

**CODORUS TOWNSHIP
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 15-06

**AN ORDINANCE OF CODORUS TOWNSHIP, YORK COUNTY,
PENNSYLVANIA, ESTABLISHING HEALTH, SAFETY, AND WELFARE
REGULATIONS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS;
PROVIDING STANDARDS FOR THE PERMITTING OF CONCENTRATED ANIMAL
FEEDING OPERATIONS; PROVIDING DEFINITIONS; PROVIDING AN
EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY.**

WHEREAS, Section 607(1) of the Second Class Township Code ("Code") provides that the Codorus Township Board of Supervisors is charged with the general governance of the Township and the execution of legislative, executive and administrative powers in order to ensure sound fiscal management and to secure the health, safety and welfare of the citizens of the Township; and

WHEREAS, Section 1506 of the Code provides that the Codorus Township Board of Supervisors may make and adopt any ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth necessary for the proper management, care and control of the Township and its finances and the maintenance of peace, good government, health and welfare of the Township and its citizens, trade, commerce and manufacturers; and

WHEREAS, Article I, Section 27 of the Pennsylvania Constitution, the Environmental Rights Amendment, provides that the people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment, and that public natural resources are the common property of all the people, including generations yet to come; and

WHEREAS, there are documented potential human health risks associated with Concentrated Animal Feeding Operations ("CAFOs") including infections resulting from the potential transmission of airborne pathogens, health effects including asthma, bronchitis, and allergic reactions associated with exposure to air contaminants, and health effects associated with exposures to nitrates, drug residues, and other hazards that may be present in ground and/or surface waters contaminated by manure, and

WHEREAS, the Codorus Township Board of Supervisors has determined that providing proper standards, in accordance with the laws of the Commonwealth of Pennsylvania and the authority of the Township, pertaining to CAFOs will adequately and properly protect and ensure the health, safety and welfare and secure rights to clean air and pure water for the citizens of Codorus Township.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby ordained and enacted by the Board of Supervisors of Codorus Township as follows:

1. **DEFINITIONS**

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense, and words used in the plural include the singular. For purposes of this chapter, the following words, terms and phrases shall have the following meanings unless otherwise indicated:

- 1.1. **AIRBORNE PATHOGENS** - Any organism that causes disease and that spreads throughout the environment via the air.
- 1.2. **ANIMAL EQUIVALENT UNIT (AEU)** - One thousand pounds live weight of livestock or poultry animals, regardless of the actual number of individuals comprising the unit, as defined in Section 3 of the Nutrient Management Act (3 p.s. §1703)[1] AND 25 Pa. Code §83-201, which are incorporated into this chapter by reference.
- 1.3. **AEU PER ACRE** - An animal equivalent unit per acre of cropland or acre of land suitable for application of animal manure.
- 1.4. **ANIMAL WASTE** - Any animal excrement, animal carcass, feed waste, animal water waste, or any other waste associated with animals.
- 1.5. **ANIMAL WASTEWATER** - Any animal excreta, any liquid which comes into contact with any manure, litter, bedding or other raw material or intermediate or final material or product used in or resulting from the production of animals or products directly or indirectly used in the operation of a CAFO, or any spillage or overflow from animal watering systems, or any liquid used in washing, cleaning or flushing pens, barns, or manure pits, or any liquid used in washing or spraying to clean animals, or any liquid used for dust control on the premises of a CAFO,
- 1.6. **CONCENTRATED ANIMAL FEEDING OPERATION** - A CAFO with greater than 300 AEUs, any agricultural operation with greater than 1,000 AEUs, or any agricultural operation defined as a large CAFO under 40 CFR 122.23(b)(4) (relating to concentrated animal feeding operations (applicable to State NPDES programs, see § 123.25)).
- 1.7. **CONCENTRATED ANIMAL OPERATION** - Agricultural operations with eight or more animal equivalent units where the animal density exceeds two AEUs per acre on an annualized basis.
- 1.8. **BUILDING PERMIT** - A building permit/letter of approval required of a CAFO by Codorus Township.

- 1.9. **FEEDLOT** - Any land area, structure, lot, yard, or corral or other area, whether enclosed with a roof or unenclosed, wherein livestock are confined in close quarters for the purpose of fattening, feeding, growing, raising, or birthing such livestock for final shipment to market or slaughter. Without limiting the generality of the foregoing definition, a lot or structure which contains 300 AEU per acre for the foregoing purposes shall be considered a feedlot. A feedlot does not include unenclosed pasture areas which are used for the raising of crops or other vegetation upon which livestock are allowed to graze or feed.
- 1.10. **LAND** - Any plot, parcel, lot or other area of land owned or leased by the CAFO to qualify for the capacity of one acre per four AEU formula for wet handling, or one acre per eight AEU formula for dry handling.
- 1.11. **LAND APPLICATION AREA** - Land used or reserved for the application of liquid or dry CAFO animal wastes from a building or outdoor storage facility.
- 1.12. **LEASE** - A written contract for the exclusive use of real property, which contract specifically grants unto the lessee the right to apply animal waste and animal wastewater to the leased premises.
- 1.13. **LIVESTOCK** - Cattle, sheep, swine, poultry and other animals or fowl, which are being produced primarily for use as food or food products for human consumption.
- 1.14. **MANURE STORAGE STRUCTURE** - Any pad, pit, pond, lagoon, tank, building, or manure containment area used to store or treat manure, including any portions of buildings used specifically for manure storage or treatment. Manure storage structures must be designed and managed to contain manure, wastewater, contaminated runoff, and manure mixed with litter or bedding without any discharge to the waters of the Commonwealth.
- 1.15. **OWNER** - Anyone who owns, either individually and/or with any other persons, any of the following interests in the real property upon which a CAFO is situated:
 - 1.15.1. Fee simple title;
 - 1.15.2. Leasehold interest;
 - 1.15.3. Any interest in any entity which holds fee simple title;
 - 1.15.4. Any interest in any entity which has a leasehold interest.
- 1.16. **OWNER'S IMMEDIATE FAMILY** - The owner's parents, spouse, children, grandchildren, brothers and/or sisters.
- 1.17. **PERSON** - Includes natural persons and also includes corporations, partnerships, associations and any other business or charitable entities, including a natural person who has supervisory authority over the operation of a CAFO, whether or not such person is an owner of the CAFO, and a natural person who

applies animal waste or animal wastewater originating from the CAFO.

1.18. **RESIDENCE** - A dwelling place for people which is inhabited at least 50% of the year or any church, school, business or other public building open to and used routinely by the public for public purposes.

1.19. **TOWNSHIP HEALTH PERMIT** - Written authorization issued by the Codorus Township Board of Supervisors to construct, modify or operate a CAFO. Permits are effective for a five-year period before having to be renewed. Renewal applications must be submitted to the Township at least 180 days prior to expiration of the permit.

2. **CLASSIFICATION OF CONCENTRATED ANIMAL OPERATIONS**

2.1.A Class I CAFO is one that has a capacity of 2,000 or more AEUs.

2.2 A Class II CAFO is one that has a capacity of 1,500 to less than 2,000 AEUs.

2.3 A Class III CAFO is one that has a capacity of 1,000 to less than 1,500 AEUs.

2.4 A Class IV CAFO is one that has a capacity of 301 to less than 1,000 AEUs

3. **RULES APPLICABLE TO ALL CAFOs**

Each CAFO located in Codorus Township, save for those meeting the exceptions contained in Sections 5 and 6 herein, shall be required to obtain a Township Health Permit. Such permit is valid for a period of 5 years from the date of issuance and may be renewed for additional 5-year period upon renewal application by the CAFO owner or operator. Prior to issuance of a Codorus Township Health Permit, the Township shall make findings of fact and conclusions of law as to the following:

3.1. The proposed CAFO shall be in compliance with the provisions of this Ordinance, as applicable. Codorus Township shall have the right to contract with outside engineers or other qualified parties to conduct inspections of proposed and permitted CAFOs as needed to ensure ongoing compliance with this Ordinance, with not less than one inspection performed on each facility annually. Inspection reports shall be generated and provided to the Codorus Township Board of Supervisors and posted on the Township's web site.

3.1.1. The Township may designate a health inspector to enter and inspect at reasonable times and in a reasonable manner any places or conditions whatsoever within the jurisdiction of the Township for the purpose of enforcing the health laws, rules and regulations of the Commonwealth and this Ordinance, and for the purpose of examining for, and abating nuisances detrimental to the public health.

3.2. Airborne pathogens. The permittee shall provide adequate provisions for the control of airborne pathogens as determined by the Codorus Township Board of Supervisors. These measures include, but are not limited to, installation of filters and UV light systems on all exhaust fan assemblies. In addition, all measures for the control

and treatment of airborne pathogens shall comply with the most recent recommendations by the United States Centers for Disease Control

3.3. No Township Health Permit shall be issued for any CAFO that contains a livestock and/or poultry Manure Storage Structure unless such structure is in compliance with all state and federal regulations for the control of wastes from livestock feedlots, poultry lots and other animal lots and said Manure Storage Structure has obtained a permit from the Commonwealth, if necessary, for the pollution control devices to be installed

4. **CAFO SPACING REQUIREMENTS**

No Class I CAFO shall be located within two miles of any Class I or Class II CAFO or within one mile of any Class III or Class IV CAFO. No Class II CAFO shall be located within two miles of any Class I CAFO, within 1-1/4 miles of any Class II CAFO or within one mile of any Class III or Class IV CAFO. No Class III CAFO will be located within one mile of any Class I or II CAFO or within 1/2 mile of any Class III or Class IV CAFO. No Class IV CAFO will be located within one mile of any Class I or II CAFO or within 1/2 mile of any Class III or Class IV CAFO. This distance shall be measured from the nearest point of one CAFO's confinement or waste containment system to the nearest point of another CAFO'S confinement or waste containment system.

Spacing Distances

	Class I	Class II	Class III	Class IV
Class I	2 miles	2 miles	1 mile	1 mile
Class II	2 miles	1.25 miles	1 mile	1 mile
Class III	1 mile	1 mile	0.5 mile	0.5 mile
Class IV	1 mile	1 mile	0.5 mile	0.5 mile

5. **RELIEF FROM REQUIREMENTS**

Where, due to an extraordinary or exceptional situation or condition of a specific piece of property, the strict application of this chapter would result in peculiar and exceptional difficulties to, or an exceptional and demonstrable undue hardship upon, the owner of the property as an unreasonable deprivation of use as distinguished from the mere grant of a privilege, the Board of Supervisors may authorize, as part of the application for a Township Health Permit, relief from the strict application so as to relieve said demonstrable difficulties or hardships, provided the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the regulations, standards and criteria established in this chapter.

6. **APPLICABILITY**

A CAFO in existence at the time of the enactment of this chapter is exempt from its

terms and conditions; provided, however, that before a CAFO in existence at the time of the enactment of this chapter may expand or change its operation in terms of a change of classification or amount or manner in which animal waste or animal wastewater is applied or disposed of, the CAFO shall be in compliance with this Ordinance in every respect and shall obtain a new Township Health Permit. If the real estate upon which a CAFO is exempt as stated above is transferred to a member of the Owner's Immediate Family either by voluntary conveyance or as the result of the death or incapacity of the owner, the exemption provided herein shall also transfer.

7. ADMINISTRATIVE FEES

7.1. No application for approval of a Township Health Permit shall be accepted until the applicant has paid all processing fees as set forth below. Fees paid shall be nonrefundable except as provided below.

7.2. The original application fee amount shall not exceed the amount needed to recover the cost of any annual inspections, investigation and review of the proposed application, which fee amounts are based upon the anticipated costs of review, inspection and investigation by Codorus Township and which fee amounts have also taken into consideration the need for special investigative services, including geologic inspections, hydrologic inspections, groundwater monitoring, soils evaluation, and other unique costs of a scientific or technical nature associated with the processing of the application. For purposes of this Ordinance, the administrative fee amounts shall be as follows:

Classification of CAFO	Fee
Class I	\$10,000
Class II	\$2,000
Class III	\$1,500
Class IV	\$1,000

7.3. There shall be established with the Codorus Township Board of Supervisors an escrow fund for each application for a Township Health Permit. The purpose of the escrow fund is to reimburse Codorus Township for services rendered in connection with administration of this Ordinance. Said escrow account shall include the proceeds of fees established pursuant to this section and any penalties collected under Section 11 of this Ordinance. The funds contained in said escrow account shall be used solely to reimburse Codorus Township for actual costs associated with administration of this Ordinance, for actual services rendered for investigation, administration and processing of a Township Health Permit, including costs associated with the retaining and compensation of experts on scientific and technical issues associated with the application and costs associated with public hearings. The Township Treasurer shall disburse payments based upon billings supplied by Codorus Township and approved by the Codorus Township Board of Supervisors.

7.4. The applicant for a Township Health Permit may apply to Codorus Township for

a credit against the fee previously paid in the event that a portion of the cost of review and processing is duplicative, pursuant to the standards of applicable case law or statutes then in effect.

7.5. The five-year renewal fee for all classes of CAFOs shall be \$1,000 to be paid at the time the application for renewal permit is submitted, said fee shall be deposited into the escrow fund.

8. **DISPOSAL OF DEAD ANIMALS AND AFTER BIRTHING MATERIAL**

The proper disposal of dead animals and after-birthing material shall be completed in accordance with the Pennsylvania Domestic Animal Act which is hereby incorporated into this chapter by reference.

9. **SITE EVALUATION AND NUTRIENT MANAGEMENT PLAN**

The Applicant shall obtain and provide to Codorus Township a satisfactory site evaluation and nutrient management plan of any proposed CAFO prepared by a certified nutrient management specialist who satisfies the requirements of the Department of Agriculture's Nutrient Management Certification Program in 7 Pa. Code §§ 130b.1-130b.51 (relating to nutrient management certification).

10. **CONDITIONS FOR ISSUANCE OF PERMIT**

The Applicant shall meet all of the conditions as set forth above in Sections 1 through 9 prior to Codorus Township issuing either a Building Permit and/or Township Health Permit under this Ordinance.

11. **VIOLATION AND PENALTIES**

11.1. Enforcement of the provisions of this Ordinance and violations thereof shall be by an action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person found guilty of violation of the provisions of this Ordinance shall be sentenced to pay a fine not to exceed One Thousand (\$1,000.00) Dollars for each violation and may be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day a person operates a CAFO in violation of the provisions of this Ordinance, and each day a person applies animal waste or animal wastewater in a manner inconsistent with the requirements of this Ordinance, shall constitute a separate offense. Further, any person who shall violate more than one section of this Ordinance shall be deemed to have committed separate offenses for the violation of each section of this Ordinance.

11.2. For purposes of imposing penalties for violation of this Ordinance, the term "person" includes the responsible corporate officer.

12. **ACTION IN EQUITY**

In addition to the enforcement provisions contained in Section 11 above, Codorus Township is authorized to enforce the provisions of this Ordinance through an action in equity as permitted by Section 1601 of the Second Class Township Code.

13. **SEVERABILITY**

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

14. **REPEAL OF ORDINANCE NOT TO AFFECT LIABILITIES, ETC.**

Whenever any part of this Ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the Ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the Ordinance shall go into effect unless therein otherwise expressly provided, but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this Ordinance previous to its repeal shall be affected, released, or discharged but may be prosecuted, enjoined, and recovered as fully as if this Ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

15. **EFFECTIVE DATE**

This Ordinance shall become effective as provided by law.

ENACTED AND ORDAINED by the Board of Supervisors of Codorus Township

this 6TH day of AUGUST, 2015.

ATTEST:

**CODORUS TOWNSHIP
BOARD OF SUPERVISORS**

Op K. Rehbein
Secretary

James R. Heflinger
Chairman