

ORDINANCE NO. 12-07

**AN ORDINANCE OF THE MADISON COUNTY FISCAL COURT, KENTUCKY
AMENDING THE LAND USE REGULATIONS OF MADISON COUNTY,**

WHEREAS, the Madison County Planning Commission recommends to the Fiscal Court to amend Section 402.6, 6 of the Madison County Land Use Regulations by expanding the section dealing with Animal Feeding Operations and Concentrated Animal Feeding Operations;

WHEREAS, the Madison County Planning Commission recommends to Fiscal Court that Section 402.6, 6 of the Madison County Land Use Regulations by expanding the section dealing with Animal Feeding Operations and Concentrated Animal Feeding Operations be amended as shown in Section 1;

NOW, THEREFORE, be it ordained by the Fiscal Court of the County of Madison, Commonwealth of Kentucky, as follows:

SECTION I

Doggie Day Care Facilities Animal Rescue Facilities		
<ul style="list-style-type: none"> Animal Feeding Operations and Concentrated Animal Feeding Operations as well as Livestock and poultry production in large quantities are considered to be a conditional use in the agricultural zoning classification. A change in farming to these more intensive activities will require a conditional use permit. See Section 402.9 		
8. Resource Extraction		R-8
Quarrying		C
Commercial Logging		C
9. Mobile/Manufactured Home Parks	UC-9	RC-9
Mobile Home Parks		P
Accessory uses allowed in all residential districts (A) such as: Storage sheds/buildings, garages/carports, swimming pools, Satellite dishes, non-commercial greenhouses.		
Legend: P = Permitted Use C= Conditional Use A= Accessory Use		

402.9 ANIMAL FEEDING OPERATIONS AND CONCENTRATED ANIMAL FEEDING OPERATIONS

Operations that are defined as Concentrated Animal Feeding Operations (CAFOs) pursuant to 401 KAR 5:060, Section 10, are required to obtain a Kentucky Pollutant Discharge Elimination System (KPDES) permit. In order to be categorized as a CAFO, an operation must first meet the definition of an animal feeding operation (AFO), as follows:

Animal Feeding Operation -- A lot or facility where animals have been stabled, are currently stabled or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and where crops, vegetation forage growth, or post-harvest residues are not sustained over any portion of the lot or facility in the normal growing season.

In order for an AFO to be defined as a CAFO, there must be a specified number of animals confined at the operation:

Concentrated Animal Feeding Operation -- In addition to the AFO definition above, (1) there are more than 300 animal units confined and there is a discharge to the waters of the commonwealth, or (2) there are more than 1,000 animal units confined. The majority of potential CAFOs in Kentucky fall under this latter category.

Regulatory Definitions of Large CAFOs, Medium CAFO, and Small CAFOs

A Large CAFO confines at least the number of animals described in the table below. A Medium CAFO falls within the size range in the table below and either:

- has a manmade ditch or pipe that carries manure or wastewater to surface water; or
- the animals come into contact with surface water that passes through the area where they're confined.

If an operation is found to be a significant contributor of pollutants, the permitting authority may designate a medium-sized facility as a CAFO.

A Small CAFO confines fewer than the number of animals listed in the table and has been designated as a CAFO by the permitting authority as a significant contributor of pollutants.

Animal Sector	Size Thresholds (number of animals)		
	Large CAFOs	Medium CAFOs ¹	Small CAFOs ²
cattle or cow/calf pairs	1,000 or more	300 - 999	less than 300
mature dairy cattle	700 or more	200 - 699	less than 200
veal calves	1,000 or more	300 - 999	less than 300
swine (weighing over 55 pounds)	2,500 or more	750 - 2,499	less than 750
swine (weighing less than 55 pounds)	10,000 or more	3,000 - 9,999	less than 3,000
horses	500 or more	150 - 499	less than 150
sheep or lambs	10,000 or more	3,000 - 9,999	less than 3,000
turkeys	55,000 or more	16,500 - 54,999	less than 16,500
laying hens or broilers (liquid manure handling systems)	30,000 or more	9,000 - 29,999	less than 9,000
chickens other than laying hens (other than a liquid manure handling systems)	125,000 or more	37,500 - 124,999	less than 37,500
laying hens (other than a liquid manure handling systems)	82,000 or more	25,000 - 81,999	less than 25,000
ducks (other than a liquid manure handling systems)	30,000 or more	10,000 - 29,999	less than 10,000
ducks (liquid manure handling systems)	5,000 or more	1,500 - 4,999	less than 1,500

¹ Must also meet one of two "method of discharge" criteria to be defined as a CAFO or may be designated.

² Never a CAFO by regulatory definition, but may be designated as a CAFO on a case-by-case basis.

All applications for a "Conditional Use Permit" for an animal feeding operation or concentrated animal feeding operation shall be accompanied with detailed site plan depicting certain site specific conditions such as, but not limited to;

- 1) Site plan. Plan shall identify the total acreage, topographic information, proximity to blueline creeks or streams and what watershed the property is located in;
- 2) Proposed site location of the animal feeding lot, buildings and etc.
- 3) Proposed location of any sediment or run off retention ponds;
- 4) Any natural or manmade buffers or screening proposed.

If a conditional use permit is granted by the Board of Zoning Adjustments, a complete site development plan shall be submitted to and approved by the Madison County Planning Commission prior to commencing the animal feeding operations. Compliance with all permitting requirements imposed by the Environmental Protection Agency and the Kentucky Division of Water, KPDES General Permit or KPDES Individual Permit as mandated by the Division of Water or other state and federal regulatory agencies shall be presented to the Madison County Planning Commission. See <http://water.ky.gov/permitting/Pages/AFOsandCAFOs.aspx> for other permitting requirements and contact information regarding Division of Water permitting requirements.

Other Animal Feeding Operations

For all other animal feeding operations employing a liquid waste handling system, the operation must obtain a state operational permit pursuant to 401 KAR 5:005. To apply for this **Kentucky No Discharge Operational Permit (KNDOP)**, Short Form B must be submitted along with any supporting documentation. There is no permit fee for a KNDOP Permit.

Construction Permits

For any animal feeding operation (including CAFOs), regardless of size, that plans to construct a new or expand upon an existing liquid waste handling system, a Construction Permit pursuant to 401 KAR 5:005 must be obtained prior to the start of construction. To apply for a Construction Permit, Short Form B must be submitted along with any supporting documentation. There is no fee for the permit.

Applicable Regulatory Requirements for AFOs

The KNDOP regulations govern the permitting requirements and procedures for addressing AFOs. The following cite also applies:

KNDOP Regulation 401 KAR 5:005 (Agriculture Water Quality Act)

The Kentucky Agriculture Water Quality Act (KRS 224.71-100 through 224.71-140) was passed by the 1994 General Assembly. The law focuses on the protection of surface water and groundwater resources from agriculture and silviculture activities. The act creates the Kentucky Agriculture Water Quality Authority (KAWQA), a 15-member peer group made up of farmers and representatives from various agencies and organizations.

All farms (AFOs, CAFOs and other) greater than 10 acres in size are required to adhere to the Best Management Practices (BMPs) specified in the Kentucky Agriculture Water Quality Plan. Specific BMPs have been designed for all operations (e.g., BMP #17 for poultry operations). For more information regarding the KAWQA, see the Division of Conservation Web site.

Questions

If you have any questions regarding any of these State permit requirements, or need clarification as it relates to your operations, please contact the KY Division of Water, Surface Water Permits Branch at 502-564-3410.

SECTION II

That the County Clerk cause this ordinance to be published in accordance with the appropriate Kentucky Revised Statues.

DATE OF FIRST READING: June 12, 2012

MOTION BY: Greg King

SECONDED BY: Roger Barger

VOTE: YES NO

JUDGE, KENT CLARK	✓
MAGISTRATE LARRY COMBS	✓
MAGISTRATE ROGER BARGER	✓
MAGISTRATE GREG KING	✓
MAGISTRATE BILLY RAY HUGHES	✓

DATE OF SECOND READING: June 26, 2012

MOTION BY: Roger Barger

SECONDED BY: Greg King

VOTE: YES NO

JUDGE, KENT CLARK ✓
MAGISTRATE LARRY COMBS ✓
MAGISTRATE ROGER BARGER ✓
MAGISTRATE GREG KING ✓
MAGISTRATE BILLY RAY HUGHES ✓

Kent Clark
MADISON COUNTY JUDGE EXECUTIVE

Attest:

Ken Bay Price
MADISON COUNTY CLERK

PUBLIC NOTICE
ORDINANCE 12-07

The Madison County Fiscal Court will have 2nd Reading of Ordinance 12-07 at a Fiscal Court meeting on Tuesday, June 26, 2012 at 9:30 a.m. in the Madison County Courtroom, Richmond. This ordinance amends the Land Use Regulations Section 402.6 by expanding the section dealing with Animal Feeding Operations and Concentrated Animal Feeding Operations. An entire copy of this ordinance is available in the office of the County Judge Executive.