

AMENDMENTS TO ORDINANCE 2016-01 APPROVED BY THE GRANT COUNTY PLANNING COMMISSION
AFTER NOTICED PUBLIC HEARING ON FEBRUARY 9, 2016

Amendment 1A

Delete Section 1306 and references thereto, with the exception of Section 1306.04 and apply Section 1306.04 to permitted use CAFO's

~~Section 1306. Permitted Special Use Regulations for Concentrated Animal Feeding Operations~~

~~Section 1306.01. General.~~

~~1. Permitted special use permits involve land use actions governed by standards and approval criteria that generally require the exercise of limited discretion. Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and to ensure compliance with this Ordinance. Any Permitted Special Use approved by the Zoning Officer shall conform to the standards for such uses as set forth below. These standards shall be construed to be the minimum requirements for any of the permitted special use permit and the Zoning Officer may require additional requirements.~~

~~Section 1306.02. Concentrated Animal Feeding Operation Permitted Special Use Standards~~

~~1. A Permitted Special Use Permit for Concentrated Animal Feeding Operation(s) shall comply with the following:~~

~~a. A Permitted Special Use Permit may only be granted for Class C Concentrated Animal Feeding Operations (1,000 to 1,999 animal units).~~

~~b. The Concentrated Animal Feeding Operation site meets all setback requirements in Article XIII, Section 1304.6.~~

~~c. The Concentrated Animal Feeding Operation will comply with Section 1105 Aquifer Protection Overlay District regulations.~~

~~d. The applicant shall obtain a South Dakota Department of Environment and Natural Resources "General Permit" prior to the issuance of a County Permitted Special Use Permit. Said "General Permit" shall serve as meeting the requirements of the Nutrient Management Plan and Manure Management Plan standards identified in Section 1304.3 and Section 1304.4.~~

~~e. The applicant shall observe manure application setbacks per 1304.9.~~

~~f. The applicant shall provide a management plan for fly and odor control consistent with the standards found in Section 1304.5.~~

~~g. The applicant shall obtain a haul road agreement with the applicable road authority for construction and maintenance of roads associated with the Concentrated Animal Feeding Operation. Unless otherwise agreed to between the Road Authority and the applicant, at Grant County requires, at a minimum, the applicant to abide by the haul road agreement terms found in Grant County Resolution #2014-36~~

h.—The applicant and the Board of Adjustment's designee shall sign a letter of assurance as prescribed in Section 1306.04.

Section 1306.04. Procedures for approval of Permitted Special Use Permit

1.—The Permitted Special Use procedure is an administrative review process, where the Zoning Officer shall have the power to review an application for conformance with the applicable standards and approval criteria and issue a Permitted Special Use permit. Requests for permitted special uses may be granted if it has been determined that the prescribed conditions for a specific use have been met or assurance has been provided that the conditions will be met. If any of the performance standards cannot be met, the proposed permitted special use will be considered a conditional use. A Permitted Special Use Permit shall not be granted unless and until:

a.—A written application for a permitted special use is submitted, indicating the section of this Ordinance under which the permitted special use is sought and stating the grounds on which it is requested.

b.—The Zoning Officer shall review the application for conformance with Article XIII.

c.—The Zoning Officer shall provide written notice of the proposed Permitted Special Use Permit request to all landowners within the required setback (Table 1304.1)

d.—If it is determined that additional conditions and safeguards are required by the Zoning Officer for the approval of the Permitted Special Use Permit in conformity with this regulation, or the applicant fails to meet any of the prescribed conditions and safeguards; the Zoning Officer shall determine that the application is not in conformance with Article XIII and appropriate Permitted Special Use Standards (Section 1306.02). The application may then be considered by the Board of Adjustment as a Conditional Use permit (see Article V).

e.—If the Zoning Officer determines that the application is in conformance with Article XIII, the Zoning Officer shall make written findings certifying compliance with the specific standards governing Permitted Special Use Permits (Section 1306.02) and that satisfactory provisions and arrangements have been made concerning the prescribed conditions for the Permitted Special Use Permit (Section 1306.04). The Zoning Officer shall then issue the Permitted Special Use Permit subject to the applicant and designee of the Board of Adjustment signing the letter of assurance per Section 1306.04.

f.—The Zoning Officer shall report the issuance of the Permitted Special Use Permit to the Board of Adjustment at a regularly scheduled meeting where the Board's designee will sign the letter of assurance.

g.—The Zoning Officer shall then issue any other associated building/use permits.

h.—The Zoning Officer may refer any application for a permitted special use to the Board of Adjustment.

Section 1306.041. Permitted Special Use Letter of Assurance

As a requirement of Section ~~1306.02~~ **1304.10.e**, the following letter of assurance is to be signed by the applicant and Designee of the Grant County Board of Adjustment prior to the issuance of any **Permitted Special Use Class E Concentrated Animal Feeding Operation** Permit.

Prepared by:
Grant County Zoning Officer
Address
Milbank, SD 57252

Permitted **Special** Use Letter of Assurance

A **Permitted Special Use** Permit has been granted by the Grant County Zoning Officer to (Applicant Name) to operate a Class **E** Concentrated Animal Feeding Operation on property owned by (Applicant Name).

Property Location: _____

Permitted Special Use Standards and Conditions to be placed upon the **Permitted Special Use** Permit for a Class **E** Concentrated Animal Feeding Operation issued by the Grant County Zoning Officer on (date).

1. This **Permitted Special Use** Permit authorizes the use of the above described property for a Class **E** Concentrated Animal Feeding Operation consisting of (number animal units and species of animal)
2. The Concentrated Animal Feeding Operation site will comply with all setback requirements found in Article XIII, Section 1304.6 of the Grant County Zoning Ordinance.
3. The Concentrated Animal Feeding Operation will comply with all requirements of Section 1105 "Aquifer Protection Overlay District" of the Grant County Zoning Ordinance.
- ~~4. The applicant shall obtain a South Dakota Department of Environment and Natural Resources "General Permit" prior to the issuance of a County Permitted Special Use Permit and any associated building/use permits. Said "General Permit" shall serve as meeting the requirements of the Nutrient Management Plan and Manure Management Plan standards in Section 1304.3 and Section 1304.4 of the Grant County Zoning Ordinance.~~
- 5.4.** The applicant shall comply with the South Dakota Department of Environment and Natural Resources **or Natural Resources Conservation Services** Nutrient Management Plan and Manure Management Plan.
- 6.5.** The applicant shall provide updated information regarding the Nutrient Management Plan and Manure Management Plan upon request of the Zoning Officer.
- 7.6.** The applicant shall comply with all manure application setbacks per found in Section 1304.9 of the Grant County Zoning Ordinance.
- 8.7.** The applicant shall provide and comply with a management plan for fly and odor control consistent Section 1304.5.
- 9.8.** The applicant shall obtain a haul road agreement with the applicable road authority for construction and maintenance of roads associated with the Concentrated Animal Feeding Operation. Unless

otherwise agreed to between the Road Authority and the applicant, at Grant County requires, at a minimum, the applicant to abide by the haul road agreement terms found Grant County Resolution #2014-36.

~~10.9.~~ The ~~Permitted Special Use~~ Permit is transferable. Subsequent owners/operators will be required to agree to the terms of this permit.

~~11.10.~~ The applicant may be required to forfeit the ~~Permitted Special Use~~ Permit in the event there are either

- a. Violations of the ~~Permitted Special Use~~ Permit or other Grant County Zoning regulations or
- b. Failure of the manure management facility.

~~12.11.~~ Violation of the terms of this ~~Permitted Special Use~~ Permit will be determined by the Grant County Zoning Officer.

- a. The first violation substantiated by the Zoning Officer of this ~~Permitted Special Use~~ Permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one (1) calendar year of the previous violation may result in a review of the validity of the ~~Permitted Special Use~~ Permit and potential revocation of said permit. A third violation within one (1) calendar year of the initial violation may result in revocation of the ~~Permitted Special Use~~ Permit and cessation of all CAFO operations within forty-five days (45) of notice of revocation.
- b. The applicant may make appeal from the decision of the Zoning Officer or other agent of the Grant County Board of Adjustment to the Grant County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.
- c. Failure to comply with the decision of the Zoning Officer or other agent of the Grant County Board of Adjustment may be deemed a separate violation.

IN WITNESS WHEREOF, Grant County and the Grantor(s) have executed this ~~Conditional Use Permit~~ Letter of Assurance.

Applicant (Grantor)

Date

Chairperson
Grant County Board of Adjustment

Date

STATE OF SOUTH DAKOTA
SS:
COUNTY OF GRANT

This instrument was acknowledged before me on _____, 20__ by (Applicant), Grantor.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____ Notary Public
My Commission Expires: _____

STATE OF SOUTH DAKOTA
SS:
COUNTY OF GRANT

This instrument was acknowledged before me on _____, 20__ by _____, representing Grant County as the ~~Chairman~~ **Chairperson** of the Grant County Board of Adjustment.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____ Notary Public
My Commission Expires: _____

~~Section 259a. Permitted Special Use. A permitted special use is a use of buildings or land which are acceptable in a particular zoning district, provided the use is consistent with all conditions and standards set forth for the particular "permitted special use", together with any other conditions and standards set forth within Section 1306 of the Grant County Zoning Ordinance. The issuance of a permitted special use permit is administrative in nature.~~

Section 1303. Concentrated Animal Feeding Operation Permit Requirements

Owners of Class A, Class B, Class C, Class D, and Class E Concentrated Animal Feeding Operations are required to complete, where applicable, a building permit, ~~permitted special use permit~~ and/or conditional use permit application as follows:

Section 1304. Concentrated Animal Feeding Operation Control Requirements

2. State General Permit

- a. Class A, Class B, Class C Concentrated Animal Feeding Operations shall obtain a State General Permit pertaining to the animal species of the Concentrated Animal Feeding Operation. A County conditional use permit ~~or permitted special use permit~~ may be approved conditioned upon receiving a State General Permit. The issuance of a State General Permit satisfies the county's requirements for an approved nutrient management plan and manure management plan.

Section 1304.10e

- c. Conditional Use Permit applicants will be required to file a letter of assurances as required by the Board of Adjustment. **Class E Concentrated Animal feeding operations are required to sign the letter of assurance as provided in Section 1306.01.** The letter of assurances will be prepared by the zoning officer and/or Board of Adjustment and signed by both the applicant and the Board of Adjustment's designee. The permit for the concentrated animal feeding operation is based upon compliance with the regulations herein, and associated letter of assurances. Any violation of these regulations or non-compliance with the letter of assurances shall be cause for revoking a permit. If a violation of these regulations or non-compliance with the letter of assurance occurs, permit holders will be notified by registered mail and a hearing before the Board of Adjustment will be held concerning status of the permit. The Board of Adjustment shall either revoke the permit or set a time line for compliance. If compliance is not met, the permit shall be revoked and the permit holder ordered to cease operations.

Section 1101.03. Permitted Special Uses.

- ~~1. Class C, Concentrated Animal Feeding Operations. (See Concentrated Animal Feeding Operations, Article XIII.)~~

Section 1101.03 Conditional Uses

- ~~5. Reserved. Class C Concentrated Animal Feeding Operations that do not meet Concentrated Animal Feeding Operation Permitted Special Use Standards Section 1306.02~~
10. Class A, Class B, Class C, and Class D Concentrated Animal Feeding Operations. (See Concentrated Animal Feeding Operations, Article XIII.)

Section 1101.045. Area Regulations.

Section 1101.056. Height Regulations.

Section 1101.067. Access.

Section 1101.078. Easements/Waivers.

Amendment 1B

Amend Section 291 – Definition of Well

Section 291. Well, Established. A water producing well that is either registered with the State of South Dakota or has well logs on file with the South Dakota Department of Environment and Natural Resources or has been used for more than one wee for water production on a quarterly basis with the past two (2) years **as established by sworn affidavit and filed as a miscellaneous document with the Grant County Register of Deeds.**

Amendment 1C

Amend Table 1304.1 by changing setback from a private well from 250' to 500'

**Table 1304.1
Minimum Setbacks* ^^**

Number of Animal Units	Less than 350 Animal Units	350 to 699 Animal Units	700 to 999 Animal Units	1,000 to 1,999 Animal Units	2,000 to 3,499 Animal Units	3,500 to 4,999 Animal Units	5,000 to 6,999 Animal Units	Over 7,000 Animal Units
Established Residences	660 feet	1,320 feet	1,980 feet	2,640 feet	3,300 feet	3,630 feet	3,960 feet	5,280 feet
Churches, Businesses and Commercially Zoned Areas	2,640 feet	2,640 feet	2,640 feet	2,640 feet	3,960 feet	3,960 feet	3,960 feet	5,280 feet
Incorporated Municipality Limits	2,640 feet	2,640 feet	2,640 feet	2,640 feet	3,960 feet	3,960 feet	3,960 feet	5,280 feet
Established Private Water Well***	<u>250</u> <u>500</u> feet							
Existing Public Water Well	1,000 feet	2,640 feet						
Lakes and Streams classified as Fisheries as identified by the State	200 feet	200 feet	200 feet	500 feet				
Federal, State & County Road ROW								
Confinement	200 feet	200 feet	200 feet	300 feet				
Open Lot	50 feet							
Township Road ROW								
Confinement	150 feet							
Open Lot	50 feet							

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

^^ The Board of Adjustment may utilize Section 1304.7 and 1304.8 to increase or decrease the required setback.

*** Setback does not apply to the wells of the CAFO operator. The 250 foot setback will be applied when monitoring wells are utilized and when an impervious liner is used in conjunction with an earthen storage basin or lagoon. In the event monitoring wells and impervious liners are not utilized with the manure management facility the setback from established private wells, not to include the CAFO operator, shall be two thousand six hundred forty (2,640) feet.

Township Road ROW								
Confinement	150 feet							
Open Lot	50 feet							

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

^^ The Board of Adjustment may utilize Section 1304.7 and 1304.8 to increase or decrease the required setback.

*** Setback does not apply to the wells of the CAFO operator. The 250 foot setback will be applied when monitoring wells are utilized and when an impervious liner is used in conjunction with an earthen storage basin or lagoon. In the event monitoring wells and impervious liners are not utilized with the manure management facility the setback from established private wells, not to include the CAFO operator, shall be two thousand six hundred forty (2,640) feet.

Amendment 1H

Amend Section 235b by eliminating term “non-seasonal” from definition

Section 235b. Established Residence. A ~~non-seasonal~~ dwelling established before the siting of a new concentrated animal feeding operation or the expansion of an existing concentrated animal feeding operation.