

RESOLUTION 060123
RESOLUTION OF THE LIVINGSTON COUNTY COMMISSION
OPPOSING PREEMPTION OF LOCAL CONTROL OF CONCENTRATED ANIMAL
FEEDING OPERATIONS

WHEREAS, § 192.300, RSMo, provides that the County Commission may make and promulgate ordinances as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county (hereinafter “health ordinances”); and

WHEREAS, concentrated animal feeding operations (CAFOs) present serious threats to public health in Missouri’s rural counties, including:

- Overproduction of nutrients, such as excess phosphorous and nitrogen, which can leach into ground or surface waters, and
- ammonia, which can cause breathing difficulties and acid rain, and
- altered air quality due to increased levels of ammonia, hydrogen sulfide, and carbon monoxide, among others, and
- Contamination of underground aquifers, private drinking wells, and public waterways.

WHEREAS, the technical literature establishes that livestock populations provide reservoirs of many diseases transmissible to humans, including salmonellosis, staphylococcus, tetanus, tuberculosis, brucellosis, leptospirosis, colibacillosis, tularemia, coccidiosis, encephalitis, ersiphalitis, infectious bronchitis, newcastle, anthrax, foot and mouth disease, ornithosis, Q fever, trichinosis, and histoplasmosis; and

WHEREAS, Diseases such as methemoglobinemia (or "blue baby") can occur in babies and animals that drink the water contaminated with high levels of nitrate from CAFOs; and

WHEREAS, Exposure to gases from livestock buildings can irritate the mucus membranes, and can cause respiratory arrest, pulmonary edema and death; and

WHEREAS, Public health concerns are further underscored by numerous studies in which livestock waste pollution is linked to skin blistering, stinging and burning sensations, neurological illnesses, and death in humans, produced by organisms such as *Pfiesteria piscimorte*; and

WHEREAS, human health effects of swine-related gases include: nausea, vomiting, and headache; shallow breathing and coughing; upset sleep, stomach, and appetite; irritated eyes, nose, and throat; and disturbed and annoyed moods and depression; and

WHEREAS, The material in manure storage structures, even after dilution with wash water, is typically many times more concentrated than municipal wastewater; and

WHEREAS, The public health impacts of CAFOs are documented in numerous reported public nuisance cases throughout the nation, including *Bower v. Hog Builders, Inc.*, 461 S.W.2d 784 (Mo. 1970) (plaintiff located adjacent to 3,860 hogs); and

WHEREAS, the Livingston County Commission adopted a health ordinance, Ordinance No. 97-3, in 1997 to regulate CAFOs; and

WHEREAS, Livingston County's health ordinance was adopted after hours of public testimony, community input, and technical research; and

WHEREAS, Livingston County's health ordinance has successfully protected County residents from the public health impacts of CAFOs in the over quarter of a century since its adoption; and

WHEREAS, Livingston County's health ordinance has broad, bipartisan support from its citizens and elected officials; and

WHEREAS, the Missouri Court of Appeals recognized, endorsed and upheld County authority to adopt health ordinances regulating CAFOs in *Borron v. Farrenkopf*, 5 S.W.3d 618 (Mo. App. 1999);

WHEREAS, in 2019, the Missouri General Assembly passed and the Governor signed into law Senate Bill 391 ("SB 391"), which amends § 192.300, RSMo, to prohibit health ordinances that impose standards or requirements on an agricultural operation and its appurtenances (as that term is defined in § 537.295, RSMo, that are inconsistent with or more stringent than any provision of RSMo chapters 192, 260, 640, 643, and 644, or any rule or regulation promulgated under those chapters (§ 193.300.1(2)); and

WHEREAS, in 2021, the Missouri General Assembly passed House Bill No. 271 (2021) ("HB 271") which again amended the language of § 192.300, RSMo to prevent counties from enacting public health ordinances that "impose standards or requirements on an agricultural operation and its appurtenances ... that are inconsistent with, in addition to, different from, or more stringent than any provision of [chapter 192] or chapters 260, 640, 643, or 644, or any rule or regulation promulgated under such chapters;" and

WHEREAS, SB 391 and HB 271 were subject to litigation challenging their constitutionality, and the Missouri Supreme Court rejected those challenges in *Cedar County Commission, et al., v. Governor Michael Parson*, Case No. SC99488 (March 21, 2023); and

WHEREAS, SB 391 and HB 271 significantly impair Livingston County's ability to apply its local knowledge and expertise to the establishment of CAFOs in its community;

NOW, THEREFORE, BE IT RESOLVED, that the Livingston County Commission hereby goes

on record and states:

1. Local residents and regulations are a valuable source of knowledge and an important safeguard against the public health impacts of CAFOs.
2. The Livingston County Commission is opposed to SB 391 and HB 271, or any additional attempts to preempt local authority over CAFOs.
3. The Livingston County Commission urges the Missouri General Assembly to repeal SB 391 and HB 271, and restore local County control over CAFOs.

PASSED AND APPROVED THIS _____ DAY OF _____, 2023.

Ed Douglas, Presiding Commissioner

Alvin Thompson, Eastern District Commissioner

Dave Mapel, Western District Commissioner

ATTEST:

Sherry Parks, County Clerk