

**COMMISSIONERS' MEETING**  
**May 9, 2016**

The Bartholomew County Commissioners met in regular session on May 9, 2016 in the Governmental Office Building, 440 Third Street, Columbus, Indiana. Commissioners Rick Flohr, Larry Kleinhenz and Carl Lienhoop were present. County Attorney J. Grant Tucker and County Auditor Barbara Hackman were also in attendance.

Chairman Flohr called the meeting to order. E911 Director Ed Reuter gave the invocation and led the Pledge of Allegiance.

The first item on the agenda was the approval of the May 2, 2016, Commissioners' Meeting Minutes. Commissioner Lienhoop made a motion to approve the minutes. Commissioner Kleinhenz seconded the motion that passed unanimously.

Next was the approval of payroll. Commissioner Kleinhenz motioned to approve the payroll. Commissioner Lienhoop seconded the motion which passed unanimously.

The next item was weekly reports. Commissioner Lienhoop read the New Permit Report dated 5/2/16 to 5/6/16. Twenty-two (22) permits had been issued with fees collected of \$1,467 and estimated construction costs of \$366,900.

County Engineer Danny Hollander gave the Highway Weekly Crew Report which included the following work: put up signs; patched roads; replaced pipe on 475E; started work on pipe on Hickory Hills; cleaned up tree debris from 250E; and paved at Heflin Park.

Mr. Hollander also submitted the Highway Monthly Financial Report for April, 2016, which included the Financial Report, Budget Status Report and Revenue Comparisons for the Highway Fund, Local Roads/Street Fund and the Cumulative Bridge Fund.

E911 Director Ed Reuter presented a quote of \$5,737.02 from Emerson Network Power/**Liebert Services to replace two (2) batteries** on the Liebert battery backup unit. This system supports the operations during a power surge or failure for up to 86 minutes before the backup generator takes over. The money is being encumbered from last year.

Chairman Flohr motioned to approve the battery replacement expenditure. Commissioner Kleinhenz seconded the motion that passed unanimously.

Mr. Reuter also submitted a **memorandum of understanding between the County 911 Board and the County Emergency Operations Center**, participating users of the IDACS terminal information. New members to the County 911 Board included: Robert Drake, President of County Fire Chiefs; and Mike Compton, Columbus Fire Chief. Commissioner Kleinhenz motioned to sign the memorandum of understanding. Commissioner Lienhoop seconded the motion that passed unanimously.

Mr. Reuter also presented a **memorandum of understanding between the Bartholomew County Emergency Operations Center and the Town of Hope Police Department**. Mr. Reuter asked for consideration to extend the public safety software program (OSSI/SunGard) to the Town of Hope Police Department through this memorandum. Town of Hope Police Department shall be responsible for payment of all equipment purchases, licenses and maintenance fees for their system's support. Current users of the software include the Emergency Operations Center, Columbus Police Department, Sheriff's Department, Columbus Regional Hospital, and the City Fire Department. The OSSI system monitors response data, such as, response time, vehicle/equipment locations, and communications; and provides information regarding the incident site, such as, history of calls, building layout, premises notations including drug activity, weapons or domestic situations, etc. Using OSSI reduces radio traffic, provides strategic information for responders, thereby, increasing operational efficiency and safety. Commissioner Kleinhenz made a motion to approve the memorandum of understanding with the Town of Hope Police Department. Commissioner Lienhoop seconded the motion and it passed unanimously.

Next, Chairman Flohr read from a letter written by Barbara Johnson of the Yellow Trail Museum requesting **road closures for a fireworks display** during the Annual Hope Old-Fashioned Independence Day Celebration in Hope. The request is for a section of 700N about one mile west of Hope be closed between the bridge over Hawcreek to the intersection of 700N and CR 670E from 3:00 p.m. to 11:59 p.m. on Friday, July 1st.

Commissioner Kleinhenz motioned to approve the request for road closure. Commissioner Lienhoop seconded the motion that passed unanimously.

County Assessor Lew Wilson presented a quote from **Master's Touch** for the printing and mailing of this year's (16/17) **Form 11s** (Notice of Assessment of Land and Improvements). The estimated total for 38,000 items was \$15,731. Commissioner Lienhoop made a motion to approve the proposal from Master's Touch. Commissioner Kleinhenz seconded the motion that passed unanimously.

Next, County Attorney Grant Tucker read the bids submitted for the County's **2016 Road Program**. Bids were solicited for 53 projects blacktopping 32.25 miles of roadway. Each job stands alone and can be awarded independently of the others. Bids were received from Milestone Contractors, LP (Columbus) for \$1,693,049.16; and Dave O'Mara Contractor, Inc. (North Vernon) for \$1,968,351.35. (*See attached*) Commissioner Lienhoop motioned to take the bids under advisement. Commissioner Kleinhenz seconded the motion that passed unanimously.

Last item of business was the first reading of an **ordinance amending the confined feeding operation (CFO) and concentrated animal feeding operation (CAFO) standards of the Bartholomew County zoning ordinance**. [The future use of "CAFO" will refer to CFOs and CAFOs alike.] The ordinance and a table of revisions were presented by the Planning Department's Assistant Director Melissa Begley and Associate Planner Ashley Klingler. (*See attached*)

Chairman Flohr opened the meeting for public comment.

Justin Gelfius supported the Plan Commission's recommendations as a whole.

Barbara Sha Cox warned of inadequate/omitted wording in zoning ordinances for small satellite manure storage systems (not CFOs/CAFOs) not governed under IDEM guidelines, as experienced in Randolph and Wayne counties, inducing them to change their ordinances.

Charlie Mitch stated that the purpose of zoning laws is not to protect private personal interests, but rather to protect and promote the general public interest, such as, safety, health and morals of the community. He felt the rationale when approving the

setbacks was to not restrict where CAFOs could be located. He also felt the process establishes special private rights in creating an exclusive community for a limited number of large property owners who may wish to develop CAFOs which is contrary to Indiana's zoning law as applied in the Indiana Supreme Court Case, the Board of Zoning Appeals –vs- Schulte (1961). He also cited Section 1 of Article 1, Section 23 of the Indiana Constitution which requires equal privileges and immunities. This right was the basis for the Indiana Supreme Court Case Collins –vs- Day (1994). Mr. Mitch concluded that the recommendations in their current form are unjust, unlawful and unconstitutional.

Jean Terpstra suggested that owners of CAFOs be required to provide financial surety and be financially obligated in the event of a bad outcome: e.g., restricting certain forms of ownership that would insulate the owners from compensatory damages (limited liability corporations); putting up surety bonds; requiring insurance. "Nobody should be allowed to put everybody else at risk when there are ways to protect them. If you're going to make the money off that industry, you're going to have to pay for the potential costs of it."

Amoret Heise questioned whether the proposed setbacks were adequate to protect property values. No one wants to live next to a CAFO and leaves the owner unable to sell their home without taking a considerable loss.

Tom Heller said that zoning laws address issues from property line to property line. Any encroachment onto another's property requires an easement. He gave a presentation comparing the setback recommendations to the Heber Model developed by Purdue University's Dr. Albert J. Heber. He demonstrated various examples where the proposed revised setbacks would fall short of protecting adjacent properties against odor-shed.

Nancy Banta talked about her first-hand experience of living next to a CAFO.

Kate O'Halloran spoke on the public health issues surrounding CAFO's and presented a handout of excerpts taken directly from "Putting Meat on the Table: Industrial Farm Animal Production in America", a project of The Pew Charitable Trusts and the Johns Hopkins Bloomberg School of Public Health. The area of public health has

been dismissed as irrelevant in all the venues of the CAFO proceedings at which she has attended and spoken. She warned that the county may be vulnerable to future litigation since they were made aware of public health issues, but nothing is on the record that the county tried to deal with those issues, and therefore, would be viewed as a failure on the county's part. She wanted more exploration and consideration from the public health perspective.

Mike Percy was on the Purdue Industrial Advisory Council for years and supported the science data of Al Heber's work and model. Mr. Percy's simulation tests of the Heber Model resulted in confirmation of its findings. He was upset that the CAFO Study Committee went from crediting the Heber Model to discrediting the model when the numbers came in too high. In Jackson County, the Heber Model was used to determine who was entitled to sue. The simulation included the area's slope, number of trees, etc. The judgement came down that petitioners' homes located up to 1,650 feet of the CAFO have standing and a right to sue. Those suits against the BZA and CAFO owner have not yet been settled. Additionally, Mr. Percy expressed concern about decreased property values caused by CAFOs and took offense to the argument that when buying in the country you can expect agricultural activities.

Justin Gelfius spoke again to retract his support of the majority report of proposed setbacks after hearing the opinions of the audience members. He was discouraged by the talk of law suits and court appeals.

An audio recording of the entire discussion can be accessed via the county's website at [www.bartholomew.in.gov](http://www.bartholomew.in.gov). Chairman Flohr then closed the meeting.

After the some discussion, Chairman Flohr motioned to reject the ordinance on first reading. The motion died due to lack of a second. Commissioner Kleinhenz motioned to approve the ordinance amending the confined feeding operation (CFO) and concentrated animal feeding operation (CAFO) standards of the Bartholomew County zoning ordinance on first reading. Commissioner Lienhoop seconded the motion that passed by majority vote of 2 to 1. Chairman Flohr cast the one nay vote. Second reading will be in the May 23, 2016 Commissioners' Meeting.

The next Commissioners' Meeting will be held on Monday, May 16, 2016 at 10:00 a.m. in the Commissioners' Chambers. There being no other business, the meeting was adjourned at 11:35 a.m.

BARTHOLOMEW COUNTY  
COMMISSIONERS

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RICHARD A. FLOHR, CHAIRMAN

ATTEST:

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LARRY S. KLEINHENZ, MEMBER

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BARBARA J. HACKMAN

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CARL H. LIENHOOP, MEMBER

TOWNSHIP	ADDITION	JOB #	ROAD	FROM	TO	LENGTH (MILES)	WIDTH (FT.)	#/SYD*	BITUMINOUS TONS	MILESTONE		DAVE D' MARRA	
										\$/UNIT	TOTAL	\$/UNIT	TOTAL
CLAY		1	Base Road	650 East	State Road 46	1.00	18.0	220	1161.6	\$43.75	\$50,820.00	\$51.47	\$59,787.55
		2	410 East	50 North	Base Road	0.50	18.0	220	580.8	\$45.00	\$26,136.00	\$51.79	\$30,079.63
		3	Base Road	410 East	6815 E. Base Rd.	0.60	18.0	220	697.0	\$45.00	\$31,365.00	\$52.24	\$36,411.28
CUFTY		4	Newbern Road	265 North	Bridge #26 Approach	0.23	18.0	220	267.2	\$53.50	\$14,295.20	\$51.47	\$13,752.78
COLUMBUS		5	275 East	50 North	Base Road	0.49	18.0	220	569.2	\$46.00	\$26,183.20	\$52.47	\$29,865.92
		6	Base Road	250 East	West Terminus	0.33	18.0	220	383.3	\$46.00	\$17,631.80	\$53.24	\$20,406.89
		7	Stanley Lane	200 North	South Terminus	0.06	16.0	220	62.0	\$79.00	\$4,898.00	\$74.47	\$4,617.14
		8	150 West	City Limits	City Limits	0.18	20.0	220	232.3	\$45.75	\$10,627.73	\$57.24	\$13,296.85
		9	150 West	City Limits	300 South	0.45	19.0	220	551.8	\$45.75	\$25,244.85	\$53.47	\$29,504.75
	Westview	10	Westview Drive	State Road 46	North Terminus	0.20	21.0	165	203.3	\$61.50	\$12,502.95	\$62.97	\$12,801.80
FLAT ROCK		11	600 North	150 East	3752 E. 600 North	0.26	18.0	220	302.0	\$43.00	\$12,986.00	\$51.97	\$15,694.94
GERMAN		12	450 North	330 West	500 West	1.78	16.0	220	1837.9	\$44.50	\$81,786.55	\$50.84	\$93,438.84
HARRISON		13	50 South	850 West	North Terminus	0.28	16.0	220	289.1	\$61.50	\$17,779.65	\$69.97	\$20,228.33
	Grandview Lake	14	Pond Drive	650 West	Grandview Drive	0.16	16.0	165	123.9	\$72.00	\$8,920.80	\$85.97	\$10,651.68
	Grandview Lake	15	Locust Lane	Grandview Drive	East Terminus	0.07	20.0	165	67.8	\$72.00	\$4,881.60	\$109.97	\$7,455.97
HAW CREEK		16	900 East	735 North	800 North	0.68	18.0	220	789.9	\$43.50	\$34,360.65	\$49.24	\$38,884.68
		17	700 North	1050 East	County Line	1.51	18.0	220	1754.0	\$44.00	\$77,176.00	\$49.47	\$86,770.38
		18	700 East	400 North	450 North	0.51	18.0	220	592.4	\$46.50	\$27,546.60	\$51.97	\$30,787.03
JACKSON		19	Seymour Road	675 West	Jackson County Line	2.23	18.0	220	2590.4	\$45.75	\$118,510.80	\$55.47	\$143,689.49
ROCKCREEK		20	750 East	200 South	300 South	0.99	18.0	220	1150.0	\$45.75	\$52,612.50	\$51.97	\$59,765.50
	Honor Heights	21	Old State Road 9	600 East	East Terminus	0.16	20.0	165	154.9	\$65.00	\$10,068.50	\$62.97	\$9,754.05
SANDCREEK		22	450 East	800 South	850 South	0.49	16.0	220	505.9	\$45.00	\$22,765.50	\$51.47	\$26,038.67
		23	800 South	U.S. 31	450 East	0.55	16.0	220	567.9	\$45.00	\$25,555.50	\$51.47	\$29,229.81
		24	300 South	525 East	600 East	0.80	16.0	220	826.0	\$44.75	\$36,963.50	\$53.47	\$44,166.22
WAYNE		25	80 West	1050 South	1100 South	0.50	18.0	220	580.8	\$45.50	\$26,426.40	\$50.97	\$29,603.38
		26	150 West	300 South	City Limits	0.07	22.0	220	99.4	\$50.00	\$4,970.00	\$58.97	\$5,861.62
		27	1050 South	80 West	150 West	0.75	18.0	220	871.2	\$45.50	\$39,639.60	\$50.97	\$44,405.06
									<b>TOTALS</b>	<b>\$822,654.88</b>	<b>\$946,960.24</b>		
									15.83				

TOWNSHIP	ADDITION	JOB #	ROAD	FROM	TO	LENGTH (MILES)	WIDTH (FT.)	#/SYD*	BITUMINOUS TONS	MILESTONE		DAVE O' MARA	
										\$/UNIT	TOTAL	\$/UNIT	TOTAL
CLAY	Ermpest Addition	1	Old State Road 9	North Terminus	South Terminus	0.40	24.0	165	464.6	\$52.00	\$24,159.20	\$54.24	\$25,199.90
		2	1000 East	50 North	75 South	1.25	18.0	220	1452.0	\$44.50	\$64,614.00	\$51.97	\$75,460.44
CLIFTY		3	400 East	100 South	125 South	0.25	16.0	220	258.1	\$47.00	\$12,130.70	\$53.47	\$13,800.61
		4	125 South	400 East	475 East	0.75	16.0	220	774.4	\$47.00	\$36,396.80	\$51.24	\$39,680.26
COLUMBUS		5	475 East	100 South	125 South	0.24	16.0	220	247.8	\$47.00	\$11,646.60	\$53.74	\$13,316.77
		6	100 North	200 West	City Limits	0.77	18.0	220	894.4	\$46.00	\$41,142.40	\$52.47	\$46,929.17
FLAT ROCK		7	Carr Hill Road	I-65	East City Limits	0.88	20.0	220	1135.8	\$46.50	\$52,814.70	\$62.97	\$71,521.33
		8	500 West	200 North	265 North	0.66	21.0	220	894.4	\$45.00	\$40,248.00	\$53.24	\$47,617.86
HARRISON		9	500 West	265 North	Lowell Road	1.13	21.0	220	1531.4	\$45.00	\$68,913.00	\$54.24	\$83,063.14
		10	600 North	100 East	150 East	0.47	18.0	220	546.0	\$43.00	\$23,478.00	\$52.97	\$28,921.62
HAW CREEK		11	575 East	700 North	800 North	1.02	18.0	220	1184.8	\$42.00	\$49,761.60	\$48.97	\$58,019.66
		12	500 West	Georgetown Rd	200 North	0.68	21.0	220	921.5	\$45.00	\$41,467.50	\$52.97	\$48,811.86
JACKSON		13	Stafford Road	800 North	900 East	1.39	18.0	220	1614.6	\$43.00	\$69,427.80	\$48.97	\$79,096.96
		14	450 West	930 South	1050 South	1.28	18.0	220	1486.8	\$45.75	\$68,021.10	\$53.97	\$80,242.60
OHIO		15	1050 South	450 West	500 West	0.50	18.0	220	580.8	\$45.75	\$26,571.60	\$54.47	\$31,636.18
		16	Sawmill Road	875 West	Brown County Line	0.29	18.0	220	336.9	\$58.50	\$19,708.65	\$86.47	\$29,131.74
ROCKCREEK	Blendon Park	17	Stephen Drive	State Road 7	State Road 7	0.22	20.0	165	213.0	\$65.00	\$13,845.00	\$57.47	\$12,241.11
		18	Michael Court	Stephen Drive	North Terminus	0.04	20.0	165	38.7	\$65.00	\$2,515.50	\$67.47	\$2,611.09
SANDCREEK		19	300 East	275 South	400 South	1.24	16.0	220	1280.3	\$44.75	\$57,293.43	\$51.74	\$66,242.72
		20	500 East	600 South	700 South	1.00	16.0	220	1032.5	\$44.00	\$45,430.00	\$49.97	\$51,594.03
WAYNE		21	450 East	State Road 7	South Terminus	0.46	16.0	220	475.0	\$48.00	\$22,800.00	\$55.47	\$26,348.25
		22	1050 South	200 West	West Terminus	0.50	16.0	220	516.3	\$45.50	\$23,491.65	\$55.47	\$28,639.16
Blair-Thompson Addition		23	150 West	950 South	1050 South	0.65	18.0	220	755.0	\$45.50	\$34,352.50	\$52.47	\$39,614.85
		24	Randall Drive	State Road 11	South Street	0.21	20.0	165	203.3	\$59.50	\$12,096.35	\$59.97	\$12,191.90
Blair-Thompson Addition		25	Kimberly Court	Randall Drive	West Terminus	0.07	20.0	165	67.8	\$59.50	\$4,034.10	\$69.97	\$4,743.97
		26	Tracy Court	Randall Drive	West Terminus	0.07	20.0	165	67.8	\$59.50	\$4,034.10	\$69.97	\$4,743.97

TOTALS \$870,394.28 \$1,021,391.11

## Bartholomew County Zoning Ordinance CFO/CAFO Revisions Summary

As Recommended by the Bartholomew County Plan Commission on March 9, 2016 (General Resolution 2016-01)

Prepared by: City of Columbus - Bartholomew County Planning Department

Standard / Question	Current Zoning Ordinance Requirement	Plan Commission Recommendation	Effect
1 Should CFO Regulations be based on the number and type of animal?	No	No	No Change
2 Should CFOs be Limited to only the AP (Agriculture Preferred) Zoning District	No	No	No Change
3 Minimum Setback: CFO to Residential Zoning District	1/2 Mile (2,640 Feet) (CFO Structure to Zoning Boundary)	1/2 Mile (2,640 Feet) (CFO Structure to Zoning Boundary)	Decreased Requirement
4 Minimum Setback: CFO Structure to School / Health Care Facility Property Line	None	1/4 Mile (1,320 Feet)	Increased Requirement
5 Minimum Setback: CFO Structure to Worship Facility Property Line	None	1/4 Mile (1,320 Feet)	Increased Requirement
6 Minimum Setback: CFO Structure to Recreational Facility Property Line	None	1/4 Mile (1,320 Feet)	Increased Requirement
7 Minimum Setback: CFO Structure to Residential Lot in Ag. Zone (5 acres or less) Property Line	None	500 Feet	Increased Requirement
8 Minimum Setback: CFO Structure to a Residence in an Ag. Zone (on a lot of more than 5 acres)	None	500 Feet (CFO Structure to Residential Structure)	Increased Requirement
9 Minimum Setback: CFO Structure to any Wall	None	500 Feet	Increased Requirement
10 Minimum Setback: CFO Structure to a State Highway	None	None	No Change
11 Minimum Setback: CFO Structure to Lot Line of Property on which it is Located	100 Feet	100 Feet	No Change
12 Minimum CFO Lot Size	5 Acres	10 Acres	Increased Requirement
13 Should CFOs be Considered Permitted Uses, Conditional Uses, or a Combination of Both?	Conditional Uses Always	Conditional Uses Always	No Change
14 Should there be a "Good Character" Requirement for CFO Operators?	No	No	No Change
15 Should there be a "Financial Responsibility" Requirement for CFO Operators?	No	No	No Change
16 Should an IDEM Permit be Required Prior to Local Zoning Compliance Approval?	No	No	No Change
17 Should Notice to Neighboring Property Owners be Provided, in Addition to any Conditional Use Notice?	No	No	No Change

ORDINANCE NO.: \_\_\_\_\_, 2016

**AN ORDINANCE AMENDING THE CONFINED FEEDING OPERATION (CFO)  
AND CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)  
STANDARDS OF THE BARTHOLOMEW COUNTY ZONING ORDINANCE**

**Favorably Recommended by  
Bartholomew County Plan Commission General Resolution 2016-01**

**WHEREAS**, on February 4, 2008 the Board of Commissioners of Bartholomew County, Indiana passed Ordinance No. 3, 2008 adopting a replacement zoning ordinance, including zoning maps, for the jurisdiction of Bartholomew County; and

**WHEREAS**, the zoning ordinance includes requirements for Confined Feeding Operations (CFOs) and Concentrated Animal Feeding Operations (CAFOs); and

**WHEREAS**, the zoning ordinance is subject to periodic review and revision to ensure that it remains effective, legally defensible, clear, and consistent with community goals; and

**WHEREAS**, the Board of Commissioners of Bartholomew County established a CFO/CAFO Study Committee, which has recommended amendments to the Zoning Ordinance provisions for such facilities; and

**WHEREAS**, the zoning ordinance revisions are for the purposes described by IC 36-7-4-601(c); including (1) the securing of adequate light, air, convenience of access, and safety from fire, flood, and other danger; (2) lessening or avoiding congestion in public ways; and (3) promoting the public health, safety, comfort, morals, convenience, and general welfare; and

**WHEREAS**, the Bartholomew County Plan Commission did, on February 10 and March 9, 2016, hold a legally advertised public hearing on the zoning ordinance amendments and has certified a favorable recommendation for their adoption to the Board of Commissioners; and

**WHEREAS**, the Board of Commissioners has considered the criteria provided by IC 36-7-4-603; including (1) the Comprehensive Plan, (2) the current conditions in each district, (3) the most desirable use for land in each district, (4) the conservation of property values, and (5) responsible growth and development.

**NOW THEREFORE BE IT ORDAINED**, by the Board of Commissioners of Bartholomew County, Indiana, as follows:

**SECTION 1: Zoning Ordinance Amended**

The Bartholomew County Zoning Ordinance is amended as follows:

a) Zoning Ordinance Section 6.3(B) is retitled as "CFO Requirements" and amended to read as follows:

Confined feeding operations (CFOs) shall be located consistent with Article 3 of this (the Zoning) Ordinance. All such operations shall meet any and all applicable requirements of the federal, state, and local government in addition to the standards listed below.

1. Required Property Size: No CFO shall be located on any-property of less than 10 acres.
2. Required Property Setbacks: All structures used in association with a CFO facility, including waste storage facilities, shall be setback a minimum of 100 feet from all property lines, including all street or road rights-of-way.

3. Minimum Separation Distances: All CFOs shall be separated from other properties and/or land uses as specified below:
- a. *Residential Zoning Districts:* No CFO facility shall be located closer than ½ mile to any Single-family Residential or Multi-family Residential zoning district. The separation shall be measured from the nearest structure associated with the CFO facility to the boundary line of the zoning district.
  - b. *Incorporated Cities and Towns Without Zoning:* No CFO facility shall be located closer than ½ mile to any incorporated city or town (Clifford, Elizabethtown, and Jonesville, for example) that has not adopted a zoning ordinance. The separation shall be measured from the nearest structure associated with the CFO facility to the corporate limits.
  - c. *Residential Properties in Agricultural Zoning Districts:* No CFO facility shall be located closer than 500 feet to any residential property (any property of 5 acres or less, regardless of whether or not it currently contains a residence) located in an Agricultural zoning district. The separation shall be measured from the nearest structure associated with the CFO facility to the residential property line.
  - d. *Farm Dwellings in Agricultural Zoning Districts:* No CFO facility shall be located closer than 500 feet to any farm dwelling (a residence located on a property of greater than 5 acres) located in an Agricultural zoning district. The separation shall be measured from the nearest structure associated with the CFO facility to the farm dwelling.
  - e. *Certain Community Facilities:* No CFO facility shall be located closer than ¼ mile to any (1) school (including a trade or business school, college or university, and day-care center); (2) health care facility (including a hospital, clinic, retirement facility, and nursing home / assisted living facility); (3) worship facility; or (4) recreational facility (including all park uses and all outdoor recreational uses). In the case of nature preserves (which are considered a park use) the specified separation shall only be required if the nature preserve is dedicated by the State of Indiana. The separation shall be measured from the nearest structure associated with the CFO facility to the property line of the other use.
  - f. *Private Wells for Household Use:* No CFO facility shall be located closer than 500 feet to any private well providing water for bathing, cooking, drinking and other household purposes. The separation shall be measured from the nearest structure associated with the CFO facility to the well water withdrawal location. In no instance shall this provision be interpreted as requiring separation between a CFO facility and wells used for irrigation or other non-household purposes.
  - g. *Exemptions:* The following exemptions shall apply to the minimum separation distances described above:
    - i. No minimum separation distance shall be required from a CFO facility to any residence, farm dwelling, or well located on the same property with that facility.
    - ii. No minimum separation distance shall be required from a CFO facility to any nearby residential property or off-site farm dwellings associated with the CFO. A residential property and/or farm dwelling shall be considered as being associated with the CFO if they are in the same ownership as the CFO. Ownership shall not be required to be identical and may be considered the same if, for example, individuals who own the residential property and/or farm dwelling also own all or part of a corporation that owns the CFO. Further, residential properties and/or farm dwellings may be considered as associated with the CFO if they are owned by others in the same family as those who own the CFO or by employees of the CFO. The existence of any association shall be determined by the Planning Director. The Planning Director may require written waivers of the required separation from any of those who may be considered as associated with the CFO.
    - iii. No minimum separation distance shall be required from a CFO facility to any residential properties, farm dwellings, specified community facilities or wells that are established after the CFO facility (and shall therefore not apply to the future expansion of that CFO

facility). The CFO facility, as well as farm dwellings and community facilities, shall be considered established upon the start of their construction. Residential properties shall be considered established upon the recording of the approved subdivision plat for any new lots. Wells shall be considered established upon being placed in operation.

4. Permit Requirements: No CFO facility shall be constructed, enlarged, or otherwise physically expanded without the prior issuance of an Improvement Location Permit consistent with Chapter 12.9 of this (the Zoning) Ordinance.

- b) The Zoning Ordinance Section 6.3(B) margin notes are amended to read as follows:

**Note:** *Consistent with Article 11 (Nonconformities) of this Ordinance, existing confined feeding operations (CFOs) are not required to re-locate or alter their operations if nearby zoning or uses change.*

**Note:** *The term confined feeding operation (CFO) is intended to include concentrated animal feeding operations (CAFOs) and any other similar facilities that meet the confined feeding operation (CFO) definition included in this ordinance but are otherwise also specifically identified by state and/or federal law based on the number of animals included, etc. A CAFO, for example, is a CFO which is characterized by a specific, large number of animals.*

- c) Zoning Ordinance Chapter 14.2 is amended to delete the definitions of "Concentrated Animal Feeding Operation (CAFO)", "Confined Feeding Operation (CFO)", "Farm (CFO/CAFO type I)", "Farm (CFO/CAFO type II)", and "Farm (general)" and add the following replacement and new definitions:

**Confined Feeding:** The raising of animals for food, fur or recreation in lots pens, ponds, sheds or buildings, where they are confined, fed and maintained for at least 45 days during any 12-month period, and where ground cover or vegetation is not sustained over at least half of the animals' confinement area. Confined feeding does not include a livestock auction or sales facility. This definition is intended to be consistent with that provided by IC 13-11-2-39 and 327 IAC 19-2-6, as amended periodically. It is deemed to include any revisions to the indicated state regulations or their successors even if the text of those regulations differs from the specifics provided in this definition.

**Confined Feeding Operation (CFO):** The confined feeding of at least 300 cattle, 600 swine or sheep, 30,000 fowl, or 500 horses, either in association with or separately from a farm. This definition is intended to be consistent with that provided by IC 13-11-2-40 and 327 IAC 19-2-7, as amended periodically. This definition is further intended to distinguish confined feeding that is subject to Indiana Department of Environmental Management (IDEM) review and approval from that which is not, and to also establish local regulations through this Zoning Ordinance which apply to those confined feeding operations of a scale such that IDEM regulation is considered prudent. It is deemed to include any revisions to the indicated state regulations or their successors even if the text of those regulations differs from the specifics provided in this definition. However, in no instance shall a CFO defined here for the purposes of this ordinance be deemed to include those regulated by IDEM for reasons other than the number of animals (such as specific impacts to the waters of the state, etc.) See Also *Farm*.

**Confined Feeding Operation (CFO) Facility:** The structures which together function as a CFO, including those that house CFO animals and those that are involved in the storage of CFO animal waste (including lagoons and other containments). A CFO facility shall not include any structures used to house CFO animal feed.

**Farm:** Any property or area exceeding 5 acres in size that is generally used for agriculture (such as the production and storage of vegetables, fruit trees, or grain, and/or the raising of farm animals, such as poultry or cattle). A farm may include a single farm dwelling, all other related structures, and the storage and servicing of equipment and materials used on-site for the farm operation. A farm shall also include, as an accessory use, the seasonal sales of products grown on-site. Also, as an accessory use, a farm may function as a location where orders are placed for farm-related services (such as crop insurance) and/or bulk farm-related supplies (such as seeds). The term farm shall

include all properties in residential use in an agriculture zoning district that exceed 5 acres in size. In no instance shall the term farm be interpreted as including a Confined Feeding Operation (CFO). See also *Dwelling, Farm* and *Confined Feeding Operation (CFO)*.

- d) Zoning Ordinance Section 12.9(B) is amended to replace existing subsections (1) and (1)(a) with the following and add subsection (k) as follows:
1. **Zoning Compliance Certificate Required:** A Zoning Compliance Certificate (ZCC), issued by the Planning Director, shall be obtained prior to the issuance of any required building permit for the following actions:
    - a. *New Construction:* construction, removal, additions to, or placement of any structure that exceeds 120 square feet in area and/or has a permanent foundation; including structures other than buildings such as towers and antennas, but excluding agricultural structures (other than those associated with a CFO facility) and single and two-family residential structures;
    - k. *Confined Feeding Operation (CFO) Facilities:* the construction, additional to, placement or installation of any CFO Facility structure(s) (including any animal waste storage).
- e) Zoning Ordinance Table 3.1 is amended to (1) delete the term "farm (CFO/CAFO type I)" and all content associated with it, (2) replace the term "farm (CFO/CAFO type II)" with the term "Confined Feeding Operation (CFO)", and (3) replace the term "farm (general)" with the term "farm". Further, a Confined Feeding Operation (CFO) shall be indicated as a conditional use in the AV, AP, and AG zoning districts and prohibited in all other zoning districts. Corresponding changes to the listings of permitted and conditional uses shall be made to Chapters 3.4, 3.5, 3.6, 3.23, 3.24, and 3.25.
- f) The terminology used throughout the Zoning Ordinance shall be revised as follows:
1. The term "farm (general)" shall be replaced with "farm",
  2. The term "CFO/CAFO type II" shall be replaced with "CFO", and
  3. The term "CFO/CAFO type I" shall either be replaced with "farm" or be omitted, based on the context of its use.

#### SECTION 2: Repealer

All ordinances or parts thereof in conflict with this ordinance shall be repealed to the extent of such conflict.

#### SECTION 3: Severability

If any provision, or the application of any provision, of this ordinance is held unconstitutional or invalid the remainder of the ordinance, or the application of such provision to other circumstances, shall be unaffected.

#### SECTION 4: Effective Date

This ordinance shall be effective upon and after the date and time of its adoption, as provided in Indiana law.

PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF BARTHOLOMEW COUNTY, INDIANA ON FIRST READING THIS 9<sup>th</sup> DAY OF May, 2016.

  
Carl H. Lienhoop

  
Larry S. Kleinhenz

Richard A Flohr NAY  
Richard A. Flohr

**ATTEST:**

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Barbara J. Hackman, Auditor  
Bartholomew County, Indiana

**PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF BARTHOLOMEW COUNTY, INDIANA ON SECOND READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.**

\_\_\_\_\_  
Carl H. Lienhoop

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Larry S. Kleinhenz

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Richard A. Flohr

**ATTEST:**

\_\_\_\_\_  
Barbara J. Hackman, Auditor  
Bartholomew County, Indiana