

**Minnesota's Feedlots-
Where We Are and Where We
May Be Going Under State and
Federal Law**



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FEEDLOT RULES

OVERVIEW

Minnesota Rules chapter 7020



Minnesota Pollution Control Agency

RELATIONSHIP OF STATE RULES & LOCAL ORDINANCES

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581 N.W.2d 391
CANADIAN CONNECTION, Appellant,
v.
NEW PRAIRIE TOWNSHIP,
Respondent.
No. C6-97-2134.
Court of Appeals of Minnesota.
July 14, 1998.

Review Denied Sept. 30, 1998.

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Syllabus by the Court

1. An ordinance adopted by a township establishing reasonable setback requirements for animal feedlots is neither preempted by nor in conflict with state law.

2. The township ordinance at issue is reasonable and rationally related to addressing residents' concerns regarding odor from feedlots.

Sherry A. Enzler, Doherty, Rumble & Butler, P.A., St. Paul; and Warren C. Anderson, Amy J. Doll, Flugel, Helseth, McLaughlin, Anderson & Brutlag, Chartered, Morris, for appellant.

Peter B. Tiede, C. Todd Koebele, Murnane, Conlin, White & Brandt, St. Paul, for respondent.

Hubert H. Humphrey III, Attorney General, Mathew B. Seltzer, Assistant Attorney General, St. Paul, for amicus curiae Minnesota Department of Agriculture.

Troy J. Gilchrist, St. Michael, for amicus curiae Minnesota Association of Townships.

Carla J. Heyl, St. Paul, for amicus curiae League of Minnesota Cities.

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Mark F. Ten Eyck, Robert M. Hogg, St. Paul, for amicus curiae Minnesota Center for Environmental Advocacy.

Considered and decided by RANDALL, P.J., and KALITOWSKI and WILLIS, JJ.

OPINION

KALITOWSKI, Judge.

Appellant Canadian Connection contends the district court erred in determining respondent New Prairie Township's zoning ordinance, as it related to feedlots: (1) was not preempted by or in conflict with state law; and (2) was reasonable and supported by a rational basis.

FACTS

Canadian Connection and Solvie Farms, Inc. (Solvies) are a general partnership that builds hog barns and a corporation responsible for the "crop side" of the hog farming operation. In 1993, the Solvies applied for and received a permit from the Minnesota Pollution Control Agency (MPCA) to build and operate a hog feedlot for 450 animal units on section 22 in respondent New Prairie Township (township).

In September 1994, the Solvies applied to the MPCA to add 640 animal units. Objections to the feedlot expansion were raised by township residents at town meetings and, in March of 1995 the township: (1) noted the residents' feelings that "the township needs to do whatever is necessary to monitor and control the pollution from large feedlots"; (2) passed a resolution containing restrictions on large feedlot operations; and (3) notified the Solvies that they needed to obtain a conditional use permit before they could expand the feedlot.

Township residents then filed a petition with the MPCA requesting that the MPCA prepare an environmental assessment

Local Rules and Authority

Delegated County Feedlot Program

The Minnesota Pollution Control Agency (MPCA) created the delegated county feedlot program in 1979 with the goals of increasing local control over feedlots to better assist producers achieve regulatory compliance, and to reduce feedlot-related pollution problems. It is believed that the addition of a local feedlot authority is an asset to producers because county personnel are more knowledgeable with local conditions and considerations, which allows them to better assist producers in all aspects of regulatory compliance.

Responsibilities of Delegated Counties

A county participating in the program is most often referred to as “delegated,” which means they are given authority by the MPCA to delegate administration of the feedlot program. There are over 50 delegated counties currently administering the feedlot program. The responsibility of delegated counties has increased with the 2000 revisions to Minnesota Rules Chapter 7020. As in the past, counties must designate an individual as its County Feedlot Officer (CFO). The CFO is the primary point of contact for producers regarding feedlot issues. Prior to the 2000 revisions of Minnesota Rules Chapter 7020, delegated counties were primarily responsible for providing producers with permitting assistance and to review permit applications before forwarding them to the MPCA. Delegated counties had permitting authority over facilities with less than 300 animal units. Now the permitting authority of delegated counties has been extended to most facilities under 1,000 animal units. Additional responsibilities of delegated counties, more specifically, the CFO, include:

- Conducting a feedlot inventory and administration of the feedlot registration program.
- Distribute and review permit applications for completeness.
- Forward National Pollutant Discharge Elimination System (NPDES) and State Disposal System (SDS) permit applications to the MPCA.
- Assist producers in completing registration forms and permit applications.
- Issue Construction Short-Form and Interim permits.
- Enforce local restrictions.
- Conduct construction inspections.
- Conduct inspections of feedlots and manure storage areas for the purpose of identifying pollution hazards.
- Review and process complaints.
- Maintain records of all correspondence, notifications from owners claiming exemption from ambient air standards, materials relating to permit applications, inspections, and complaints.
- Prepare and submit an annual report to the MPCA by April 1 of each year that summarizes all registration, permitting, and inspection activities for the year.

How Do Counties Become Delegated?

Counties seeking delegation from the MPCA to administer the feedlot program must complete several tasks. The county board must adopt and submit to the MPCA a resolution requesting permission to administer the feedlot program. A delegation agreement must be prepared and submitted to the MPCA for review and approval. The agreement is intended to serve as the county's plan for administering the feedlot program. The county's performance in implementing the terms of the agreement is provided in the annual report filed by the CFO and must be reviewed on an annual basis to assess the effectiveness of the plan and to update those areas in need of improvement. Once the delegation agreement is approved by the MPCA, the county must designate a CFO. CFO's are required to complete a MPCA training session before performing their duties.

A delegated county that no longer wishes to participate in the program must prepare and submit a resolution to the MPCA stating the reasons for its decision and effective date of withdrawal. The MPCA can revoke delegation from a county if the delegation agreement is violated. The MPCA will give the county written notice and time to respond.

A list of delegated counties is provided on the internet. A list of counties delegated by the MPCA to administer the feedlot program and contact information for the respective County Feedlot Officers (CFO) is provided online. If you are unable to reach your CFO using the information provided at the web site, contact your county for current information. If your existing or proposed facility is not located in a delegated county, contact the MPCA Feedlot Helpline at 877-333-3508 to determine the individual at the MPCA who will be responsible for the registration, environmental review, and permitting of your facility.

Local Rules/Ordinances

Counties use a variety of rules and ordinances to regulate feedlots in Minnesota. Most counties use setbacks from property lines and neighboring land uses as a means for regulating the location of feedlots. The amount of the setback can vary greatly from county to county and in some instances are controlled by townships. The following sections include conditions that local governments typically use to regulate feedlots.

Set Backs and Separation Distances

Setbacks and separation distances are land use control strategies used to separate different land uses. Counties and townships use two types of setbacks, simple and sliding scale. Simple setbacks are distances that feedlots should be from neighboring land uses such as residences, churches, and public parks. The setbacks vary according to the neighboring land use, but not according to the feedlot size. Sliding scale setbacks vary according to the neighboring land use and according to the feedlot size. Generally, as the feedlot size increases, the setback increases.

Conditional Use Permits

Some counties in Minnesota use conditional use permits (CUPs) to manage feedlots. The thresholds for these permits vary widely. CUPs are issued based on one or a combination of the following:

- Animal units.
- Distance to adjacent land uses.
- Type of manure storage facility.
- Manure land application techniques.

Feedlot Capacity Limitations

Feedlot capacity limitations are imposed in some counties. Counties limit the size of a feedlot by establishing a maximum number of animal units that may be allowed for a single feedlot. The maximum amount of animal units allowed for a feedlot varies from county to county.

Minimum Acreage

Minimum acreage requirements are used by some counties to further aid in separating manure facilities from adjacent properties. For example, a county may require a minimum number of acres required for a feedlot based on the number of animal units. In other instances, some counties may also have minimum acreage regardless of the number of animal units or determine the minimum size of the feedlot according to the nutrient levels of the manure.

Land Application of Manure Setbacks

Manure land application setbacks are similar to feedlot setbacks. Most counties establish setbacks between the limits of the area where manure is applied and neighboring properties. The setbacks are based on how the manure is applied and the type of land uses or waters neighboring the application area. Setbacks are established from rivers, lakes, wetlands, wells, residential dwellings, and other features. The setbacks help minimize odors near neighbors and prevent water contamination. Counties typically use the MPCA's guidelines, shoreland standards, the counties' own standards, and manure management plans to determine setbacks, or they may allow townships to regulate setbacks. Counties are also using the Odor From Feedlots Setback Evaluation Tool (OFFSET) worksheet as a method for determining setbacks. All setbacks, at a minimum, must be as strict as state shoreland protection ordinances.

Manure Incorporation Rules

Manure incorporation rules are used to prevent environmental impacts when land applying manure. Rules generally state the maximum time allowed between manure application and incorporation. For example, some counties require that manure must be incorporated within 48 hours of its application. Other counties may require that manure incorporation occur within 24 hours if the application area is located in a special protection area. A starting reference for manure application setbacks is the MPCA publication *Applying Manure in Sensitive Areas*.

Conditions used by local governments to regulate feedlots are generally established using adopted/draft feedlot ordinances, interim ordinances, zoning ordinances, land use plans, development codes, and shoreland ordinances. The conditions enable counties to prevent environmental impacts and prevent odor problems.

Due to the wide variety of local ordinances that exist, you are encouraged to contact the local governments where you are proposing to build a feedlot. If you are proposing to build a feedlot in a delegated county, contact your CFO for more information pertaining to local regulations. If you are proposing to build a feedlot in a county not delegated authority by the MPCA, contact your county zoning and planning office for more information. A list of county contacts for feedlot information for both delegated and non-delegated counties is provided on the internet.

In addition, the township(s) where the proposed feedlot is planned may have setbacks, zoning ordinances, and other means of regulating feedlots similar to the methods that counties use. You are encouraged to contact the township where the feedlot is being proposed.

Local Ordinances Regulating Livestock in Minnesota - Web Mapping

Minnesota Statutes, Special Session 2005, Chapter 1, Article 1, Sec. 90 and 91 requires counties, cities and townships that adopt new or amended animal-related ordinances to submit a copy to the Commissioner of Agriculture. The law went into effect August 1, 2005. The reporting requirement also includes interim ordinances and moratoria.

This web map provides information on local ordinances regulating animal agriculture in Minnesota's counties. The information includes the most common areas of regulation such as setbacks and separation distances, conditional use permits, feedlot size limitations, and minimum acreage requirements. It also provides local contact information and links to local ordinances when available. The map provides a representation of regulations that MDA is aware of. It does not summarize the regulations or provide an assessment as to the effectiveness or appropriateness of the provisions within ordinances nor does it assert that the most commonly occurring provisions are better than others. As of 2010, township ordinances are no longer available for viewing.

The Livestock-Related Ordinances Interactive Map allows you to:

- Zoom to an Address, City, or Zip Code
- Click on individual counties to see livestock-related ordinance summaries, and links to more detailed ordinances
- View sites with Google base maps, terrain maps, or aerial photos

For this web site to work best, your system should meet the following minimum requirements:

- Internet Explorer 5.5 or better
- Optimum screen resolution is 1024 x 768

Research Links

[Legal Referrals](#)

[Biographies of Minnesota Supreme Court Justices](#)

[Court of Appeals Judges Biographies](#)

[Electronic Resources](#)

[Forms Finder](#)

[Internet Legal Research](#)

[Legal Treatise Finder](#)

[Minnesota Legal History](#)

[Ordinances](#)

[County Law Libraries](#)

[State Law Libraries](#)

[Minnesota Supreme Court History](#)

Ordinances

The following Minnesota towns, cities and counties have made some or all of their local laws available online. When possible, the link goes directly to the law page. In other cases, search the webpage to find links listed as "charter," "code" or "ordinances". (You may have to scroll down.)

A B C D E F G H I J K L M N O P R S T U V W Y Z

A

[Ada](#)

[Afton](#)

[Aitkin](#) (Selected City Ordinances)

[Aitkin County](#)

[Albany](#)

[Albert Lea](#)

[Albertville](#)

[Alexandria](#)

[Alexandria Township](#)

[Amboy](#)

[Andover](#)

[Annandale](#)

[Anoka](#) (Ordinances) ([Zoning](#))

[Apple Valley](#)

[Appleton](#)

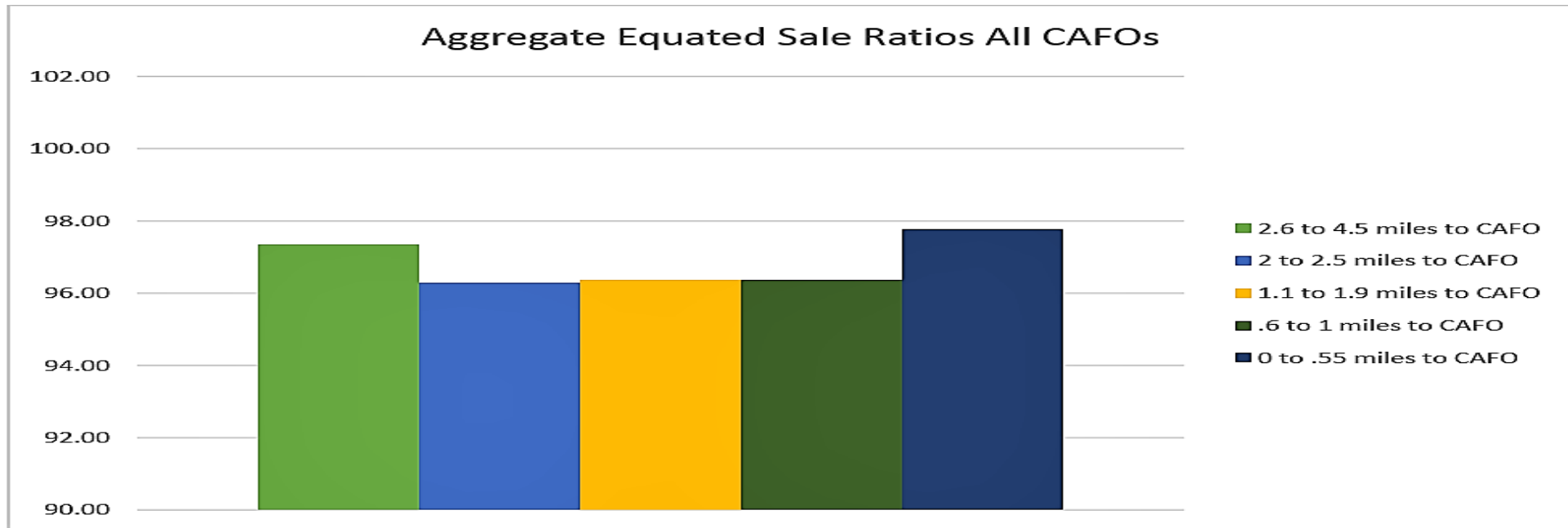
[Arden Hills](#)

[Arlington](#)



Summary of Findings:

- The value of property located more than one mile away from a CAFO is not impacted
- The value of property located within any distance from a CAFO that is smaller than 4,000 units is not impacted
- The value of property located within one quarter mile of a large CAFO (greater than 4,000 units) is reduced by 13%
- The value of property located between ¼ mile and one mile of a large CAFO is reduced by 8%



Concentrated Animal Feeding Operations and Proximate Property Values

by John A. Kilpatrick

Concentrated animal feeding operations (CAFOs) are often called “feed-lots.” They may include facilities where animals are raised or where animals are brought for slaughter. The common denominator is a large, perpetual inventory and density of animals.¹

Currently, the USDA and the EPA estimate that livestock in the United States produces 130 times the amount of manure produced by the entire human population of this country. Spills from CAFOs have killed fish in several states; phosphorus in land and water has been correlated with livestock density; and manure has caused eutrophication and degradation of U.S. waterways.²

The trend toward CAFOs has been rapid and pronounced in the U.S., but federal and state laws generally are considered to have some gaps. In addition to water quality issues resulting from manure and waste run-off, these facilities attract flies and other insects and pests that parasitize the insects.³

Professor John Ikert, an agricultural economist with the University of Missouri at Columbia, sums up the problems quite succinctly in a recent working paper when he says, “Piling up too much ‘stuff’ in one place causes problems.” Writing specifically about swine CAFOs, he goes on to comment, “If you spread out the hogs and let hog manure lay where it falls in a pasture, it doesn’t bother anyone very much. But if you start collecting it, flushing it, spreading and spraying it around—all normal practices in confinement hog operations—it becomes air pollution.”⁴

Because of the noxious and obvious problems associated with CAFOs, many states have enacted severe restrictions on permits. For example, in 1997 the

abstract

Property located near a concentrated animal feeding operation (CAFO) will be negatively impacted by this externality. The degree of impairment depends on proximity and property type and use. Properties with higher unimpaired values are probably impacted more than otherwise lower-valued properties.

The Evidence for Property Devaluation Due To the Proximity to CAFOs

Dr. William J. Weida
Department of Economics
The Colorado College, Colorado Springs, CO

January 21, 2002

Introduction

A major reason concentrated animal feeding operations (CAFOs) locate in a region is that the region has a reputation for loose environmental regulations and lax enforcement of those regulations. The stricter environmental regulation and enforcement becomes, the more likely that CAFOs will locate elsewhere. CAFOs attracted by loose regulation and enforcement have an incentive to pollute and, lacking other local controls, the sole deterrent to this incentive is the ability to implement and enforce meaningful regulation.

Failure to enforce regulations can have dire economic consequences for regions in which CAFOs locate. The pollution associated with CAFOs is not compatible with the in-migration necessary to stimulate the economy of rural areas. In fact, this pollution, unless controlled, can stimulate out-migration. A 2000 study of 1,106 rural communities by Gómez and Zhang of Illinois State University found that economic growth rates were 55% higher in areas with conventional hog farms as opposed to those with larger hog operations even though these growth rates had been almost identical in the studied communities before the advent of larger hog operations. This study also showed that communities with heavy hog concentration suffered larger population losses than those with conventional hog operations..¹

Living with Hogs in Iowa: The Impact of Livestock
Facilities on Rural Residential Property Values

Joseph A. Herriges, Silvia Secchi, and Bruce A. Babcock

THANK YOU!



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