

## DEFINITIONS

### Joint County and Planning Commission proposed changes (05-04-21)

#### AMENDED

Agriculture - The planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards along with the raising and feeding of livestock and/or poultry shall be considered an agricultural use. Grain elevators or Agricultural Product Processing Facilities shall not be considered an agricultural use if such use constitutes the main or principal use on a lot or parcel.

Agribusiness – A business which directly supports the agricultural industry, such as suppliers of feed, seed, chemicals, fertilizer, farm equipment, and equipment parts, farm equipment repair services, veterinary services, drain tile installers, and commercial grain elevators.

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.

Aggrieved Person - A person aggrieved is any person directly interested in the outcome of and aggrieved by a decision or action or failure to act regarding a zoning decision thus:

1. Establishes that the person suffered an injury, an invasion of a legally protected interest that is both concrete and particularized, and actual or imminent, not conjectural or hypothetical;
2. Shows that a causal connection exists between the person's injury and the conduct of which the person complains. The causal connection is satisfied if the injury is fairly traceable to the challenged action, and not the result of the independent action of any third party not before the court; (3) Shows it is likely, and not merely speculative, that the injury will be redressed by a favorable decision, and; (4) Shows that the injury is unique or different from those injuries suffered by the public in general.

Animal Feeding Operation: An animal feeding operation is a lot or facility where ~~an established number 200 or greater of~~ animal units, ~~excluding aquaculture~~, are confined, stabled, 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.

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

Class	Animal Units
Class A	<del>5,000</del> 500 - 10,000
Class B	<del>3,000—4,999</del> 200 – 499
<del>Class C</del>	<del>2,000—2,999</del>
<del>Class D</del>	<del>1,000—1,999</del>
<del>Class E</del>	<del>300—999</del>
<del>Class F</del>	<del>1—299</del>

~~Animal Feeding Operation or CAFO, New—An animal feeding operation or CAFO, (see definitions), constructed after the effective date of this ordinance or any subsequent amendment of applicable Articles or Sections. Operations in existence upon adoption or prior to future amendments may be considered a new operation if the facility is expanded to facilitate an increase of more than three hundred (300) animal units. Any new construction relating to an expansion must comply with the applicable performance standards. The Planning Commission and Board of Adjustment shall have the authority to decrease or waive any standard deemed contradictory to the intent of the zoning ordinance upon review and in accordance with the conditional use and variance process described herein. (Amended May 19, 2020)~~

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

Cow, feeder, or slaughter beef animal, <del>excluding calves under 300 pounds</del> <u>including cow/calf pairs</u>	1.0 A.U.
Horse	2.0 A.U.
Mature dairy cattle, excluding dairy calves under 300 pounds	1.4 A.U.
Farrow-to-finish sows	3.7 A.U.
Swine in a production unit	0.47 A.U.
Nursery swine less than 55 pounds	0.1 A.U.
Finisher swine over 55 pounds	0.4 A.U.
Sheep or lambs, <u>goats</u>	0.1 A.U.
Laying hens or broilers	0.033 A.U.
Ducks and/or geese	0.2 A.U.
Turkeys	0.018 A.U.

~~Animal Unit Conversion Table—A conversion table designed to integrate the definition of animal feeding operations with the animal unit definition. (Amended 06/08/06)~~

<b>Species Animal</b>	<b>Class A</b>	<b>Class B</b>	<b>Class C</b>	<b>Class D</b>	<b>Class E</b>
<del>Cow, feeder or slaughter beef animal, excluding calves under 300 pounds</del>	<del>10,000—5000—500</del>	<del>4,999—3,000</del>	<del>2,999—2,000</del>	<del>1,999—1,000</del>	<del>999—300</del>
<del>Horses</del>	<del>5,000—2,500</del>	<del>2,499—1500—</del>	<del>1,499—1,000</del>	<del>999—500</del>	<del>499—150</del>
<del>Mature dairy cattle, excluding calves under 300 pounds</del>	<del>7,143—3,571</del>	<del>3,570—2,143—</del>	<del>2,142—1,429</del>	<del>1,428—714</del>	<del>713—214</del>
<del>Farrow to finish sows</del>	<del>2,703—1,351</del>	<del>1,350—811—</del>	<del>810—541</del>	<del>540—270</del>	<del>269—81</del>
<del>Swine in a production unit</del>	<del>21,276—10,638</del>	<del>10,637—6,382</del>	<del>6,381—4,255</del>	<del>4,254—2,128</del>	<del>2,127—638</del>
<del>Nursery swine less than 55 pounds</del>	<del>100,000—50,000</del>	<del>49,999—30,000</del>	<del>29,999—20,000</del>	<del>19,999—10,000</del>	<del>9,999—3,000</del>
<del>Finisher swine over 55 pounds</del>	<del>25,000—12,500</del>	<del>12,499—7,500</del>	<del>7,499—5,000</del>	<del>4,999—2,500</del>	<del>2,499—750</del>
<del>Sheep or lambs, goats</del>	<del>100,000—50,000</del>	<del>49,999—30,000</del>	<del>29,999—20,000</del>	<del>19,999—10,000</del>	<del>9,999—3,000</del>
<del>Laying hens</del>	<del>303,030—151,515</del>	<del>151,514—90,909</del>	<del>90,908—60,606</del>	<del>60,605—30,303</del>	<del>30,302—92090</del>
<del>Ducks and/or geese</del>	<del>50,000—25,000</del>	<del>24,999—15,000</del>	<del>14,999—10,000</del>	<del>9,999—5,000</del>	<del>4,999—1,500</del>
<del>Turkeys—</del>	<del>555,555—277,777</del>	<del>277,776—166,666</del>	<del>166,665—111,111</del>	<del>111,110—55,555</del>	<del>55,554—16,666</del>

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 stores.

Building Permit - A type of authorization that must be granted by a government or other regulatory body before the construction of a new or expansion of existing building can legally occur.

Concentrated Animal Feeding Operation: An animal feeding operation that holds more than 1,000 animal units and smaller operations that discharge pollutants that impair a stream or other surface water are Concentrated Animal Feeding Operations (CAFOs).

Concentrated Animal Feeding Operation (CAFO): An animal feeding operation that is previously defined meets one or more of the following criteria:

1. Contains at least 500 animal units
2. Utilizes a Liquid Manure System (see definitions)
3. Utilizes environmentally controlled housing where the animals are contained in a thermostatically controlled environment
4. Discharges pollutants into waters of the state through man-made ditch, flushing system, or other similar man-made device
5. Discharges pollutants directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in operation

Concentrated Animal Feeding Operation (CAFO) Existing: Concentrated animal feeding operations in existence prior to the effective date of this ordinance or any subsequent amendment of applicable Articles or Sections.

Domesticated Large Animals - Any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind. For the purpose of this ordinance the definition shall include, but is not limited to, animals commonly raised on farms and ranches, such as cattle, horses, hogs, sheep, and mules.

Family - Any number of individuals living together as a single housekeeping unit, in which not more than five (5) individuals are unrelated by blood, marriage or adoption. This definition shall not include foster families as regulated by the State.

Farm Building - All buildings and structures 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 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 two (2) persons 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.

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

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, Ranch, Orchard - An area ~~of not less than twenty (20) acres of unplatted land, or is a part of a contiguous ownership of not less than eighty (80) acres~~ of unplatted 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 the necessary 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.

Farmstead - A place with empirical evidence of a previous farmstead including at a minimum foundations, structures, or a tree belt. For the purposes of this ordinance the Zoning Administrator or Planning Commission shall determine the eligibility of a farmstead as a building site as described within Section ~~513(3)-~~ 516.

Game Farm - An area of five (5) acres or more, which is used for producing hatchery, raised game and non-domestic animals for sale to private shooting preserves.

Game Lodge - A building or group of detached, or semi-detached, or attached buildings occupied or used as a temporary abiding place of sportsmen, hunters and fishermen, who are lodged, with or without meals, and in which there are more than two (2) sleeping rooms.

Grain Elevator - Grain storage facilities, which are the principal and primary use of the lot. Said facilities are generally equipped with devices for housing and discharging significant quantities of grain. This definition does not include normal farm product storage and warehousing facilities such as grain bins and where such storage is an accessory use to the parcel.

Grandfather - For the purposes of this ordinance the term “grandfather” shall be defined as a lay term used to describe structures, land uses, facilities, operations or similar activities in existence prior to adoption of the zoning ordinance. The term is generally applied to uses not allowed or further regulated within the new ordinance. The act or condition of grandfathered is more fully addressed in the nonconforming Article herein.

Horticulture - The science or art of cultivating fruits, vegetables, flowers, and plants.

Horticulture Sales - The on-site retail sale of farm produce, floral, fauna, or similar items. The majority of the produce sold shall be seasonal in nature and grown on-site. An exception may be a cooperative venture between numerous producers.

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.

## Manure System Definitions

1. Solid Manure System – Any style of manure not conforming to the definition of “Liquid Manure: Example systems include floor-raised poultry, deep-bedded housing systems, and dry lots. Vast majority (>90%) of excreted manure will be maintained in form that can be handled with a front-end loader and stacked without seepage under normal operating conditions. Example systems include floor-raised poultry, deep-bedded housing systems, and drylots
2. Liquid Manure System – Vast majority (>90%) of excreted manure will be stored in a form that – with or without agitation/mixing – can be handled with a common centrifugal pump under normal operating conditions. Example systems include slatted floor facilities and facilities where manure can be transferred via gravity.

Nuisance - Any condition existing that is or may become injurious or dangerous to health or that prevents or hinders or may prevent or hinder in any manner the suppression of a disease.

Nursery, Swine - A facility confining a specific number of small and/or young swine averaging ten (10) to fifty five (55) pounds in size.

Permitted Special Use - A use allowed in a zoning district subject to the applicable restrictions of that zoning district and additionally subject to certain restrictions for that specific use.

Private Recreation Area - Any open space or recreational area, other than a public park, owned and operated or maintained in whole or in part for profit by a private individual(s), club or fraternal organization for members only, and may include therein one or more of the following activities: swimming, boat facilities, picnic area, tennis courts, outdoor skating rinks, athletic fields, walking, riding and cross-country skiing, snowmobiling, but does not include the racing of animals, motor vehicles, motorcycles or snowmobiles.

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 and/or larger game is released for the purpose of hunting, for a fee, over an extended season.

Ranch Building - See Farm Building.

Ranch Occupation - See Farm Occupation.

Ranch Unit - See Farm Unit.

Riding Stable - Any place that has more than fifteen (15) stalls or horse spaces to board, train, or provide recreational equine activities.

Screening - A continuous fence, wall, compact evergreen hedge or combination thereof, supplemented with landscape planting, which would effectively screen the property which it encloses, and is broken only by access drives and walks.

Shelterbelt - Five or more rows of trees and/or shrubs that reduce erosion and protects against the effects of wind and storms.

Shelterbelt Restoration - The removal and replacement of two or more rows of trees or of trees totaling one-half acre or more, whichever is greater, in an existing shelterbelt.

Start of construction – includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or are not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Matches Flood Ordinance definition)

Swine Production Unit - An operation confining a specific number of female breeding age swine for the purpose of farrowing. The operation shall farrow no more than an average of one-third (1/3) of the total herd at any one time and the total herd shall not farrow more than an average of two and one-half (2 ½) times within a twelve month period. All farrowed swine shall be relocated to an off-site nursery facility, as defined by this ordinance, at approximately ten (10) pounds or said swine shall be calculated as part of the total animal units.

Utility Facilities - Any above-ground structures or facilities, other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities, owned by a governmental entity, a nonprofit organization, a corporation, a private citizen or any entity defined as a public utility for any purpose and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals.

Windbreak - Any non-opaque manmade structure constructed of any material and erected adjacent to an animal feeding, calving, or other such lot of which its principal use is that of protecting livestock from the effects of the wind.

## ARTICLE 5

### AGRICULTURAL DISTRICT (AG)

#### Section 501 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 503 Permitted Principal Uses and Structures

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

1. Agriculture;
2. Cemeteries;
3. Day cares, family;
- ~~4. Dwellings, single family;~~
5. (Move to 4) Farms; ranches or orchards as defined herein;
6. (Move to 5) Farm buildings;
7. (Move to 6) Historic sites;
8. (Move to 7) Horticulture;
- ~~9. Manufactured homes, pursuant to Section 1509;~~
- ~~10. Modular homes;~~
11. (Move to 8) Utility facilities; and
12. (Move to 9) Veterinary services.

## Section 505 Permitted Accessory Uses and Structures

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

1. Accessory ~~agricultural~~ structures.
2. Customary water irrigation systems, other than manure irrigation equipment;
3. Farm drainage systems;
4. Home and farm occupations;
5. Roadside stands;
6. Shelterbelts;
7. Signs, banner;
8. Signs, directional on-site;
9. Signs, directional off-site;
10. Signs, easement and utility;
11. Signs, exterior off-site, pursuant to Article 14;
12. Signs, flag;
13. Signs, name and address plate;
14. Signs, on-site;
15. Signs, real estate; ~~and~~
16. Stock dams; ~~and~~
17. Swimming Pools;

## Section 506 Permitted Special Uses

1. Dwellings, single family including modular homes pursuant to Section 516
2. Dwellings, two-family pursuant to Section 516
3. Dwellings, additional farm dwelling, in excess of one (1) pursuant to Section 516 and 1509;
4. Manufactured Homes, pursuant to Section 516 and 1509;
5. Animal Feeding Operations (AFOs) Class B pursuant to Section 519 (2) and Section 519 (3);

6. Concentrated Animal Feeding Operation, Existing are allowed a one-time expansion of 25 % over of current operation size if the operation exists on an occupied farmstead of continuous property to the farmstead not to exceed 999 animal units. . The species of animals pertaining to the expansion must be that of the existing operation. Performance standards of Section 519 are applicable to the expansion with exception to the setbacks found in the *Facility Setback Chart* in Section 519(2). All DANR requirements must be met.
7. Agribusinesses are allowed on lots no smaller than five (5) acres. A deed restriction prohibiting any type of residential dwelling shall be required for agribusiness use only.

#### Section 507    Conditional Uses

After the provisions of this Ordinance relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in an Agricultural District (AG):

1. ~~Animal feeding operations;-~~
2. (Move to 1) Agricultural, fertilizer, and chemical sales and applications;
3. (Move to 2) Agricultural product processing facilities;
4. (Move to 3) Aquaculture;
5. (Move to 4) Auction yards and barns;
6. (Move to 5) Bars;
7. (Move to 6) Bed and breakfast operations;
8. (Move to 7) Buying stations;
9. (Move to 8) Churches;
10. (Move to 9) Concentrated Animal Feeding Operations and Concentrated Animal Feeding Operation expansion over 25% of current operation size.
11. (Move to 10) Construction services;
12. (Move to 11) Day cares, group family home;
13. ~~Dwellings, additional farm in excess of one (1), pursuant to Sections 513(5) and 1509;-~~
14. (Move to 12) Exhibition areas;
15. (Move to 13) Fairgrounds;

16. (Move to 14) Fireworks sales;
17. (Move to 15) Game farms;
18. (Move to 16) Game lodges;
19. (Move to 17) Golf courses;
20. (Move to 18) Grain elevators;
- ~~21. Individual septic or sewage treatment facilities, pursuant to Section 1513;~~
22. (Move to 19) Indoor shooting/archery ranges;
23. (Move to 20) Kennels;
24. (Move to 21) Landing Strips;
25. (Move to 22) Manufacturing, light;
26. (Move to 23) Motor vehicle tracks or play areas;
27. (Move to 24) Manure irrigation;
28. (Move to 25) Municipal, commercial, or residential central containment, sewage disposal, treatment, or application sites;
29. (Move to 26) Open sales areas;
30. (Move to 27) Outdoor shooting/archery ranges;
31. (Move to 28) Parks;
32. (Move to 29) Portable processing plants;
33. (Move to 30) Private recreation areas;
34. (Move to 31) Private shooting preserves;
35. (Move to 32) Quarries, pursuant to Section 1515;
36. (Move to 33) Remote fuel depots;
37. (Move to 34) Repair shops, auto-body;
38. (Move to 35) Repair shops, motor vehicle and equipment;
39. (Move to 36) Riding stables;
40. (Move to 37) Rodeo arenas;
41. (Move to 38) Salvage yards;

42. (Move to 39) Sanitary landfills or restricted use sites, permitted by the Department of Environment and Natural Resources (DENR);
- ~~43. (Move to 40) Spreading, injection, or other application of manure or animal waste generated by an Animal Feeding Operation as described herein, or other livestock production means located outside of Yankton County pursuant to Section 519 (11)-(12); from a concentrated animal feeding operation not permitted by Yankton County, shall be required to submit a waste management plan for land application of said manure within the Agricultural (AG) District. The waste management plan shall be the same as for a permitted site, pursuant to Section 519(3);~~
- ~~44. Swimming pools;~~
45. (Move to 41) Temporary construction facilities; and
46. (Move to 42) Towers, pursuant to Article 25 & Article 26;
47. (Move to 43) Wildlife and game production areas; and
48. (Move to 44) Wind energy systems, pursuant to Article 26.

#### Section 509 Classification of Unlisted Uses

In order to ensure that the zoning ordinance will permit all similar uses in each district, the Planning Commission and Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a Agricultural District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed. The review shall be heard at a regular meeting of the aforementioned bodies and may be required to adhere to the notification requirements as described in Section 1803(3-5).

#### Section 511 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 509 shall be prohibited.

#### Section 513 Minimum Lot Requirements

1. The minimum lot area shall be twenty (20) acres;
2. The minimum lot area shall be five (5) acres for any agribusiness as defined herein, pursuant to Section 506(7);
3. The minimum lot width shall be five hundred (500) feet;
4. The Zoning Administrator may allow a smaller minimum lot requirement where an established single-family home exists or where a permit for a single-

family home is requested on an existing farmstead site. ~~, as defined herein;~~

5. Lots of record, as defined herein, existing prior to adoption of this ordinance may be developed pursuant to Article 16 and as approved by the Zoning Administrator;
- ~~6. An additional dwelling unit is allowed within the farmstead upon approval of the building permit application if it is to be occupied by other members of the family farm unit, provided the property is not transacted or prepared, platted, or described for transaction; and~~
- ~~7. The Zoning Administrator may allow construction of single and multi-family dwelling units not in conformance with this provision only on those lands organized as a 501(d), non-profit religious and apostolic associations as described in the United States Tax Code. Prior to issuance of a building permit or permission to proceed said entity shall file the Articles of Incorporation and other requested documentation with the Zoning Administrator. Construction activities carried on under this provision shall be in conformance with all other provisions of this ordinance.~~

#### Section 515 Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks and patios:

1. There shall be a front yard of not less than a depth of ~~seventy five (75) feet~~ fifty (50) feet;
2. There shall be a rear yard of not less than a depth of ~~seventy five (75) feet~~ fifty (50) feet;
3. There shall be two (2) side yards, each of which shall not be less than ~~seventy five (75) feet~~ fifty (50) feet;
4. Buildings and structures on corner lots as defined herein shall maintain two (2) front yards for the property abutting the road right-of-ways; and
- ~~5. The Zoning Administrator may allow construction of single and multi-family dwelling units not in conformance with this provision only on those lands organized as a 501(d), non-profit religious and apostolic associations as described in the United States Tax Code. Prior to issuance of a building permit or permission to proceed said entity shall file the Articles of Incorporation and other requested documentation with the Zoning Administrator. Construction activities carried on under this provision shall be in conformance with all other provisions of this ordinance.~~ Water and sewer or sanitary drainage systems shall be installed by a licensed installer and shall comply with all applicable South Dakota Department of

## Agriculture and Natural Resources regulations.

### Section 516 New Residence Requirements

The requirements herein apply to all new residences including but not limited to single family dwellings, two family dwellings, and modular homes.

1. Any new residence must acknowledge that any AFO and/or CAFO operation located within 1.5 miles of the new residence and that is operating at the time of the issuance of the new residence's building permit may expand in the future without regard to setbacks from this new residence. Setbacks for already established residences still apply to expansion of these AFO and/or CAFO operations. This acknowledgement shall be attached to the building permit and include:
  - a. A specific list of all operators of the AFO and/or CAFO operations which are allowed to expand without regard to this residence as noted above;
  - b. A copy of South Dakota's policy to protect agricultural operations from nuisance suits as defined in SDCL 21-10-25.1 through 21-10-25.6; Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production, ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws.
  - c. Be signed by the building permit applicant; and
  - d. A copy is given to all AFO and/or CAFO operators listed. If the AFO and/or CAFO operator sells the operation to a non-family member, this setback exemption from the new residence is not transferrable. Family members noted here include: siblings, children, grandchildren, nieces, and nephews.
2. An additional dwelling unit by definition is allowed within the farmstead upon approval of the building permit application if it is to be occupied by other members of the family, provided the property is not transacted or prepared, platted, or described for transaction; and
3. The Zoning Administrator may allow construction of single and multi-family dwelling units not in conformance with this provision only on those lands organized as a 501(d), non-profit religious and apostolic associations as described in the United States Tax Code. Prior to issuance of a building permit or permission to proceed said entity shall file the Articles of Incorporation and other requested documentation with the Zoning Administrator. Construction activities carried on under this provision shall be in conformance with all other provisions of this ordinance.

### Section 517 Traffic Visibility

1. There shall be no obstructions, such as buildings, structures, grain bins, trees, wind breaks, baled agricultural products, or other objects within fifty (50) feet from the right-of-way.
2. A traffic visibility triangle as defined herein shall be maintained at all road intersections, public and private, driveways, railway crossings, or similar situation as determined by the Zoning Administrator; and
3. ~~Structures, perennial, or similar vegetation planted on or immediately adjacent to a road right-of-way public shall be approved in writing by the Zoning Administrator prior to construction or planting.~~ No such perennial vegetation between the heights of thirty (30) inches and ten (10) feet shall encroach upon the right-of-way at the time of planting or future growth. The Zoning Administrator reserves the right to refer such requests to Township Supervisors, the County Highway Superintendent, or other officials.

**Section 519    Concentrated Animal Feeding Operation Performance Standards**

1. **Conditional Use Permit Application Requirements.** The following shall be submitted for the consideration of a Concentrated Animal Feeding Operation Conditional Use Permit:
  - a. **Site description information:**
    - i. The owners', managers', management company's or similar entities' name, address and telephone number.
    - ii. A legal description of the site and proposed 911 address for the location.
    - iii. The type and number of animals to be housed at the site.
    - iv. Site diagram of all existing and proposed buildings and structures.
    - v. Information on ability to meet designated setback requirements (Section 519(2)), including maps showing measured distances.
    - vi. Information on the types of soils at the site, and whether there are any shallow aquifers and/or 100-year floodplain designations at or within one half mile of the proposed site.
    - vii. Provide a Farm Service Agency wetland map.
    - viii. Test boring location and test boring results *may* be required. The standards utilized by the South Dakota Department of Environment and Natural Resources for soil borings shall be followed.
  - b. **A facility management plan shall include:**
    - i. The methods utilized to dispose of dead animals shall be identified and shall be in compliance with the South Dakota Animal Industry Board. Temporary dead animal storage or disposal sites shall be a screened substantially built fence to hold up to removal and prevent scavenging, and ~~or~~ located out of site from neighboring dwellings and the adjacent right-of-way.
    - ii. The methods utilized to control pests and flies.

- iii. A screening and/or buffering section to include the planting of trees and shrubs of adequate size to control wind movement and dispersion of dust and odors generated by the facility. The applicant of any naturally ventilated or open style CAFO must plant a shelter belt of trees between the proposed CAFO and shelterbelt shall run the length of the footprint within 250' of the facility, include a minimum of five rows of trees consisting of both evergreen and deciduous species, be planted in the first year of obtaining a conditional use permit. For three consecutive years, all trees that die must be replaced within one growing season. The shelter belt must maintain 90% survivability while the conditional use permit is active.
  - iv. A review of Industry Best Management practices including the use of bio-filters, pit additives, urine-feces separation systems, or other odor reduction technologies. Applicant shall identify which practices will be utilized-, subject to approval of Planning Commission and Board of Adjustment.
  - v. A storm water management plan shall provide adequate slopes and drainage to divert storm water from confinement areas, while providing for drainage of water from said area, thereby assisting in maintaining dryer confinement areas to reduce odor production.
  - vi. Road haul routes and road maintenance agreements for both the construction and operation of the facility shall be signed by the applicant and the local road authority and included in the CUP
- c. **Waste Management Plan Requirements.** An operational plan for manure collection, storage, treatment, and use shall be kept updated and implemented The plan shall include the following:
- i. All CUP applicants must submit and receive approval for a waste management plan to the Department of Environment and Natural Resources prior to obtaining a CUP. The waste management plan will list all fields and acres that are in the waste management plan and shall include expected manure application rates.
  - ii. A state general permit is required if any of the following situations are met.
    - 1. Any CAFO greater than or equal to 1000 animal units.
    - 2. A general permit is required by the South Dakota Department of Environment and Natural Resources.
    - 3. A general permit is required by Yankton County as a condition of approval.
    - 4. The proposed site is located over a mapped shallow aquifer area as depicted on the Department of Environment and Natural Resources First Occurrence of Aquifer Materials in Yankton County, SD (Refer to South Dakota Department of Agriculture and Natural Resources).
  - iii. Proposed maintenance of waste facilities.
  - iv. Number and size of containment areas.

- v. Timeframe for removal of manure from storage containment.
  - vi. Land application process and/or methods (surface, injection, etc.).
  - vii. Legal description and map, including documented proof of area to be utilized for manure application.
  - viii. If the applicant does not own all of the land which will be used for the spreading of waste, the applicant shall provide an enforceable lease, easement, or other written agreement as part of the application. The length of the agreement shall be such that the CAFO has adequate time to make other alternative arrangements in the event that the existing lease, easement, or other written agreement cannot be renewed.
  - d. Prior to construction, such facilities shall obtain a Storm Water Permit for Construction Activities from the South Dakota Department of Environment and Natural Resources. This plan must be implemented upon the start of construction.
  - e. The Yankton County Planning Commission, Board of Adjustment or the Planning Director may require additional information or conditions reasonably related to a concentrated animal feeding operation not contained in these regulations.
2. **Facility Setback Requirements.** New Animal Feeding Operations and waste facilities shall be located no closer than the following regulations prescribe.

The applicant(s) of an animal feeding operation may request the required setback to any residence other than the applicant, active church, business, or school be lessened. This request shall only be approved after the applicant obtains signed waivers from all property owners within the setback distance. Any authorized person, business or governmental entity that is within the setback distance may waive the setback distance. The written waiver(s) shall be permanently attached to the approved conditional use permit.

<b><u>Facility Setback Chart (Feet)</u></b>		
<b><u>Class</u></b>	<b><u>A</u></b>	<b><u>B</u></b>
<b><u>Animal Units</u></b>	<b><u>500 to 10,000</u></b>	<b><u>200 to 499</u></b>
<b><u>Solid Manure System*</u></b>		
<u>Residence other than owner, active church, business, schools</u>	<u>1.98 feet per A.U.</u> <u>(minimum 1,320)</u> <u>(maximum 1.5 miles)</u>	<u>1,320</u>
<u>Municipalities</u>	<u>2.2 feet per A.U.</u> <u>(minimum 2,640)</u> <u>(maximum 1.5 miles)</u>	<u>2,640</u>
<b><u>Liquid Manure System*</u></b>		
<u>Residence other than owner, active church, business, schools</u>	<u>2.64 feet per A.U.</u> <u>(minimum 1,320)</u> <u>(maximum 1.5 miles)</u>	<u>1,320</u>
<u>Municipalities</u>	<u>2.64 feet per A.U.</u>	<u>2,640</u>

	<u>(minimum 2,640)</u> <u>(maximum 1.5 miles)</u>	
<u><b>Any Style Manure System</b></u>		
<u>Public wells</u>	<u>1,000</u>	<u>1,000</u>
<u>Private well</u>	<u>250</u>	<u>250</u>
<u>Private well (operator's)</u>	<u>150</u>	<u>150</u>
<u>Lakes, rivers and streams</u>	<u>660</u>	<u>660</u>
<u>Right-of-way line</u>	<u>330</u>	<u>330</u>
<u>Property line delineating a change in ownership</u>	<u>660</u>	<u>660</u>
<u>100 year flood plain</u>	<u>PROHIBITED</u>	<u>PROHIBITED</u>

\*Operations that utilize both solid and liquid manure have a blended setback, taking into account setback distances proportional to the number of animal units of each style of manure. Example: An operation w/1000 dry lot beef cattle and 940 AU's of finishing swine would have a setback of (1000 AU x 1.98ft.) + (940 AU x 2.64 ft.) = 4462'

- 3. Manure application.** New Animal Feeding Operations and waste facilities shall comply to the following:
- a. A review of weather conditions shall be conducted prior to application to minimize the potential for runoff and to mitigate effects upon neighboring properties.
  - b. Animal waste shall be transported no further than five miles from the point of origination by equipment designed for direct application. Animal waste hauled within non-application or transportation equipment shall not be restricted as to distance. Both methods of transportation must comply with federal, state, and local load limits on roads, bridges, and other similar structures.
  - c. All liquid manure shall be injected to provide for better agronomic benefits, to reduce the potential for runoff, and to minimize odor. Liquid manure may be surface applied if approved by the Department of Natural Resources for emergency discharge only. Documentation of this approval shall be maintained by the operator and be available upon request by the Planning Department.
  - d. If irrigation is used for dewatering a lagoon (gray water) basin, these rules apply:
    - i. Must be used on systems that disperse the liquid no higher than 18" off the ground if no crop is actively growing on the field.
    - ii. If a crop is actively growing on the field, the liquid must then be ~~Drops~~ dispersed below the crop canopy.
    - iii. No runoff or diffused spray from the system onto neighboring property or public right-of-way will be allowed.
    - iv. No irrigation shall be applied when soils are water saturated, frozen, or covered with snow, or when other soil conditions would result in waste runoff.
    - v. No irrigation over FSA designated wetlands.

- vi. No “big gun” type irrigation systems shall be used for liquid manure or dewatering lagoons or other manure containment systems.
- e. Manure should not be applied over frozen or snow covered ground.
- f. No pipes or drag lines may be permanently installed in the public right-of-way.
- g. The producer, or agent acting on behalf of the producer, shall inspect the land application equipment, land application sites and irrigation equipment, if used, on a daily basis while land application of process wastewater or manure is occurring. This inspection is to ensure that the land application equipment is not leaking and runoff from the land application site is not occurring. If a discharge or leak is found where process wastewater or manure is reaching any surface waters of the state, flowing onto property not owned by the producer, or not included in the nutrient management plan, the producer is responsible for taking immediate steps to stop the discharge or leak and report the leak to the county zoning office, state DENR and the affected landowner. The producer shall keep documentation of these inspections so the Zoning Administrator can review them upon request or during an inspection
- h. A notification section should be formulated by the applicant. It should be a reasonable attempt is to include the names, addresses, and phone numbers of all occupied residences and public gathering places, within one-half (1/2) mile of applicant’s manure application fields. The preferred hauling and application process shall should be detailed and include timetables of probable application periods. Application of manure on weekends, holidays, and evenings during the warmer seasons shall should be avoided whenever possible. Complaints could lead to having to give 48 hour notice in advance of manure applications. Annual notification advising of an upcoming 30 day window should be given.

<u><b>Manure Application Setback Chart</b></u>			
	<u><b>Injection or Incorporated within 24 hours</b></u>	<u><b>Surface Applied</b></u>	<u><b>Irrigated</b></u>
<u>Public wells (feet)</u>	<u>1,000</u>	<u>1,000</u>	<u>1,000</u>
<u>Private wells (feet)</u>	<u>250</u>	<u>250</u>	<u>250</u>
<u>Private wells (operator’s) (feet)</u>	<u>150</u>	<u>150</u>	<u>150</u>
<u>Lakes, rivers and streams (public drinking supply) (feet)</u>	<u>1,000</u>	<u>1,000</u>	<u>1,000</u>
<u>Lakes, rivers and streams (fisheries) (feet)</u>	<u>250</u>	<u>660</u>	<u>660</u>
<u>All public road right- of-ways (feet)</u>	<u>10</u>	<u>10</u>	<u>100</u>
<u>Municipalities (feet)</u>	<u>660</u>	<u>1,000</u>	<u>2,640</u>
<u>Residence other than</u>	<u>100</u>	<u>330</u>	<u>750</u>

<u>operator's (feet)</u>			
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~~Animal Feeding Operations are considered conditional uses and shall comply with the Conditional Use Process, all applicable state and federal requirements, and the applicable requirements as defined in this section:-~~

~~Class A (5,000 — 10,000) — Section 519(1,2,3,4,5,6,7(a),8(a),9,10,11,12,13)~~  
~~Class B (3,000 — 4,999) — Section 519(1,2,3,4,5,6,7(b),8(b),9,10,11,12,13)~~  
~~Class C (2,000 — 2,999) — Section 519(1,2,3,4,5,7(c),8(c),9,10,11,12,13)~~  
~~Class D (1,000 — 1,999 ) — Section 519(1,2,3,4,5,7(d),8(d),9,10,11,12,13)~~  
~~Class E (300 — 999) — Section 519(2,3,4\*,5,7(e),8(e),9,10,11,12,13)~~  
~~Class F (1 — 299) — NA~~

~~\*If required by state law~~

- ~~1. Animal Feeding Operations shall submit animal waste management system plans and specifications for review and approval prior to construction, and a Notice of Completion for a Certificate of Compliance, after construction, to the South Dakota Department of Environment and Natural Resources or as amended by the State of South Dakota or the South Dakota Department of Environment and Natural Resources.-~~
- ~~2. Prior to construction, such facilities shall obtain a Storm Water Permit for Construction Activities from the South Dakota Department of Environment and Natural Resources. The Storm Water Pollution Prevention Plan required by the permit must be developed and implemented upon the start of construction.-~~
- ~~3. Animal confinement and waste facilities shall comply with the following facility setback requirements:-~~
  - ~~A. Public Wells 1,000 feet~~
  - ~~B. Private Wells 250 feet~~
  - ~~C. Private Wells (Operator's) 150 feet~~
  - ~~D. Lakes, Rivers, Streams Classified as a Public Drinking Water Supply 1,000 feet~~
  - ~~E. Lakes, Rivers, Streams Classified as Fisheries 1,000 feet~~
  - ~~F. Designated 100 Year Flood Plain PROHIBITED~~
- ~~4. Applicants must present a nutrient management plan to the Department of Environment and Natural Resources for approval and/or certification.-~~  
~~Examples of such management shall include at least:-~~

- ~~A. Proposed maintenance of waste facilities;~~
  - ~~B. Land application process and/or methods;~~
  - ~~C. Legal description and map, including documented proof of area to be utilized for nutrient application; and~~
  - ~~D. All CAFO's are required to obtain a South Dakota State General Permit that outlines the manure management practices that an operator must follow to prevent water pollution and protect public health.~~
- ~~5. New animal feeding operations, new CAFO's and waste facilities shall be setback six hundred and sixty six (660) feet from a property line delineating a change in ownership and three hundred and thirty (330) feet from a right-of-way line. Additionally, the applicant shall locate the operation ¼ of a mile or 1,320 feet from neighboring residential dwellings. The Planning Commission and/or Board of Adjustment may mandate setbacks greater than those required herein to further the intent of the Zoning Ordinance while protecting the public health, safety, and welfare.~~
- ~~6. New Class A and B Animal Feeding Operations shall be prohibited from locating within the area bounded by the City of Yankton, 431<sup>st</sup> Avenue, the Missouri River, and South Dakota Highway 50.~~
- ~~7. New animal confinement and waste facilities shall be located no closer than the following regulations prescribe from any Class I incorporated municipality or residentially zoned area bounded by the City of Yankton, 431<sup>st</sup> Avenue, the Missouri River and South of South Dakota Highway 50:~~
- ~~A. Class A \_\_\_\_\_ 4 miles~~
  - ~~B. Class B \_\_\_\_\_ 2 miles~~
  - ~~C. Class C \_\_\_\_\_ 1 mile~~
  - ~~D. Class D \_\_\_\_\_ 2,640 feet~~
  - ~~E. Class E \_\_\_\_\_ 2,640 feet~~
- ~~8. New animal confinement and waste facilities shall be located no closer than ½ mile from any Class II or III incorporated municipality, active church, or established R2 or R3 residential area as shown on the Official Zoning Map. New animal confinement and waste facilities shall be located no closer than the following regulations prescribe from a residential dwelling; one dwelling unit is allowed on the facility site. The owner(s) of an animal feeding operation and/or residential dwelling may request the required setback be lessened or waived in accordance with the variance procedures as detailed herein. Residential waiver request forms are obtainable from the Zoning~~

~~Administrator. This waiver would run with the land and be filed with the Yankton County Register of Deeds.~~

~~A. Class A \_\_\_\_\_ 2 miles~~

~~B. Class B \_\_\_\_\_ 1.25 miles~~

~~C. Class C \_\_\_\_\_ 2,640 feet~~

~~D. Class D \_\_\_\_\_ 1,320 feet~~

~~E. Class E \_\_\_\_\_ 1,320 feet~~

~~9. Animal waste shall be transported no further than five miles from the point of origination by equipment designed for direct application. Animal waste hauled within non-application or transportation equipment shall not be restricted as to distance. Both methods of transportation must comply with federal, state, and local load limits on roads, bridges, and other similar structures.~~

~~10. Animal Feeding Operations shall prepare a facility management plan. The plan shall be designed to dispose of dead animals, manure, and wastewater in such a manner as to control odors or flies. The County Planning Commission and Board of Adjustment will review the need for control measures on a site specific basis, taking into consideration prevailing wind direction and topography. The following procedures to control flies and odors shall be addressed in a management control plan:-~~

~~A. An operational plan for manure collection, storage, treatment, and use shall be kept updated and implemented;~~

~~B. The methods utilized to dispose of dead animals shall be identified.~~

~~C. A screening and/or buffering section to include the planting of trees and shrubs of adequate size to control wind movement and dispersion of odors generated by the facility;~~

~~D. A storm water management section shall provide adequate slopes and drainage to divert storm water from confinement areas, while providing for drainage of water from said area, thereby assisting in maintaining dryer confinement areas to reduce odor production.~~

~~E. A solid manure storage plan detailing the number and size of containment areas and methods of controlling drainage to minimize odor production;~~

~~F. A description of the method and timeframe for removal of manure from open pens to minimize odor production;~~

~~G. The applicability, economics, and effect of Industry Best Management~~

~~Practices shall be covered;~~

~~H. A notification section should be formulated by the applicant. It is to include the names, addresses, and phone numbers of all occupied residences and public gathering places, within one half (1/2) mile of applicant's manure application fields. The preferred hauling and application process shall be detailed and include timetables of probable application periods. Application of manure on weekends, holidays, and evenings during the warmer seasons shall be avoided whenever possible. Complaints could lead to having to give 48 hour notice in advance of manure applications. Annual notification advising of an upcoming 30 day window should be given.~~

~~I. A review of weather conditions shall be included reviewing the effect of climate upon manure application. This section shall also include the preferred times and conditions for application to mitigate the potential effects upon neighboring properties while outlining the least advantageous climatic conditions.~~

~~11. Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is injected or incorporated within twenty four (24) hours:-~~

~~A. Public Wells 1,000 feet~~

~~B. Private Wells 250 feet~~

~~C. Private Wells (Operator's) 150 feet~~

~~D. Lakes, Rivers, Streams Classified as a Public  
Drinking Water Supply 1,000 feet~~

~~E. Lakes, Rivers and Streams Classified as Fisheries 200 feet~~

~~F. All Public Road Right-of-ways 10 feet~~

~~G. Incorporated Communities 660 feet~~

~~H. A Residence other than the Operators 100 feet~~

~~12. Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is irrigated or surface applied:-~~

~~A. Public Wells 1,000feet~~

~~B. Private Wells 250feet~~

~~C. Private Wells(Operator's) 150feet~~

- ~~D. Lakes, Rivers, Steams Classified as a Public Drinking Water Supply 1,000feet~~
  - ~~E. Lakes, Rivers and Streams Classified as Fisheries 660 feet~~
  - ~~F. All Public Road Right of ways (Surface Applied) 10 feet~~
  - ~~G. All Public Road Right of ways (Irrigated Application) 100 feet~~
  - ~~H. Incorporated Communities (Surface Applied) 1,000 feet~~
  - ~~I. Incorporated Communities (Irrigated Application) 2,640 feet~~
  - ~~J. A Residence other than the Operators (Surface Applied) 330 feet~~
  - ~~K. A Residence other than the Operators (Irrigated Application) 750 feet~~
- ~~13. If irrigation is used for removal of liquid manure, dewatering a lagoon (gray-water) basin, or any type of liquid manure holding pit, these rules apply:~~
- ~~A. Drops must be used on systems that disperse the liquid no higher than 18" off the ground if no crop is actively growing on the field.~~
  - ~~B. If a crop is actively growing on the field, the liquid must then be dispersed below the crop canopy.~~
  - ~~C. No runoff or diffused spray from the system onto neighboring property or public right of way will be allowed.~~
  - ~~D. No irrigation of liquid on frozen ground or over FSA designated wetlands.~~
  - ~~E. No "big gun" type irrigation systems shall be used for liquid manure or dewatering lagoons or other manure containment systems.~~

Section 520 Conditional Use Permit for an Animal Feeding Operation Not Permitted if Applicant Applies for the Permit for the Purpose of Selling, Transferring, or Brokering.

The Board of Adjustment shall not grant a Conditional Use Permit for an Animal Feeding Operation, Concentrated Animal Feeding Operation, and/or waste facility if the Applicant is applying for the Permit for the purpose of selling, transferring, or brokering the Permit.

For the purposes of this Ordinance, any sale or transfer of the Permit from the Applicant to any other person or entity within ~~two (2)~~ five (5) years of the date that the Permit is issued shall be considered to be prima facie evidence that such Permit was obtained for the purpose of selling, transferring or brokering the Permit. The Board of Adjustment may hear and grant exceptions to this rule in the case of unforeseen life events that may force the sale of an operation.

Any evidence that is presented by any person that any Building Permit and/or Conditional Use Permit for an Animal Feeding Operation, Concentrated Animal

Feeding Operation, and/or waste facility was sought for the purpose of selling, transferring, or brokering the Permit ~~may~~ shall be considered by the Zoning Administrator, Planning Commission, and/or Board of Adjustment in considering a new application for Conditional Use Permit. ~~and~~ It may be the basis for a denial or revocation of the application, building permit, and/or a conditional use permit by the Board of Adjustment.