

2. Evidence that the proposed site was used as a farmstead supporting normal farming operations prior to October 26, 1976.
3. Information regarding the location of flood plain, access to roads and utilities, and other appropriate site information may be considered by the Board of Adjustment in determining the suitability of the parcel for development.

Extended Home Occupation. A home occupation conducted outside of the residence and/or in an accessory building

Facility. Something built, installed or established for a particular purpose.

Family. One (1) or more persons related by blood, marriage, or adoption occupying a dwelling unit as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law. This definition shall not include foster families as regulated by the State of South Dakota.

Farm. An area with or without a dwelling which is used for the growing of the usual farm products, such as vegetables, fruit, trees and grain, and their storage on the area, as well as for the raising, feeding, or breeding thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine all of the foregoing farm products and animals are raised for income. The term "farming" includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities.

Fence. A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and is constructed of wood, plastic, metal, wire mesh, masonry or other similar materials and is used as a barrier of some sort.

Firearm. A gun that discharges shot, bullet or other projectile by means of an explosive, gas, compressed air, or other propellant.

Five-Year Time of Travel Distance. The distance that ground water will travel in five (5) years. This distance is a function of aquifer permeability and water table slope.

Flood or Flooding. Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM). Means an official map of a community on which the Federal Emergency Management Agency has delineated areas of special flood hazard designated as Zone A.

Floodway. The channel and the adjacent areas that must be reserved in order to meet the minimum requirement of the National Flood Insurance Program of providing for the discharge of the base flood without cumulatively increasing the water surface elevation more than one (1) foot. However if there are identifiable flood impacts either upstream or downstream, based upon a scientific engineering study, a more stringent definition of floodway may be justified. That

Kennel. Any premise or portion thereon where more than five (5) dogs, cats, or other household pets are bred, raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Leaks and Spills. Any unplanned or improper discharge of a potential containment including any discharge of a hazardous material.

Light Manufacturing. Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

Lot. A lot is any lot, plot, or parcel of land under one ownership, occupied, and the accessory building or buildings customarily incident to such principal building or buildings or intended for occupancy by a use permitted in this Ordinance including one (1) principal building together with its accessory buildings, open spaces and parking spaces required by this ordinance.

Lot Area. The lot area is the land in square feet or acres within the lot line.

Lot, Corner. A lot abutting upon two (2) or more streets at their intersection.

Lot, Depth of. The average horizontal distance between the front and rear lot lines.

Lot, Double Frontage. A lot having a frontage of two (2) streets as distinguished from a corner lot.

Lot of Record. A subdivision, the plat of which has been recorded in the office of the Register of Deeds, or a parcel of land the deed or agreement to convey to which was recorded in the office of the Register of Deeds. For the minimum lot area requirement (35 acres) not to apply in the "A" Agriculture Zoning District, such lot of record had to be recorded prior to October 26, 1976. For the minimum lot area requirement (10 acres) not to apply in the "C" Commercial Zoning District or "I" Industrial District, such lot of record had to be recorded prior to July 31, 2001. For the minimum lot area requirement (2 acres) not to apply in the "LP" Lake Park Zoning District, such lot of record had to be recorded prior to June 18, 1974.

Lot Width. The width of a lot is the mean distance between straight side lot lines measured at a point fifty (50) feet back from the front line thereof.

Manufactured Home. See Chapter 5.11

Manufactured Home Park. Any manufactured home court, camp, park, site, lot, parcel or tract of land intended for the purpose of supplying a location, or accommodations, for manufactured homes and upon which manufactured homes are parked and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the manufactured home park and its facilities or not. "Manufactured Home Park" shall not include automobile or manufactured home sales lots on which unoccupied manufactured homes are parked for the purposes of inspection and sale.

Manure Storage Area. An area for the containment of animal manure.

Mineral. An inanimate constituent of the earth in a solid, liquid or gaseous state which, when extracted from the earth, is useable in its natural form as a metal, a metallic compound, a chemical, an energy source, or a raw material for manufacturing or construction material. For

the purpose of these regulations, this definition does not include surface or subsurface water, geothermal resources, or sand, gravel and quarry rock.

Mineral Extraction. The removal of a mineral from its natural occurrence on affected land. The term includes, but is not limited to, underground and surface mining.

Modular Home.

1. Modular homes shall meet the following regulations.
 - a. Modular homes shall meet or exceed Uniform Building Codes.
 - b. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.
 - c. Modular homes shall have more than one thousand (1,000) square feet in ranch style and 850 square feet split and be placed on a permanent foundation.
 - d. Modular homes shall not have attached running gear and a trailer hitch or the capacity to have attached running gear and trailer hitch.
 - e. Modular homes shall have a minimum of a 4/12-roof pitch.
 - f. Have siding material of a type customarily used on site-constructed residences.
 - g. Have roofing material of a type customarily used on site-constructed residences.

Motel/Hotel. A series of attached, semi-attached, or detached sleeping or living units, for the accommodation of transient guests and not customarily including individual cooking or kitchen facilities, said units having convenient access to off-street parking spaces for the exclusive use of guests or occupants.

Nonconforming Building or Structure or Use. Any building or use of land, land lawfully occupied by a use at the time of passage of this regulation or amendment thereto, which does not conform after the passage of this regulation or amendment.

Nonstandard Use. The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance.

Occupied Residence (in reference to Chapter 5.22). A dwelling, mobile home, or manufactured home which has been occupied for the two (2) years immediately preceding an application for a wind energy system. (*Amended: Ord. 68; June 7, 2018*)

Outdoor Storage. The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

Owner (when relating to Wireless Communication Towers). Means any Person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the County who desires to develop, or construct, build, modify, or erect a Tower upon such parcel of land.

Parking Space. An area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or alley.

Parks and Recreation Areas. Public, non-commercial recreation facilities open to the general public and requiring minimal structural development, including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, public campgrounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including private, commercial campgrounds, commercial recreation and/or amusement centers.

Participating (in reference to Chapter 5.22). Any landowner or person who receives direct or indirect compensation for allowing a wind energy system to utilize or have an access/easement to utilize their property. (*Amended: Ord. 68; June 7, 2018*)

Pasture. A field providing continuous forage to animals and where the concentration of animals is such that a vegetative cover is maintained during the growing season.

Permit. A permit required by these regulations unless stated otherwise.

Permitted Use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Plat. The maps, drawing, or chart on which a subdivider's plan of subdivision is legally recorded.

Potential Pollution Hazard. A concentrated animal feeding operation of ten (10) to three hundred (300) animal units may be classified as a Class 4 Operation by the County Zoning Officer when a potential pollution hazard exists. Factors to be considered by the Zoning Officer in determining a potential pollution hazard include the following:

- A. The concentrated animal feeding operation does not meet the minimum setback and separation distances of these regulations.
- B. A potential water pollution hazard exists due to siting over a shallow aquifer or drainage which contributes to the waters of the State.

Primary Containment Facility. A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.

Principal Building. The structure in which the principal use of the lot is conducted. For example a dwelling on a residential lot.

Principal Use. The primary use to which the premises are devoted.

Private Shooting Preserves. An acreage of at least one hundred and sixty (160) acres and not exceeding one thousand two hundred and eighty (1,280) acres either privately owned or leased on which hatchery raised game is released for the purpose of hunting, for a fee, over an extended season.

Private Wind Energy Conversion System (PWECS). Any mechanism or device, not owned by a public or private utility company, designed for the purpose of converting wind energy into electrical or mechanical power to be used on the site where said power is generated.

Process Generated Wastewater. Water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from watering systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits or other areas; water and manure collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.

Process Wastewater. "Process wastewater" means any process generated wastewater and any precipitation (rain or snow) that comes into contact with the animals, manure, litter or bedding, feed, or other portions of the animal feeding operation. The term includes runoff from an open lot.

Quarter-Quarter Section. The Northeast, Northwest, Southwest, or Southeast quarter (1/4) of a quarter section delineated by the United States Public Land Survey or a government lot per such survey, if such lot contains a minimum of thirty-five (35) acres.

Range (Target/Shooting). Shall be defined as an area for the discharge of weapons for sport under controlled conditions where the object of the shooting is an inanimate object such as, but not limited to, paper, metal or wooden targets. A Range Officer shall be present on site at any Range when the range is in use. The term range includes archery ranges.

Range Officer. Means the person designated to be responsible at a Range at any given time during any activity.

Religious Conference Facility. One or more buildings or structures whose primary purpose is to provide religious training/service and other associated activities. Such facilities may include but are not limited to recreational facilities; chapels/churches; incidental retail sales; food service; indoor and outdoor recreation – to include including therapeutic horse riding, group assembly, campgrounds; administrative offices; and on-site employee residences.

Religious Farming Community. A corporation formed primarily for religious purposes whose principle income is derived from agriculture and/or a farm which may or may not be held in collective ownership, in which multiple families reside on-site and use or conduct activities upon the property which are participated in, shared, or used in common by the members of the group residing thereon.

Resort. This category provides commercial hospitality lodgings in spacious settings that are principally intended for vacationing, relaxation and conference activities for visitors to the community.

Retail Sales and Trade. Establishments engaged in selling products, goods or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating and drinking establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services.

Rubble Site. A site for the disposition of refuse as defined by the South Dakota Department of Environment and Natural Resources.

Sale or Auction Yard or Barn. A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or barn for one (1) day during sale or auction.

Sanitary Landfill. A government-owned site for the disposal of garbage and other refuse material.

Seasonal Camp Trailers or Recreational Vehicles. A vehicle designed for temporary seasonal living quarters.

Secondary Containment Facility. A second tank, catchment pit, pipe or vessel that limits and contains a liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery systems are required.

Service Station, Automobile. Any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.

Setback. The setback of a building is the minimum horizontal distance between the street or property line and the front line of the building or any projection thereof, except cornices, unenclosed porches, and entrance vestibules and window bays projecting not more than three and one-half (3 1/2) feet from the building and having no more than fifty (50) square feet area and not extending above the first story of the building.

Setback Between Uses. Unless specifically mentioned within this ordinance, the setback or separation distance between uses is the minimum horizontal distance measured from the wall line of a neighboring principal building to the wall line of the proposed building/structure/use.

Shall. Means that the condition is an enforceable requirement of this regulation.

Shallow Aquifer. An aquifer vulnerable to contamination because the permeable material making up the aquifer (a) extends to the land surface so percolation water can easily transport contaminants from land surface to the aquifer, or (b) extends to near the land surface and lacks a sufficiently thick layer of impermeable material on the land or near the land surface to limit percolation water from transporting contaminants from the land surface to the aquifer.

Shallow Well. A well which is located in a shallow aquifer.

Sign, Off-premises. Any sign identifying or advertising a business, person, activity, goods, products or services at a location other than where such sign has been erected.

Sign, On-premises. Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign has been erected.

Sign Structure. Any structure which supports, has supported, or is capable of supporting a sign, including decorative cover.

Significant Contributor of Pollution. To determine if a concentrated animal feeding operation meets this definition, the following factors are considered:

1. Size of feeding operation and amount of manure reaching waters of the state.
2. Location of the feeding operation in relation to waters of the state.
3. Means of conveyance of manure and process wastewater into waters of the state; and
4. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewater into waters of the state.

Sleeping Quarters. A room or an area contained within a dwelling unit utilized for the purpose of sleep.

Solution mining. The mining of an ore body with circulation of chemicals through injection and recovery wells. Solution Mining for minerals is prohibited.

Specified Anatomical Areas. Means (1) Less than completely and opaquely covered human or animal genitals, pubic region, or pubic hair, buttocks; and female breasts below a point immediately above the top of the areola; and (2) Genitals of humans or animals in a discernible turgid state, even if completely or opaquely covered.

Specified Sexual Activities. Means (1) Human genitals in a state of sexual stimulation or arousal; (2) Acts or representations of acts of human or animal masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation; (3) Fondling or erotic touching of human or animal genitals, pubic region, buttock or female breast; and (4) Excretory functions as part of or in connection with any activities set forth in an Adult Bookstore or "Adult Entertainment Cabaret".

Stable. A building for the shelter and feeding of domestic animals, especially horses and cattle.

Stable, Commercial. A building for the shelter and feeding of domestic animals, especially horses and cattle where such domestic animals are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Stacked Signs. Two or more signs stacked vertically on a single sign structure.

District must provide for a minimum of thirty-five (35) acres per lot, unless platted prior to the adoption of Codington County Resolution 1167 (Adopted October 26, 1976). Exception to the lot size may be made according to Codington County Zoning Ordinance Section 3.04.03.

CHAPTER 3.03 ZONING DISTRICTS.

Section 3.03.01 Districts.

1. For the purpose of this Ordinance, the unincorporated areas of the County may be divided into any of the following zoning districts: A-Agricultural; C-Commercial; I- Industrial; LP-Lake Park; NR-Natural Resource; PR-Planned Residential; TD-Town District and RR-Rural Residential District. In addition to zoning districts, the FP-Flood Protection and AP-Aquifer Protection zoning overlay districts impose special regulations on the property that may fall within these districts without abrogating the requirements imposed by the underlying land use district regulations.
2. The requirements as set forth below for each of the use districts listed as part of this Ordinance shall govern the development within the said districts as outlined on the map entitled "Official Zoning Map, Codington County, South Dakota;" and "Official Map of the Rural Residential District."
3. **"A" AGRICULTURAL LAND DISTRICT** - This district is established to preserve open space and maintain and promote farming and related activities within an environment which is generally free of other land use activities. Residential development will be discouraged to minimize conflicts with farming activities and reduce the demand for expanded public services and facilities.
4. **"AP" AQUIFER PROTECTION OVERLAY DISTRICT** - The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow aquifers of Codington County.
5. **"C" COMMERCIAL DISTRICT** - The Commercial District is intended to provide areas for commercial activities oriented primarily to, and supportive of, farming and other activities which are determined to be appropriate in the rural area.
6. **"FP" FLOOD PROTECTION OVERLAY DISTRICT** - The Flood Protection Overlay District is established to protect the natural environment and resources from destructive land uses and to protect lives and property along and adjacent to streams and rivers.
7. **"I" INDUSTRIAL DISTRICT** - The Industrial District is established primarily for warehousing and light manufacturing. Heavy industrial uses such as manufacturing which produces smoke, noise, dust, odor, and/or heavy traffic; also for storage areas for inflammable or otherwise dangerous materials shall require special review and consideration.
8. **"LP" LAKE-PARK DISTRICT** - Lake Park District is to provide for orderly low residential and recreational development, together with certain public facilities, customary home occupations, and certain commercial establishments, along lakeshores.
9. **"NR" NATURAL RESOURCE DISTRICT** - The Natural Resource District is to provide for the retaining of natural vegetation of a particular area, to preserve the natural environment and resources from destructive land uses, and to protect wildlife habitat. Such areas may

CHAPTER 3.04 "A" AGRICULTURAL LAND DISTRICT.

Section 3.04.01 Permitted Uses.

1. Agricultural activities and farm related buildings, including Class 4 Concentrated Animal Feeding Operations. (*Amended: Ord. 69; April 23, 2019*)
2. One (1) single-family non-farm dwelling, including site-built homes, modular homes, and Type A manufactured homes for each quarter-quarter section not already containing a farm dwelling or a non-farm dwelling.
3. Farm dwellings and farm buildings.
4. Fisheries services and Game propagation areas.
5. Public park and recreation areas.
6. Field crops and grasslands.
7. On-premise signs.
8. Accessory uses and buildings.
9. Orchards and tree farms.
10. Temporary roadside stands for sales of agricultural products grown or produced on the premises.
11. Home occupation.
12. Botanical gardens (nurseries and greenhouses) – without retail sales.
13. Stables.
14. Private Wind Energy Conversion System (PWECS).

Section 3.04.02 Conditional Uses.

1. Airports and airstrips.
2. Churches and Cemeteries.
3. Commercial public entertainment enterprises not normally accommodated in commercial areas including, but not limited to, the following: music concerts, rodeos, tractor pulls, and animal and vehicle races.
4. Sand, gravel or quarry operation; mineral exploration and extraction; rock crushers; and concrete and asphalt mixing plants provided:
 - a. The site meets the requirements of the State Department of Environment and Natural Resources.
 - b. A site plan is provided indicating the following information:

nearest residence; excluding: the residence of the landfill operator.

8. Class 1, Class 2, and Class 3 concentrated animal feeding operations. See Concentrated Animal Feeding Operation, Section 5. 21. (Amended: Ord. 69; April 23, 2019)
9. Commercial Stables.
10. Junkyards/salvage yards, provided that they meet the following minimum requirements and other restrictions that the Board of Adjustment may deem appropriate:
 - a. Junkyards/salvage yards shall be set back a minimum of one thousand three hundred twenty feet (1,320) feet from any adjoining road right-of-way.
 - b. No junkyards will be allowed within three hundred thirty (330) feet from any adjoining property line.
 - c. Junkyards shall be screened on all sides by a solid wall, with construction materials and design to be approved by the Board of Adjustment, at least two (2) feet above the highest stock pile or by a shelterbelt of shrubs and trees as approved by the Board of Adjustment; screening must be maintained in good repair.
 - d. No junkyards will be allowed within one thousand (1,000) feet from the junkyard property line to the nearest residence; excluding: the residence of the junkyard operator.
 - e. All junkyards must have a minimum lot area of ten (10) acres.
11. Public utility and public service structure including transmission lines, substations, gas regulator stations, pipelines, community equipment buildings, pumping stations, and reservoirs.
12. Land application of petroleum-contaminated soils.
13. Institution farms, including religious farming communities.
14. Bed and breakfast.
15. Wireless Telecommunications Towers and Facilities.
16. Extended home occupation (See Section 5.12).
17. Type B manufactured home not connected to an existing farmstead.
18. Game Lodge.
19. Group Homes.
20. Kennels.
21. Wind Energy System (WES). (See Section 5. 22).
22. Public or private motorcycle recreation facilities.

EXCEPTION: A residential dwelling may have a minimum lot width of six hundred fifty (650) feet if the depth of the lot is at least two thousand three hundred and forty-five (2,345) feet. This exception shall require Board of Adjustment approval.

3. Front Yard: The minimum depth of the front yard shall be sixty-five (65) feet and in no case shall an accessory building be located or extend into the front yard. In the case of a corner lot, front yards shall be provided on both streets.
4. Conditional uses shall have minimum lot area and setback regulations determined by the Board of Adjustment.

a. EXCEPTIONS:

- i. A structure with the floor space of less than two hundred (200) square feet shall have a front yard minimum depth of one hundred sixty-five (165) feet.
 - ii. Existing nonconforming residential structures, constructed prior to January 1, 2006, on a lot of record or on a lot containing at least thirty-five (35) acres although considered nonconforming, are eligible to be expanded or added onto, without Board of Adjustment Approval, as long as the existing front, side or rear yard setback(s) is not further encroached upon.
4. Side Yard: The minimum width of a side yard shall be twenty-five (25) feet.
 5. Rear Yard: The minimum depth of a rear yard shall be twenty-five (25) feet.
 6. Maximum Lot Coverage: Dwellings and buildings accessory thereto shall cover not more than twenty-five (25) percent of the lot area.
 7. The Board of Adjustment may allow a smaller minimum lot requirement for the "A" Agricultural District under the following conditions:

- a. Where a permit for an additional single-family farm dwelling is requested on an existing farmstead, provided:
 1. The dwelling is located on the same legal description as the existing farmstead.
 2. The maximum number of dwelling units within the existing farmstead will not exceed two (2).
 3. The dwelling is occupied by employees or relatives of the farm owner.
 4. The additional single-family farm dwelling shall be removed in the event the structure becomes a non-farm dwelling.
- b. Where an existing farmstead is to be divided from adjacent farmland into a single separate parcel of five (5) acres or more.

8. Height Regulations:

No principal building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height. Exceptions include the following structures:

1. Agricultural buildings.
2. Chimneys, smokestacks, cooling towers.
3. Radio and TV towers.
4. Water tanks.
5. Others, as determined by the Board of Adjustment, providing that they are not used for human occupancy.
6. Wind Energy System (WES).
7. Wireless Telecommunications Towers and Facilities.

9. Agriculture Easement

- a. All new residential development (farm and non-farm) shall be required to file an "Agricultural Easement" with the Register of Deeds before the issuance of a building permit. (See Chapter 5.27)

10. Access

- a. The drive-way serving the parcel shall be separated from adjacent driveways on the same side of the road by the following distances depending upon road types:
 - i. Local road: 100 feet.
 - ii. Collector road: 300 feet.
 - iii. Arterial road: 500 feet.
 - iv. Minimum distance from intersection of two (2) or more of the above: 100 feet.
- b. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit

CHAPTER 3.12 "AP" AQUIFER PROTECTION OVERLAY DISTRICT.

Section 3.12.01 Purpose and Intent.

The Codington County Planning Commission and Board of County Commissioners recognize (1) that residents of Codington County rely on ground water for a safe drinking water supply and (2) that certain land uses in Codington County can contaminate ground water particularly in shallow aquifers.

The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow aquifers of Codington County.

It is the intent to accomplish aquifer protection, as much as possible, by public education and securing public cooperation. Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other county regulations.

Section 3.12.02 Establishment/Delineation/Regulation of Aquifer Protection Overlay Zones.

Boundaries for the aquifer protection zones for the Aquifer Protection Overlay District are shown on the Official Zoning map based upon data prepared by Banner Associates, Brookings, South Dakota.. In addition to the Official Zoning Map, the South Dakota Department of Environment and Natural Resources, Division of Financial and Technical Assistance, Geological Survey created a map entitled "First Occurrence of Aquifer Materials Map" dated February 13, 2003. This map will be used to further identify aquifer boundaries. In the event of a conflict between such maps as to the area covered by the aquifer at a given location, then the map showing the larger aquifer area shall be followed.

The Aquifer Protection Overlay District is divided into three zones. The zone of contribution for Zones A and B was mapped by Banner Associates using techniques outlined in the U.S. Environmental Protection Agency publication "Guidelines for Delineation of Wellhead Protection Areas", June, 2000. The shallow/surficial aquifer boundary for Zone C was mapped by the South Dakota Geological Survey.

Section 3.12.03 Zone A – Aquifer Critical Impact Zones.

Zone A, the wellhead protection area, is the mapped zone of contribution around all public water supply wells or wellfields in shallow/surficial aquifers and includes land upgradient from the well or wellfield to the five (5) year time of travel boundary plus any delineated adjacent lands not underlain by the aquifer with sufficient slope that contaminated surface water could flow directly onto Zone A.

Section 3.12.03.01 Permitted Uses in Zone A:

The following uses are permitted provided they meet appropriate performance standards outlined for aquifer protection overlay zones:

1. Agriculture, excluding all classes of new Concentrated Animal Feeding Operations.
2. Horticulture.
3. Parks, greenways or publicly owned recreational areas.

4. Necessary public utilities/facilities designed so as to prevent contamination of groundwater.
5. All uses permitted in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.

Section 3.12.03.02 Conditional Use in Zone A.

The following uses are permitted only under the terms of a Conditional Use Permit and must conform to provisions of the underlying zoning district and meet Performance Standards outlined for Aquifer Protection Overlay Zones.

1. Expansion, modification, alteration, or relocation of existing permitted or conditional uses to the extent they remain or become nonconforming and to the extent allowed by the underlying district. The Board of Adjustment shall not grant approval unless it finds the proposed expansion does not pose greater potential for groundwater contamination than the existing use.
2. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) not to exceed a cumulative total of three hundred (300) animal units.
3. All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.

Section 3.12.03.03 Prohibited Uses in Zone A.

The following uses are expressly prohibited in Zone A:

1. PR Planned Residential District.
2. New concentrated animal feeding operations of all classes after July 31, 2001.
3. Disposal of solid waste except spreading of manure.
4. Outside unenclosed storage of road salt.
5. Disposal of snow containing de-icing chemicals.
6. Processing and storage of PCB contaminated oil.
7. Car washes.
8. Auto service, repair or painting facilities and junk or salvage yards.
9. Disposal of radioactive waste.
10. Graveyards or animal burial sites.
11. Detonation sites, except blasting of rock for farming purposes.
12. Open burning except ditches, fields and non-hazardous yard and household wastes such as paper, wood and leaves.

13. Public sewer systems and wastewater lagoons.
14. Fall application of nitrogen fertilizer except spreading of manure.
15. Land spreading of petroleum contaminated soil.
16. Land spreading or dumping of waste oil.
17. Industrial process water and waste disposal wells--5W20 type Class V injection wells.
18. Automobile service station disposal wells--5X28 type Class V injection wells.
19. All other facilities, not existing at the time of the adoption of this chapter, involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on groundwater quality.
20. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) beyond a cumulative total of three hundred (300) animal units.
21. Earthen storage basins and lagoons.
22. Stockpiling of solid waste.

Section 3.12.04 Zone B - Aquifer Secondary Impact Zones

Zone B, the secondary wellhead protection area, is the mapped zone of contribution around all public water supply wells or wellfields in shallow/surficial aquifers and includes land upgradient from the well or wellfield in the five (5) to ten (10) year time of travel boundary plus any delineated adjacent lands not underlain by the aquifer with sufficient slope that contaminated surface water could flow directly onto Zone B.

Section 3.12.04.01 Permitted Uses in Zone B.

The following uses are permitted provided they meet appropriate performance standards outlined for aquifer protection overlay zones:

1. Agriculture, excluding all new Concentrated Animal Feeding Operations
2. Horticulture.
3. Parks, greenways or publicly owned recreational areas.
4. Necessary public utilities/facilities designed so as to prevent contamination of groundwater.
5. All uses permitted in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.

Section 3.12.04.02 Conditional Uses in Zone B:

The following uses are permitted only under the terms of a Conditional Use Permit and must conform to provisions of the underlying zoning district and meet Performance Standards outlined for Aquifer Protection Overlay Zones.

1. Expansion, modification, alteration, or relocation of existing permitted or conditional uses to the extent they remain or become nonconforming and to the extent allowed by the underlying district. The Board of Adjustment shall not grant approval unless it finds the proposed expansion does not pose greater potential for groundwater contamination than the existing use.
2. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) not to exceed cumulative total of three hundred (300) animal units.
3. Uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.
4. Earthen storage basins and lagoons.
5. Stockpiling of solid waste.
6. All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.

Section 3.12.04.03 Prohibited Uses in Zone B.

The following uses are expressly prohibited in Zone B:

1. PR Planned Residential District.
2. New concentrated animal feeding operations of all classes after June 30, 1997.
3. Disposal of solid waste except spreading of manure.
4. Outside unenclosed storage of road salt.
5. Disposal of snow containing de-icing chemicals;
6. Processing and storage of PCB contaminated oil;
7. Car washes.
8. Auto service, repair or painting facilities and junk or salvage yards.
9. Disposal of radioactive waste.
10. Graveyards or animal burial sites.
11. Detonation sites, except blasting of rock for farming purposes.
12. Open burning except ditches, fields and non-hazardous yard and household wastes such as paper, wood and leaves.
13. Public sewer systems and wastewater lagoons.

14. Fall application of nitrogen fertilizer except spreading of manure.
15. Land spreading of petroleum contaminated soil.
16. Land spreading or dumping of waste oil.
17. Industrial process water and waste disposal wells--5W20 type Class V injection wells.
18. Automobile service station disposal wells--5X28 type Class V injection wells.
19. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) beyond a cumulative total of three hundred (300) animal units.
20. All other facilities, not existing at the time of the adoption of this chapter, involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on groundwater quality.

Section 3.12.05 Zone C -- Aquifer Tertiary Impact Zones.

Zone C is the remainder of the mapped shallow/surficial aquifer in the County not included in Zone A or Zone B. Zone C is being protected because (1) the aquifer is a valuable natural resource for future development, (2) the aquifer provides drinking water supply for individual domestic users, (3) contamination is not justified just because this area is not currently used for public water supply, and (4) contaminants from this area could eventually enter Zone A or Zone B.

Section 3.12.05.01 Permitted Uses in Zone C.

1. All uses permitted in the underlying zoning districts, with the exception of those prohibited, provided that they can meet the Performance Standards as outlined for the Aquifer Protection Overlay Zones.

Section 3.12.05.02 Conditional Use in Zone C.

1. All Conditional Use allowed in underlying districts, with the exception of those prohibited, may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.
2. New Class 4 and expansion of existing Class 4 up to nine hundred ninety-nine (999) animal units (Class 3). The County shall require soil borings to determine impermeable material between land surface and the aquifer.
3. Earthen storage basins and lagoons.

Section 3.12.05.03 Prohibited Uses in Zone C.

The following uses are expressly prohibited in Zone C:

1. Fall application of nitrogen fertilizer on lands before October 20th.
2. Land spreading of petroleum contaminated soil.

CHAPTER 3.13. "RR" RURAL RESIDENTIAL DISTRICT.

Section 3.13.01 Purpose

The purpose of this district is to protect a vigorous agricultural industry by limiting the areas in which the "RR" Rural Residential District can be used. The "RR" Rural Residential District is intended to allow the continuation of residential uses which developed with residential density of four or more residences per quarter-quarter section prior to October 22, 2012. The "RR" Rural Residential District is a closed zoning district, therefore the existing platted/legally described lots shall not be subdivided unless and until said property is annexed into the corporate limits of a municipality or appropriately zoned for the proposed subdivision.

Section 3.13.02 Permitted Uses.

1. Site-built single-family non-farm dwelling, including modular homes, and Type A manufactured homes.
2. Public building
3. Farm buildings.
4. Public park and recreation areas.
5. Field crops and grasslands.
6. Orchards, tree farms, botanical gardens (nurseries and greenhouses) – without retail sales.
7. Animal Units on Small Acreages. (See Chapter 5.09)
8. Type 5 Concentrated Animal Feeding Operations (See Chapter 5.21)

Section 3.13.03 Permitted Accessory Uses

The following accessory uses and structures shall be permitted in the "RR" Rural Residential District:

1. Accessory uses and structures customarily incidental to permitted uses and structures when established within the space limit of this district.
2. Home occupation.
3. On-premise signs.

Section 3.13.04 Conditional Uses.

1. Private Wind Energy Conversion Systems. (See Chapter 5.31)
2. Kennels.

minimum turnaround of fifty (50) feet measured from the road right-of-way. Shelterbelts shall not be established within one hundred fifty (150) feet of adjoining property lines without written permission of adjoining property owners.

2. Shade Trees, ornamental trees or shrubs generally used in front yards for landscaping and spaced further than fifteen (15) feet apart and further do not extend lineally for a distance of over one hundred fifty (150), are not considered shelterbelts and are allowed in a controlled area. The controlled area is defined as the area within one hundred (100) feet of homes or farm buildings, but not closer to the right-of-way than fifty (50) feet. Except for the following, plantings within the controlled area are exempt from this regulation. Four (4) or more trees planted in a row are not allowed within the controlled area. Deciduous trees which are spotted or staggered within the controlled area can be no closer than twenty (20) feet. Conifer trees which are spotted or staggered within the controlled area can be no closer than twenty-five (25) feet. The distance between trees shall be determined by measuring distance between tree trunks.
3. The shelterbelts setback requirements (paragraph 1) also apply to volunteer trees that the landowner allows to grow.
4. A recommendation from the County Highway Superintendent, Township and/or State Department of Transportation is required prior to the issuance of any variance of the shelterbelt setback from any respective County, Township or State/Federal public right-of-way.

CHAPTER 5.09 ANIMAL UNITS ON SMALL ACREAGES.

On parcels of land of ten (10) acres or less, a maximum of one (1) animal unit per acre will be allowed. Designated concentrated animal feeding operations excluded.

Section 5.17.03 Exceptions to Yard Requirements.

The following exceptions may be made to the yard requirements in the LP and PRL Districts:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.
2. In commercial and industrial districts, filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than fifteen (15) feet from all lot lines.
3. An accessory building may be located in a rear yard but not occupy more than 30 percent of a rear yard.
4. Any accessory buildings closer than ten (10) feet to a main building shall be considered as part of the main building and shall be provided with the same side and rear yard requirements as the main building.

CHAPTER 5.18 PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS.

No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are manufactured homes as defined herein.

CHAPTER 5.19 UTILITY EASEMENTS.

No building or addition thereto shall be erected over or across any existing public utility or upon any platted easement.

CHAPTER 5.20 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, only one (1) structure housing a permitted or permissible principal use may be erected on single lot, provided that yard and other requirements are met.

CHAPTER 5.21 CONCENTRATED ANIMAL FEEDING OPERATION REGULATIONS (CAFOs).

Section 5.21.01 Intent

A supply of healthy livestock, poultry and other animals is essential to the well-being of county citizens and the State of South Dakota. All new and proposed expansions of Concentrated Animal Feeding Operations shall comply with the regulations as outlined herein. (*Amended: Ord. 69; April 23, 2019*)

Section 5.21.02 Animal Units Equivalent to Animal Species.

Codington County uses an animal unit equivalency ratio to determine the head count of a specific animal species for the purpose of defining the specific class of a Concentrated Animal Feeding Operation by animal unit. The animal species equivalents are based upon a species' manure production. The standards for determining an animal unit to animal head count equivalency are derived from the Environmental Protection Agency and the State of South

Dakota General Permit. Table 5.21.1 details the classes of Concentrated Animal Feeding Operation and the specific animal unit equivalency ratio. Note that these figures relate to inventory rather than annual production. Other animal species equivalents which are not listed will be based on species' waste production. (Amended: Ord. 69; April 23, 2019)

Table 5.21.1
Number of Animals to Define Classes of
Concentrated Animal Feeding Operations
 (Amended: Ord. 69; April 23, 2019)

| Animal Species | Class 1 CAFO (Over 2,000 Animal Units) | Class 2 CAFO (1,000-1,999 Animal Units) | Class 3 CAFO (50 to 499 Units ¹ – Zone B & C Shallow Aquifer) | Class 4 CAFO (50 to 999 Units) | Animal Unit Equivalency Ratio |
|--|---|---|---|---|-------------------------------------|
| | Animal numbers equal to or more than: | Animal numbers equal to: | Animal numbers equal to: | Animal numbers equal to or less than: | |
| Cattle other than mature dairy cows or veal calves ^{2,3} | 2,000 | 1,000 to 1,999 | 100 to 499 | 50 to 999 | 1.0 |
| Mature Dairy Cattle (milked or dry) | 1,400 | 700 to 1,399 | 70 to 349 | 35 to 699 | 1.43 |
| Swine (weighing over 55 lbs.) | 5,000 | 2,500 to 4,999 | 250 to 1,249 | 125 to 2,499 | 0.4 |
| Swine (weighing less than 55 lbs.) | 20,000 | 10,000 to 19,999 | 1,000 to 4,999 | 500 to 9,999 | 0.1 |
| Horses | 1,000 | 500 to 999 | 50 to 249 | 25 to 499 | 2.0 |
| Sheep or lambs | 20,000 | 10,000 to 19,999 | 1,000 to 4,999 | 500 to 9,999 | 0.1 |
| Turkeys | 110,000 | 55,000 to 109,999 | 5,550 to 27,499 | 2,775 to 54,999 | 0.018 |
| Chickens, other than laying hens using other than liquid manure handling system | 250,000 | 125,000 to 249,999 | 12,500 to 62,499 | 6,250 to 124,999 | .008 |
| Laying hens using other than liquid manure handling system | 164,000 | 82,000 to 163,999 | 8,200 to 40,999 | 4,165 to 81,999 | .0122 |
| Laying Hens & Broilers using liquid manure handling system | 60,000 | 30,000 to 59,999 | 3,000 to 14,999 | 1,500 to 29,999 | .0333 |
| Ducks Using liquid manure Handling system | 10,000 | 5,000 to 9,999 | 500 to 2,999 | 250 to 4,999 | 0.2 |
| Ducks using other than liquid manure handling system) | 60,000 | 30,000 to 59,999 | 3,000 to 14,999 | 515 to 29,999 | .033 |
| Geese | 60,000 | 30,000 to 59,999 | 3,000 to 14,999 | 515 to 29,999 | .033 |

1. Only in accordance with Chapter 3.12 Aquifer Protection District.

2. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.

3. Animals are counted individually once they are separated from the mother.

Section 5.21.03 Classes of Concentrated Animal Feeding Operations (Amended: Ord. 69; April 23, 2019)

For the purpose of these regulations, Concentrated Animal Feeding Operations are divided into the following classes:

| | <u>ANIMAL UNITS</u> | |
|---------|---------------------|---|
| Class 1 | 2,000 or more | |
| Class 2 | 1,000 to 1,999 | |
| Class 3 | 50 to 499 | (Located in Zone A, B, or C of the Aquifer Protection Overlay District) |
| Class 4 | 50 to 999 | |

Section 5.21.04 Concentrated Animal Feeding Operation Permit Requirements.

Owners of Class 1, Class 2, Class 3, and Class 4 Concentrated Animal Feeding Operations are required to complete, where applicable, a building permit, permitted and/or conditional use permit application as follows: (Amended: Ord. 69; April 23, 2019)

1. A new Concentrated Animal Feeding Operation is proposed where one does not exist.
2. An expansion is proposed that exceeds the number of animal units allowed by an existing county-issued permit. (Amended: Ord. 69; April 23, 2019)
3. An expansion in the number of animal units of an concentrated animal feeding operation without a county-issued permit, that existed prior to January 1, 2019 which would result in the creation of either a Class 1, 2, 3, or 4 concentrated animal feeding operation. (Amended: Ord. 69; April 23, 2019)
4. In the event there is a change in ownership of a Class 1, 2, 3, or 4 Concentrated Animal Feeding Operation, which has a previously issued county permit, the new owner(s) has thirty (30) days from the date of legal conveyance of ownership in which to apply for a transfer of a previously issued county Concentrated Animal Feeding Operation permit in order to keep said current permit valid. The new owner will be required to abide by the permit requirements, findings of fact and any letter of assurances that were issued under the previously approved permit application(s). If no transfer is completed within thirty (30) days, the new owner will be required to submit a new application for approval. (Amended: Ord. 69; April 23, 2019)
5. An existing concentrated animal feeding operation is to be restocked after being idle for five (5) or more years.
6. An unpermitted Concentrated Animal Feeding Operation that is in violation of either County or State regulations and does not correct the violation as required by the applicable authority. Violations of State regulations shall be inspected by State officials. (Amended: Ord. 69; April 23, 2019)
7. A change in ownership of any Concentrated Animal Feeding Operation with a pollution related violation documented by the County Zoning Officer or State of South Dakota less than ten (10) years prior to the change in ownership. (Amended: Ord. 69; April 23, 2019)

Section 5.21.05 Concentrated Animal Feeding Operation Control Requirements.

1. Compliance with South Dakota Department of Environment and Natural Resources. (Amended: Ord. 69; April 23, 2019)

- a. All Concentrated Animal Feeding Operations shall be constructed, located, or operated in compliance with the rules and regulations of South Dakota Department of Environment and Natural Resources. (Amended: Ord. 69; April 23, 2019)

2. State General Permit

- a. Classes 1 and 2 Concentrated Animal Feeding Operations shall obtain a State General Permit pertaining to the animal species of the Concentrated Animal Feeding Operation. A County permit may be approved conditioned on receiving a State General Permit. The issuance of a State General Permit satisfies the county's requirements for an approved nutrient management plan and manure management plan. (Amended: Ord. 69; April 23, 2019)
- b. It shall be at the discretion of the Zoning Officer and/or the Board of Adjustment to require an applicant to submit plans for a Class 3 or Class 4 Concentrated Animal Feeding Operations to be reviewed to determine general compliance with standards adopted for a State General Permit. (Amended: Ord. 69; April 23, 2019)

3. Nutrient Management Plan.

- a. The applicant shall develop, maintain, and follow a nutrient management plan, per the requirements below, to ensure safe disposal of manure and process wastewater and protection of surface and ground water. (Amended: Ord. 69; April 23, 2019)
- b. New Class 1, 2, 3, and 4 (with more than eight hundred (800) animal units) Concentrated Animal Feeding Operations are required to have a nutrient management plan. (Amended: Ord. 69; April 23, 2019)
- c. Nutrient management plan(s) for Class 1 and Class 2 Concentrated Animal Feeding Operations shall be reviewed and approved by the South Dakota Department of Environment & Natural Resources. The issuance of a State General Permit satisfies the county's requirements for an approved nutrient management plan. (Amended: Ord. 69; April 23, 2019)
- d. The nutrient management plan(s) for Class 3 and 4 (with more than eight hundred (800) animal units) Concentrated Animal Feeding Operations nutrient management plans shall be developed by a Certified Crop Advisor and meet the current Natural Resources Conservation Service (NRCS) South Dakota Technical Nutrient Management Standards and all other applicable South Dakota Department of Environment & Natural Resources and Codington County regulations. (Amended: Ord. 69; April 23, 2019)
- e. The applicant must maintain records to show compliance with the approved nutrient management plan. (Amended: Ord. 69; April 23, 2019)
- f. Documentation of land spreading agreements shall be available upon request by the County. (Amended: Ord. 69; April 23, 2019)

4. Manure Management and Operation Plan

- a. New Class 1, 2, 3, and 4 (with more than eight hundred (800) animal units) Concentrated Animal Feeding Operations are required to have a Manure Management and Operation Plan. *(Amended: Ord. 69; April 23, 2019)*
- b. The manure management and operation plan for Class 1 and 2 Concentrated Animal Feeding Operations shall be reviewed and approved by the South Dakota Department of Environment & Natural Resources. The issuance of a State General Permit satisfies the county's requirements for an approved manure management plan. *(Amended: Ord. 69; April 23, 2019)*
- c. Class 3 & 4 (with more than eight hundred (800) animal units) Concentrated Animal Feeding Operations manure management and operation plans shall at a minimum meet the current Natural Resources Conservation Service (NRCS) Standards and all applicable DENR and Codington County Zoning regulations. *(Amended: Ord. 69; April 23, 2019)*
- d. Any field or other site upon which manure is intended to be piled for more than fourteen (14) days shall at a minimum meet the current Natural Resources Conservation Service (NRCS) Standards and all applicable DENR and Codington County Zoning regulations. *(Amended: Ord. 69; April 23, 2019)*
- e. Plan must include:
 - i. The location and specifics of proposed animal manure management_facilities. *(Amended: Ord. 69; April 23, 2019)*
 - ii. The operation procedures and maintenance of manure management_facilities. *(Amended: Ord. 69; April 23, 2019)*
 - iii. Plans and specifications must be prepared or approved by a registered professional engineer, or a Natural Resource Conservation Service (NRCS) engineer. manure management_facilities will require inspection by an engineer. *(Amended: Ord. 69; April 23, 2019)*
 - iv. Animal manure shall not be stored longer than two (2) years. *(Amended: Ord. 69; April 23, 2019)*
 - v. Manure management facilities shall provide for a minimum design volume of three hundred sixty-five (365) days of storage. In addition, open outdoor storage shall include minimum storage for direct precipitation and/or runoff from a 25-year, 24-hour storm. *(Amended: Ord. 69; April 23, 2019)*
 - vi. Manure management facilities utilizing methane digesters may receive on and off-site generated manure and/or organic wastes. *(Amended: Ord. 69; April 23, 2019)*
 - vii. The applicant will provide information regarding how manure from the Concentrated animal feeding operation site will be transported to fields identified in the nutrient management plan. This may require the need for a haul road agreement and/or the applicable agreement for pipes to cross the right-of-way or private property. Unless otherwise agreed to between the Road Authority and the applicant, Codington

County requires, at a minimum, the applicant to abide by minimum requirements of the adopted findings of facts for the applicable size of operation. (*Amended: Ord. 69; April 23, 2019*)

- f. As a condition of the permit, the Zoning Officer and/or the Board of Adjustment may require the applicant to participate in environmental training programs. (*Amended: Ord. 69; April 23, 2019*)

5. Management Plan for Fly and Odor Control

- a. New Class 1, 2, 3, and 4 (with more than eight hundred (800) animal units) Concentrated Animal Feeding Operations shall dispose of dead animals, manure and wastewater in such a manner as to control odors or flies. A management plan is required for submission of a permit. The Zoning Officer and/or Board of Adjustment will review the need for control measures on a site-specific basis. The following procedures to control flies and odors should be considered in a management control plan. (*Amended: Ord. 69; April 23, 2019*)
 - i. Operational plans for manure collection, storage treatment and how said plans will be updated and implemented. (*Amended: Ord. 69; April 23, 2019*)
 - ii. Methods to be utilized to dispose of dead animals shall be included. (*Amended: Ord. 69; April 23, 2019*)
 - iii. Location of existing and proposed tree/shrub plantings. (*Amended: Ord. 69; April 23, 2019*)
- b. The County recommends the following Best Management Practices in the development of a fly and odor control management plan: (*Amended: Ord. 69; April 23, 2019*)
 - i. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized.
 - ii. Store solid manure in containment areas having good drainage to minimize odor production.
 - iii. Remove manure from open pens as frequently as possible to minimize odor production.
 - iv. Avoid spreading manure on weekends, holidays and evenings during warm season when neighbors may be involved in outdoor recreation activities.
 - v. Avoid spreading during calm and humid days, since these conditions restrict the dispersion and dilution of odors.
- c. To assist in mitigating odors for operations which do not meet the suggested setbacks, the County may require any or all of the following: (*Amended: Ord. 69; April 23, 2019*)
 - a. Use of covers on open storage systems for liquid manure systems to reduce odor production.

- b. The use of bio-filters or other proven odor mitigation technologies on enclosed concentrated animal feeding operation barns/structures to reduce odor production.
(Amended: Ord. 69; April 23, 2019)

6. Suggested setbacks and separation distance for new class 1, 2, 3, and 4 concentrated animal feeding operations and those existing, non-permitted concentrated animal feeding operations expanding into a Class 1 or 2 Concentrated Animal Feeding Operations after January 1, 2019. See Table 5.21.2. (Amended: Ord. 69; April 23, 2019)

Table 5.21.2
Suggested Minimum Separation Distances and Setbacks^{1, 4}

| | | Less than 999 Animal Units | 1,000 to 1,999 Animal Units | 2,000 to 7,499 Animal Units | 7,500 to 9,999 Animal Units | Over 10,000 Animal Units |
|------------------------|--|----------------------------|-----------------------------|---|---|--|
| Number of Animal Units | | | | | | |
| SEPARATION DISTANCES | Established Residences ^{2,3} | 1,320 feet | 1,760 feet | 2,640 feet | 3,960 feet | 5,280 feet |
| | Churches, Businesses and Commercially Zoned Areas ³ | 1,320 feet | 1,760 feet | 2,640 feet | 3,960 feet | 5,280 feet |
| | Incorporated Municipality Limits ³ | 2,640 feet | 5,280 feet | 5,280 feet plus 440 feet for each additional 1,000 animal units over 2,000 animal units | 7,480 feet plus 440 feet for each additional 1,000 animal units over 7,000 animal units | 8,800 feet plus 440 feet for each additional 1,000 animal units over 10,000 animal units |
| | Federal, State, Township & County Road ROW | | | | | |
| | Confinement | 200 feet | 300 feet | 300 feet | 300 feet | 300 feet |
| | Open Lot | 150 feet | 150 feet | 150 feet | 150 feet | 150 feet |
| SETBACKS | Established Private Water Well ^{5,6} | 1,320 feet | 1,760 feet | 2,640 feet | 2,640 feet | 2,640 feet |
| | Existing Public Water Well | 1,320 feet | 1,760 feet | 2,640 feet | 2,640 feet | 2,640 feet |
| | Lakes and Streams classified as Fisheries as identified by the State | 200 feet | 500 feet | 500 feet | 500 feet | 500 feet |

¹ Two (2) or more CAFOs under common ownership are a single concentrated animal feeding operation if they adjoin each other (within one mile) or if they use a common area or system for disposal of manure. Required setbacks for the two (2) or more CAFOs treated as a single operation shall not be less than the suggested minimum setback required for each operation if said operations were treated as individual operations.

² Established residences do not include any residence established after July 1, 1997 less than one-half (1/2) mile from any Concentrated Animal Feeding Operation which was active at the time of the residence's construction.

³ The Board of Adjustment may allow a setback of less than the minimum required provided a written waiver by the entity deriving the benefit of the setback is filed with the application.

⁴ The Board of Adjustment may utilize Section 5.21.05.7 to increase or decrease the required setback.

⁵ Established private water wells refer to wells used as a source of potable water for human consumption one (1) year prior to application date for the proposed CAFO.

⁶ Setback does not apply to the wells of the CAFO operator.

7. Exemptions to Separation and/or Setback Distance Requirements, (Amended: Ord. 69; April 23, 2019)

- a. A concentrated animal feeding operation that satisfies any of the criteria below shall be exempt from the applicable separation or setback distance with no variance required by the Board of Adjustment. (Amended: Ord. 69; April 23, 2019)
- b. A Concentrated Animal Feeding Operation which is expanded or constructed less than the suggested setback from a right-of-way (ROW) provided approval of the applicable road authority is submitted to the zoning officer prior to issuance of any applicable building permits or stocking of the Concentrated Animal Feeding Operation if no building permits are required. County Highway Department (County right-of-way), Township Board of Supervisors (Township right-of-way), or State Department of Transportation (state right-of-way) are authorized to provide approval on behalf of the respective road authority. Other entities may provide approval on behalf of the listed entities if documentation of their authority to grant such approval is submitted. (Amended: Ord. 69; April 23, 2019)
- c. All Concentrated Animal Feeding Operations in operation prior to January 1, 2019 which do not comply with the suggested minimum setback/separation requirements, but continue to operate, and are not expanded in a manner which will result in the one of the following examples are exempt from suggested separation distance: (Amended: Ord. 69; April 23, 2019)
 - i. Example 1: A Class 4 CAFO expands to a Class 1 or 2 CAFO. (Amended: Ord. 69; April 23, 2019)
 - ii. Example 2: A Class 2 CAFO expands to a Class 1 CAFO. (Amended: Ord. 69; April 23, 2019)
 - iii. Example 3: A Class 1 CAFO expands by 10% of the number of animal units (Amended: Ord. 69; April 23, 2019)

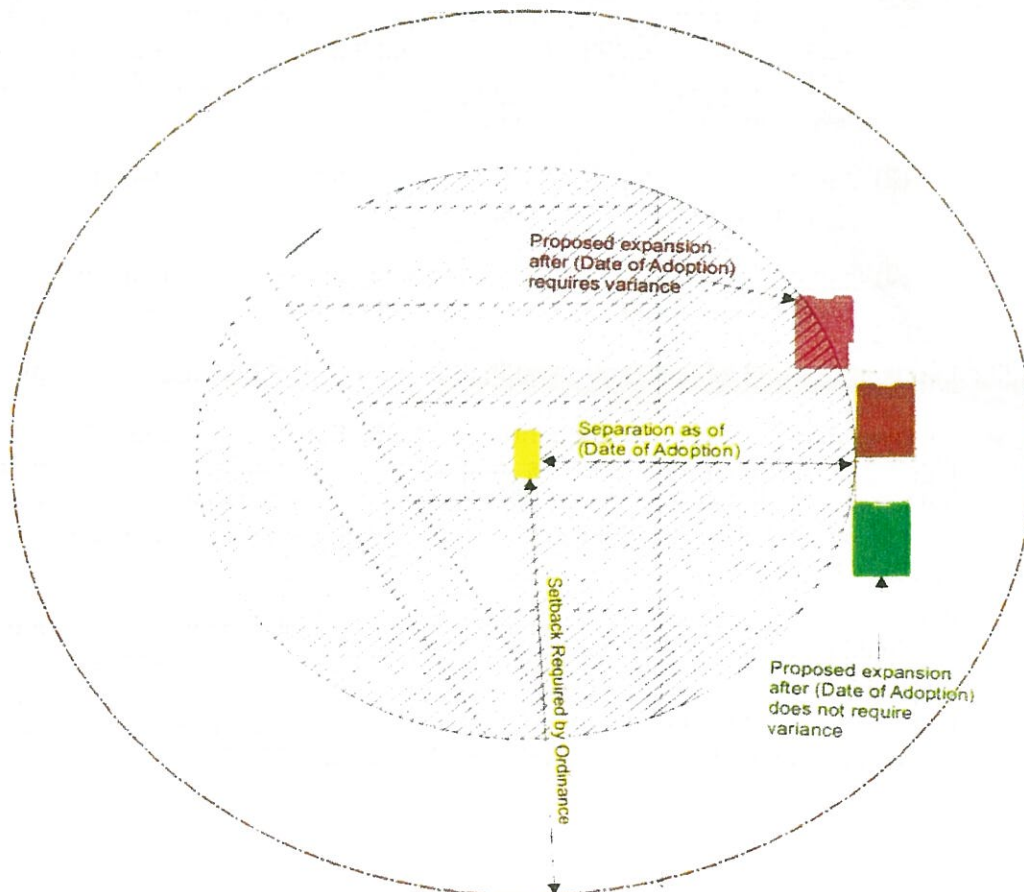
Provided, that the expansion does not further encroach the setback/separation distance existing on January 1, 2019. See Figure 5.21.1. (Amended: Ord. 69; April 23, 2019)

- d. A Concentrated Animal Feeding Operation which is expanded or constructed, if the title holder of the land benefitting from the distance separation requirement executes a written waiver with the title holder of the land where the Concentrated Animal Feeding Operation is located, under such terms and conditions which the parties may negotiate. The title holder of the land benefitting from the distance separation requirement is the residence, commercial enterprise, individual or individuals, governmental entity, religious institution, or educational institution from which separation is required. The waiver shall be binding upon the heirs, successors, and assigns of the title holder and shall pass with the land. (Amended: Ord. 69; April 23, 2019)
- e. A Concentrated Animal Feeding Operation which is constructed or expanded closer than the suggested setback/separation distance from the corporate limits of a community that does not have an established Joint City/County Jurisdiction Zoning Ordinance, if the incorporated community approves a written waiver. (Amended: Ord. 69; April 23, 2019)

- f. A Concentrated Animal Feeding Operation which existed prior to the creation of a residence, educational institution, commercial enterprise, religious institution, incorporated community, if the residence, educational institution, commercial enterprise or religious institution was constructed or expanded or the boundaries of the incorporated community were expanded, after the date that the concentrated animal feeding operation was established. The date that the Concentrated Animal feeding Operation was established is the date on which the Concentrated Animal Feeding Operation commenced operating. A change in ownership or expansion shall not change the date of operation. (Amended: Ord. 69; April 23, 2019)
- g. Any Concentrated Animal Feeding Operation in operation as of January 1, 2019 which does not comply with the suggested minimum setback/separation distance requirements is allowed to be replaced in the event of a calamity without obtaining a variance. Provided, that the replacement does not further encroach the setback/separation distance existing at the time of the calamity. See Figure 5.21.1. (Amended: Ord. 69; April 23, 2019)

FIGURE 5.21.1

Suggested Setback vs Existing Separation Distance



8. Additional Setback and Separation Distance Requirements for Class 1, 2, 3, and 4 Concentrated Animal Feeding Operations. *(Amended: Ord. 69; April 23, 2019)*

Each application for a new or expanded Concentrated Animal Feeding Operation will be reviewed by the Board of Adjustment on a site-specific basis. The Board of Adjustment reserves the right to increase or decrease the minimum suggested setbacks and separation distance on a site-specific review, based on one (1) or more of the following considerations. *(Amended: Ord. 69; April 23, 2019)*

a. Considerations to Decrease Suggested Setbacks and Separation Distances

- i. The Board of Adjustment may reduce suggested minimum setback/separation distances of any new or existing Concentrated Animal Feeding Operation proposing to expand based upon any or all of the following considerations: *(Amended: Ord. 69; April 23, 2019)*
 - a) The South Dakota Odor Footprint Tool or other comparable instrument accepted by the Board of Adjustment may be utilized to determine the need to decrease setback and/or separation suggestions. *(Amended: Ord. 69; April 23, 2019)*
 - b) Review of the operation of the Concentrated Animal Feeding Operation as it pertains to the type of manure handling system and manure application methods to be used. *(Amended: Ord. 69; April 23, 2019)*
 - (1) Due to the type of manure handling and management of the CAFO little or no impact on adjacent property is expected. The use of Bio-filters, neoprene lagoon covers, and/or methane digesters are examples of improvements which may result in the reduction of suggested setbacks and separation distances. *(Amended: Ord. 69; April 23, 2019)*
 - (2) Due to topography and/or prevailing wind direction little or no impact on adjacent property is expected.
 - (3) By limiting the proposed expansion to specific number of animal units no adverse impacts are expected. *(Amended: Ord. 69; April 23, 2019)*

b. Considerations to Increase Suggested Setbacks and Separation Distances

- i. Existing Concentration - A Concentrated Animal Feeding Operation of two thousand (2,000) or more animal units is proposed to be located in an area where a concentration of three thousand (3,000) animal units currently exists within one (1) mile of the proposed Concentrated Animal Feeding Operation site. *(Amended: Ord. 69; April 23, 2019)*

In the event the Board determines that a concentration of animal units already exists and an increase in animal units may pose air or water quality concerns, the Board may utilize the South Dakota Odor Footprint Tool or other instrument accepted by the Board of Adjustment to determine the need to increase setback and/or separation suggestions. *(Amended: Ord. 69; April 23, 2019)*

ii. Due to topography and prevailing wind direction, and/or concentration of animal units, additional setback and separation distance is appropriate to safeguard air or water quality. The South Dakota Odor Footprint Tool or other instrument accepted by the Board of Adjustment may be utilized to determine the need to increase setback and/or separation suggestions. (Amended: Ord. 69; April 23, 2019)

iii. Siting of a Concentrated Animal Feeding Operation is in excess of 5,000 animal units. (Amended: Ord. 69; April 23, 2019)

In the event the Board determines that the siting of a Concentrated Animal Feeding Operation, where one did not previously exist, with more than five thousand (5,000) animal units may pose air or water quality concerns, the Board may utilize the South Dakota Odor Footprint or other instrument accepted by the Board of Adjustment to determine the need to increase setback and/or separation suggestions. (Amended: Ord. 69; April 23, 2019)

iv. Review of past management practices and proposed improvements to manure handling facilities. (Amended: Ord. 69; April 23, 2019)

9. Manure Application Setbacks

a. The Board of Adjustment may require liquid manure to be incorporated or injected in order to minimize air and water quality impacts. (Amended: Ord. 69; April 23, 2019)

b. Requests for application of liquid manure by means of irrigation will be reviewed by the Board of Adjustment on a site-specific basis. Impact on air and water quality will be taken into consideration.

c. Any manure which is piled or stored on a field for fourteen (14) or less days shall be stored in locations which comply with Table 5.21.3. (Amended: Ord. 69; April 23, 2019)

d. Table 5.21.3 provides the following manure application setbacks apply to all classes of Concentrated Animal Feeding Operations. (Amended: Ord. 69; April 23, 2019)

Table 5.21.3
COUNTY MANURE APPLICATION SETBACKS
(Amended: Ord. 69; April 23, 2019)

| CATEGORY | SURFACE APPLIED | INCORPORATED OR INJECTED |
|---|--|---------------------------|
| Lakes, Rivers and Streams Classified as Fisheries | 300 feet* | 100 feet* |
| Streams and Lakes Classified as Drinking Water Supplies | 1,000 feet | 300 feet |
| Public Roads | 25 feet (surface) from right-of-way 300 feet (irrigation) from right-of-way | 10 feet from right-of-way |
| Public Wells | 1,000 feet | 1,000 feet |
| Established Private Water Well | 250 feet | 250 feet |
| A Residence Other Than the Operator | 300 feet (surface) 1,000 feet (irrigation) | 300 feet |
| Natural or Manmade Surface Drainage | 200 feet* | 50 feet |

*Or as prescribed within the South Dakota General Permit for Manure Application on Saturated, Snow Covered, or Frozen Soil

10. Standards for Conditional Uses

- a. The Board of Adjustment may request information relating to a Concentrated Animal Feeding Operation not contained in these regulations. (*Amended: Ord. 69; April 23, 2019*)
- b. The Board of Adjustment may impose, in addition to the standards and requirements set forth in these regulations, additional conditions which the Board of Adjustment considers necessary to protect the public health, safety and welfare. (*Amended: Ord. 69; April 23, 2019*)
- c. Conditional Uses shall be in effect only as long as sufficient land specified for spreading purposes is available for such purposes and other provisions of the permit are being adhered to.
- d. When considering an application, the Board of Adjustment will take into consideration current and past violations documented by the Environmental Protection Agency, the South Dakota Department of Environment and Natural Resources, or similar applicable agency in other states, relating to Concentrated Animal Feeding Operations that the applicant has or had an interest in. (*Amended: Ord. 69; April 23, 2019*)
- e. Conditional Use permit applicants will be required to file a letter of assurances as required by the Board of Adjustment. The letter of assurances will be prepared by the zoning officer and/or Board of Adjustment and signed by both the applicant and the Board of Adjustment's designee. The permit for the concentrated animal feeding operation is based upon compliance with the regulations herein, and letter of assurances. Any violation of the regulations or non-compliance with the letter of assurances shall be cause for revoking a permit. If a violation of these regulations or non-compliance with the letter of assurance occurs, permit applicants will be notified by registered mail and a hearing before the board of adjustment will be held concerning status of the permit. The Board of Adjustment shall either revoke the permit or set a time line for compliance. If compliance is not met, the permit shall be revoked, and the permit holder ordered to cease operations. (*Amended: Ord. 69; April 23, 2019*)

11. Suggested Minimum Application Information. (*Amended: Ord. 69; April 23, 2019*)

- a. Owner(s)/Applicant(s) name, address and telephone number. (*Amended: Ord. 69; April 23, 2019*)
- b. Legal descriptions of site and site plan.
- c. Number and type of animals.
- d. Preliminary Nutrient management plan, if required. (*Amended: Ord. 69; April 23, 2019*)
- e. Preliminary Manure management and operation plan, if required. (*Amended: Ord. 69; April 23, 2019*)
- f. Preliminary Management plan for fly and odor control. (*Amended: Ord. 69; April 23, 2019*)

- g. Information on ability to meet suggested setbacks and separation distances (*Amended: Ord. 69; April 23, 2019*)
- h. As a condition of approval of any Concentrated Animal Feeding Operation over 1,000 animal units or as determined by the Board of Adjustment, the documentation of an approved General Permit from the South Dakota Department of Environment & Natural Resources for animal species_is required. The issuance of a State General Permit satisfies the county's requirements for an approved nutrient management plan and manure management plan. (*Amended: Ord. 69; April 23, 2019*)
- i. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.
- j. Documentation of notice to whoever maintains the access road (township, county and state) and public water supply officials. (*Amended: Ord. 69; April 23, 2019*)
- k. Any other information as contained in the application and requested by the County Zoning Officer.

CHAPTER 5.22 WIND ENERGY SYSTEM (WES) REQUIREMENTS.

Section 5.22.01 Applicability.

1. The requirements of these regulations shall apply to all WES facilities except private facilities with a single tower height of less than seventy-five (75) feet and used primarily for on-site consumption of power.

Section 5.22.02 Federal And State Requirements.

1. All WESs shall meet or exceed standards and regulations of the Federal Aviation and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WESs.

Section 5.22.03 General Provisions.

1. Mitigation Measures
 - a. Site Clearance. The permittees shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation and maintenance of the WES.
 - b. Topsoil Protection. The permittees shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner.
 - c. Compaction. The permittees shall implement measures to minimize compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable.
 - d. Livestock Protection. The permittees shall take precautions to protect livestock during all phases of the project life.

2. The applicant shall provide for a plan for land reclamation of the land after mining is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources, and the proposed future use of the lands mined and adjacent lands. The reclamation plan shall include:
 - a. A reclamation schedule.
 - b. Methods of plugging drill holes.
 - c. Methods of severing and returning topsoil and subsoil.
 - d. Methods of grading, backfilling and contouring of exploration sites, access roads, and mining sites.
 - e. Methods of waste management and disposal, including liquid and solid wastes.
 - f. Method of revegetation.

The applicant may be required to post a surety performance bond in an amount to be determined by the County Commission to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of affected ground and surface waters. The amount shall be set by the County Commission based on an estimate of the cost of reclamation and decontamination. The bond shall be released five (5) years after mining and milling has ceased unless the Commissioners find, for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed. The amount of the surety bond may be reduced by the Commissioners if a bond is held by the State of South Dakota for the same purpose, by the same amount of the latter bond.

3. The applicant shall identify specific phases when monitoring and inspection of the mining and milling activities shall be conducted by County, State, or Federal personnel or their representatives to assure compliance with all applicable rules and regulations. If the special use permit is granted, the permit shall identify such inspection and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the Planning and Zoning Commission.
4. A conditional use permit shall be issued only after all conditions specified herein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of mining and milling activities.

CHAPTER 5.27 AGRICULTURAL EASEMENT.

The following easement is to be utilized as required for farm and non-farm residential development within the Agricultural, Lake Park and Planned Residential Districts. (See 3.04.03.9.a)

Prepared by:

Codington County Zoning Officer (or by Grantor or Grantor's Attorney)
1910 West Kemp Avenue (or Grantor's or Grantor's Attorney's address)
Watertown, SD 57201 (or Grantor's or Grantor's Attorney's city)

AGRICULTURAL EASEMENT

1. Purpose. This easement is required in the Agricultural District.
2. Easement.

("Grantors") are the owners of real property described as follows:

In accordance with the conditions set forth in the decision of Codington County, dated _____ 20____, approving a permit for a dwelling on the above described property, and in consideration of such approval, Grantors grant to the owners of all property adjacent to the above described property, a perpetual nonexclusive easement as follows:

- a. The Grantors, their heirs, successors, and assigns acknowledge by the granting of this easement that the above described property is situated in an agricultural area and may be subjected to conditions resulting from commercial agricultural operations on adjacent lands. Such operations include the cultivation, harvesting, and storage of crops and livestock raising and the application of chemicals, operation of machinery, application of irrigation water, and other accepted and customary agricultural activities conducted in accordance with Federal and State laws. These activities ordinarily and necessarily produce noise, dust, smoke, and other conditions that may conflict with Grantors' use of Grantors' property for residential purposes. Grantors hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent lands which may conflict with Grantors' use of Grantors' property for residential purposes, and Grantors hereby grant an easement to adjacent property owners for such activities.
- b. Nothing in this easement shall grant a right to adjacent property owners for ingress or egress upon or across the described property. Nothing in this easement shall prohibit or otherwise restrict the Grantors from enforcing or seeking enforcement of statutes or regulations of governmental agencies for activities conducted on adjacent properties.

This easement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors, and assigns. The adjacent landowners, their heirs, successors, and assigns are hereby expressly granted the right of third party enforcement of this easement.

IN WITNESS WHEREOF, the Grantors have executed this easement on _____,
20____.

Signature, Grantor

Section 5.28.05 Area Regulations.

1. Minimum Lot Size: Ten (10) acres.
2. Minimum Front Yard: One hundred fifty (150) feet.
3. Minimum Side Yard: Three hundred (300) feet.
4. Back of the Range Setback: A minimum of one thousand (1000) feet from any buildings and/or roads.
5. Setback from Residences: One-quarter (1/4) mile to be measured from the firing line to the nearest residential dwelling.
6. Setback from Commercial Uses: One-quarter (1/4) mile to be measured from the firing line to the nearest commercial structure.
7. Setback from Churches and Schools: One-quarter (1/4) mile to be measured from the firing line to the nearest church or school.
8. Setback from Municipalities: Three (3) miles to be measured from the firing line to the corporate limits of the municipality.

Section 5.28.06 Miscellaneous Regulations.

1. In the event that any provision of this Ordinance or the Conditional Use Permit is violated, or the County otherwise reasonably believes that the health, safety or general welfare of the public is endangered by the use, or if the County reasonably believes that a public nuisance has been created, then, upon ten (10) days written notice, the County may originate action to either modify or cancel any Conditional Use Permit.

CHAPTER 5.29 SINGLE FAMILY DWELLING (FARM OR NON-FARM) CONSTRUCTED LESS THAN ONE-HALF (1/2) MILE FROM AN EXISTING CONCENTRATED ANIMAL FEEDING OPERATION

Section 5.29.01 Single family dwelling (farm or non-farm) Constructed Less than One-Half (1/2) Mile from an existing Concentrated Animal Feeding Operation as a Conditional Use.

Applicants for a Single family dwelling (farm or non-farm) proposed to be constructed less than one-half (1/2) mile from an existing concentrated animal feeding operation may obtain a conditional use permit provided one of the following conditions is met:

1. Applicant obtains a written waiver from the owner/operator of any existing concentrated animal feeding operation which is closer than one-half (1/2) mile from the proposed residential building site.

2. Applicant files a document consistent with Section 5.29.02 with the Register of Deeds acknowledging the existence of a concentrated animal feeding operation less than one-half mile from the proposed building site at the time of application for a building permit. Exception: This requirement does not apply to lots of record with existing residential development that are destroyed by an act of God (wind, fire, flood) and subsequently are rebuilt.

Section 5.29.02 Acknowledgement of Existing Concentrated Animal Feeding Operation

The following acknowledgement is to be utilized as required for a conditional use permit in Section 5.29.01 for farm and non-farm residential development in the Agricultural District which is located within one-half (1/2) mile of an existing concentrated animal feeding operation.

Prepared by:

Codington County Zoning Officer (or by Grantor or Grantor's Attorney)
1910 West Kemp Avenue (or Grantor's or Grantor's Attorney's address)
Watertown, SD 57201 (or Grantor's or Grantor's Attorney's city)

ACKNOWLEDGEMENT OF EXISTING CONCENTRATED ANIMAL FEEDING OPERATION

The following acknowledgement is to be used when a dwelling (Farm or Non-Farm) is proposed to be constructed within one-half (1/2) mile of an existing Concentrated Animal Feeding Operation. The acknowledgement shall be filed with the Register of Deeds. Grantors are the owner(s) of property applying for the proposed residential development. (See 3.04.02.41 and 5.29.01.2)

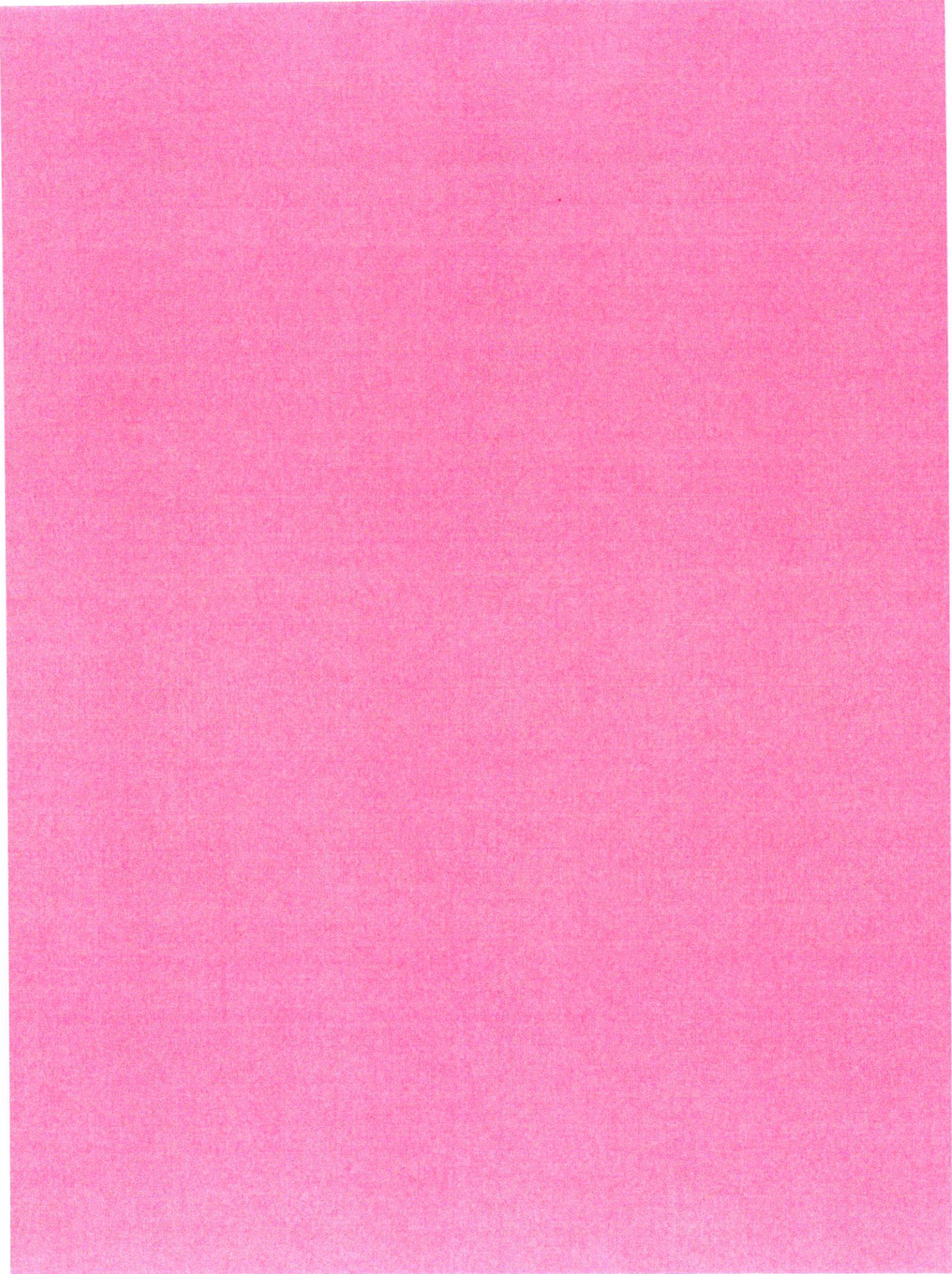
1. Purpose. This acknowledgement is required for any dwelling to be constructed within one-half (1/2) mile of an existing concentrated animal feeding operation as defined by the Codington County Zoning Ordinance.
2. Waiver:

("Grantors") are the owners of real property described as follows:

In accordance with the conditions set forth in the decision of Codington County, dated _____ 20____, approving a plat with a residential dwelling development right or by the issuance of a permit for a residential dwelling either to be located within one-half (1/2) mile of the existing concentrated animal feeding operation located at the following property, _____ and in consideration of such approval, Grantors acknowledge the following:

1. The Grantors, their heirs, successors, and assigns acknowledge that the location of a residential development/dwelling on (legal description) is within one-half (1/2) mile of an existing concentrated animal feeding operation.
2. The grantors hereby acknowledge that the construction of this residence will not result in the existing concentrated animal feeding operation becoming a nonconforming use as defined by the Codington County Zoning Ordinance.

IN WITNESS WHEREOF, _____, 20__



HUTSON

ARTICLE 1 DEFINITIONS

For the purpose of this Ordinance, unless otherwise stated, words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word shall means mandatory, not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied.

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

Abut - Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

Accessory Agricultural Structure - A structure customarily incidental and necessary to farming and the raising of animals including barns and other animal shelters, corrals and fences, silos, grain bins and storage sheds for machinery and crops.

Accessory Building - A subordinate building, the use of which is purely incidental to the main building, is less than one hundred (100) percent of the area of the largest floor of the principal building, and is unattached from the principal building at least five (5) feet.

Accessory Use or Structure - A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

Actual Construction - Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially commenced, preparatory to building, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Addition - Any construction that increases the size of a building such as a porch, attached garage or carport, or a new room.

Adult Entertainment - Any premises or part thereof in which a principal feature or characteristic is the nudity or partial nudity of any person; to include a place or part thereof where, in pursuance of a trade, calling, business or occupation, goods or services appealing to or designed to appeal to erotic or sexual appetites or inclination.

Agriculture - The planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards along with the raising and/or feeding of less than five hundred (500) animal units of livestock and/or poultry. An animal feeding operation as defined by this ordinance is not considered an agricultural use. The processing and/or storage of raw agricultural products, including facilities such as grain elevators and ethanol plants, shall not be considered an

agricultural use if such use constitutes the main or principal use on a lot or parcel.

Agriculture Product Processing Facility - A business activity customarily designed to process raw agricultural products into value added products. Agricultural processing facilities include, but are not limited to; feed mills, ethanol plants, soy bean processing facilities, cheese plants, milk processors, packing plants and rendering facilities.

Agricultural Use and Industrial Development Covenant Running with the Land - An agreement required by ordinance by which the grantee, a United States term in legal conveyancing for the party receiving title or encumbrance, often referring to the purchaser, acknowledges that adjacent land may be subjected to conditions resulting from agricultural operations or industrial development. The Grantee is the Grantor of the covenant. Once executed, said agreement runs with the land and cannot be separated from the land nor transferred without it.

Alley - A way which affords only a secondary means of access to abutting property.

Amendment - A change in the wording or substance of this ordinance or a change in the boundaries or classifications upon the Official Zoning Map.

Animal Units - A unit of measure for livestock equated as follows; one animal unit is equivalent to:

| Animal | Animal =Units | | |
|--|---------------|---|---|
| Cow, feeder, or slaughter beef animal, excluding calves under 300 pounds | 1 | = | 1 |
| Horse | 0.5 | = | 1 |
| Mature dairy cattle, excluding dairy calves under 300 pounds | 0.7 | = | 1 |
| Farrow-to-finish sows | 0.27 | = | 1 |
| Swine in a production unit | 2.13 | = | 1 |
| Nursery swine less than 55 pounds | 10 | = | 1 |
| Finish swine over 55 pounds | 2.5 | = | 1 |
| Sheep, lambs, or goats | 10 | = | 1 |
| Chickens, laying hens or broilers | 30 | = | 1 |
| Ducks and/or geese | 5 | = | 1 |
| Turkeys | 55 | = | 1 |

Animal Waste Facility - A structure designed and constructed to store and/or process animal waste. Animal waste facilities include but are not limited to holding basins, lagoons, pits and slurry storage.

Apartment - A portion of a multiple unit dwelling, used as a separate housing unit; having cooking facilities and a private bath.

Applicant - For purposes of this Ordinance a person shall be deemed to be an applicant if they are the owner of the proposed facility; an officer or director of the owner thereof; or an owner of any interest, direct or indirect, in any company, except a publicly traded company, which is the owner of the proposed development.

human bodies have been buried. Cemetery may include a structure for the purpose of the cremation of human remains and may include facilities for storing ashes of human remains that have been cremated or the interment of the dead in sealed crypts or compartments.

Church - A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

Clinic - A building or part of a building used solely for the purpose of consultation, diagnosis and treatment of patients by one or more legally qualified physicians, dentists, optometrists, podiatrists, chiropractors, or drugless practitioners, together with their qualified assistants, and without limiting the generality of the foregoing, the building may include administrative offices, waiting rooms, treatment rooms, laboratories, pharmacies and dispensaries directly associated with the clinic, but shall not include accommodation for in-patient care or operating rooms for major surgery.

Club - A building owned, leased, or hired by a non-profit association of persons the use of which is generally restricted to dues-paying members and their guests. Such club may periodically be rented, or leased, to non-members for gathering such as weddings, anniversaries, and dances, but no portion of the building shall continuously be used for business purposes.

Company - For purposes of this ordinance the term, "company" includes, but is not limited to, any corporation, partnership, Limited Liability Company, limited liability partnership, limited partnership, business trust and any other business entity.

Comprehensive Plan - Any legally adopted part or element of the Davison County Comprehensive Plan.

Concentrated Animal Feeding Operation - A facility where more than five hundred (500) animal units are stabled, confined, fed, or maintained in either an open or housed lot for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more facilities under common ownership are a single animal operation if they adjoin each other (within one mile), or if they use a common area or system for the disposal of manure.

Conditional Use - A conditional use is a use that would not be appropriate, generally or without restriction, throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning district as conditional uses, if specific provision for such conditional use is made in this Ordinance.

Congregate Housing - Housing units that provide a semi-independent living environment, which offers residential accommodations, central dining facilities (where at least one (1) meal a day is provided seven (7) days a week), related facilities, and supporting staff and services to persons of at least sixty-two (62) years of age or with disabilities.

provided.

Dwelling, Single Family - A detached residential dwelling unit other than a manufactured home designed for or occupied by one (1) family only.

Dwelling, Two Family - A building containing two dwelling units designed exclusively for occupancy by two families living independently of each other.

Easement - Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of their property. For the purposes of this Ordinance the term shall primarily be used to describe utility access.

Employee(s) - In regard to off right-of-way parking requirements, all who work in the enterprise, including owners.

Exhibition Areas - A building, group of buildings, or place where art, objects, articles, or livestock or agricultural projects are placed on display for the public.

Extraterritorial Zoning Jurisdiction - The area illustrated within the Official Zoning Map of Davison County not exceeding one (1) mile in width immediately adjoining the City of Mitchell.

Facility - A building, piece of land or any combination thereof owned and operated by the same owner and dedicated to a specific use or uses. The term shall include those operations where indoor and outdoor activities may be conducted in concert and are integral or compliment the operation as a whole. An example may be an automobile dealership with office spaces, a small indoor display area, separate maintenance facility, and an outdoor display area.

Fairground - An agricultural fairground where farm produce is on display for judging and for sale, and livestock shows, horseracing and other sports events are held and on occasion for auctions, flea markets and concession stands.

Family - Any number of individuals living together as a single housekeeping unit, in which not more than four (4) individuals are unrelated by blood, marriage, or adoption. This definition shall not include foster families as regulated by the State.

Farm, Ranch, Orchard - An area of not less than twenty five (25) acres of un-platted land which is used for growing usual farm products, vegetables, fruits, trees, and grain, and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, hogs and sheep, and including accessory uses for raising, treating, and storing products raised on the premises; but excluding an Animal Feeding Operation.

The processing and storage of raw agricultural products, such as grain elevators and ethanol plants, shall not be considered a farm, ranch or orchard if such constitutes the main or principal use on the lot or parcel.

Farm Building - All buildings and structures, to include grain bins and silos, needed in

agricultural operation, including dwellings for owners, operators, farm laborers employed on the farm, and other family members.

Farm Drainage Systems - The term shall include all waterways, ditches, flood control, watershed, and erosion control structures and devices provided each individual system or structure comply with the applicable local, state, and federal regulations.

Farm, Hobby - An activity carried out in rural residential areas, which includes the planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards.

The raising and feeding of livestock and poultry shall be considered as part of a hobby farm if the area, in which the livestock or poultry is kept, is one (1) acre or more in area for every one (1) animal unit, and if such livestock does not exceed ten (10) animal units.

Farm Occupation - A business activity customarily carried out on a farm by a member of the occupant's family without structural alterations in the building or any of its rooms, without the installation or outside storage of any machinery, equipment or material other than that customary to normal farm operations, without the employment of more than the equivalent of two (2) full time employees not residing in the home, which does not cause the generation of additional traffic in the area. Farm occupations include, but are not limited to, seed sales and custom combining support facilities.

Farmstead - The area surrounding and adjacent to the house and main buildings, including, the driveway and the land lying between the farmstead and the road. For the purposes of this ordinance a farmstead shall include a residential structure fit for human habitation and the customary outbuildings such as barns, sheds, grain bins, shelterbelt, etc.

Farm Unit - All buildings and structures needed in an agricultural operation, including dwellings for owners, operators, and other family members.

Fence - An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Financial Institutions - The premises of a bank, trust, finance, mortgage, or investment company.

Fireworks, Sales - A building, structure, or place where fireworks are sold, pursuant to all applicable state statutes.

Fishery - As defined by South Dakota Administrative Rules, Sections 74:51:02 and 74:51:03 (January 27, 1999) and Davison County as described in Section 74:51:02:20. Lake Mitchell (Sections 74:51:02:01 and 74:51:02:02) is beneficial for fish and wildlife propagation, recreation, stock watering, immersion recreation and limited contact recreation. Section 74:51:02:20 identifies Lake Mitchell as a domestic drinking water supply and warm water permanent fish life propagation waters. Section 74:51:03:01 assigns all streams in South Dakota the beneficial uses of irrigation, fish and wildlife propagation, recreation and stock watering. Within Davison County the James River is defined as warm-water semi-permanent fish life

Hospital - An institution devoted primarily to the operation of facilities of the diagnosis, treatment, and cure of disease, illness, injury, or other abnormal physical conditions with provisions for keeping patients overnight.

Hotel - An establishment of transient guests having sleeping rooms without individual cooking facilities for more than six (6) persons for compensation and may or may not provide meals.

Industrial Development - The planning and building of new industries in special areas.

Interchange - A grade-separated intersection with one (1) or more direct connections for vehicular travel between the intersecting right-of-ways.

Irrigation Systems - This term shall include all canals, ditches, piping, center pivot, and other methods utilized to irrigate cropland. This term does not include systems designed to land apply waste or water from animal feeding operations as defined herein. All irrigation systems shall comply with local, state, and federal regulations.

Junkyard - A place where scrap is collected before being discarded, reused, or recycled.

Kennel - Any place where more than twelve (12) dogs, cats, or other domesticated animals of breeding age are housed, groomed, bred, boarded, trained, harbored, kept, or sold for commercial purposes.

Lagoon - Any pond, basin, or other impoundment made by excavation or earthen fill for storage or treatment of human sewage or animal waste.

Landing Strip - A strip of ground used or capable of being used for the landing and take-off of aircraft.

Loading Area - A completely off right-of-way, space, or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public right-of-way.

Loading Space, Off Right-of-Way - Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off right-of-way loading space is not to be used as off right-of-way parking space in computation of required off right-of-way parking space.

Locker - A meat processing plant and any other facility where meat, poultry or eggs are cooked, cured, smoked, or otherwise processed or packed, provided that all activities are carried out indoors. This term shall not include a delicatessen, stockyard, slaughterhouse, tannery, a poultry killing establishment, an animal food factory, or an animal by-products plant.

Lot - For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public right-of-way, or on an approved private right-of-way, and may consist of a single lot of record; a portion

A water-carriage wastewater system may not be installed or operated on a lot which is smaller than 20,000 square feet in surface area if supplied by a public water supply system. A water-carriage wastewater system may not be installed or operated on a lot which is smaller than 43,560 square feet (1 acre) when potable water is supplied by a private water supply system located on the lot. A water-carriage wastewater treatment system may be installed and operated on a lot which is 20,000 square feet in surface area or larger if the requirements of AR 74:53:01:19 distance between on-site wastewater system components and pertinent ground features are met and the premises are supplied by a public water supply system, a private water supply system not located on the lot, or by hauling and storage of potable water in a cistern. The requirements of this section do not apply if wastewater is emptied into a holding tank or an unconventional system is used, in accordance with AR 74:53:01:16.

Individual or similar septic systems proposed where the concentration of development shall merit such review as determined by the Zoning Administrator, shall submit soil suitability and percolation tests prior to issuance of a building permit. A percolation test may also be a stipulation of the Planning Commission.

Section 2:17. Agricultural Use and Industrial Development Covenant Required

An Agricultural Use and Industrial Development Covenant, as defined herein, shall be required and approved by the County Zoning Administrator and recorded at the Register of Deeds office in accordance with South Dakota Codified Law required prior to issuance of:

1. All residential or commercial building permits.
2. Plats intended for residential dwellings or commercial use.
3. Requests for rezoning of agriculture land.

A building permit to replace or enlarge an existing residence or commercial building is exempt from this requirement.

Section 2:18. Naming of Additions, Subdivisions, Tracts, and Roads

Every addition, subdivision, or tract within Davison County and subject to this Zoning Ordinance shall be uniquely named. Such name shall not duplicate, be the same in spelling, or alike in pronunciation, with or to any existing addition, subdivision, or tract in Davison County; unless it is an extension of or adjoining to an existing addition or subdivision recorded in Davison County. Naming of Plat shall not include an initial along with a name. Such addition, subdivision, and tract names are subject to the approval of the Davison County Register of Deeds; whose decision shall be final. Plats which do not comply with this section and the general provisions of Section 13:05 (B) of this ordinance shall not be entitled to recording.

All new road names must be approved by the Register of Deeds, Local Emergency Planning Commission (LEPC), the Davison County Planning Commission, and the Davison County Commissioners.

ARTICLE 3

AGRICULTURAL DISTRICT (AG)

Section 3:01. Intent

Section 3:02. Permitted Principal Uses and Structures

Section 3:03. Permitted Accessory Uses and Structures

Section 3:04. Conditional Uses and Structures

Section 3:05. Classification of Unlisted Uses and Structures

Section 3:06. Prohibited Uses and Structures

Section 3:07. Minimum Lot Requirements

Section 3:08. Minimum Setback Requirements for Structures

Section 3:09. Concentrated Animal Feeding Operation Standards (500 to 999 Animal Units)

Section 3:10. Concentrated Animal Feeding Operation Standards (1000 Animal Units or more)

Section 3:11. Wind Energy Systems

Section 3:01. Intent

The intent of Agricultural Districts (AG) is to protect agricultural lands and lands consisting of natural growth from incompatible land uses in order to preserve land best suited to agricultural uses and land in which the natural environment should be continued; and to limit residential, commercial, and industrial development to those areas where they are best suited for reasons of practicality and service delivery.

Section 3:02. Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in the Agricultural District (AG):

1. Agriculture;
2. Bed and breakfasts;
3. Day cares, family;
4. Dwellings, additional farm;
5. Dwellings, single-family;
6. Farms;
7. Farm buildings;
8. Historic sites;
9. Kennels;
10. Manufactured homes;

11. Modular homes;
12. Orchards;
13. Parks;
14. Ranches;
15. Rental Property of less than three (3) units.
16. Storage Building;
17. Utility facilities;
18. Veterinary services; and
19. Wind energy system – non-commercial. (With towers up to 75'(ft))

Section 3:03. Permitted Accessory Uses and Structures

Permitted accessory uses and structures shall be allowed, as long as a permitted principle use or structure exists on the property.

The following accessory uses and structures shall be permitted in the Agricultural District (AG):

1. Accessory agricultural structures;
2. Accessory buildings;
3. Accessory uses, not specifically regulated by ordinance and structures customarily incidental to permitted uses and structures when established within the space limits of this district;
4. Farm drainage and irrigation systems, flood control, watershed structures and erosion control devices meeting all county, state, and soil conservation district regulations;
5. Farm occupations;
6. Home occupations;
7. Roadside stands for sales of farm products, fish bait, and other approved products;
8. Shelterbelts;

9. Signs, on-site;

10. Stock dams.

Section 3:04. Conditional Uses and Structures

After the provisions of this Ordinance relating to conditional uses and structures have been fulfilled, the Planning Commission and Board of Adjustment may permit a temporary or permanent conditional use or structure in the Agricultural District (AG) for the following, regardless if a permitted principle or accessory use exists on the property:

1. Agricultural product processing facilities;

2. Airports;

3. Aquaculture;

4. Auction yards and barns;

5. Auto sales or vehicles, including trailers;

6. Campgrounds;

7. Cemeteries;

8. Churches;

9. Commercial trucking terminals;

10. Concentrated animal feeding operations;

11. Day care centers;

12. Day cares, group family home;

13. Exhibition areas;

14. Extraction of sand, gravel, or minerals provided such uses meet requirements for conducting surface mining activities of § 45-6B;

15. Fairgrounds;

16. Fireworks stands;

17. Game farms;

40. Towers;
41. Wildlife and game production areas;
42. Wind energy system, commercial; and
43. Wind energy system, non-commercial.

Section 3:05. Classification of Unlisted Uses and Structures

In order to insure that the zoning ordinance will permit all similar uses or structures in each district, the Planning Commission and the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use or structure not specifically listed as a permitted, accessory, or conditional use or structure in a District shall be deemed a permitted, accessory, or conditional use or structure in one or more districts on the basis of similarity to uses or structures specifically listed.

Section 3:06. Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 3:05 shall be prohibited.

Section 3:07. Minimum Lot Requirements

The minimum lot width shall be one hundred and fifty (150) feet.

The minimum lot area per single-family dwelling unit, modular, or manufactured home to be used as a residence shall be twenty-five (25) acres. Lots recorded at the Register of Deeds prior to May 1, 1996 are grandfathered in from complying with this Section.

The minimum lot area of twenty-five (25) acres may be waived by variance upon compliance with one of the following criteria:

1. The proposed building site is a farmstead as defined herein; then the minimum lot size shall be three (3) acres. The applicant shall secure a variance prior to issuance of a building permit.
2. An additional dwelling, occupied by other members of the family farm unit is to be placed within the existing farmstead.
3. A financing agency requiring a smaller lot size for the dwelling shall enable the applicant consideration of a variance, provided written proof of such requirement is presented to the Zoning Administrator upon request and the applicant verifies ownership of a minimum of twenty-five (25) acres adjacent to or abutting the proposed plat.

4. If the proposed building site will be transferred by the owner to a relative within the 3rd degree of kinship subject to the following limitations:
 - a. the minimum lot size shall be three (3) acres,
 - b. the applicant shall secure a variance prior to issuance of the building permit, and
 - c. the proposed building site shall be platted, and the plat recorded with the Register of Deeds prior to issuance of a building permit.
5. The Planning Commission and County Commission have the authority to determine whether a plat which does not meet the minimum lot area in a District be permitted.

Section 3:08. Minimum Setback Requirements for Structures

There shall be a setback from all public or private right-of-ways, and other structures. Setbacks will be measured from the edge of the structure, including a gutter or down spout, to the public right-of-way, according to the following:

1. All yards must meet the following criteria, which shall apply to all buildings and structures, including decks, patios, car ports, and obstructions;
 - a. A front yard setback from all public right-of-ways of not less than a depth of seventy-five (75) feet;
 - b. A rear yard setback from all lot lines or public right-of-ways of not less than a depth of fifty (50) feet;
 - c. A side yard setback from all lot lines or public right-of-ways of not less than a width of fifty (50) feet;
 - d. A corner lot shall meet the requirements of a site triangle, requiring a front yard setback in accordance with Section 3:08 (1) (a), and a side yard setback from all public right-of-ways of not less than a depth of seventy-five (75) feet.
2. No accessory building or structure shall be erected in any required yard area and no separate accessory building or structure shall be erected within five (5) feet of any other building or structure, unless connected.
3. No structure, other than a standard mailbox approved by the United States Post Office, shall be erected in any right of way.