

Henry County Code of Ordinances

Title 15: Land Usage; also referred to as the Development Code and the Zoning Ordinance

Chapter 150: Zoning

An Amendment to Title 15, Chapter 150, Section 150.005:

Note: These definitions are amendments to the existing section and will be inserted in the proper alphabetical order and not grouped together as a special section of definitions.

150.005 Definitions

(B) For the purposes of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Animal Unit A unit of measurement calculated by multiplying the number of animals contained in a CFO/CAFO site by the animal unit factor corresponding to the species, gender, age, etc. of the animals on the site. Animal units are used to determine separation distances for CFO/CAFO sites.

Animal Unit Factor See Table in Section 150.168.

Clean Record A record with the Indiana Department of Environmental Management that is without any violations during the previous five (5) year period.

CFO/CAFO Applicant A person, persons, legal entity, or legal entities who apply to the Henry County Planning Commission for a Commission Approved Use for CFO/CAFO site/s.

Confined Feeding Operation (CFO) Refer to definition found at 327 IAC 16-2-5.

Concentrated Animal Feeding Operation (CAFO) Refer to definition found at 327 IAC 5-4-3.

Density, Section For the purposes of CFO/CAFO site evaluation, the number of non-farm dwellings (see Dwelling, Farm) located within a one-half (1/2) mile radius from proposed CFO/CAFO site, excluding any dwelling on the same parcel (as identified by tax parcel number) as the proposed CFO/CAFO.

Existing CFO/CAFO A completed CFO/CAFO site permitted by the Indiana Department of Environmental Management as of the effective date of Henry County Ordinance No. _____ . *(To be inserted)*

Homestead For the purposes of CFO/CAFO site evaluation, at least ten percent (10%) of a residence held as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other legally recognized equity interest holder. Ownership by a person's spouse, child, and/or parent(s) may also qualify as a homestead.

IDEM The acronym for the Indiana Department for Environmental Management.

Manure Any animal feces or urine, any biological material such as bedding which has been in contact with animal feces or urine, and any storm water, groundwater, or process water that has been comingled with animal feces or urine.

Manure Application The method of applying manure by injection or land application. Surface application on an established crop refers to a green established crop.

Neighbor Notification Notices to be sent to neighboring property owners by the Henry County Zoning Administrator to advise neighbors of a proposed rezoning or commission approved land use. For the purposes of CFO/CAFO site evaluation, notices will be sent via Certified U.S. Mail and applicants will be responsible for the cost of mailing. Personal notification by an applicant does not satisfy the notice requirement.

Odor Abatement For the purposes of CFO/CAFO site evaluation, methods of odor control. Acceptable methods are listed in Section 150.068.

Public Use Area Land owned by the United States, the State of Indiana, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time.

Shelter Belt Shelterbelts will be established in accordance with the Natural Resources Conservation Service Conservation Practice Standard for Windbreak/Shelterbelt Establishment Code 380.

Truck Turnaround For the purposes of CFO/CAFO site evaluation, a cul-de-sac or T-shaped turnaround area provided so as to prevent semi-trailers from backing off of or onto a road. The turnaround shall be a space adequate for a semi-trailer to turn around. The turnaround shall be covered in an all-weather surface.

Use of Attachment with Application For the purposes of CFO/CAFO site evaluation, an attachment used in the process of manure application to cover exposed areas of the equipment and control the spray of manure.

Water Conservation Methods that significantly reduce the amount of water used in the CFO/CAFO, such as wet/dry feeders or other feeding and watering systems.

Violation, IDEM or EPA An enforcement action resulting in an Agreed Order or a Commissioner's Order within the preceding five (5) years from the Indiana Department of Environmental Management, a Consent Agreement or Final Order within the preceding five (5) years from the United States Environmental Protection Agency, or a finding from a court of law that a person or legal entity has caused a substantial endangerment to human health or the environment. A legal entity shall be deemed to have incurred a violation if an owner, member, shareholder, or interest holder of at least ten percent (10%) of the entity has incurred a violation personally.

150.168 Confined Feeding Operations and Concentrated Animal Feeding Operations

(A) Purpose and Intent

The purpose of this section is to incorporate into the Development Code a system for evaluating sites for CFO/CAFO facilities. It is acknowledged that agriculture is an essential component of the Henry County economy and the progress of the agriculture industry must be recognized and planned for in the Henry County Development Code.

(B) Applicability

These standards apply to the location and planning of CFO and CAFO sites in Henry County, Indiana. Certain provisions of this ordinance do not apply to existing CFO/CAFOs.

These standards apply to any new CFO or CAFO, as well as the expansion of existing CFO or CAFO sites. Existing CFO/CAFO sites will be allowed any expansion that was permitted by the Indiana Department of Environmental Management (IDEM) prior to the 2012 Moratorium Ordinance approved by the Board of County Commissioners but prohibited from execution by said moratorium. However, such previously permitted expansion is limited to the expansion that was approved by IDEM and expansion in excess of the previous permit/s will be subject to the standards herein.

(C) Siting Requirements

- (1) No person shall start construction of or operate a new CFO/CAFO without first obtaining a Commission Approved Use from the Henry County Planning Commission.
- (2) A CFO/CAFO may be located only on a parcel zoning Agriculture (A-1).
- (3) A CFO/CAFO may be located only on a parcel not less than forty (40) acres in size, regardless of the amount of space or acreage to be allotted for the barns or operating facilities.
- (4) The minimum front yard setback is five hundred (500) feet from the centerline of any road. If the CFO/CAFO site abuts more than one road, than the front yard setback will apply to each property line with road frontage.
- (5) The minimum side yard setback is three hundred (300) feet from the side property lines.
- (6) The minimum rear yard setback is three hundred (300) feet from the rear property line.
- (7) The minimum road frontage is one hundred and fifty (150) feet.
- (8) A CFO/CAFO site may have up to two permitted entrances to major and minor collector highways. Any entrance to any road must be approved by the Henry County Highway Department with a Driveway Permit prior to being cut.
- (9) Required Separation Distances:

Use	Distance
Residential Structure – not located on the proposed CFO/CFO site	800 feet
School or other Education Institution	2,640 feet
Church or other Religious Institution	1,320 feet
Open Legal Drain, Stream, or River without a twenty (20) foot filter strip	500 feet
Open Legal Drain, Stream, or River with a twenty (20) foot filter strip	300 feet
Municipality or Subdivision	2,640 feet
Public Use Area	2,640 feet
Water Well, other than to service the CFO/CAFO	500 feet
High Employment Centers, 100+ full time or part-time equivalent employees	1,320 feet

(D) Separation Distance Calculation

- (1) The absolute minimum separation distance from a residence, business, or commercial entity is 800 feet.
- (2) The absolute minimum separation distance of 800 feet does not apply to a residence owned by the CFO/CAFO owner/operator.
- (3) The separation distance will be calculated using the following formula: Number of Head of Livestock multiplied by the Animal Unit Factor (see Table below) to determine the Animal Unit value which is then multiplied by the value 0.3 to create a separation distance from neighboring homes. The minimum separation distance allowed will be 800 feet even if the formula permits a shorter distance.
- (4) Animal Unit Factors to be used:

Animal Type	Animal Unit Factors
A. Dairy Cattle	1.4
Mature Cow or Bull	0.7
Heifer	0.2
Calf	
B. Beef Cattle	
Slaughtered Steer or Stock Cow	1.1
Feeder Cattle or Heifer	0.7
Cow and Calf Pair	1.3
Calf	0.2
C. Swine	
Boars or Sows, including Litters	0.45
Finishers or Gilts	0.4

Nursery Pigs	0.07
D. Horse	1
E. Sheep and Lambs	0.1
F. Chickens	
Laying Hen or Broiler (liquid manure system)	0.011
Laying Hen or Broiler (dry manure system)	0.005
G. Turkeys	
Over 5 Pounds (Finishers)	0.018
Under 5 Pounds (Starters)	0.005
H. Ducks	0.01
I. Animal Not Listed Above	Avg. Weigh of Animal in lbs. divided by 1,100 lbs.

(E) Procedure

- (1) Applications for a proposed CFO/CAFO site will be kept in the Office of the Henry County Planning Commission. Prior to initiating an application, the Zoning Administrator will confirm that the minimum Siting Requirements are met.
- (2) After confirmation that minimum site requirements have been met, the Zoning Administrator will initiate a Scoring System sheet for the Applicant. The Zoning Administrator will oversee the Scoring System process and will conduct any and all inspections and interviews required to obtain the information needed to calculate a score.
- (3) Any Applicant who wishes to be evaluated for a site agrees upon initiation of the Scoring System process to be complicit with the requests of the Zoning Administrator and provide the necessary access to property and information needed to evaluate the site. Failure to provide the necessary information will result in termination of the application.
- (4) Once the site and other necessary information has been evaluated by the Zoning Administrator and a score has been calculated, the Zoning Administrator will inform the Applicant within three (3) business days of whether the application for a Commission Approved Use has met the threshold for a Commission Approved Use Hearing or a Commission Approved Use Waiver. For explanations of those thresholds, see subsection (F)(7) and (8).
- (5) The fee of the CFO/CAFO application procedure is \$500.00. If the cost of certified mailings, required for certain Neighbor Notifications, exceeds \$500.00, then the Applicant is responsible for any excess costs created by the mailings.

(F) Scoring System

- (1) The Scoring System is a tool to be used by the Henry County Planning Commission to evaluate the merit of a proposed CFO/CAFO site. The Scoring System is a part of the application process, and a CFO/CAFO cannot be granted a Commission Approved Use, an Improvement Location Permit, or a Building Permit without submitting to the Scoring System.
- (2) The Odor Abatement methods referenced in the Scoring System are outlined in the Table below:

Tier One	Tier Two
Sprinkling of all gravel driveways	
Bio or Biomass filters installed on appropriate exhaust fans	Manure additives
Permeable cover or impermeable cover for manure storage and lagoon	Solids separation
Cover for liquid manure storage	Anaerobic Digester
Aeration for surface of lagoon	Other industry approved technology as approved by the Planning Commission
Windbreak walls	Composting
Diet formulation (use of feeds that reduce odor and nutrient excretion)	
Other industry approved technology as approved by the Planning Commission	

- (3) In accordance with IDEM regulations, neighboring property owners within one-half (1/2) mile of the proposed CFO/CAFO site must receive notification of the site application. Points will be awarded for compliant notification to neighbors within one-half (1/2) mile, and applicants may elect to notify neighbors within one (1) mile in order to be awarded additional points in the Scoring System. These notifications will be sent by the Henry County Zoning Administrator via Certified U.S. Mail. The applicant is responsible for the cost of such mailings.
- (4) Manure application methods must comply with the requirements of IDEM, the Office of the Indiana State Chemist, the Natural Resources Conservation Service, and any other federal or state regulatory body with jurisdiction.
- (5) Neighbor Objections must be received by the Henry County Planning Commission within 21 days of receipt of service. Objections must be made in writing and submitting via mail or personal service. Objections within one-half (1/2) mile and one (1) mile will be deducted against the points accumulated by an Applicant in the Scoring System, but will not prohibit a Commission Approved Use hearing. Points to be deducted for objections will not be multiplied, i.e., five objections within one-half (1/2) mile will result in a deduction of 30 points, not a deduction of 150 points.
- (6) Scoring System:

Qualification	Points
Clean Record Award	10
Water Conservation	25

Existing Land Use	
Wooded	20
Section Density	
0-5	50
6-10	30
11-17	20
18-23	15
24-38	10
39-49	5
50+	0
Separation from House/Public Use Facility/Church	
At least 250' more than required by Developmental Standards	40
At least 500' more than required by Developmental Standards	60
At least 750' more than required by Developmental Standards	80
At least 1000' more than required by Developmental Standards	120
1250' or more than required by Developmental Standards	150
Shelter Belt	50
Truck Turnaround	30
IDEM/EPA Violation	-100
Homestead	100
Odor Abatement	
Tier 1	
One Method	25
Two Methods	30
Three Methods	35
Four Methods	40
Five Methods	45
Tier 2	
One Method	25
Two Methods	30
Three Methods	35
Four Methods	40
Five Methods	45
Neighbor Notification	
Within one-half (1/2) mile	15
Within one (1) mile	30
Neighbor Objection	
Within one (1) mile	-15
Within one-half (1/2) mile	-30
Manure Application	
Injection	40
Use of Attachment with Application	5
Surface Applied (incorporation within 24 hours)	25
Surface Applied on established crop	10

- (7) An Applicant must receive a minimum of 320 points to receive a Commission Approved Use Hearing before the Planning Commission. The Planning Commission will review the Scoring System and use it as a tool in reviewing the merit of the proposed site.
- (8) An Applicant who receives a score of 400 or more points will receive a Commission Approved Use Waiver and will automatically receive the Commission Approved Use without being required to appear before the Planning Commission for a formal hearing.

(G) Penalty

- (1) Any violation of this Section will be subject to the penalties outlined in Section 150.999.