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. This definition shall not include intensive agricultural activities such as concentrated animal feeding operations and agribusiness activities.~~ The production, keeping, or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program. This does not include packing plants or animal rendering operations.

CONCENTRATED ANIMAL FEEDING OPERATION - An animal feeding operation that meets the following criteria for a large, medium or small concentrated animal feeding operation ~~in Section 3.07.~~:

1. A large concentrated animal feeding operation as described in Table 1 in Section 3.07.

2. A medium concentrated animal feeding operation as described in Table 1 in Section 3.07 and meets one of the following conditions: 1) Pollutants are discharged into waters of the state through a man-made ditch, flushing system, or other similar man-made device; or 2) Pollutants are discharged directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

3. A small concentrated animal feeding operation as described in Table 1 in Section 3.07 and designated as a concentrated animal feeding operation by the Secretary of the South Dakota Department of Environment and Natural Resources, or authorized representative, considering the following factors:

    a. The size of the animal feeding operation and the amount of manure or process wastewater reaching waters of the state;
    b. The location of the animal feeding operation in relation to waters of the state;
    c. The 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 manure and process wastewater into waters of the state.

LICENSED INSURANCE PROFESSIONAL – An individual licensed by the State to sell insurance for one or more specific insurance companies.

SECTION 3.07 Animal Feeding Operations (AFO) and Concentrated Animal Feeding Operations (CAFO)

1. Intent. It is the intent of this section to provide for a viable livestock industry within agriculturally zoned areas of Clay County, protect ground and surface waters, and ensure that animal feeding operations and concentrated animal feeding operations are properly sited, maintained and managed.

2. State General Permit. ~~A General Water Pollution Control Permit shall be obtained from the Department of Environment and Natural Resources for all Large, Medium and Small A Concentrated Animal Feeding Operations (CAFOs) sited in Clay County.~~ When a General Water Pollution Control Permit is required by the South Dakota Department of Environment and Natural Resources (DENR), the operator shall file copies of all state-approved construction plans with the County.

3. County Conditional Use Permit. Any person who owns, operates, or proposes to own or operate a~~ny~~ Large, Medium ~~and~~/or Small A Concentrated Animal Feeding Operation (CAFO) or a Medium Animal Feeding Operation (AFO) shall obtain a conditional use permit whenever the following occurs: or
   - a new operation is proposed where one does not exist; or
   - a new owner takes over an existing operation; or
   - the number of animals confined at an existing permitted operation increases beyond what a current permit allows; or
   - ~~or~~ the species of confined animals changes; ~~the number of animals confined at a pre-existing operation increases or the species of confined animals changes;~~ or
   - a signed complaint is received or made by the Clay County Zoning Administrator or the South Dakota Department of Environment and Natural Resources and inspection reveals that the operation is in violation of county, state or federal regulations.

   A County conditional use permit for Concentrated Animal Feeding Operations may be approved conditioned on receiving State approval.

4. Number of Animals for Animal Feeding Operations and Concentrated Animal Feeding Operations. For the purpose of these regulations, Animal Feeding Operations and Concentrated Animal Feeding Operations are divided into Large, Medium, Small A and Small B operations. The following table defines each type of animal confinement (species) with the number of animals indicated. ~~All animal classifications are based upon the standard animal numbers incorporated into the SD Department of Environment and Natural Resources (SD DENR) General Permit for feedlot operation.~~

Table 1. Number of Animals to Define ~~Large, Medium, and Small~~ Animal Feeding Operations and Concentrated Animal Feeding Operations				
Species of Animal Feeding Operation	**Large Animal Numbers Equal to:**	**Medium Animal Numbers Equal to:**	**Small ~~A~~ Animal Numbers Equal to:**	**~~Small B Animal Numbers Fewer Than:~~**
Dairy cows (mature milked or dry)	~~700 to 3,500~~ (see paragraph A below)	200to 699	~~5~~1 to 199	~~50~~
Veal Calves	1,000 to 5,000*	300 to 999	~~75~~1 to 299	~~75~~
Cattle other than mature dairy cows or veal calves[1]	1,000 to 5,000*	300 to 999	~~75~~1 to 299	~~75~~
Swine (weighing more than 55 pounds)	2,500 to 12,500*	750 to 2,499	~~187~~1 to 749	~~187~~
Swine (weighing less than 55 pounds)	10,000 to 50,000*	3,000 to 9,999	~~75~~1 to 2,999	~~750~~
Horses	500 to 2,500*	150 to 499	~~37~~1 to 149	~~37~~
Sheep or Lambs	10,000 to 50,000*	3,000 to 9,999	~~75~~1 to 2,999	~~750~~
Turkeys	55,000 to 275,000*	16,500 to 54,999	~~4,125~~1 to 16,499	~~4,125~~
Laying hens or broilers[2]	30,000 to 150,000*	9,000 to 29,999	~~2,25~~1 to 8,999	~~2,250~~
Chickens, other than laying hens[3]	125,000 to 625,000*	37,500 to 124,999	~~9,375~~1 to 37,499	~~9,375~~
Laying hens[3]	82,000 to 410,000*	25,000 to 81,999	~~6,25~~1 to 24,999	~~6,250~~
Ducks[2]	5,000 to 25,000*	1,500 to 4,999	~~375~~1 to 1,499	~~375~~
Ducks[3]	30,000 to 150,000*	10,000 to 29,999	~~2,5~~1 to 9,999	~~2,500~~
Geese	30,000 to 150,000*	10,000 to 29,999	~~2,5~~1 to 9,999	~~2,500~~

* County imposed cap limit is five times the minimum number of animals for a large operation.
[1] Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.
[2] Operation uses a liquid manure handling systems.
[3] Operation uses other than a liquid manure handling system.

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

A. Any person who owns or operates or proposes to own or operate a dairy of 700 or more animals shall be identified as a Large Concentrated Animal Feeding Operation (CAFO) and shall be required to obtain a conditional use permit from Clay County prior to construction and/or operation of such dairy. This includes new operations, expansion of a current operation, changing the species of a current operation to dairy, and/or restocking a previously permitted operation which has been vacant and not operating. The maximum number of animals allowed in a Large Dairy CAFO is 5,600.

The applicant shall include the following information in the application:

- The highest estimated number of animals that would be part of the CAFO, including cow/calf pairs. Clay County recognizes that animal numbers fluctuate in a CAFO and

requests the applicant to project animal numbers at the highest the operation would support.

- An estimate of the truck traffic for hauling milk, feed and manure.
- A manure management plan including signed agreements securing sufficient land for disposal of manure or waste as required by the size of the operation (may be part of the General Water Pollution Control permit).

The Planning Commission has the authority to deny a conditional use permit to any dairy operator if the operation is deemed too large to be supported by the infrastructure in Clay County and/or poses an unreasonable environmental hazard to Clay County.

5. Standards for Animal Feeding Operations and Concentrated Animal Feeding Operations

A. Required Minimum Setbacks, Reverse Setbacks and Separation Distances for Animal Feeding Operations and ~~New and Expanded Large, Medium and Small A~~ Concentrated Animal Feeding Operations, and Manure Storage. There shall be a minimum setback, reverse setback and separation distance for all new and expanded animal feeding operations and concentrated animal feeding operations, change in operation and manure storage as defined in these regulations. These distances are minimums, and may be increased under the terms of a Conditional Use Permit based on considerations and characteristics of the neighborhood, including but not limited to adjoining or nearby uses within the same or different districts and prevailing wind direction. For the purpose of this section, the following definitions shall apply:

Reverse Setback - A required minimum separation distance, as specified in these regulations, which begins at the production area and terminates at the proposed structure/use. The required minimum separation distance shall be measured from the closest points of the two respective structures/uses. Reverse setbacks shall be required only when explicitly mandated by this ordinance.

Setback - The required minimum distance from any structure/use to a production area. Setbacks shall be measured from the production area to the structure/use as identified on the "Setback Chart".

	Large	Medium	Small A
Dwellings, Churches, Schools, Businesses, Cemeteryies and Public Use Areas Designated State and County Parks	¾ mile 3,960 feet	½ mile 2,640 feet	¼ mile 1,320 feet
Incorporated Municipalitiesy Limits (Irene, Vermillion*, Wakonda)	1 mile 5,280 feet	1 mile 5,280 feet	1 mile ** 5,280
Swine Feeding Operation	1 ¼ miles 6,600 feet	¾ mile 3,960 feet	½ mile 2,640 feet
Public Water Supplies	½ mile 2,640 feet	½ mile 2,640 feet	¼ mile1,320 feet
Private Wells (other than owner's or operator's)	250 feet1,320	250 feet1,320	250 feet1,320
Private Shallow Wells (owner's or operators)	¼ mile 150 feet	¼ mile 150 feet	¼ mile 150 feet
Waters of the State	500 feet300 feet (Lakes) 200 feet (river & stream)	500 feet 300 feet (Lakes) 200 feet (river & stream)	500 feet 300 feet (Lakes) 200 feet (river & stream)
Federal, State, & and County Road ROW	300 150 feet	200 150 feet	200 150 feet
Township Road ROW	300 150 feet	200 150 feet	200 150 feet
Designated 100 Year Flood District	Prohibited	Prohibited	Prohibited
Designated Aquifer Protection District – Zone A	Prohibited	Prohibited	Prohibited
Designated Aquifer Protection District – Zone B	Prohibited	Allowed***	Allowed***

*For Vermillion, also see requirements of Joint Jurisdiction Zoning, City of Vermillion/Clay County.
**The Planning Commission may adjust the setbacks on a site by site basis.
***Allowed provided the use is not prohibited or further regulated by Section 4.05.08 APO: Aquifer Protection Overlay District.

B. Exemptions from Setbacks, Reverse Setbacks and Separation Distances. If an Applicant wishes to place an Animal Feeding Operation or a Large, Medium and Small A Concentrated Animal Feeding Operation closer than the separation distances set forth in these regulations, the Applicant can request an Exception for the separation distance from the Planning Commission. The Planning Commission may allow an exception from the separation distance provided that the Applicant obtains waivers from the owners of property within the separation distance. Any authorized landowner that is within the separation distance may waive the separation distance through a written instrument to be filed with the Clay County Register of Deeds. This waiver would run with the land.

C. Manure Application Setbacks. The following manure application setbacks apply to all classes of Animal Feeding Operations and Concentrated Animal Feeding Operations.

COUNTY MANURE APPLICATION SETBACKS

CATEGORY	SURFACE OR IRRIGATION APPLIED	INCORPORATED OR INJECTED
Waters of the State	300 feet (lakes) 200 feet (river & stream)	100 feet (lake) 100 feet (river & stream)
Stream & Lakes classified as Drinking Water supplies	1,000 feet	300 feet
Public Roads	25 feet (surface) from right-of-way 300 feet (irrigation)	10 feet from right-of-way
~~Dwellings~~	~~300 feet (surface)~~ ~~1,000 feet (irrigation)~~	~~300 feet~~
Public Wells	1,000 feet	1,000 feet
Private Shallow Wells	250 feet	250 feet
~~A~~ Residence other than ~~the~~ Operator	300 feet (surface) 1,000 feet (irrigation)	300 feet
Natural or Manmade Drainage Ditch or Canal	100 feet	100 feet

D. Fly and Odor Control. Animal Feeding Operations and Concentrated Animal Feeding Operations shall dispose of dead animals, manure, and wastewater in such a manner as to control odors and flies. The Planning Commission will review the need for control measures on a site specific basis, taking into consideration prevailing wind direction and topography. The county conditional use permit shall consider the following standards.

1. Methods to be utilized to dispose of dead animals by burial, burning, rendering, or composting approved by the South Dakota Animal Industry Board. If the dead animal is disposed by rendering, it must occur within seven days from date of death.

2. Plant adequate trees and shrubs to screen the lagoons or containment structure to help control odors and improve aesthetics.

3. A grading plan designed to help keep pens and solid waste containment areas dry.

4. Require a plan that details the removal of manure from open pens as frequently as possible to minimize odor production.

5. Animal Feeding Operations and Concentrated Animal Feeding Operations may utilize vertical storage systems, deep pit concrete lined holding ponds, or holding ponds with approved impermeable liners for manure storage.

E. The Planning Commission may request information relating to the operation not contained in these regulations.

F. The Planning Commission may impose, in addition to the standards and requirements set forth in these regulations, additional conditions which are reasonable and related to the use being controlled.

G. Conditional use permits 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.

H. When considering an application, the Planning Commission will take into consideration current and past violations relating to Concentrated Animal Feeding Operations that the applicant has had an interest in.

~~I. Change in Ownership. With a change in ownership and completed sale of any AFO or CAFO, the new owner is required to bring the operation's manure management plan and nutrient management plan to current specifications.~~

~~K~~J. Water containing waste must not be allowed to migrate from the area of application.

K. An applicant may expand a Small AFO/CAFO to a Medium AFO/CAFO even if a dwelling is located within the separation distance, provided the applicant meets the following requirements:

- The use is allowed in the zoning district
- The operation must be in existence prior to the promulgation of the ***(2016)*** regulations
- The operation must exist as a Small AFO/CAFO prior to the dwelling/structure being built
- Operator must provide plans for a barrier between the operation and the structure such as trees, berm, or other barrier approved by the Planning Commission
- The expansion must take place in a direction that does not reduce the existing setback between the operation and the dwelling/structure.

These requirements may be waived by the Planning Commission due to extenuating circumstances such as lay of the land or a water course. The affected landowner may provide a written waiver of these requirements as stated in paragraph 3.07 (5)(B).

6. Information Required for ~~Concentrated Animal Feeding Operation Permit~~ a Clay County Conditional Use Permit.

Prior to consideration by the Planning Commission, the applicant for a conditional use permit for a Medium Animal Feeding Operation or a C~~c~~oncentrated ~~a~~Animal ~~f~~Feeding ~~o~~Operation shall provide the following information to the Clay County Zoning Administrator:

A. Owner's, manager's, management company's or similar entity's names, addresses and telephone numbers.

B. Legal description of site.

C. Number and species.

D. Fly and odor control plan.

E. Information on ability to meet designated setback requirements, including maps showing measured distances.

F. General Water Pollution Control (GWPC) Permit from the South Dakota Department of Environment & Natural Resources ~~as~~if required. A letter may be requested from the DENR as to whether or not the site requires a GWPC.

G. ~~Plans and Specifications and Nutrient Management Plan.~~A plan for disposal of dead animals and manure.

H. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.

I. Site Plan of the land utilized for manure application and written agreements for application on land not owned by the applicant.

J. Road haul/maintenance agreements with the township, county or state.

~~J~~K. Applicant is required to obtain and maintain liability insurance of an adequate amount determined by a licensed insurance professional. This insurance is intended to provide funds to ensure proper clean-up of any environmental damage caused by the operation of the AFO or CAFO and/or to ensure proper closure of the confinement operation. Applicant will provide the County with Proof of Insurance when insurance is obtained or thirty (30) days after construction is completed. Zoning Administrator will also request the insurance company to notify Zoning Administrator if insurance is not maintained.

~~Proof of insurance, bond, or other assurance of adequate funds set aside by the owner of a CAFO in a site-specific amount determined by a competent professional sufficient to ensure proper clean-up of any environmental damages that might occur and to insure proper closure of the confinement operation.~~

4.05.01 NRC: NATURAL RESOURCE CONSERVATION DISTRICT

Purpose
The purpose of this district is to preserve lands best suited for natural drainage areas, public open space, and agricultural uses from encroachment by incompatible uses. The area will also provide protection from floods and erosion, protect natural drainage courses in their capacity to carry runoff water, limit permanent structures and uses of land in areas subject to flooding, protect views, preserve natural settings for wildlife habitats, add to the aesthetic quality of the community, prevent the destruction or pollution of valuable and irreplaceable natural resources, and lessen the urban density.

Permitted Uses
Agriculture
Farm drainage
Irrigation systems
Historic sites
Fences
Public parks and recreation areas
Fish hatcheries
Minor home occupation in conformance with Section 3.09(A)
Wireless communication facility on existing support structure
Accessory use and structure
Single-family dwelling if the following provisions for building eligibility are met:

1. Each quarter-quarter section shall have three building eligibilities when all the following conditions are met:
   a. The building site shall be a minimum of two acres.
   b. Approval has been granted by the appropriate governing entity for access onto a public road.
   c. The remaining portion of the quarter-quarter section is retained as agricultural land or in its present use.
   d. Prior to any building permit being issued for any new single family residence located in the ~~A-1 Agriculture District~~NRC: Natural Resource Conservation District, a Right to Farm Covenant shall be filed with the Clay County Register of Deeds on the parcel of land upon which the new structure will be located. Only the following shall constitute a Right to Farm Covenant:

"**RIGHT TO FARM NOTICE COVENANT**

You are hereby notified that the property on which you are constructing a structure is in or near agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facility operations. Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; draining of lands; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the

operation of machinery (including aircraft) during any 24-hour period. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for agricultural or agricultural processing operations to expand. This notification shall extend to all landowners, their heirs, successors or assigns and because it is required pursuant to the issuance of a building permit, may not be removed from the record title without consent of the Clay County Planning Commission."

~~Concentrated animal feeding operations (Small B)~~

Conditional Uses

Golf courses
Private outdoor recreation areas
Public utilities
Major home occupation in conformance with Sections 3.09(B) and 3.09(C)
Bed and breakfast establishment
Utility facility
Electrical substation
Wind energy conversion systems
The transfer of a building eligibility from one parcel to another parcel when all the following conditions are met:

1. The transfer of building eligibility shall occur only between contiguous parcels under the same ownership. For purposes of this section, same ownership means: Two or more parcels of land owned or controlled by an individual or combination of individuals, corporations, partnerships, or other legal entities; with said owners described uniformly on the deed or other legally binding conveyance of each parcel.
2. The minimum lot size shall be two acres but a larger area may be required when soil conditions warrant.
3. The parcel from which the eligibility is transferred shall continue as agricultural land or remain in its present use.
4. Approval has been granted by the appropriate governing entity for access onto a public road.

Mobile home/manufactured home in conformance with Section 3.10 and a building eligibility shall exist on the parcel
Single-family dwelling located on a lot of record

Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	2 acres	200 feet see #1	50 feet	30 feet	75 feet	35 feet

Exceptions:

1. A lot having an area or width less than required under the provisions of the NRC zone and which was recorded under separate ownership from adjoining lots at the effective date of this ordinance may be occupied by a single-family dwelling or by any other permitted nonresidential use. Whenever a lot in the NRC District at the effective date of this ordinance has a width of less than 200 feet, the side yards may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than eight feet.

2. There shall be setbacks from the ordinary high water mark (OHWM) on lots that abut or are within seventy-five feet of a navigable waterbody. The setback for all structures shall be one hundred twenty-five feet from the OHWM of the Missouri National Recreational River (MNRR) and seventy-five feet from the OHWM of any other navigable waters to the nearest part of such structure, except for boathouses, boat shelters, piers, private sewage systems, water wells, stairways, walkways and lifts which may be permitted by the terms and conditions of this Ordinance.

4.05.02 A-1: AGRICULTURAL DISTRICT

Purpose
The purpose of this district is to provide for a vigorous agricultural industry by preserving for agricultural production those agricultural lands beyond areas of planned development.

Permitted Uses
Agriculture
Farm drainage systems
Irrigation systems
Historic sites
Kennels
Public parks and recreation areas
Roadside stands
Greenhouse/nursery
Accessory use and structure
A single-family dwelling if the following provisions for building eligibility are met:

1. Each quarter-quarter section shall have three building eligibilities when all the following conditions are met:
   a. The building site shall be a minimum of two acres.
   b. Approval has been granted by the appropriate governing entity for access onto a public road.
   c. The remaining portion of the quarter-quarter section is retained as agricultural land or in its present use.
   d. Prior to any building permit being issued for any new single family residence located in the A-1 Agriculture District, a Right to Farm Covenant shall be filed with the Clay County Register of Deeds on the parcel of land upon which the new structure will be located. Only the following shall constitute a Right to Farm Covenant:

      "**RIGHT TO FARM NOTICE COVENANT**

      You are hereby notified that the property on which you are constructing a structure is in or near agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facility operations. Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; draining of lands; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for agricultural or agricultural processing operations to expand. This notification shall extend to all landowners, their heirs, successors or assigns and

because it is required pursuant to the issuance of a building permit, may not be removed from the record title without consent of the Clay County Planning Commission."

Animal feeding operations (Small)
Concentrated animal feeding operations (Small~~ A and B~~)
Minor home occupation in conformance with Section 3.09(A)

Conditional Uses
The transfer of a building eligibility from one parcel to another parcel when all the following conditions are met:

1. The transfer of building eligibility shall occur only between contiguous parcels under the same ownership. For purposes of this section, same ownership means: Two or more parcels of land owned or controlled by an individual or combination of individuals, corporations, partnerships, or other legal entities; with said owners described uniformly on the deed or other legally binding conveyance of each parcel.
2. The minimum lot size shall be two acres but a larger area may be required when soil conditions warrant.
3. The parcel from which the eligibility is transferred shall continue as agricultural land or remain in its present use.
4. Approval has been granted by the appropriate governing entity for access onto a public road.

Airports
Schools
Churches
Cemeteries
Quarry
Animal feeding operations (Medium)
Concentrated animal feeding operations (Large and Medium Operations)
Major home occupation in conformance with Sections 3.09(B) and 3.09(C)
Stockyards
Manufactured home
Private recreation areas
Public service facility
Utility and service structure
Recreational facilities
Golf courses
Solid waste transfer station
Wastewater treatment facilities
Water treatment facilities
Bed and breakfast establishment
Electrical substation
Wireless communication facility on existing support structure
Wind energy conversion systems
Kennels
Mobile home/manufactured home in conformance with Section 3.10 and a building eligibility shall exist on the parcel
Agriculturally related operations involving the handling, storage and shipping of farm products

Additional dwelling within a farmstead (Provided there will be no more than two dwellings within the farmstead and the residential structure may be a single-family dwelling, manufactured home or mobile home)
Single-family dwelling located on a lot of record

Lot and Yard Regulations
All measurements shall be taken from the lot line to the building line (see definitions).

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
All Uses	2 acres	200 feet	75 feet	30 feet	50 feet	Dwellings: 30 feet Accessory Structures: None

Exceptions:

1. There shall be setbacks from the ordinary high water mark (OHWM) on lots that abut or are within seventy-five feet of a navigable waterbody. The setback for all structures shall be one hundred twenty-five feet from the OHWM of the Missouri National Recreational River (MNRR) and seventy-five feet from the OHWM of any other navigable waters to the nearest part of such structure, except for boathouses, boat shelters, piers, private sewage systems, water wells, stairways, walkways and lifts which may be permitted by the terms and conditions of this Ordinance.

4.05.08 APO: AQUIFER PROTECTION OVERLAY DISTRICT

Purpose

The district is intended to preserve the quality and quantity of the area's water resources so as to ensure a safe and adequate supply of drinking water for present and future generations. Restrictions shall apply to land use activities which have the potential to contaminate water resources, including aquifers in use and those having the potential for future use as a public water supply. The purpose of the district is to prohibit certain uses which pose the greatest threat to groundwater contamination and to impose reasonable and adequate safeguards on other uses which exhibit a potential to contaminate the groundwater. The Aquifer Protection Overlay District is an overlay whose boundaries are superimposed on all districts established by this ordinance. It is not intended that this district interfere with, abrogate, or annul any other rules or regulations of this ordinance, except that if the Aquifer Protection Overlay District imposes a greater restriction than the underlying zoning district regulations, the greater restriction shall apply.

Establishment / Delineation of an Aquifer Protection Overlay District

The shallow/surficial aquifer boundary was mapped using data from the South Dakota Geological Survey and the United States Geological Survey. The map only serves as a general guide to the locations and depths of the mapped aquifer units. Boundaries shown are general in nature and may be modified in the future as site/area specific information is obtained. Additional information shall be used whenever available to more precisely determine aquifer locations and depths. Actual site-specific aquifer boundaries and depths may differ from those shown on the map. The mapped boundaries are drawn by geologists and hydrologists based on best available information. Site-specific hydro-geologic information may be necessary to verify the location of a proposed use in relation to an underlying shallow aquifer. Any applicant that is identified as being within the aquifer protection overlay zone, as denoted on the map, can provide drilling logs from soil borings on or near the site of the proposed use to conclusively prove that it is not located above a shallow/surficial aquifer area. The standards utilized by the South Dakota Department of Environment and Natural Resources for soil borings will be followed.

Zone A – Aquifer Critical Impact Zones

Zone A, the wellhead protection area, is the mapped zone of contribution around all public water supply wells or wellfields in shallow/surficial aquifers and includes land upgradient from the well or wellfield to the ten year time of travel boundary plus any delineated adjacent lands not underlain by the aquifer with sufficient slope that contaminated surface water could flow directly onto Zone A.

Permitted Uses

All uses as outlined in the underlying zoning districts and not specifically prohibited may be allowed provided they can meet the performance standards as outlined for the Aquifer Protection Overlay District.

Conditional Uses

All uses as outlined in the underlying zoning districts and not specifically prohibited may be

allowed provided they can meet the performance standards as outlined for the Aquifer Protection Overlay District.

Prohibited Uses

Animal feeding operations installed after the adoption of this ordinance
Concentrated animal feeding operations (CAFO) installed after the adoption of this ordinance
Manure storage areas except above ground tanks
Waste disposal except the spreading of solid and liquid animal waste
Unenclosed storage of road salt
Disposal of snow containing de-icing chemicals
Disposal of radioactive waste
Injection well
Cemetery
Salvage yard
Sanitary landfill, solid waste transfer facility
Petroleum products terminal
Manufacture of a regulated substance
Land spreading of petroleum contaminated soil
Land spreading or dumping of waste oil
Chemigation
Transmission facilities designed to transport liquid hydrocarbons or liquid hydrocarbon products
Industrial uses that produce hazardous waste or have the potential to pollute the aquifer

Zone B – Aquifer Secondary Impact Zones

Zone B is the remainder of the mapped shallow/surficial aquifer in the county not included in Zone A. Zone B is being protected because (1) the aquifer is a valuable natural resource for future development, (2) the aquifer provides drinking water supply for individual domestic users, (3) contamination is not justified just because this area is not currently used for public water supply and (4) contaminants from this area could eventually enter Zone A.

Permitted Uses

All uses as outlined in the underlying zoning districts and not specifically prohibited may be allowed provided they can meet the performance standards as outlined for the Aquifer Protection Overlay District.

Conditional Uses

Small or Medium Animal Feeding Operations (AFOs) and ~~s~~Small or ~~m~~Medium Concentrated Animal Feeding Operations (CAFOs) may obtain a conditional use permit provided that site specific borings made to current DENR standards and certified by a South Dakota licensed engineer demonstrate that the proposed site is not located over a shallow/surficial or that the soil above a shallow/surficial aquifer is proven to have extremely low permeability, and further provided that a SD General Water Pollution Control Permit has been obtained. For the purposes of this Section, a permeability standard of less than 0.0015in/hr is required; however, this standard

may be made more stringent by the Planning Commission on a case-by-case basis.

All uses as outlined in the underlying zoning districts and not specifically prohibited may be allowed provided they can meet the performance standards as outlined for the Aquifer Protection Overlay District.

Prohibited Uses

Large concentrated animal feeding operations (CAFO) installed after the adoption of this ordinance
Land spreading of petroleum contaminated soil
Land spreading or dumping of waste oil
Injection wells
Industrial uses that produce hazardous waste or have the potential to pollute the aquifer

Performance Standards

The following standards shall apply to land uses in Zones A and B of the Aquifer Protection Overlay Districts:

1. New or replacement septic tanks and associated drain fields for containment and disposal of human or animal wastes must conform with regulations established by the South Dakota Department of Environment and Natural Resources.

2. Manure storage areas may be permitted in Zone B but must be constructed in conformance with good engineering practices as recommended by the Natural Resource Conservation Service and/or the South Dakota Department of Environment and Natural Resources for Waste Storage Ponds.

3. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one locality in one tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system.

4. Any commercial or industrial facility, not addressed by 2 or 3 above, involving the collection, handling, manufacture, use, storage or transfer of any solid or liquid material or waste, except for spreading of manure, in excess of 1,000 pounds and/or 100 gallons which has the potential to contaminate groundwater must have a secondary containment system which is easily inspected and whose purpose is to intercept any leak or discharge from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and accessible sumps.

5. When pastured animals are concentrated for winter feeding, measures shall be employed to prevent runoff of manure.

6. Discharge of industrial process water on site is prohibited.

7. Auto service, repair or painting facilities and salvage yards shall meet all State and Federal

standards for storage, handling and disposal of petroleum products and shall properly dispose of all other potentially hazardous waste materials.

8. Any facility involving collection, handling, manufacture, use, storage or transfer of hazardous materials must prepare and have on file with the Zoning Administrator an acceptable contingency plan for preventing hazardous materials from contaminating the shallow/surficial aquifer should floods, fire, other natural catastrophes or equipment failure occur:

   a. For flood control, all underground facilities shall include a monitoring system and a secondary standpipe above the 100 year frequency flood level. For above ground facilities, an impervious dike, above the 100 year flood level and capable of containing 120 percent of the largest storage volume, will be provided with an overflow recovery catchment area (sump).

   b. For equipment failures, plans shall include but not be limited to:
      Below ground level, provision for removal and replacement of leaking parts, a leak detection system with monitoring and an overfill protection system.

      Above ground level, provision for monitoring, replacement, repair and cleanup of primary containment systems.

   c. For other natural or man-caused disasters, the owner and/or operator shall report all incidents involving liquid or chemical material which may endanger health and/or safety of disaster personnel and/or general public to the Zoning administrator and Clay County Sherriff.

   d. Agricultural operations are exempted from performance standard 8 unless chemicals stored which are on the Superfund Amendments and Re-authorization Act of 1986 (SARA Title III) extremely hazardous substance list in quantities exceeding the threshold planning quantity at any one time.

9. All abandoned wells should be plugged in conformance with South Dakota Well Construction Standards, Chapter 74:02:67-70, to prevent contamination of groundwater by surface water.

10. The Zoning Administrator, Clay County Sherriff and the Department of Environment and Natural Resources shall be informed within 24 hours of all leaks and spills of materials that might potentially contaminate groundwater.

11. Any Transmission Facilities, permitted in Zone B, designed to transport liquid hydrocarbons or liquid hydrocarbon products that will cross the Yankton-Clay Ditch, Clay Creek or Vermillion River shall exceed industry standards.