CHAPTER 16 PROCEDURES AND REQUIREMENTS FOR OBTAINING
AN INTENSIVE LIVESTOCK OPERATIONS PERMIT

2-16-1 REQUIREMENTS FOR PERMIT

A. Every person, firm or corporation shall obtain an Intensive Livestock Permit before operating an intensive livestock operation subject to the following: this requirement shall apply jointly to the owner of the livestock as well as the operator and/or owner of the facility only where the facility is not regulated by the State of Indiana regulations and this requirement shall not apply to a facility that is controlled by regulations of the State of Indiana.

B. The provisions of this chapter shall apply to both the operation owner and the livestock owner, if different, provided however, that only one (1) permit shall be required for each location provided however that the operation owner and livestock owner shall be jointly and severally liable for the compliance of this ordinance. The application for a permit, the hearing process and the issuance of the permit shall be jointly in the name of both entities or solely in the name of the operation owner if it is also the livestock owner. Where the operation owner and livestock owner are different entities, the livestock owner as well as the operation owner both be present and participate in the hearing process for the issuance of the permit.

C. Every applicant for an Intensive Livestock Permit shall consult with the Adams County Soil & Water Conservation District and obtain its certification of compliance with the terms and conditions of this Chapter 16.

D. In the event there is a change in ownership or change of identity of either of the parties, the existing permit may be transferrable upon execution of a transfer document approved by the Plan Commission in which any new party to the permit acknowledges his responsibility and obligations under the terms of the permit and under the terms of this ordinance. Said transfer may be made without the necessity of a hearing, as required, and a new permit. Any transfer of ownership of either the operation owner or the livestock owner without the knowledge of or approval of the Plan Commission shall be deemed to impose acceptance of the responsibilities and liabilities under the terms of the permit and the terms of this ordinance.
FOLLOWS:

CHAPTER 2-16-2 IS HEREBY AMENDED TO READ AS FOLLOWS:

2-16-2 LIMITATION OF LIABILITY

A. In the event there is a dual issuance of permit to the livestock owner and operations owner as provided by section one above, the livestock owner shall not be liable for damages or sanctions resulting from the operations of the operator where the owner of the livestock did not materially participate in or cause any violation of this ordinance.

B. An Intensive Livestock Operation will be defined for the purpose of this chapter and of this Ordinance as any existing or proposed livestock operation or an extension of an existing livestock operation with the number of animals located thereon exceeding the per acre limits as follows: (acres shall be defined for the purposes of this section as undeveloped, tillable land).

(1) Twenty-five (25) nursery pigs, or

(2) Six (6) sows, or

(3) Ten (10) finishing hogs, or

(4) Three (3) beef cattle, or

(5) Six (6) heifers, or

(6) Three (3) dairy cattle, or

(7) Ten (10) veal calves, or

(8) Two hundred fifty (250) laying hens, or

(9) Four hundred (400) pullets, or

(10) Five Hundred (500) broilers, or

(11) Two Hundred (200) ducks, geese and/or turkeys, or any combination thereof, or

(12) Five (5) horses, or

(13) Twenty (20) sheep or goats or any combination thereof
(14) Limits for other livestock not enumerated herein shall be determined by the Plan Commission by comparing body weight and animal wastes with those that are numerated.

C. An intensive livestock operation is further defined for the purpose of this section and of this ordinance as any existing or proposed livestock operation or an expansion of an existing livestock operation regardless of acreage on which there are livestock unit numbers exceeding four hundred (400) hogs, or two hundred (200) cattle, or ten thousand (10,000) poultry. Where a livestock operation involves less than four hundred (400) hogs, two hundred (200) cattle, ten thousand (10,000) poultry, but there is more than one species of animal, the total number of animals in each category shall be divided by four hundred (400) in the case of hogs, two hundred (200) in the case of cattle, and ten thousand (10,000) in the case of poultry, and the resulting percentages shall be added together. If the total of such percentages equals or exceeds one hundred, then the operation is an intensive livestock operation as defined herein, and as such, shall be subject to the provisions of this ordinance.

2-16-3 INTENSIVE LIVESTOCK OPERATION REGULATIONS.

A. The following regulations as to waste treatment and disposal shall apply to all intensive livestock operations:

   (1) All facilities located at one site are to be considered as components of one (1)
intensive livestock operation.

(2) All proposed waste storage facilities shall be designed to provide a minimum storage for a period of one hundred eighty (180) days of all animal waste, contaminated runoff and wastewater generated by the intensive livestock operation, based on the waste production and rainfall values as determined by Purdue University Cooperative Extension Service. Additional storage shall be required if terms of paragraph B of this section (see Application Lands) should be applicable.

(3) All rainwater from roofs and other uncontaminated water shall be diverted away from the waste storage facilities.

(4) Wastewater generated by the intensive livestock operation, such as excess drinking water, clean-up water, milking parlor wastewater, milking house wash water, etc., shall not be discharged directly to a stream or field tile; and consequently, must be discharged into the animal waste storage pit or treated in an alternate manner approved by the Plan Commission and the Adams County Board of Health. Excess drinking water and milk house wash water may be treated with a septic tank and absorption system approved by the Plan Commission and the Adams County Board of Health.

(5) Application equipment must have the capacity of spreading a one hundred eighty (180) day accumulation of waste in eighteen (18) days. The time required for spreading a load of waste will vary, depending on the type of equipment used and the distance the waste must be hauled. In calculating the time required for emptying holding pits, a maximum of two (2) loads per hour or eighteen (18) loads per day shall be used. Additional time should be provided if the application land is a distance away from the intensive livestock operation.

(6) All operators and owners of intensive livestock operations shall see to the proper disposal of all dead animals. Disposal shall occur within 24 hours of the death of an animal and shall occur by burial, incineration, composting, or any other manner as may be approved by the Adams County Plan Commission.

B. Application Lands.

(1) Application Lands. Sufficient applicant owned land or leased land must be available for the spreading of waste from intensive livestock operations. If applicant relies on leased land for 50% or more of his required applied lands, then the owner and/or operator of the intensive livestock operation must provide two hundred seventy (270) days of storage to contain the waste throughout the growing season.

(2) Exception to application land. In cases where new technology or techniques have developed so as to haul the manure from the intensive facility off-site for processing or other disposal and the manure is not applied to lands in this county, then in that event the requirement for application land is reduced to handle only that quantity or portion of manure that is actually spread upon the lands in Adams County. Storage at facilities using alternative methods of manure disposal shall remain in the same
unless the applicant can demonstrate that he has a manure hauling contract that will be able to remove manure from the property on a periodic basis and in that event storage equal to twice the capacity of the removal period shall be required. Where the applicant is not able to demonstrate a contractual obligation to remove manure on a periodic basis, then the storage requirements contained in this section shall remain the same.

C. **Application rates.** The following land area acreage application shall be followed:

(1) 1 acre of application land shall be available for each livestock per acre unit as set out in section 2-16-2(A).

(2) Fifty percent (50%) of the application land must be within two (2) miles of the intensive livestock operation buildings and must either be owned by the owner of the intensive livestock operation or;

(3) If the owner of the livestock operation does not own a sufficient amount of application ground in order to comply with the application land and rates, the owner of the intensive livestock operation must present and submit to the Plan Commission a lease granting permission to apply waste, which lease must be prescribed and approved by the Plan Commission. (The Adams County office of Building and Planning will maintain copies of blank leases for use by the general public).

D. **Application set-backs.** Manure shall not be land applied closer than the following:

<table>
<thead>
<tr>
<th>Distance applied from (Zones)</th>
<th>Surface applied</th>
<th>Injected into soil</th>
<th>Incorporated into soil</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residence</td>
<td>600 feet</td>
<td>200 feet</td>
<td>300 feet</td>
</tr>
<tr>
<td>Water well</td>
<td>200 feet</td>
<td>200 feet</td>
<td>200 feet</td>
</tr>
<tr>
<td>Public building, church or school</td>
<td>1,000 feet</td>
<td>300 feet</td>
<td>600 feet</td>
</tr>
<tr>
<td>Build up area of 5 or more homes*</td>
<td>1,000 feet</td>
<td>300 feet</td>
<td>600 feet</td>
</tr>
<tr>
<td>Road or highway</td>
<td>50 feet</td>
<td>50 feet</td>
<td>50 feet</td>
</tr>
<tr>
<td>Ditch or stream</td>
<td>100 feet</td>
<td>50 feet</td>
<td>50 feet</td>
</tr>
</tbody>
</table>

* A build up area shall be construed to mean five (5) or more homes on tracts of one (1) acre or less all of which abut or are contiguous.

(5) **Application Requirements in Flood Plain.** All applications of manure in a flood plain shall be either by injection or if surface applied, then the surface applied application shall be incorporated immediately into the soil no later than the end of each working day.

(6) **Requirements for Injection.** In all cases of injection of manure upon land, the injection of the same shall be at a minimum depth of three (3) inches and manure shall not be allowed to seep upon the surface of the soil.
(7) General requirements for Incorporation. In the case of incorporation of manure in all zones set out in paragraph D above, the manure shall be disked or plowed into the soil so as to completely cover the manure to prevent any runoff. In application by incorporation in other than a flood plain, said incorporation shall be accomplished, weather permitting, within a minimum period of forty-eight (48) hours after application. However, application in a flood plain shall be accomplished no later than the end of each working day.

2-16-4 DESIGN CRITERIA FOR FACILITIES.

A. General Requirements for Design - Each and every requirement contained in the intensive livestock operation regulations as set forth in Section 2-16-3 of this chapter are hereby incorporated herein in this section as if the same were set out herein in full and each facility shall be constructed, operated and maintained in accordance with the requirements and regulations as set forth therein.

B. Waste Treatment and Disposal -

(1) All proposed waste storage facilities shall be designed to provide a minimum storage for a period as provided in Section 3 of this chapter of all animal waste, contaminated runoff, and wastewater generated by the intensive livestock operation, based on the waste production and rainfall values as determined by Purdue University Cooperative Extension Service, or the manure management policy issued by the Indiana Department of Environmental Management.

(2) All rainwater from roofs and other uncontaminated water shall be diverted away from the waste storage facilities.

(3) Wastewater generated by the intensive livestock operation (such as excess drinking water, clean up water, milking parlor water, milking house wash water, etc.) shall not be discharged directly into a stream or field tile. Instead such waste water shall be discharged into an animal waste storage pit or treated in an approved alternate manner. Excess drinking water and milkhouse wash water may be treated with an approved septic tank and absorption system as may be approved by the Adams County Health Department. Any approvals required under this subsection shall be given by the Adams County Board of Health and/or the Indiana Department of Environmental Management (or such other state agency which may regulate disposal and treatment of animal waste).

C. Earthen Pit Design -

Earthen pits shall be designed to prevent percolation of the waste into the underlying groundwater and to provide levees which are stable and can be satisfactorily maintained. A pit shall be located in impervious soil, unless it is lined with bentonite clay to prevent seepage or some other liner approved by the commission. Earthen pits should meet the following criteria:

(1) Minimum 3:1 inside and outside slopes
(2) Seven (7) to ten (10) foot top width

(3) No emergency overflow pipe or spillway or as designed by S.C.S.

(4) All rainwater from roofs and other uncontaminated water shall be diverted away from the waste storage facilities.

(5) A minimum of two (2) feet of freeboard shall be maintained at all times.

D. Separation Distances and Setbacks - The minimum requirements as to separation distances of the pit and/or total confinement area of an intensive livestock operation must be as follows:

For covered pit and total confinement installation:

(1) One hundred (100) feet from any water well. An earthen lagoon shall not be placed closer than two hundred (200) feet to any water well if or will be used for human consumption or production of milk.

(2) Six hundred (600) feet from a residence.

(3) One thousand (1,000) feet from any public building (church, school, etc.)

(4) One thousand three hundred (1,300) feet from any built up area of five (5) or more homes as the same is herein defined.

(5) If an open feeding floor and pit combination is proposed, two hundred (200) feet shall be added to the distances as required in subsections 2, 3 and 4 immediately set forth herein.

(6) If open earthen pits or other open pits are used, five hundred (500) feet shall be added to the distances set out in subsections 2, 3 and 4 immediately set forth herein.

E. Separation distances and setbacks for new residential, business, public or recreational facilities. All new residential, business or public buildings and recreational facilities shall be subject to the same separation distances from existing intensive livestock operations as are set forth above except that the same shall not apply with regard to a residence occupied by the operator or owner of the intensive livestock operation.

2-16-5 APPLICATION.

A. Necessity for application. Before any new, or expansion of an existing livestock operation is commenced or constructed approval of the Plan Commission shall be obtained. Before any approval of the Plan Commission is given, each proposed intensive livestock operation shall be reviewed on the basis of information furnished on the application form provided by the Commission as required herein and the facts obtained from an on-site inspection or study if required by the Commission. If facts show the proposal to be in compliance, approval shall be granted by the Commission.
B. Existing intensive livestock operations. For all existing intensive livestock operations not operating under a valid permit, the owner or operator thereof shall make application and obtain a permit before continuing such operation.

C. Transfer of permit. A permitted intensive livestock operation shall remain personal with the holder of the permit and shall be transferred only in accordance with this subsection. A transfer of a permit without any increase in the number of animals may be granted by the Plan Commission Director without a public hearing if the transfer or if the permit is in good standing and the transferee demonstrates an ability to continue to operate the permit in accordance with this chapter. A transfer of a permit seeking to increase the number of animals shall be granted by the Commission only after a public hearing and notice. A transfer may be granted on review of the Commission of all relevant documents in the transferor’s file and a review of the application of the transferee and the Commission may obtain such other relevant information as it deems necessary and such transfer may be granted if compliance of this ordinance and this chapter shall have been demonstrated.

D. Revocation of Permit. Any intensive livestock operation permit may be revoked at any time after ninety (90) days from the time notice is given by the Commission or the Adams County Health Department to the owner and/or operator of any intensive livestock operation, advising such owner and/or operator that the waste treatment and handling facilities and/or any other facility of the operation have not been constructed or have not been maintained and operated as proposed and approved when submitted to the Commission; and the intensive livestock operation must there upon forthwith cease. Revocation may be withdrawn only after construction and operation is deemed to be in compliance with this ordinance.

E. Right to hearing. The owner and/or operator of an intensive livestock operation that receives notice of proposed revocation may request a hearing within ten (10) days from the receipt of notice of revocation and upon request of hearing a hearing shall be held on the proposed revocation and the permittee shall be entitled to a hearing before the commission with the right to be represented by counsel and to be heard.

2-16-6 VARIANCE.

A. An exception to this chapter may be sought by a party requesting to locate a residence or other facility closer to an existing intensive livestock operation than permitted by the above setbacks and requirements. If or when such variance is granted by the Board of Zoning Appeals, the party obtaining the variance shall be required to attach to the deed or other appropriate document to be placed of record a covenant protecting the livestock enterprise being encroached upon. Said covenant shall read as follows or shall contain words of similar meaning as follows:

"In accepting this deed, grantees do hereby acknowledge that the surrounding land is agricultural in usage; and grantees, and their successors in interest, are precluded from complaining and/or attempting to enjoin the farm operation because of nuisances which might result from said operation."

B. If an intensified livestock applicant finds he cannot reasonably meet the established requirements, he may request a variance or special exception from the Board of Zoning Appeals. After hearing, the Board of Zoning Appeals shall determine if the request is in
harmony or conflict with the purpose and intent of this ordinance and/or is detrimental to the owners of surrounding, adjacent property. In the granting of any special exception or variance, the Board may impose such conditions as deemed necessary in furtherance of the purposes and intent of this ordinance.

2-16-7 SUBMISSION REQUIREMENTS FOR PERMIT.

A. Site plan and other submissions. The applicant for an intensive livestock operation shall submit the following to the commission.

(1) An application in a form prescribed by the commission in duplicate.

(2) A site plan drawn to scale which will be contained on at least an 8½ X 11 or larger paper.

(a) It is suggested that the services of an engineer or other professional be utilized in presenting a scale drawing to the commission which contains the required information by this chapter in sufficient detail and with sufficient professionalism as to enable the commission to clearly see and to be informed of the proposed facilities and its compliance with the requirements of this chapter.

(b) While a professional drawing is suggested it is not a requirement.

B. Site plan required hereunder shall contain the following:

(1) The location of any proposed building and all existing buildings on the tract (as of land involved).

(2) All existing residences within 1 mile of any proposed building or the site of an intensive livestock operation.

(3) Boundaries of the farm and area involved and the location of all land application areas.

(4) The location of all streams, highways, lakes, recreational facilities, public buildings, towns and cities within one mile of the proposed intensive livestock operation site.

(5) Specifications relative to waste treatment disposal showing the method, equipment and detention time of any holding pit, the number of animal units expected, and the pit design. Design specifications shall be prepared by the United States Soil Conservation Service or by an Indiana registered professional engineer.

(10) The Adams County Soil & Water Conservation District shall certify that the size of the proposed facility will accommodate the number of animals desired by the applicant to be housed therein as determined by the most current standard as developed by Purdue University applicable to the facility being constructed. In general, the building shall not be significantly over-sized for the number of animals
that the applicant desires to be permitted.

C. A map showing the general topography of the area with contour lines and elevations showing that surface drainage will drain away from the site of the operation or any building site. Topography maps and elevations will be satisfactory if prepared by the United States Soil Conservation Service, or by an Indiana registered surveyor or professional engineer. Official topography maps may be used if site elevations can be accurately determined. An intensive livestock application will be submitted to the commission on a form signed by the owner(s) of record. At the time of submission of the application, the applicant shall pay to the commission the filing fee established by rule of the commission.

D. All required permits, if any, as may be required by the Indiana Department of Environmental Management or other state or federal agencies whose approval is required as a pre-requisite to the granting of the permit herein.

E. **Hearing.** Within thirty (30) days after the date of receipt of the plan application and the applicable filing fee, the zoning administrator shall announce the date and time of the public hearing to be held before the commission. The zoning administrator shall determine the date and time of the public hearing to be held before the commission and shall give notice of the hearing to those persons and in the manner as provided by the commission for hearings for special exception and variances held before the board of zoning appeals. Provided however, that in the event that the applicant is required to obtain state approval for his facility, the Commission will not hold a public hearing until after the state approval is first obtained by the applicant.

F. **Determination by commission.** Commission, after hearing held, shall either approve or deny the application. On motion of an interested party, the commission shall provide written findings and reasons for its determination. In the case of a denial of an application, the commission shall provide written reasons for its denial.

(1) There shall be no requirement of a primary and secondary approval of an application. A ruling on an application may be made conditional upon satisfactory performance of additional requirements or upon approval by any other state agency whose approval is required or for such further reasons as the commission deems necessary to insure compliance with this chapter.

(2) In lieu of a conditional ruling by the commission, the commission may defer its ruling until compliance with all requirements have been met and may or may not require a second hearing to insure compliance with this chapter.

(3) In the event there are substantial deficiencies in the application and there are substantive requirements to be met, the commission may, but is not required to hold a second hearing to determine compliance.

G. **Transfer of permit.** A transfer of permit made necessary by change of ownership or operator shall be made by the commission without notice and hearing provided that the transfer does not involve the substantial change in the operation of the intensive livestock
operation. In the event the commission determines that there will be a substantial change or increase in the operation (substantial change meaning an increase of 20% more animals) then the commission shall require a formal application to be acted upon with hearing and notice as provided for an initial application.

H. Expansion. An intensive livestock operation may not be expanded or changed in any substantial manner without the prior approval of the commission. A substantial expansion or change shall be defined as any increase or change which will result in the care and keeping of 20% more animals than originally authorized. A minor expansion shall not require hearing and notice but a major or substantial expansion will require public hearing with notice the same as applicable to an original application.

2-16-8 MISCELLANEOUS.

A. Preparation and presentment of application. Each applicant shall prepare the required application and all supporting documentation in a clear, succinct and professional manner so as to aid the commission in making its determination.

(1) Each applicant is expected to carry the burden of proof in both the preparation and presentment of the application before the commission. The Plan Commission Director will not be responsible for the preparation or presentment of any application as that is the responsibility solely assumed by the applicant. However, the Plan Commission Director may assist any applicant in a preliminary conference but will not be responsible for providing drawings or documentation.

(2) It is recommended, although not required, that applicants seek the assistance of counsel or other professionals who may assist them in the preparation and presentment of their application.

B. Issuance of permit or decision by the commission.

(1) Issuance of permit. In the event the commission acts favorably upon an application, a permit for the intensive livestock operation shall be issued to the applicant which shall be done within ten (10) days after rendition of the final decision by the commission. The satisfaction of contingent items required for approval shall extend the time for the issuance of the permit, which permit shall be issued ten (10) days after final completion of all contingent and required items necessary for approval.

(2) In the event of denial by the commission the commission shall issue its ruling thereon with reasons issued in writing as to the refusal within ten (10) days from the final decision by the commission.

C. Recording of hearings. All hearings held before the commission under this chapter shall be tape recorded by the commission. A transcription of the tape recorded testimony shall be at the expense of the applicant if a transcript is desired. In the event that an appeal is taken from a decision of the commission the cost of the transcript shall be borne by the applicant or person initiating the appeal.
D. **Appeal.** Any person aggrieved by a decision of this commission shall be entitled to an appeal as provided by law for appeals for decisions of the Plan Commission generally and all rules applicable thereto shall govern any appeals taken under this chapter.

E. **Access to property/inspections.** The Executive Director may inspect any building, structure, or property at any reasonable time for the purpose of administering and enforcing the provisions of this Section. Inspection of the building(s), structure(s), or property shall be for the purpose of verifying number of livestock; setback distances; location of building(s), structure(s), and waste storage facilities; and location of waste application lands.

F. **Expiration of inactive permit.** In the event a new or existing permit is not utilized for a continuous period of two (2) years, then the intensive livestock permit shall expire. In the case of a new permit if construction of facilities is not substantially complete and intensive operations begun within said two (2) year period, the permit shall expire unless an extension of up to one (1) additional year is requested and granted by the Plan Commission Director.