

# CONDITIONAL USE PERMIT REQUIREMENTS FOR CAFO'S

Included within this packet:

Page #3 - What Is a CAFO?

Page #3 - Who Needs a Conditional  
Use Permit?

Page #4 - Application Requirements  
for a CAFO CUP

Page #5 - Site Plan Elements

Page #6 - Example Site Plan

Page #7 - Example Landscape &  
Grading Plan

Pages # 8 - 11 - Ordinances

Page #12 - Additional Definitions

Page #13 - Conditional Use Permit  
Criteria

Supporting Forms

Back Page - Helpful Resources



## **The Purpose of This Brochure**

**This brochure is to be used as a guide for those seeking a conditional use permit (CUP) for a confined animal feeding operation (CAFO). The ordinances within this brochure can be found in the 1990 Revised Zoning Ordinance for Minnehaha County. This brochure is meant as a guide and is not meant to be used in place of legal advice.**

**If you have any questions regarding specific requirements, we encourage you to seek legal advice. Before this application is submitted to the Planning and Zoning Commission, the operator of the proposed facility shall meet with the Planning Director to discuss application requirements.**



## Who Needs a Conditional Use Permit?

- All new Class C or higher CAFO's require a CUP.
- Any existing or Class D CAFO that seeks to expand but do not meet the requirements of Section 3.03.

## What Is a CAFO?

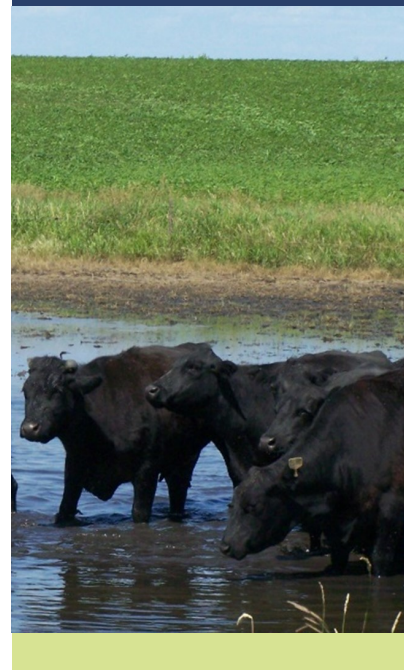
CAFO stands for Concentrated Animal Feeding Operation. The term is divided into several categories based on size and existing versus new facility.

**Defined:** A lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of 90 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. For the purpose of these regulations, a concentrated animal feeding operation is further divided into the following classes:

Class A	2,000 or more Animal Units
Class B	1,000 to 1,999 Animal Units
Class C	250 to 999 Animal Units
Class D	50 to 249 Animal Units

**Existing CAFO:** An operation of at least 50 animal units which existed on May 26, 1998.

All new or expanding CAFOs require at a minimum to obtain a zoning permit. Therefore, prior to the start or expansion of any CAFO, please meet with Planning & Zoning staff to determine the requirements of any size CAFO.





## Application Requirements for a CAFO CUP

A CAFO that requires a CUP must meet the minimum standards in Article 12.10 regulating CAFO's in the zoning ordinance as well as all regular requirements in Article 19.00 regulating CUP's. The following is a short list of elements that are required for all applications at the time of submittal for a CUP. **An application will not be accepted if any of these elements are missing or insufficient.** Additional information and requirements may apply depending upon your circumstances. Therefore, meet with Planning staff and review the ordinance before application.

- ☐ A description of type and animal units of proposed CAFO.
- ☐ A comprehensive site plan - (see Site Plan Elements on page # 5 for more information) .
- ☐ Submit plans for dead animal disposal.
- ☐ Meet separation requirements from water resources in Table 1 of the ordinance - (see page # 11 for table)
- ☐ Meet separation requirements from neighboring land uses in Table 2 of the ordinance - (see page # 11 for table)
- OR**
  - Obtain signed waivers of resident landowners within separation buffers
- AND/OR**
  - Submit resolution from city council to reduce setback from municipality.
  - Submit Conservation District or Professional Landscape Architect plan for shelter belt between CAFO and residence without waivers.
- ☐ Submit a manure management plan that includes the following:
  - Location and description of the manure containment facilities and structures.
  - Description of type of manure and method of storage.
  - Description of the proposed method and schedule for manure application.



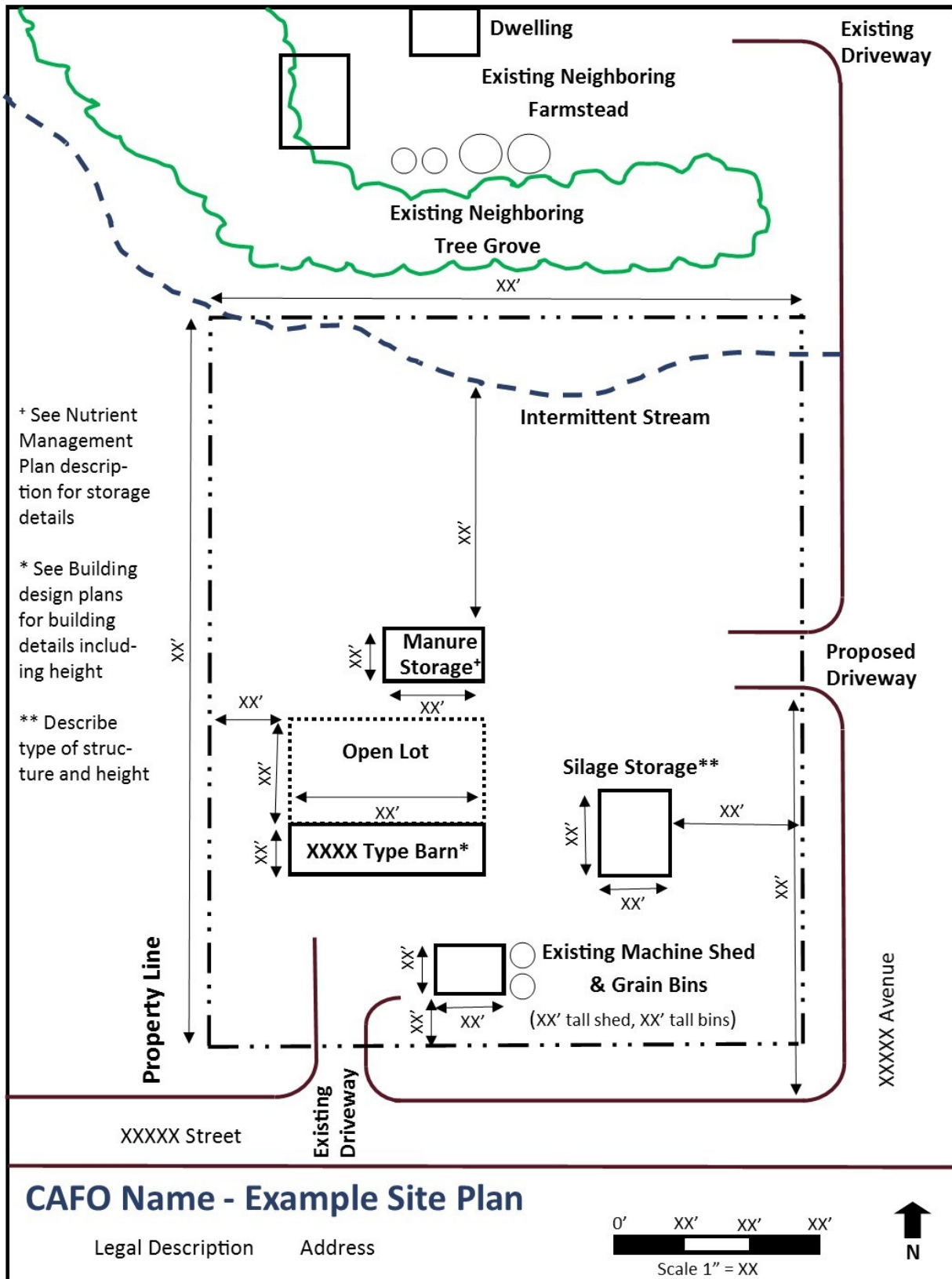
# Site Plan Requirements

In addition to the following information, plans must be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this ordinance and all relevant laws, rules, and regulations.

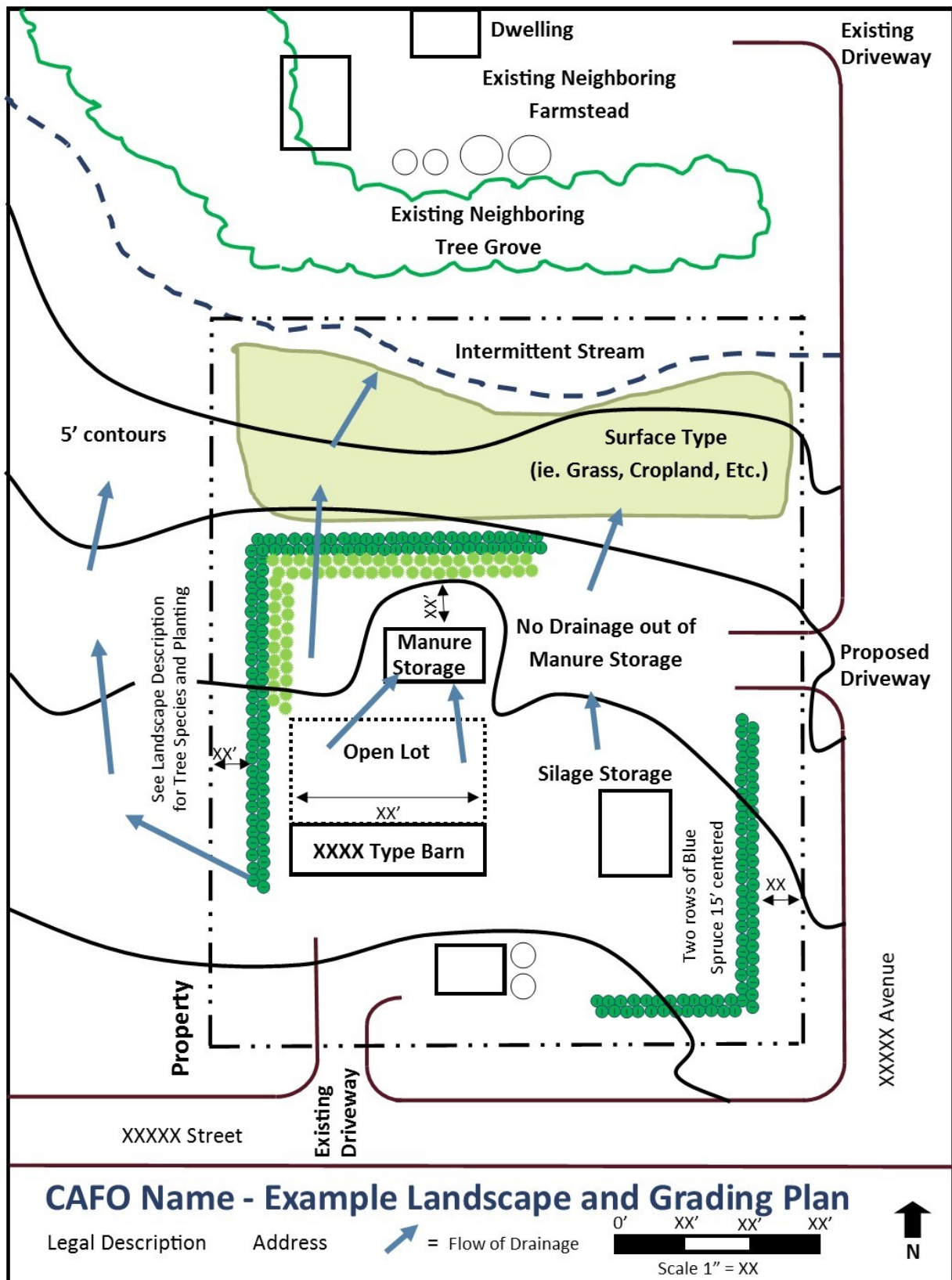
- ☐ The address of the property and the legal description.
- ☐ The name of the project and/or business.
- ☐ The scale and north arrow.
- ☐ All existing and proposed buildings or additions.
- ☐ Dimensions of all buildings.
- ☐ Distance from all building lines to the property lines at the closest points.
- ☐ Building height and number of stories.
- ☐ Dimensions of all property lines.
- ☐ Parking lots or spaces; designate each space, give dimensions of the lot, stalls, and aisles.
- ☐ Screening; show height, location, and type of material to be used.
- ☐ The landscaped setback and trees; indicate species of trees and material to be used for landscaping.
- ☐ Name and location of all adjacent streets, alleys, waterways and other public places.
- ☐ A grading plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens.
- ☐ Location and description of the manure containment facilities and structures.
- ☐ If required - a shelterbelt plan approved by a Professional Landscape Architect.

Examples of site plans are provided on pages # 6 and # 7

# Example Site Plan



# Example Landscape & Grading Plan



# Ordinances:

CAFO's are regulated in the 1990 Revised Zoning Ordinance for Minnehaha County in several places. Some of these regulations have already been cited in this brochure, and these are signified by a blue colored number and an all capital letter name depicting the article and section of the ordinance. Bellow is the complete Section 12.10 of Article 12.00. This section provides requirements for CAFO's that must obtain a CUP. If all the requirements are not met sufficiently, then the CUP application may be deferred or denied.

## ARTICLE 12.00 ADDITIONAL USE REGULATIONS

### 12.10 CONCENTRATED ANIMAL FEEDING OPERATIONS

#### (A). Intent.

The raising of livestock is a regular and normal function of agriculture. It is the intent of this section to provide for viable livestock production within agriculturally zoned areas of Minnehaha County, protect ground and surface waters, and ensure that concentrated animal feeding operations are properly sited, maintained, and managed.

#### (B). Water Source Protection Areas and Floodplains.

A concentrated animal feeding operation – new shall not be permitted in the Water Source Protection Overlay District or within a floodplain.

#### (C). Application Procedures and Requirements. *(amended by MC16-84-06)*

Prior to application submittal the operator of the proposed facility shall meet with the Planning Director to discuss application requirements.

The conditional use application shall be accompanied, at a minimum, by the following information.

- (1). A description of the type of concentrated animal feeding operation and the number of animals proposed for the facility.
- (2). A site plan of the proposed facility including:
  - (a). The location of all existing and proposed structures, including manure containment facilities and confinement buildings and corrals. All new structures and corrals shall be located a minimum of 50 feet from any property line.
  - (b). A grading plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens.
  - (c). All required site plan elements for a Conditional Use Permit as listed in Section 19.04.
- (3). A dead animal disposal plan which complies with South Dakota Animal Industry Board requirements. Temporary dead animal storage or disposal sites shall be screened or located out of site from neighboring dwellings and the adjacent right-of-way.
- (4). A manure management plan including the following information:
  - (a). Location and description of the manure containment facilities and structures.
  - (b). Description of type of manure and method of storage.
  - (c). Description of the proposed method and schedule for manure application.
- (5). Any applicable waivers for land use setback reduction as described in Section 12.10 (F).2.

#### (D). [Reserved]

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(E). Conditional Use Permit Requirements. (amended MC16-84-06)

A concentrated animal feeding operation which is granted a conditional use permit shall, at a minimum, meet the following requirements:

- (1). General Permit Requirement. A state general permit is required if any of the following situations are met.
  - (a) A general permit is required by the South Dakota Department of Environment and Natural Resources.
  - (b). A general permit is required by Minnehaha County as a condition of approval.
  - (c). When the 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 Minnehaha County, SD*
  - (d). A Class C CAFO is proposed to be located within 1,320 feet from an operating or permitted Class C CAFO or larger.
- (2). General Permit Record Keeping. When a state general permit is required, the operator shall maintain and have available the following records.
  - (a). The operator shall file copies of all state-approved construction plans with Planning and Zoning Department prior to the issuance of a building permit.
  - (b). The operator shall maintain all records required by the DENR including annual renewal forms. Copies shall be provided to the County upon request.
- (3). Construction Documents. The following documents are required, when applicable, before a building permit can be acquired.
  - (a). Structures. Any newly constructed structure that is greater than 60 feet wide must be designed by a professional engineer. A copy of the certified plans must be provided to the Planning Department.
  - (b). Manure Containment Facilities. Any newly constructed manure containment facility must conform to South Dakota Department of Environment and Natural Resources design standards. A registered professional engineer shall certify the plan specifications and inspect the construction of the facility. A copy of the certified plans must be provided to the Planning Department.

(F). Separation Requirements and Criteria for Concentrated Animal Feeding Operations.

- (1). Environmental Setbacks. A concentrated animal feeding operation shall comply with the minimum environmental separation requirements in Table 1.

Table 1 Concentrated Animal Feeding Operations Minimum Environmental Separation Requirements				
	Class A	Class B	Class C	Class D
Public Water Supplies	1,000 feet	1,000 feet	1000 feet	500 feet
Private Wells (other than owner's or operator's)	250 feet	250 feet	250 feet	250 feet
Private Wells (owner's or operator's)	150 feet	150 feet	150 feet	150 feet
Lakes, Rivers and Streams Classified as Fisheries	500 feet	200 feet	200 feet	200 feet
Intermittent Streams or waterways	100 feet	100 feet	100 feet	100 feet

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(2). Land Use Setbacks. The minimum separation criteria in Table 2 shall be used in siting a concentrated animal feeding operation. The minimum separation criteria may be increased based on site specific conditions. When a proposed operation does not meet the minimum separation criteria, the following alternatives may apply. (amended by MC16-157-18)

(a). Setback Reduction for Dwellings and Businesses.

1. A signed waiver from each landowner who owns land with a dwelling or business located closer than the minimum separation criteria.
2. In the absence of a waiver, the required setback may be reduced up to 50% if all of the following requirements are met:
  - i. The applicant must plant a shelter belt of trees between the proposed CAFO and the affected residence or business without a waiver.
  - ii. The shelterbelt must run the entire length of the footprint of the CAFO, and it must include a minimum of five rows of trees and consisting of both evergreen and deciduous species. Existing Trees may be considered towards meeting this requirement.
  - iii. The shelterbelt must be designed to provide a visual barrier and assist in the reduction of odor by the Minnehaha Conservation District or a Professional Landscape Architect.
  - iv. The shelter belt shall 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.

(b). Setback Reduction for Municipalities.

1. A waiver from the minimum setback requirements may be obtained in the form of a signed resolution from the affected municipality's elected body.

Table 2 Concentrated Animal Feeding Operations Minimum Separation Criteria			
	Class A	Class B	Class C
Dwellings, Churches, and Businesses	3,960 ft (3/4 Mile)	1,980 ft (3/8 Mile)	1,320 ft (1/4 Mile)
Public Parks and Schools	5,280 ft (1 Mile)	2,640 ft (1/2 Mile)	1,980 ft (3/8 Mile)
Municipal Boundaries By the Following Municipal Classifications as of the most recent Census Data			
First Class (Population of 5,000 and more)	13,200 ft (2 & 1/2 Miles)	7,920 ft (1 & 1/2 Mile)	5,280 ft (1 Mile)
Second Class (Population between 500 and 5,000)	7,920 ft (1 & 1/2 Mile)	5,280 ft (1 Mile)	3,960 ft (3/4 Mile)
Third Class (Population Less than 500)	5,280 ft (1 Mile)	3,960 ft (3/4 Mile)	2,640 ft (1/2 Mile)

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(G). Manure Application Requirements.

(1). The minimum separation requirements in Table 3 shall apply to the application of manure from a concentrated animal feeding operation.

Table 3 Manure Application Sites Minimum Separation Requirements		
	Manure, Surface Applied	Manure, Incorporated or Injected
Lakes, Rivers and Streams Classified as Fisheries	300 feet	100 feet (lake) 50 feet (river or stream)
Rivers, Streams and Lakes Classified as Drinking Water Supplies	1,000 feet	300 feet
Intermittent Stream or Waterway	200 feet	50 feet
Public Wells	1,000 feet	1,000 feet
Private Wells	250 feet	250 feet
Residence (other than operator)	300 feet (surface)	50 feet
Municipalities	1,000 feet	300 feet

(2). Liquid Manure Application.

(a). The accumulation of manure or bedding in a location other than where it is generated is prohibited unless approved through a combination of conditional use permit and state general permit.

(b). All liquid manure shall be injected to provide for better agronomic benefits and to reduce the potential for runoff and minimize odor. Liquid manure may be surface applied if approved by the State DENR as part of a nutrient management plan or for emergency discharge. Documentation of state approval shall be maintained by the CAFO operator and be available upon request by the Planning Department.

(c). The Planning Director may approve surface application of livestock production surplus water upon receiving an application from the producer that is approved by a certified crop consultant or registered engineer. Such application shall include:

1. The results of tests on the livestock production surplus water proposed for surface application which shows the percentage of solids and the amount of N (nitrogen) per 1000 gallons of water.
2. The amount of livestock production surplus water to be applied.
3. A map showing the areas on which the producer proposes to surface apply the livestock production surplus water including soil types, slopes, and the required separations from natural features or adjoining land uses.
4. The separation requirements in Table 3, Section 12.10 (G) shall be met.

(3). Other Than Liquid Manure Application.

(a). The accumulation of manure or bedding in a location other than where it is generated is prohibited unless approved through a combination of conditional use permit and state general permit.

(b). Manure may not be spread thicker than 3 inches on tillable soil and 1 inch on frozen soil.

(c). Manure may not be spread on a slope greater than 6% without incorporation.

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## Additional Definitions

**AGRICULTURE**. The use of land for agricultural purposes including farming, dairying, raising, breeding, or management of livestock, poultry, or honey bees, truck gardening, forestry, horticulture, floriculture, viticulture, and the necessary accessory uses for packaging, treating or storing the produce providing that the operation of any such accessory use shall be secondary to the normal agricultural activities.

**CONTAINMENT FACILITY, PRIMARY**. The tank, pit, container, pipe, enclosure, or vessel of first containment of a regulated substance.

**CONTAINMENT FACILITY, SECONDARY**. A second level of containment outside the primary containment facility designed to prevent a regulated substance from reaching land or waters outside the containment area.

### **ANIMAL UNIT.**

A unit of measurement based on the amount of waste produced by the animal. For the purposes of this ordinance animal units (AU) shall be calculated according to the following chart. Animal units relate to inventory rather than annual production. Animal units are computed by multiplying the number of head of a particular animal times the corresponding animal unit equivalent. Other animal species equivalent which are not listed will be based on species' manure production.

Animal Species	Animal Unit Equivalent (AU/Head)
Feeder or Slaughter Cattle	1.0
Mature Dairy Cattle	1.4
Finisher Swine (over 55 lbs.)	0.4
Nursery Swine (less than 55 lbs.)	0.1
Farrow-to-Finish (sows)	3.7
Swine Production Unit (sows, breeding, gestating, and farrowing)	0.47
Horses	2.0
Sheep	0.1
Turkeys	0.018
Laying Hens and Boilers (liquid manure handling system)	0.033
Chickens, other than laying (other than liquid manure handling system)	0.008
Laying Hens (other than liquid manure handling system)	0.012
Ducks (liquid manure handling system)	0.2
Ducks (other than liquid manure handling system)	0.033



# Conditional Use Permit Criteria

In addition to requirements listed specifically for CAFO's, a application for a CAFO CUP will be reviewed according to the following criteria that is used for consideration of all conditional use permit applications.

## **ARTICLE 19.00 CONDITIONAL USE PERMITS**

**19.05(D) CONDITIONAL USE PERMIT CRITERIA.** The following criteria shall be considered by the Planning Commission in their review of Conditional Use Permit applications:

1. The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.
2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. That utilities, access roads, drainage, and other necessary facilities are provided.
4. That the off-street parking and loading requirements of these Zoning Ordinances are met.
5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.
6. Health, safety, general welfare of the public and the Comprehensive Plan.

These criteria shall be in addition to any specific criteria set forth under various conditional uses in Articles 3.04, 4.04, 5.04, 6.04, 7.04, 8.04, 9.01, and 12.00.



# Helpful Resources

Many resources are available for information and tools to assist in applying for a CAFO CUP. The use of these may be helpful, but it is not required and it does not guarantee approval of the CUP application.

**Minnehaha County MinnEMap:** An interactive online map of the county  
[gis.minnehahacounty.org](http://gis.minnehahacounty.org)

**Minnehaha County Conservation District Website:**  
[www.minnehahacd.org](http://www.minnehahacd.org)

**SD DANR Concentrated Animal Feeding Operations Web Page:** Many questions can be answered and tools area available through the DANR including nutrient management and the General Permit Application.

**NRCS Conservation Information for Minnehaha County:** Including Technical Notes on Various Subjects  
<https://efotg.sc.egov.usda.gov/#/state/SD/documents/section=1&folder=13481>



Strong Foundation. Strong Future.

## Contact Us

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