

**Madison County Animal Feeding Operation Siting Matrix
Rules of Procedure**

1. Any Conditional Use Permit applicant for a new or the expansion of an existing Animal Feeding Operation (after July 15, 2003) with 300 or more head equivalent shall complete and pass the Madison County Animal Feeding Operation Siting Matrix as part of the Conditional Use Permit application process. Passing the Matrix does not assure, guarantee, certify or secure a Conditional Use Permit.
2. Application for a Conditional Use Permit to Operate a Animal Feeding Operation:
The Owner/Operator Must receive a passing score and comply with all the additional requirements of Section 402 or Section 403 of the Madison County Zoning Regulations at the time of application in order to receive a Conditional Use Permit to Operate a Animal Feeding Operation.
3. The matrix currently used is Appendix 1 with a passing score of 350 points. All matrix-based Conditional Use Permits granted prior to this amended version need to score 300 points or better to renew the Conditional Use Permit.
4. Once a Conditional Use Permit has been granted, the Owner/Operator shall complete and pass the Madison County Animal Feeding Operation Siting Matrix annually. Only a passing score is required.
5. Any changes or updates in this matrix initiated by the County shall not be applicable to those Conditional Use Permits issued under a previous edition of the Matrix as long as the operation does not expand.
6. Any changes or updates in this matrix caused by a change in procedure, rules or law by the State of Nebraska and/or the United States Government shall be applicable to all Animal Feeding Operation Conditional Use Permits issued with the use of this matrix.
7. Animal Feeding Operations when holding a Special Use Permit issued prior to August 1, 2003, are subject to the matrix procedure when renewing a permit after August 1, 2008 or for any expansion prior to the expiration of the existing permit. This clause is geographic specific and pertains only to the legal description of each individual permit location and not the owner or operator.
8. Annual Review:
 - a. The Zoning Administrator shall complete the matrix as part of an on-site inspection, or mail the matrix the Owner/Operator for completion. Either shall be begun 60 days prior to, and completed and returned to the Zoning Administrator no later than, the anniversary date of the permit.
 - b. Failure to pass the matrix.
 - i. If the Owner/Operator does not attain the passing point level on the annual matrix review the Zoning Administrator shall notify the Owner/Operator with the current score and the exact areas in the matrix where the change of score occurred within fourteen (14) days of scoring the matrix.
 - ii. The Owner/Operator shall have forty-five (45) days to make the necessary changes in order to pass the matrix review and to notify the Zoning Administrator of the changes.
 - iii. After notification by the Owner/Operator, the Zoning Administrator will make a site visit and evaluate the changes together with the Owner/Operator.
 - iv. The Zoning Administrator shall notify, in writing, the Owner/Operator of the total matrix score within seven (7) days of the site visit.

- v. If a passing matrix score is not achieved on the second attempt, the Owner/Operator shall have 30 days to make the necessary changes to pass the matrix or must notify the Zoning Administrator in writing of intentions to close the A.F.O.
- vi. After notification of changes made by the Owner/Operator, the Zoning Administrator will make a site visit and evaluate the changes together with the Owner/Operator.
- vii. The Zoning Administrator shall notify in writing the Owner/Operator of the total matrix score within seven (7) days of the site visit.
- viii. Within thirty (30) days of being notified a passing score was not achieved on the third attempt, the Owner/Operator shall submit to the Zoning Administrator a new Livestock Conditional Use Permit Application or a written notice of intent to close the A.F.O.

9. Complaints:

- a. All complaints against an Owner/Operator of an A.F.O. shall be made in writing by the complainant.
- b. The Zoning Administrator shall follow-up within thirty (30) days of receiving the complaint to determine the validity of the complaint.
- c. If in the Zoning Administrator's judgment, the complaint is not valid, the Zoning Administrator shall notify the complainant in writing.
- d. If the complaint is valid resulting in a violation of the Madison County Zoning Regulations, the Zoning Administrator shall notify the Owner/Operator in writing.
- e. The Zoning Administrator shall handle a violation in the same fashion as any other violation of the Madison County Zoning and Subdivision Regulations including the following:
 - i. If the Zoning Administrator finds a violation of the Madison County Zoning Regulations he shall notify the Owner/Operator of that violation. Other officials and/or agencies, including but not limited to, the County Attorney, DEQ, EPA, USDA, etc. may also be notified of the violation.
 - ii. The Zoning Administrator shall, together with the Owner/Operator, complete a matrix review. If a passing score is not achieved, see Part 4, above.

10. Appeals:

The decision of the Zoning Administrator on the scoring of the Zoning Matrix, violations of Madison County Zoning Regulations, etc. is final. Appeals of the Zoning Administrator's decision may only be made to the Madison County Board of Adjustment.

Madison County Animal Siting Matrix**DEFINITION OF TERMS**

1. "Applicant" means the owner or authorized representative of the animal feeding operation.
2. "Application area" means land utilized for the land application of livestock wastes.
3. "Best Management Practices (BMP)" means schedules of activities, prohibitions, maintenance procedures, and other management practices found to be the most effective and practicable methods for specific sites to prevent or reduce the discharge of pollutants to waters of the State or control odor where appropriate. Best management practices also include operating procedures and practices to control site runoff, spillage, leaks, sludge or waste disposal or drainage from raw material storage.
4. "Concentrated animal feeding operation" means an animal feeding operation because of size:
 - ♦ Defined as a large concentrated animal feeding operation because of size;
 - ♦ Defined as a medium concentrated animal feeding operation because of size and because animals are in direct contact with waters of the State or waste is discharged to waters of the state through a man-made conduit; or
 - ♦ Designated as a medium or small concentrated animal feeding operation by the Director.
5. "Closure Plan" means a plan to close the facility, to be implemented within 12 months of discontinuation of the livestock operation. The plan should detail the disposition of all accumulated waste, which complies with the requirements of Chapter 11 of Title 130.
6. "Common area" means an area utilized by more than one livestock operation for land application of livestock waste. Common area must receive at least twenty percent (20%) of the waste produced from each livestock operation on an annual basis.
7. "Comprehensive nutrient management plan (CMNP)" means and includes the legal description of planned waste application areas to be utilized by the operation, a description of the application areas including the number of useable acres, slope, soil type, cropping practices, historic yields, distance to surface water, location of wetlands and use by other operations. Any areas not owned by the operation shall include the landowner(s)' name, address, legal description, number of acres and an agreement signed by the landowner(s) allowing for the planned use of the land and any restrictions. The plan shall include waste sampling and analysis procedures, land application soil sampling and analysis procedures, and planned application rates, methods, and frequencies, which comply with Chapter 11 of Title 130. The plan also shall include appropriate record keeping of locations and quantities of livestock wastes land applied, sample results as required in Chapter 11 of Title 130 and records of waste sold or given away. The applicant may be required to provide the location and extent of wetlands, as determined by the Natural Resources Conservation Service, on the operation or land application areas.
8. "Confined livestock operations" means totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls or cages, with or without bedding materials and mechanical ventilation.
9. "Construct" or "Construction" means the initiation of physical on-site activities
10. "Construction approval" means an approval issued by the Department allowing construction of a livestock waste control facility
11. "Contributing drainage area" means surface area, other than the open lot, from which runoff cannot be diverted around the livestock operation and/or the livestock waste control facility.
12. "Debris basin" means an individually designed low gradient, broad, flat channel with a supporting ridge on the lower side, which functions to trap and store settleable solids, (both manure and sediment), for subsequent removal.
13. "Department" refers to the Nebraska Department of Environmental Quality.

14. "Dewatering days" means ~~these~~ days which have suitable weather and soil conditions for land application of accumulated livestock wastes.
15. "Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of pollutants into any waters of the State or in a place which will likely reach waters of the State.
16. "Emergency Response Plan" means a plan to respond to any spill, release or discharge of animal waste due to such events as power failures, large storms or chronic wet periods, leaks or breaks in water supply systems, component failure of the waste control facilities and any releases during land application due to equipment failure or accidents or irrigation equipment failure.
17. "Existing livestock operation" means a livestock operation which was or had been in operation with a Madison County Special Use Permit prior to July 1, 2003.
18. "Existing livestock waste control facility" means a livestock waste control facility in existence prior to July 1, 2003, that does or is exempt from holding a DEQ permit.
19. "Existing non-permitted livestock waste control facility" means a livestock waste control facility constructed and operated without an inspection and permit by the DEQ prior to July 1, 2003, or a livestock waste control facility which has been exempted from a permit by the Department, and does not have or ever applied for a Special or Conditional Use Permit from Madison County.
20. "Ground water" means water occurring beneath the surface of the ground that fills available openings in rock or soil materials such that they may be considered saturated.
21. Head Equivalent (H.E.) is based on feeder cattle and is defined as follows:

One (1) H.E. = One (1) Cow/Calf combination

One (1) H.E. = One (1) Slaughter, Feeder Cattle;

One (1) H.E. = One-half (1/2) Horse;

One (1) H.E. = Seven Tenths (.7) Mature Dairy Cattle;

One (1) H.E. = Two and One-half (2.5) Swine (55 pounds or more);

One (1) H.E. = Twenty Five (25) Weaned Pigs (less than 55 pounds);

One (1) H.E. = Ten (10) Sheep;

One (1) H.E. = Fifty Five (55) Turkeys;

One (1) H.E. = 30 Laying Hens or Broilers if a liquid manure handling system;

One (1) H.E. = 125 Chickens other than Laying Hens if other than a liquid manure handling system;

One (1) H.E. = 82 Laying Hens if other than a liquid manure handling system;

One (1) H.E. = Five (5) Ducks if a liquid manure handling system;

One (1) H.E. = 30 Ducks if other than a liquid manure handling system.

22. "Holding pond" means an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.
23. "Irrigation distribution system" means any device or combination of devices having a hose, pipe, or other conduit, which connects directly to any source of ground or surface water, through which livestock wastes or a mixture of water and livestock wastes is drawn and applied for agricultural or horticultural purposes.
24. "Lagoon" means an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of liquid livestock waste by anaerobic, aerobic or facultative digestion. Such impoundment predominantly receives waste from a confined livestock operation.
25. "Landscape Plan" means any type of document showing planned landscaping including but not limited to the type of grasses, trees, slope, berm, flowering plants and the proposed date of installation. Does not have to be done by any professional landscape architect, engineer, etc.
26. "Large animal feeding operation" means an animal feeding operation that stables or confines as many as or more than the number of animals specified in any of the following categories:
 - ♦ 700 mature dairy cows, whether milked or dry;

- ♦ 1,000 veal calves;
 - ♦ 1,000 cattle other than mature dairy cows or veal calves and including but not limited to heifers, steers, bulls, and cow/calf pairs;
 - ♦ 2,500 swine each weighing 55 pounds or more;
 - ♦ 10,000 swine each weighing less than 55 pounds;
 - ♦ 500 horses;
 - ♦ 10,000 sheep or lambs;
 - ♦ 55,000 turkeys;
 - ♦ 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;
 - ♦ 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;
 - ♦ 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;
 - ♦ 5,000 ducks, if the animal feeding operation uses a liquid manure handling system; or
 - ♦ 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system.
27. "Liquid manure storage pits" means earthen or lined pits located wholly or partially beneath a semi or totally housed animal feeding operation or at some removed location used to collect waste production.
28. "Livestock waste control facilities" or "facility" or "facilities" means any structure or combination of structures utilized to control livestock waste until it can be used, recycled, or disposed of in an environmentally acceptable manner. Such structures include, but are not limited to, diversion terraces, holding ponds, debris basins, liquid manure storage pits, lagoons or other such devices utilized to control livestock wastes.
29. "Livestock wastes" means animal and poultry excreta and associated feed losses, bedding, spillage or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock wastes.
30. "Medium concentrated animal feeding operation" means an animal feeding operation with the type and number of animals that fall within any of the ranges listed in the definition and which has been defined or designated as a concentrated animal feeding operation. An animal feeding operation is defined as a medium concentrated animal feeding operation if:
- 30.1 The type and number of animals that it stables or confines falls within any of the following ranges:
- 30.1a 200 to 699 mature dairy cows, whether milked or dry;
 - 30.1b 300 to 999 veal calves;
 - 30.1c 300 to 999 cattle other than mature dairy cows or veal calves and including but not limited to heifers, steers, bulls, and cow/calf pairs;
 - 30.1d 750 to 2,499 swine each weighing 55 pounds or more;
 - 30.1e 3,000 to 9,999 swine each weighing less than 55 pounds;
 - 30.1f 150 to 499 horses;
 - 30.1g 3,000 to 9,999 sheep or lambs;
 - 30.1h 16,500 to 54,999 turkeys;
 - 30.1i 9,000 to 29,999 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;
 - 30.1j 37,500 to 124,999 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;
 - 30.1k 25,000 to 81,999 laying hens, if the animal feeding operation uses other than a liquid manure handling system;
 - 30.1l 1,500 to 4,999 ducks, if the animal feeding operation uses a liquid manure handling system; or

- 30.1m 10,000 to 29,999 ducks, if the animal feeding operation uses other than a liquid manure handling system; or
- 30.2 The animal livestock feeding operation has been declared a Medium Animal Livestock Feeding Operation by the Director.
31. "Minimum design criteria" means the minimum storage criteria plus the calculated open lot and contributing drainage area runoff for the month of June, plus the net precipitation on the holding pond surface for the month of June, plus solid accumulations of at least one-half inch per acre of open lot and other sources of waste water.
32. "Minimum storage criteria" means the calculated runoff produced by a 25 year - 24 hour rainfall event per acre of drainage, for open lots and contributing drainage areas.
33. "Open discharge system" means a system in which the water is pumped or diverted directly into a ditch or canal in such a manner that the force of gravity at the point of discharge into the ditch or canal cannot cause water to flow back to the point from which the water was pumped or diverted.
34. "Open lots animal feeding operations" means pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.
35. "Operational and maintenance plan" shall include a schedule for monitoring of available waste storage capacity, a schedule for comprehensive inspections of the facility, methods to prevent tampering with gravity drain valves, waste removal based on type and capacity of the facility and the availability of disposal area, maintenance activities, procedures to maintain the facility for periods of time when it is not in operation, and record keeping of all maintenance or necessary repairs made to the facility or appurtenances as required in Chapter 11 of Title 130.
36. "Operator" means the person responsible for the operation of an animal feeding operation.
37. "Owner" means the person who owns an animal feeding operation or part of an animal feeding operation.
38. "Permit" means a National Pollutant Discharge Elimination System permit, either a general permit or an individual permit, issued by the department pursuant to Nebr. Rev. Stat. 81-1505(11) or a permit issued prior to January 1, 2006, by the department for a livestock waste control facility until the animal feeding operation is exempted or permitted under the National Pollutant Discharge Elimination System. A general permit authorizes categories of disposal practices or livestock waste control facilities and covers a geographic area corresponding to existing geographic or political boundaries, though it may exclude specified areas from coverage. General permits are limited to the same or similar types of animal feeding operations or livestock waste control facilities which require the same or similar monitoring and, in the opinion of the director, are more appropriately controlled under a general permit than an individual permit.
39. "Process wastewater" means water directly or indirectly used in the operation in the animal feeding operation for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes spent foot bath water and any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding.
40. "Production area" means that part of an animal feeding operation that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement areas includes but is not limited to open lots, housed lots, feedlot, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, and stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions that separate uncontaminated

- storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.
41. "Settling basin" means an individually designed low gradient, broad, flat channel with a supporting ridge on the lower side, which functions to trap and store settleable solids, both manure and sediment, for subsequent removal.
 42. "Single retention structure" means an impoundment made by excavation and/or embankment which functions to collect and store all runoff (liquid and solid) from the livestock operation and any contributing drainage area for subsequent removal.
 43. "Sludge management plan for holding ponds and lagoons" which shall include periodic monitoring of accumulated solids and a schedule for removal. In the case of liquid storage pits, adequate storage shall be provided prior to winter operation. Methods to provide this storage shall be described in the operational; and maintenance plan.
 44. "Small animal feeding operation" means an animal feeding operation with fewer animals than a medium animal feeding operation.
 45. "Small concentrated animal feeding operation" means an animal feeding operation that is designated as a concentrated animal feeding operation and is not a medium concentrated animal feeding operation.
 46. "Surface waters" means all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within, or bordering upon, the State. Impounded waters in this definition do not include areas designated by the Department as wastewater treatment or wastewater retention facilities or irrigation reuse pits.
 47. "Totally housed animal feeding operation" means an operation that is totally under roof where animals are housed, rainfall is prevented from becoming process wastewater, and all manure, litter, and process wastewater is contained. The roofed structure may or may not be enclosed on the sides.
 48. "25 year - 24 hour rainfall event" ~~shall~~ means a rainfall event with a probable recurrence interval of one in twenty-five (25) years. Appendix A, of DEQ Chapter 130, depicts the 25 year-24 hour rainfall event areas for Madison County, Nebraska as 4.9 inches.
 49. "Water pollution" means the man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.
 50. "Waters of the State" means all waters within the jurisdiction of this State including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the State.
 51. "Will" when used as an adverb as in 'Will create jobs' shall be replaced by "Has" during annual review.