

**ARTICLE 22.00**  
**CONCENTRATED ANIMAL FEEDING OPERATION**

Section 22.01. 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's 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 Feeding Operations shall comply with the regulations as outlined herein.

It is the intention of the County Zoning Commission 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.

Definitions

1. A 25-year, 24-hour Storm Event is the amount of rainfall in a 24-hour period expected to occur only once every 25 years. Typically, the 25-year, 24-hour storm event is about 5 inches in Brookings County. The map in Appendix A shows the actual amount of rainfall that constitutes the 25-year, 24-hour storm event for South Dakota.
2. Accessory Buildings and Uses is a subordinate use, which is incidental to that of the main building or to the main use of the premises. Buildings of 120 square feet or less are not required to have a building permit.
3. Anaerobic Lagoon means an impoundment used in conjunction with an animal feeding operation, if the primary function of the impoundment is to store and stabilize organic manure, the impoundment is designed to receive manure on a regular basis, and the impoundment's design manure loading rates provide that the predominant biological activity is anaerobic. An anaerobic lagoon does not include any of the following:

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- a. A confinement feeding operation structure.
  - b. A runoff control basin, which collects and stores only precipitation induced runoff from an open feedlot.
  - c. An anaerobic treatment system, which includes collection and treatment facilities for all gases.
4. Animal Feeding Operation Structure means an anaerobic lagoon, formed manure storage structure, egg washwater storage structure, earthen manure storage basin, or confinement building.
  5. Animal Manure is poultry, livestock, or other animal excreta or mixture of excreta with feed, bedding or other materials.
  6. Animal Unit See page 22.00-8.
  7. Applicant is 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.
  8. Aquifer is a geologic formation, group of formations or part of a formation capable of storing and yielding ground water to wells or springs.
  9. Best Management Practices (BMP) means schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMP's also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge, manure disposal, manure application, waste or manure stockpiles, or drainage from raw material storage.
  10. Building is any structure in excess of 120 square feet designed for the support, shelter and protection of persons, animals, or property.
  11. Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
  12. Change in Operation means a cumulative increase of more than 500 animal units, after May 13, 1997, which are confined at an un-permitted concentrated feeding operation.
  13. A Chronic or Catastrophic Event is a single precipitation event, or a series of rainfall events in a short period of time that totals or exceeds the volume of a 25-year, 24-hour storm event. The event includes tornadoes, or other catastrophic conditions. The event would directly result in, or cause, an

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overflow from the containment structure or lagoon that receives and contains runoff from an open lot.

14. Common Ownership is defined as single, corporate, cooperative or other joint operation or venture.
15. Concentrated Animal Feeding Operation see page 22.00-9.
16. Confinement Feeding Operation means a totally roofed animal feeding operation in which wastes are stored or removed as a liquid or semi-liquid.
17. Confinement Feeding Operation Structure means a formed manure storage structure, egg washwater storage structure, earthen manure storage basin, or confinement building. A confinement feeding operation structure does not include an anaerobic lagoon.
18. Corner lot is a lot with two front yards.
19. Domestic Animal is 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.
20. Earthen Manure Storage Basin means an earthen cavity, either covered or uncovered, which, on a regular basis, receives waste discharges from a confinement feeding operation if accumulated wastes from the basin are removed at least once each year.
21. Established Building Site means an established building site shall have been used in the past as a farmstead for a normal farming operation. Any residence established for more than ten (10) years shall become an established building site.
22. Established Residence is any residence established by a personal presence, in a fixed and permanent dwelling and an intention to remain there.
23. Farm Dwelling means any residence farmer owned or occupied by the farm owners, operators, tenants, or seasonal or year-around hired workers.
24. Feedlot Operator means 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.

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25. Formed manure Storage Structure means a structure, either covered or uncovered, used to store manure from a confinement feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials.
26. Housed Lot means totally roofed buildings that may be open or completely enclosed on the sides. Animals are housed over solid concrete or dirt floors, slotted floors over pits or manure collection areas in pens, stalls or cages. Housed lot is synonymous with other industry terms such as slotted floor buildings.
27. Letter of Assurances is a list of conditions signed by the applicant for a permit acknowledging agreement to follow the conditions of the permit.
28. Man-made means a pipeline, ditch, drain, tile, terrace, irrigation system, machine, or other object that carries manure, wastewater, or runoff into waters of the state.
29. Manure Management System means any piping, containment structures, and disposal appurtenances associated with the collection, storage, treatment, and disposal of manure or wastewater at an concentrated animal feeding operation.
30. Non-farm Dwelling means any occupied dwelling, which is not a farm dwelling.
31. No-till Cropland means land which is subject to a conservation farming practice: where the soil is left undisturbed from harvest to planting; where planting or drilling is done in a narrow seedbed or slot created by coulters, row cleaners, disk openers, or in-row chisel; and where this conservation practice has been ongoing for at least four consecutive years to establish the soil characteristics necessary to reduce or eliminate erosion from runoff.
32. Open Concentrated Animal Feeding Operation is an un-roofed or partially roofed animal feeding operation in which no crop, vegetation, forage growth or post-harvest residues are maintained during the period that animals are confined in the operation.
33. Open Lot means pens or similar confinement areas with dirt, or concrete (or paved or hard) surfaces. Animals are exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed type shade areas. Open lot is synonymous with other industry terms such as pasture lot, dirt lot or dry lot.
34. Permit is required by these regulations unless stated otherwise.

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35. Potential Pollution Hazard A Concentrated Animal feeding Operation of 100 to 500 Animal Units may be classified as a Class D 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 sitting over a shallow aquifer or drainage that contributes to the waters of the State.
36. Process Generated Wastewater means 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.
37. 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.
38. Producer means the owner or operator of the concentrated livestock feeding operation.
39. Sediment Basin is a basin constructed to trap and store water-born sediment and debris.
40. Severe Property Damage means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources, which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
41. Shall means that the condition is an enforceable requirement of this permit.
42. Shallow Aquifer is 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

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percolation water from transporting contaminants from the land surface to the aquifer.

43. Shallow Well is a well that is located in a shallow aquifer.
44. Should means that the condition is a recommendation. If violations of the permit occur, the County Zoning Commission will evaluate whether the producer implemented the recommendations contained in this permit that may have helped the producer to avoid the violation.
45. Significant Contributor of Pollution means to determine if a feedlot meets this definition, the following factors are considered:
  - a. Size of feeding operation and amount of manure reaching waters of the state;
  - b. Location of the feeding operation in relation to waters of the state;
  - c. Means of conveyance of manure and process wastewater into waters of the state; and
  - d. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal manure and process wastewater into waters of the state.
46. Solid Waste (reference SDCL 34A-6-1.3, 17.) any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations and from community activities, but does not include mining waste in connection with a mine permitted under Title 45, hazardous waste as defined under chapter 34A-11, solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges with are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1989, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1989.
47. Solid Waste Facility or solid waste disposal facility, (reference SDCL 34A-6-1.3, 18.) all facilities and appurtenances connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained or operated to facilitate the disposal or storage of solid waste.

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48. Solid Waste Management System (reference SDCL 34A-6-1.3, 19.) is the entire process of storage, collection, transportation, processing and disposal of solid wastes by any person.
49. Conditional Use. A Conditional Use is a use that would not be appropriate generally or without restriction throughout the zoning division or district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as Conditional Uses, as specific provisions for such exceptions is made in these zoning regulations. The County Zoning Commission may, after notice and hearing, revoke a Conditional Use in the event of a violation of any of such conditions. In addition, the Conditional Use permit may not be transferred during any violation.
50. Unauthorized Releases mean the discharge of water from the lower end of the treatment or containment system through a release structure or over or through retention dikes. An unauthorized release is distinguished from a bypass in that a bypass discharges wastewater prior to any treatment or containment.
51. Waters of the State means all waters within the jurisdiction of this state, including all streams, lakes, 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 private, situated wholly or partly within or bordering upon the state.
52. Zoning Complaints. All zoning complaints must be in writing and signed.

Animal Units

Animal species and number of a species required to equal 500, 1,000 and 2,000 animal units. Note that these figures relate to inventory rather than animal production. Other animal species equivalents, which are not listed, will be based on species' waste production.

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EQUIVALENT NUMBER OF A SPECIES TO EQUAL:

<u>ANIMAL SPECIES</u>	<u>500 AU</u>	<u>1,000 AU</u>	<u>2,000 AU</u>	<u>ANIMAL UNIT EQUIVALENT SPECIES/ AU</u>
Feeder or Slaughter Cattle	500 hd	1,000 hd	2,000 hd	1.0
Mature Dairy Cattle	357 hd	714 hd	1,428 hd	1.4
Calves (up to 400 pounds)	1250 hd	2,500 hd	5,000 hd	0.4
Finisher Swine (over 55 lbs)	1250 hd	2,500 hd	5,000 hd	0.4
Nursery Swine (less than 55 lbs)	5,000 hd	10,000 hd	20,000 hd	0.1
Farrow to Finish*	135 hd	270 hd	540 hd	3.7
Sow and Litter	465 hd	1,076 hd	2,150 hd	0.93
Horses	250 hd	500 hd	1,000 hd	2.0
Sheep	5,000 hd	10,000 hd	20,000 hd	0.1
Turkeys	27,750 hd	55,550 hd	11,150 hd	0.018
Laying Hens and Broilers (continuous overflow watering in facility)	50,000 hd	100,000 hd	200,000 hd	0.01
Laying Hens and Broilers (liquid handling system in confinement facility)	15,150 hd	30,300 hd	60,600 hd	0.033
Ducks	2,500 hd	5,000 hd	10,000 hd	0.2

\*Figures in the farrow to finish column include sows, pigs born and fed to market weight at one site, at one time.



Classes of Concentrated Animal Feeding Operations

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 single animal operation if they adjoin each other within one mile, or if they use a common area, or if they use a common area or system for disposal of manure. In the event that a Confined Animal Feeding Operation includes facilities on and off Zone B and are under common ownership, the area not on Zone B may be allowed to expand without including the number of animal units on Zone B in determining what class permit is required.

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

**UNITS**

Class A	2,000 or more	
Class B	1,000 to 1,999	
Class C	500 to 999	
Class D	100 to 499	(Potential water pollution hazard)
Class E	0 to 499	(No pollution hazard)

Concentrated Feeding Operation Permit Requirements

Owners of Class A, Class B, Class C, and Class D Concentrated Feeding Operations are required to complete a permit application whenever any of the following occur:

1. A new Concentrated Feeding Operation is proposed where one does not exist.
2. An expansion is proposed beyond what a current permit allows.
3. Accumulative expansion by 500 animal units, after May 13, 1997 if an existing concentrated animal feeding operation that does not have a permit or if expansion takes the animal units into another class.
4. Any complaint against a Concentrated Animal Feeding Operation must be in writing and signed. Names of complainants will be kept confidential. A signed complaint has been received by the Zoning Officer or South Dakota Department of Environment and Natural Resources and after inspection

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reveals that the Concentrated Feeding Operation is in violation of County or State regulations.

5. An existing concentrated animal feeding operation is to be restocked after being idle for five (5) or more years.

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. State General Permit

Classes A and B Concentrated Animal Feeding Operations shall obtain coverage under a State General Permit pertaining to the animal species of the Concentrated Animal Feeding Operation. A county permit may be approved conditioned on receiving State approved plans.

Classes C and D Concentrated Animal Feeding Operations will be required to obtain a State General Permit if the following occur:

- a. If an earthen storage basin or lagoon is used for manure storage.
- b. The County Zoning Commission decides conditions require a state permit.

3. Nutrient Management Plan.

The applicant shall develop, maintain, and follow a nutrient management plan to ensure safe disposal of manure and protection of surface and ground water. The nutrient management plan must be either approved by the Brookings County Zoning Officer or by the South Dakota Department of Environment & Natural Resources if a State General Permit is required prior to land application of any manure. Due to crop rotation, site changes, and other operational changes, the applicant should update the plan annually to reflect the current operation and crops grown on the application sites. The applicant should collect, store, and dispose of manure according to recognized practices of good agricultural management. The economic benefits derived from agricultural operations carried out at the land disposal site are secondary to the proper and safe disposal of the manure. If a violation of the nutrient management plan occurs the violator will be required to update the nutrient management plan annually and the collection, storage and disposal of liquid and solid manure will be done according to recognized practices of good agricultural management.

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A generic nutrient management plan that the applicant may use in developing a nutrient management plan is available from the South Dakota Department of Environment & Natural Resources and NRCS. The generic nutrient management plan is based on application of nitrogen. The applicant may use other plans, provided the alternate plan contains all the information necessary to determine compliance with conditions of this general permit or Brookings County requirements. Nitrogen, in addition to that allowed in the nutrient management plan, may be applied up to the amounts as indicated by soil or crop nitrogen test results that are necessary to obtain the realistic crop yield. The South Dakota Department of Environment & Natural Resources and Brookings County encourage producers to develop a nutrient management plan for phosphorous. Over application of phosphorous may lead to water quality problems in area lakes and streams.

The applicant must have the manure analyzed, soil tests taken on land where manure is to be applied and take the results to the Cooperative Extension Service and/or an agronomist for recommendations for the correct amount to apply per acre. This must be done the first year and every year thereafter. Phosphorus should be sampled every 3-5 years.

The applicant must maintain records to show compliance with the plan.

Land spreading agreements shall be provided if applicant does not have minimum acreage to apply animal waste.

4. Manure Management and Operation Plan

Classes A, B, C, and D Concentrated Animal Feeding Operations must submit a Manure Management and Operation Plan.

A. Plan must include:

1. The location and specifics of proposed animal manure facilities.
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 Natural Resource Conservation Service (NRCS) engineer. Waste containment facilities will require inspection by an engineer or NRCS technician and as-built plans be submitted to the Brookings County Zoning Officer.
4. Animal manure shall not be stored longer than two years.

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5. Manure containment structures shall provide for a minimum design volume of 270 days of storage. In addition open outdoor storage shall include storage for direct precipitation and/or runoff from a 25 year, 24 hour storm.
  6. Applicants shall keep records of manure applications on individual fields, which document acceptable manure, and nutrient management practices have been followed. These records shall include soils test results for surface two feet of soil, actual and projected crop yields, nutrient analysis of manure, and information about date, rate and method of manure applications for individual fields. The producer shall retain records of all monitoring information, maintenance and inspection records, copies of reports required by this permit. The producer shall keep the records for at least three years from the date of the sample, measurement, report, or application. Data collected and a copy of this permit must be kept at the confined animal feeding operation or the usual place of business where employees of the operation have access to them. These shall be made available for review by the Brookings County Zoning Board or its representative upon a written request. (Ord. 2006-02, 3-28-2006).
- B. The applicant must participate in environmental training programs and become a certified livestock manager if available.
  - C. The applicant is responsible for the misapplication of the manure whether applied on the applicants own land or on land where there is a land spreading agreement or in transport. The complaint procedure will be the same as for any other zoning complaint.
  - D. The County Zoning Commission may require manure to be injected or incorporated in order to minimize air and water quality impacts.
  - E. Requests for application of liquid manure by means of irrigation systems will be reviewed by the County Zoning Commission on a site-specific basis. Impact on air and water quality will be taken into consideration.
  - F. All irrigation systems blending manure with ground water must have check valves installed to prevent back flow into the water supply.
  - G. The County Zoning Commission may, after notice and hearing, revoke a Conditional Use in the event of a violation of any of such conditions. In addition, the Conditional Use permit may not be transferred during any violation.

5. Management Plan for Fly and Odor Control

Classes A, B, C, D and E Concentrated Animal Feeding Operations shall dispose of dead animals, waste and wastewater in such a manner as to control odors and flies. A management plan is required for submission of a permit. Brookings County Zoning Commission 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 considered in a management control plan.

- A. Operational plans for manure collection, storage treatment and use must be kept updated and implemented.
- B. Methods to be utilized to dispose of dead animals shall be included in the management plan.

The following procedures to control flies and odors should be considered in a management control plan.

- A. Plant trees and shrubs to reduce wind movement of odors away from buildings, manure storage ponds and/or lagoons.
  - B. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized.
  - C. Store solid manure in containment areas having good drainage to minimize odor production.
  - D. Consider use of BMP's on open storage systems for liquid manure systems to control odor production.
6. Required Setbacks and Separation Distance for New Concentrated Feeding Operations and those Expanding by 500 or More Animal Units after May 13, 1997.

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MINIMUMS (Ord. 2006-03, 9-26-2006)

	<u>CLASS A</u>	<u>CLASS B</u>	<u>CLASS C</u>	<u>CLASS D &amp; E</u>
Established residences	2,640 feet	1,760 feet	1,320 feet	1,320 feet
Adjoining property lines	200 feet	200 feet	200 feet	200 feet
Churches, Businesses and Commercially Zoned Areas	2,640 feet	2,640 feet	1,320 feet	1,320 feet
Municipal Areas and Incorporated Municipal boundary limits	5,280 feet	5,280 feet	2,640 feet	1,320 feet
Lake Park District boundary limits	5,280 feet	5,280 feet	2,640 feet	1,320 feet
Private Wells other than the operator	2,640 feet	1,760 feet	1,320 feet	1,320 feet
Lakes and Streams classified as Fisheries as identified by the state	500 feet	500 feet	200 feet	200 feet
Federal, State & County Road ROW Confinement	300 feet	300 feet	200 feet	200 feet
Federal, State & County Road ROW Open lot	50 feet	50 feet	50 feet	50 feet
Township Road ROW Confinement	150 feet	150 feet	150 feet	150 feet
Township Road ROW Open lot	50 feet	50 feet	50 feet	50 feet

The County Zoning Commission shall have the power where exceptional topographic conditions or other extraordinary and exceptional situations or conditions exist to require setbacks in excess of the above minimum for proposals for new concentrated animal feeding operations. (Ord. 2006-02, 3-28-2006)

Permitted uses in Zone A, Provided They Meet Appropriate Performance Standards Outlined For Aquifer Protection Overlay Zones:

1. Agriculture;

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- a. Application of manure is permitted with an approved nutrient management plan.
2. Horticulture;
3. Park, greenways or publicly owned recreational areas;
4. Necessary public utilities/facilities designed so as to prevent contamination of ground water.

Conditional Uses in Zone A:

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

1. Expansion of existing conforming and non-conforming uses to the extent allowed by the underlying district. The County Zoning Commission shall not grant approval unless it finds such expansion does not pose greater potential contamination to ground water than the existing use.
2. Sediment basins will be allowed on a case by case basis and must be constructed to current NRCS standards and specifications.

Prohibited Uses in Zone A:

The following uses are expressly prohibited in Zone A:

1. New Concentrated Animal Feeding Operations after adoption of this ordinance.
2. Existing Concentrated Animal Feeding Operations will not be able to expand beyond a total of 500 animal units (Class D).
3. Earthen storage basins and lagoons.
4. Disposal of or stockpiling of solid waste.
5. Post harvest application of nitrogen fertilizer prior to October 15<sup>th</sup> except for the spreading of manure.
6. Storage of road salt or disposal of snow containing deicing chemicals.

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7. Processing and storage of PCB containing oils;
8. Car washes;
9. Auto service, repair or painting facilities and junk or salvage yards;
10. Disposal of radioactive waste;
11. Graveyards or animal burial sites;
12. Open burning and detonation sites;
13. All other facilities involving the collection, handling, manufacture, use storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on ground water quality;
14. Land spreading or dumping of petroleum contaminated soil, waste oil or industrial wastes.
15. Class V injection wells.
16. All uses permitted or not permitted as Conditional Uses in Zone A.

Zone B -- Aquifer Secondary Impact Zones

Zone B is established as the remainder of the mapped shallow/surficial aquifer not included in Zone A.

This portion of the aquifer is being protected because (1) it is a valuable natural resource for future development, (2) it provides drinking water supply for individual households, (3) contamination is not justified, even though this area is not a public water supply wellhead and (4) contaminants could eventually reach Zone A.

Permitted Uses in Zone B:

1. All uses permitted in the underlying zoning districts provided that they can meet the Performance standards as outlined for the Aquifer Protection Overlay Zones.

Conditional Uses in Zone B:

1. New Class D and expansion of existing Class D up to 999 animal units (Class C).



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2. Sediment basins will be allowed on a case by case basis and must be constructed to current NRCS standards and specifications.
3. All Conditional Uses allowed in underlying districts may be approved by the County Zoning Commission provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.

Prohibited Use in Zone B:

The following use is expressly prohibited in Zone B:

1. New and expansion of Class A, B and C Concentrated Animal Feeding Operations.
2. Earthen storage basins and lagoons.
3. Post harvest application of nitrogen fertilizer prior to October 15<sup>th</sup> except for the spreading of manure.
4. Land spreading or dumping of petroleum contaminated soil, waste oil or industrial wastes.
5. Class V injection wells.

Each application for a new or expanded concentrated animal feeding operation (CAFO) will be reviewed by the County Zoning Commission on a site specific basis. The County Zoning Commission reserves the right to increase the minimum required setbacks and separation distance on a site specific review, based on one or more of the following considerations.

- A. A concentration of CAFO's in the area exists or would occur which may pose an air or water quality concern.
  - B. Due to topography and prevailing wind direction, additional setback and separation distance is appropriate to safeguard air or water quality.
  - C. A concentrated animal feeding operation is in excess of 5,000 animal units.
7. Standards for Conditional Uses
- A. The County Zoning Commission may request information relating to a Concentrated Animal Feeding Operation not contained in these regulations.

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- B. The County Zoning Commission may impose, in addition to the standards and requirements set forth in these regulations, additional conditions which the County Zoning Commission considers necessary to protect the public health, safety and welfare.
- 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 County Zoning Commission will take into consideration current and past violations relating to Concentrated Animal Feeding Operations that the applicant has an interest in.
- E. The permit holder shall provide and at all times maintain General Liability insurance in the amount of at least \$1,000,000.00, with an Environmental Protection Insurance rider of at least \$100,000.00. Proof of such insurance must be received prior to the issuance of a permit and must be provided annually during the operation of such CAFO. The insurance carrier shall be required to provide Brookings County with notice of insurance and with a notice of cancellation or change in coverage. Failure to maintain such insurance shall be grounds for cancellation of the Conditional Use Permit. (Ord. 2006-02, 3-28-2006).
- F. Permit applicants will be required to file a letter of assurances as required by the County Zoning Commission. The letter of assurances will be prepared by the zoning officer and signed by both the applicant and the zoning officer.
- G. In the event of a discharge (as defined by SDCL 34A-2B-1) of manure or other materials or wastes associated with a CAFO, the permit holder shall cooperate fully with and comply with all requirements of the South Dakota Department of Environment and Natural Resources and such permit holder shall take all steps necessary to clean up and eliminate such discharge at the sole expense of the permit holder and/or its insurance carrier. Failure to comply with the requirements of this paragraph shall be grounds for cancellation of the Conditional Use Permit. (Ord. 2006-02, 3-28-2006).
- H. The permit holder shall at all times properly dispose of dead livestock consistent with the rules, regulations and directives of the South Dakota Animal Industry Board of the Department of Agriculture. Failure to comply with such rules, regulations or directives shall be grounds for cancellation of the Conditional Use Permit. (Ord. 2006-02, 3-28-2006).

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- I. The permit holder shall notify Brookings County in writing in the event of closure of the animal confinement operation. Included in the notification shall be: plans for cleaning the buildings, waste system and emptying of the holding pond, storage pit or lagoon. (Ord. 2006-02, 3-28-2006).
8. Information Required for Class A and B Concentrated Feeding Operation Permit.
    - A. Owner's name, address and telephone number.
    - B. Legal descriptions of site and site plan.
    - C. Number and type of animals.
    - D. Nutrient management plan.
    - E. Manure management and operation plan.
    - F. Management Plan for Fly and Odor Control.
    - G. Information on ability to meet designated setback requirements including site plan to scale.
    - H. General permits from South Dakota Department of Environment & Natural Resources if available for animal species.
    - I. Review of Plans and Specifications and Nutrient Management Plan by the South Dakota Department of Environment & Natural Resources.
    - J. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year flood plain designation.
    - K. Notification of whoever maintains the access road (township, county and state). Notification of public water supply officials
    - L. Any other information as contained in the application and requested by the County Zoning Officer.
  9. Information Required for Class C and D Concentrated Feeding Operation Permit.
    - A. Owner's name, address and telephone number.
    - B. Legal descriptions of site and site plan.

**CONCENTRATED ANIMAL  
FEEDING OPERATION**

- C. Number and type of animals.
- D. Nutrient management plan.
- E. Manure management and operation plan.
- F. Management Plan for Fly and Odor Control.
- G. Information on ability to meet designated setback requirements including site plan to scale.
- H. Review of Plans and Specifications and Nutrient Management Plan by the South Dakota Department of Environment & Natural Resources if using lagoon or earthen storage basin.
- I. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.
- J. Notification of whoever maintains the access road (township, county and state). Notification of public water supply officials
- K. Any other information as contained in the application and requested by the County Zoning Officer.