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CHAPTER 1

STATUTORY AUTHORIZATION

Subdivision 1. Adoption by Reference of State Regulations. Pursuant to M.A. 394.25 Subdivision 8 the Martin County Board of Commissioners hereby adopts by reference Minnesota Pollution Control Agency Rules Chapter 7020 and appendices (formerly 6 CAR Section 4.8051 for the Control of Pollution from Animal Feedlots), and as amended.

Subdivision 2. Adoption by Reference of State Regulations. Pursuant to M.A. 394.25 Subdivision 8 the Martin County Board of Commissioners hereby adopts by reference Board of Animal Health Animal Carcasses Chapter 1719 and appendices and as amended.

CHAPTER 2

GENERAL PROVISIONS

Subdivision 1. Animal Feedlots. No person shall permit or allow their land or property under their control to be used for any animal feedlot, unless the appropriate permits have been obtained and appropriate notifications have been made in accordance with the provisions of this Ordinance.

No animal manure generated from any Martin County animal feedlot shall be disposed of unless the appropriate permits have been obtained in accordance with the provisions of this Ordinance.

Subdivision 2. Exempt from Regulation. Nothing in this Chapter shall exempt any owner or operator of any animal feedlot from conforming with applicable state or federal regulations governing animal feedlot operations, or any other provisions of this Ordinance.

Subdivision 3. Administration and Enforcement. The Martin County Planning and Zoning Department, including the Martin County Feedlot Officer, shall be responsible for the administration and enforcement of this Ordinance. The Martin County Board of Commissioners may by resolution, establish permitting fees as necessary to fund the administration and enforcement of this Ordinance.

Subdivision 4. Severability. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Subdivision 5. Abrogation and Greater Restrictions. It is not the intent of this Ordinance to repeal, abrogate, or impair any existing ordinances, rules or statutes. However, when this Ordinance is inconsistent with any other ordinance, rule or statute, the ordinance, rule, or statute which imposes the greater restriction shall prevail.

Subdivision 6. Amendments. This Ordinance may be amended whenever the public necessity and the general welfare require such amendment by following the procedures specified in this Martin County Zoning Ordinance.

Subdivision 7. Variances. Any person may apply for a variance from any requirements of this ordinance. Such variances shall be applied for and acted upon by the Martin County Planning Commission/Board of Adjustment in accordance with Minnesota Statutes, section 116.07, subdivision 5, and other applicable statutes and rules.

CHAPTER 3

DEFINITIONS

Subdivision 1. Definitions Explained. Unless specifically defined below or in the Minnesota Pollution Control Agency Rules Chapter 7020, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application. For the purpose of this Ordinance, the words must and shall are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

- (1) **Feedlot Operator.** A feedlot operator may include an individual, groups of individuals, businesses, firms, associations, organizations, partnerships, trusts, companies, and corporations that own and/or operate an animal feedlot.
- (2) **Notification.** Notification or notified shall mean the reasonable attempt to present information in writing (delivered either by hand, by a postal service, by e-mail or by fax), by phone, or in person to the parties required. For the purposes of this Ordinance, and unless otherwise specified, publishing information in local newspapers shall not be included in this definition.
- (3) **Ordinary High Water Level (OHWL).** The boundary of public water and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial. For watercourses, the OHWL is the elevation of the top of the bank of the channel. For reservoirs and flowage, the OHWL is the operating elevation of the normal summer pool.
- (4) **Written Notification.** A written notification or notice, in writing, shall mean the reasonable attempt to present information in writing (delivered either by hand, by a postal service or by fax) to the parties required. For the purposes of this Ordinance, and unless otherwise specified, publishing information in local newspapers shall not be included in this definition.

CHAPTER 4

ADMINISTRATION

Subdivision 1. Permitting. The owner of a proposed or existing animal feedlot capable of holding 50 or more animal units or capable of holding 10 or more animal units in shoreland shall apply for an animal feedlot permit or certificate of compliance in accordance with the provisions of this Ordinance and also under the following circumstances:

- (1) When a new animal feedlot is constructed or when the animal feedlot has not been used in the last five years.
- (2) When expanding an existing animal feedlot (increased animal numbers);
- (3) When remodeling or modifying of an existing animal feedlot (no increase in animal numbers);
- (4) Upon change in ownership of an existing animal feedlot;
- (5) Upon complaint or report of a pollution hazard as defined in Chapter 7020.

Subdivision 2. Permit Application Procedure. Applications for locating any animal feedlot in Martin County shall be governed by the following procedures:

- (1) **No Potential Pollution Hazard.** For any animal feedlot where manure is used as a domestic fertilizer and with no potential pollution hazard, the County feedlot pollution control officer shall provide an animal feedlot permit or certificate of compliance to the applicant stating that the animal feedlot complies with all aspects of this Ordinance.
- (2) **Corrected Pollution Hazard.** For any animal feedlot where manure is used as a domestic fertilizer and where all identified pollution hazards have been mitigated by protective or corrective measures the County feedlot pollution control officer shall provide an animal feedlot permit or certificate of compliance to the applicant stating that the animal feedlot complies with this Ordinance.
- (3) **Application Requirements.** A person applying to the Minnesota Pollution Control Agency or the Martin County Planning and Zoning Department for an animal feedlot permit shall provide to the Martin County Planning and Zoning Department a copy of the completed animal feedlot application form, a Manure Management Plan (including the number of acres needed for manure application), copies of highlighted aerial photographs of acres to be used for manure application, copies of land agreement documents for manure application (for property not owned), and a written list of the names and addresses of the parties to be notified (in accordance with Chapter 5, Subdivision 1). Site review and written acknowledgement of permit request are required from Martin County Highway Department, Martin County Ditch Administration, applicable Township Chairman and Martin County Soil & Water Conservation District before it is accepted as a complete application from the Martin County Feedlot Officer.

Subdivision 3. Inspections. All animal feedlots shall be subject to a compliance inspection on a 5 year rotating schedule. The scheduling and documentation of the compliance inspection will be the responsibility of the Martin County Planning and Zoning Department. The compliance inspection schedule will be maintained separately from other inspections that are necessary due to complaints, potential or actual threats to the environment, or other reasons deemed appropriate by the Martin County Planning and Zoning Department or the Minnesota Pollution Control Agency.

- (1) **Scheduling.** Written notice of a pending compliance inspection will be given by the Martin County Planning and Zoning Department generally at least one month prior to the anticipated compliance inspection. The compliance inspection will be scheduled at the mutual convenience of the animal feedlot operator or representative and the Martin County Planning and Zoning Department.
- (2) **Scope.** The compliance inspection may include a walk-over of the site (entering buildings is not required), a review of surface drainage and site conditions, a review of the animal feedlot permit, a review of the manure management plan, a review of existing records of manure application and a review of acres designated for manure application. If identified, required and/or recommended changes in the animal feedlot operation and required updating of permit information will be included in the compliance inspection report.
- (3) **Documentation.** Documentation of the compliance inspection shall be maintained by the Martin County Planning and Zoning Department and a copy shall be provided to the feedlot operator or representative.

Subdivision 4. Concrete Pit Inspections. The Martin County Planning and Zoning Department shall be notified (via the telephone or in person) by the animal feedlot operator upon completion of the construction of a concrete pit used for manure storage. The Martin County Planning and Zoning Department shall be notified at least 3 official working days prior to the backfilling of concrete pit to allow for inspection. This notification shall include the location of the concrete pits, the number and size of the concrete pits to be inspected, and a contact name and phone number. The animal feedlot operator may proceed with construction upon consent by the Martin County Planning and Zoning Department or after 4 official working days. The Martin County Planning and Zoning Department shall notify the animal feedlot operator of any indications of cracks or obvious indications of structural problems related to the concrete pit(s).

CHAPTER 5

GENERAL REGULATIONS

Subdivision 1. Notification.

- (1) **Residents, Landowners, Township Board(s).** A person who applies to the Minnesota Pollution Control Agency or Martin County for a permit to construct or expand a feedlot shall, not more than 5 business days after the animal feedlot permit application is submitted, make a reasonable attempt to provide written notification to each resident and owner of real property within five thousand (5000) feet of the perimeter of the proposed animal feedlot and the Township Board Clerk. The written notice shall include a sketch of the proposed location, a listing of species and animal units present before and after construction or expansion, a contact name and phone number for the animal feedlot, and an estimated time frame for construction and occupancy. No feedlot permit shall be issued prior to a 20 business day waiting period following the public notification of neighbors and township officials.
- (2) **Newspaper.** A person who applies to the Minnesota Pollution Control Agency or Martin County for a permit to construct or expand an animal feedlot shall also, not more than 5 business days after the animal feedlot permit application is submitted, submit a notice of the proposed construction or expansion for publication within the next 14 days in a regularly published (at least weekly) Martin County newspaper. The published notice shall include a listing of species and animal units present before and after construction or expansion, a contact name and address for the animal feedlot, and an estimated time frame for construction and occupancy.
- (3) **Municipalities.** A person who applies to the Minnesota Pollution Control Agency or Martin County for a permit to construct or expand an animal feedlot within a two-mile radius of a municipality shall also, not more than 5 business days after the animal feedlot permit application is submitted, provide written notification to the clerk or administrative head of the corresponding municipality.

Subdivision 2. Conditional Use Permits. The following animal feedlots shall require a Conditional Use Permit:

- (1) Animal feedlots with a pollution hazard which has not been mitigated by corrective or protective measures;
- (2) Animal feedlots where manure is not used as domestic fertilizer;
- (3) New or expanding animal feedlots containing over 1,000 animal units;

Subdivision 3. Perimeter Tile. A water sample monitoring port shall be included in the new construction or replacement of a perimeter tile system, when the system is used to de-water an animal feedlot manure storage area. The monitoring port location(s) shall be located at a point(s) where the water flowing in the tile is leaving the animal feedlot manure storage area(s).

Subdivision 4. Seasonal Load Restrictions. In accordance with MN Statute 169.87 and as amended, Seasonal Load Restrictions, no activities related to the construction or operation of animal feedlots that exceed those weight restrictions shall be conducted.

Subdivision 5. Odor Reduction Plan. New feedlots or the expansion of an existing feedlot is required to draft and submit with completed feedlot permit application an Odor Reduction Plan.

Subdivision 6. Dead Animal Containment. All feedlots are required to construct a proper dead animal enclosure. This enclosure must have four (4) sides and a 4' tall minimum for the temporary storage of dead animal(s) unless other methods of disposal are used approved by Board of Animal Health.

CHAPTER 6

SETBACKS FOR ANIMAL FEEDLOTS

Subdivision 1. Municipalities. New animal feedlots shall not be located within one mile of the corporate limits of a municipality.

Expansion of an existing animal feedlot within one-half (1/2) mile of the corporate limits of a municipality shall not be allowed without a Board of Adjustment approved variance. The applicant for such a variance shall seek written comment from the corresponding municipality for review by the Board of Adjustment.

Subdivision 2. Dwellings. New animal feedlots (permitted after July 1, 1995) shall not be located within 1,320 feet (one-quarter mile) of a dwelling other than the operator's or any business or industrial district as defined in this Ordinance and on the Zoning District Map.

Subdivision 3. Groups of Dwellings. New animal feedlots shall not be located within one-half (2) mile of a concentration of 10 dwelling units located on 20 or less acres.

Subdivision 4. Public Parks, Golf Courses, Schools, Churches and Campgrounds. New animal feedlots shall not be located within one-half (2) mile of public parks, publicly used golf courses, schools, churches or licensed campgrounds.

Subdivision 5. Surface Waters and Shoreland. No new animal feedlot shall be located within one thousand (1,000) feet of the ordinary high water level of any lake, pond, or flowage, or within three hundred (300) feet of the ordinary high water level of a river, stream, or a public or private open ditch.

Modifications or expansions to existing animal feedlots which are within a Shoreland district are allowed if they do not further encroach into the existing ordinary high water level setback or a bluff impact zone.

Subdivision 6. Expansion of Existing Facilities. All existing animal feedlots (including manure storage facilities), permitted before July 1, 1995 and located less than 1,320 feet from a dwelling(s) other than the operator's shall not expand closer to the dwelling(s) than the existing setback. All existing animal feedlots (including manure storage facilities), permitted after July 1, 1995 shall not expand closer than 1,320 feet to a dwelling other than the operator's.

Subdivision 7. Public Cemetery. New animal feedlots shall not be located within one-half (1/2) mile of a public cemetery. Also any new public cemetery shall not be located within one-half (1/2) mile of an animal feedlot.

Subdivision 8. Existing Feedlots. New feedlots shall be setback 1,320 feet (one-quarter mile) from existing feedlots.

CHAPTER 7

REGULATIONS AND SETBACKS FOR MANURE APPLICATION

Subdivision 1. Manure Management Plan. When requested, each animal feedlot operator shall provide a copy of a current Manure Management Plan to the Martin County Planning and Zoning Department.

Subdivision 2. Manure Application Acre Designation. Each animal feedlot operator shall designate the number of acres for manure application that meets or exceeds the number of acres required in the animal feedlot’s Manure Management Plan. Documentation of the current designated acres shall be provided to the Martin County Planning and Zoning Department in the form of highlighted aerial photographs showing the designated acres and the location of the animal feedlot(s).

The Martin County Planning and Zoning Department shall be notified in writing by the animal feedlot operator or representative of a change in the designated acres. The notification shall include highlighted aerial photographs of the acres to be added and/or removed and copies of land agreement documents for manure application for property not owned.

Subdivision 3. Setbacks for Manure Application. The following setbacks shall be maintained during the application of manure:

Land Feature	Spreading Without Incorporation	Incorporation Within 48 Hours and Prior to Rain
Lakes, Rivers, Streams, Wetlands*, Private and Public Open Ditches	300 feet – F 300 feet – U 1 rod – S (from the OHWL)	1 rod (from the OHWL)
Road Right-of Ways	60 feet – F 1 rod – U no setback – S	no setback
Surface Water Intakes	300 feet – F 150 feet – U	1 rod
Frozen Ground	6% slope or less	

- * - public water wetlands and other uncultivated wetlands
- OHWL - ordinary high water level
- F - on frozen or snow-covered soils
- U - on unfrozen or non snow-covered soils
- S - on land sloping away from the land feature under any soil conditions
- 1 rod = 16.5 feet

When applying manure on hay ground, the “Incorporation Within 48 Hours and Prior to Rain” setbacks in the above table shall apply. When applying manure to hay ground incorporation is not required.

ADOPTION AND EFFECTIVE DATE

Repeal. The existing Chapter 29 of the Martin County Zoning Ordinance, as adopted on January 1, 1999, is hereby repealed on July 6, 1999. The adoption of this Ordinance, however, shall not effect nor prevent any pending or future prosecution of, or action to abate, any existing violation of said Chapter 29, adopted January 1, 1999.

Adoption by Board of Commissioners. The Martin County Board of Commissioners, after proper notice and publication, held a public hearing on the adoption of this Ordinance on February 17, 2004 at the Martin County Commissioners Room. After hearing public testimony and with due deliberation, the Martin County Board of Commissioners voted to adopt this Ordinance on February 17, 2004.

Effective Date. This Ordinance shall be in full force and effective beginning February 17, 2004.

Jack Potter
Chairperson, Martin County Board of Commissioners

Attest:

Scott Higgins
Martin County Coordinator

ADOPTION

Adopted Martin County Feedlot Program July 14, 1975

AMENDMENTS

General Amendments

Revision to Feedlot Regulations (Setbacks)	May 16, 1995
Revision to Feedlot Regulations (Setbacks)	January 1, 1999
Revision to Feedlot Regulations (Animal Feedlot Size)	July 7, 1999
Revision to Feedlot Regulations (Setbacks)	March 20, 2001
Revision to Feedlot Regulations (Comp Plan)	February 17, 2004