

Article VIII. – Intensive Livestock, Dairy and Poultry Facilities

CHAPTER 70 – ZONING

Sec. 70-811. – Intent.

This article encourages economic development, preserves farm land, and promotes the orderly and responsible growth of the livestock, dairy and poultry industries. In the agricultural (A) district, all agricultural production uses, including the uses defined as intensive livestock, dairy and poultry facilities, shall be permitted by right.

(Ord. of 5-2-1996, § 1501)

Sec. 70-812. – Setbacks.

(a) Each intensive livestock, dairy or poultry structure shall be set back from all existing dwellings not owned by the operator as follows:

(1) If the dwelling is in an agricultural district, 300 feet.

(2) If the dwelling is in a residential district, 600 feet. The 600-foot setback shall be reduced to 400 feet if the operator plants and maintains a ten-foot-deep vegetative screen that will grow to a height of six feet or more within two years, or if there is a natural barrier of similar height and depth, separating such dwelling from the facility.

(b) Any dwelling not owned by the operator shall be set back from any existing intensive livestock, dairy or poultry

structure as follows:

(1) If the dwelling is in an agricultural district, 300 feet;

(2) If the dwelling is in a residential district, 600 feet. The 600-foot setback shall be reduced to 400 feet if the owner or builder of the dwelling plants and maintains a ten-foot-deep vegetative screen that will grow to a height of six feet or more within two years, or if there is a natural barrier of similar height and depth, separating such dwelling from the facility.

(c) Each intensive livestock, dairy or poultry structure shall be set back at least 50 feet from any property line, at least 100 feet from the right-of-way of any secondary road, and at least 150 feet from the right-of-way of any primary highway.

(d) Each intensive livestock, dairy or poultry structure shall be set back at least 1,000 feet from any incorporated town, public school, place of worship, or public water intake from a stream or river. The above 1,000-foot setback shall be reduced to 800 feet if the operator plants and maintains a ten-foot-deep vegetative screen that will grow to a height of six feet or more within two years, or if there is a natural barrier of similar height and depth, separating such town, school, place of worship or public water intake from the facility.

(e) The board of zoning appeals may permit reduced setbacks by special exception.

(Ord. of 5-2-1996, § 1502)

Sec. 70-813. – Development plans to include plat or similar document.

(a) Any person who intends to establish or expand an intensive livestock, dairy or poultry facility shall file with the zoning

administrator a development plan, including a plat or similar document that indicates the number, size and location of all intensive livestock, dairy or poultry structures planned for the subject parcel, and a written statement, sworn to and subscribed before a notary public, by which the owner certifies to the zoning administrator that the facility meets all applicable requirements. Where a proposed expansion would not substantially change the character of the facility or the intensity of the use, the zoning administrator may approve the expansion without requiring a development plan.

(b) If the plan meets the requirements of this chapter, the zoning administrator shall approve it within 30 days of receipt. If the plan does not meet the requirements of this chapter, the zoning administrator shall return it to the applicant within 30 days of receipt, together with a written description of the portion or portions of the plan that do not meet such requirements. Any plan not returned to the applicant within 30 days of receipt shall be deemed approved. As long as an approved plan is in effect, the applicant shall have the right to build the structures and operate the facilities shown on the plan, notwithstanding any dwelling or other feature located after the time of approval.

(c) The development plan shall remain in force only so long as the proposed structures are constructed in accordance with the development plan. At least one-third of the number of livestock or dairy animals indicated in the development plan, or one poultry structure, shall be placed in service within five years of the date on which the development plan is approved by the zoning administrator unless at least one-third of the livestock or one poultry structure was already in service at the time the plan was filed. If the operator fails to obtain building and zoning permits for any of the proposed structures, or fails to have in place the minimum number of livestock required, within

five years of the date on which the development plan is approved by the zoning administrator, the development plan shall expire.

(d) The operator shall notify the zoning administrator in writing within 30 days of placement into service of any structure indicated on his plan.

(e) Each parcel for which a development plan has been approved shall display at its entrance a sign no smaller than two square feet, and no larger than four square feet, clearly visible from the nearest public road, indicating that a development plan is in effect for the parcel and containing the words "Certified Agricultural Development Site."

(f) Nothing in this section shall be construed to prohibit an operator or a potential operator from submitting amendments to his original development plan, or from submitting revised development plans. The zoning administrator shall review such amendments or revised plans as required in subsection (a) of this section according to the zoning ordinance in effect at the time the amendments or revised plans are received.

(Ord. of 5-2-1996, § 1503)

Sec. 70-814. – Nutrient management plan.

(a) No intensive livestock, dairy or poultry facility for which the commonwealth requires a nutrient management plan shall commence operation until such plan has been approved by the state department of conservation and recreation, or by the state cooperative extension service, or by a person certified or employed by the commonwealth as a nutrient management planner.

(b) If the nutrient management plan provides for off-site disposal of waste, the operator shall provide, as part of the plan, written documentation of an agreement with the receiver of

the waste produced at his facility, or an affidavit, sworn and subscribed before a notary public, that states his intention to dispose of waste through sale in a retail establishment or otherwise marketing to consumers. Documentation shall specify the duration of the agreement and the nature of the application or use of the waste. A nutrient management plan containing such an agreement shall be valid only as long as the agreement remains in force and shall be reviewed whenever such agreement expires or is terminated. If such an agreement is terminated before its expiration date, the operator shall notify the zoning administrator within 15 days of termination.

(Ord. of 5-2-1996, § 1504)

Secs. 70-815–70-845. – Reserved.