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1. a. Every person, firm or corporation shall and complete a **JAY COUNTY/PORTLAND BUILDING & PLANNING DEPARTMENT APPLICATION FOR CONFINED FEEDING PERMIT** for operations below IDEM CAFO/CFO numbers.

Permits are required for operations equal to or greater than the below mentioned operations:

- 25 nursery pigs
- 6 sows
- 10 finishing hogs
- 6 beef feeders
- 6 heifers
- 3 dairy cattle
- 10 veal calves
- 250 ducks, geese, layer hens
- 400 pullets
- 500 broilers
- 5 horses
- 20 sheep or goats.

2. Definition of Expansion or Change

A substantial expansion or change results in the care and keeping of 20% more animals and notice in addition to submission of a permit application.

Any change or expansion which requires a new permit application to IDEM shall also require a new application to the Plan Commission.

3. Change of Ownership

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. Off-Site Satellite Manure Operations also are considered an intensive livestock operation and require:

Application to county for a permit *building and improvement*

Notification One Mile

Applicant pays the cost of compliance

5. The Building & Planning Department shall contact neighbors within a one-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.

6. **Permit Requirements:** CAFO 40 ACRES/CFO 10 ACRES MINIMUM FOR BUILDING SITE, IF NOT 40 ACRES OR 10 ACRES A VARIANCE MUST BE REQUESTED.

A. Upon receiving the application the Building & Planning Director to contact the Jay County Engineer and the Jay County Surveyor and a (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. Site selection committee shall advise the applicant of the committee report. The applicant has the option to appeal to the planning commission and or modify the application plans.

216.2

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

2.

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 recommended by the site 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.

Land Use Guide Scoring. See A Guide for Local Land Use Planning for Ag Operations; page 13 scoring as a starting point for the development of Jay County Ag Operations Land Use Scoring.

TO BE ADDED TO THE ORDINANCE

8. Permit Fee Schedule

- a. New building construction costs to be figured on a per square foot basis up to a cap of \$1,000,000. All buildings costing up to that cap will have a fee not to exceed \$350.00
- b. New building construction costs between \$1,000,001 and \$5,000,000 will have a fee of \$1,000
- c. New building construction costs of \$5,000,000 and over will have a fee of \$3,500

9. Complaints

Good Neighbor issues 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 IDEM or the Office of Indiana State Chemist as appropriate. If found in violation of guidelines, operators may face fines up to and including revocation of permit. Building and Planning Directors office to record for review number of complaints.

10. Require that the Planning Commission annually request and BZA review Jay County Water Table through the Indiana Department of Natural Resources and report to the Jay County Commissions. Annually, request from Department of Natural Resources report Jay County water withdraw information.
11. A notice of agricultural construction activity be reported to the Planning Commission, BZA and the Building and Planning Department to note increased road traffic in the construction areas.
12. If the operators has an IDEM permit, the permit will be valid for length of IDEM permit. If the operator is not applying for IDEM approval, the permit will be valid for a period of two (2) years. One page renewal sheet to be submitted if no changes to the original permit.

Be a part of a packet:

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 three rows of trees and shrubs, of fast and/or slow growing species.

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

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.

Information Packet: The Building and Planning Office will prepare an information packet for each permit applicant. 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.

An applicant, owner, or operator proposing to use any county road for the purpose of transporting materials and/or equipment for construction of a CAFO, shall prior to construction:

- A. Identify all such public roads and services.
- 1. Any proposed routes that will be used for construction purposes shall be identified. If the route includes a public road, it must be approved by the Jay County Engineer. The Engineer shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
- 2. Any road damage caused by the construction, operations, and/or maintenance of the CAFO/CFO must be repaired to the satisfaction of the Jay County Engineer. A corporate surety bond in an amount to be fixed by a professional engineer may be required by the Jay County Engineer to insure the county that repairs are completed to the satisfaction of the county. The cost of bonding is to be paid by the applicant.
- 3. Newly constructed access driveways may not impede the flow of water and shall comply with the County Drainage Ordinance.

A GUIDE FOR LOCAL LAND USE PLANNING FOR AGRICULTURAL OPERATIONS



A GUIDE TO LOCAL LAND USE PLANNING FOR AGRICULTURE OPERATIONS

Introduction and Overview

The Indiana Land Resources Council (ILRC) has, after considerable discussion, three public listening sessions, and further discussion within the Council, voted to recommend three sets of model regulations included in this document for consideration by Indiana counties (models are summarized on page 4 and detailed in the attached). The ILRC is a nine member council appointed by the Governor to assist local and state decision-makers with land use tools and policies. The council is composed of the following members:

Business	Bruce Everhart	Wells Fargo Bank
County Government	RJ McConnell	Johnson County Commissioner
Environment	Mary McConnell	The Nature Conservancy
Farm Owners	Matt Gibson	Gibson Family Farms
Forestry	John Brown	Pike Lumber Company
Land Development	David Compton	Indiana Builders Association
Land Use Issues	Eric Kelly	Ball State University
Municipal Government	Joe Klump	Mayor of Bedford
Soil and Water Conservation	Gene Schmidt	National Association of Conservation Districts

SITE SCORING SYSTEM

The site scoring system is a mechanism to approve local application for a new livestock facility through achievement of a predetermined score based on a series of science-based criteria. In determining these criteria, consideration was given to traditional zoning and land use considerations, university research on manure management and application practices, and Indiana's regulatory structure. It is important to note that better scientific data is needed to tailor the points awarded for additional setback distances from structures.

The site scoring system contains several operational conditions to approval. For example, the system awards points for odor abatement practices utilized in the animal housing facility and when conducting manure application. A community that is considering this approach needs to assess whether they have the resources to monitor continued adherence to these conditions.

The primary advantages of this approach are:

- Clear, objective criteria that provide for efficient decision making for local plan departments.
- Provides an applicant with a clear sense of what is expected to receive a local permit.
- Recognizes the difference in farms by providing many options to meet the minimum score.

A disadvantage of this approach is the case-by-case analysis versus a proactive designation of certain zones for livestock production.

Process: With this approach, a county implements the following minimal setbacks:

- [600 - 650] feet from an existing residence or subdivision development
- [900 - 1000] feet from a public use area
- [900 - 1000] feet from a religious or educational institution

Note: Additional minimal setbacks for other structures may be added if a county determines they are necessary.

The applicant must meet these setbacks and achieve a minimum overall score to be approved. The scoring system application is reviewed administratively by the plan director. Because the requirements are clear and objective, it is not necessary for the plan commission to review each application to determine whether it meets the minimum overall score for local approval.⁵

Example: 8000 head swine finishing facility assuming minimum setbacks of 600 feet from residences, 900 feet from a public use area, and 900 feet from a religious or educational institution.

⁵ Minnesota Department of Agriculture, *Livestock, Local Governments, and Land Use*, 23 (2006).
Hutcheson, Scott, Purdue University Cooperative Extension Service Communities on Course Land Use, *Plan Commission Public Hearings: A Citizen's Guide*, 4 (1999).

Site and Facility Characteristics -

- 1000 feet from nearest non-farm residence = 45 points
- 2640 feet from nearest public use area = 25 points
- 2640 feet from nearest school = 35 points
- Odor abatement measures (covered manure storage / shelterbelt) = 50 points
- Inject manure = 30 points
- Adequate truck turnaround = 25 points
- Feeding and watering system to reduce water use = 20 points
- Additional property taxes = 15 points

Total Possible Points = 400

Total for Proposed Facility = 245 points

Proposed Site and Facility Characteristics

The following scoring criteria apply to the site of a proposed CFO or CAFO. The term CFO refers to the definition of a Confined Feeding Operation found at 327 IAC 16-2-5 and CAFO refers to the definition of a Concentrated Animal Feeding Operation found at 327 IAC 5-4-3.

The proposed site must obtain a minimum overall score of 240 - 260 to be approved.

1. Additional separation distance, above minimum setbacks, from proposed confinement structure to the closest residence not owned by the owner of the confinement feeding operation.

	Score
0 feet to 250 feet	25
251 feet to 500 feet	45
501 feet to 750 feet	65
751 feet to 1,000 feet	85
1001 feet or more	100

2. Additional separation distance, above minimum setbacks, from proposed confinement structure to the closest public use area.

	Score
0 feet to 250 feet	5
251 feet to 500 feet	10
501 feet to 750 feet	15
751 feet to 1,000 feet	20
1,001 feet or more	25

"Public use area"- *a portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, cemeteries, lodges, shelter houses, playground equipment, lakes, and swimming beaches. It does not include a highway, road right-of-way, parking areas, woodlands, recreational trails or other areas where the public passes through, but does not congregate or remain in the area for significant periods of time.*

3. Additional separation distance, above minimum setbacks, from proposed confinement structure to the closest educational institution; or religious institution

	Score
0 feet to 250 feet	5
251 feet to 500 feet	10
501 feet to 750 feet	15
751 feet to 1,000 feet	20
1,001 feet to 1,250 feet	25
1,251 feet to 1,500 feet	30
1,501 feet or more	35

"Educational institution" - a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade 12 and served by local school districts, accredited or approved nonpublic schools, area educational agencies, community colleges, land grant institutions of higher education, and accredited independent colleges and universities. It is important to note that home schools do not fall within this definition.

"Religious institution" - a building in which an active congregation is devoted to worship.

4. Proposed confinement structure has implemented one or more of the following odor abatement measures: ⁶

Tier 1 (> 25% effectiveness)

- Air quality modeling results from the Purdue Agricultural Air Quality Laboratory (PAAQL) Odor Setback Guideline are less than or equal to facility setbacks.
- Oil sprinkling
- Filtration (biofilters or biomass filters installed on appropriate ventilation and pit fans)
- Anaerobic Digester
- Permeable cover or impermeable cover for manure storage and lagoon
- Liquid manure storage structure is covered
- Composting
- Surface of lagoon is aerated

⁶ University of Nebraska - Lincoln, National Center for Manure and Animal Waste Management, *Lesson 25 Manure Treatment Options*, <http://www.lpe.unl.edu> (2007).

Lorimor, Jeff, National Center for Manure and Animal Waste Management Model Certification Project, *Module 4: Air Quality around Production Facilities and Land Application Sites* (2003).

Tier 2 (up to 25% effectiveness)

- Utilization of landscaping around confinement structure (shelterbelts)
- Windbreak walls
- Diet formulation (use of feeds that reduce odor and nutrient excretion)
- Manure additives
- Solids separation
- Other strategies approved by the Purdue Agricultural Air Quality Laboratory (PAAQL).⁷

	Score
Two Tier 1 odor abatement measures implemented; or an anaerobic digester will be utilized at the facility.	60
Tier 1 and Tier 2 odor abatement measure implemented	50
Two Tier 2 odor abatement measures implemented; or One Tier 1 odor abatement measure implemented.	40
Tier 2 odor abatement measure implemented.	30

"Aerobic structure" – *a animal feeding operation structure which relies on aerobic bacterial action which is maintained by the utilization of air or oxygen and which includes aeration equipment to digest organic matter. Aeration equipment shall be used and shall be capable of providing oxygen at a rate sufficient to maintain an average of 2 milligrams per liter dissolved oxygen concentration in the upper 30 percent of the depth of manure in the structure at all times.*

"Covered" - *organic or inorganic material, placed upon an animal feeding operation structure used to store manure, which significantly reduces the exchange of gases between the stored manure and the outside air. Organic materials include, but are not limited to, a layer of chopped straw, other crop residue, or a naturally occurring crust on the surface of the stored manure. Inorganic materials include, but are not limited to, wood, steel, aluminum, rubber, plastic, or Styrofoam. The materials shall shield at least 90 percent of the surface area of the stored manure from the outside air. Cover shall include an organic or inorganic material which current scientific research shows reduces detectable odor by at least 75 percent. A formed manure storage structure directly beneath a floor where animals are housed in a confinement feeding operation is deemed to be covered.*

"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 slow-growing species.*

Note: Grouping of abatement measures is based on Iowa State University Extension *Practices to Reduce Odor from Livestock Operations*. A chart is attached as Appendix A of this document. A procedure should be in place to allow a livestock producer to change an odor abatement measure in the future if the new measure is proven to have equal or improved effectiveness.⁸

⁷ Purdue Agriculture Air Quality Laboratory, <http://pasture.ecn.purdue.edu/~odor/index.html>

⁸ Iowa State University Extension, *Practices to Reduce Odor from Livestock Facilities Flowchart* (2005).

5. Adoption and implementation of one of the following manure application practices to reduce odor dispersion:

	Score
Liquid Manure - Injected	30
Incorporated within 24 hours of application.	20
Dry Manure - Land applied and incorporated within 24 hours.	30

Note: There should be an exception stating that injection of manure is not required in conditions or situations when injection is not possible. For example, if abnormally adverse field conditions do not allow for timely manure injection or incorporation in the Fall or if a water line would break causing the need for an emergency manure application. It is important to note that a county may want to award points for producers that sell their livestock manure according to IDEM regulations (see 327 IAC 15-15-15 and 327 IAC 16-10-5).

6. Proposed confinement site has a suitable truck turnaround area so that semi-trailers do not have to back into the facility from the road.

	Score
Truck turnaround	25

- The turnaround area should be all-truck turnaround without backing into the public road, through T-turns or a turning area with a radius of at least 120 feet. The entire drive and turn-around area must have an all-weather surface to minimize dust and to avoid caking of mud on truck wheels.
- If there will be trucks parked or stored on the site overnight or long-term, there should be one additional truck parking space for each such truck; the parking space(s) must not reduce or impede the turn-around area.

7. Construction permit application includes livestock feeding and watering systems that significantly reduce water use.

	Score
Wet/dry feeders or other feeding and watering systems that significantly reduce water use.	20

8. Construction permit applicant's animal feeding operation environmental violation history for the last five years at all facilities in which the applicant has an interest.

	Score
Permit applicant has held an interest in a livestock facility for 5 years or more. The applicant does not have an environmental violation in the last five years that resulted in a discharge.	20
Permit applicant has an interest in a newly constructed livestock facility that has been in operation for 2 - 5 years. The applicant does not have an environmental violation over this period that resulted in a discharge.	15

"Interest" - Ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

"Violation" - An environmental violation is an order from the Indiana Department of Environmental Management or comparable state or federal agency, or final court ruling against the construction permit applicant for environmental violations related to an animal feeding operation that resulted in a discharge.

Note: This criterion only applies to permit holders. If an applicant has never held an interest in a facility with a confined feeding permit, no points are awarded.

9. Construction permit applicant can lawfully claim a Homestead Tax Exemption on the site where the proposed confinement structure is to be constructed

-OR-

The construction permit applicant is the closest resident to the proposed confinement structure.

	Score
Site qualifies for Homestead Tax Exemption or permit applicant is closest resident to proposed structure	20

"Applicant" includes persons who have ownership interests. "Interest" means ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary or other equity interest holder. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

10. Demonstrated community support.

	Score
Letter of support from fifty one (51) percent of property owners within a two mile radius, and a local official or state legislator.	20

11. Adoption and implementation of an environmental management system (EMS) recognized by the Indiana Department of Environmental Management;
-OR-
the applicant has a Natural Resources Conservation Service (NRCS) approved soil conservation plan for all acreage on which manure is applied.

	Score
EMS or NRCS conservation plan	20

12. Added economic value based on quality job development (salary equal to or above department of workforce development median);
-OR -
the proposed structure increases property tax base in the county.⁹

	Score
Economic value to local community	15

13. Construction permit application contains a closure plan.

	Score
Closure plan	10

Note: The closure plan must be kept on site with the manure management plan records. The closure plan should address the following issues: emptying of manure storage structure, application of stored manure, teardown of building(s), disposal of building materials at an approved site, and removal of lagoon solids and fill (if applicable).

⁹ Chase, Rick, Purdue University Cooperative Extension Service Communities on Course Land Use, *Agricultural Land Protection in Indiana*, 2 (1999).