

ORDINANCE NO. 26-02

AN ORDINANCE ENTITLED, AN ORDINANCE TO AMEND ORDINANCE 06-44, AS AMENDED, AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR LAKE COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, PURSUANT TO SDCL 11-2, 1967 AND FOR THE REPEAL OF ANY ORDINANCE OR REGULATION IN CONFLICT HEREWITH.

BE IT ORDAINED by the Board of County Commissioners of Lake County, South Dakota: that Article II Definitions", adopted by Ordinance 06-44, as amended, of the Zoning Ordinance of Lake County be amended by adding language in bold and underline:

Family. One (1) or more persons related by blood, marriage, or adoption occupying a dwelling unit as an individual housekeeping organization. A family may **include** no more than five (5) adults not related by blood, marriage or adoption. This definition shall not include foster families as regulated by the State of South Dakota."

BE IT FURTHER ORDAINED by the Board of County Commissioners of Lake County, South Dakota: that Article XI, "Zoning Districts," Section 1103.05 LP-1 Lake Park District-1, Conditional Uses, adopted by Ordinance 06-44, as amended, of the Zoning Ordinance of Lake County be amended by adding language in bold and underline removing strikeout language:

1103.05. Conditional Uses

6. ~~Unattached garages and accessory buildings with sidewalls greater than fourteen (14) feet and/or dimensions greater than one thousand five hundred (1,500) square feet. (Reserved)~~

BE IT FURTHER ORDAINED by the Board of County Commissioners of Lake County, South Dakota: that Article XI, "Zoning Districts," Section 1103.06 LP-1 Lake Park District-1, Shoreline Alterations, Filling, Grading, Dredging, and Lagooning Uses, adopted by Ordinance 06-44, as amended, of the Zoning Ordinance of Lake County be amended by adding language in bold and underline removing strikeout language:

1103.06. 1103.07 Shoreline Alterations, Filling, Grading, Dredging, and Lagooning.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Lake County, South Dakota: that Article XI, "Zoning Districts," Section 1104.01 LP-2 Lake Park District-2, Purpose, adopted by Ordinance 06-44, as amended, of the Zoning Ordinance of Lake County be amended by removing strikeout language:

1104.01. Purpose – ~~Closed district~~

BE IT FURTHER ORDAINED by the Board of County Commissioners of Lake County, South Dakota: that Article XI, "Zoning Districts," Section 1104.05 LP-2 Lake Park District-2, Conditional Uses, adopted by Ordinance 06-44, as amended, of the Zoning Ordinance of Lake County be amended by adding language in bold and underline removing strikeout language:

1104.05. Conditional Uses

5. ~~Attached and Unattached garages and accessory buildings with sidewalls greater than twelve (12) feet and/or dimensions greater than 1,200 square feet. (Reserved)~~

BE IT FURTHER ORDAINED by the Board of County Commissioners of Lake County, South Dakota: that Article XI, "Zoning Districts," Section 1109.02 PD Planned Development District, Application Procedure, adopted by Ordinance 06-44, as amended, of the Zoning Ordinance of Lake County be amended by adding language in bold and underline removing strikeout language:

1109.02. Application Procedure

The following shall be observed when a planned development proposal is submitted for consideration:

1. An applicant for consideration under the terms of this district, who must be owner, lessee or the holder of a written purchase option of the tract of land under consideration, shall submit to the Planning Commission and Board of County Commissioners a plan for the proposed planned development unit. The plan shall include:

b. a. Location map showing:

BE IT FURTHER ORDAINED by the Board of County Commissioners of Lake County, South Dakota: that Article XII, "General Requirements," Section 1215 Right to Farm Notice, adopted by Ordinance 06-44, as amended, of the Zoning Ordinance of Lake County be amended by adding language in bold and underline and removing strikeout language:

RIGHT TO FARM NOTICE

You are hereby notified that the property for which **your you** are applying for a Lake County residential building permit is located within or near agriculturally zoned land. You are also notified that you may be subject to inconvenience or discomfort from lawful agricultural uses permitted by Lake County zoning regulations. Agricultural uses permitted by Lake County 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 manure; 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. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. If you live within or near an agriculturally zoned area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for Lake County approved agricultural uses to expand. This notice does not abdicate your rights as a landowner to object to agricultural uses permitted by Lake County. Nor does this notice allow for agricultural uses permitted by Lake County to be conducted in an illegal manner. This notification shall extend to all landowners, their heirs, successors or assigns. This notice is a requirement for obtaining a Lake County building permit for residential development and may not be removed from the record title without consent of the Board of Adjustment.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Lake County, South Dakota: that Article XIII, "Concentrated Animal Feeding Operation Regulations," Section 1304 Concentrated Animal Feeding Operation Permit Requirements , adopted by Ordinance 06-44, as amended, of the Zoning Ordinance of Lake County be amended by adding language in bold and underline and removing strikeout language:

3. An expansion in the number of animal units of a Concentrated Animal Feeding Operation, without a county-issued permit, that existed prior to **January 1, 2022 February 3, 2026**, which would result in the creation of either a Class A, B, C, or D concentrated animal feeding operation.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Lake County, South Dakota: that Article XIII, "Concentrated Animal Feeding Operation Regulations," Section 1305 Concentrated Animal Feeding Operation Control Requirements, adopted by Ordinance 06-44, as amended, of the Zoning Ordinance of Lake County be amended by adding language in bold and underline and removing strikeout language:

6. Required Setbacks and Separation Distance for New Class A, B, C, and D, concentrated animal feeding operations and those existing, non-permitted concentrated animal feeding operations expanding into a Class A, B, C, or D Concentrated animal Feeding Operations after January 1, 2022 February 3, 2026. See Table 1304.6.2.
7. Exemptions to Separation and/or Setback Distance Requirements.
 - b. A Concentrated Animal Feeding Operation which is expanded or constructed, if the title holder of the land benefiting from the distance separation requirement executes a written waiver with the title holder of the land where the structure is located, under such terms and conditions which the parties may negotiate. The written waiver becomes effective only upon the recording of the waiver in the office of the Register of Deeds in the county. ~~he~~ 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.
 - f. All Concentrated Animal Feeding Operations in operation prior to October 1, 2025 February 3, 2026 which do not comply with the required 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 the suggested separation distance:
 - i. Example 1: A Class D CAFO expands to a Class A or B CAFO
 - ii. Example 2: A Class B CAFO expands to a Class A CAFO.
 - iii. Example 3: A Class A CAFO expands by 10% of the number of animal units

Provided, that the expansion does not further encroach the setback/separation distance existing ~~on~~ October 1, 2025 February 3, 2026. See Figure 1304.7.

- g. Any Concentrated Animal Feeding Operation in operation as of October 1, 2025 February 3, 2026 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 1304.7.