

## **725. Livestock Feedlots.**

### **725.1 Intent**

This ordinance addresses production sites as well as manure, process wastewater, manure storage areas and land application. These rules comply with the policy and purpose of the State of Minnesota statutes regarding control of pollution as set forth in Chapters 115 and 116. This Ordinance is adopted in order to (1) protect the health and safety of the residents of Nobles County, as well as to enhance their welfare; (2) regulate the development, location, operation, and maintenance of feedlots and manure storage structures so as to prevent contamination of air and surface and groundwater within Nobles County; (3) protect water quality within Nobles County against the improper handling of manure which can contribute pathogens, nutrients and biological demanding material into surface water; and (4) to allow for the continued production of agricultural commodities and to maintain a healthy agricultural community within the County while ensuring that animal feedlots and animal manure are properly managed to protect the health of the public and the County's natural resources.

**All existing and future feedlots in Nobles County shall comply with the minimum standards set forth within the Minnesota Pollution Control Agency (MPCA) Chapter 7020 rules and updates, as well as the good neighbor policy, and this Ordinance.**

**Good Neighbor Policy:** A good neighbor is neighborly, amiable and obliging to the people impacted by their farming operation. A good neighbor is considerate of wind direction, odor and timing of manure application to minimize odors to others, shields the view of dead animals from the public and avoids and minimizes other possible annoyances or nuisances whenever reasonably possible.

### **725.2 Feedlot License Requirements**

No person shall operate an animal feedlot without first obtaining a Feedlot License from Nobles County.

A Nobles County Feedlot License shall be issued to all existing and new feedlots with greater than 10 animal units, which do not have a potential pollution hazard, who have applied for a license and meet the minimum standards set forth in this ordinance and that of MPCA Chapter 7020 rules.

The Nobles County Feedlot License will be valid for a period of four (4) years from issuance. If there has been no change in the operation in the four year period and the operator is in compliance with the Nobles County ordinances and the various State laws

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and regulations that are in effect at the end of the four year period, then the license may be renewed for an additional four year period. The county shall notify owners at least 90 days prior to the scheduled registration update deadlines about re-registration and send a receipt of registration to owners within 30 days of receipt of the registration.

### 725.3 Re-Application for a Nobles County Feedlot License

The owner of a proposed or existing animal feedlot of greater than 10 animal units shall make an application to Nobles County for a feedlot license when any of the following conditions exist:

1. A change of ownership.
2. Within 90 days prior to expiration of an existing Nobles County Feedlot License.
3. When re-populating a previously licensed site that has been below 10 A.U. for more than 4 years.

### 725.4 Animal Feedlot Pollution Control Requirements

1. General. No animal feedlot or manure storage area shall be constructed, located, or operated in a manner which will create or maintain a potential pollution hazard.
2. Vehicles, Spreaders. All vehicles used to transport animal manure on township, county, state, and interstate highways or through municipalities shall be leak-proof.
3. Manure Storage Capacity. New manure storage capacity shall be for a minimum of nine months when animal manure is utilized as domestic fertilizer. Animal manure packs or mounding within the animal feedlot shall not be considered as part of the storage capacity. This ordinance does not recommend animal manure packs and mounding within any feedlots, for a period longer than one year. If the operation is abandoned, the stored manure shall not be stored for more than one year.
4. Manure Management. Any animal manure shall be treated or disposed of in accordance with applicable state rules; MPCA Rules 7020.2225.
  - a. All feedlot sites with over 300 A. U. must develop a MMP and have it readily available within 24 hours.
  - b. All feedlots between 100 A.U. and 300 A.U. must maintain manure application records indicating date, location and amount applied.
  - c. ***All feedlots over 100 A.U. applying manure within a wellhead protection area must do yearly soil sampling for Nitrate and Phosphorus and manure sampling and provide that information to the county environmental office and public water suppliers.***

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Application rates should be consistent with Best Management Practices that are site specific as established by the State of Minnesota.

5. Record Retention, Access to Records and Inspections (MN Rule 7020.0250)

A person required to keep records under this Chapter shall maintain at the animal feedlot or manure storage area, or at the person's business address, for three years from the date the record was made, unless otherwise specified, all information required to be recorded under applicable state and federal rules. The person shall make these records available for examination and copying upon request of the Commissioner, County Feedlot Officer, Nobles County Environmental Services, Nobles SWCD, Pollution Control Officer, or Agent of the Commission and shall, upon request, submit these records to the Commissioner, County Feedlot Officer, Nobles County Environmental Services, Nobles SWCD, Pollution Control Officer or Agent of the Commissioner within 30 days.

6. Owner's Duties. The owner or operator of any animal feedlot shall be responsible for the storage, transportation, and disposal of all animal manure generated in a manner consistent with the provision herein.

725.5 Animal Units

Animal unit calculations will be consistent with MN 7020 Rules.

725.6 Permit Types

Prior to issuing a Nobles County Feedlot License, Nobles County Environmental Services or the MPCA may issue one of the following permits:

1. Construction Short Form (CSF) Permit

The CSF Permit covers owners and operators of animal feedlots and manure storage areas having a capacity of 300 to 999 Animal Units who are constructing or expanding their facility. The CSF Permit is issued to facilities that do not have a pollution hazard. The CSF Permit shall be good for a period of 24 months from the issuance date and may be extended for one 24 month period if construction is not complete.

2. Interim Permit:

The Interim Permit covers owners and operators of animal feedlots and manure storage areas that have an identified pollution hazard at their facility to correct. The Interim Permit shall be good for a period of 24 months from the issuance date, but may be extended for an additional 90 days if construction is not complete. An owner

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issued an Interim Permit that authorizes construction for an expansion shall not stock the expansion prior to correcting all pollution hazards identified in the Interim Permit.

The owner of an existing animal feedlot of greater than 10 animal units shall make an application to Nobles County for an Interim Permit when:

An inspection by Minnesota Pollution Control Agency (MPCA) staff, Nobles County Environmental Services, SWCD or NRCS staff reveals that the feedlot is creating a potential pollution hazard.

#### 725.7 Information Required for a Construction Short Form or Interim Permit

1. A map or aerial photo indicating dimensions of feedlot, showing the location of all existing home, buildings, lakes, ponds, water courses, wetlands, dry runs, rock outcroppings, roads, wells, contour and surface water drainage within 1,000 feet of the feedlot or proposed feedlot, including waste storage areas.
2. A description of the animal types, the maximum number of animals of each type which can be confined at the animal feedlot, the location of the animal feedlot, soil type, and hydro geological conditions.
3. Provide Nobles County with a Dead Animal Disposal Plan indicating the type of disposal and/or type of facility to shield dead animals from public view. The method or plan for disposal of dead animals shall be consistent with the Minnesota Board of Animal Health Regulations, Statute 35.82.
4. A manure management plan including manure handling and application techniques, acreage available for manure application and plans for any proposed manure storage structure, if not part of a building. Any plans for concrete manure storage structures of 20,000 gallons capacity or larger, or any earthen storage basin or lagoons, shall have been prepared by a registered professional engineer.
5. A water supply verification form.
6. Any other additional information requested by the Nobles County Environmental Services or MPCA needed for the completion of the application.

#### 725.8 Required Separation Distance for Feedlots.

New feedlots will meet the following separation requirements set forth in this ordinance.

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1. All new feedlots will be prohibited within 100 year floodplain areas and in shoreland.
2. New feedlots shall be as stipulated in MPCA 7020.2005 subpart 1. from any public or private well.
3. No new feedlot shall be located within 1,000 feet of the normal high water mark of a lake or within 300 feet of the normal high water mark of a stream or river.
4. Minimum separation distance for new feedlots from a public, county judicial or private drainage ditch is 300 feet.
5. Feedlots that do not meet permitted separation distances as outlined in Table 1 will require a Variance.

**Table 1 Permitted Separation Distances for Feedlots**

Animal Units	10-299 AU	300-999 AU	1000-1999 AU	2000-5000 AU	5001 + AU
Rural Use (1)	¼ Mile	3/8 Mile	½ Mile	¾ Mile	1 Mile
Population Centers (2)	1 Mile	1 Mile	1 Mile	1 ½ Miles	3 Miles
Church or dedicated place of worship and cemeteries outside corporate limits	3/8 Mile	3/8 Mile	3/8 Mile	3/8 Mile	3/8 Mile
County Parks	3/8 Mile	3/8 Mile	3/8 Mile	1 Mile	1 Mile
Maka-Oicu & Fury's Island	½ Mile	1/2 Mile	½ Mile	1 Mile	1 Mile

(1): Habitable Residence, Commercial and Industrial Uses Within the Agricultural Preservation District. Feedlot setbacks do not apply to the applicant's own residence, any residence on the farm where the feedlot is located, or any residence owned by a family member of the applicant or owner. For the purposes of this provision "family member" shall be deemed to include parents, siblings, step-siblings, grandparents, and father or mother in-laws.

(2): Includes Corporate limits of any city, R-1, R-2, B-1, or I Districts and concentration of 10 or more residential lots.

Note: Increase the distance by 1.5 times if open liquid earthen manure storage is used and 1.2 times if open liquid containment tanks are used.

1. Property line. A minimum setback of 30 feet from property line. Measurement for livestock buildings shall be from the eave of the structure.
2. Road Setbacks – shall be 275 feet from centerline of a Township road and 300 feet from centerline of a County or State road, unless it is part of a farmstead

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existing before 1997, then the minimum setback shall be 80 feet from centerline of a Township road and 125 feet from centerline of a County or State road. Measurement for livestock buildings shall be from the eave of the structure.

3. If a proposed new feedlot site anticipates expansion in the future, setbacks for the site including the expansion shall be met upon construction of the first structure.
4. All feedlots shall comply with the feedlot standards in Section 725 Feedlot License Requirements of Nobles County Zoning Ordinance.

#### 725.9 Notice of Application for Feedlot Permit – MPCA 7020 Rules

A person who applies for a permit to construct or expand a feedlot with a capacity of 500 animal units or more shall, no fewer than 20 business days before the date on which a permit is issued, provide notice to the Clerk of the Township in which the feedlot is proposed, and each resident and each owner of real property within 5,000 feet of the perimeter of the proposed feedlot. The notice may be delivered by first class mail, in person, or by the publication in a newspaper of general circulation within the affected area and must include information on the type of livestock and the proposed capacity of the feedlot.

The County must verify that notice was provided as required above prior to issuing a permit.

#### 725.10 Land Application of Manure (MN Rules 7020.2225)

1. Manure and process wastewater land application must conform to MN Rules 7020.
2. Manure and process wastewater application into road ditches is prohibited.
3. When ownership of manure or process wastewater is transferred from an animal feedlot with capacity of 300 or more animal units, or a manure storage area capable of holding the manure produced by 300 or more animal units, for application to land not owned or leased by the owner of the animal feedlot or the manure storage area, any person receiving the manure or the process waste water shall:
  - a. Comply with the manure management plan completed by the owner of the animal feedlot where the manure or process wastewater was produced; and
  - b. Complete the manure management plan requirements in subpart 4, item D (MN

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Rules 7020), except for provisions that were completed by the owner of the animal feedlot where the manure or process wastewater was produced.

Irrigation: Top water with less than 15 lbs. of nitrogen per 1,000 gallons may be land applied in accordance with MN Chapter 7020. Tests for nitrogen content shall be taken at any time as requested by Nobles County Environmental Services. Manure application by a traveling gun, center pivot, or other irrigation equipment is not permitted.

**Surface Manure Application Setbacks to Sensitive Areas:**

All manure and process wastewater applied to Special Protection areas, including those who do not need a permit or written manure management plan, are required to follow setbacks and other rules required in Chapter 7020.

**725.11 Manure Stockpiling Sites (MN Rules 7020.2125)**

All manure stockpile sites in Nobles County shall comply with MN Rules 7020.

**725.12 Conditional Use Permits**

The procedures for obtaining a conditional use permit will be the same as those established by Nobles County Zoning Ordinance Section 505. To apply for a conditional use permit, applicants should contact Nobles County Planning & Zoning Administrator.

1. Conditional Use Permit will be required when:
  - a. An existing feedlot is expanded over total operation of 1,000 animal units.
  - b. A new feedlot is proposed with over 1,000 animal units.
  - c. Any feedlot constructing a lagoon system, earthen storage basin, or any other open liquid containment tanks for the storage or treatment of animal waste.
  - d. New facilities for the raising, breeding, housing, selling, training, or any other form of keeping of animals for profit or pleasure may be permitted by Conditional Use Permit when lots one (1) acre or more in size in an R-1, R-2, B-1, or I District.
2. Standards for Conditional Use Permits.
  - a. The County may impose, in addition to the standards and requirements set forth in this ordinance, additional conditions which the Planning Commission or

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County Board consider necessary to protect the health, safety, and welfare of the public. This may include the planting of trees or shrubs to be used as a windbreak, a grass filter strip, establishing of a buffer zone, collection of water samples, methods of manure application, dead animal disposal, and all other conditions deemed necessary.

- b. All feedlots shall be operated in a manner consistent with the MN 7020 Rules and Nobles County Feedlot License.

#### 725.13 Animal Feedlot or Manure Storage Area Closure (MN RULES 7020.2025)

Closure of all animal feedlots or manure storage areas shall comply with MN Rules 7020.2025.

#### 725.14 Environmental Reviews, pursuant to Minnesota Rules, Chapter 4410

All feedlots shall comply with Section 509 Environmental Review of the Nobles County Land Use Ordinance.

1. The MPCA is the responsible Government Unit for mandatory environmental reviews pursuant to the Environmental Quality Board (EQB), Minnesota Rules, Chapter 4410.
2. Discretionary Environmental Review. Any agency of government with an approval interest in the project has the authority pursuant to the EQB rules to order discretionary environmental review for any project.

#### 725.15 Standards for Earthen Basins, Lagoons, Concrete Pits

1. The standards for these structures shall be in compliance with MPCA requirements.
2. The capacity of any earthen basin, lagoon, or concrete pit for manure storage or treatment should be in accordance with NRCS or Midwest Planning Service guidelines, and have a minimum storage capacity of nine (9) months plus a freeboard factor.

#### 725.16 Feedlot Inspections

The MPCA, SWCD or Nobles County Environmental Services may make an on-site inspection of any of the county's feedlots, and:

1. If a potential pollution problem does not exist the feedlot owner shall be notified.
2. If a potential hazard is found to exist, the animal feedlot owner shall be notified.

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Upon notification, the owner must within 15 working days, respond to the MPCA or Nobles County Environmental Services with plans and a timetable for abatement.

#### 725.17 Variance - Nobles County

The procedures for obtaining a variance will be the same as those established by Nobles County Zoning Ordinance Section 506. To apply for a variance, applicants should contact Nobles County Planning and Zoning. A variance may be applied for where:

- 725. The required setbacks in the Nobles County Feedlot Ordinance cannot be met due to hardship/practical difficulty.
- 726. Any feedlot where rules may create a unique hardship/practical difficulty due to conditions not created by the feedlot operator or owner.

#### 725.18 Variance - State Rules

Any person may apply for a variance from any requirements of MN Chapter 7020.2000 to 7020.2225 MPCA feedlot regulations. Such variance shall be applied for and acted upon by the MPCA in accordance with Minnesota Statutes, Section 116.07, subdivision 5, and other applicable statutes and rules.

#### Additions to Definitions:

**Special Protection Area** – Special Protection Area means land within 300 feet of all:

A: protected waters and protected wetlands as identified on Department of Natural Resources Protected waters and wetlands maps; and

B: intermittent streams and ditches identified on United States Geological Survey quadrangle maps, excluding drainage ditches with berms and segments of intermittent streams which are grassed waterways.

#### **Practical Difficulty** –

“Practical difficulties,” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; 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 do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

**Nobles County Feedlot License** - a license issued by Nobles County Environmental Services for the operation of a feedlot with 10 or more animal units within the boundary of Nobles County.

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**Process Wastewaters** - "Process wastewaters" means waters and/or precipitation, including rain or snow, which comes into contact with manure, litter, bedding, or other raw material or intermediate or final material or product used in or resulting from the production of animals, poultry, or direct products, such as milk or eggs.

**Habitable Residence** - any dwelling occupied, or to be occupied, by persons as a place of abode and shall include residences located in counties and states adjacent to Nobles County.

**Cemetery** - is property used for the interment of the dead which is operated or owned by a cemetery association, local governmental unit, or congregation of worshipers and which is used and operated for cemetery purposes, including all structures, monuments, mausoleums and chapels operated in conjunction with the cemetery and located within the boundaries of such cemetery.

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