

Pierce County Guidelines for Conditional Use Permits for Confined Animal Feeding Operations

When do I need a Conditional Use Permit?

You need a Conditional Use Permit when you are operating a feedlot on property zoned "A-1" Agricultural District in Pierce County.

What does Pierce County consider a feedlot?

The following is the Pierce County Zoning Regulations definition affecting feedlots.

FARM shall mean an area containing at least twenty (20) acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing produce and the feeding of livestock as hereinafter prescribed; provided such accessory uses do not include the feeding of garbage or offal to swine or other animals. In contrast to a commercial feedlot hereinafter defined, any person operating within the following categories is conducting a farming operation and is not considered as operating a commercial feedlot.

FARMING shall mean the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed; provided such accessory uses do not include the feeding of garbage or offal to swine or other animals. In contrast to a Livestock Feeding Operation (LFO), as hereinafter defined, any person or entity operating within the following categories shall be considered to be a farming operation and shall not be considered as operating a LFO unless the operation exceeds the following:

- A. Two (2) Animal units for the first acre and an overall density of One (1) animal Unit (A.U.) per acre for a parcel less than forty (40) acres in size;
- B. One-and-one-half (1.5) A.U. per acre for a parcel of land greater than forty (40) acres, but less than eighty (80) acres; or
- C. Two (2) A.U. per acre for parcels over eighty (80) acres.
- D. Exception: When a temporary permit is issued for animals used strictly for educational purposes in conjunction with a non-profit sponsor, school district or other political subdivision to a maximum of four (4) A.U.'s. Said Temporary Permit shall be valid for a period of twelve (12) months and is validated by the program sponsor/instructor.

Notwithstanding the provisions of A-C above, anytime the number or combination of Animal Units (A.U.) exceeds three hundred (300), regardless of the size of the parcel of land, and where the confined area is far more than six (6) months in any one calendar year, the operation shall be considered a LFO and the owner/operator shall be required to obtain a Conditional Use Permit.

FEEDLOT shall mean the confinement of horses, sheep, pigs, cattle, and other food animals in buildings, lots, pens, pools or ponds which normally are not used for raising crops or for grazing animals. (Nebraska Department of Environmental Quality)

LIVESTOCK FEEDING OPERATION (LFO) shall mean any farming operation exceeding the per acre Animal Unit (A.U.) ratio as defined under "farming" or the feeding, farrowing, raising cattle, swine, sheep, poultry, or other livestock, in a confined area is for more than six (6) months in any one calendar year, and where the number of animals so maintained exceeds three-hundred (300) Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes.

- One (1) A.U. = One (1) Cow/Calf combination
- One (1) A.U. = One (1) Slaughter, Feeder Cattle;
- One (1) A.U. = One-half (0.5) Horse;
- One (1) A.U. = Seven-tenths (0.7) Mature Dairy Cattle;
- One (1) A.U. = Two-and-one-half (2.5) Swine (55 pounds or more);
- One (1) A.U. = Twenty-five (25) Weaned Pigs (less than 55 pounds);
- One (1) A.U. = Two (2) Sows with Litters;
- One (1) A.U. = Ten (10) Sheep;
- One (1) A.U. = One-hundred (100) Chickens;
- One (1) A.U. = Fifty (50) Turkeys;
- One (1) A.U. = Five (5) Ducks.

Any feeding operation, if it has **cattle, pigs, sheep, turkeys, chickens, ducks** or **geese** can be considered a feedlot if the number of animals on the property in confinement exceeds those numbers given above. Age, size, weight, and the amount of waste produced by the animal are not factors in determining when a farm becomes a feedlot. Any feeding operation with less than those given above is not considered a feedlot and can operate without a Conditional Use Permit. The farm operation may still be impacted by permits required by the Nebraska Department of Environmental Quality (DEQ).

Applying For a Conditional Use Permit for a Confined Animal Feeding Operation in Pierce County.

How close is the proposed site of your feeding operation to your neighbor's?

An LFO having 301 to 5,000 animal units cannot be located closer than 1,320 feet from any non-farm residence or other LFO. LFO's having 5,001 to 10,000 animal units cannot be closer than 1,980 feet from any non-farm residence or other LFO. LFO's having more than 10,000 animal units cannot be closer than 2,640 feet from any non-farm residence or other LFO. These distance requirements may be decreased or waived by a Conditional Use Permit and an easement signed by all the property owner(s) of non-farm residences. The minimum distance of 1,320 feet cannot be waived if your planned LFO will be located near a platted residential area, public park, church, school, etc.

The LFO Conditional Use Permit (CUP) application process.

Step 1: Contact DEQ and request an inspection of the site to determine if waste control facilities will be necessary for the type of feedlot proposed.

If no waste control facilities are necessary, ask for a letter stating this. Submit this letter with your application to the Pierce County Planning Department.

If waste control facilities are necessary, you may apply for a Conditional Use Permit before applying to DEQ for a permit to operate waste control facilities, but a condition will be added to your Conditional Use Permit requiring you to submit proof of approval of both construction and operating permits before your permit is issued by the Zoning Administrator.

Step 2: Contact a certified abstractor (the Pierce County Planning Department can provide a list of qualified abstractors) and get a list of all property owners within 1000 feet of your property lines, and submit the property owner list with your application to the Pierce County Zoning Administrator.

Step 3: A Pre-submission meeting with the Pierce County Planning Commission, as an agenda item, will be scheduled prior to formal submission of the CUP application.

For this meeting you will need:

- 1) A proposed site plan pending approval of the proposed LFO and waste disposal plan from the Nebraska Department of Environmental Quality.
- 2) You must submit all pertinent materials and designs and the proposed Operation and Maintenance Plan and proposed Manure Management Plan adhering to "Best Management Practices" as specified by DEQ to the Zoning Administrator.
- 3) All approved DEQ plans and permits shall be given to the Zoning Administrator thirty (30) days after they are issued by DEQ.

Step 4: After the Pre-submission meeting you will need to submit;

- ◆ Conditional Use Permit Application form
- ◆ \$75.00 check made payable to **Pierce County Treasurer**
- ◆ Updated proposed site plan
- ◆ All pertinent materials and the proposed Operation and Maintenance Plan and the proposed Manure Management Plan if different than those submitted for the Pre-submission meeting.
- ◆ Letter from DEQ or copies of applications to DEQ regarding waste control facilities.

How long will the permitting process take?

Once you have completed the application, received the property owners list from the abstractor, and have either received a letter from DEQ or submitted your waste control facilities permit to DEQ, you are ready to apply for a Conditional Use Permit. Submit these items along with a check for \$75.00 made payable to Pierce County Treasurer to the Pierce County Planning Department located at 111 Court Street, Pierce, NE 68767.

The deadline for the Planning Commission agenda is always 15 days before the second Tuesday of the month. You will be notified of the meeting time and date and you should plan to attend the meeting.

At the Planning Commission meeting to take action on the Conditional Use Permit, a public hearing will be held. The commissioners will: recommend the permit for approval or denial; table the permit until a later date; or call for a continuance of the public hearing until further information can be provided.

If the permit is recommended for **approval**, it will go before the Pierce County Board of Commissioners for another public hearing. Generally you can plan on the hearing to be held the fourth Monday of the same month. This allows for proper public notification.

If the permit is recommended for **denial**, it can still go before the Pierce County Board of Commissioners for another public hearing. It is up to you whether or not to proceed. The County Commissioners may approve a Conditional Use Permit which has been recommended for denial, but most often agree with the planning commission and deny the permit.

If the permit is **tabled**, the planning commission can bring this item off the table at any following meeting. They will generally bring the item off the table at the next meeting, providing the information they have asked for from staff or from you is ready to be presented.

If the public hearing is continued, the planning commission will ask for information which they would like to have presented, but which is not available at the time of the initial; public hearing. The hearing will be continued at a regular planning commission meeting after the required information they have asked for from staff or from you is ready to be presented, and after giving proper public notification.

The Pierce County Board of Commissioners makes all final decisions on Conditional Use Permits. They will approve or deny the permit. In some cases, they may table a permit application or continue a public hearing. The County Commissioners may add, delete or alter any of the conditions and provisions of the Conditional Use Permit. In most cases the County Commissioners will make a decision within one month of the planning commission recommendation.

What can I do to improve the chances my Conditional Use Permit will be granted?

Talk to your neighbors and let them know what you are planning to do. Listen to their concerns and try to design your operation so it will have minimal impact on their ability to use and enjoy their property. However you design your operation, you will be impacting the ability of any of your neighbors to build a house within 1320 feet of your operation.