



Nebraska Department of Agriculture

Application for Designation as a Livestock Friendly County

County: _____

Contact Information:

Name: _____

Title: _____

Department: _____

Address: _____

City/State/Zip: _____

Telephone: _____ Fax: _____

E-mail: _____

In the following sections, check all items that apply to your county. For each item checked, include the appropriate document or other information clearly marked with the corresponding exhibit.

Declaration of the County Board (to be completed by every applicant):

- Attach, as Exhibit A, a formal declaration adopted by the county board in a duly enacted resolution following a public hearing, which includes, but is not limited to, the following:
- An expression of interest in developing the livestock production and processing sectors of the county's economy.
 - An acknowledgment that livestock is important to the economic well-being of the county.
 - An assurance that the county intends to work with all other governmental jurisdictions within its boundaries in implementing livestock development within the county.
 - A commitment to compliance with the Livestock Waste Management Act.
 - A commitment to enter into a letter of understanding with the Department of Agriculture agreeing to:
 - Develop a plan to support the livestock industry in the county, and
 - Submit reports as directed by the Department of Agriculture.

Narrative Describing Fulfillment of Intent (to be completed by every applicant):

- Attach, as Exhibit B, a narrative describing how the county meets the overall intent of Neb. Rev. Stat. §§54-2801 and 54-2802 (see attached), including steps taken to support the livestock industry within the county and actions taken or information provided to avoid conflicting land uses.

Zoning Adopted by the County (to be completed if the applicant has adopted zoning):

- Attach the following exhibits if the county has adopted zoning pursuant to Neb. Rev. Stat. §23-114.
- County comprehensive development plan and zoning resolution (attach as Exhibit C-1).
 - Zoning regulations applicable to animal feeding operations (attach as Exhibit C-2).
 - Zoning map indicating districts in which animal feeding operations are a permitted use (attach as Exhibit C-3).
 - Any other procedures, guidelines, or other requirements applicable to livestock producers in the county (attach as Exhibit C-4).
 - The conditional use permits, including any conditions or requirements, for animal feeding operations granted by the county board during the prior 24 months (attach as Exhibit C-5).
 - The written statement of fact, if available, for any applications by animal feeding operations for conditional use permits granted or applications for conditional use permits denied during the prior 24 months (attach as Exhibit C-6).
 - Any zoning regulations related to rural housing development (attach as Exhibit C-7).

Animal Feeding Operations Restrictions (to be completed if jurisdictions other than the county impose restrictions on animal feeding operations):

- Attach the following exhibits if any city, village, or other governmental jurisdiction within the county imposes restrictions on animal feeding operations.
- The ordinances or regulations applicable to animal feeding operations (attach as Exhibit D-1).
 - Map designating areas subject to such ordinances or regulations (attach as Exhibit D-2).
 - Resolution or written statement of the city council, village board, or board of any other governmental jurisdiction within the county acknowledging that livestock is important to the economic well-being of the area and expressing an interest in supporting the livestock production and processing sectors (attach as Exhibit D-3).

Wellhead Protection Area (to be completed if the following applies):

- Attach the following exhibits if any controlling entity has designated a wellhead protection area, as both terms are defined in the Wellhead Protection Area Act.
 - Map identifying the wellhead protection area designated by the controlling entity and approved by the Director of the Department of Environmental Quality in accordance with the Wellhead Protection Area Act that are applicable to animal feeding operations (attach as Exhibit E-1).
 - The wellhead protection plan or other document containing the applicable controls approved by the Director of the Department of Environmental Quality in accordance with the Wellhead Protection Area Act that are applicable to animal feeding operations (attach as Exhibit E-2).

Other Considerations (not required, but this is where your county can demonstrate what you do to make your county livestock friendly):

- Identify and attach other information the county wishes to have considered in this application for designation as a livestock friendly county. You may wish to refer to the general principles, evaluation criteria and standards the Department will consider when evaluating applications for approval. These are found in the Nebraska Administrative Code, Title 29, Chapter 2, Subsections 008.04 and 008.05 (see attached). Please provide complete details about all attachments. Identify the attachments as Exhibit F and following.

Authorization (to be completed by every applicant):

Signature: _____
Print name: _____
Title: _____
Authorized representative of _____ County
Date: _____

Return completed form with exhibits to:

Livestock Friendly County Program
Nebraska Department of Agriculture
P.O. Box 94947
Lincoln, NE 68509-4947

For questions, contact:

Mr. Richard D. Sanne
Ag Promotion and Development Division
Telephone: (402) 471-4876
Fax: (402) 471-2759
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LIVESTOCK FRIENDLY COUNTY DESIGNATION STATUTES

54-2801. Legislative findings. The Legislature finds that livestock production has traditionally served a significant role in the economic vitality of rural areas of the state and in the state's overall economy and that the growth and vitality of the state's livestock sector are critical to the continued prosperity of the state and its citizens. The Legislature further finds that trends in livestock production suggest a need to identify and address factors that affect the viability and expansion of livestock production. Those factors include the impact of livestock production on the state's economy and its communities, all applicable regulatory agencies, and the latest technology available to enhance the livestock industry. It is the intent of the Legislature to seek reasonable means to nurture and support the livestock sector of this state.

54-2802. Director of Agriculture; duties; designation of livestock friendly county; process; county board; powers.

(1) The Director of Agriculture shall establish a process, including criteria and standards, to recognize and assist efforts of counties to maintain or expand their livestock sector. A county that meets the criteria may apply to the director to be designated a livestock friendly county. A county may remove itself from the process at any time. Such criteria and standards may include, but are not limited to, the following factors: Consideration of the diversity of activities currently underway or being initiated by counties; a formal expression of interest by a county board, by a duly enacted resolution following a public hearing, in developing the livestock production and processing sectors of such county's economy; an assurance that such county intends to work with all other governmental jurisdictions within its boundaries in implementing livestock development within the county; flexible and individual treatment allowing each county to design its own development program according to its own timetable; and a commitment to compliance with the Livestock Waste Management Act.

(2) The designation of any county or counties as a livestock friendly county shall not be an indication nor shall it suggest that any county that does not seek or obtain such a designation is not friendly to livestock production.

(3) In order to assist any county with information and technology, the Department of Agriculture shall establish a resource data base to provide, upon written request of the county zoning authority or county board, information sources that may be useful to the county in evaluating and crafting

livestock facility conditional use permits that meet the objectives of the county and the livestock producer applicant.

(4) The Department of Agriculture shall adopt and promulgate rules and regulations to carry out this section.

(5) Nothing in this section shall prohibit or prevent any county board from adopting a resolution that designates the county a livestock friendly county.

NEBRASKA ADMINISTRATIVE CODE

TITLE 29 - DEPARTMENT OF AGRICULTURE, AG PROMOTION AND DEVELOPMENT

CHAPTER 2 - LIVESTOCK FRIENDLY COUNTY REGULATIONS

008.04 Principles. General principles that the Director or the evaluation committee, if appointed, shall follow when evaluating applications and applying the criteria and standards listed in Subsection 008.05 include:

008.04A Consideration should be given to the diversity of activities currently underway or being initiated by a county.

008.04B Applications should be reviewed giving flexible and individual treatment to allow each county to design its own livestock development program according to its own timetable.

008.04C Land use regulations should foster the state's agriculture, recreation, and other industries and encourage the most appropriate use of land in the county.

008.04D Land use regulations should reflect the contribution of livestock to the economic well-being of the community taking into account the local community standards.

008.04E Land use controls and regulations should be objective, science-based standards that may be applied uniformly and are not subject to manipulation because of the type of operation or individual applying.

008.04F Land use controls should be drafted so that producers can predict whether a properly designed animal feeding operation will be allowed in a particular area and once permits are granted, should remain in effect so long as the animal feeding operation continues as proposed when the permit was issued.

008.04G Counties and livestock producers should be committed to protection of the environment, through compliance with the Livestock Waste Management Act and other standards established by state and federal environmental regulators.

008.04H Counties that have not adopted zoning shall be eligible for designation as a Livestock Friendly County.

008.05 Evaluation Criteria and Standards. Applications made to the Department shall be evaluated based on the criteria listed below. The Director will compare the examples listed under each criterion with the activities undertaken in the county or regulations imposed by the county to determine if the county may be considered a livestock friendly county, provided that county activities or regulations not listed may be determined to satisfy the criterion. The criteria are not weighted and the Director may determine that a county satisfies a specific criterion if it has no regulations regarding that area.

008.05A The county is committed to developing the livestock production and processing sectors of the county's economy. Examples of county commitment include:

008.05A(1) Expressions of commitment in county board resolution.

008.05A(2) Programs by county government and others within the county promoting and facilitating modernization, expansion, and new development of crop and animal feeding operations in agriculture areas.

008.05A(3) In areas with significant existing non-agriculture uses and areas near cities and villages, programs that permit reasonable modernization and expansion of existing animal feeding operations in a manner that is compatible with nonfarm land uses.

008.05B Evidence or information that the county is working with all other governmental jurisdictions within its boundaries to support livestock development within the county. Examples of activities taken by

cities, villages and other governmental jurisdictions that support livestock include:

008.05B(1) Expressions of commitment in a resolution of the city council or village board.

008.05B(2) Development restrictions or design requirements applicable to animal feeding operations do not extend beyond the extraterritorial zoning jurisdiction provided for by Nebraska statute from the city or village corporate limits (subject to Subpart 008.05B(3)), unless such restrictions are based on the facts and environmental conditions specific to the city or village and supported by scientifically justified environmental risk analysis consistent with state standards or relevant results of monitoring or modeling of environmental risks conducted by Nebraska regulatory agencies or other reliable, relevant, and broadly accepted information or principles.

008.05B(3) Development restrictions or design requirements intended to protect public water supplies and applicable to animal feeding operations are not more restrictive than controls adopted and do not extend beyond the wellhead protection area designated by a controlling entity (as both terms are defined in the Wellhead Protection Area Act) and approved by the Director of the Nebraska Department of Environmental Quality in accordance with the Wellhead Protection Area Act.

008.05C County has taken steps to reduce nonfarm development and nonfarm residential density and to discourage land uses that conflict with animal agriculture in areas identified for agriculture or predominately used for agricultural production. Examples of such steps include:

008.05C(1) Density limitations, minimum lot sizes or other restrictions on nonfarm residential development in intensive agriculture areas.

008.05C(2) Density restrictions allowing for not more than one dwelling for every quarter-quarter section of land unless additional dwellings are occupied by employees or operators of the farm or ranch or are in areas designated for nonfarm rural housing (based on proximity to surrounding natural resources, cities or villages and ability to efficiently provide county services).

008.05C(3) Education programs communicating impacts of agriculture activities to developers considering non-agriculture activities in rural areas.

008.05C(4) County has completed rural housing study analyzing housing patterns and density and identifying areas suitable for livestock development.

008.05C(5) Activities by the county or groups within the county to determine the economic impact of animal feeding operations on the county.

008.05C(6) Multiple agriculture zones with at least one zone designated livestock or intensive agriculture zone with the following regulations applicable:

008.05C(6)(a) Conditional use permits not required in identified livestock zones for animal feeding operations meeting established specifications (e.g., size, type of operation, and type of livestock waste control facility).

008.05C(6)(b) Restrictions on residential housing are greater in identified livestock zone.

008.05D Procedures for obtaining permits and application of other regulatory requirements applicable to livestock producers are clearly documented and based on objective, science-based standards that provide fair, objective and predictable results. Indicators include:

008.05D(1) Procedure and information requirements for obtaining a conditional use permit or a special use permit are published and timelines for consideration of applications have been established.

008.05D(2) Conditional use permits cannot be withdrawn due to subsequent changes in zoning regulations.

008.05D(3) Animal feeding operations are allowed to expand within specified limits without reapplying for a conditional use permit.

008.05E Design and site requirements and conditions placed on animal feeding operations are reasonable and justifiably related to purposes identified in the zoning regulation. Examples of reasonable and justifiable requirements include:

008.05E(1) Standards for applying design requirements (e.g., groundwater monitoring wells, lagoon lining requirements, seepage requirements) and operating conditions (e.g., financial surety, cleanup bonds) are clearly documented and based on objective, science-based standards that provide fair, objective and predictable results.

008.05E(2) Standards are not more restrictive than the Livestock Waste Management Act or other state standards established by Nebraska regulatory agencies unless based on the facts and environmental conditions specific to the county and supported by scientifically justified environmental risk analysis consistent with state standards or relevant results of monitoring or modeling of environmental risks conducted by Nebraska regulatory agencies or other reliable, relevant and broadly accepted information or principles.

008.05F Setbacks or separation distances required between animal feeding operations and other uses are reasonable and justifiable. Setbacks or separation distances required between animal feeding operations (including livestock waste control facilities) and neighboring residences shall be considered to be

reasonable and justifiable if the distance required by the county regulation for animal feeding operations at each of the number of animal unit sizes listed below is not greater than (subject to Subpart 008.05F(1)) the distances indicated:

1,000 animal units - 0.25 mile
5,000 animal units - 0.375 mile
10,000 animal units - 0.50 mile
20,000 animal units - 0.75 mile

Other examples of reasonable and justifiable setbacks or separation distances include:

008.05F(1) Setbacks or separation distances greater than those set forth above may be considered reasonable and justifiable if based on the facts and environmental conditions specific to the county and supported by scientifically justified environmental risk analysis consistent with state standards or relevant results of monitoring or modeling of air emissions, odor emissions, or both air and odor emissions conducted by Nebraska regulatory agencies, the Nebraska Institute of Agriculture and Natural Resources, or other reliable, relevant and broadly accepted information or principles.

008.05F(2) The county has completed a review of the location of existing animal feeding operations in the county relative to other adjoining land uses and determined that:

008.05F(2) (a) A substantial majority of the existing animal feeding operations in the county meet or exceed the setbacks or separation distances required for new animal feeding operations by current county zoning ordinances (without relying on any grandfather provisions); and

008.05F(2) (b) A significant portion of the existing animal feeding operations in the county are currently located at a sufficient setback or separation distance from other uses to allow expansion of the animal

feeding operation under current county zoning regulations.

008.05F(3) No maximum animal unit cap or moratorium on building or expanding animal feeding operations unless such caps are based on the facts and environmental conditions specific to the county and supported by scientifically justified environmental risk analysis consistent with state standards or relevant results of monitoring or modeling of air emissions, odor emissions, or both air and odor emissions conducted by Nebraska regulatory agencies, the Nebraska Institute of Agriculture and Natural Resources, or other reliable, relevant and broadly accepted information or principles.

008.05F(4) Setbacks or separation distances based upon the type of operations (open lot vs. confined animal feeding operation), the type of livestock waste control facility (aerobic lagoon, anaerobic lagoon, facultative lagoon, deep pit, etc.), and prevailing winds rather than strict distance limits in all directions, provided that the distances more restrictive than the distances set forth above shall be based on the facts and environmental conditions specific to the county and supported as described in Subpart 008.05F(1).

008.05F(5) Setbacks or separation distances reflect or take into account best management practices adopted by the producer to mitigate environmental risks.

008.05F(6) Reciprocal setbacks or separation distances restrict development on property adjoining animal feeding operations to prevent non-agriculture uses from encroaching on animal feeding operation set-backs or separation distances and to provide for reasonable expansion of the animal feeding operation.

008.05F(7) Restrictions and requirements for approval of the conditional use permit request and setback requirements are based on a point system considering the characteristics of and practices used on the individual operation,

provided the points allocated for particular characteristics and practices are based on the facts and environmental conditions existing and practices used in the county and are consistent with state standards or relevant results of monitoring or modeling of air emissions, odor emissions, or both air and odor emissions conducted by Nebraska regulatory agencies, the Nebraska Institute of Agriculture and Natural Resources, or other reliable, relevant and broadly accepted information or principles.