

ORDINANCE NO. 97-8

AN ORDINANCE relating to the application process for the establishment, expansion, and operation of confined hog facilities in Calloway County, Kentucky, providing financial assurance requirements for any environmental damages, and complying with setback distances.

BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF
CALLOWAY, COMMONWEALTH OF KENTUCKY:

Section I. It shall be unlawful for any person (which includes an individual, firm, partnership, corporation, association, government agency, or business entity of any kind) to construct, establish, or operate a confined hog facility or expand an existing hog facility in Calloway County, Kentucky, without a permit issued upon the approval and authority of the Calloway County Fiscal Court.

Section II. "Confined hog facility" as used in this Ordinance shall include, but not be limited to, hog waste holding ponds or lagoons, confined hog barns, farrowing houses, gestation barns, nursery barns, feeding floors, and finishing floors, with over 1000 hogs per farm or per farm operation.

Section III. Application for permits shall be made to the office of the Calloway County Judge Executive, Calloway County Courthouse, Murray, Kentucky. The application shall be signed by the owner and operator of the proposed facility and contain a blueprint of the building design, a survey plat indicating building locations and setbacks, names and addresses of adjacent property owners, a statement of manure management and disposal plan, plan for runoff management of waste disposal, and list of responsible parties who will supervise construction and initial operation of the facility. Any such plans for waste disposal and management must be in compliance with KRS 424.40-100 et seq. and any and all Kentucky Administrative Regulations established to implement said statute, and specifically 401 KAR 5:037.

Section IV. The completed application shall be filed with the Calloway County Clerk and a copy to the Calloway County Judge Executive. The applicant shall then publish notice of the application in the local newspaper in accordance with KRS 424 at the applicant's own expense, stating the date, time, and place of a public hearing to be held by the Fiscal Court. The date, time, and place of the hearing will be provided by the County Judge Executive and shall be at least 30 days from the date of publication. The applicant must also send written notice by certified mail to each adjoining property owner. At the conclusion of the public hearing, the Fiscal Court may issue a permit if all requirements stated herein and compliance assurance are satisfactorily provided.

Section V. No person as defined herein shall operate a confined hog facility without providing to the Fiscal Court financial assurance as herein required. The owner or operator must submit a detailed written estimate, in current dollars, of the cost to clean up the natural resources which could be contaminated, polluted, defiled, or soiled by leaks or spills from the manure storage structures including lagoons which are (or could be at peak of operation) part of the facility. The owner or operator must annually adjust the cost estimate for inflation using the U. S. Consumer Price Index for rural areas. The cost estimate shall be calculated as follows:

1. The clean-up of above ground facilities and manure shall be calculated by determining the cost of a third party:

- (a) disposing of all manure stored on-site at an identified site, and,
- (b) cleaning or removing all above ground structures.

For purposes of this calculation, it is assumed that the manure storage container is 100% full. The estimate submitted shall be certified by a registered engineer and set forth how the cost was determined.

2. The cost of remediation of off-site contamination shall be calculated by multiplying the animal weight capacity of the operation by \$2.00 for those facilities which store manure in earthen manure storage basins; by \$1.00 for those facilities which store

manure in anaerobic lagoons; and by \$.50 for those facilities which store manure in formed manure storage structures.

3. The mechanisms used to demonstrate financial assurance must insure to the satisfaction of the Fiscal Court that the funds necessary to meet the costs of clean-up and remediation will be available if needed. In establishing financial assurance, owners and operators must choose from the following options: surety bond, insurance, or self-insurance.

VI. Surface water and groundwater monitoring plan required:

With the application for permit, the applicant shall also submit a surface water and groundwater monitoring plan to the county which complies with sanitary landfill specifications and which provides for at least quarterly monitoring of ground and surface water.

VII. Groundwater monitoring wells:

No permit shall be approved unless the facility has installed groundwater monitoring wells with at least one well located upgradient, and two wells located downgradient from the manure lagoon, basin, or structure. The specific location of these wells must be approved by the Fiscal Court. Said wells are to be designed per the state sanitary landfill specifications and registered with the state.

Using EPA approved methods and procedures for chemical analysis, each water sample drawn shall be tested for the following chemical constituents:

pH	Conductivity	Total dissolved solids
Temperature	Total alkalinity	Chemical oxygen demand
Ammonia-nitrogen	Total Kjeldahl nitrogen	Sulfate
Chloride	Total organic carbon	Sodium
	Nitrate-nitrogen	

Section VIII. Setbacks:

1. The setbacks required for any confined hog facilities and waste treatment lagoons shall be the same required for state sanitary landfills.

2. No permit shall be approved where the operation shall be located in a designated flood plain.

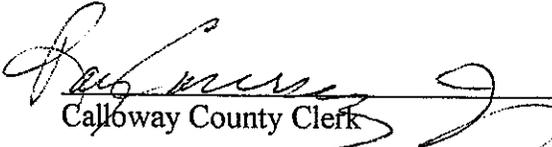
Section IX. If any section, provision, or any part of this Ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the Ordinance as a whole or any section provision, or part thereof not adjudged invalid or unconstitutional.

Section X. The County shall have the right to inspect such facilities to insure compliance with the provisions of this Ordinance.

Section XI. Any person as defined herein violating the provisions of this Ordinance shall be guilty of a Class A misdemeanor. Each day's violation shall constitute a separate offense.

Section XII. All confined hog facilities which have been in operation in Calloway County, Kentucky and have marketed hogs within the last five years prior to July 1, 1997 shall be exempt from this Ordinance.

Section XIII. This Ordinance shall become effective on the 16 day of October, 1997.


Calloway County Clerk


Calloway County Judge Executive