

JAN 29 1988

Agriculture

HOUSE FILE
BY DREES

2115

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act regulating the construction of certain animal feeding
2 operation structures by providing for siting and prohibiting
3 the construction and expansion of earthen manure structures,
4 and providing an effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2115

1 Section 1. Section 335.2, Code 1997, is amended to read as
2 follows:

3 335.2 PARMS AGRICULTURAL PURPOSES EXEMPT.

4 ~~Except to the extent required to implement section 335.27,~~
5 no as provided in this section, an ordinance adopted under
6 this chapter applies shall not apply to an agricultural
7 operation, including land, farm houses, farm barns, farm
8 outbuildings, or other buildings or structures, which are
9 primarily adapted, by reason of nature and area, for use for
10 an agricultural purposes purpose, while so used. However, the
11 ordinances an ordinance adopted under this chapter may apply
12 to any of the following:

13 1. The implementation of an agricultural land preservation
14 ordinance, as provided in section 335.27.

15 2. A structure, building, dam, obstruction, deposit, or
16 excavation in or on the flood plains of any a river or stream.

17 3. A confinement feeding operation, as defined in section
18 455B.161, other than a confinement feeding operation which is
19 part of a family farm. A small animal feeding operation as
20 defined in section 455B.161 shall be deemed a family farm.

21 Otherwise, the county board of supervisors shall determine if
22 an agricultural operation qualifies as a family farm. In
23 making this determination the board shall review facts
24 relating to the agricultural operation and the person owning
25 or leasing the land where the agricultural operation is
26 located, including the extent to which the person:

27 a. Has held an interest in the land.

28 b. Is actively engaged in farming the land.

29 c. Produces different species of livestock on the land.

30 d. Produces crops on the land. If crops are produced on
31 the land, the board shall consider the extent to which the
32 crops are used to feed livestock produced on the land.

33 e. Owns and operates machinery for the following:

34 (1) The planting and harvesting of grain on the land.

35 (2) The application of manure on the land.

1 f. Owns and uses facilities for the storage of grain
2 produced on the land.

3 Sec. 2. Section 455B.161, Code 1997, is amended by adding
4 the following new subsections:

5 NEW SUBSECTION. 5A. "Authorized animal feeding operation
6 structure" means an animal feeding operation structure other
7 than an unformed manure storage structure.

8 NEW SUBSECTION. 21. "Unformed manure storage structure"
9 means a covered or uncovered animal feeding operation
10 structure, other than a formed manure storage structure, which
11 is used to store manure from a confinement feeding operation,
12 including but not limited to an earthen manure storage basin
13 or anaerobic lagoon.

14 Sec. 3. Section 455B.162, unnumbered paragraph 1, Code
15 1997, is amended by striking the unnumbered paragraph.

16 Sec. 4. Section 455B.162, subsection 1, unnumbered
17 paragraph 1, Code 1997, is amended by striking the unnumbered
18 paragraph and inserting in lieu thereof the following:

19 The following tables shall apply to animal feeding
20 operation structures constructed or expanded on or after May
21 31, 1995, but prior to the effective date of this Act:

22 Sec. 5. Section 455B.162, Code 1997, is amended by adding
23 the following new subsections:

24 NEW SUBSECTION. 1A. The following tables shall apply to
25 authorized animal feeding operation structures constructed or
26 expanded on or after the effective date of this Act:

27 a. The following table represents the minimum separation
28 distance in feet required between an authorized animal feeding
29 operation structure and a residence not owned by the owner of
30 the animal feeding operation, or a commercial enterprise, bona
31 fide religious institution, or an educational institution:

32	Minimum
33	separation
34	distance in
35	feet for

1		operations		
2	Minimum	having an		Minimum
3	separation	animal		separation
4	distance in	weight		distance in
5	feet for	capacity of		distance in
6	operations	625,000 or		feet for
7	having an	more pounds		operations
8	animal	but less than		having an
9	weight	1,250,000		animal
10	capacity of	pounds for		weight
11	less than	animals other		capacity of
12	625,000	than bovine,		1,250,000 or
13	pounds for	or 1,600,000		more pounds
14	animals other	or more		for animals
15	than bovine,	pounds but		other than
16	or less than	less than		bovine, or
17	1,600,000	4,000,000		4,000,000 or
18	pounds for	pounds for		more pounds
19	<u>Type of structure</u>	<u>bovine</u>	<u>bovine</u>	<u>for bovine</u>

20 Uncovered formed

21 manure storage

22 structure	1,000	1,500	2,000
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23 Covered formed

24 manure storage

25 structure	750	1,000	1,500
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26 Confinement

27 building	750	1,000	1,500
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28 Egg washwater

29 storage structure	750	1,000	1,500
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30 b. The following table represents the minimum separation
 31 distance in feet required between an authorized animal feeding
 32 operation structure and a public use area or a residence not
 33 owned by the owner of the animal feeding operation, a
 34 commercial enterprise, a bona fide religious institution, or
 35 an educational institution located within the corporate limits

1 of a city:

2		Minimum	
3		separation	
4		distance in	
5		feet for	
6		operations	
7	Minimum	having an	
8	separation	animal	Minimum
9	distance in	weight	separation
10	feet for	capacity of	distance in
11	operations	625,000 or	feet for
12	having an	more pounds	operations
13	animal	but less than	having an
14	weight	1,250,000	animal
15	capacity of	pounds for	weight
16	less than	animals other	capacity of
17	625,000	than bovine,	1,250,000 or
18	pounds for	or 1,600,000	more pounds
19	animals other	or more	for animals
20	than bovine,	pounds but	other than
21	or less than	less than	bovine, or
22	1,600,000	4,000,000	4,000,000 or
23	pounds for	pounds for	more pounds
24	<u>Type of structure</u>	<u>bovine</u>	<u>bovine</u>
25	Authorized animal		
26	feeding operation		
27	structure	1,250	1,875 2,500

28 NEW SUBSECTION. 3. An animal feeding operation structure
 29 constructed prior to May 31, 1995, may be expanded only if it
 30 is an authorized animal feeding operation structure as
 31 provided in section 455B.163.

32 Sec. 6. Section 455B.163, unnumbered paragraph 1, Code
 33 1997, is amended to read as follows:

34 An authorized animal feeding operation constructed prior to
 35 the applicability of a requirement in section 455B.162, which

1 does not comply with the ~~distance-requirements-of-section~~
2 ~~455B.162-on-May-317-1995~~ applicable requirement, may continue
3 to operate regardless of ~~those-separation-distances~~ the
4 requirement. The animal feeding operation may be expanded on
5 ~~or-after-May-317-19957~~ regardless of ~~those-separation~~
6 ~~distances~~ the applicable requirement at any time, if either of
7 the following applies:

8 Sec. 7. Section 455B.163, subsection 1, Code 1997, is
9 amended to read as follows:

10 1. The authorized animal feeding operation structure as
11 constructed or expanded complies with the applicable distance
12 requirements of section 455B.162.

13 Sec. 8. Section 455B.171, Code Supplement 1997, is amended
14 by adding the following new subsections:

15 NEW SUBSECTION. 1A. "Anaerobic lagoon" means the same as
16 defined in section 455B.161.

17 NEW SUBSECTION. 3A. "Authorized animal feeding operation
18 structure" means an animal feeding operation structure other
19 than an unformed manure storage structure.

20 NEW SUBSECTION. 7A. "Earthen manure storage basin" means
21 the same as defined in section 455B.161.

22 NEW SUBSECTION. 9A. "Formed manure storage structure"
23 means the same as defined in section 455B.161.

24 NEW SUBSECTION. 32A. "Unformed manure storage structure"
25 means a covered or uncovered animal feeding operation
26 structure, other than a formed manure storage structure, which
27 is used to store manure from a confinement feeding operation,
28 including but not limited to an earthen manure storage basin
29 or anaerobic lagoon.

30 Sec. 9. Section 455B.173, subsection 13, Code 1997, is
31 amended to read as follows:

32 13. a. Adopt, modify, or repeal rules relating to the
33 construction or operation of animal feeding operations. The
34 rules shall include, but are not limited to, minimum manure
35 control requirements, requirements for obtaining permits, and

1 departmental evaluations of animal feeding operations. The
2 department shall not require that a person obtain a permit for
3 the construction of an animal feeding operation structure, if
4 the structure is part of a small animal feeding operation.

5 b. The department shall collect an indemnity fee as
6 provided in section 204.3 prior to the issuance of a
7 construction permit. The department shall deposit moneys
8 collected in indemnity fees in the manure storage indemnity
9 fund created in section 204.2.

10 c. The department shall not approve a permit for the
11 construction of three or more animal feeding operation
12 structures unless the applicant files a statement approved by
13 a professional engineer registered pursuant to chapter 542B
14 certifying that the construction of the animal feeding
15 operation structure will not impede the drainage through
16 established drainage tile lines which cross property boundary
17 lines unless measures are taken to reestablish the drainage
18 prior to completion of construction. ~~The department shall~~
19 ~~deposit moneys collected in indemnity fees in the manure~~
20 ~~storage indemnity fund created in section 204.2.~~ The
21 department shall not approve a permit for the construction of
22 an unformed manure storage structure.

23 d. The department shall issue a permit for an animal
24 feeding operation, if an application is submitted according to
25 procedures required by the department, and the application
26 meets standards established by the department, regardless of
27 whether the animal feeding operation is required to obtain
28 such a permit. An applicant for a construction permit shall
29 not begin construction at the location of a site planned for
30 the construction of an animal feeding operation structure,
31 until the person has been granted a permit for the
32 construction of the structure by the department. The
33 department shall make a determination regarding the approval
34 or denial of a permit within sixty days from the date that the
35 department receives a completed application for a permit.

1 However, the sixty-day requirement shall not apply to an
2 application, if the applicant is not required to obtain a
3 permit in order to construct an animal feeding operation
4 structure or to operate an animal feeding operation.

5 e. The department shall deliver a copy or require the
6 applicant to deliver a copy of the application for a
7 construction permit to the county board of supervisors in the
8 county where the confinement feeding operation or confinement
9 related animal feeding operation structure subject to the
10 permit is to be located. The department shall not approve the
11 application or issue a construction permit until thirty days
12 following delivery of the application to the county board of
13 supervisors. ~~The department shall consider comments from the~~
14 ~~county board of supervisors;~~ may submit comments regarding
15 compliance by the applicant with the legal requirements for
16 the construction of the confinement animal feeding operation
17 structure as provided in this chapter, and rules adopted by
18 the department pursuant to this chapter, if and whether the
19 proposed construction site has been zoned for the proposed
20 use. The department shall consider the comments are if
21 delivered to the department within fourteen days after receipt
22 of the application by the county board of supervisors.

23 f. Prior to granting a permit to a person for the
24 construction of an animal feeding operation, the department
25 may require the installation and operation of a hydrological
26 monitoring system for an exclusively earthen manure storage
27 structure, if, after an on-site inspection, the department
28 determines that the site presents an extraordinary potential
29 for groundwater pollution.

30 g. A person shall not obtain a permit for the construction
31 of a confinement feeding operation, unless the person develops
32 a manure management plan as provided in section 455B.203.

33 h. The department shall not issue a permit to a person
34 under this subsection if an enforcement action by the
35 department, relating to a violation of this chapter concerning

1 a confinement feeding operation in which the person has an
2 interest, is pending. The department shall not issue a permit
3 to a person under this subsection for five years after the
4 date of the last violation committed by a person or
5 confinement feeding operation in which the person holds a
6 controlling interest during which the person or operation was
7 classified as a habitual violator under section 455B.191. The
8 department shall conduct an annual review of each confinement
9 feeding operation which is a habitual violator and each
10 confinement feeding operation in which a habitual violator
11 holds a controlling interest. The department shall notify
12 persons classified as habitual violators of their
13 classification, additional restrictions imposed upon the
14 persons pursuant to the classification, and special civil
15 penalties that may be imposed upon the persons. The notice
16 shall be sent to the persons by certified mail.

17 Sec. 10. NEW SECTION. 455B.205 UNFORMED MANURE STORAGE
18 STRUCTURES -- PROHIBITION.

19 A person shall not construct or expand an unformed manure
20 storage structure on or after the effective date of this Act.

21 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
22 immediate importance, takes effect upon enactment.

23 EXPLANATION

24 This bill amends several provisions relating to the
25 construction of animal feeding operation structures associated
26 with confinement feeding operations.

27 The bill amends Code chapter 335, which provides for county
28 zoning. Code section 335.2 currently provides that county

1 earthen manure storage basin, or confinement building. The
2 bill provides that the county board of supervisors must
3 determine whether an operation qualifies as a family farm. An
4 animal feeding operation having an animal weight capacity of
5 200,000 pounds or less for animals other than cattle or
6 400,000 pounds or less for cattle is deemed a family farm.
7 The bill provides that otherwise the board must consider
8 factors relating to the agricultural operation and the person
9 owning or leasing the land where the agricultural operation is
10 located, including the extent to which the person holding an
11 interest in the land has held the interest, is actively
12 engaged in farming the land, produces different species of
13 livestock, produces crops on the land, feeds livestock from
14 those crops, owns and operates farm machinery, and owns and
15 uses grain storage facilities.

16 This bill also prohibits a person from constructing or
17 expanding an unformed manure storage structure on and after
18 the effective date of the bill. An unformed manure storage
19 structure is defined to mean a covered or uncovered structure,
20 other than a formed manure storage structure, which is used to
21 store manure from a confinement feeding operation, including
22 but not limited to an earthen manure storage basin or
23 anaerobic lagoon. The bill maintains separation distance
24 requirements for animal feeding operation structures which are
25 constructed prior to the effective date of the bill. The bill
26 becomes effective upon enactment.

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