

Madison County Guidelines for Conditional Use Permits for Confined Animal Feeding Operations

When do I need a Conditional Use Permit?

You need a Conditional Use Permit when you are operating a feedlot on property zoned "A-1" Agricultural District in Madison County.

What does Madison County consider a feedlot?

The following is the Madison County Zoning Regulations definition affecting feedlots.

FARM shall mean an area containing at least twenty (20) acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing produce and the feeding of livestock as hereinafter prescribed; provided such accessory uses do not include the feeding of garbage or offal to swine or other animals. In contrast to a commercial feedlot hereinafter defined, any person operating within the following categories is conducting a farming operation and is not considered as operating a commercial feedlot.

FARMING shall mean the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed; provided such accessory uses do not include the feeding of garbage or offal to swine or other animals. In contrast to a Livestock Feeding Operation (LFO), as hereinafter defined, any person or entity operating within the following categories shall be considered to be a farming operation and shall not be considered as operating a LFO unless the operation exceeds the following:

- A. Two (2) Animal units for the first acre and an overall density of One (1) animal Unit (A.U.) per acre for a parcel less than forty (40) acres in size;
- B. One-and-one-half (1.5) A.U. per acre for a parcel of land greater than forty (40) acres, but less than eighty (80) acres; or
- C. Two (2) A.U. per acre for parcels over eighty (80) acres.
- D. Exception: When a temporary permit is issued for animals used strictly for educational purposes in conjunction with a non-profit sponsor, school district or other political subdivision to a maximum of four (4) A.U.'s. Said Temporary Permit shall be valid for a period of twelve (12) months and is validated by the program sponsor/instructor.

Notwithstanding the provisions of A-C above, anytime the number or combination of Animal Units (A.U.) exceeds three hundred (300), regardless of the size of the parcel of land, and where the confined area is for more than six (6) months in any one calendar year, the operation shall be considered a LFO and the owner/operator shall be required to obtain a Conditional Use Permit.

FEEDLOT shall mean the confinement of horses, sheep, pigs, cattle, and other food animals in buildings, lots, pens, pools or ponds which normally are not used for raising crops or for grazing animals. (Nebraska Department of Environmental Quality)

LIVESTOCK FEEDING OPERATION (LFO) shall mean any farming operation exceeding the per acre Animal Unit (A.U.) ratio as defined under "farming" or the feeding, farrowing, raising cattle, swine, sheep, poultry, or other livestock, in a confined area is for more than six (6) months in any one calendar year, and where the number of animals so maintained exceeds three-hundred (300) Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes.

- One (1) A.U. = One (1) Cow/Calf combination
- One (1) A.U. = One (1) Slaughter, Feeder Cattle;
- One (1) A.U. = One-half (0.5) Horse;
- One (1) A.U. = Seven-tenths (0.7) Mature Dairy Cattle;
- One (1) A.U. = Two-and-one-half (2.5) Swine (55 pounds or more);
- One (1) A.U. = Twenty-five (25) Weaned Pigs (less than 55 pounds);
- One (1) A.U. = Two (2) Sows with Litters;
- One (1) A.U. = Ten (10) Sheep;
- One (1) A.U. = One-hundred (100) Chickens;
- One (1) A.U. = Fifty (50) Turkeys;
- One (1) A.U. = Five (5) Ducks.

Any feeding operation, if it has **cattle, pigs, sheep, turkeys, chickens, ducks or geese** can be considered a feedlot if the number of animals on the property in confinement exceeds those numbers given above. Age, size, weight, and the amount of waste produced by the animal are not factors in determining when a farm becomes a feedlot. Any feeding operation with less than those given above is not considered a feedlot and can operate without a Conditional Use Permit. The farm operation may still be impacted by permits required by the Nebraska Department of Environmental Quality (DEQ).

Applying For a Conditional Use Permit for a Confined Animal Feeding Operation in Madison County.

How close is the proposed site of your feeding operation to your neighbor's?

An LFO having 301 to 5,000 animal units cannot be located closer than 1,320 feet from any non-farm residence or other LFO. LFO's having 5,001 to 10,000 animal units cannot be closer than 1,980 feet from any non-farm residence or other LFO. LFO's having more than 10,000 animal units cannot be closer than 2,640 feet from any non-farm residence or other LFO. These distance requirements may be decreased or waived by a Conditional Use Permit and an easement signed by all the property owner(s) of non-farm residences. The minimum distance cannot be waived if your planned LFO will be located near a platted residential area, public park, church, school, etc.

The LFO Conditional Use Permit (CUP) application process.

Step 1: Contact the Madison County Planning Department and request a Livestock Feeding Operation Application Packet.

Step 2: Contact a certified abstractor (the Madison County Planning Department can provide a list of qualified abstractors) and get a list of all property owners within 1,000 feet of your property lines, and submit the property owner list with your application to the Madison County Zoning Administrator.

Step 3: Submit the following to the Madison County Zoning Administrator

- ♦ Conditional Use Permit Application form
- ♦ \$75.00 check made payable to **Madison County Treasurer**
- ♦ Property owners list prepared by a certified abstractor
- ♦ A completed Conditional Use Permit Application listing all owners and operators, signed by all of the owners and a signed certification of the truth and accuracy of the information in the application;
- ♦ An application fee as set by the Madison County Board of Commissioners.
- ♦ A completed copy of the Madison County Livestock Siting Matrix.
- ♦ A statement as to the maximum number of animals and type of animals, with corresponding total number of animal units, that will be confined at the Livestock Feeding Operation for ninety (90) or more days in one year.
- ♦ Proof of ownership or control of all livestock waste storage facilities and animal confinement buildings, demonstrated by copies of relevant legal instruments.
- ♦ A closure plan of any livestock waste storage facilities, including demonstration of financial assurance.
- ♦ Total acreage of the facility, including animal confinement buildings, animal waste storage facilities, and stormwater retention ponds.
- ♦ A description of the geologic condition and soil types at the proposed location of the facility.
- ♦ A scaled map or aerial photograph of the site showing the following information:
- ♦ The locations and dimensions of all animal confinement buildings including outside lots;

- ♦ The locations, dimensions, and design criteria of all animal waste storage facilities;
- ♦ The location of any known well, active or abandoned, within 1,320 of the nearest confinement building or outside lot;
- ♦ The drainage patterns at the site;
- ♦ The location of all homes, buildings, lakes, ponds, watercourses, wetlands, surface drains, roads within the required setback of the L.F.O.
- ♦ Estimated number of full-time and part-time employees with estimated salaries;
- ♦ If stockpiling of animal waste and/or composting of dead carcasses, as per State Statutes, are part of the manure management plan, the waste shall be maintained in an area at least one (1) mile from a platted residential area, school, or church. Said area shall also be located on the proposed site plan indicated in number 9 above.

Step 4: A Pre-submission meeting with the Madison County Joint Planning Commission will be scheduled prior to formal submission of the CUP application.

For this meeting you will need:

- 1) A proposed site plan pending approval of the proposed LFO and waste disposal plan from the Nebraska Department of Environmental Quality.
- 2) A completed Madison County Livestock Feeding Operation Siting Matrix with all pertinent support materials.

How long will the permitting process take?

You must have completed the application, received the property owners list from the abstractor, have completed the pre-submission meeting, and passed the minimum Matrix score before a Public Hearing will be held.

The deadline for the Planning Commission agenda is always 15 days before the fourth Thursday of the month. You will be notified of the meeting time and date and you should plan to attend the meeting.

At the Public Hearing on your application exhibits will be filed on behalf of the county, including the completed Matrix and score and all of your supporting documentation. Those supporting your application, including yourself will address the Planning Commission followed by those against your application. No action will be taken on your application at this meeting, but the public hearing could be continued to the next regular Planning Commission meeting to gather additional information. If the public hearing is continued, the planning commission will ask for information which they would like to have presented, but which is not available at the time of the initial public hearing.

Following the completed public hearing, your application will be scheduled for action by the Planning Commission and their next regularly scheduled meeting. The commissioners will, based on a "Statement of Findings of Fact" developed from the testimony and exhibits presented at the public hearing: recommend the permit for approval or denial; or table the permit until a later date.

If the permit is recommended for **approval**, it will go before the Madison County Board of Commissioners for another public hearing. Generally you can plan on the hearing to be held the first Tuesday of the following month. This allows for proper public notification.

If the permit is recommended for **denial**, it will still go before the Madison County Board of Commissioners for another public hearing. It is up to you whether or not to proceed. The County

Commissioners may approve a Conditional Use Permit which has been recommended for denial, but most often agree with the planning commission and deny the permit.

If the permit is **tabled**, the planning commission can bring this item off the table at any following meeting. They will generally bring the item off the table at the next meeting, providing the information they have asked for from staff or from you is ready to be presented.

The Madison County Board of Commissioners makes all final decisions on Conditional Use Permits. They will approve or deny the permit. In some cases, they may table a permit application or continue a public hearing. The County Commissioners may add, delete or alter any of the conditions and provisions of the Conditional Use Permit. In most cases the County Commissioners will make a decision within one month of the planning commission recommendation.

What can I do to improve the chances my Conditional Use Permit will be granted?

Read the Madison County Livestock Feeding Operation Siting Matrix and give yourself a rough score based on your plans. You must have 300 or more points in order to pass the Matrix. Remember, passing the Matrix does not constitute an automatic approval, but failing the Matrix does constitute an automatic denial.