

**CASS COUNTY**

**FEEDLOT**

**MANAGEMENT ORDINANCE**

**EFFECTIVE DATE: MAY 28, 2001 VERSION**

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## **100 STATUTORY AUTHORITY**

This Cass County Feedlot Ordinance, herein referred to as "Ordinance", is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapters 115 and 116, the most recent version of Minnesota Rules, Chapter 7020, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

## **200 POLICY**

Livestock and poultry are important to producers and consumers in Cass County. Animals provide meat, milk, eggs and related products for consumption in the United States and for export. Livestock production is an important source of income for farmers and agricultural businesses in the county. Efficient livestock production should be a concern of producers and consumers alike.

It is recognized that in certain quantities, livestock, poultry, and other animals produce manure that may negatively affect the County's environment.

The following standards for the control of livestock, poultry, and other animal facility(s) and manure application have been promulgated to provide protection against pollution caused by manure from domesticated animals. These standards recognize that animal manure provides beneficial qualities to the soil and plant production.

All feedlot owners and operators shall act as good neighbors when applying animal manure. The time of year, wind direction, and neighboring dwellings shall be considered when selecting appropriate time and place of application.

By following these regulations the environmental, residential, and agricultural uses of land will be more compatible. The purpose of the feedlot ordinance is to regulate feedlots and animal waste storage and use, and protect agricultural land use in Cass County so that effects on the health, safety, and general welfare of the public will be minimized.

## **300 GENERAL PROVISIONS AND ENFORCEMENT**

### ***310 JURISDICTION***

The provisions of this Ordinance shall apply to all feedlots, as defined in this ordinance, in all unincorporated areas of Cass County.

### ***320 PERMITS REQUIRED***

No person shall operate a feedlot with an annual average stocking rate of 300 animal units or more without first obtaining a Cass County feedlot permit when any of the following conditions exist:

- A. A new feedlot is proposed where a feedlot did not previously exist;
- B. changes in the annual average stocking rate which exceed 300 animal units;
- C. An existing feedlot is restocked with 300 or more animal units after being abandoned or unused for 5 or more years.

No permits will be issued to landowners or on property on which there are current or past unresolved violations existing.

### ***330 COMPLIANCE***

The landowner, and the permittee, and the operator of any feedlot shall be responsible for the establishment, expansion, and management of that animal feedlot, and the transportation, storage, and disposal of animal manure generated in a manner consistent with the certificate of compliance and the standards set forth in this Ordinance, all other County Ordinances, and the Minnesota Pollution Control Agency unless otherwise approved.

### ***340 ENFORCEMENT***

The County Board and the Department, are responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements by a landowner or their agent, including violations of or failure to comply with conditions and safeguards

established in connection with the granting of, or contained with, variances or conditional uses shall constitute a misdemeanor and shall be punishable as defined by Minnesota State Statutes. Violations of this Ordinance can occur regardless of whether or not a conditional use permit is required for a regulated activity. Each day of a violation of this ordinance or each day that a failure to comply with any requirements of this ordinance continues shall constitute a separate offense. The Department and the Sheriff shall have the power to enforce this ordinance by issuing citations for criminal violations of this ordinance upon the owner of a property and/or their agent. The County, through the Department may sue for injunctive relief on any violation, including restoration of the premises to its condition existing prior to the violation.

### **350 PROSECUTION**

The Department may enforce the provisions of the ordinance whether through criminal prosecution, civil remedy, or both. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution for a violation shall not be a bar to a civil remedy.

### **360 CEASE AND DESIST ORDERS**

Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other County ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, it shall not again be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.

### **370 DUTY TO ENFORCE**

It shall be the duty of the County Attorney and County Sheriff to perform such duties as may be necessary to enforce the provisions of this ordinance.

### **380 ADMINISTRATIVE FEES AND RESTORATION**

Any application for a permit which is made after the work is commenced and which requires a permit shall be charged an additional administrative fee. In addition, the Planning Commission, Board of Adjustment, or the Department may require correction and/or restoration of the property concerned to its original state should the application for a permit be denied or if the action permitted does not include all or part of the work commenced prior to approval of said permit.

### **390 PERFORMANCE BOND**

Upon approval of a conditional use or variance, the Planning Commission, Board of Adjustment, or the Department may require a surety bond, cash escrow, or letter of credit prior to the issuing of a feedlot permit. Said security shall be irrevocable and shall guarantee conformance and compliance with the conditions of the conditional use, or variance, and the Ordinance.

### **391 INTERPRETATION**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

### **395 SEVERABILITY**

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected.

## **398 ABROGATION AND GREATER RESTRICTIONS**

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

## **400 DEFINITIONS**

**Abandoned** - A dwelling, building, barn, feedlot, or other facility left unused for five (5) years or more.

**Agency**- Minnesota Pollution Control Agency.

**Agricultural Use Easement**- A restriction recorded on the deed of certain residential property(ies) adjacent to a feedlot which limits the right of the residential owner to object to certain livestock and animal waste management practices.

**Animal Unit** - means a 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 1,000 pound slaughter steer or heifer.

**Animal Waste** - Poultry, livestock, or other animal manure or a mixture of manure with feed, bedding, or other materials.

**Board of Adjustment** - The Cass County Board of Adjustment as described in Minnesota Statutes, Section 394.27.

**Church.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**Conditional Use** - means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exist, (2) the use or development conforms to the comprehensive plan of the county, and (3) the use is compatible with the existing neighborhood..

**County** - Cass County.

**County Board** - Cass County Board of Commissioners.

**Department** - Cass Environmental Services Department.

**Dwelling** - Consists of one or more rooms which are arranged, designed or used as living quarters for one family or household. For the purpose of this ordinance, a dwelling unit may be a manufactured or mobile home.

**Farm** - A tract of land, which is principally used for agricultural activities such as the production of crops or animals. A farm may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm and must meet the definition of "farm" under Minnesota's Green Acres Law M.S.A., Chapter 273.111.

**Farmstead** - A development area designed and arranged to support farm activities. A variety of structures, storage area, and other facilities, including adjacent windbreaks and shelterbelts, typically comprise a farmstead. The area may contain one or more Farm Dwellings. A feedlot may be present within the defined area of a Farmstead, but for the purpose of this Ordinance, Feedlots shall not be considered to be part of a Farmstead. A Farmstead has boundaries which can be approximately defined and differentiated from surrounding fields and pastures, and the Department shall determine such boundaries as necessary.

**Feedlot** - 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 feedlots under these parts.

**Feedlot, Existing** - Any feedlot at the time of enactment of this ordinance.

**Feedlot, New** - A feedlot constructed and operated on a site where no feedlot existed previously, or where a pre-existing feedlot has been abandoned or unused for a period of five (5) years or more.

**Hardship** - As used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the Ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.

**Incorporated** - When manure is surface mechanically applied and tilled into the soil within 48 hours of application.

**Injected** - When manure is mechanically injected or tilled into the soil during the manure application.

**Liquid Manure** - Manure which is four percent solids or less.

**Manure storage structure** - Diked or excavated structure lined with a concrete or synthetic liner, or a concrete tank in which manure is stored.

**MPCA** - Minnesota Pollution Control Agency.

**NRCS** - Natural Resources Conservation Service.

**Non-Farm Dwelling** - Any dwellings located on a parcel of land contiguous to or surrounded by farm land which is under separate ownership and whose occupants do not derive their predominant income from agricultural activities on the farm.

**Non-Ruminant** - Monogastric animals, including swine, chickens, turkeys, and ducks that have a simple digestive tract that is unable to digest forages.

**Odor Management Plan** -Plan detailing any system or practice designed to reduce the migration of hydrogen sulfide and other gasses released by animal manure from a manure holding facility or manure application site.

**Ordinary High Water Level (OHWL)** - The boundary of public waters and public waters wetlands shall be an elevation established by the Department of Natural Resources-Division of Waters, or delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the OHWL is the operating elevation of the normal summer pool.

**Owner** - Any individual, firm, association, syndicate, partnership, corporation, trust or other legal entity having sufficient property interest in a property to commence and maintain proceedings under this Ordinance, or the owner of record.

**Pastures** - Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding, temporary holding facilities, or watering devices.

**Permittee** - Any owner or person who as been granted a permit.

**Person** - Any individual, firm, partnership, corporation, company, association, joint stock association or body politic; including any trustee, receiver, assignee, or other similar representative thereof.

**Planning Commission** - the Cass County Planning Advisory Commission as described in Minnesota Statutes, Section 394.30..

**Protected Waters**- Any waters as defined in Minnesota Statutes, Section 103G.005, Subdivision 14 and 15. A body of water, river, or stream capable of substantial beneficial public use. This shall be construed to mean, for the purposes of this Ordinance, any body of water that has the potential to support any type of recreational pursuit or water supply purpose. The term "protected water" is synonymous with the term "public water" for the purpose of this Ordinance.

**Protected Waters Wetlands** - All types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, that are ten or more acres in size in unincorporated areas or 2-1/2 or more acres in incorporated areas.

**Pseudo-Ruminant** - Animals, including horses, rabbits, guinea pigs, and hamsters that have an enlarged cecum, which allows microbial digestion of forages.

**Public Park** - A County, State or Federally dedicated public area of land, with or without buildings, intended for outdoor active or passive recreational uses.

**Road** - A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designed as a street highway, parkway, road, avenue, boulevard, lane, service road, place or however otherwise designed. Acceptance of a road for maintenance purposes by a unit of government is not necessary for designation as a road.

**Road, Private** - An unplatted access to more than one lot or parcel, including leased or rental properties where public access is limited.

**Rule(s)** – The most current version of the Minnesota Pollution Control Agency Feedlot Rules pursuant to Minnesota Rules, Chapter 7020.

**Ruminant** - Polygastric animals, including cattle, sheep, and goats that have a rumen, which allows microbial digestion of forages.

**Setback** - The minimum horizontal distance between a structure, sewage treatment system, feedlot, manure storage structure, or other facility or feature, and an OHWL, top of a bluff, road, highway, property line, or other facility or feature.

**Shoreland** - Land located within the following distances from protected waters: 1,320 feet from the ordinary high water level of a lake, river, pond or flowage, the Mississippi River corridor as designated in the Mississippi Headwaters Management Plan, and the landward extent of a floodplain designated by ordinance on a river or stream whichever is greater.

**Urban Growth Areas** – Areas adjacent to a municipality, designated through official public policy, within which future commercial and residential growth is planned.

**Use** - The purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

**Use, Agricultural** - Means that use of land for the production of food or fiber, their storage on the farm, and/or the raising thereon of animals.

**Variance** - Any modification or variation of this Ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of this Ordinance would cause unnecessary hardship.

**Waste Utilization Plan** - A plan developed in accordance with the standards and specifications of the Natural Resources Conservation Service which designates specific land areas for the spreading of animal waste and the rates at which that animal waste can be applied on an annual basis.

**Waterway** - A natural or constructed channel that is shaped or graded and is established in sustainable vegetation for the stable conveyance of run-off.

**Waiver** - The intentional or voluntary written relinquishment of a landowner's right under this ordinance.

**Wetland(s)** - lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by shallow water. For the purpose of this definition, wetlands must have the following three attributes:

- (1) have a predominance of hydric soils;
- (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions and;
- (3) under normal circumstances support a prevalence of such vegetation.

## **500 FEEDLOT CONDITIONAL USE PERMIT REQUIREMENTS**

- A. All provisions of the Rule shall apply in the County.
- B. Feedlots with animal units numbering less than 300 shall be permitted under the Rules as administered by the County.
- C. Any new feedlot or expansion of an existing feedlot that would cause the animal density to reach 300 or more animal units shall require a conditional use permit.
- D. Feedlots existing on the date this ordinance is adopted shall will be allowed to operate at their current size and stocking rate in accordance with the Rules.
- E. All feedlot permits shall include:
  - 1. A completed conditional use permit application on forms provided by the Department;
  - 2. Any certificate of compliance or Interim permit required by MPCA;
  - 3. Ag Waste Operation and Maintenance Plan (See Appendix A)
  - 4. Plans for Earthen Storage Basins, if required (NRCS #425);
  - 5. Dead Animal Disposal Plan (See Appendix B)
  - 6. Approved DNR Water Appropriation Permit, if required
  - 7. Additional Manure Application Area Agreement, if required. (See Appendix C)
  - 8. Waste Utilization Plan (NRCS Practice Standard # 633)
  - 9. Odor Management Plan;
  - 10. Construction Inspection Guidelines Form;
  - 11. Any other additional information requested by the Department, Planning Commission, or MPCA.

## **510 STANDARDS FOR CONDITIONAL USE PERMITS**

- A. Any changes on feedlots over 300 animal units involving structural alterations, intensification of use, changes in lands used for manure disposal, or changes not included on the certificate of compliance or not specifically permitted in a Conditional Use Permit, shall require a new application for a Conditional Use Permit.
- B. The Department or the Planning Commission may impose, in addition to the standards and requirements set forth in this Ordinance, additional conditions which they deem appropriate to control water pollution or odors, insure proper management and/or abandonment, or control other potential off-site impacts.

## **520 CONDITIONAL USE PROCESSING**

A conditional use is a use that may or may not be compatible with other uses in that district within which it is located. The compatibility of the proposed use must be judged on the basis of the particular circumstances and may require imposing conditions. The conditional use permit process is as follows:

- A. The applicant shall file an application with Department and pay a fee. The application shall be accompanied by plans and the data as described in this section. The feedlot plans must be complete. No conditional use application will be accepted from landowners or on property on which there are existing violations or delinquent property taxes.
- B. The Department shall refer the application to the Planning Commission for public hearing. Notice of time, place and purpose of the public hearing shall be given in the official newspaper of the County at least ten (10) days before the hearing. Written notice shall be sent to owners of record within one quarter (1/4) mile of the affected property, or to the nearest ten property owners, whichever would provide notice to the greatest number of owners. Written notice shall also be given to the affected Town Board of Supervisors and the municipal council of a municipality within two (2) miles of the affected property. It shall be the responsibility of the Cass County Environmental Services Department to cause said notice of the date, time and place at which the Cass County Planning Advisory Commission anticipates it will consider the application to be mailed to the applicant. All notices shall be required to be mailed at least ten (10) *calendar* days prior to the date upon which the application will be considered. Failure of any property owner to receive such notification shall not invalidate the proceedings.

- C. The Planning Commission shall consider the application at its next regular meeting, after compliance with notice requirements of this section.
- D. The Planning Commission shall consider each conditional use applied for under this section. If the permit is denied, the Planning Advisory Commission shall advise the applicant of the reasons therefore in writing within twenty (20) days of the date of decision.
- E. Any resubmission of a conditional use application, if previously denied, shall be allowed only if the plans have been substantially amended.
- F. The decision of the Planning Advisory Commission shall not be final. Any person having an interest affected by the decision, has the right to appeal to District Court on questions of law and fact within thirty (30) days from the date of recording the conditional use permit on the applicant's deed. No work may proceed or other permits issued until this appeal period has expired..
- G. The Department shall record approved conditional uses on the deed of the affected property in the office of the County Recorder. The conditional use shall include the legal description of the property involved along with any conditions that may have been attached to the approval.

## **600 VARIANCES**

### **610 APPLICATION AND NOTICES**

The Board of Adjustment may grant a variance upon application and only in accordance with Minnesota Statutes, Chapter 394. Any person may make an application to the Board of Adjustment for a variance from the literal provisions of this ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration and where the hardship is not solely economic. No variance application will be accepted from landowners or on property on which there are existing violations or delinquent property taxes.

Notice of time, place and purpose of any public hearings shall be published in the official newspaper of the county at least ten (10) days before the hearing. Written notice of public hearings regarding the application for variances, shall be sent to all property owners of record within five hundred (500) feet of the affected property or to the ten (10) nearest properties, whichever, would provide notice to the greatest number of owners. Written notice shall also be given to the affected Town Board of Supervisors, and the municipal council within two (2) miles of the affected property.

### **620 VARIANCE CRITERIA**

A variance may not circumvent the general purposes and intent of this ordinance. In no case shall a variance be granted which the board determines will:

- A. Allow any use that is prohibited in the zoning district in which the subject property is located, or;
- B. Restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties, or;
- C. Result in incompatible land uses that would be detrimental to the protection of ground and surface water quality, or;
- D. Not be in keeping with the land use and water plans and/or planning objectives of the County or which will increase or cause danger to life or property, or;
- E. Be inconsistent with the preservation of natural land forms, vegetation or wetlands of the County, or;
- F. Result from the circumstances created by the landowner, or;
- G. Not be changed from a previously denied application.

**630 FINDINGS OF FACT**

In ruling on a variance request, the Board of Adjustment must make written findings of fact upon the following considerations and Minnesota Statutes, Chapter 394.27, Subd. 7:

- A. The property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls.
- B. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
- C. The variance, if granted, will not alter the essential character of the locality.
- D. The need for the variance is not justified by economic considerations alone.

**640 CONDITIONS**

Conditions, as deemed appropriate by the Board of Adjustment, may be attached to enforce the general purpose and intent of this Ordinance.

**650 APPEAL OF DECISIONS**

The decision of the Cass County Board of Adjustment shall not be final. Any person having an interest affected by this Ordinance or any decision made relating to it shall have the right to appeal to District Court on question of law and fact within thirty (30) days from the date of recording with the County Recorder. No work may proceed or other permits issued until this appeal period has expired.

**660 LAPSE OF VARIANCE**

A variance must be used within one year of the date the variance appeal period expires.

**700 ANIMAL UNITS**

For the purposes of this ordinance, animal units for various types of animals will be calculated according the following table:

	<b>Animal Unit (A.U.)</b>	<b>No. of Head Needed to Equal: 300 A.U.</b>
1 mature dairy cow	1.4	214
1 slaughter steer or heifer	1.0	300
1 horse	1.0	300
1 swine over 55#	0.4	750
1 sheep	0.1	3,000
1 swine under 55#	0.05	6,000
1 turkey	0.018	16,667
1 chicken	0.01	30,000

Other animals - average weight of animal / 1,000 # = A.U.

## 800 AREA REGULATIONS FOR FEEDLOTS

### 810 MINIMUM AREA REQUIRED

The minimum parcel size required to construct a new feedlot under the jurisdiction of this ordinance shall be 160 acres.

### 820 SETBACKS

Setbacks cited in this Ordinance shall be minimum standards and shall apply within all unincorporated areas within the County.

#### 810.1 Feedlots and Manure Storage Structures

- A. Setbacks for feedlots under the jurisdiction of this ordinance shall be measured from the outermost foundations of buildings and/or the outermost extent of fences or yards that are parts of the facility. Setbacks for manure storage structures under the jurisdiction of this ordinance shall be measured from the outermost foundation of a concrete tank, or the outermost edge of the dike for a lined earthen basin.

#### FEEDLOT SETBACKS

FEATURE OR STRUCTURE	SETBACK
Private Wells*	200 feet
Public Waters	1320 feet
Public Park or Church	2640 feet
County, Judicial or Private Ditch **	400 feet
Public Road Right-of-way	100 feet
Property Line	100 feet
Rural Residences	1320 feet
Incorporated Municipalities	1 miles
Planned Growth Areas	1 miles

\*---Private well setback to a manure storage area shall be 400 feet

\*\*---reduce setback by 50% if separated by a 3 foot high earthen berm

- B. New feedlots shall not be located within the shoreland zone.
- C. No new feedlot shall be erected where ten (10) or more existing residences are situated within a radius of one (1) mile drawn from the outermost points of the proposed feedlots.
- D. No new non-farm dwelling shall be constructed within one-fourth (1/4) mile of an existing feedlot unless it is to replace an existing dwelling, or has an ag-use easement deed recorded on the parcel on which the dwelling is located.

## 810.2 Animal Waste Application Setbacks

- A. Setbacks for animal waste application shall be measured from the outermost boundaries of fields on which the waste is spread or injected as identified in the waste utilization plan. Application of all animal waste within Cass County's unincorporated areas shall comply with the following setbacks:

FEATURE OR STRUCTURE	SURFACE OR IRRIGATION APPLIED	INCORPORATED OR INJECTED WITHIN 48 HOURS
Rivers, lakes wetlands, drainage ditches*	300 feet OHWL	100 feet OHWL
Municipal well	1,000 feet	1,000 feet
Private wells	200 feet	100 feet
Residence, neighboring resident	300 feet	100 feet
Public roadways	30 feet	10 feet

\*--Where an area's topography slopes away from an adjacent watercourse, animal manure may be reduced or exempted from the required setbacks upon written approval of the Department.

- B. All waste utilization of animal manure shall be according to the Natural Resources Conservation Service Standards as provided in Waste Utilization Plan #633.
- C. Where adequate acres for spreading animal waste are not available, spreading agreements with the landowner's signature (s) shall be provided to the MPCA and the Department by the feedlot operator. The feedlot operators shall follow up to date waste utilization plans and have additional manure application area agreements for all areas upon which manure is spread. If the area available for spreading is reduced, corresponding animal units must be reduced, or alternative suitable areas found and manure application area agreements secured in order to comply with the operator's waste utilization plan.

## 900 ODOR MANAGEMENT PLAN

- A. Feedlot owners and operators shall be required to submit an Odor Management Plan for all new feedlots or expansion of existing feedlots to the Department for review and approval. The plan shall:
1. include best management practices(BMP's) for peak odor periods such as spreading and agitation of stored manure
  2. provide for methods of managing odors that will significantly reduce odor leaving the feedlot;
  3. include provisions for managing odors emanating from any new liquid manure storage structure.
- B. Enforcement of this section shall not commence until such time as the University of Minnesota-Extension Service's Feedlot and Manure Management Advisory Committee--Livestock Odor Taskforce recommendations or a similar program have been enacted by state statute or rule.

## 1000 STANDARDS FOR MANURE STORAGE STRUCTURES

- A. All plans shall be prepared and approved by NRCS or a registered professional engineer.
- B. All new or expanded manure storage structures shall be designed to store a minimum of 8 months manure production. Manure shall not be stored for longer than 1 year.
- C. All basins designed within the county shall meet minimum practice standards and recommendations of NRCS Practice Standards #425 for Waste Storage Ponds; and have an approved Waste Utilization Plan provided to the Department including:

1. A signed Operations and Maintenance Plan,
  2. A construction inspection plan agreement by the Engineer, and,
  3. A construction inspection log.
- D. Any situation not covered by the above standards shall be controlled by the Midwest Plan Service #18 Livestock Waste Facilities Handbook, and applicable Agricultural Extension Engineering Fact Sheets involving animal waste.
- E. A synthetic or concrete liner shall be required.
- F. Owner and Operator's Responsibility. The landowner, the owner, and the operator of a feedlot shall be responsible for the storage, transportation, and disposal of all animal manure generated in a manner consistent with the provisions of this Ordinance.
- G. All new construction of synthetic-lined or concrete storage facilities shall have a perimeter tile with inspection site, installed in accordance with MPCA guidelines. The permittee shall be responsible for hiring a Federal or State-certified testing laboratory, to sample the drain tile discharge from the inspection pipe for potential ground water pollution for as long as the feedlot is in operation. These tests shall be conducted in the following manner:
1. If flow is present in the tile, one sampling and analysis shall be done prior to operation of the feedlot to establish a base water sample.
  2. After the first year of operation, testing shall then be conducted in each subsequent year in the month of June. If the tile is dry, it shall be checked again in October.
  3. If the tile is still dry in October, no test is required, and it shall be checked again the following June.
  4. Samples will be tested for nitrates and coliform bacteria.
  5. A copy of all test results shall be promptly submitted to the Department. Any noted increase in contaminants will be reviewed, a plan for corrective action developed by the Permittee, and approved by the Department.
- H. The permittee shall allow the Department to inspect the site whenever the Department deems necessary. The Department shall provide a 96 hour written notice via registered mail-returned receipt in advance of any inspection, except in the case of an on-going violation.
- I. Covers may be required by the Planning Commission, based on recommendations from technical agencies.
- J. All new and existing uncovered manure storage structures and basins shall be surrounded by metal, chain link, or wooden fencing to a minimum height of 6 feet, with fencing of sufficient construction to exclude children and livestock. This fence shall be maintained whether or not the manure storage structure or basin is in use and until and unless the structure or basin is filled in with clean granular fill and abandoned.
- K. When use of any new or existing feedlot is discontinued, any associated manure storage structures must be completely emptied and the manure spread in accordance with an approved waste utilization plan within 2 months of the date use of the feedlot ceases.

## **1100 STANDARDS FOR TRANSPORTATION OF MANURE:**

- A. All vehicles used to transport animal manure on township, county, state, interstate highways, or through municipalities shall be leakproof. This provision shall not apply to animal manure being hauled to fields adjacent to feedlot operations or fields divided by roadways, provided the animal manure is used as fertilizer.
- B. Any person located outside the jurisdiction of this Ordinance that transports manure to areas within the jurisdiction of this Ordinance with the intent of storing or disposing of said manure within Cass County shall provide the Department with a complete manure management plan and shall comply with all provisions of this ordinance.

## 1200 AGRICULTURAL USE EASEMENTS

As a part of any permit for a new residential development within one quarter mile of a feedlot and/or spreading areas identified in the waste management plan, the owners of the property on which the residential development is located shall grant to the owners of all property adjacent to the development, a perpetual nonexclusive easement as follows:

- A. The Grantors, their heirs, successors, and assigns acknowledge by the granting of this easement that the residential development is situated in an agricultural area and may be subjected to conditions resulting from commercial agricultural operations on adjacent lands. Such operations include livestock raising and the storage and application of animal manure, and other accepted and customary agricultural activities conducted in accordance with federal and state laws. These activities ordinarily and necessarily produce noise, dust, smoke, odors, and other conditions that may conflict with Grantors' use of Grantors' property of residential purposes. Grantors hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent lands which may conflict with Grantors' use of Grantors' property for residential purposes and grantors hereby grant an easement to adjacent property owners for such activities.
- B. Nothing in this easement shall grant a right to adjacent property owners for ingress or egress upon or across the described property. Nothing in this easement shall prohibit or otherwise restrict the Grantors from enforcing or seeking enforcement of statutes or regulations of governmental agencies for activities conducted on adjacent properties.
- C. This easement is appurtenant to all property adjacent to the residential development and shall bind to the heirs, successors, and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors, and assigns. The adjacent landowners, their heirs, successors, and assigns are hereby expressly granted the right of third party enforcement of the easement.
- D. This easement shall be filed on forms provided by the Department (See Appendix D)

## 1300 ADOPTION

BE IT ORDAINED THAT:

THE CASS COUNTY FEEDLOT ORDINANCE IS HEREBY ADOPTED BY THE CASS COUNTY BOARD OF COMMISSIONERS ON THIS

\_\_\_\_\_ Day of \_\_\_\_\_, 200\_.

\_\_\_\_\_  
Chairman, County Board of Commissioners

ATTEST:

\_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_, 200\_

## **1400 APPENDIX A--AG WASTE OPERATION AND MAINTENANCE PLAN**

The permittee shall be responsible for maintaining conservation practices to assure that they continue to serve the purpose for which they were intended. The practices must be inspected periodically to enable proper operation and maintenance. The following requirements shall apply:

### **1410 ALL COMPONENTS OF THE SYSTEM:**

- A. Inspect embankments, water course channels and ridges, level spreaders and filter strips, and holding pond inlets regularly, especially following heavy rains and spring runoff. Repair damage as soon as conditions allow with compacted earth fill, reshaping, staked sod, reseeding, and/or mulch as needed.
- B. Control brush, weed, and tree growth. Use herbicides that do no harm to the grass sod, or mow and clip where possible.
- C. Control gophers, moles, badgers, and woodchucks. They may burrow in the embankment, diversion dikes and level spreaders, creating holes that will cause wash-outs.
- D. Uncontrolled grazing shall not be permitted on the embankment sideslopes, grassed waterways, vegetated diversions, and the filter strips.

### **1420 WASTE STORAGE STRUCTURES AND HOLDING PONDS:**

NEVER ENTER CONFINED SPACES SUCH AS RECEPTION AND STORAGE PITS AND TANKS, PUMPING SUMPS, ETC., WITHOUT FIRST TESTING FOR POISONOUS GASES, ESTABLISHING AND MAINTAINING POSITIVE VENTILATION TO THE SPACE AT ALL TIMES, AND USING SPOTTERS AND PERSONAL SAFETY LINES FOR EACH PERSON ENTERING THE CONFINED AREA.

- A. Empty holding ponds and storage structures according to the waste utilization plan schedule.
- B. Agitate holding ponds only at the designated locations. Never agitate lined holding ponds except at the points specifically designed for agitation.
- C. On runoff storage ponds, maintain the water level below the marker indicating sufficient storage remains to contain the runoff from a single design storm vent.
- D. Maintain the holding pond embankment at the original height, width, and cross section as shown on the construction plan.
- E. Maintain a thick vegetative cover of grass on the embankment top and the exterior sideslopes and interior sideslopes above the water storage "full" (pump-out marker) elevation.
- F. Keep holding pond inlets free from debris and sediments.

### **1430 OTHER PRACTICES AND APPURTENANCES:**

- A. Maintain all fences in good condition, repairing broken wires, gates, and posts to insure that the safety of the fencing is not compromised.
- B. Maintain all mechanical diversions (concrete and/or treated plank) as originally installed.
- C. Maintain commercially manufactured manure delivery systems (ram pumps, liquid pumps, gutter scrapers, etc.) in good operating condition according to manufacturer's specifications and recommendations.
- D. Provide personal flotation device and/or life saving pole in the immediate vicinity.

**1440 EMERGENCY CONTACT**

**IMMEDIATE CONTACT MUST BE MADE WITH THE COUNTY FEEDLOT OFFICER, CONSULTING ENGINEER, OR THE MINNESOTA POLLUTION CONTROL IF THERE IS:**

A. Evidence of holding pond leakage, such as:

1. Seepage along the toe of the embankments (standing water, particularly "polluted" water; soft, spongy, wet areas; growth of water loving vegetation).
2. Failure of the holding pond to fill up (water level remains constant over extended time periods or raises after significant rains and then drops).
3. A sudden drop in the water level.

B. Evidence of significant waterway or diversion channel erosion.

**1450 APPLICANT'S AGREEMENT:**

I hereby certify that I understand, and will comply with, all provisions established in the Waste Utilization and Operation and Maintenance Plan as prescribed.

Signature of Applicant

Date

## 1500 APPENDIX B--DEAD ANIMAL DISPOSAL PLAN

I, \_\_\_\_\_ will dispose of my livestock or poultry carcasses by one of the following: (Circle the appropriate letter).

A. **Bury.** The site must have a minimum of 3 ft. of cover, and 5 ft. of unsaturated soil above the seasonal high water table.

B. **Incinerate.** A 600 lb. load MPCA approved incinerator must be utilized. (Attach a copy of system specifications.)

C. **Render.** Please provide the name and location of the rendering service to be utilized:

D. **Compost.** This method must be constructed and operated as specified by the \_\_\_\_\_ USDA Cooperative Extension Service.

Please attach a copy of plans for the containment of dead animals during temporary storage and screening arrangements for this structure. These plans must be deemed acceptable by the County Planning Commission.

Signature of Livestock Producer

Date

# 1600 APPENDIX C--ADDITIONAL MANURE DISPOSAL AREA AGREEMENT

The undersigned landowner agrees to allow manure from \_\_\_\_\_ 's livestock facility to be spread on \_\_\_\_\_ acres of his/her land in compliance with his/her Waste Utilization Plan. This land is located in the \_\_\_\_\_ one-quarter, of Section \_\_\_\_\_, in \_\_\_\_\_ Township, of \_\_\_\_\_ County.

Signature of Landowner ~~or Tenant~~

\_\_\_\_\_

Date

Address and Phone Number:

**1700 APPENDIX D AGRICULTURAL MANAGEMENT EASEMENT**

PARCEL ID # \_\_\_\_\_ COUNTY \_\_\_\_\_

GRANTOR(S) NAME \_\_\_\_\_

\_\_\_\_\_

GRANTOR(S) ADDRESS \_\_\_\_\_

**LEGAL DESCRIPTION:**

In accordance with section XV of the Feedlot Ordinance, Cass County, Minnesota, approving a permit for residential development on the above described property, and in consideration of such approval, Grantors grant to the owners of all property adjacent to the above described property, a perpetual nonexclusive easement as follows:

- A. The Grantors, their heirs, successors, and assigns acknowledge by the granting of this easement that the residential development is situated in an agricultural area and may be subjected to conditions resulting from commercial agricultural operations on adjacent lands. Such operations include livestock raising and the storage and application of animal manure, and other accepted and customary agricultural activities conducted in accordance with federal and state laws. These activities ordinarily and necessarily produce noise, dust, smoke, odors, and other conditions that may conflict with Grantors' use of Grantors' property of residential purposes. Grantors hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent lands which may conflict with Grantors' use of Grantors' property for residential purposes and grantors hereby grant an easement to adjacent property owners for such activities.
- B. Nothing in this easement shall grant a right to adjacent property owners for ingress or egress upon or across the described property. Nothing in this easement shall prohibit or otherwise restrict the Grantors from enforcing or seeking enforcement of statutes or regulations of governmental agencies for activities conducted on adjacent properties.
- C. This easement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors, and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors, and assigns. The adjacent landowners, their heirs, successors, and assigns are hereby expressly granted the right of third party enforcement of the easement.

IN WITNESS WHEREOF, the Grantors have executed this easement dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Grantor

Grantor



## 1800 APPENDIX E--CONSTRUCTION INSPECTION GUIDELINES

The Construction Inspection Plan shall contain the following minimum criteria:

1. MPCA requires a registered professional engineer to design concrete storage structures having a capacity of 500,000 gallons or greater.
2. Contractor and landowner shall contact engineer prior to the start of construction to review plans and specification requirements.
3. During construction, the engineer will inspect the following:
  - a. Moisture content of earth fill material.
  - b. Compaction of earth embankment.
  - c. Basin bottom and slope material after it is cut and placed to grade, but before it is scarified and recompactd.
  - d. Final elevations, grades, and dimensions.
  - e. Contractor's placement of steel reinforcement before concrete is placed, if used.
  - f. Quality of the concrete and method of placement, if used.
  - g. Placement and condition of synthetic liner, if used.

Project Engineer Signature