

**ORDINANCE #2017-01**  
**An Ordinance Amending the 2013 Revised Zoning Ordinance for Clay County**

BE IT ORDAINED BY THE COUNTY COMMISSION OF CLAY COUNTY  
SOUTH DAKOTA AS FOLLOWS:

DEFINITIONS

AGRICULTURE - The production, keeping, or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and 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:

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. 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 Large, Medium, /or Small Concentrated Animal Feeding Operation (CAFO) or a Medium Animal Feeding Operation (AFO) shall obtain a Conditional Use Permit whenever the following occurs:
  - a new operation is proposed where one does not exist; or
  - a new owner takes over an existing operation; or
  - the number of animals at an existing or permitted operation increases beyond what a current permit allows; 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 or,
  - a facility has been non-operational for forty eight (48) months.

The applicant shall obtain a letter opinion from the Natural Resource Conservation Service District (NRCS) to determine whether the operation will be considered an Animal Feeding Operation (AFO) or a Concentrated Animal Feeding Operation (CAFO). The letter shall state how the NRCS made that determination.

A County Conditional Use Permit for Concentrated Animal Feeding Operations may be approved conditioned on receiving final State approval.

4. Number of Animals for Animal Feeding Operations and Concentrated Animal Feeding Operations. For the purpose of these regulations, AFOs and CAFOs are divided into Large, Medium, and Small operations. The following table defines each type of animal confinement (species) with the number of animals indicated.