

THE CORPORATION OF THE TOWNSHIP OF MOSA

BY-LAW NO.7/99

A BY-LAW TO REGULATE NUTRIENT MANAGEMENT FOR INTENSIVE LIVESTOCK OPERATIONS IN THE TOWNSHIP OF MOSA

WHEREAS the Council of the Corporation of the Township of Mosa deems it necessary and in the public interest to regulate nutrient management for intensive livestock operations; and

WHEREAS, pursuant to Section 102 of the Municipal Act, R.S.O. 1990, as amended from time to time, by-laws may be enacted by local municipal Councils for the health, safety and welfare of the public;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MOSA ENACTS AS FOLLOWS:

SECTION 1 - TITLE

This By-Law may be cited as the "Nutrient Management By-Law".

SECTION 2 - SCOPE

This By-Law shall apply to all lands where farming is a permitted use within the limits of the Corporation of the Township of Mosa.

SECTION 3 - DEFINITIONS

For the purpose of this By-Law, the definitions and interpretation of this Section apply:

- 3.1 **Alter** means any alteration in a bearing wall or partition or column, beam girder or other supporting member of a building or structure or any increase in the area, volume or capacity of a building or structure. The words **altered** and **alteration** shall have a corresponding meaning.
- 3.2 **Building** includes any structure whether temporary or permanent, used or built for any purpose other than a lawful boundary, wall or fence. Any enclosure, awning, bin, bunk, or other container, or platform, used upon any land or in conjunction with or connected to any structure for any purpose shall be deemed a **building**.

- 3.3 **Certificate of Compliance** is a farm program certified by the Ontario Ministry of Agriculture, Food and Rural Affairs incorporating three farm management components including the Minimum Distance Separation Formula II, the appropriate sizing of manure storage facilities and adequate land base for spreading manure.
- 3.4 **Code, National Farm Building (1995)** is a regulation for the design, construction, remodelling and evaluation of a wide variety of farm buildings other than living quarters. Contains recommendations designed to obtain safe and efficient performance and economy within such buildings.
- 3.5 **Code, Ontario Building** is a set of regulations prepared by the Ministry of Municipal Affairs and Housing consisting of building requirements to minimize the risk of injury and property damage from structural failure and fire and health hazards.
- 3.6 **Consultant in Agriculture** means a professional agrologist or engineer with accreditation and/or specialization in the assessment of soils, manure, and nutrient management or an individual who can provide documentation of the completion of Ontario Ministry of Agriculture, Food and Rural Affairs's training course with respect to nutrient management.
- 3.7 **Corporation** means the Corporation of the Township of _____.
- 3.8 **Erect** means to build, construct, or reconstruct, alter, enlarge, and relocate and without limiting the generality of the foregoing, shall be taken to include any associated physical operation such as excavating, grading, berming, piling, cribbing, filling, or draining, structurally altering any existing building or structure by an addition, deletion, enlargement or extension.
- 3.9 **Existing** means lawfully existing on the date of passing of this By-Law.
- 3.10 **Farm Unit** means the composite of all parcels operated as a farm, the principal farm residence, any accessory residences, woodlot, barns and other structures necessary to support agricultural and ancillary uses.
- 3.11 **Intensive Livestock Farm** means the number of livestock units on the farm unit is 150 or more or 50 or more livestock units where the ratio of livestock units to tillable acres on the farm unit is 2 or greater. Livestock unit equivalency is shown in Appendix "E".
- 3.12 **Liquid Livestock Manure** livestock feces and urine with a dry matter content not exceeding 19% by weight.
- 3.13 **Livestock** means chickens, turkeys, cattle, hogs, horses, mink, rabbits, sheep, goats, fur bearing animals, or any other domestic animal kept for use and/or propagation and intended for sale and profit.

- 3.14 **Livestock Barn** is a building used for the housing, feeding or keeping of livestock.
- 3.15 **Livestock Manure** is principally composed of livestock feces and urine, and may include some bedding material and some dilution water.
- 3.16 **Livestock Unit** refers to the equivalent values for various types of animals and poultry based on manure production and production cycles as outlined in the definition of Intensive Livestock Farm.
- 3.17 **Manure Storage Facility** means an earthen, steel or concrete containment system, with or without a roof or covering enclosing the surface area of the container, used for the storage of liquid or solid livestock manure.
- 3.18 **Nutrient Management Plan** means the science-based process for optimizing the relationship between the land-based application of nutrients, farm management techniques, crop requirements, and land use and is consistent with standards and practices outlined in the Nutrient Management Plan Best Management Practices published from time to time by the Ontario Ministry of Agriculture, Food and Rural Affairs. (See Appendix A for a more complete description of a Nutrient Management Plan.)
- 3.19 **Owner** is a person who owns the land and buildings on which the Intensive Livestock Farm is operated.
- 3.20 **Permitted** shall mean permitted by this By-Law.
- 3.21 **Person** includes any individual, association, partnership, corporation, municipal corporation, agent or trustee and the heirs, executors or other legal representative of a person to whom the context can apply according to law.
- 3.22 **Solid Livestock Manure** means livestock manure with an average dry matter content ranging from 20 to 100 percent by weight.
- 3.23 **Tillable Land Base** is the total land area that can be cultivated and to which nutrients will be applied.

SECTION 4 - APPLICATION, ADMINISTRATION AND ENFORCEMENT

4.1 Application

No person shall use any land, or erect, alter or use any livestock barn or manure storage facility or part thereof within the limits of the Corporation except in

conformity with the provisions of this By-Law and the Township Zoning By-Law and other applicable municipal by-laws.

4.2 **Administration**

This By-Law shall be administered and enforced by the Corporation.

4.3 **Inspection**

Any employee of the Corporation acting under the direction of the Council of the Corporation, or an employee of the Corporation of the County of Middlesex, or any peace officer having jurisdiction in the Township of Mosa is hereby authorized to enter at any reasonable time on any day upon any property or premises for the purpose of discharging his duties and obligations under this By-Law, or if there is reason to believe that the provisions of the By-Law are not being complied with in whole or in part. Where bio-security measures are in effect such employee or peace officer will comply with the procedures as set out in the Nutrient Management Plan.

4.4 **Application for Permit**

4.4.1 No person shall use any land, or erect, alter or use any livestock barn or manure storage facility or part thereof within the limits of the Corporation of the Township of Mosa, unless a Building Permit has been issued by the Township's Chief Building Official.

4.4.2 In addition to all the requirements of the Ontario Building Code, as amended, the National Farm Building Code, as amended, or any other By-Law of the Corporation, every applicant for a Building Permit for a livestock barn or a manure storage facility shall be assessed to determine whether the farm operation meets or will meet, once the existing barn or manure storage facilities have been altered, the definition of an Intensive Livestock Farm.

4.4.3 Every owner who meets or will meet the definition of an Intensive Livestock Farm shall submit a Nutrient Management Plan to the Corporation as approved by the Ontario Ministry of Agriculture, Food and Rural Affairs.

SECTION 5 - NUTRIENT MANAGEMENT PLAN

5.1 **Nutrient Management Plan Required for a Permit**

5.1.1 The requirement for a Nutrient Management Plan shall only apply to Intensive Livestock Farms as defined herein. A Nutrient Management Plan shall be

completed in accordance with the Nutrient Management Strategy (attached as Appendix A):

- (i) for erecting a new livestock barn and/or manure storage facility, or
- (ii) for altering a livestock barn or manure storage facility.

5.1.2 All Nutrient Management Plans shall be reviewed and approved by the Ontario Ministry of Agriculture, Food and Rural Affairs.

5.2 **Land Base Requirement**

5.2.1 A sufficient, tillable land base shall be maintained for the application of livestock manure as prescribed by the Nutrient Management Plan.

5.2.2 All lands not owned by the owner which constitute a portion of the tillable land base shall be included in a Nutrient Management Plan to be submitted by the owner.

5.2.3 The submission of the Nutrient Management Plan shall be accompanied by signed agreements as outlined in Appendix C with persons whose lands will be used for the application of livestock manure and which are not owned by the owner.

5.2.4 For the owner of an Intensive Livestock Farm who owns less than 100 percent of the tillable land base required for the application of livestock manure, the land base agreements shall be renewed annually, effective April 1st of each year. Non-renewal of the agreements will require a review and amendment to the Nutrient Management Plan. Longer term agreements of up to three years may be entered into with permission of the Corporation in writing.

5.3 **Alternative Disposition of Livestock Manure**

5.3.1 Alternative arrangements to dispose of livestock manure, including but not limited to the sale of livestock manure, shall be permitted within a Nutrient Management Plan subject to the review and approval of the Ontario Ministry of Agriculture, Food and Rural Affairs.

5.3.2 The Corporation shall take direction from the Ontario Ministry of Agriculture, Food and Rural Affairs regarding the acceptability, terms and conditions of such alternative arrangements.

5.3.3 The submission of the Nutrient Management Plan shall be accompanied by a signed agreement as outlined in Appendix D with persons who will be acquiring a quantity of livestock manure, which shall be defined in the agreement. Non-renewal of the agreement will require a review and amendment to the Nutrient Management Plan.

5.4 Nutrient Management Plan Renewal

- 5.4.1 The owner of an Intensive Livestock Farm shall be responsible for renewing the Nutrient Management Plan every three years, effective April 1st of the third year, in order to remain in compliance with this By-Law.
- 5.4.2 The renewal of a Nutrient Management Plan shall require third party review by the "Ministry of Agriculture, Food and Rural Affairs."
- 5.4.3 The submission of the Nutrient Management Plan shall be accompanied by signed statements as outlined in Appendix G and as required by Section 5.2 of this By-Law prior to being deemed to be renewed by the Corporation.

SECTION 6 - PROVISIONS FOR MANURE STORAGE FACILITIES

6.1 Construction Standard and Sizing

No manure storage facilities shall be constructed or altered, except in accordance with the following provisions:

- 6.1.1 Manure storage facilities shall be designed and constructed in accordance with the provisions of the Ontario Building Code, as amended, with specific reference to CAN/CSA A23.3-94 "Design of Concrete Structures for Buildings", and the National Farm Building Code, as amended, or the Agricultural Pollution Control Manual, as amended, in the case of earthen manure storage facilities.
- 6.1.2 All manure storage facilities for solid livestock manure shall be required to have a method for the adequate elimination and management of liquids. Any such method shall be included in a Nutrient Management Plan.
- 6.1.3 For Intensive Livestock Farms, new manure storage facilities, or existing manure storage facilities being expanded, require sufficient manure storage capacities to be verified. For the purpose of this By-Law, sufficient livestock manure storage consists of a minimum of 240 days storage.

6.2 Manure Storage Approval

Sufficient manure storage capacities shall be verified in consultation with the Ontario Ministry of Agriculture, Food and Rural Affairs.

SECTION 7 - MINIMUM DISTANCE SEPARATION

7.1 Minimum Distance Separation II and Possible Relief Through the Minor Variance Process

- 7.1.1 Prior to the issuance of a building permit, the applicant shall demonstrate that livestock barns and manure storage facilities will be located in accordance with the Ontario Ministry of Agriculture, Food and Rural Affairs' Minimum Distance Separation Formula II, as provided for in Appendix E to this By-Law.
- 7.1.2 Where the livestock barn or manure storage facility cannot satisfy the requirements of Minimum Distance Separation Formula II, the owner may apply to the Township Committee of Adjustment for a minor variance pursuant to The Planning Act, R.S.O. 1990, as amended.
- 7.1.3 An owner who is granted a minor variance by the Township Committee of Adjustment for a livestock barn or manure storage facility, shall be deemed to satisfy the requirements of the Minimum Distance Separation Formula II.

SECTION 8 - ISSUANCE OF PERMIT

A Building Permit shall be issued for a livestock barn or manure storage facilities for Intensive Livestock Farm operations upon the completion of the requirements for a Nutrient Management Plan as prescribed in this By-Law and in accordance with Terms of Reference attached as Appendix A.

SECTION 9 - NUTRIENT MANAGEMENT ADVISORY COMMITTEE

The Corporation may establish a Nutrient Management Advisory Committee to provide a complaint/conflict resolution mechanism. The primary function of the Nutrient Management Advisory Committee is to deal with nutrient management complaints which do not fall under the mandate of Provincial protocols for handling pollution incidents.

If recommendations of the Nutrient Management Advisory Committee are not followed, the complainant may pursue action through the Farming & Food Production Protection Act process for Farming & Food Production Protection Act related issues.

SECTION 10 - VIOLATION AND PENALTIES

Every person who uses, erects or alters any livestock barn or manure storage facility in a manner contrary to any requirements of this By-Law or who causes or permits such use, erection, or alteration, shall be guilty of an offence and upon conviction thereof shall forfeit and pay a penalty not exceeding two thousand dollars (\$2,000.00) (exclusive of costs) for each offence, and each day of the occurrence of the offence shall be deemed to be a separate occurrence for each such offence, and every such penalty shall be recoverable under the Municipal Act, R.S.O. 1990, and the Provincial Offences Act, R.S.O. 1990.

Violations of Provincial legislation (e.g., Ontario Water Resources Act and/or Environmental Protection Act) are handled by the Ministry of Environment and Energy who may lay charges against the farm operator.

SECTION 11 - VALIDITY

If any section, clause or provision of this By-Law, including anything contained in the appendices attached hereto, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-Law as a whole or any part thereof other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that all the remaining sections, clauses or provisions of this By-Law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall have been declared to be invalid.

SECTION 12 - REMEDIES

In case any building or structure is to be erected, altered, extended or part thereof is to be used, or any land is to be used, in contravention of any requirement of this By-Law, such contravention may be restrained by action at the instance of any ratepayer or of the Corporation.

READ a first and second time this 23 rd day of June, 1999.

READ a third time and finally passed this 23rd day of June, 1999.

REEVE

CLERK

List of Appendices

- A Terms of Reference
- B Land Base Registration Form
- C Manure Application Agreement
- D Agreement for the Disposal of Solid Livestock Manure
- E Excerpts from Minimum Distance Separation II
- F Nutrient Management Plan Certificate
- G Nutrient Management Plan Renewal Certificate

APPENDIX A

Terms of Reference for a Nutrient Management Plan

The following (in italics) is from the Guide to Agricultural Land Use (OMAFRA & MOEE, 1995)

All manure should be applied in accordance with a nutrient management plan. A nutrient management plan is a written plan of action to handle manure in a way that does not harm the environment. A detailed plan should include manure nutrient testing, safe application rates, crop nutrient needs, area required for application, appropriate reductions in commercial fertilizer applications, and emergency actions in case of spills or system failures.

Available cropland that is planted and harvested with crops or improved pasture. It does not include land that is too far away or unsuitable for manure applications. The available cropland should be owned or controlled by the livestock operation. An alternative to owning the land is to have an agreement with a neighbour to utilize the manure. When manure is spread on leased or neighbouring farmland, formal written agreements will help ensure that the land is available when needed for spreading. A nutrient management plan is the best way to determine safe application rates.

More specifically, a nutrient management plan shall address the following:

A. On-Site Review

An on-site visit shall be made by a consultant in agriculture or their designate to gather and interpret information about the existing and/or proposed new intensive livestock operation which would be relevant to the development of a nutrient management plan.

As a guide for an individual collecting information through an on-site review, the nutrient management plan shall include but not be limited to, the following components:

- i) Identification of conditions on the farm which require immediate attention to minimize present pollution concerns.
- ii) Characterization of current and/or expected manure (e.g. nutrient content (N, P, K, Mg)); annual volume (include all waste waters generated); condition.
- iii) A description of existing and/or proposed manure management system (e.g. type; lay-out; capacity; any pollution prevention strategies in place; and land application equipment).

- iv) Characterization of available cropland (eg. soil nutrient content (N, P, K, Mg) and previous crop nutrient credits; maps identifying soil types and locations of any watercourses and other potentially sensitive areas; soil capacity to absorb expectant manure; soil compaction tolerance; topography; crop rotations).
- v) Characterization of existing and/or proposed manure disposal system(s) which are used as an alternative or in combination with direct application to cropland (eg. description of the management strategy; nature and status of any third party agreements; back-up plan).

B. Recommendations by a Consultant in Agriculture

After consideration of all relevant information, the consultant in agriculture shall recommend a nutrient management strategy including but not limited to, the following components:

- i) spreading rate/timing/location estimates for environmentally safe application
- ii) estimates of acreage needed to apply manure generated by facility
- iii) maximization strategy of available and supplementary nutrients
- iv) development of an emergency action plan in the event of a spill or system failure
- v) a list of the applicable law(s) pertaining to manure management
- vi) a documentation system to provide evidence of due diligence
- vii) procedures for inspection by the Municipality in the event bio-security is in place

APPENDIX "B"

LAND BASE REGISTRATION FORM

In accordance with Township of _____ Nutrient Management By-law # _____, the Township requires the following information to determine compliance of lands which are included in a Nutrient Management Plan.

**APPLICANT
NAME** _____

ADDRESS _____

POSTAL CODE _____

TELEPHONE _____

FAX _____

PROPERTY LOCATION: ROLL # _____ **PIN #** _____

LOT _____ **CONC** _____ **CIVIC (911) ADDRESS** _____

LANDS AFFECTED BY NUTRIENT MANAGEMENT PLAN

Roll No.	Pin No.	Twp.	Owner	Distance to Subject Property (km)	Tillable Acres	Agreement Yes / No	Township Registration - Initials

I _____ hereby certify that the above information is true, as if taken under oath.

Signed: _____

Dated: _____

NOTES

1. This form must be submitted and approved by the Township of _____ before submission to the Ontario Ministry of Agriculture, Food and Rural Affairs for approval of the Nutrient Management Plan.
2. Approval and/or notification for any lands not within the County of Middlesex that are to be used in the calculation of the Nutrient Management Plan will be submitted to the appropriate township.
3. Copy of Manure Application Agreement must be submitted with this form.
4. Please allow two (2) weeks for processing by township.
5. Form must be submitted **in triplicate**.
6. It will be necessary to re-submit this information each year prior to the first day of April.

APPENDIX "C"

MANURE APPLICATION AGREEMENT

_____ (Lot ____, Conc. ____, Township _____, County _____)
(Livestock Farm Name) (Livestock Farm Location)

A Nutrient Management Plan for our _____ operation, is our goal in
(Type of Livestock)

carrying out an environmentally sound program. In order to accomplish this, we need more land than we currently own. The proper application of livestock manure, following a Nutrient Management Plan would be carried out to minimize the impact on the environment.

_____ gives permission to _____
(Landowner) (Livestock Farm)

to spread manure on land owned at the following locations:

1. Lot __ Conc. __ Township _____ County _____ Tillable Acres ____ Roll # _____
2. Lot __ Conc. __ Township _____ County _____ Tillable Acres ____ Roll # _____
3. Lot __ Conc. __ Township _____ County _____ Tillable Acres ____ Roll # _____

The landowner gives permission to the livestock farm to do soil sampling of his property to determine the condition of his soil as required for the purpose of a Nutrient Management Plan.

The landowner will not give permission to use the land identified above for the application of livestock manure or bio-solids (sewage sludge) to any other livestock farm during the term of this agreement.

The landowner also agrees that any bio-solid or livestock manure application to the land identified above must be incorporated into a Nutrient Management Plan.

This agreement shall be in force for a period of one (1) year but at any time the agreement can be modified or nullified. However, sufficient lead time would be required if plans need to be altered.

Pollution liability insurance will be carried by _____ to cover spill cleanup and liability.
(Livestock Farm)

The livestock farm will work in conjunction with the landowner's cropping plans to maximize nutrient utilizations.

NAME OF LIVESTOCK FARM (please print)

SIGNATURE OF LIVESTOCK FARMER

NAME OF LANDOWNER (please print)

SIGNATURE OF LANDOWNER

WITNESS

DATE

APPENDIX "D"

AGREEMENT FOR THE DISPOSAL OF SOLID LIVESTOCK MANURE

Agreement for the sale of solid livestock manure to meet the requirements of a Nutrient Management Plan.

This Agreement is made between: Intensive Farm Owner
hereafter referred to as the "Applicant"

And

Purchaser of Solid Livestock Manure
hereafter referred to as the "Purchaser"

WHEREAS the Applicant has contracted with the Purchaser for the sale of livestock manure in accordance with an approved Nutrient Management Plan;

AND WHEREAS THE Purchaser agrees to use the livestock manure in accordance with sound environmental and/or agricultural practices;

NOW THIS AGREEMENT WITNESSETH that the parties hereto agree as follows:

1. The Owner has contracted to the Purchaser for disposal of _____ tonnes of livestock manure.
2. The Purchaser proposes to use the livestock manure for the following purposes:
(Provide description and location, and how manure will be disposed of)

(Example: Manure applied to lands at Lot 1, Conc. 3, Twp of Anywhere, County of Nowhere)

3. The Purchaser will not contract with any other applicant during the term of this agreement without the prior approval of the Ontario Ministry of Agriculture, Food and Rural Affairs or unless the solid livestock manure is to be used for purposes other than those listed above.
4. This agreement shall be in force for a period of one (1) year from the (date of signing)_____ and, therefore, must be renewed annually.
5. The terms of this agreement shall strictly apply to the present Purchaser. Should the purchaser use the solid livestock manure for any purpose not listed in this agreement, the term of the agreement become null and void.

IN WITNESS WHEREOF the parties have hereunto affixed their hands and seals this

_____ day of _____, 199__ .

Signed, Sealed and Delivered)
 in the presence of)
)
)
 _____)
)

 Applicant (Intensive Farm Purchaser)

Signed, Sealed and Delivered)
 in the presence of)
)
)
 _____)
)

 Purchaser (Solid Livestock Manure Application)

APPENDIX E

EXCERPTS FROM
MINIMUM DISTANCE SEPARATION II
(PAGES 2, 5, 6, 7 & 8)

ONTARIO MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS
MARCH, 1995

Appendix F

Nutrient Management Plan Certificate

A. Certificate Prepared by a Consultant in Agriculture

The consultant in agriculture who prepared/supervised the preparation of the nutrient management plan shall append the following statement to the report.

I, _____, hereby certify that based on relevant information that was gathered in good faith and excluding unforeseen or uncontrollable circumstances, the recommendations contained in the attached report will, if implemented, result in acceptable management practices. Acceptable management practices refer to normal farming practices that do not contravene any applicable law.

Signature

Date

B. Certificate Signed by Farmer

The Farmer who is required to submit a nutrient management plan and who has authorized a consultant in agriculture to prepare/supervise the preparation of such plan shall append the following statement to the report.

I, _____, hereby certify that I have reviewed the Nutrient Management Plan with the consultant in agriculture who prepared/supervised the preparation of the Plan and I shall in good faith attempt to follow and implement the recommendations as set out within the nutrient management plan. Further, I hereby agree to have the Nutrient Management Plan updated and renewed not later than 3 years from the date of issuance of the building permit, and not later than every 3 years thereafter.

Signature

Date

APPENDIX G

NUTRIENT MANAGEMENT PLAN RENEWAL CERTIFICATES

A. CERTIFICATE PREPARED BY A CONSULTANT IN AGRICULTURE

The consultant in agricultural who reviewed the Nutrient Management Plan shall append the following statement to the report.

I, _____, hereby certify that based on relevant information provided in good faith and excluding unforeseen or uncontrollable circumstances, the recommendations contained in the attached report will, if implemented, result in acceptable management practices. Acceptable management practices refer to normal farming practices that do not contravene any applicable law.

Signature

Date

B. CERTIFICATE SIGNED BY FARMER

The farmer who is renewing his Nutrient Management Plan and who has authorized a consultant in agriculture to review the nutrient management plan shall append the following statement to the report.

I, _____, hereby certify that I have reviewed my Nutrient Management Plan and I shall, in good faith, follow and implement the recommendations as set out within the Nutrient Management Plan.

Signature

Date