

or greater than does smoke described in '1' above.

The following exceptions to the above provisions of this Section shall be permitted:

1. Smoke the shade or appearance of which is equal to but not darker than No. 3 of the Ringelmann Chart for a period or periods aggregating six minutes in any one hour, when cleaning a fire or when building a new fire; or when breakdown of equipment occurs such as to make it evident that the emission was not reasonably preventable;

2. Where the presence of uncombined water is the only reason for failure of an emission to meet the limitation of 3. (a) (2) above, such limitation shall not apply. The burden of proof that water is the only cause of violation shall rest with the person violating this ordinance.

b. The discharge into the outdoor atmosphere of air contaminants so as to cause air pollution and create a public nuisance is contrary to the public policy of the county and the provisions of this ordinance.

No use shall discharge from any air contaminant source whatsoever, air contaminants in sufficient quantities and of such characteristics and duration as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health, or safety or any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property. The escape of such material in addition to constituting a violation of this ordinance is also declared to be a public nuisance and action to abate the same may be taken by the Zoning Administrator.

4. Glare and Heat

a. Any operation producing intense glare or heat shall be performed within a completely enclosed building in such manner as not to create a public nuisance or hazard along lot lines. Exposed sources of light shall be shielded so as not to create a nuisance across lot lines. Determination of the nuisance factor in regard to glare or heat intensity shall be made by the Zoning Administrator.

Section 22 WASTE DISPOSAL Any person proposing waste treatment or disposal facilities or planning a discharge of waste material into waters of the State of Indiana shall have such facility or discharge approved by the Stream Pollution Control Board.

SECTION 23 CONFINED FEEDING OPERATION: ~~All confined feeding operations, hereinafter "CFO"~~

~~(as defined by I.C. 13-11-2-40) and all Concentrated Animal Feeding Operations, hereinafter "CAFO", (as defined by I.C. 13-11-2-38.3) In any district where permitted, all CFOs and CAFOs shall meet the following standards:~~

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- a. All structures shall be set back at least 100 feet from any right-of-way line and/or property line.
- b. The outer perimeter of the CFO and CAFO, including structures and lagoons shall not be located any closer than the following setbacks:

1. ~~800 feet~~ One thousand three hundred twenty (1320) from any residence unless said residence is on a parcel of and owned by the

~~CFO operator or CAFO~~ confined feeding operator. Residence shall be defined as the footprint of the residence or any accessory building located within 25 feet of the primary residence.

2. 1,500 feet from any Residential Zoning District line, any church, school, public park, or any public building.
 3. 3,960 feet from the nearest boundary of any incorporated ~~or unincorporated~~ City or Town.
- c. A new residence may not be constructed within ~~one thousand three hundred twenty (1320)~~ 800 feet of a CFO or CAFO unless said new residence is either owned by the ~~CFO operator or CAFO~~ confined feeding operator, is constructed upon the same parcel of land as the CFO or CAFO is situated, or has received a variance for the proposed new residence location.
- d. An existing CFO or CAFO, which has an Indiana Department of Environmental Management (IDEM) National Pollutant Discharge Elimination System (NPDES) feeding permit either obtained or applied for prior to the ~~initial~~ passage of ~~County Ordinance 06-05 on October 2, 2006~~ ~~this Article 4 Section 23~~, shall be allowed to expand on the same parcel within the setbacks in effect at ~~the time of the initial~~ passage of ~~this County Ordinance 06-05 on October 2, 2006~~ (~~one hundred (100)~~ feet from a street right-of-way line, ~~five hundred (500)~~ feet from a residential district boundary line, and ~~five hundred (500)~~ feet from a residential use other than that of the applicant's.)
- e. Any existing residence, platted subdivision, church, school, public park, or public building shall be allowed to expand on the same parcel with the applicable setbacks for the zoning district in which it is located.
- f. PRE-APPLICATION PERMIT FOR CFO or CAFO:
1. A pre-application permit for any CFO or CAFO must be obtained prior to the applicant's submission of the IDEM NPDES permit application. This pre-application permit shall prevent, for 18 months, anyone from obtaining a building permit for a residence to be built within the setbacks established herein without first obtaining a variance for the proposed residence location.
 2. Renewal of the pre-application permit shall be permitted upon the applicant demonstrating a good faith effort to obtain the IDEM NPDES operation permit. Failure to demonstrate good faith effort shall be grounds to deny renewal of the pre-application permit or issuance of a new pre-application permit.
 3. Each property owner within 2,500 feet of the proposed CFO or CAFO shall be notified by certified mail, return receipt requested of the proposed IDEM NPDES permit application and the restrictions contained herein on the issuance of residential building permits. ~~This~~ notification shall be in a form approved by the ~~Area Plan Commission~~ Administrator. The notification shall be sent no later than the thirtieth (30th) day after the issuance of the pre-application permit. The owner of the CFO or CAFO shall ~~no~~ later than the sixtieth (60th) day after the issuance of the pre-application permit file with the ~~Area Plan Commission~~ Administrator a list of all the individuals required to be notified together with proof of such notification to each such individual. The notice requirements prescribed herein do not relieve the applicant's