

GENERAL RESOLUTION: 2016-01

of the Bartholomew County, Indiana Plan Commission

regarding the
amendment of the Confined Feeding Operation (CFO) and Concentrated Animal Feeding Operation (CAFO) Standards of the Bartholomew County Zoning Ordinance

WHEREAS, on February 4, 2008 the Board of Commissioners of Bartholomew County, Indiana passed Ordinance No. 3, 2008 adopting a replacement zoning ordinance, including zoning maps, for the jurisdiction of Bartholomew County; and

WHEREAS, the zoning ordinance includes requirements for Confined Feeding Operations (CFOs) and Concentrated Animal Feeding Operations (CAFOs); and

WHEREAS, the zoning ordinance is subject to periodic review and revision to ensure that it remains effective, legally defensible, clear, and consistent with community goals; and

WHEREAS, the periodic revision of the zoning ordinance is both an expected and planned component of its administration and is necessary for its long-term relevance; and

WHEREAS, the Board of Commissioners of Bartholomew County has established a CFO/CAFO Study Committee for the purpose of reviewing the Zoning Ordinance provisions for such facilities and recommending any needed amendments; and

WHEREAS, the CFO/CAFO Study Committee has undertaken a process that has involved presentations from appropriate experts in the applicable fields, visits to existing CFO/CAFO facilities, research, technical input from the City of Columbus – Bartholomew County Planning Department, and public input; and

WHEREAS, the CFO/CAFO Study Committee has recommended amendments to the zoning ordinance; and

WHEREAS, the zoning ordinance revisions are for the purposes described by IC 36-7-4-601(c); including (1) the securing of adequate light, air, convenience of access, and safety from fire, flood, and other danger; (2) lessening or avoiding congestion in public ways; and (3) promoting the public health, safety, comfort, morals, convenience, and general welfare; and

WHEREAS, the Bartholomew County Plan Commission did, on February 10, 2016, hold a legally advertised public hearing on the zoning ordinance amendments; and

WHEREAS, the Plan Commission has considered the criteria provided by IC 36-7-4-603; including (1) the Comprehensive Plan, (2) the current conditions in each district, (3) the most desirable use for land in each district, (4) the conservation of property values, and (5) responsible growth and development; and

WHEREAS, the Plan Commission recognizes that its action on this matter represents a recommendation to the Board of Commissioners of Bartholomew County, Indiana, which will be responsible for final action on the request.

NOW THEREFORE BE IT RESOLVED, by the Plan Commission of Bartholomew County, Indiana, as follows:

The proposed amendments to the Bartholomew County Zoning Ordinance described below are forwarded to the Board of Commissioners of Bartholomew County with a favorable recommendation. This resolution shall serve as the certification required by IC 36-7-4-605.

- a) Zoning Ordinance Section 6.3(B) is retitled as “CFO Requirements” and amended to read as follows:

Confined feeding operations (CFOs) shall be located consistent with Article 3 of this (the Zoning) Ordinance. All such operations shall meet any and all applicable requirements of the federal, state, and local government in addition to the standards listed below. Any CFO that does not meet one or more of these standards may be allowed by the Board of Zoning Appeals as a conditional use.

1. Required Property Size: No CFO shall be located on any-property of less than 10 acres.
2. Required Property Setbacks: All structures used in association with a CFO facility, including waste storage facilities, shall be setback a minimum of 100 feet from all property lines, including all street or road rights-of-way.
3. Minimum Separation Distances: All CFOs shall be separated from other properties and/or land uses as specified below:
 - a. *Residential Zoning Districts*: No CFO facility shall be located closer than ½ mile to any Single-family Residential or Multi-family Residential zoning district. The separation shall be measured from the nearest structure associated with the CFO facility to the boundary line of the zoning district.
 - b. *Incorporated Cities and Towns Without Zoning*: No CFO facility shall be located closer than ½ mile to any incorporated city or town (Clifford, Elizabethtown, and Jonesville, for example) that has not adopted a zoning ordinance. The separation shall be measured from the nearest structure associated with the CFO facility to the corporate limits.
 - c. *Residential Properties in Agricultural Zoning Districts*: No CFO facility shall be located closer than 500 feet to any residential property (any property of 5 acres or less, regardless of whether or not it currently contains a residence) located in an Agricultural zoning district. The separation shall be measured from the nearest structure associated with the CFO facility to the residential property line.
 - d. *Farm Dwellings in Agricultural Zoning Districts*: No CFO facility shall be located closer than 500 feet to any farm dwelling (a residence located on a property of greater than 5 acres) located in an Agricultural zoning district. The separation shall be measured from the nearest structure associated with the CFO facility to the farm dwelling.
 - e. *Certain Community Facilities*: No CFO facility shall be located closer than ¼ mile to any (1) school (including a trade or business school, college or university, and day-care center); (2) health care facility (including a hospital, clinic, retirement facility, and nursing home / assisted living facility); (3) worship facility; or (4) recreational facility (including all park uses and all outdoor recreational uses). In the case of nature preserves (which are considered a park use) the specified separation shall only be required if the nature preserve is dedicated by the State of Indiana. The separation shall be measured from the nearest structure associated with the CFO facility to the property line of the other use.
 - f. *Private Wells for Household Use*: No CFO facility shall be located closer than 500 feet to any private well providing water for bathing, cooking, drinking and other household purposes. The separation shall be measured from the nearest structure associated with the CFO facility to the well water withdrawal location. In no instance shall this provision be interpreted as requiring separation between a CFO facility and wells used for irrigation or other non-household purposes.
 - g. *Exemptions*: The following exemptions shall apply to the minimum separation distances described above:

- i. No minimum separation distance shall be required from a CFO facility to any residence, farm dwelling, or well located on the same property with that facility.
 - ii. No minimum separation distance shall be required from a CFO facility to any nearby residential property or off-site farm dwellings associated with the CFO. A residential property and/or farm dwelling shall be considered as being associated with the CFO if they are in the same ownership as the CFO. Ownership shall not be required to be identical and may be considered the same if, for example, individuals who own the residential property and/or farm dwelling also own all or part of a corporation that owns the CFO. Further, residential properties and/or farm dwellings may be considered as associated with the CFO if they are owned by others in the same family as those who own the CFO or by employees of the CFO. The existence of any association shall be determined by the Planning Director. The Planning Director may require written waivers of the required separation from any of those who may be considered as associated with the CFO.
 - iii. No minimum separation distance shall be required from a CFO facility to any residential properties, farm dwellings, specified community facilities or wells that are established after the CFO facility (and shall therefore not apply to the future expansion of that CFO facility). The CFO facility, as well as farm dwellings and community facilities, shall be considered established upon the start of their construction. Residential properties shall be considered established upon the recording of the approved subdivision plat for any new lots. Wells shall be considered established upon being placed in operation.
4. Permit Requirements: No CFO facility shall be constructed, enlarged, or otherwise physically expanded without the prior issuance of an Improvement Location Permit consistent with Chapter 12.9 of this (the Zoning) Ordinance.

b) The Zoning Ordinance Section 6.3(B) margin notes are amended to read as follows:

***Note:** Consistent with Article 11 (Nonconformities) of this Ordinance, existing confined feeding operations (CFOs) are not required to re-locate or alter their operations if nearby zoning or uses change.*

***Note:** The term confined feeding operation (CFO) is intended to include concentrated animal feeding operations (CAFOs) and any other similar facilities that meet the confined feeding operation (CFO) definition included in this ordinance but are otherwise also specifically identified by state and/or federal law based on the number of animals included, etc. A CAFO, for example, is a CFO which is characterized by a specific, large number of animals.*

c) Zoning Ordinance Chapter 14.2 is amended to delete the definitions of “Concentrated Animal Feeding Operation (CAFO)”, “Confined Feeding Operation (CFO)”, “Farm (CFO/CAFO type I)”, “Farm (CFO/CAFO type II)”, and “Farm (general)” and add the following replacement and new definitions:

Confined Feeding: The raising of animals for food, fur or recreation in lots pens, ponds, sheds or buildings, where they are confined, fed and maintained for at least 45 days during any 12-month period, and where ground cover or vegetation is not sustained over at least half of the animals’ confinement area. Confined feeding does not include a livestock auction or sales facility. This definition is intended to be consistent with that provided by IC 13-11-2-39 and 327 IAC 19-2-6, as amended periodically. It is deemed to include any revisions to the indicated state regulations or their successors even if the text of those regulations differs from the specifics provided in this definition.

Confined Feeding Operation (CFO): The confined feeding of at least 300 cattle, 600 swine or sheep, 30,000 fowl, or 500 horses, either in association with or separately from a farm.

This definition is intended to be consistent with that provided by IC 13-11-2-40 and 327 IAC 19-2-7, as amended periodically. This definition is further intended to distinguish confined feeding that is subject to Indiana Department of Environmental Management (IDEM) review and approval from that which is not, and to also establish local regulations through this Zoning Ordinance which apply to those confined feeding operations of a scale such that IDEM regulation is considered prudent. It is deemed to include any revisions to the indicated state regulations or their successors even if the text of those regulations differs from the specifics provided in this definition. However, in no instance shall a CFO defined here for the purposes of this ordinance be deemed to include those regulated by IDEM for reasons other than the number of animals (such as specific impacts to the waters of the state, etc.) See Also *Farm*.

Confined Feeding Operation (CFO) Facility: The structures which together function as a CFO, including those that house CFO animals and those that are involved in the storage of CFO animal waste (including lagoons and other containments). A CFO facility shall not include any structures used to house CFO animal feed.

Farm: Any property or area exceeding 5 acres in size that is generally used for agriculture (such as the production and storage of vegetables, fruit trees, or grain, and/or the raising of farm animals, such as poultry or cattle). A farm may include a single farm dwelling, all other related structures, and the storage and servicing of equipment and materials used on-site for the farm operation. A farm shall also include, as an accessory use, the seasonal sales of products grown on-site. Also, as an accessory use, a farm may function as a location where orders are placed for farm-related services (such as crop insurance) and/or bulk farm-related supplies (such as seeds). The term farm shall include all properties in residential use in an agriculture zoning district that exceed 5 acres in size. In no instance shall the term farm be interpreted as including a Confined Feeding Operation (CFO). See also *Dwelling, Farm* and *Confined Feeding Operation (CFO)*.

- d) Zoning Ordinance Section 12.9(B) is amended to replace existing subsections (1) and (1)(a) with the following and add subsection (k) as follows:
1. Zoning Compliance Certificate Required: A Zoning Compliance Certificate (ZCC), issued by the Planning Director, shall be obtained prior to the issuance of any required building permit for the following actions:
 - a. *New Construction:* construction, removal, additions to, or placement of any structure that exceeds 120 square feet in area and/or has a permanent foundation; including structures other than buildings such as towers and antennas, but excluding agricultural structures (other than those associated with a CFO facility) and single and two-family residential structures;
 - k. *Confined Feeding Operation (CFO) Facilities:* the construction, additional to, placement or installation of any CFO Facility structure(s) (including any animal waste storage).
- e) Zoning Ordinance Table 3.1 is amended to (1) delete the term “farm (CFO/CAFO type I)” and all content associated with it, (2) replace the term “farm (CFO/CAFO type II)” with the term “Confined Feeding Operation (CFO)”, and (3) replace the term “farm (general)” with the term “farm”. Further, a Confined Feeding Operation (CFO) shall be indicated as a permitted use in the AV, AP, and AG zoning districts and prohibited in all other zoning districts. Corresponding changes to the listings of permitted and conditional uses shall be made to Chapters 3.4, 3.5, 3.6, 3.23, 3.24, and 3.25.
- f) The terminology used throughout the Zoning Ordinance shall be revised as follows:
1. The term “farm (general)” shall be replaced with “farm”,
 2. The term “CFO/CAFO type II” shall be replaced with “CFO”, and

3. The term "CFO/CAFO type I" shall either be replaced with "farm" or be omitted, based on the context of its use.

**ADOPTED BY THE BARTHOLOMEW COUNTY, INDIANA PLAN COMMISSION THIS ____
DAY OF _____ 2016 BY A VOTE OF ____ IN FAVOR AND ____ OPPOSED.**

Zack Ellison, President

ATTEST:

Tom Finke, Secretary