

Definitions and Regulations

Sections 216.2(2) & 216.3(2) amended 11/24/2014 Ordinance # 2014-07

216 CONFINED FEEDING / INTENSIVE LIVESTOCK DEFINITIONS

- A.** The confined feeding of animals for foods, fur, or pleasure purposes on lots, pens, ponds, sheds, or buildings where:
1. Animals are confined, fed, and maintained for at least 45 days during any 12 month period; and
 2. Ground cover or vegetation is not sustained over at least 50% of the animal confinement area.
Exception: The term does not include a livestock market:
 - a. Where animals are assembled from at least 2 sources to be publicly auctioned or privately sold on a commission basis; and
 - b. That is under state or federal supervision.
 - c. A livestock sale barn or auction market where animals are kept for not more than 10 days.
- B.** An intensive livestock operation is further defined for the purpose of this section and of this ordinance as:
1. Any existing or proposed livestock operation exceeding the following per acre limits:
 - 25 nursery pigs
 - 6 sows
 - 10 finishing hogs
 - 3 beef cattle
 - 6 heifers
 - 3 dairy cattle
 - 10 veal calves
 - 250 ducks, geese, or laying hens
 - 400 pullets
 - 500 broilers
 - 5 horses
 - 20 sheep or goatsAny operation regardless of acreage with the following numbers:
 - 400 hogs
 - 200 cattle
 - 20,000 poultry
 2. Applies to both operation owner and livestock owner – shared liability for all operations.
“The provisions of this chapter shall apply to both the operation owner and the livestock owner, if different, provided, however, that only one (1) permit shall be required for each location provided however that the operation owner and livestock owner shall be jointly and severally liable for the compliance of this ordinance.”

3. Along with and to include a change of ownership of animals shall have shared liability of any operation.
In the event there is a change in ownership or change of identity of either of the parties, the existing permit may be transferrable upon execution of a transfer document approved by the Plan Commission in which any new party to the permit acknowledges his responsibility and obligations under the terms of the permit and under the terms of this ordinance. Said transfer may be made without the necessity of a hearing, as required, and a new permit. Any transfer of ownership of either the operation owner or the livestock owner without the knowledge of or approval of the Plan Commission shall be deemed to impose acceptance of the responsibilities and liabilities under the terms of the permit and the terms of this ordinance.
4. Every person, firm or corporation operating an Intensive Livestock Operation shall obtain an Intensive Livestock Permit from the Jay County Building and Planning Department.
5. Charge a fee to obtain a permit.
6. All operations planning application of livestock waste in Jay County (including out of county firms) must register with the Jay County Planning Commission. Note: IDEM currently requires approval for the transport of domestic sewage for land filtration or land treatment from another state into Indiana.
7. If requested, the operation must provide manure application records to the Building and Planning Administrator.
8. Must follow the following application setbacks:

<u>Distance applied from</u>	<u>Surface Applied</u>	<u>Injected</u>	<u>Incorporated</u>	<u>6% Slope</u>
Residence	600 ft.	200 ft.	300 ft.	50 ft. (property lines)
Water Well	200 ft.	200 ft.	200 ft.	200 ft.
Public building, church Or school	1000 ft.	300 ft.	600 ft.	
Buildup of 5 or more homes	1000 ft.	300 ft.	600 ft.	
Road or highway	50 ft.	50 ft.	50 ft.	50 ft.
Ditch or stream	100 ft.	50 ft.	50 ft.	200 ft.
Drainage inlet (IDEM)	100 ft.	50 ft.	50 ft.	200 ft.
9. Complaints
Will be investigated by the Jay Building and Planning Department
If found in violation of guidelines, face fines up to and including revocation of permit.
10. Expansion / Change
A substantial expansion or change results in the care and keeping of 20% more animals.
A substantial expansion or change requires a public hearing and notice.
11. Planning Commission Board
Recommend the inclusion of a representative from or someone appointed by the SWCD.
12. Off Site Satellite Manure Storage Structures
Require: Application to county
 - a. Notification (IDEM requires a ½ mile radius)
 - b. Applicant pays the cost of compliance

2. Any operation using a waste lagoon or holding pit.
3. Any animal feeding operation facility where the owner and/or operator elects to be under Indiana Department of Environmental Management (IDEM).
4. Any animal feeding operation facility causing a violation of IC 13-18-10 or IC 13-18-4 as determined by the Water Pollution Control Board or its successors.
5. Change 216 B.1 above. Where a livestock operation involves less than 200 cattle or horses, 400 swine or sheep, 5,700 fowl or ducks dry, or 5,000 ducks wet, but there is more than one species of animal, the total number of animals in each category shall be divided by 200 in the case of cattle or horses, 400 in the case of swine or sheep, 5,700 in the case of fowl or ducks dry, 5,000 in the case of ducks wet. The resulting percentages shall be added together. If the total of such percentages equals or exceeds 100, then the operation is an intensive livestock operation as defined herein, and as such, shall be subject to the provisions of this ordinance.

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216.1 CONFINED FEEDING / INTENSIVE LIVESTOCK REGULATIONS

Confined feeding as defined in the definition section of this Ordinance shall be regulated as follows:

1. The operator develops a written plan (full-size facility drawing (site plan) and business operation for submission to IDEM if required).
 - a. A description of shared liability with both the operation owner and the livestock owner, including a personal appearance before the committee. Any off site satellite manure storage structure. A change or expansion requiring a public hearing and notice that consist of care and keeping of 20% more animals, as opposed to a change in ownership.

2. The operator files the site plan, as it will be presented to IDEM (if required), with the Jay/Portland Building & Planning Department, which shall consider the filing as an Intent to Build / Confined Feeding Application Permit. The filing shall include, but not limited to:
 - a. A site plan drawn to scale showing the ground area of the building(s) or structure(s), the building lines in relation to lot lines, the number of stories or the height of building(s) or structure(s), the use to be made of the building(s), or structure(s), or land, and all other information required by the Zoning Administrator for the proper enforcement of this Ordinance.
 - b. The site plan shall be attached to the application when it is submitted to the Zoning Administrator and shall be retained by the Plan Commission as a public record.
 - c. If the number of animals housed and fed does not require IDEM approval, a copy of a supplier's contract certifying the number of animals supplied to the confined feeding operator is required.

3. Upon receiving the application the Building & Planning Director will contact the Jay County Engineer and the Jay County Surveyor. (A representative of the Public Health Department A representative of the SWCD or soil specialist.). All will make a site inspection and report back to the Jay County Building & Planning Director within two (2) weeks of any concerns they would have with the Operator's plan. Concurrently, the Operator can make application to the State of Indiana (IDEM) with the written plan for their approval.
 - a. Addition to include the public health department and a member of the SWCD as part of the site selection committee.

4. The Building & Planning Department shall contact neighbors within a one-half mile radius in writing for comments and shall publish a notice in the local newspaper of the proposed plan. Notices required will be paid by the applicant. Public comments, in writing only, will be accepted by the Zoning Administration for a period of 30 days. All public comments will be reviewed by the County Highway Department, County Surveyor, and the Zoning Administration. After reviewing the application, results of the site inspection, and public comments, if the applicant is in compliance with all the laws and regulations, the Zoning Administrator will notify the Operator Applicant. The county is given three days to issue a permit following approval by the county and IDEM if required. Is this three days sufficient?

5. When approved through the State of Indiana (IDEM) and the county, the Operator would return to the Jay/Portland Building & Planning Department for a building permit, which should be issued within 3 working days.

6. If the Operator has IDEM approval/permitting, the Intent Permit will be valid for a period of 4 years, which is the length of time the IDEM permit is valid. If the Operator is not applying for IDEM approval/permitting, the Intent Permit will be valid for a period of 1 year from date of issuance.
 - a. The permit period is changed from 1 to 2 years. The initial application will have a one page renewal application in the packet which the operator will submit if an additional 2 years is requested. This renewal application is to be used when there are no changes from the original request. Changes may require a resubmission of the original request.

7. If the Operator with IDEM approval/permitting applies to construct more than 1 building but chooses to only construct 1 building at the time of applying for a building permit, the Operator will have until the expiration of the IDEM approval/permit, which is 4 years, to construct the remaining building(s). Prior to the construction of the remaining building(s), the Operator will be required to notify the Building and Planning Department and obtain a new zoning (building) permit for said building(s).

8. To be added a fee schedule will be as follows

1 Permits for building project cost up are to begin and end to per square foot permitted up to:		
		\$349.99
2 building permits cost up to 1,000,000		\$350.00
3 building permits cost from 1,000,001 to 5,000,000		\$1,000.00
4 building permits cost above 5,000,001		\$3,500.00

Article 2

216.1 CONFINED FEEDING / INTENSIVE LIVESTOCK REGULATIONS

Confined feeding as defined in the definition section of this Ordinance shall be regulated as follows:

1. The operator develops a written plan (full-size facility drawing (site plan) and business operation for submission to IDEM if required).
2. The operator files the site plan, as it will be presented to IDEM (if required), with the Jay/Portland Building & Planning Department, which shall consider the filing as an Intent to Build / Confined Feeding Application Permit. The filing shall include, but not limited to:
 - a. A site plan drawn to scale showing the ground area of the building(s) or structure(s), the building lines in relation to lot lines, the number of stories or the height of building(s) or structure(s), the use to be made of the building(s), or structure(s), or land, and all other information required by the Zoning Administrator for the proper enforcement of this Ordinance.
 - b. The site plan shall be attached to the application when it is submitted to the Zoning Administrator and shall be retained by the Plan Commission as a public record.
 - c. If the number of animals housed and fed does not require IDEM approval, a copy of a supplier's contract certifying the number of animals supplied to the confined feeding operator is required.
3. Upon receiving the application the Building & Planning Director will contact the Jay County Highway Department and the Jay County Surveyor. All will make a site inspection and report back to the Jay County Building & Planning Director within two (2) weeks of any concerns they would have with the Operator's plan. Concurrently, the Operator can make application to the State of Indiana (IDEM) with the written plan for their approval. **Additionally SWCD, of the health department to the list of people to visit the site who must submit to all BIO SECURITY measures, county engineer.**
4. The Building & Planning Department shall contact neighbors within a one-half mile radius in writing for comments and shall publish a notice in the local newspaper of the proposed plan. Notices required will be paid by the applicant. Public comments, in writing only, will be accepted by the Zoning Administration for a period of 30 days. All public comments will be reviewed by the County Highway Department, County Surveyor, and the Zoning

Administration. After reviewing the application, results of the site inspection, and public comments, if the applicant is in compliance with all the laws and regulations, the Zoning Administrator will notify the Operator Applicant.

4 The building and planning department shall contact [all] neighbors. [Includes land owners and tenants] within a 1 mile radius. A committee composed of the above 4 departments and a soil consultant will review the site plans and make a recommendation, if necessary, as to the best possible site of the structure[s] or lot. If a different site is recommended by the committee the operator has the right to appeal] is this correct???

- 5. When approved through the State of Indiana (IDEM) and the county, the Operator would return to the Jay/Portland Building & Planning Department for a building permit, which should be issued within 3 working days.
- 6. If the Operator has IDEM approval/permitting, the Intent Permit will be valid for a period of 4 years, which is the length of time the IDEM permit is valid. If the Operator is not applying for IDEM approval/permitting, the Intent Permit will be valid for a period of 1 year from date of issuance.

6 The permit period is changed from 1 to 2 years. The initial application will have a one page renewal application in the packet which the operator will submit if an additional 2 years is requested. This renewal application is to be used when there are no changes from the original request. Changes may require a resubmission of the original request.

- 7. If the Operator with IDEM approval/permitting applies to construct more than 1 building but chooses to only construct 1 building at the time of applying for a building permit, the Operator will have until the expiration of the IDEM approval/permit, which is 4 years, to construct the remaining building(s). Prior to the construction of the remaining building(s), the Operator will be required to notify the Building and Planning Department and obtain a new zoning (building) permit for said building(s).

8. To be added a fee schedule will be as follows

Number of buildings:

1 building cost from 0 to \$1,000,000	permits cost up to	\$350.00
2 buildings cost \$1,000,000 to \$5,000,000	permits cost	\$350.00 to 1,000.00
3 buildings cost above \$5,000,001	permits cost equals	\$3,500.00

9. to be added

If the proposed operation meets the minimum level of an IDEM CFO or CAFO, the site must be a minimum of 40 acres. If the operation is less than CFO/CAFO minimums, the site must be a minimum of 10 acres.

216.2 Additional Jay County Requirements: Setbacks (Location and Distance)

The purpose of the setback is to separate the homeowner and others from the normal noises and odors which accompany a confined feeding operation.

Setbacks: 750 ft. minimum from residences for operations with less than the following (approximately 1 building):

- 4400 Hogs
- 30,000 Turkeys
- 1,000,000 Chickens
- 24,000 Ducks

One half of the setback or 375 ft. must be on the animal operation property.

Setbacks: ¼ mile or 1320 ft. for operations greater than the above.

If the operation includes a lagoon or exterior manure storage, the setback 1320 ft.

Variances can be granted by the selection committee for lesser distances with the use of odor mitigation and best management practices including shelterbelts, bio-filtration units, or covered manure storage/lagoons.

Note: Purdue has developed a setback guidance spreadsheet which could be used in cases where a variance is requested.

1. All structures and confined lots designed to house or contain livestock shall be set back 750 feet from any residence that is not owned by the confined feeding operator.
2. All structures and confined lots designed to house or contain livestock shall be set back 1,250 feet from any existing church, school, business, public building, any area zoned Commercial (COM); 1,550 feet from any area zoned Rural Residential (RR); 1 mile (5,280 feet) from the corporate limits of Pennville, 1 mile (5,280 feet) from the corporate limits of Redkey and ½ mile (2,640 feet) from the corporate limits of Salamonia.
3. All structures and confined lots designed to house or contain livestock shall be set back 1 mile to the west, 1 mile to the south, ½ mile to the north, and ½ mile to the east from the property line of any Commercial (COM) zoned recreational area.

The change is all corporate limits will be 1 mile with the exception of Portland and it will be 2 miles

4. All structures shall be set back 100 feet from any road or highway right-of-way.
5. All structures shall be set back 100 feet from any property line.

216.3 Additional Jay County Requirements: Setbacks for Lagoons, or Open Earthen Pits

If the waste handling facility of an operation is lagoon or an open earthen pit, the setback distance shall be as follows:

1. All structures and confined lots designed to house or contain livestock shall be set back 1,000 feet from any residence that is not owned by the confined feeding operator.
2. All structures and confined lots designed to house or contain livestock shall be set back 1,500 feet from any existing church, school, business, public building, any area zoned Commercial (COM); 2,000 feet from any area zoned Rural Residential (RR); 1 mile (5,280 feet) from the corporate limits of Pennville, 1 mile (5,280 feet) from the corporate limits of Redkey and ½ mile (2,640 feet) from the corporate limits of Salamonia.
3. All structures and confined lots designed to house or contain livestock shall be set back 1 mile to the west, 1 mile to the south, ½ mile to the north, and ½ mile to the east from the property line of any Commercial (COM) zoned recreational area.

4. All structures and confined lots designed to house or contain livestock shall be set back from any Flood Plain as listed below:
 - a. 1 million gallon lagoon -- 300 feet from the flood plain
 - b. 5 million gallon lagoon -- 750 feet from the flood plain
 - c. 10 million gallon lagoon -- 1,200 feet from the flood plain
 - d. 15 million gallon lagoon -- 1,800 feet from the flood plain

In a case where the gallon amount falls between two of the stated amounts listed above, the further setback distance will be used.

5. The setback shall be a minimum of 1,550 feet from any nature preserve, park or recreational use permitted in the Flood Plain District.

216.4 Setback Protection for the Confined Feeding Operator

1. No family residence except that of the confined feeding operator may be constructed within 750 feet of an existing or granted (permitted or otherwise) confined feeding operation.
2. No church, school, business, or public building, may be constructed or operated within 1,250 feet of an existing or granted (permitted or otherwise) confined feeding operation. No area zoned Commercial (COM), or any recreational area under public or private ownership zoned Commercial (COM) may be permitted within 1,550 feet of an existing or granted (permitted or otherwise) confined feeding operation.

216.5 Violations: Violations will also be subject to the provision in Section 404.

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Additional Recommendations:

1. **NOTE:** The shelterbelt height recommendation comes from the Indiana Dept. of Agriculture guidance manual as follows:

"Shelterbelt" - Trees, shrubs, and earthen berm must reach a cumulative minimum height of six (6) feet prior to startup of operation. Minimum of two rows of trees and shrubs, of fast and/or slowgrowing species.

Note: Purdue has developed a setback guidance spreadsheet which could be used in cases where a variance is requested.

2. Complaints: Complaints should be directed to the Office of Building and Planning. Complaints may be investigated by the Building and Planning Director and /or referred to the Indiana Department of Environmental Management or the State Chemist's Office as appropriate.

If violations are found, the operator may be subject to fines, suspension, or loss of permit.

3. Information Packet: The Building and Planning Office will prepare an information packet for each permit applier. The packet should include information including Best Management Practices including shelterbelts and filter strips, contacts with local FSA personnel, 2012 Purdue Manure / Nutrient Application guidelines, a copy of the Indiana form on marketing and distribution of manure, etc.

4. Require, per an appeal to the selection committee with the BZA for consideration to mitigate distance requirement between property lines. To include but not limited to a woody wind breaks or Bio Filters. Suggest the CRP/FSA planting recommendations per the forester.

5. Require that the Planning Commission annually review Jay County Water Table through the Indiana Department of Natural Resources and report to the Jay County Commissions.