

1. Greater than the density that is designated as No. 2 smoke on the Ringelmann Chart as published in the U.S. Bureau of Mines Information Circular 6888.
2. Of such capacity as to obscure an observer's view to a degree equal to or greater than does smoke described in '1' above.

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

- failure  
limitation  
cause of
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 an emission to meet the limitation of 3.(a) (2) above, such shall not apply. The burden of proof that water is the only 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.

duration as  
number

No use shall discharge from any air contaminant source whatsoever, air contaminants in sufficient quantities and of such characteristics and to cause injury, detriment, nuisance, or annoyance to any considerable 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 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 (as defined by 327 IAC 16) must meet the following standards:

- 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 confined feeding operation, including structures, pens, lagoons, or lots, shall not be

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located any closer than the following setbacks:

1. 800 feet from any residence, other than the farm operator or residences owned by the confined feeding operation. Residence is defined as the footprint of the residence or any accessory building located within 25 feet of the primary residence.
  2. 1500 feet from any Residential Zoning District line, any church, school, public park, or any public building.
  3. 3960 feet from the nearest boundary of any incorporated City or Town.
- c. Construction of a new residence not located on the same tract of land or residences not owned by the confined feeding operation must also be located a minimum of 800 feet from an existing confined feeding operation.
- d. An existing confined operation, which has an Indiana Department of Environmental Management confined feeding permit either obtained or applied for prior to the passage of this ordinance, be allowed to expand on the same parcel within the setbacks in effect at passage of this ordinance (100 feet from a street right-of-way line, 500 feet from a residential district boundary line, and 500 feet from a residential use other than that of the applicant).
- e. Any existing residence, platted subdivision, church, school, public park, or public building will 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 CONFINED FEEDING OPERATIONS/CONFINED ANIMAL FEEDING OPERATIONS:
1. A pre-application permit for any confined feeding operations/confined animal feeding operations will be required. This permit will prevent, for 18 months, any property owner from obtaining a building permit for a structure to be built within the established set backs for a confined feeding operation.
  2. Any property owner and/or resident within 2500 feet of the proposed new construction of confined feeding operation, will be notified by certified mail. This notification will be the responsibility of the owner of the confined feeding operation/confined animal feeding operation.

## **ARTICLE 5**

### **Non-Conforming Lots, Non-Conforming Uses of Land, Non-Conforming Structures, and Non-Conforming Uses of Structures and Premises**

#### Section 1

##### **BUILDINGS UNDER CONSTRUCTION.**

To avoid undo hardship, nothing in this ordinance all be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance upon which actual building construction has been diligently carried on. Actual construction is defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

#### Section 2

##### **NON-CONFORMING LOTS OF RECORD.**

In any district in which single-family dwellings are permitted , notwithstanding limitations