

PROHIBITION ON CONCENTRATED ANIMAL FEEDING OPERATIONS

WHEREAS, the people of Sonoma County value healthy communities and a healthy environment; and

WHEREAS, the people of Sonoma County value the humane treatment of animals; and

WHEREAS, the U.S. Supreme Court upheld California's Proposition 12 (the Farm Animal Confinement Initiative), the nation's strongest farm animal welfare law¹, which was supported by 61.6% of Sonoma County voters²; and

WHEREAS, hundreds of Concentrated Animal Feeding Operations (CAFOs) presently operate in California³, including over a dozen in Sonoma County; and

WHEREAS, millions of animals are confined in CAFOs across California⁴; and

WHEREAS, it is a well-established scientific fact, as supported by thousands of studies exploring animal cognition, that animals have emotions, personalities, and the ability to feel pain, fear, and stress⁵; and

WHEREAS, every day, animals are treated inhumanely at CAFOs⁶; and

WHEREAS, the treatment of animals in CAFOs routinely violates California animal cruelty laws, with little to no accountability; and

WHEREAS, CAFOs have severe negative public health and environmental impacts due to the large amounts of concentrated, potentially toxic waste they produce and the infectious diseases they facilitate and harbor⁷; and

WHEREAS, investigators have found antibiotic-resistant bacteria and infectious diseases in CAFOs in California⁸ and across the U.S.⁹; and

FILED

AUG 21 2023

SONOMA COUNTY CLERK

By  Deputy Clerk

¹ https://www.supremecourt.gov/opinions/22pdf/21-468_5if6.pdf

²

<https://sonomacounty.ca.gov/administrative-support-and-fiscal-services/clerk-recorder-assessor-registrar-of-voters/registrar-of-voters/elections/november-6-2018-general-election-final-results>

³ <https://www3.epa.gov/npdes/pubs/region9.pdf>

⁴ <https://www3.epa.gov/npdes/pubs/region9.pdf>

⁵ <https://www.livescience.com/39481-time-to-declare-animal-sentence.html>

⁶ <https://www.centerforfoodsafety.org/issues/307/animal-factories/animal-factories-and-animal-welfare>

⁷ https://www.cdc.gov/nceh/ehs/docs/understanding_cafos_nalboh.pdf

⁸

<https://www.vice.com/en/article/g5bjjb/the-next-pandemic-could-come-from-an-american-factory-farm>

⁹

<https://www.scientificamerican.com/article/how-drug-resistant-bacteria-travel-from-the-farm-to-your-table/>

WHEREAS, given that three out of four emerging infectious diseases are zoonotic¹⁰, CAFOs pose a serious risk to public health¹¹; and

WHEREAS, emissions from industrial animal agricultural operations are a significant cause of climate change, with livestock contributing 14.5 percent of all greenhouse gas emissions¹²; and

WHEREAS, by worsening climate change via the release of greenhouse gasses such as methane, CAFOs are a major contributor to the drought and wildfires in California^{13,14}; and

WHEREAS, it is projected that the global industrial agricultural sector will nearly double in greenhouse gas emissions by 2050¹⁵; and

WHEREAS, globally, CAFOs and other intensive farming practices are the primary driver of biodiversity loss through dependence on inputs such as fertilizer, pesticides, energy, land, and water, and on practices such as monocropping and heavy tilling, which in turn reduces the variety of landscapes and habitats¹⁶; and

WHEREAS, biodigesters (which can convert animal waste into energy) have been shown to be ineffective at mitigating the public health and environmental impacts of CAFOs, as they can produce other harmful chemicals without fully removing toxins from the environment¹⁷; and

WHEREAS, workers at CAFOs face health risks due to exposure to harmful substances and antibiotic-resistant bacteria, as well as high rates of respiratory injuries, musculoskeletal injuries, and anxiety and depression¹⁸; and

WHEREAS, CAFOs disproportionately affect low-income and disadvantaged communities, raising social and environmental justice concerns¹⁹; and

¹⁰ <https://www.cdc.gov/onehealth/basics/zoonotic-diseases.html>

¹¹ https://www.cdc.gov/nceh/ehs/docs/understanding_cafos_nalboh.pdf

¹² <https://www.fao.org/news/story/en/item/197623/icode/>

¹³ <https://vitalsigns.edf.org/story/what-does-californias-flooding-and-drought-have-to-do-climate-change>

¹⁴ <https://www.ppica.org/publication/climate-change-and-californias-water/>

¹⁵

<https://www.ewg.org/news-insights/news/2023/02/will-agriculture-be-americas-leading-source-greenhouse-gas-emissions>

¹⁶

https://www.chathamhouse.org/sites/default/files/2021-02/2021-02-03-food-system-biodiversity-loss-benton-et-al_0.pdf

¹⁷

https://www.foodandwaterwatch.org/wp-content/uploads/2021/03/ib_1906_biogas_manure-2019-web.pdf

¹⁸

<https://clfhhsph.edu/sites/default/files/2021-05/essential-and-in-crisis-a-review-of-the-public-health-threats-facing-farmworkers-in-the-us.pdf>

¹⁹

<https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2020/01/13/precautionary-moratorium-on-new-and-expanding-concentrated-animal-feeding-operations>

WHEREAS, proximity to CAFOs significantly decreases property values, with a 2015 study showing that properties within 3 miles of a CAFO lost up to 26% of their value and properties within ¼ mile of a CAFO lost up to 88% of their value²⁰; and

WHEREAS, legislation (the Farm System Reform Act) has been proposed in U.S. Congress which would place a moratorium on the construction of large CAFOs and enact other restrictions on resource-intensive factory farming²¹; and

WHEREAS, the American Public Health Association has called for federal, state, and local governments to impose a moratorium on new and expanding CAFOs²²; and

WHEREAS, several other jurisdictions across the U.S. have placed restrictions on CAFOs²³; and

WHEREAS, the County of Sonoma has a legitimate and substantial interest in promoting public health and encouraging responsible environmental practices; and

WHEREAS, it is the intent of Sonoma County to prohibit CAFOs in order to protect the environment, animals, and the health and well-being of its residents and communities; and

WHEREAS, it is also the intent of Sonoma County to provide a retraining and employment assistance program for workers at CAFOs to facilitate the transition to safer forms of work; and

WHEREAS, the present Ordinance is in line with Sonoma County's values as an agricultural community that respects the environment and responsible agricultural practices;

NOW, THEREFORE, the People of the County of Sonoma ordain as follows:

SECTION 1: ADDITION OF §26-18-075.

Section 26-18-075 is hereby added to read as follows:

Sec. 26-18-075 Animal Keeping: Concentrated Animal Feeding Operations

A.Purpose.

The Purpose of this Section is to protect the environment, animals, and the health and well-being of Sonoma County residents and communities by prohibiting the

²⁰ <https://www.nar.realtor/animal-feedlots>

²¹ <https://www.congress.gov/bill/117th-congress/senate-bill/2332>

²²

<https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2020/01/13/precautionary-moratorium-on-new-and-expanding-concentrated-animal-feeding-operations>

²³

<https://www.wisfarmer.com/story/news/2023/07/07/officials-in-the-remaining-towns-with-livestock-regulations-wonder-whether-they-too-are-in-legal-cro/70387371007/>

operation of CAFOs, as defined herein, within the unincorporated areas of the County.

B. Definitions.

The following words and phrases as used in this Chapter shall be defined as follows:

“Animal feeding operation” or “AFO” means a lot or facility that meets the regulatory definition of an AFO as set out by the Environmental Protection Agency in 40 CFR 122.23 as of August 2023²⁴. Specifically, a lot or facility (other than an aquatic animal production facility) is deemed an AFO where the following conditions are met:

- (i) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
- (ii) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

“Concentrated Animal Feeding Operation” or “CAFO” means an AFO which meets the definition of a Medium CAFO or Large CAFO, as defined herein, and set out by the Environmental Protection Agency in 40 CFR 122.23 as of August 2023, or which is designated as a CAFO of any size by the permitting authority²⁵.

“Large CAFO” means an AFO which confines at least the number of animals described in Table 18-0.

“Medium CAFO” means an AFO which falls within the size range in Table 18-0 and either:

- (i) has a man-made ditch or pipe that carries manure or wastewater to surface water; or
- (ii) the animals come into contact with surface water that passes through the area where they're confined; or
- (iii) is designated as a Medium CAFO by the permitting authority due to being a significant contributor of pollutants.

“Pre-Existing CAFO” means a CAFO currently in existence in Sonoma County at the time this Ordinance becomes effective.

“Small CAFO” means an AFO which confines fewer than the number of animals listed in Table 18-0 and which has been designated as a CAFO by the permitting authority as a significant contributor of pollutants.

²⁴ Available at

<https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-122/subpart-B/section-122.23>.

²⁵ Available at

<https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-122/subpart-B/section-122.23>.

Table 18-0: Size Thresholds for CAFOs

| Animal Sector | Size Threshold: Large CAFOs | Size Threshold: Medium CAFOs |
|---|------------------------------------|-------------------------------------|
| Cattle or cow/calf pairs | 1,000 or more | 300 - 999 |
| Mature dairy cattle | 700 or more | 200 - 699 |
| Veal calves | 1,000 or more | 300 - 999 |
| Swine (weighing over 55 pounds) | 2,500 or more | 750 - 2,499 |
| Swine (weighing less than pounds) | 10,000 or more | 3,000 - 9,999 |
| Horses | 500 or more | 150 - 499 |
| Sheep or lambs | 10,000 or more | 3,000 - 9,999 |
| Turkeys | 55,000 or more | 16,500 - 54,999 |
| Laying hens or broilers (liquid manure handling systems) | 30,000 or more | 9,000 - 29,999 |
| Chickens other than laying hens (other than a liquid manure handling systems) | 125,000 or more | 37,500 - 124,999 |
| Laying hens (other than a liquid manure handling systems) | 82,000 or more | 25,000 - 81,999 |
| Ducks (other than a liquid manure handling systems) | 30,000 or more | 10,000 - 29,999 |
| Ducks (liquid manure handling systems) | 5,000 or more | 1,500 - 4,999 |

C.Aggregation.

Two or more lots or facilities that collectively meet the definition of a CAFO shall together be deemed a CAFO if they are under common ownership and are either on adjoining parcels or share a waste disposal system.

D.Prohibition of CAFOs; Exceptions.

1. No person shall establish, operate, expand, or maintain a CAFO in unincorporated Sonoma County on or after the date of the enactment of this Section.

2. This Section does not limit or impact the availability of remedies under other applicable local, state and federal laws, regulations, and ordinances, including but not limited to laws, regulations, and ordinances regarding environmental protection and animal cruelty.
3. The prohibitions in this Section shall not apply to an evacuation area set up to temporarily stable animals in the case of a natural disaster or a declared state of emergency, or to a registered non-profit animal shelter, sanctuary, or rescue organization which does not sell animals or animal products.

E. Existing CAFOs; Phase-Out Period.

1. Notwithstanding anything in this Section, Pre-Existing CAFOs shall be deemed a nonconforming use and shall be required to register on a public database maintained by the Sonoma County Department of Agriculture, Weights and Measures.
2. Pre-Existing CAFOs shall be given a phase-out period of no more than three (3) years from the effective date of this Section to modify or terminate their operations such that they are no longer classified as a CAFO. Proof of this shall be provided to the Agricultural Commissioner prior to the end of the phase-out period. During the phase-out period, Pre-Existing CAFOs shall not increase the number of animals in confinement.
3. The Agricultural Commissioner or his/her designee shall inspect closed CAFOs within one month of receiving such proof of termination from a Pre-Existing CAFO to ensure that all relevant operations have ceased or been appropriately modified.
4. Any Pre-Existing CAFO taking advantage of the phase-out period mentioned in Subsection (E)(1) shall comply with Best Management Practices set forth by the Agricultural Commissioner, which shall be developed in collaboration with a California-based humane society and/or a California-based society for the prevention of cruelty to animals. The foregoing shall be in addition to any requirements imposed on CAFOs by County, State and Federal environmental protection agencies.
5. The Agricultural Commissioner shall establish a system to receive, investigate, and retain complaints related to this Section.

F. Violations.

1. Any person who continues to operate a Pre-Existing CAFO after the three (3) year phase-out period elapses, or who establishes or maintains a CAFO following the enactment of this Section, or who violates any other provision of this Section, shall be subject to a civil penalty of one thousand dollars (\$1,000) for the first offense, five thousand dollars (\$5,000) for the second offense, and ten thousand dollars (\$10,000) for the third and any subsequent offenses, payable to the Sonoma County General Fund.
2. Notwithstanding the foregoing, the Agricultural Commissioner or his/her designee may also pursue on behalf of the county any other civil or administrative penalty or remedy otherwise available for failure to comply with the requirements of this Section.

3. Each day, or portion thereof, during which the violation occurs shall be treated as a separate offense.
4. Nothing herein shall impact the standing of other interested parties, or the availability of remedies under other applicable federal, state and local laws, regulations and ordinances, including the remedies afforded any person set forth in Subsection I of this Ordinance.
5. The availability of funds under this Section shall not restrict any obligation by the County to provide retraining and employment assistance opportunities to CAFO workers.
6. For the purposes of this Subsection (F), "person" includes any owner, officer, or director of a CAFO. No penalties shall be issued to individuals solely for working at a CAFO operation unless they also meet one of the foregoing criteria.

G. Retraining for CAFO Workers

The County shall provide a retraining and employment assistance program for current and former CAFO workers during the phase-out period in Subsection (E)(1) and for an additional one year thereafter. The purpose of this program is to provide individuals who worked at a CAFO at the time of this Ordinance's enactment or who worked at a CAFO at any point during the phase-out period with the training needed to work at a legally acceptable agricultural operation or in a different job sector. This program shall be administered by the Agricultural Commissioner or his/her designee, along with qualified experts in employment law, animal rights, farm labor, and best agricultural practices. Such experts shall provide proof of their qualifications, which shall be subject to public disclosure. The County's obligation under this Subsection (G) to provide retraining and employment assistance to CAFO workers shall not depend on the fines and penalties collected pursuant to Subsection (F).

H. Annual Report.

The Agricultural Commissioner or his/her designee shall prepare an annual report containing the following information: the number of CAFOs currently operating in unincorporated Sonoma County; the number of CAFO termination notices received in the previous year; the number of CAFO termination inspections conducted in the previous year; the number of CAFO workers in the retraining program; and the amount of penalties assessed and collected in the previous year. Such report shall be presented to the Board of Supervisors at a duly-noticed public hearing and posted on the Agricultural Commissioner's webpage, beginning one year after the effective date of this Section and continuing until all CAFOs, as defined herein, have been phased out of the County.

I. Right of Action.

Any interested party may institute a civil proceeding for injunctive relief against a violation of this Section, and for whatever other additional relief the court deems appropriate. In any action brought pursuant to this Section, the prevailing party shall be entitled to reasonable attorney's fees and costs. The remedies available under this Section shall be in addition to, and shall not in any way restrict, any other rights

or remedies under law. Nothing in this Section is intended to, or shall be interpreted to, conflict with the Constitution of the United States, the Constitution of the State of California, or with any state or federal law. For the purposes of this Section, "interested party" shall include but not be limited to any association, organization, society, or corporation organized for the purpose of protecting animals or the environment.

J. Retaliation Prohibited.

Any person who retaliates against another person for making a good-faith complaint that there has been a failure to comply with this Section is guilty of a misdemeanor.

K. Severability.

The provisions of this Section are declared to be separate and severable. The invalidity of any clause, phrase, sentence, paragraph, subdivision, section or portion of this Section, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this Section, or the validity of its application to other persons or circumstances. In the event that any provision is severed, the remaining provisions of this Section shall be interpreted in light of its stated purpose and intent.

SECTION 2. AMENDMENT OF OTHER COUNTY CODE SECTIONS.

Section 26-04-020(C) is hereby amended by inserting the following between "Composting" and "Condominium" as Section 26-04-020(C)(31.5):

Concentrated Animal Feeding Operations (CAFOs). Concentrated animal feeding operation, or CAFO, shall have the meaning set forth in Section 26-18-075.

Section 26-18-070(A) is hereby amended to read as follows:

Definition. The raising, feeding, maintaining and breeding of farm animals where animals are continuously confined in enclosed pens or similar structures, the majority of animal feed is provided by facility management rather than grazing, and animal wastes are concentrated on site. In the event that an operation falls under this definition and is also defined as a CAFO pursuant to Section 26-18-075, then Section 26-18-075 shall control.

1. Includes: Dairies, hog farms, veal production, and chicken and turkey ranches, and similar livestock where animals are continuously confined.
2. Excludes: Horses, goats, sheep, and _____

Section 26-18-080(A)(1) is hereby amended to read as follows:

Excludes: Confined farm animal facilities, Concentrated Animal Feeding Operations (CAFOs), the keeping of household pets and wild or exotic animals.

Section 26-18-090(A)(2) is hereby amended to read as follows:

Excludes: Slaughterhouses, rendering plants, Concentrated Animal Feeding Operations (CAFOs).

SECTION 3. FUTURE AMENDMENTS.

In addition to the foregoing, the Board of Supervisors shall amend the County Code as needed within a reasonable time following the adoption of the Ordinance to effectuate this Ordinance, and from time-to-time as the necessity of any other amendments becomes clear.

SECTION 4. CONSTRUCTION & INTERPRETATION.

This Ordinance and its provisions shall be broadly construed and interpreted to accomplish its purpose and intent.

SECTION 5. CEQA.

This Ordinance is exempt from the California Environmental Quality Act (CEQA) as a citizen-sponsored initiative.

SECTION 6. SEVERABILITY.

If any provision of this Ordinance, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, and the Ordinance as a whole shall be interpreted in light of its stated Purpose and Intent. The People of the County of Sonoma hereby declare that they would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon approval by the voters, or as soon as otherwise allowable under applicable law.

SECTION 8. CERTIFICATION; PUBLICATION.

Upon approval by the voters, the County Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.