APPENDIX D

CONCENTRATED ANIMAL FEEDING OPERATION REGULATIONS

Intent

An adequate supply of healthy livestock, poultry and other animals is essential to the well-being of county citizens and the State of South Dakota. However, livestock, poultry, and other animals produce manure which may, where improperly stored, transported, or disposed, negatively affect the County environment. Animal manure must be controlled where it may add to air, surface water, ground water, or land pollution. The following regulations have been adopted to provide protection against pollution caused by manure from domesticated animals. All new and proposed expansions of Concentrated Animal Feeding Operations shall comply with the regulations as outline herein.

It is the intention of the Board of Adjustment in the enforcement of this ordinance that when an operator of an existing Concentrated Animal Feeding Operation applies for a permit to expand to another class level, the standards that apply to the expansion will not be applied to existing structures that were built in compliance with accepted industry standards in existence at the time of the construction of such facilities. A special exception can be issued, see Special Exception in the Spink County Zoning Regulations.

Definitions

Animal Manure: Poultry, livestock, or other animal excreta or mixture of excreta with feed, bedding, or other materials.

Applicant: An individual, a corporation, a group of individuals, partnership, joint venture, owners, or any other business entity having charge or control of one or more concentrated animal feeding operations.

Change in operation: occurs if any/all of the following exist:

1. A new concentrated animal feeding operation is proposed where one does not exist.
2. An expansion is proposed beyond what a current permit allows.
3. A change in ownership.
4. An existing concentrated animal feeding operation is to be restocked after being idle for five (5) or more years.
5. A signed complaint has been received by the County Zoning Officer or South Dakota Department of Environment and Natural Resources and

after inspection reveals that the concentrated animal feeding operation is in violation of county or state regulations.

Farm Dwelling: Any dwelling owned or occupied by the farm owners, operators, tenants, or seasonal or year-round hired workers.

Non-Farm Dwelling: An occupied dwelling which is not a farm dwelling.

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

Process Generated Wastewater: Water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from water 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*:* 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.

Radius: A straight line extending from the center of a circle to its edge.

Setback: The distance required for an operation to be measured from a particular entity (see list on page 8). Setbacks are measured from a point between the lagoon and feedlot. If the lagoon and feedlot are more than 500 feet apart, the setback will be measured from the center of each.

Shall*:* *Shall* means that the condition is an enforceable requirement of this permit.

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.

Should: *Should* means that the condition is a recommendation. If violations of the permit occur, the County will evaluate whether the producer implemented

the recommendations contained in this permit that may have helped the producer to avoid the violation.

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;
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.

Water of the State means all waters within the jurisdiction of this state, including all streams, lake, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or privates, situated wholly or partly within or bordering upon the state.

> *Zone A*: Special Flood Hazard Areas subject to inundation by the 100-year flood.

Well: a hole that is dug or drilled into the ground in order to obtain water. **Public well** is for the use of a community. **Private well** is belonging to, restricted to, or intended for an individual person, and is not open to the public.

<u>Classes of Concentrated Animal Feeding Operations</u>

A Concentrated Animal Feeding Operation is defined as a lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of 45 days or more during any 12-month period, and where crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility. Two or more animal feeding operations under common ownership are a single animal operation if they adjoin each other, or if they use a common area, or system for disposal of manure.

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

Number of Animals to Define Large, Medium, and Small

Concentrated Animal Feeding Operations

(Classifications are based on number of head)

TYPE OF ANIMAL FEEDING OPERATION	**LARGE:** ANIMAL NUMBERS EQUAL TO OR MORE THAN	**MEDIUM:** ANIMAL NUMBERS EQUAL TO	**SMALL:** ANIMAL NUMBERS LESS THAN
Dairy Cows (mature-milked or dry) & Buffalo	700 to 3,500	200 to 699	200
Veal Calves	1,000 to 5,000	300 to 999	300
Cattle other than mature dairy cows or veal calves*	1,000 to 5,000	300 to 999	300
Swine (weighing more than 55 pounds)	2,500	750 to 2,499	750
Swine (weighing less than 55 pounds)	10,000	3,000 to 9,999	3,000
Horses	500	150 to 499	150
Sheep, Lambs, or Goats	10,000	3,000 to 9,999	3,000
Turkeys	55,000	16,500 to 54,999	16,500
Laying hens or broilers, and Pheasants**	30,000	9,000 to 29,999	9,000
Chickens, other than laying hens***	125,000	37,500 to 124,999	37,500
Laying hens ***	82,000	25,000 to 81,999	25,000
Ducks **	5,000	1,500 to 4,999	1,500
Ducks ***	30,000	10,000 to 29,999	10,000
Geese	30,000	10,000 to 29,999	10,000

NOTES:

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

** Animal feeding operation uses a liquid manure handling system.

*** Animal feeding operation uses other than a liquid manure handling system.

Other animal types not listed in the above table may be considered on a case-by-case basis.

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Setback Chart

Large class CAFOs are subject to a setback distance of an additional 1,000 feet for additional 1,000 animal units. See chart for animal unit equivalence.

TYPE OF ANIMAL FEEDING OPERATION	**LARGE:** ANIMAL NUMBERS EQUAL TO OR MORE THAN	ANIMAL UNIT EQUIVALENT
Dairy Cows (mature-milked or dry) & Buffalo	700 to 3,500	1
Veal Calves	1,000 to 5,000	1
Cattle other than mature dairy cows or veal calves *	1,000 to 5,000	1
Swine (weighing more than 55 pounds)	2,500	0.04
Swine (weighing less than 55 pounds)	10,000	0.01
Horses	500	2
Sheep, Lambs, or Goats	10,000	0.01
Turkeys	55,000	0.018
Laying hens or broilers, and Pheasants **	30,000	0.033
Chickens, other than laying hens ***	125,000	0.01
Laying hens ***	82,000	0.033
Ducks	5,000	0.02
Geese	30,00	

NOTES:

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

** Animal feeding operation uses a liquid manure handling system.

*** Animal feeding operation uses other than a liquid manure handling system.

Concentrated Animal Feeding Operation Permit Requirements

Owners of a large, medium, or small concentrated animal feeding operation are required to complete a permit application whenever any of the following occur:

1. A new concentrated animal feeding operation is proposed where one does not exist.
2. An expansion is proposed beyond what a current permit allows.
3. A change in ownership.

4. An existing concentrated animal feeding operation is to be restocked after being idle for five (5) or more years.
5. A signed complaint has been received by the county Zoning Administrator or South Dakota Department of Environment and Natural Resources and after inspection reveals that the concentrated animal feeding operation is in violation of county or state regulations.

Concentrated Animal Feeding Operation Control Requirements

1. **No Significant Contribution of Pollution**
   In general, no concentrated animal feeding operation shall be constructed, located, or operated so as to create a significant contribution of pollution.

2. **County Temporary CAFO Permit**
   All classes of concentrated animal feeding operations shall obtain a Spink County temporary permit pertaining to the animal species of the concentrated animal feeding operation before applying at the State level. After the State General Permit has been approved, the Zoning Administrator will file the temporary permit as a permanent permit in the Register of Deeds office. All classes are required to obtain a permit prior to construction.

   If the work described in any temporary CAFO permit has not commenced within two (2) years from the date of issuance thereof, said permit shall expire. Applicant may request in writing an extension from the Zoning Administrator. The administrator may grant a one-time, two (2) year extension for a temporary CAFO permit. If the work has not commenced after the extension, a new application will be required.

3. **Nutrient Management Plan**
   All classes of concentrated animal feeding operations shall submit a Nutrient Management Plan to the Spink County Planning and Zoning Board. The applicant shall develop, maintain, and follow a nutrient management plan to ensure safe disposal of manure and protection of surface and ground water according to the South Dakota Department of Environment and Natural Resources.

   The plan must comply with County Manure Application setbacks.

   Land spreading agreements shall be provided in order to apply animal manure.

4. **Management and Operation Plan for Manure, Odor, and Fly Control**
   All classes of concentrated animal feeding operations shall submit a Manure Management and Operation Plan.

All classes of concentrated animal feeding operations shall dispose of dead animals, manure, and wastewater in such a manner as to control odors or flies.

Plans must also be in compliance with State regulations.

A. Manure Management Plan must include, but is not limited to:

1. The location and specifics of proposed animal manure facilities. Types of, and location of, bunkers or containments used.
2. The operation procedures and maintenance of manure facilities.
3. Plans and specifications must be prepared or approved by a registered professional engineer, or a South Dakota licensed Natural Resource Conservation Service (NRCS) engineer. Waste treatment facilities will require inspection by an engineer and as-built plans to be submitted to the Zoning Administrator.
4. Animal manure shall not be stored longer than two years.
5. Manure containment structures shall provide for a minimum design volume of 270 days of storage.
6. Refer to page 9 for Manure Application setbacks.

B. The Board of Adjustment may require manure to be injected or incorporated into the soil.

C. If incorporation of manure is required, it must occur within 24 hours of open-air spreading.

D. Fly and Odor Control Plan must include, but is not limited to:

1. Operational plans for manure collection, storage treatment and use must be kept updated and implemented.
2. Methods to be utilized to dispose of dead animals should be included in the management plan.
3. Plant trees and shrubs to reduce wind movement of odors away from buildings, manure storage ponds and/or lagoons.
4. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized.
5. Store solid manure in containment areas having good drainage to minimize odor production.
6. Remove manure from open pens as frequently as possible to minimize odor production.

7. Consider use of covers on open storage systems for liquid manure systems to reduce odor production.

5. Required Setbacks and Separation Distance for New Concentrated Animal Feeding Operations.

Minimums

	LARGE	MEDIUM	SMALL
A. Established Residences not including owners/ operators	3,960 feet *	2,640 feet	2,640 feet
B. Churches, Businesses, & Commercially-zoned Areas	5,280 feet *	5,280 feet	2,640 feet
C. Incorporated Municipality	3 miles	2 miles	5,280 feet
D. Private wells less than 100 feet deep & public water supplies other than the operator	1,000 feet	1,000 feet	1,000 feet
E. Private wells over 100 feet deep	250 feet	250 feet	250 feet
F. Lakes & streams classified as fisheries as identified by the State	500 feet	500 feet	200 feet
G. Federal, State, & County road ROW housed	300 feet	300 feet	200 feet
H. Federal, State, & County Road ROW open lot	300 feet	300 feet	200 feet
I. Township road ROW housed	150 feet	150 feet	150 feet
J. Township road ROW open lot	150 feet	150 feet	150 feet

6. Exemptions from Separation Distance

If a concentrated animal feeding operation is closer than the separation distances provided in these regulations, the applicant can request a written waiver from the separation distance. The residence, business,

church, school, municipality, or public use area may waive the distance requirement. The waiver is recorded with the County Register of Deeds in order than any future owners can be informed.

7. New Residences

Anyone establishing a new residence within 3,960 feet of an existing concentrated animal feeding operation, with the potential of the existing operation to expand the operation, must sign and comply with the Restrictive Covenant, Release and Waiver.

8. Manure Application Setbacks

A. The following manure application setbacks apply to all classes of concentrated animal feeding operations:

CATEGORY	SURFACE OR IRRIGATION APPLIED	INCORPORATED OR INJECTED
Lakes, rivers & streams, classified as fisheries from high-water mark	1,000 feet	100 feet (lake) 50 feet (river & stream)
Streams & lakes, classified as drinking water supplies	1,000 feet	300 feet
Public roads	100 feet (surface) from right-of-way 100 feet (irrigation)	10 feet from right-of-way
Public wells	1,000 feet	1,00 feet
Private shallow wells	1,000 feet	250 feet
A residence other than the operator	1,000 feet	300 feet
Natural or manmade drainage	500 feet	50 feet

B. The County Board of Adjustment may require liquid manure to be incorporated or injected in order to minimize air and water quality impacts.

C. The County Board of Adjustment will review the aerial maps, as required in Appendix V, when the applicant requests application of liquid manure by means of irrigation.

D. Refer to Buffer and Setback Requirements as provided by the NRCS.

9. Standards for Special Exception

A. The County Board of Adjustment may request information relating to a concentrated animal feeding operation not contained in these regulations.

B. The County Board of Adjustment may impose, in addition to the standards and requirements set forth in these regulations, additional conditions which the County Board of Adjustment considers necessary to protect the public health, safety, and welfare.
C. Special exceptions 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 adhered to.
D. When considering an application, the County Board of Adjustment will take into consideration current and past violations relating to concentrated animal feeding operations that the applicant has an interest in.
E. Permit applicants will be required to file a letter of assurances as required by the County Board of Adjustment. The letter of assurances will be prepared by the Zoning Administrator and signed by both the applicant and the Zoning Administrator.
F. A neighboring township that adjoins between two counties will follow the regulations of the county that is most restrictive.
G. The Planning and Zoning Board may require an applicant's record on environmental issues, employment, and labor compliance to be submitted with the application. If the Planning and Zoning Board determines the person and/or company is a "bad actor", then the applicant will be denied a permit.

10. Facility Road Maintenance Agreements

All facilities within Spink County that cause excessive maintenance of County or Township roads shall be required to have a written agreement with the Township Board or County Highway Superintendent, stating acceptance responsibility for all additional cost incurred by the facility in maintenance of said road. Excessive maintenance shall be defined as: All work and material costs incurred over and above the average cost of maintaining that specific type of road within that local government unit's jurisdiction. The terms of said agreement shall be determined prior to the issuance of a conditional use permit.

11. Information Required for all Concentrated Animal Feeding Operational Permits.

A. Refer to CAFO Packet, which includes:
    1. Appendix D
    2. Appendix V—Temporary CAFO Application & Procedure to File
    3. Waiver of Distance & Procedure to file
    4. Consent for Waiver of Distance (only residents within setback distance).
    5. Manure Application Lease Agreement
    6. Letter of Assurance

12. Information Required for the Addition of, or Expansion of, a Manure Management System for An Existing Feedlot.

A. If the expansion is a change in class, the requirements for the new class must be followed.
B. If the new expansion does not change the class, then any new information relating to the expansion that is not already on file with the Spink County Planning and Zoning Board.
C. A building permit must be purchased, regardless of class.

13. Violations, Complaints, Penalties, and Remedies

A. It is declared unlawful for any person, firm, or corporation to violate any of the terms or provisions of the concentrated animal feeding operation ordinances. Violation of this ordinance shall be a misdemeanor and may be punishable by a fine of up to two hundred ($200) dollars for each and every day that any violator fails to comply with the provisions of this ordinance.
B. Violations or complaints thereof shall be referred to the County Board of Adjustment. The County Board of Adjustment reserves the right to do on-site inspections or refer violations or complaints to the DENR.

14. Clean Up Clause

Applicant and/or operator shall be required to remediate the facility according to standards acceptable to the County Board of Adjustment and DENR upon closing the facility and within sixty (60) days of closing at applicant's own cost, and shall sign an agreement to do so prior to issuance of a building permit.