

ORDINANCE NO. 21-14

AN ORDINANCE AMENDING THE WASATCH COUNTY ZONING MAP AND THE WASATCH COUNTY CODE IN COMPLIANCE WITH THE LARGE CONCENTRATED ANIMAL FEEDING OPERATIONS ACT.

RECITALS

WHEREAS, the Utah State Legislature has enacted the Large Concentrated Animal Feeding Operations Act (herein "Large CAFO Act"), codified as Utah Code sections 17-27a-1101 *et seq.*; and

WHEREAS, said Large CAFO Act requires the County to, by February 1, 2022, adopt a large concentrated animal feeding operations land use ordinance designating geographic areas within the County where such operations may be approved; and

WHEREAS, the County Legislative Body has considered the criteria required by said Large CAFO Act such as distances from residential zones, health care facilities, public areas, education institutions, religious institutions, commercial enterprises, municipal boundaries, and state or county highways or roads; and

WHEREAS, the County Legislative Body has also considered criteria such as prevailing winds, topography, economic benefits to the County, and reasonable access to transportation, water, and power infrastructure; and

WHEREAS, the County Legislative Body has not considered solely uniform setback distance requirements from the locations described above, but has determined the geographic area by evaluating all the criteria described above; and

WHEREAS, Utah Code 17-27a-502 requires Wasatch County to give notice of public hearing as provided in Utah Code 17-27a-205(1)(a), and to hold a public hearing; and

WHEREAS, Wasatch County gave notice of all public meetings and public hearings related to this ordinance as required, and the planning commission held a public hearing as required; and

WHEREAS, the County Legislative Body, having considered all of the evidence provided regarding these criteria, and finding it necessary to comply with the Large CAFO Act, and to be in the best interest of the health, general welfare, and safety of the inhabitants of Wasatch County;

NOW THEREFORE, the County Legislative Body of Wasatch County ordains that the Wasatch County Zoning Map and Land Use and Development Code be amended as follows:

1. The County Council hereby adopts an AFO District as indicated in the geographic location map attached hereto.
2. Animal Feeding Operations may be approved as conditional uses within the AFO District if in compliance with the standards set forth in Wasatch County Code.
3. Applications for conditional use permits to operate such facilities in the AFO district shall proceed using the processes, application fees, and administrative remedies established for other conditional use permit applications as outlined in 16.27.05 and 16.23 of Wasatch County Code.

SECTION I: **Enactment.** The following amendments, additions, and deletions to Title 16, the Land Use and Development Code, are hereby enacted: See attached exhibit.

SECTION II: **Repealer.** If any provisions of the County Code heretofore adopted are wholly inconsistent with this ordinance, they are hereby repealed.

SECTION III: **Amendment of Conflicting Ordinances.** To the extent that any ordinances, resolutions, or policies of Wasatch County partially conflict with this ordinance, they are hereby amended to comply with the provisions hereof.

SECTION IV: **Effective Date.** This Ordinance shall become effective immediately upon execution by the Chair of the County Council and the completion of public notice requirements imposed by state statute.


SECTION V: **Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION VI: **Public Notice.** The Wasatch County Clerk, and ex officio Clerk of the Wasatch County Council, is hereby ordered, in accordance with the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, to do as follows:

- a. Enter at length this ordinance in the ordinance book;
- b. Deposit a copy of this ordinance in the office of the County Clerk;
- c. Publish a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance, for at least one publication in a newspaper published in and having general circulation in the county; or post a complete copy of this ordinance in nine (9) public places within the County.


APPROVED and **PASSED** this 15 day of December, 2021.

Attest:


 Josy Granger
 Wasatch County Clerk / Auditor



WASATCH COUNTY COUNCIL:


 Mark Nelson, Chair
 Wasatch County Council

	VOTE
Mark Nelson, Chairman	<u>Y</u>
Danny Goode	<u>N</u>
Marilyn Crittenden	<u>Y</u>
Jeff Wade	<u>Y</u>
Kendall Crittenden	<u>Y</u>
Steve Farrell	<u>N</u>
Spencer Park	<u>Y</u>

ADOPTION OF ORDINANCE AFFIDAVIT

STATE OF UTAH)
): ss.
COUNTY OF WASATCH)

I, the undersigned, the duly qualified and acting County Clerk of Wasatch County, Utah, and ex officio Clerk of the Wasatch County Council do hereby further certify, according to the records of said Council in my official possession, and upon my own knowledge and belief, that I have fulfilled the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, by:

- (a) Causing this ordinance to be entered at length in the ordinance book;
(b) Causing three (3) copies of this ordinance to be deposited in the office of the County Clerk;
(c) Causing a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance to be published for at least one publication in The Wasatch Wave, a newspaper of general circulation within the geographical jurisdiction of Wasatch County; or posting a complete copy of this ordinance in nine (9) public places within the County.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of the County Council of Wasatch County, Utah, this 15 day of December, 2021.

Joey Granger
Wasatch County Clerk / Auditor



SUBSCRIBED AND SWORN to me, a Notary Public, this 15 day of December, 2021.

Wendy McKnight
Notary Public

Residing in: Wasatch
My commission expires: 09/10/2022

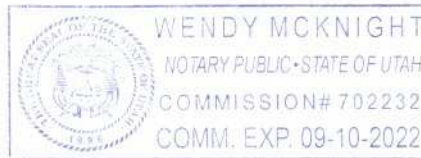


EXHIBIT A – AFO District Map

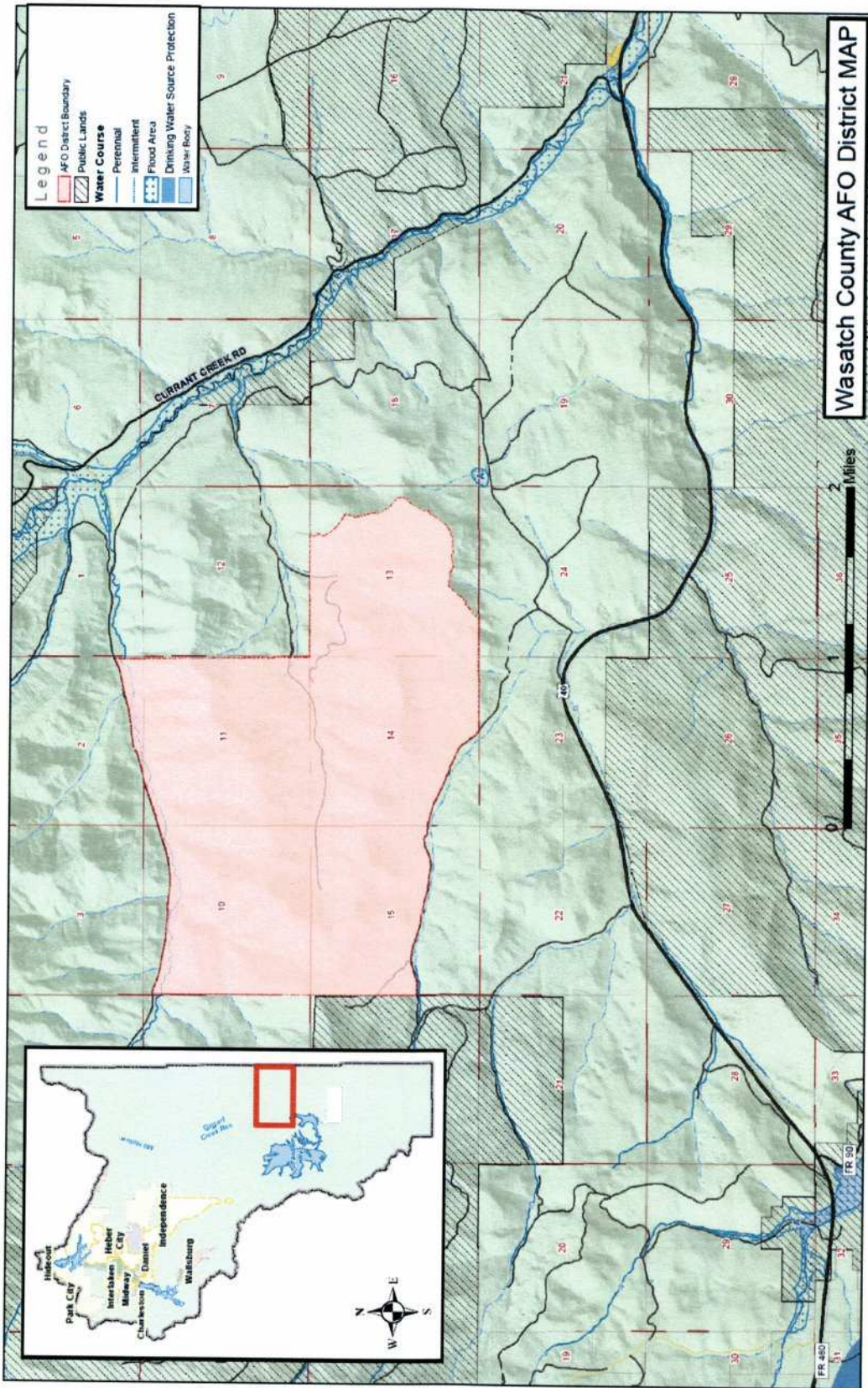


EXHIBIT B – Title 16 Amended Text

1 **Chapter 16.04: DEFINITIONS**

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3 AGRICULTURE: The act or science of cultivating the ground, the act or science of the
4 production of plants and animals useful to man or beast; and includes gardening or horticultural
5 fruit growing, storage and marketing. Excludes animal feeding operations.

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7 MANURE: Animal or compostable waste including manure, bedding, compost, a raw material,
8 or other material commingled with manure or set aside for disposal.

9 ...

10 **Chapter 16.18: ~~(RESERVED)~~ANIMAL FEEDING OPERATIONS**

11 16.18.01: ~~(RESERVED)~~PURPOSE

12 16.18.02: ~~(RESERVED)~~DEFINITIONS

13 16.18.03: ~~(RESERVED)~~PROCEDURE

14 16.18.04: ~~(RESERVED)~~SITE SELECTION CRITERIA

15 16.18.05: ~~(RESERVED)~~OTHER REQUIREMENTS

16 **16.18.01: ~~(RESERVED)~~PURPOSE**

17 This section provides standards for the establishment and operation of animal feeding operations
18 ("AFO"), including large concentrated animal feeding operations ("CAFO") which are those
19 operations where animals are raised in confinement as described in the animal confinement table
20 below. The County views these feeding operations as a distinctly different use from agricultural
21 uses. In order to protect the general health, safety, and welfare of residents and visitors to
22 Wasatch County, the purpose of this chapter is to provide for the orderly placement and
23 regulation of AFOs and CAFOs in the county and to require compliance with all applicable
24 federal and state environmental standards. Nothing in this chapter, or any action by the county
25 pursuant to this chapter, shall release the applicant from compliance with other provisions of
26 applicable local, state, and/or federal laws, permit requirements, rules, and/or regulations.

27 The provisions of this article are minimum standards, and any more restrictive standards required
28 by county or other applicable local, state, and/or federal laws, rules, and/or regulations must be
29 followed.

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31 **16.18.02: ~~(RESERVED)~~DEFINITIONS**

32 A. ANIMAL FEEDING OPERATION (AFO): A lot or facility where animals have been,
33 are, or will be stabled or confined and fed or maintained for a total of 45 days or more in
34 any 12-month period where crops, vegetation, forage growth, or post-harvest residues are
35 not sustained in the normal growing season over any portion of the lot or facility.

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B. ANIMAL UNIT: A unit of measurement for determining the capacity of any AFO. In general, an "animal unit" is intended to represent one thousand (1,000) pounds of live animal weight with such adjustments as necessary to address the treatment method and characteristics of the animal manure from a particular species. The animal unit value to be given to other species of animals may be established by County Ordinance. This is summarized in the following table:

<u>Animal Type</u>	<u>Head per Animal Unit</u>
<u>Feeder Cattle</u>	<u>1.0</u>
<u>Dairy Cattle</u>	<u>1.4</u>
<u>Swine (over 55 lbs)</u>	<u>1.8</u>
<u>Sheep</u>	<u>0.1</u>
<u>Horses</u>	<u>2.0</u>
<u>Chickens</u>	<u>0.01</u>
<u>Turkeys</u>	<u>0.018</u>

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C. ANIMAL CONFINEMENT AREA: The housing or confinement of animals and fowl within an area where at any time the animal density will meet or exceed the animal density identified for the particular species specified in the following table:

<u>Animal or Fowl</u>	<u>Area</u>
<u>Chickens</u>	<u>Less than or Equal to 9 square feet/Chicken</u>
<u>Rabbits</u>	<u>Less than or Equal to 9 square feet/Rabbit</u>
<u>Pigs</u>	<u>Less than or Equal to 225 square feet/Pig</u>
<u>Sheep</u>	<u>Less than or Equal to 360 square feet/Sheep</u>
<u>Horses</u>	<u>Less than or Equal to 2,100 square feet/Horse</u>
<u>Beef Cows</u>	<u>Less than or Equal to 2,300 square feet/Cow</u>
<u>Dairy Cows</u>	<u>Less than or Equal to 3,000 square feet/Cow</u>
<u>Animal NOS</u>	<u>Less than or Equal to 3,000 square feet/Animal NOS</u>

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D. LARGE CONCENTRATED ANIMAL FEEDING OPERATION (CAFO): All CAFOs are AFOs. Any AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

1. 700 mature dairy cows, whether milked or dry;
2. 1,000 veal calves;
3. 1,000 cattle other than mature dairy cows or veal calves, with "cattle" including heifers, steers, bulls, and cow calf pairs;
4. 2,500 swine each weighing 55 pounds or more;
5. 10,000 swine each weighing less than 55 pounds;
6. 500 horses;
7. 10,000 sheep or lambs;
8. 55,000 turkeys;

59 30,000 laying hens or broilers, if the animal feeding operation uses a liquid
60 manure handling system;

61 9. 125,000 chickens, other than laying hens, if the animal feeding operation uses
62 other than a liquid manure handling system;

63 10. 82,000 laying hens, if the animal feeding operation uses other than a liquid
64 manure handling system;

65 11. 30,000 ducks, if the animal feeding operation uses other than a liquid manure
66 handling system;

67 12. 5,000 ducks, if the animal feeding operation uses a liquid manure handling
68 system; or

69 13. 500 of any animal not otherwise specified herein.

70 **16.18.03: (RESERVED) PROCEDURE**

71 Any person desiring to develop, construct, modify, operate, or establish an AFO in the county
72 shall submit an application for a Conditional Use Permit in compliance with section 16.23.04. In
73 addition to the requirements of the Conditional Use Permit application, an application for an
74 AFO shall include the following:

75 A. A narrative description of the general operation including:

76 1. The name of the person (or persons) or entity (or entities) that will be responsible
77 for managing the AFO.

78 2. The expected number of persons necessary to operate the AFO.

79 B. Context Map(s) indicating:

80 1. The location and total size of all animal confinement areas and the maximum
81 number of animal units proposed to be confined.

82 2. The location of any incorporated municipalities, residential zones (any zone
83 where any residential use can be permitted), health care facility, education
84 institution, religious institution, public or private parks, publically accessible
85 trails, publically owned lands, commercial enterprises, and subdivisions within
86 three-thousand (5,280) feet of the proposed AFO.

87 3. The location of all inhabited dwellings located closer than six hundred sixty feet
88 (660') from any facilities that will constitute any part of the animal confinement,
89 feed storage or processing, or manure handling facilities and lagoons.

90 4. The location of any existing wells and the boundary of any public water system
91 source protection zones located within three hundred feet (660') of the boundary
92 of the land on which the AFO will be developed.

93 5. Surface contours, soil depths and types, size and location of natural drainage
94 points of the AFO site.

95 6. Prevailing winds for the area.

96 C. Report from the County Water Board and plans for the development of any water systems
97 that will serve the AFO, including an estimate of the total annual quantity of water to be
98 used.

99 D. A road access plan showing the location of all public roads and highways within three-
100 thousand (3,000) feet of the land upon which the AFO will be located and any existing or
101 proposed roads for trucks and other regular vehicular traffic to and from the AFO. The
102 road access plan shall also show that there is access on public roads and highways on
103 roads of capacity sufficient to carry the traffic generated by the AFO to a state highway
104 that will be used to access the prescribed route to the AFO. This plan shall be approved
105 by the Utah Department of Transportation (UDOT), if applicable.

106 E. Dust mitigation plan for both construction and operation of the AFO.

107 F. The following plans, prepared by a NRCS certified planner:

108 1. A mortality/dead animal disposal plan.

109 2. Plans for controlling insects, rodents, and other undesirable animal species that
110 may result from operation of the AFO.

111 3. An odor management plan including written certification from the applicable
112 regulatory agency that an odor management plan has been approved.

113 4. A manure disposal plan including written certification from any applicable
114 regulatory agency that a nutrient management plan has been approved.

115 5. An animal waste system design plan for blood and other animal waste that meets
116 all state and federal requirements and is approved by the responsible regulatory
117 agency. If a waste system is not required, the applicant shall provide satisfactory
118 proof of the lack of need for such a system.

119 G. Fiscal analysis indicating the estimated investment in the AFO if it is constructed as set
120 forth in the proposal and the anticipated positive and negative economic impacts to the
121 county.

122 H. Evidence that the following Utah state agencies have been notified either in writing, or
123 have been furnished a copy of the land use application:

124 1. Utah department of agriculture.

125 2. Utah department of environmental quality, division of water quality.

126 3. Utah department of environmental quality, division of air quality.

127 4. Utah department of environmental quality, division of solid and hazardous waste.

128 5. Utah department of environmental quality, division of drinking water if the AFO
129 proposes to use a water system that would become regulated as a public drinking
130 water system under Utah administrative code.

131 6. Utah public health department if the AFO proposes to use a private wastewater
132 treatment system.

133 **16.18.04: (RESERVED) CRITERIA FOR APPROVAL**

134 No AFO shall be allowed, except on sites meeting the minimum criteria set out in this section.

135 These standards are in addition to any other standards set forth in the Land Use and Development
136 Code.

- 137 A. AFOs are only allowed if listed as a conditional use in a zone. AFOs of 10 or fewer
138 animal units may occur without a conditional use approval in the A-20 and P-160 zoning
139 districts.
- 140 B. All AFOs greater than 10 or more animal units shall be within the boundaries of the AFO
141 area on the AFO District Map.
- 142 C. The AFO shall comply with and not be in violation of any federal, state or local laws or
143 regulatory requirements.
- 144 D. An applicant shall not begin construction of a new AFO prior to approval of the AFO
145 conditional use permit.
- 146 E. No AFO shall be located within the source protection area of a public water system, and
147 shall not infringe on the necessary source protection area of any private or public well.
- 148 F. All roads, streets, and other accesses providing access for vehicles to the AFO shall be
149 sufficient for the type and volume of traffic necessary for operation of the AFO, or
150 adequate provision shall be made to improve such roads, streets, and accesses as part of
151 the AFO approval.
- 152 G. The AFO shall have sufficient lands for application of manure nutrients, unless the AFO
153 will utilize other manure management systems such as systems providing nutrient
154 reduction or processing of manure components. An approved comprehensive nutrient
155 management plan (CNMP) shall be prepared by a NRCS certified planner for the AFO,
156 and arrangements shall be made for the use of lands to be used as part of the CNMP.
- 157 H. All utility services must be sufficient for the AFO, or provision must be made for such
158 utility services to be provided.
- 159 I. There must be an adequate water supply for the AFO, with sufficient water rights either
160 by contract or by rights appurtenant to the AFO lands.
- 161 J. In addition to the setback requirements of the zoning district, all corrals, buildings or
162 structures intended to house any livestock or any manure storage area, animal waste
163 system associated with an AFO shall comply with the following minimum separation
164 distances:
- 165 1. No closer than three-thousand (3,000) feet from the property or boundary line of
166 the nearest incorporated municipality, school, church, public park, publicly
167 accessible trail, or platted subdivision.
 - 168 2. No closer than one hundred fifty feet (150') from the property line of the AFO
169 facility.
 - 170 3. One hundred fifty feet (150') from the centerline of any road used by the public
171 for general travel, except state and federal highways, for which the minimum
172 separation distance shall be two hundred feet (200') from the centerline.
 - 173 4. At least six hundred sixty feet (660') from the nearest inhabitable dwelling, other
174 than dwellings for the owner or employees of the AFO. The required minimum
175 separation distance shall increase from six hundred sixty feet (660') at the rate of
176 one thousand feet (1000') for each additional one hundred (100) Animal Units to a
177 maximum of ten thousand (10,000) feet.

178 5. No closer than six hundred and sixty feet (660') of an existing well unless
179 grouting or other wellhead protection approved by the appropriate state of Utah
180 agency has been implemented.

181 6. The setbacks contained herein shall not apply to application of manure nutrients if
182 part of an approved nutrient management plan.

183 7. The setbacks contained herein are minimum distances and may be increased by
184 the land use authority after other considerations such as prevailing winds, total
185 number of animal units, topography, and existing or proposed vegetation have
186 been considered.

187 K. All lights shall be dark sky compliant and shall be placed and shielded to direct the light
188 source down and inside the property lines of the AFO. All direct glare from the AFO
189 lights shall be contained within the AFO facility area.

190 L. Before the land use authority approves a conditional use application to establish and/or
191 operate any AFO, the owner shall obtain all of the necessary permits and licenses, as
192 required by the state of Utah. If the state of Utah permit, license, or approval cannot be
193 obtained until a land use approval has been obtained, only then can the requirement be
194 added as a condition to be fulfilled after the conditional use permit has been approved. It
195 shall be the applicant's burden to prove that the state of Utah approvals cannot be
196 obtained without first obtaining land use approval.

197 M. The County may request the applicant provide additional studies, to aid the land use
198 authority in determining if additional conditions should be imposed as a condition of
199 approval to mitigate adverse damage, hazard and nuisance effects.

200 **16.18.05: (RESERVED) OTHER REQUIREMENTS**

201 A. Landscaping: The yard area adjacent to neighboring property lines or road rights-of-way
202 and other developed areas shall be densely landscaped with a mix of evergreen and
203 deciduous trees and bermed to visually screen the AFO. Additional landscaping shall be
204 required to mitigate odors carried by wind toward developed areas.

205 B. Incompatible Uses: If any non-AFO, or incompatible land use locates within the required
206 separation distances of any AFO as set forth herein, or if any such non-AFO locates
207 within a separation distance which the AFO would be required to maintain if it were
208 designed for a greater number of animal units, the non-AFO may not maintain an action
209 for nuisance or to compel the county to enforce this section with respect to the AFO.
210 Further, the separation distance requirements for AFOs set forth in this section shall be
211 determined at the time the AFO is permitted and shall not apply to other uses that
212 encroach on the AFO after the AFO has been issued a valid land use permit.