



A681698

**Office of the County Recorder
Mower County, Minnesota**

**I HEREBY CERTIFY THE WITHIN INSTRUMENT WAS
FILED, AND/OR RECORDED ON 5/23/2024 8:53 AM**

PACKAGE: 103663 REC FEE: \$0.00

Sara Madison, Mower County Recorder

Date: May 14, 2024

Ord. #04-24

**ORDINANCE
Zoning Ordinance Amendment**

On motion of Commissioner Ankeny, seconded by Commissioner Reinartz, the following Ordinance was unanimously passed and adopted by the Mower County Board of Commissioners at a meeting held May 14, 2024 at the Mower County Government Center, Austin, Minnesota.

WHEREAS, a Notice of Intention to hold a public hearing to consider amending Sections of the Mower County Zoning Ordinance was published in Mower County’s official newspaper, the *Austin Daily Herald*, on April 24, 2024 and in the Mower County Independent on April 25, 2024; and

WHEREAS, the Planning Commission held a public hearing on said amendment on May 7, 2024 at 5:30 p.m. in the Mower County Government Center, Board Room, before the Mower County Planning Commission at which any concerned citizen was given an opportunity to speak on the matter; and

WHEREAS, the Mower County Planning Commission recommended by a majority vote to revise sections of the Mower County Zoning Ordinance; and

WHEREAS, Notice having been duly given, a public hearing was held on May 14, 2024 before the Mower County Board of Commissioners at which any concerned citizen was given an opportunity to speak on the matter; and

BE IT ORDAINED that revisions incorporating all previously approved amendments, and including minor corrections, of the Mower County Zoning Ordinance effective 1/1/2003 and amended henceforth, shall be incorporated and adopted in their entirety; and

BE IT FURTHER ORDAINED that the following proposed revision to Division 2 Section 14-17 (Definitions) and Division Section 14-18.2 (Special Requirements for Feedlots) of the Mower County Zoning Ordinance shall be incorporated and adopted in their entirety;

Division 2 Section 14-17 Definitions:

Feedlot - Means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of ~~more than ten (10)~~ animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of any number of

animal units is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this Ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these rules.

~~Feedlot, Existing - A feedlot, containing, utilizing or consisting of at least one building, must have had an assessed value for real estate tax purposes in excess of the value of the underlying land with the five (5) year period preceding the date of the feedlot application. In addition, all feedlots must have been used for the confined feeding, breeding, raising, or holding of ten (10) or more animal units in shoreland areas or fifty (50) or more animal units in other areas within the five (5) year period preceding the date of the feedlot application. Those feedlots without permits must be permitted or have a pending application for a permit on file with the Mower county Feedlot Officer by December 31, 1999, to be considered an "existing feedlot". Those feedlots with means any feedlot that currently has a feedlot registration, or those feedlots with less than ten (10) animal units in shoreland areas or less than fifty (50) animal units in other areas will be are considered an "existing feedlot" if the applicant or predecessor in title has obtained or requested a letter from the Mower County Feedlot Officer or the Minnesota Pollution Control Agency by December 31, 1999, indicating that a feedlot exists at the site, but that a feedlot permit was not required because of the size of the operation.~~

~~Feedlot, Expansion - When animal units will increase to where new buildings are needed for housing. Expansion or Expanded means construction or any activity that has resulted in or may result in an increase in the number of animal units that an animal feedlot is capable of holding or an increase in storage capacity of a manure storage area~~

Feedlot, New - An animal feedlot constructed and operated on a site where no animal feedlot existed previously or where a pre-existing registered animal feedlot has been unused for a period of five (5) years or more.

~~Feedlot, Permitted - An animal feedlot which has obtained a feedlot authorization from the Mower County Feedlot Officer and a Minnesota Pollution Control Agency (MPCA) Certificate of Compliance and other required State and Federal permits before January 1, 2000. All permits authorized by MPCA prior to June 1, 1996, shall be considered to have obtained a valid Mower County Feedlot Authorization.~~

~~Feedlot Pollution Control Officer - A County employee or officer who is knowledgeable in agriculture and who is designated by the County Board to receive and process animal feedlot permit applications. means an employee or officer of a delegated county who is knowledgeable in agriculture and who is designed by the county board to perform the duties under part 7020.1600~~

~~Feedlot Permit- a document issued when an applicant applies for proposing construction or expansion that will result in the feedlot having the capacity to house 300 or more animal units, or proposing to construct a manure storage area at a feedlot that has capacity to house 300 or more animal units, or if part of a feedlot has been identified as a pollution hazard by MPCA staff or the County Feedlot Officer.~~

~~Feedlot Registration- A data collection sheet issued by the Mower County feedlot officer providing the rights to have 10 or more animal units and the lots and buildings needed for those animals; requires an annual fee as set by the fee schedule.~~

~~Hobby Farm - means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of less than 10 animal units and may be designed as a confinement area in which manure may accumulate, or where the concentration of animals~~

is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this Ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots.

Modification - means a change to a facility component or operational practice described, required, or authorized by a permit issued under this chapter, including an expansion. Major and minor modifications are as defined in this part. Part 7020.0405, subpart 5, and chapter 7001 govern public notice of changes to permits under this chapter. A change to a facility component or operational practice that is not described, required, or authorized by a permit is not a modification, including changes to:

- A. the type of crop or manure application rate if consistent with the methodology portion of the manure management plan and reflected in required records;
- B. routine maintenance;
- C. feeding or milking schedules;
- D. animal diets;
- E. bedding materials so long as consistent with approved design plans and specifications;
- F. equipment used to clean the facility so long as consistent with approved design plans and specifications;
- G. lands used as pasture; or
- H. facility components not involved directly in animal or manure management such as an office or machine shed.

Minor modification - means a modification that changes land identified in a manure management plan for manure application, nonroutine maintenance such as the replacement of a liquid manure storage area liner, physical changes to structures housing animals or holding manure that do not result in an expansion of animal unit or manure storage area capacity, or a modification that meets the criteria of part 7001.0190, subpart 3. For NPDES permits, classification as a minor modification under this subpart does not release the permittee from federal notice requirements.

Major modification - means a modification that allows an expansion of animal unit or manure storage area capacity, changes the method of manure storage, or does not meet the criteria of part 7001.0190, subpart 3.

Division 3 Section 14-18.2 Special Requirements for Feedlots:

- A. All feedlots *constructing a building or structure* must obtain a zoning permit from the Mower County Planning Department for the construction of any building or facility.
- B. ~~All feedlots (including existing, new and expansions) of ten (10) or more animal units in shoreland areas and fifty (50) or more animal units in other areas require feedlot permits from the Mower County Feedlot Pollution Control Officer or the Minnesota Pollution Control Agency (MPCA) indicating conformance with Minnesota Rules, Chapter 7020, or successor rules.~~
- C. Feedlots may expand on contiguous land that the feedlot owner owns but the expansion must begin within 500 feet of the existing feedlot. A feedlot expansion that begins further than 500 feet from the existing feedlot ~~would~~ *shall* be considered a “new feedlot”.
- D. A map shall be submitted to the Feedlot Pollution Control Officer at the time of application for a feedlot permit showing *the* location of ~~the~~ existing *and/or* proposed feedlot *buildings or structures, water features within 300ft, if applicable animal burial areas, and other existing* conditions of the area within 1/2 mile. It shall depict all existing topography and all existing land uses as described herein and existing property lines.
- E. The County Board may charge a fee for feedlots. This fee will be established yearly by a resolution. The fee is non-refundable. *Fees are used as a financial match for state funding to maintain a local feedlot officer position.*

- F. Herd size limitation may not exceed 3,000 animal units per ~~site~~ *feedlot registration*.
- G. An applicant for a new feedlot or feedlot expansion, including those that do not require a County permit but require an MPCA permit, must provide written notice of intent to the township and all property owners within a ~~one (1) mile~~ 5000ft radius of the facility. Property owners who reside within the ~~one (1) mile~~ 5000ft radius in a municipality will not be notified. Notification will then go to the municipality. ~~A certificate of mailing will be provided to the Feedlot Officer.~~ A proof of mailing shall be required by exercising one of the following two options:
- a. *The feedlot operator shall provide a certificate of mailing (without return receipt of landowner signature) to the Mower County Feedlot Officer, or*
 - b. *Mower County can send notices of mailing on behalf of the feedlot applicant to the surrounding landowners. Mower County will create a list of landowner mailings from tax-payer records generated per the County's GIS system within the required radius. Mower County will create and sign a letter of Affidavit for when the notices were mailed and by who. Attached to the affidavit shall be a listing of landowners and address mailed.*
 - i. *The feedlot applicant shall be responsible for providing any landowner data which falls outside of boundaries of Mower County; and*
 - ii. *The feedlot applicant shall be responsible for the cost of mailing the letters to landowners by first class mail at the current rate of the USPO at the time of mailing plus cost of copies in accordance with Mower County's fee schedule; and*
 - iii. *Feedlot and construction permits shall not be issued until repayment for mailing and copy costs have been received.*
- H. The producer of a new feedlot or feedlot expansion has 24 months from the date of issuance of a Mower County Feedlot Authorization to start and be making a good faith effort to complete the project. Failure to do so will void the authorization. Producers must reapply if no reasonable progress has been made in that time frame.
- I. New feedlots, *except for hobby farms*, shall not be located within 1,000 feet of any dwelling, school, church, platted subdivision and/or public park, except for dwelling of the property owner or feedlot operator, or family member based upon the definition of "family" provided the owner of the dwelling and family member, signs a statement that will be recorded stating that they have no objection to the feedlot being closer than the required 1,000 feet. This exception to the 1,000 foot setback is limited to family members to current owner and all other setback requirements shall be adhered to. All "family related feedlots shall be considered separate feedlots in terms of permitting but shall be considered as one feedlot in terms of animal unit limits in accordance with the feedlot ordinance.
- J. New feedlots, *with the exception of hobby farms*, shall be located within ½ mile of an incorporated city limit.
- K. Any new dwelling (except for the dwelling of the property owner or feedlot operator), school, church, platted subdivision and/or public park, must be setback at least 1,000 feet from an existing feedlot, *except for a hobby farm which does not voluntarily complete a feedlot registration*.

Special Conditions for Hobby Farms –

- A. *Must meet well setbacks in accordance with Minnesota Department of Health from all proposed or existing wells for feedlots/feedlot structures.*
- B. *Cannot utilize liquid manure storage areas (LMSA's) or contain outdoor permanent manure storage areas.*
- C. *Cannot be located in the following zoning districts: R-1 (residential), within a platted residential subdivision, Business, Industrial, or Freeway interchange Districts.*

- D. Cannot create a pollution hazard.
- E. Shall be limited to maximum of 100 head of poultry and/or fowl.
- F. Any new or proposed construction of feedlot structures are exempt from the 1000ft setback requirements from neighboring residences until the threshold of 10 animal units is met or exceeded.
- G. New Construction or addition to existing structure shall be further away from the neighboring residence than the existing feedlot structures being used.
 - a. Encroachment closer to a neighboring residence than existing structures shall require a variance by the Board of Adjustment, prior to construction.
- H. If no prior feedlot structures, any new construction must be twice the standard property line setback in the direction of any neighboring residence.

; and

BE IT FURTHER ORDAINED that Ordinance #04-24 shall be effective upon publication in the Legal Newspaper of Mower County, the "Austin Daily Herald." *(Published 5/18/2024)*

A copy of the entire Mower County Zoning Ordinance is on file in the Mower County Public Works Office, at the Mower County Auditor-Treasurer office, and online at the Mower County website.

Passed and approved this 14th day of May, 2024.

THE MOWER COUNTY BOARD OF COMMISSIONERS

By: / s / John Mueller
Chairperson

By: / s / Trish Harren Gjersvik
Clerk/Administrator

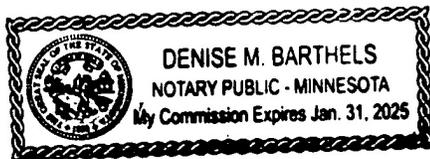
CERTIFICATION

I hereby certify that the above is a true and correct copy of a Ordinance adopted by the Mower County Board of Commissioners at their session on the 14th day of May, 2024, and as appears on the Minutes of their record of proceedings.

Trish Gjersvik
Trish Gjersvik, County Administrator

STATE OF MINNESOTA)
) ss
COUNTY OF MOWER)

This document was acknowledged before me this 23rd day of May, 2024 by Trish Gjersvik.



Denise M. Barthels
Denise M. Barthels, Notary
My Commission Expires 1/31/2025

This instrument was drafted by: Mower County Public Works, 1105 8th Ave NE, Austin, MN 55912. ✓

Austin Daily Herald Affidavit

STATE OF MINNESOTA COUNTY OF MOWER

Crystal Miller, being duly sworn, on oath states as follows:

1. I am the publisher of the Austin Daily Herald, or the publisher's designated agent. I have personal knowledge of the facts stated in this Affidavit, which is made pursuant to Minnesota Statutes §331A.07.

2. The newspaper has complied with all of the requirements to constitute a qualified newspaper under Minnesota law, including those requirements found in Minnesota Statutes §331A.02.

3. The dates of the month and the year and day of week upon which the public notice attached/copied below was published in the newspaper are as follows:

05/18/24

4. The publisher's lowest classified rate paid by commercial users for comparable space, as determined pursuant to § 331A.06, is as follows: \$17.48.

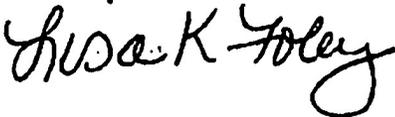
5. Pursuant to Minnesota Statutes §580.033 relating to the publication of mortgage foreclosure notices: The newspaper's known office of is located in Mower County. The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgage premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

FURTHER YOUR AFFIANT SAITH NOT.



Crystal Miller, publisher

Subscribed and sworn to before me this
18th Day of May, 2024



Lisa Foley, Notary Public
Freeborn County, MN



Account # 229595
Ad # 1826523

Notice of Mower County Ordinance Adopted (Summarized)
Ordinance #04-24 adopted May 14, 2024 - Zoning Ordinance Amendment The Mower County Board of Commissioners adopted Ordinance #04-24

- To amend Zoning Ordinance Division 2 Section 14-7 Definitions to include a Hobby Farm designation, clarification on new and existing feedlots, feedlot permit and registration, and the incorporation of some State definitions provided by Mn Rules 7020
- To amend Division 3 Section 14-18.2 Special Requirements for Feedlots clarify changes provided by the new definitions, provide for an alternative notice process, and establish conditions of Hobby Farms.
- Amendment effective upon publication (Austin Daily Herald 05/18/24).

A complete copy of Ordinance #04-24 is available for public view at the Office of County Administration, 201 1st Street NE, Austin MN, or a copy can be emailed upon request by calling Environmental Services @ 507-437-7718 or via email to zoning@co.mower.mn.us