4.8 inches), 24 hour event, or will violate any State or County rules or ordinances.
- (b) A feedlot or manure storage area located within a shoreland or floodplain.

5.045 Renewal Fee

Fee set by the Board for an application that has passed the 1-year expiration date.

5.046 School

A building used for educational instruction that has a tax-exempt status.

5.047 SDS Permit

State disposal system permit, means a state permit that may be processed in accordance with parts 7001.0040; 7001.0050; 7001.0100, subparts 4 and 5; and 7001.0110.

5.048 Setback

The minimum horizontal distance between a facility and a residence, road centerline, lot line, wetland boundary, ordinary high water level, structure, or park boundary.

5.049 Shoreland

Land located within the following distance from public waters; 1000 feet from the ordinary high water level of a lake, pond, or flowage and 300 feet from a river or stream as designated by Section 19 of the McLeod County Zoning Ordinance; or the landward extent of a flood plain as designated by Section 6 of the McLeod County Zoning Ordinance of such a river or stream, whichever is greater. The practical limits of shoreland may be less than statutory limits wherever the water involved are bounded by natural topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner of Natural Resources.

5.050 Single-Family Residence (Existing)

For the purpose of this ordinance, a dwelling that has been at its current location before March 25, 1998 and is structurally sound and has electricity, an existing useable well, and a septic system.

5.051 Single-Family Residence (New)

For the purpose of this ordinance, a new single-family residence is a dwelling that has been constructed or a dwelling that has been moved to a building site after March 25, 1998. For the purpose of this ordinance, replacement of an existing dwelling would be treated as an existing structure.

5.052 Special Protection Area - land within 300' of all

- (a) Protected water and protected wetlands as identified by the Department of Natural Resources protected waters and wetlands marks, and,
- (b) Intermittent streams and ditches identified on U.S. Geological survey quadrangle maps, excluding drainage ditches with berms and segments of intermittent streams, which are grassed waterways.

5.053 Surface Waters

Waters which include, but are not limited to, rivers, streams, creeks, ponds, intermittent streams, and wetlands.

5.054 SWCD

The McLeod Soil and Water Conservation District.

5.055 Registration

Required information or data for animal feedlots and manure storage areas as required in MN Rule Chapter 7020.0350.

5.056 Waters of the State

All streams, lakes, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portions thereof.

5.057 Wetlands

A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 Edition).

SECTION 6 ADMINISTRATION

6.001 Environmental Services Department

The McLeod County Feedlot Management Ordinance shall be administered by the McLeod County Environmental Services Department. The McLeod County Board of Commissioners shall appoint a County Feedlot Officer to discharge the duties of this department under the Feedlot Management Ordinance.

6.002 Duties and Powers

The McLeod County Feedlot Officer shall have the following duties and powers:

- (a) Administer and enforce the McLeod County Feedlot Management Ordinance;
- (b) Receive applications and/or registration material and issue McLeod County certificates of compliance, interim permits, or construction short form permits.
- (c) Receive and forward applications for State administered permits together with county recommendations and county imposed conditions to the MPCA;
- (d) Supervise the keeping of all necessary records including those related to feedlot and manure management and construction of manure storage and runoff control structures and/or practices;
- (e) Consult with SWCD, McLeod County Extension Service, NRCS, MPCA, and private consultants as necessary to ensure construction standards are followed on manure handling and runoff control structures;
- (f) Maintain a record of all McLeod County certificates of compliance, feedlot registration, interim permits, construction short-form permits; SDS permits and NPDES permits
- (g) Provide and maintain a public information bureau relative to this Ordinance;
- (h) Educate the public and feedlot operators to issues of this Ordinance such as potential feedlot pollution problems;
- (i) Oversee the inspection of feedlot operations to insure compliance with the standards of this Ordinance;
- (j) Review Conditional Use Permits of feedlots greater than 800 animal units once within the first two (2) years of operation to ensure compliance with this ordinance. Further review will occur at the discretion of the Feedlot Officer;
- (k) Consult with other County departments, State and Federal agencies, and private consultants as needed to discharge these duties.
- (l) Investigate possible violations and complaints.

6.003 Administered by the County

The McLeod County Feedlot Officer shall review applications and process as follows:

- (a) Registration and/or a McLeod County certificate of compliance may be issued if there is demonstrated compliance with this Ordinance, the animal feedlot has less than 1000 animal units, manure is used as a domestic fertilizer, and no potential pollution hazard exists; or construction has been completed.
- (b) An interim permit may be issued if there is demonstrated non-compliance with this Ordinance, the animal feedlot has less than 1000 animal units, manure is used as a domestic fertilizer, and the potential pollution hazard will be mitigated within 24 months or less and a SDS or NPDES permit is not required.
- (c) A construction short-form permit will be issued for construction or expansion of the feedlot or manure storage areas and no SDS, NPDES or interim permit is needed.
- (d) Applications for State administered feedlots shall be first submitted to the McLeod Feedlot Officer. After review, the application and comments shall be forwarded to the agency.

6.004 Administered by State Agency

The County Feedlot Officer shall forward to the commissioner, with recommendations and comments, all animal feedlot permit applications which fall within one or more of the following categories:

- (a) animal feedlots of 1000 animal units or more;
- (b) animal feedlots of less than 1000 animal units and a NPDES or SDS permit is needed;

- (c) animal feedlots where manure is not used as domestic fertilizer;
- (d) animal feedlots for which further technical review is desired by the County Feedlot Officer;

6.005 Variances

A variance from the setbacks or any other requirements of this ordinance may be granted if all procedures and regulations as stated in the McLeod County Zoning Ordinance are followed. If a setback is reduced by a variance, the variance setback shall be used as the distance to be maintained for future measurement purposes.

6.006 Fees

Application fees, permit fees, inspection fees, and such other fees required by this Ordinance shall be set by resolution of the County Board, unless state fees apply.

SECTION 7 PERMITS AND REGISTRATION

7.001 Permit or Registration Required

After July 1, 2003 all applications for a feedlot permit or for registration purposes will only be considered existing if:

- (a) 10 animal units or more have been present on the site for at least 6 months in the last five years or the permitted amount is less than 10 animal units.
- (b) A current feedlot certificate of compliance, permit or registration number has been issued within five years prior to the pending application for a feedlot permit or registration

Feedlots not meeting the above requirements will need to meet the requirements of a new feedlot to obtain a feedlot permit or registration.

Registration, McLeod County certificate of compliance, interim permit, construction short-form permit, NPDES permit, or a SDS permit shall be obtained for any proposed or existing feedlot having 10 animal units or more and is located within a shoreland area; or a feedlot having 50 animal units or more and is located outside of a shoreland area; or if any of the following conditions exist:

- (a) A new animal feedlot is proposed;
- (b) Any application for a new feedlot shall be required to start construction and/or be stocked with a minimum of 10 animal units (a.u.) at the site within 1 year. If construction or stocking does not occur within this time period, the permit will expire and a new application shall not be made for 1 year of the date of expiration without payment of a renewal fee.
- (c) A change in operation of an existing animal feedlot is proposed; a change in operation includes:
 - (1) An increase beyond the permitted or registered maximum number of animal units. The total number of animal units within a feedlot shall be based upon the animal numbers currently within the feedlot plus the animal numbers that will be added through expansion;
 - (2) An increase in the number of animal units which are confined at an existing non-registered or permitted animal feedlot; previously not required to be permitted or registered.
 - (3) A change in the construction or operation of an animal feedlot that would affect the storage or the handling of manure;
 - (4) Construction or expansion of a building that will house animals or lot area.
 - (5) A change in the type of animals from what was previously permitted or registered at the site;
- (d) Ownership of an existing animal feedlot is changed;
 - (1) A change in title to animals or animal buildings and/or when land transfers constitute a change in ownership;

- (2) When a lessee commences operating on leased land the lessee shall be considered the owner for purposes of the feedlot permit;
- (e) Restocking of a livestock facility after abandonment for five (5) years or more;
- (f) A National Pollutant Discharge Elimination System (NPDES) permit application is required under state or federal rules and regulations and/or a SDS permit is required;
- (g) An inspection by Agency staff or the County Feedlot Officer determines that the animal feedlot creates or maintains a potential pollution hazard for any size feedlot;
- (h) The County Board may, by resolution, require all unpermitted or registered feedlots within environmentally sensitive areas to apply for, obtain, and operate according to the requirements of a feedlot permit or McLeod County certificate of compliance. These areas may include, but are not limited to: shoreland areas, specific watersheds or sub-watersheds, or areas determined by the County Board to be sensitive to ground or surface water pollution. The resolution adopting these requirements must state the reason or reasons for declaring the area an environmentally sensitive area and shall include legally sufficient findings of fact. A public meeting for the purpose of receiving comment on the proposed resolution shall take place prior to the adoption of the resolution. All known feedlots and local governments within the area shall receive written notice of the intention of the County Board to take such action at least 10 days prior to the public comment meeting.

Feedlots meeting one or more of the following criteria must apply for and receive a Conditional Use Permit from the McLeod County Planning and Zoning Department before any permit directly related to the confined feeding, breeding, raising, or holding of animals or the handling or storage of manure may be issued by the Agency or McLeod County:

- (1) All new feedlots greater than 800 animal units;
- (2) All existing feedlots expanding to greater than 800 animal units;
- (3) Any feedlot with less than one-half (½) acre owned or leased land for manure disposal per animal unit.
- (4) Any new feedlot requesting to be registered or permitted having less than 40 acres under their ownership at the proposed facility site.

If, in connection with an application for any permit, registration or variance under this ordinance, a separate permit is required by a state or federal agency, the Planning Commission or Zoning Administrator may delay action on the application pending receipt of the approved permit. Any time periods for rendering a decision shall be tolled during the preparation time for the permit up to its receipt by the office of the Zoning Administrator.

7.002 Land Use Permit Required

No land use permits directly related to the confined feeding, breeding, raising, or holding of animals or the handling or storage of manure shall be issued until a registration occurs or a McLeod County certificate of compliance, interim permit, construction short form, NPDES permit, or SDS permit has been issued by the Agency or by McLeod County.

7.003 Shoreland Review Required

Any animal feedlot of ten animal units or less which is located within the Shoreland Zoning District shall be reviewed by the McLeod County Feedlot Officer to determine if a potential pollution hazard exists. The Feedlot Officer may place conditions upon the operations of such feedlots to limit their impact on surface water quality.

7.004 Containment Abatement

In the event any feedlot is determined to be the cause of a public health nuisance, as defined herein; and there is a requirement to abate the public health nuisance that is issued by any governmental agency; then the permit holder, owner, and/or occupant, jointly and severally, shall be responsible for taking, and paying for, all actions necessary to comply with the order. In the event the permit holder, owner, and/or occupant fail to comply with the order, the County Board of Public Health may take action pursuant to Minnesota Statutes Chapter 145A and its successors, and, pursuant to that chapter, assess all costs against the property. The costs assessed may also include any costs incurred by other governmental agencies that perform duties the Minnesota State Board of Health may perform herein.

- (a) The term "public nuisance" includes pollution and contamination of ground and surface water and air, as well as any activity or failure to act that adversely affects public health.
- (b) The procedure of assessing costs shall be pursuant to Minnesota Statutes §145A.04, Subd. 8.
- (c) The McLeod County Board of Commissioners is specifically authorized to act on behalf of the public in protecting the general public health with regards to this section.
- (d) Nothing in this section shall be construed to place a duty on McLeod County or any of its agencies to assume responsibility for abating the nuisances described herein.

7.005 Application for Registration, McLeod County Certificate of Compliance, construction short form, or interim permit

An application shall include the following:

- (a) Owner's and operator's name, phone number and signature of all owners
- (b) Legal name and business address of facility if different from the owner
- (c) Date form was completed;
- (d) Location of the feedlot and any waste storage structures; according to township, county, section, and quarter section;
- (e) Permit or certificate number for owners that have been issued an agency or delegated county feedlot permit or McLeod County certificate of compliance;
- (f) Animal types and maximum number of animals of each type which will be confined at the feedlot; including pastures, barns, and open lots;
- (g) Descriptions of the geological conditions, soil types, groundwater elevations, topography, and drainage pattern(s) of the site and surrounding area;
- (h) Presence and type of existing and proposed manure storage areas;
- (i) Shortest distance from an animal holding area or manure storage area to a well;
- (j) A map or aerial photograph at a sufficient scale depicting the location of all lakes, watercourses, residences, roads, and buildings within five thousand two hundred eighty feet (5,280) of the proposed feedlot or waste storage structure.
- (k) A facility operation and manure and waste management plan shall be provided if:
 - Less than 300 a.u. and required to obtain either a NPDES, SDS, interim, or conditional use permit, shall comply with requirements below.
 - (1) Shall comply with 7020.2225, subpart 4
 - 300 to 999 a.u. - required upon permit application or when manure is not applied by a certified person. All facilities with 300 to 999 a.u. shall complete a manure management plan by January 1, 2005.
 - (1) Shall comply with 7020.2225, subpart 4
 - 1,000 a.u. or more required upon application for a permit
 - (1) Shall comply with 7020.2225, subpart 4
- (l) Proof of notification of all the property owners within a 5000' radius of the facility, if the permit is for more than 500 animal units.
- (m) Identity of surface waters within 1,000 feet of the facility.

- (n) A drawn sketch of the existing farmstead and any proposed facilities. Also include a Farm Service Agency (FSA) aerial photograph of the farmstead and all fields where manure will be spread.

Show the location of tile inlets, wells, abandoned wells, manure storage, rivers or lakes, sinkholes, all buildings, water courses within 1000 feet of the livestock facilities, etc. Show the approximate path that water running off the outside lots will follow during spring snowmelt or after a heavy rain.

- (o) Soil type or texture and depth of saturated soil at the facility as identified in the USDA soil survey manual or a site specific soils investigation, a copy of a Natural Resource Conservation Service (NRCS) soil map and indicate the location of the proposed facility.
- (p) Number of acres available for land application of manure.

7.006 Conditional Use Permit Application

Persons requesting a conditional use permit for an animal feedlot shall submit the following information as part of the application:

- (a) Owner's and operator's name and address;
- (b) Proposed location of the feedlot and any waste storage structures;
- (c) Animal types and maximum number of animals of each type which will be confined at the feedlot;
- (d) Descriptions of the geological conditions, soil types, groundwater elevations, topography, and drainage pattern(s) of the site and surrounding area;
- (e) A map or aerial photograph at a sufficient scale depicting the location of all lakes, watercourses, residences, roads, and buildings within five thousand two hundred eighty feet (5,280) of the proposed feedlot or waste storage structure.
- (f) A facility operation and manure and waste management plan including:
 - (1) Manure handling and application techniques including transfer and application equipment, planned times of manure transfer, planned periods of land application, incorporation techniques, if applicable. The plan shall be reviewed by either NRCS, SWCD, or the County Extension Service, and by any watershed district within the jurisdiction.
 - (2) Planned manure storage system.
 - (3) Method and techniques for the disposal of dead animals.
 - (4) Leases or agreements allowing the applicant to dispose of manure on land not owned by the applicant.
 - (5) How the odor will be managed during waste storage, waste transfer, land application and building ventilation.
 - (6) A listing of involvement in feedlot operations, in excess of four hundred (400) animal units, in the United States in the past five (5) years including location, position within the organization, and the current owners, including name and address.
 - (7) A written statement that applicant has not had a feedlot permit revoked by MPCA within the past five (5) years.
 - (8) Provisions addressing general facility management and neighbor relations issued described as follows:
 - (A) Minimizing visibility of the production site.
 - (B) Any concerns relating to the distance and direction of neighbors and communities from the site.
 - (C) Locating the facilities to accommodate land application of manure.
 - (D) Maintenance of facilities.

- (E) Education of the public regarding expansion or modification plans.
 - (F) Evaluation of current or proposed farm sites for potential environmental hazards.
 - (G) Responding to complaints of citizens and governmental entities relating to the operation of the facility.
- (g) Such additional information as contained in the application or as requested by the Planning Advisory Commission or the County Board.
 - (h) Applications for any permits required by other state and federal agencies.
 - (i) Any environmental impact statements (EIS) or environmental assessment worksheets (EAW) that may be required by the County or other federal and state agencies.

The proposed conditional use permit shall not be approved unless the following findings are applicable:

- (a) The general requirements of a conditional use permit in the McLeod County Zoning Ordinance have been met and can be adhered to.
- (b) All other applicable requirements of this Ordinance have been met.
- (c) In the discretion of the Planning Advisory Commission, registration, a McLeod County certificate of compliance, or permit from the County or MPCA is obtained pursuant to Minnesota Rules Chapter 7020

The County may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Advisory Commission or County Board considers necessary including conditions relating to any of the management practices and other items required to be submitted with the application.

Any change involving structural alterations, enlargement, intensification of use or similar change not specifically permitted in the conditional use permit shall be considered only as part of a new application for a conditional use permit, unless the Zoning Administrator and Planning Advisory Commission determines the change to be inconsequential, following which the existing Conditional Use Permit may be amended.

Conditional use permits shall be in effect only as long as the conditions of the Conditional Use Permit are met and the total acres of land specified for spreading purposes is available for such purpose and as regulated otherwise by this ordinance, the owner shall have obtained and possess a valid McLeod County certificate of compliance or permit from the MPCA pursuant to Minnesota Rules Chapter 7020 or any successor rules or regulations, and subject to any time limitation the Planning Advisory Commission or County Board may recommend.

SECTION 8 SETBACK REQUIREMENTS

Setbacks of this ordinance do not apply to the applicant's own residence or a residence on the farm where the feedlot facility is located. Any new residence permitted for dependent care is exempt from the feedlot setback if the condition to remove the residence once dependent care stops is part of the conditions for permitting of the residence. The permitting of a new house will require any unpermitted feedlot to remain under the required permit amount (10 in shoreland and 50 in non-shoreland) within the setback distance of a ¼ mile or 3 feet per animal unit up to ½ mile, whichever is the greatest distance.

8.001 Facility Site

Any feedlot that has a feedlot permit or registration or is required by this ordinance to have a feedlot permit, will be considered a feedlot and subject to all conditions of this ordinance. The new house setback for a feedlot that is permitted but is under the required feedlot permit number, will use the minimum setback distances outlined in this ordinance. The following setbacks shall be observed for all newly registered or permitted feedlots unless otherwise specified:

- (a) 1320' or 3' per animal unit, whichever is the greater setback distance, up to a maximum of 2640' from any new or existing single-family residence,

All lots of record 10 acres or less and any subdivisions that were established prior to March 25, 1998 will be exempt from the required setback of a new house to an existing feedlot. A new dwelling must observe a setback of 1320' or 3' per animal unit, whichever is the greater setback distance, up to a maximum of 2640' from any new or existing feedlot.

- (b) 1320' or 3' per animal unit, whichever is the greater setback distance, up to a maximum of 2640' from any existing school, park, an existing active church, or from any city limits.
- (c) 2640' from any platted property line, of a new or existing plat that has been rezoned, or is required to be rezoned to a rural residential district. There is a reciprocal setback of 2640' from any newly platted property line of a plat, that will be rezoned to a rural residential district, to an existing feedlot.
- (d) 1320' or 3' per animal unit, whichever is the greater setback distance, up to a maximum of 2640' from any registered or permitted feedlot.
- (e) 300' from any DNR protected wetlands (listed on the DNR protected waters list) of types 3 through 8.

There will be no new permitted or registered feedlots within 1000' of a lake. There will be no new permitted or registered feedlots within shoreland (300') of a river or stream, 1000' of a municipal well, school or licensed child care facility where the well is vulnerable according to MN Rule Chapter 4720.5550, subpart 2, 300' of a sink hole, 100' of a private well, and is prohibited in a floodplain.

Any new feedlot that obtains registration, McLeod County certificate of compliance, construction short form permit, interim permit, NPDES permit or SDS permit after the date of enactment of this ordinance shall always be governed by the setbacks of a new feedlot for any future expansion.

8.002 Expansion of Existing Feedlot Facilities

If the expansion of an existing feedlot is not within 660' of the current feedlot, it shall be considered a new feedlot.

The following setbacks or the current setback of the existing feedlot, whichever is less, shall be observed for all existing feedlot facilities that are expanding:

- (a) 660 feet from any new or existing single-family residence or an area rezoned to a rural residential district, or any city limits. If a setback is reduced by a variance, the variance setback shall be used as the distance to be maintained if the setback by the variance is less than the above requirements.
- (b) 300' from rivers, streams, or DNR protected wetlands (listed on the DNR protected waters list) of types 3 through 8.
- (c) 1320' from any school, park, or existing active church.
- (d) Expansion limited to 999 a.u. in shoreland and no part of the expanding feedlot is closer to the ordinary high water mark than before expansion.
- (e) Expansion prohibited in 100-year floodplain.

There will also be no new or expanded open pits or earthen lagoons for swine operations.

Exemption: Structures that are designed as pollution abatement systems, by an approved plan, would be exempt from the above setbacks (a), (b), & (c) for existing facilities.

8.003 Manure Application from Facilities Outside McLeod County

An administrative permit is required for the land application of manure transported from another County into McLeod County, and if the source is greater than 400 animal units. The permit shall be obtained from the McLeod County Environmental Services Office by the property owner or their representative of the land on which the application would occur. The following conditions apply:

- (a) No stockpiling of manure for more than forty-eight (48) hours, and
(In extenuating circumstances, the McLeod County Feedlot Officer may grant an extension to this time requirement.)

- (b) Incorporation must occur within twenty-four (24) hours of application.
- (c) 1320' from any new or existing single-family residence for stockpiling of manure hauled in from outside of the county.
- (d) setbacks b through f in Section 8.005 of this ordinance

8.004 Manure Application Setbacks

The following setbacks shall be observed for all "un-incorporated" manure application:

- (a) 300' from public or private drainage ditches (excluding road ditches),
- (b) 300' from surface tile inlets,
- (c) 200' from new or existing single-family residence,
- (d) 25' from public road right-of-way,
- (e) 300' from all rivers or streams, lakes, or DNR protected wetlands (listed on the DNR protected waters list) of types 3 through 8,
- (f) 500' from an area rezoned to a rural residential district, an existing church, school, park or city limits, licensed day care facility,
- (g) 50' from an active or inactive water supply well, sink hole mine or quarry,

The following setbacks shall be observed for all manure that is "incorporated":

- (a) No manure application is allowed within 0 to 25' of a drainage ditch. At 25 to 300' of a drainage ditch incorporation must be within 24 hours.
- (b) Incorporate within 24 hours in an area 300 feet from a surface tile inlet
- (c) 100' from any new or existing single-family residence,
- (d) No spreading within 25' from all rivers, streams, DNR protected wetlands, (listed on the DNR protected waters list) or any lakes. Incorporation must take place within 24 hours at a distance of 25 + 300 feet to all rivers, streams, or DNR protected wetlands and waters. The incorporation distance can be reduced by following the requirements identified in special protection areas in 7020.
- (e) 100' from a residential development rezoned to a rural residential district, church, school, park, city limits, or licensed day care facility.

8.005 Manure Stockpiling

Setbacks do not apply to the manure stockpiled at the feedlot where it is produced.

- (a) 660' from any new or existing single-family residence,
- (b) 1320' from any area rezoned to a rural residential district church, school, park, city limits, or licensed day care facility,
- (c) 1000' from any rivers or streams, lakes or DNR protected wetlands (listed on the DNR protected waters list) of types 3 through 8,
- (d) 1320' from public or private drainage ditches
- (e) 300' from surface tile inlets.
- (f) 100' of any private water supply or unused-unsealed well and 200' from any private well with less than 50' of water tight casing and that is not cased through a confining layer at least 10' thick.

All manure stockpiling shall comply with 7020.2125

Exemption. Application and stockpiling setbacks of animal manure may be exempted from the required setbacks with a manure management plan approved by the McLeod County Feedlot Officer, if the plan meets the minimum MPCA rules.

SECTION 9 LAND APPLICATION OF MANURE

9.001 Application Rates

Manure application rates shall be based upon soil type, crop requirements, and crop yield goals utilizing the following procedure :

- (a) Calculate the Nitrogen, Phosphorus, and Potassium (NPK) concentration of manure based upon the current official guidelines developed for use by the NRCS, MPCA, and the Minnesota Extension Service;
- (b) Utilize Minnesota Extension Service fertilizer recommendations or standards to determine crop NPK needs;
- (c) Develop the livestock waste utilization plan based on this information.

9.002 Application in Special Protection Areas

- (1) No application on frozen soil
- (2) Unfrozen soil must meet vegetated and buffer requirements in 7020.2225, subpart 6

OR

- (1) Incorporation within 24 hours
- (2) Phosphorus restrictions in 7020.2225, subpart 6
- (3) 25' setback from protected waters

9.003 Testing

Sampling and testing manure for its actual nutrient concentration is encouraged and required for some feedlots in place of estimated nitrogen and phosphorus values. Extension Service results or a laboratory analysis will be used for manure concentration values.

9.004 Commercial Manure Pumping and Land Application

Commercial animal manure pumping and land applicators are person(s) who pump and land apply animal manure for hire. All commercial manure pumpers and applicators conducting business in McLeod County must have a manure applicator's license or certification from the State.

- (a) All conditions of this ordinance and the feedlot owners feedlot permit(s) are followed;

SECTION 10 PROHIBITED FEEDLOT ISSUES

There will be "no" new feedlots of 10 or more animal units permitted within 1000' of a lake or within shoreland (300') of a river or stream, or 300' from DNR protected wetlands (listed on the DNR protected waters list) of types 3, 4, 5, 6, 7, and 8.

There will be no new or expanded open pits or earthen lagoons for swine operations.

SECTION 11 MANURE STORAGE AND TRANSPORTATION

11.001 Compliance with State and Local Standards

All animal manure shall be stored and transported in conformance with Minnesota Pollution Control Agency rules 7020 and the McLeod County Feedlot Management Ordinance.

11.002 Potential Pollution Hazard Prohibited

No manure storage area shall be constructed, located, or operated so as to create or maintain a potential pollution hazard unless a McLeod County certificate of compliance or a permit has been issued by the MPCA.

11.003 Vehicles, Spreaders

All vehicles used to transport animal manure on public roads shall be leak proof. Manure spreaders with end gates shall be in compliance with this provision provided the end gate works effectively.

11.004 Utilization as Domestic Fertilizer

Animal manure, where utilized as domestic fertilizer, shall not be stored for longer than one year.

11.005 Run-Off Control Structures

All manure storage areas shall have run-off control structures to contain the liquid if the storage area is located where a potential pollution hazard exists.

11.006 Storage Capacity

A manure utilization plan specifying storage capacity adequate for the type and quantity of manure generated by the animal feedlot shall be developed as part of the permit process.

11.007 Manure Storage Basin

All proposed manure storage basin plans shall be prepared or approved by an engineer licensed by the State of Minnesota or a qualified NRCS employee. A report from an engineer licensed by the State of Minnesota or a qualified NRCS employee verifying that the storage basin is being constructed according to the plan and must be submitted to and approved by the county or MPCA prior to the construction of the basin.

There will be no new or expanded open pits or earthen lagoons for swine operations.

All newly constructed or expanding existing manure storage basins shall have a minimum of 6 months storage for the permitted animal units at the facility.

11.008 Engineer Required

All proposed cement manure storage structures of 20,000 gallons capacity or larger and all earthen manure storage structures shall have been prepared or approved by an engineer licensed by the State of Minnesota or a qualified NRCS employee. A report from an engineer licensed by the State of Minnesota or a qualified NRCS employee must be submitted to and approved by the county or MPCA prior to the construction of the basin.

SECTION 12 VIOLATIONS AND ENFORCEMENT

12.001 Violations

Any person who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine and/or by imprisonment. Each day that a violation continues shall constitute a separate offense.

12.002 Enforcement

(a) Stop Work Orders. Whenever any work is being done contrary to the provisions of this Ordinance, the McLeod County Feedlot

Officer, or designated McLeod County Environmental Services staff person may order the work stopped by written notice personally served upon the owner or operator of the feedlot. All activities shall cease and desist until subsequent authorization to proceed is received from the McLeod County Feedlot Officer or designated McLeod County Environmental Services staff person.

- (b) Revocation. Any person who fails to comply with the conditions set forth on the permit, interim permit, or certificate of compliance may be subject to revocation upon written notice personally served upon the owner or operator of the feedlot.
- (c) Interference Prohibited. No person shall hinder or otherwise interfere with the McLeod County Feedlot Officer in the performance of duties and responsibilities required pursuant to this ordinance.
- (d) Access to Premises. Upon the request of the McLeod County Feedlot Officer or designated McLeod County Environmental Services staff person, the applicant, permittee, or any other person shall allow access at any reasonable time to the affected premises for the purposes of regulating and enforcing this Ordinance. Refusal to allow reasonable access to the McLeod County Feedlot Officer or designated McLeod County Environmental Services staff person shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.
- (e) Injunctive Relief and Other Remedies. In the event of a violation of this Ordinance, the Environmental Services Department 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 may be certified to the County Auditor 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 13 ABANDONMENT

Owners and operators of feedlots shall have joint and severable liability for clean-up, closure, or remediation of abandoned feedlot sites.

SECTION 14 EFFECTIVE DATE AND ADOPTION OF ORDINANCE

This ordinance shall become effective and be in force from and after its passage, approval, publication, and recording in the Office of the County Recorder.

Passed by the Board of Commissioners of McLeod County, Minnesota, on the _____ day of _____, 2003.

COUNTY OF MCLEOD, STATE OF MINNESOTA

Beverly Wangerin, Chairman
McLeod County Board of Commissioners

Attest:

Cindy Schultz, McLeod County Auditor

Approved as to Execution/Date

Michael Junge, McLeod County Attorney

I, Nan Crary, do hereby certify that this is a true and correct copy of the McLeod County Feedlot Management Ordinance as passed by the McLeod County Board of Commissioners on the _____ day of _____, 2003.

Nan Crary, McLeod County Administrator

Date of publication of the Summary of the Ordinance was _____.

Filed in the Office of the County Recorder, McLeod County, Minnesota, this _____ day of _____, 2003.