

REVISED Concentrated Animal Feeding Operation (CAFO) Working Group

Minutes for Meeting #1 Wednesday, March 13, 2019 (compiled from staff notes)

Adopted July 11, 2019

Working Group Member present: Cristy Joy, Dale Softley, John Hansen, Marijane Hancock, Paula Peterson, Scott Johns, Stephen Martin, Steven Skoda, Theresa Pella and Tim Kalkowski

Also present: Tom Cajka and Stephen Henrichsen, Planning Department and several interested citizens.

The meeting started with introductions and a brief background of each member.

Tom Cajka gave an overview of the purpose of the Working Group. He then reviewed existing zoning regulations regarding animal feeding operations. The expectation is to have 6 to 8 meetings over a 3 to 4 month timeline. Several members asked questions about the expectations and whether the topic included all animals, including bees, crickets or llamas for example. It was explained there wasn't a specific limitation, but there was an existing zoning definition of agriculture and animal feeding operations. There was general discussion about animal feeding and agriculture.

There was a request to have Nebraska DEQ come to a future meeting to discuss their regulations. Also a request to discuss what other counties do, including Douglas, Cass and Hall counties. A future speaker from the Lower Platte South NRD would also be helpful, as well as more detail on what AG zoning currently means.

There was discussion about best times to meet and topics for future discussion.

The next meeting was set for March 27<sup>th</sup> at 12:30 p.m.

REVISED Concentrated Animal Feeding Operation (CAFO) Working Group

Minutes for Meeting #2 Wednesday, March 27, 2019 (compiled from staff notes)  
Adopted July 11, 2019

Working Group Member present: Cristy Joy, Dale Softley, Marijane Hancock, Paula Peterson, Scott Johns, Stephen Martin, Steven Skoda, Theresa Pella and Tim Kalkowski    Absent: John Hansen

Also present: Tom Cajka and Stephen Henrichsen, Planning Department; Chris Schroeder, Lincoln-Lancaster County Health Department; Paul Zillig, Lower Platte South NRD; Ben Miller, Nebraska Department of Environmental Quality; and several interested citizens.

Chris Schroeder reviewed air and water pollution regulations and passed out a handout. He noted that there are no Federal, State or local regulations for air quality pertaining to feedlots but research is being done by the U.S. Environmental Protection Agency pertaining to air quality and poultry farms. The results of the study are supposed to be completed in 2020. Title 8.44 Water Wells of Lincoln Municipal Code only applies to Lincoln and within 3-miles of Lincoln.

Paul Zillig explained that the Lower Platte Natural Resource District's (NRD's) only involvement with CAFO's is issuing permits on wells that are in excess of 50 gallons per minute. It gets 30 days to review technical points of state draft permits. The NRD also inspects any possible contamination of water sources.

Ben Miller with Nebraska Department of Environmental Quality (NDEQ) discussed NDEQ's regulations pertaining to CAFOs. NDEQ's main purpose is to make sure a CAFO is in compliance with Title 130 (Livestock Waste Act.) Ben explained that a CAFO can be large, medium or small depending on the number of animals. A small CAFO is exempt from regulations, but cannot discharge into waters of the state. A small CAFO is 299 or less cattle or 749 or less swine. For cattle, a medium is 300-999 and large is 1,000.

Ben also explained that all composting must be a minimum of 100 feet from any well and a large CAFO must have an Odor Management Plan. In addition a National Pollutant Discharge Elimination Permit (NPDES) may be required.

He then explained that if a CAFO is required to have a Construction and Operating Permit, a Nutrient Management Plan would be required as part of that permit. Draft permits undergo a public comment period. There is a pre (siting) and post construction inspection. Then inspections are done every 1 -2 years.

The members of the group asked several questions of each presenter and discussed the regulations of each agency in relation to local regulations.

The next meeting was set for April 10<sup>th</sup> at 12:30.

REVISED Concentrated Animal Feeding Operation (CAFO) Working Group

Minutes for Meeting #3 Wednesday, April 10, 2019 (compiled from staff notes)  
Adopted July 11, 2019

Working Group Member present: Cristy Joy, Dale Softley, Marijane Hancock, Scott Johns, Stephen Martin, Theresa Pella and Tim Kalkowski

Absent: John Hansen, Paula Peterson and Steven Skoda

Also present: Tom Cajka and Stephen Henrichsen, Planning Department; Chris Schroeder, Lincoln-Lancaster County Health Department; Amelia Breinig, Nebraska Department of Agriculture, Richard Stowell, Biological Systems Engineering and Animal Science, UNL; and several interested citizens.

Amelia explained the Animal Feeding Operation Siting Matrix. A working group that included livestock groups and Nebraska Association of County Officials, among others, worked with the Department to develop the matrix. The siting matrix is a tool that is not required by the Nebraska Department of Agriculture for permitting a CAFO, however, Dodge, Merrick and Hall County have adopted the matrix as part of their regulations.

The group asked several questions about various aspects of the matrix. There was discussion about the setback section, in particular how it is used in other counties.

Richard Stowell gave a presentation on the Nebraska Odor Footprint Tool (NOFT). The NOFT is used as a tool to help assess odor risks and expected benefits of odor control technologies. The NOFT was developed to help address frequency of annoying odor levels. The NOFT does not apply equally for indoor and outdoor feeding operations due to outdoor operations being impacted by precipitation. The methodology for creating the footprint tool was then explained with several clarification questions from working group members.

The next meeting was set for April 24<sup>th</sup> at 12:30.

REVISED Concentrated Animal Feeding Operation (CAFO) Working Group

Minutes for Meeting #4 Wednesday, April 24, 2019 (compiled from staff notes)  
Adopted July 11, 2019

Working Group Member present: Cristy Joy, Dale Softley, Marijane Hancock, Scott Johns, Stephen Martin, Theresa Pella, Paula Peterson, Steven Skoda and Tim Kalkowski

Absent: John Hansen

Also present: Stephen Henrichsen, Planning Department; Chris Schroeder, Lincoln-Lancaster County Health Department and several interested citizens.

Planning staff distributed handouts on animal feeding operation definitions from Nebraska Department of Environmental Quality, State Department of Agriculture and the US Environmental Protection Agency websites. Other handouts included zoning regulations and an animal unit table for 6 Nebraska counties and questions from Meeting #1.

One of the questions from Meeting #1 was whether a CAFO/AFO is agriculture or industrial use. After review of regulations and discussion that the primary purpose of a feedlot is feeding animals, not the processing of the meat, there was consensus CAFO/AFO is agriculture. There was further discussion on appropriate conditions for CAFO/AFO. It was noted that NRD and NDEQ have good coverage in their rules so there is no need to reinvent existing regulations. There was general consensus that definitions for large and medium AFO should follow NDEQ's definition and be only allowed by special permit in the County zoning regulations. Any use that was classified as a small operation by NDEQ would be defined as "agriculture", not "AFO", and would be allowed by right under county regulations.

The Group discussed nutrient management plans and the Nebraska Livestock Feeding Operation Development Matrix. There was general consensus that because the matrix addresses nutrient management plan one would not be required, but not to require a minimum score. The County would use it for information purposes as part of the application review.

It was noted that education of acreage owners about what occurs in a rural agricultural area is important. It was noted that a few group members had questions about NDEQ regulations. The Nebraska Odor footprint tool and how it might be used was also discussed.

The next meeting was set for May 8<sup>th</sup> at 12:30.

REVISED Concentrated Animal Feeding Operation (CAFO) Working Group

Minutes for Meeting #5 Wednesday, May 8, 2019 (compiled from staff notes)

Adopted July 11, 2019

Working Group Member present: Cristy Joy, Dale Softley, Marijane Hancock, Scott Johns, Paula Peterson, Steven Skoda and Tim Kalkowski

Absent: John Hansen, Stephen Martin, and Theresa Pella

Also present: Stephen Henrichsen, Planning Department; Tom Cajka, Planning Department, Chris Schroder, Lincoln-Lancaster County Health Department and several interested citizens.

The Group reviewed the draft revisions to the Lancaster County conditions and definitions that were prepared by the Planning Department of. There was more discussion about requiring a Nutrient Management Plan (NMP). Health Department supported requiring a NMP. This would enable the Health Department to work with NDEQ on odor complaints. Tom clarified that the NMP is part of a Construction and Operating Permit (COP). The COP would need to be required in order to have a NMP. There was general agreement that a COP would be required as part of the special permit, but only prior to building permit. The special permit could be approved without a COP, if it was waived for some reason by the County Board.

The group discussed setbacks from dwellings to the AFO. The group discussed using the Nebraska Odor Footprint Tool as a basis for determining setbacks. Tom showed examples of setbacks using the odor footprint tool.

There was general consensus that “Animal Feeding Operation” would be the term used for confined feeding operations. There was discussion if a bond and reclamation plan should be required. There was general agreement to use the specific citation from NDEQ in the definition.

There was no consensus on the setbacks as the group ran out of time, so it was agreed to continue the discussion on that topic at the next meeting. It was requested that Ben Miller with NDEQ attend the next meeting to help answer several questions.

The next meeting was set for May 22<sup>nd</sup> at 12:30.

REVISED Concentrated Animal Feeding Operation (CAFO) Working Group

Minutes for Meeting #6 Wednesday, May 22, 2019 (compiled from staff notes)  
Adopted July 11, 2019

Working Group Member present: Dale Softley, John Hansen, Scott Johns, Paula Peterson, Stephen Martin, Steven Skoda, Theresa Pella and Tim Kalkowski

Absent: Cristy Joy and Marijane Hancock

Also present: Stephen Henrichsen, Planning Department; Tom Cajka, Planning Department; Chris Schroder, Lincoln-Lancaster County Health Department; Ben Miller, Nebraska Department of Environmental Quality (NDEQ); and several interested citizens.

A revised draft of potential changes to the Lancaster County zoning regulations was distributed. The meeting opened with discussion on dairies and if they should continue to be exempt from requiring a special permit. The consensus was that dairies, that meet the definition of a medium or large Animal Feeding Operation (AFO), would be required to have a special permit in Lancaster County.

There was further discussion on the odor footprint tool. Tom Cajka noted the speaker from UNL stated in a previous meeting that the tool is not good for outdoor feedlots, including cattle operations. It was noted that when using the odor footprint tool swine finishing should be selected for swine. Tom passed out some examples of setbacks calculated using the odor footprint tool.

Ben Miller from NDEQ answered questions pertaining to management and transfer of manure from animal feeding operations.

The group continued discussion on setbacks of an AFO to a dwelling. There was general consensus that an enclosed AFO would have a setback of 1,320 feet and an open AFO, excluding cattle and swine, would have a setback of 2,640 feet. Cattle and swine should be setback 5,280 feet for an open AFO unless significant odor control measures are used, then the setback should be 2,640 feet at a minimum.

There was discussion about the upcoming public comment meeting. This will be an opportunity for the public to address the “public comment” draft that the Planning Department will prepare and distribute. Staff will make revisions based on the discussion today and send it out to Working Group members to review.

The next meeting was set for June 27<sup>th</sup> at 5:30 at Scott Middle School.