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PREAMBLE
AND ORDINANCE ESTABLISHING
COMPREHENSIVE ZONING REGULATIONS
FOR
TOWNER COUNTY

The intent is to:
Promote the health, safety, moral and general welfare of the county residents and the orderly
Development of lands within the county;
Preserve and maintain agricultural lands for farm use;
Encourage nonfarm growth to locate within existing communities or within the immediate environs of communities;
Promote a healthy and visually attractive environment;
Promote the development of utility corridors, which utilize the least productive agricultural land;
Discourage development, which places an excessive financial burden on County government.

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THESE REGULATIONS ARE HEREBYADOPTED EFFECTIVE THIS 2 DAY OF 2005.

Towner County, North Dakota:

Bjy: Terry Joh son By: Verna M Martz
Chairman of Towner County Board of Commissioners Auditor for Towner County, North Dakota

ZONING REGULATIONS
TOWNER COUNTY, NORTH DAKOTA

ARTICLE 1 -INTRODUCTION

SECTION 1 . TITLE: This resolution shall be known, citied, and referred to as the "Zoning Regulations of

Towner County, North Dakota".

SECTION 2. PURPOSE: These regulations are designed to promote the health, safety, public convenience,

general prosperity, and public welfare of Towner County.

SECTION 3. REPEAL: All other zoning regulations and amendments thereto previously adopted under the

authority of Chapter 11-33 of the North Dakota Century Code.

SECTION4 . AUTHORITY: These regulations are adopted under the authority granted by Chapter 11-33 of

the North Dakota Century Code.

SECTION 5. SEVERABILITY: Should any section or provision of these regulations be declared by the courts
to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or
any part therof other than the part so declared to be unconstitutional or invalid.

SECTION 6. EFFECTIVE DATE: These regulations shall be in full force and effective from and after the

passage and approval.

ARTICLE 2 -GENERAL PROVISIONS

SECTION 1 . JURISDICTION: These zoning regulations shall apply to all areas within the civil boundaries of Towner County, North Dakota; with the exception of those areas within the civil boundaries and extraterritorial zoning boundaries of organized cities in Towner County and those townships that have elected to have their own zoning. Those areas will retain the opportunity to exercise their own zoning authority.

SECTION 2. COMPLIANCE: Except hereinafter provided, no building structures or land shall be used, occupied, erected, constructed, moved, reconstructed, or structurally altered except in conformity with all the regulations for the district in which it is located.

SECTION 3. AGRICULTURE EXEMPTED: Nothing in this ordinance shall be applied for the purpose of preventing or restricting the use of land or buildings for farming or ranching or any of the normal incidents of farming or ranching (e.g., 58-03-11(2)(a) N.D.C.C.) .

SECTION4. INTERPRETATION: In the interpretation and applications of these regulations, these

provisions shall be held to be the minimum requirements adopted for the promotion of the public health,

safety, and welfare. Where these regulations impose a greater restriction on land, buildings, or structures

than is imposed or required by existing provisions of law, ordinance, contract, deed, or resolution, the

provisions of these regulations shall control.

SECTION 5. NONCONFORMING USES:

A. Lawful nonconforming uses of land or buildings existing at the date of adoption of these regulations may continue, provided no structural alteration, except for normal maintenance, are made and such nonconforming uses shall not be extended to occupy a greater area of land than occupied at the date of adoption of these regulations.

B. No building or structure where a nonconforming use has been discontinued for a period of two years or has changed to a permitted use shall again be devoted to a nonconforming use.

C. A nonconforming structure destroyed or damaged less than fifty percent of replacemerrnvalue may be reconstructed within. two years of such casualty. If damaged more than fifty percent of replacement value, such building shall be constructed in conformance with these regulations.

D. The provisions of this section shall not be applicable to conditional uses or any made nonconforming by a change or amendment in district regulations.

SECTION 6. UTILITIES:

A. All new utilities shall be considered as a conditional use and, as such, shall conform to all

Requirements put on them by the Planning Commissioner and/or County Commission.
B. No conditional use permit shall be issued unless satisfactory provisions for the following have been
made:
1 . Underground utilities shall be placed a minimum depth of four (4) feet, so as not to constitute a
hazard to normal farming or general county/township maintenance.
2. Aboveground utilities shall be placed in a manner which will conform with state law.
3. Utility placement shall conform with section lines, highway (state and federal), and railroad right of
ways.
4. The activities will not result in undue damage or injury to roads, bridges, right of ways in the
County, or to any public or private property.
5. Excavation costs for purposes of construction or maintenance of a utility shall be borne by the
contractor or owner ofsaid utility .
SECTION 7. MINERAL EXPLORATION AND MINERAL PRODUCTION:

A. All permanent mineral production activities shall be considered as a conditional use and, as
such, shall conform to all requirements put on them by the Planning Commission and/or County
Commission.

B. No conditional use permit shall be issued unless satisfactory provision for the following has been made:
1 . The activities will not result in undue damage or injury to roads, bridges, right of ways in
the County, or to any public or private property.
2. Evidence of a reclamation agreement with the surface owner.
a. Reclamation of project shall be finished within one (1) year of the completion of the
mineral exploration and/or production activities.
3. Evidence of compliance with the County, State, and Federal regulations.
4. Evidence that the activity is one hundred (150) feet from all section lines, property lines, water
resources and the centerlines of all townships, county, state and federal roads.
SECTION 8. SANITARY REGULATIONS: All residential, commercial, or industrial structures shall conform
to the North Dakota health regulations as they refer to wells irrigation, septic, and sanitary systems.

SECTION 9. WASTE DISPOSAL SITES:

A. At a minimum the following waste disposal sites shall comply with all applicable federal, state and
county regulations outlined in the Towner County Solid Waste Zoning Ordinance.
B. Private Waste Disposal Sites -A solid waste disposal site used exclusively by and only for the
landowner or tenant engaged in farming. Sites shall be limited to one per landowner and used for
refuse generated from personal farming operations . In addition these sites must comply with
federal (e.g., Farm Service Agency) and state regulations .
C. Commercial Waste Disposal Sites -solid waste disposal site or facility permitted pursuant to the
laws of the State of North Dakota. Waste transported to a disposal site shall be by a waste hauler
licensed by the State of North Dakota.

SECTION 10. SIGN REGULATIONS: Signs shall be permitted if they conform to the regulations in this article.

A. Permitted signs -The following signs shall be permitted in all zoning districts:
1 . Signs not exceeding two square feet in area bearing property numbers, box numbers, or names of occupants of the premises.
2. Flags and the insignia of any government.
3. Legal notices, identification information, or directional signs erected by government bodies.
4. Signs directing and guiding traffic or parking on private property.
5. No more than one sign advertising property for sale or rent
6. Bulletin boards and signs for churches or other public institutions.
B. Limited Permitted Signs -The following signs shall be permitted in only the "CO" and the "IN" zoning districts:
1 . Illuminated signs
2. Marquee signs
3. Portable signs
4. Projecting signs
5. Roof signs
6. Wall signs
7. Temporary signs
8. Commercial billboards
C. Unlawful Signs -The following types of signs are prohibited from all zoning districts:
1 . Any sign, outdoor commercial advertising or lighting device such as a beacon light, constituting a nuisance because of lighting glare, focus, animation, or flashing.

2. Any sign which conflicts in any manner with the clear and obvious appearance of public signs and devices controlling traffic.
3 . Any sign projecting more than ten feet over a road, street, alley, or other public space, or closer than two feet to the curb line of any public road, street, or alley, or less than nine feet above any road, street, alley, or public space.
4. Any sign that obstructs a view of oncoming traffic.

SECTION 11 . SUBDIVISION REQUIREMENTS: Subdivision regulations are established to safeguard the public interest in accordance with the County's comprehensive plan and to assist the sub divider in harmonizing their interest with those of the County.

A. The tract to be used for the subdivision shall not be less than five acres in area.
B. The applicant for a zoning change to permit a subdivision, must satisfy the Planning Commission that all development to occur within this District shall not extensively alter the natural grade of land or permit extensive alteration, removal, or destruction of natural vegetation in order to prevent erosion or pollution.
C. The applicant for a platting of a subdivision must meet all State Health Department standards prior to any development on the land .
D. The applicant platting the subdivision shall prepare or cause to be prepared an application for rezoning

and a development plan, and shall present three copies of the plan for review and approval by the
Planning Commission. The development plan shall show topography at aminimum of ten feet
intervals, such as shown on a 7'/z minute quadrangle map and include designation of the following:
1 .
Lot dimensions
a)
In the Rural Recreational District, all lots, except recreational vehicle park spaces, shall have a
minimum area of 15,000 square feet. Additional lot area may be required to meet the state
Health Department minimum standards for public health and safety. Minimum lot width shall not
be less than 100 feet and depth of not less than 150 feet. The principal and accessory
structures shall not cover more than 30%of the lot area.

b)
In the Rural Residential and Commercial Districts, for size shall not be less than 5,000 square
feet, if served by a sewer collection system common to other adjoining users, or not less than
three acres if the sewer is drained into an on site user owned drainage field.

2 . Recreational vehicle park and sites, if applicable
a)
Recreational vehicle park spaces shall have a maximum density of 12 spaces per gross

acre with a minimum area of 2,500 square feet for each space where State approved public
type sanitary sewers are available for each space . When State approved public type sanitary
sewers are not available, the maximum density of 12 spaces per gross acre with a minimum
area of 2,500 square feet for each space, provided that toilet, shower, and laundry facilities are
included (for recreational vehicle occupants' exclusive use) in calculation of gross area and are
provided within 250 feet of each space. Each space shall be at least 35 feet wide and clearly
defined.

3 . Recreational vehicle park service buildings, if applicable .
4.
Waterlines, if applicable to development.
5.
Wateroutlets, if applicable to development (mandatory for recreational vehicle park)

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6. Sewer lines, if applicable to development.
7. Recreational vehicle hold tanks, if applicable.
8. Recreational areas.
9. Landscaped areas and walls or fences.
10. Roadways.
E. The approval of the application for rezoning and the development plan in no way obligates the County to
the provision, development or maintenance of access, required or otherwise, to the property concerned.
F. Roadways shall not be less than 30 feet in width for two-way traffic systems and

16 feet for one-way
traffic systems.
G. Upon approval of the preliminary development plan by the Planning Commission, the applicant shall
prepare or cause to be prepared afinal development plan, which shall incorporate any changes or
alterations requested . The final development plan and the Planning Commission recommendation shall
be forwarded to the Governing Body for review and final action.
SECTION 12. WIND POWER GENERATION FACILITIES AND TOWERS

A. Towers and all related equipment shall be in compliance with all applicable Local, State and Federal
regulatory standards.
B. Thetower shall be setback as follows: From
1. Occupied residence -750 feet
2. Property line -200 feet
3. Road Right of Way-300 feet
Setbacks shall be increased to the tower fall zone if it is greater than any of the above.
C. Noise shall be limited to a maximum level of 50dB(A) at the nearest property line.
D. Tower shall be of a monopole type (self-supporting, tubular) and shall be no more than 300 feet in
height. Except for towers supporting generation units with a rated capacity of less than 40 Kilowatts.
E. Rotor blades shall not exceed 500 feet from the ground.
F. Facility shall have a rating of 5,000 Kilowatts or less.
G. No lighting shall be permitted other than that required by Federal requirements.
H. All connecting power lines shall be buried underground. Tower and facilities shall be designed to
minimize their visual impact.
SECTION 13. ANIMAL FEEDING OPERATIONS:

A. Definitions : Terms used in this ordinance have the same meaning as given by the laws and rules of the
state of North Dakota, specifically chapter 33-16-03 of the North Dakota Administrative Code. The
definitions for these terms and additional terms are:

1 . "Animal feeding operation" means a place where livestock have been, are, or will be confined,
concentrated and fed for 45 days in any 12 month period, pasture, crops, or other vegetation
are not normally managed or sustained for grazing during the normal growing season; and,
animal waste or manure accumulates. This term does not include an animal wintering operation.
Adjoining animal feeding operations under common ownership are considered to be one animal
feeding operation, if they use common areas or system for manure handling.

2. "Animal wintering operation" means the confinement of cattle or sheep used or kept for breeding
purposes in a feedlot or sheltered area at any time between October 15 and May 15 of each
production cycle under circumstances in which these animals do not obtain a majority of their feed
and nutrients from grazing. The term includes the weaned offspring of cattle and sheep, but it does
not include (1) breeding operations of more than 1000 animal units or (2) weaned offspring which
are kept longer than 120 days and that are not retained for breeding purposes.

3. "Bedding material" means an absorbent substance applied to dirt or concrete flooring systems, including wood shavings, wood chips, sawdust, shredded paper, cardboard, hay, straw, hulls, sand, and other similar, locally available materials.
4. "Best management practices" meansschedules of activities, prohibitions of practices, conservation practices, maintenance procedures, and other managementstrategies to prevent or reduce the pollution of waters of the state. Best management practices also include treatment requirements, operating procedures, and practices to control production area and land application area runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
5. "Concentrated animal feeding operation" means an animal feeding operation that is defined as a large concentrated animal feeding operation (Definition 11) or as a medium concentrated animal feeding operation (Definition 18), or is a small or other type of animal feeding operation designated as a concentrated animal feeding operation in accordance with North Dakota Administrative Code Chapter 33-16-03.1-04 (Designation of concentrated animal feeding operations). For purposes of determining animal numbers, two or more feeding operations under common ownership are considered to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.
6. "Discharge of a pollutant" and "discharge of pollutants" each means any addition of any pollutant to the waters of the state from any source, including the disposal of pollutants into wells.
7. "Department" means the North Dakota Department of Health.
8. "Earthen storage pond or pond" means an earthen pond used to store manure, process wastewater and runoff from the production area of a livestock facility .
9. "Engineer" means a professional engineer registered to practice in the state of North Dakota.
10. "Facility or livestock facility" has the same meaning as animal feeding operation (Definition 1) or concentrated animal feeding operation (Definition 5).
11 . "Large concentrated animal feeding operation" means any animal feeding operation that stables or confines an animal unit capacity of 1,000 or more animal units. For livestock numbers see equivalent animal numbers.
12. "Litter" means a mixture of fecal material, urine, animal bedding material, and sometimes waste feed.

13. "Manure or livestock manure" meansfecal material and urine, animal-housing wash water, bedding material, litter, compost, rainwater, or snow melt that comes in contact with fecal material and urine, and raw or other materials commingled with fecal material and urine or set aside for disposal.
14. "Manure handling system" means all of the water pollution control structures used at the production area of a livestock facility .
15. "Manure storage pond" means an earthen storage pond that stores liquid manure and process

wastewater from indoor confined animal feeding operations.
16. Manure storage structure" means any water pollution control structure used to contain or store manure or process wastewater. It includes, but is not limited to: earthen manure storage ponds; runoff ponds; concrete, metal, plastic, or other tanks; and stacking facilities.
17. "Medium animal feeding operation" means any animal feeding operation that stables or confines an animal unit capacity between 300 and 999 animal units. For livestock numbers see equivalent animal numbers.
18. "Medium concentrated animal feeding operation" means a medium animal feeding operation that meets either one of the following conditions:
a. Pollutants are discharged into waters of the state through a man-made ditch, flushing system, or other similar man-made device; or
b. 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 .
19. "Nuisance" means any Concentrated Animal Feeding Operation which allows or permits offensive or unhealthful odors or effluent to emanate there from, which such odors or effluent substantially impair the use, enjoyment, or value of any property. The spraying, spreading or application of any such waste or effluent from any such operation within the county is likewise declared to be a

nuisance.

20. "Nutrient management plan" means a written description of the equipment, method(s) and schedule(s) by which (1) manure, litter and process wastewater is beneficially reused in an environmentally safe manner such as being applied to land at appropriate agronomic rates as nutrients or fertilizers, and (2) water pollution and air pollution (including odors) are controlled sufficiently to protect the environment and public health.
21 . "Open lot" means livestock pens, feeding or holding areas at the production area of an animal feeding operation which are outside and not under roof, and where rain can fall directly on the lot area.

22. "Open manure storage structure" means an earthen pond or storage tank for holding liquid manure which is not covered so rainfall can fall directly into the pond or tank.
23 . "Operation and maintenance plan" means a written description of the equipment, methods, and schedules for: (1) inspection, monitoring, operation, and maintenance of the animal feeding operation (manure storage structures, water pollution control structures, and the production area) ; and (2) controlling water pollution and air pollution (including odors) sufficient to protect the environment and public health. It includes emergency response actions for spills, discharges or failure of a collection, storage, treatment, or transfer component.

24 . "Operator" means an individual or group of individuals, partnership, corporation, joint venture, or any other entity owning or controlling, in whole or in part, one or more animal feeding operations.

25 . "Overflow" means the discharge of manure or process wastewater resulting from the filling of wastewater or manure storage structures beyond the point at which no more manure, process wastewater, or storm water can be contained by the structure .

26 . "Pollutant" means "wastes" as defined in subsection 2 of North Dakota Century Code Section 61-28-02, including dredged soil, solid waste, incinerator residue, garbage, sewage, sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

27. "Process wastewater" means water directly or indirectly used in the operation of the animal feeding operation for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts, including manure, litter, feed, milk, eggs, or bedding material.

28. "Production area" means those areas of an animal feeding operation used for animal confinement, manure storage, raw materials storage, and waste containment. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement

houses, stall barns, free stall barns, milking rooms, milking centers, cattle yards, barnyards,

medication pens, walkers, animal walkways, and stables. The manure storage area includes but

is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under-house or pit storages,

liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins, area within berms, and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities.

29. Risk Classification . The environmental risk posed by the use of surface

impoundments and land
application for the treatment and disposal of wastes and wastewaters may be classified as
follows:
a.
High risk environments.
1) Surface water with sandy soil, high risk environment based on close proximity (less
than one (1) mile) to alluvial terrace deposits, sand dunes, and other highly permeable subsurface environments.

2)
Large watershed. High risk environment based on high volume storm water runoff potential based on surface topography, proximity to streams and creeks, erosion potential, and size of watershed up gradient from disposal area, especially if

downstream users of surface water for private and/or public drinking water supply and
agricultural water supply.

3)
Unconfined aquifer, shallow, private/public water supply, high risk environment based
on shallow depth to groundwater that is or could be locally used for private and/or public drinking water.

4)
Health/Property. High risk environment based on less than one (1) mile proximity to existing neighboring business, residences, agricultural work areas, or other highly used
structure, public or private, that would be adversely impacted by air or water pollutants
generated by the facility, including but not limited to chemicals, sulfur compounds,

nitrogen compounds, dusts, pollens, airborne disease, and malodorous odors.

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b. Moderate risk environments.
1) Surface water, moderate risk environment based on distance to nearest intermittent
stream less than two (2) miles and greater than required setbacks.
2)
Unconfined aquifer, deep, private/public water supply. Moderate risk environment based
on deep groundwater that is or could be locally used for public and/or private drinking
water and can be considered to be a sole source aquifer.

3)
Unconfined aquifer, shallow, other uses. Moderate risk environment based on shallow depth to groundwater that is or could be locally used only for agricultural purposes and
where a deeper groundwater is available and has been or could be used for private and/or public drinking water.

4)
Health/Property. Moderate risk environment based on less that three (3) miles proximity
to existing neighboring business, residences, agricultural work areas, or other highly
used structure, public or private, that could be adversely impacted by air or water

pollutants generated by the facility, including but not limited to chemicals, sulfur compounds, nitrogen compounds, dusts, pollens, airborne disease, and malodorous odors.

c. Other. Other environmental or public health risk not otherwise classified may be identified by the county and used to determine appropriate siting and waste managementrequirements.

30. "Runoff' means rainwater or snow melt that comes in contact with manure at an open lot or open manure storage area and, therefore, is defined as manure.

31 . "Runoff pond" means an earthen storage pond that is used to collect and store runoff from an open lot or from a manure storage area.

32. "Sensitive groundwater area" means vulnerable hydro geologic settings as determined by the department such as glacial outwash deposits or alluvial or aeolian sand deposits that are critical to protecting current or future underground sources of drinking water. Areas designated as sensitive groundwater areas by the department include alluvial or aeolian sand deposits shown on Geologic Map of North Dakota (Clayton, 1980, North Dakota geological survey) and glacial drift aquifers listed in North Dakota Geographic Targeting System and Groundwater Monitoring (Radig, 1997, North Dakota department of health), or most recent editions of these publications, with DRASTIC scores greater than or equal to 100 based on methodology described in DRASTIC: A Standardized System For Evaluating Groundwater Pollution Potential (Alter et al, 1987, United States environmental protection agency) .

33. "Small animal feeding operation" means any animal feeding operation that stables or confines less that the numbers of animals specified for a medium animal feeding operation (Definition 17).

34. "Small concentrated animal feeding operation" means any animal feeding operation that stables or confines less that the number of animals specified for a medium animal feeding operation (Definition 17) and is designated as a CAFO in accordance with North Dakota Administrative Code 33-16-03.1-04 .

35 . Surface Impoundment Classifications . Surface impoundments associated with animal waste feeding operation wastewater treatment systems are classified according to the system configuration as follows:

a) Total Retention. Total retention surface impoundments are impoundments designed and constructed without an outfall structure (e.g., no discharge pipe, trench, or spillway). Surface impoundments are assumed to have the potential to discharge to groundwaters of the state by leakage and seepage at rates not to exceed those specified by the state.

b) Flow Through. Flow-through surface impoundments are impoundments designed and constructed with an outfall structure, which allows the controlled discharge of wastes to

surface waters of the state (e.g., discharge pipe, trench or spillway). Surface

impoundments are assumed to have the potential to discharge to groundwaters of the state by leakage and seepage at rates not to exceed those specified by the state.
c) Cells. Surface impoundments may be divided into several smaller divisions called cells
which share a common wall. Cells that receive flow in series can be considered either

one total impoundment or several individual impoundments depending on the complexity

of the waste, the production of sludge's, wastes or other concerns, and the type of treatment used .

d)
Treatment trains . Treatment trains are multiple surface impoundments or one impoundment with more than one cell in series whereby each impoundment or cell is used for a particular treatment method designed to reduce the concentration or toxicity of

pollutants of concern.
e) Other configurations . Other configurations will be classified by County Commissioners on
a case-by-case basis .

"Surface water" means waters of the state that are located on the ground surface, including all
streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other
bodies or accumulations of water on the surface on the earth, natural or artificial , public or
private.

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37.
"Unconfined glacial drift aquifer" means a glacial drift aquifer that does not have an impervious
soil layer which acts to prevent or minimize movement of water into, through, or out of the
aquifer.

38.
Waste Classification. Wastes and wastewaters are classified as follows:
a)
Class 1: Wastes and wastewaters, including storm water, contained or suspecting to contain pollutants at concentrations and volumes which could be deleterious to humans,
aquatic life, wildlife, or the beneficial use of the environment if discharged to ground
and/or surface water and are generated by a batch or continuous process. Examples include but are not limited to, mobile metals, dissolved salts (>2000ppm), soluble hydrocarbons, nitrogen compounds (>500 ppm), biochemical oxygen demand (BOD) (>1000 ppm), or pH (<4 or >9) or most wet manure systems.

b)
Class II : Wastes and wastewater, including storm water, containing pollutants listed in

Class I but at either significantly less concentration or significantly less volume and/or
containing wastes not listed in Class I, in concentrations that may, if discharged to

ground and/or surface water maycause degradation of the beneficial use of the water or harm the environment. Examples include but are not limited to, nitrogen compounds

(<500 ppm), total dissolved salts (<2000 ppm), temperature, biological and chemical oxygen demands (<1000 ppm), phosphorus, and suspended solids or most dry manure systems.

c)
Class III : Dilute wastewaters or treated wastewaters, including storm water, in concentrations that may, if discharged to surface water may cause degradation of the

beneficial use of the water or harm the environment. Examples include but are not limited to, nitrogen compounds (<150 ppm), total dissolved salts (<500 ppm), temperature, biological and chemical oxygen demands (<250 ppm), phosphorus, and suspended solids or some dry manure systems with dilute wastewater.

d) Class N : Wastes and wastewaters generated during a spill, by-pass, or unit process
failure that would not normally enter the waste management system, but does or is likely to, as a result of the spill, by-pass, or unit process failure.

e)
Class V: Other wastes and wastewaters, including storm water, not otherwise classified.

39. Waste Management System Classifications . Surface impoundments are classified according to
the waste management system treatment and purpose as follows:
1) Dry Manure Systems . Waste management that utilizes the dry manure system includes those CAFOs that provide areas for generation and collection of feces and

urine on open ground, partially covered area, concrete floors, or other surfaces that
does not utilize or otherwise allow liquid to transport the waste from the generation
site to the treatment site, except as storm water runoff (e.g., dairy or beef cattle raised

on dirt or concrete feedlot, poultry dry litter systems, other animals corralled on dirt or
concrete feedlot).

(a)
Storm water Runoff Disposal Lagoon. Storm water runoff disposal lagoons associated with dry manure systems are considered to contain only liquids collected after a storm event that contains waste from the feedlot area that is transported from point of generation to the lagoon by storm water runoff via
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land surface, piping, or other natural and/or man-made conveyances and held in the lagoon for disposal by evaporation, seepage, and/or disposal by land application .

(b)
Storm water Runoff Treatment Lagoon. Storm water runoff treatment lagoons associated with dry manure systems are considered to contain only liquids collected after a storm event that contains waste from the feedlot area that is transported from point of generation to the lagoon by storm water runoff via land surface, piping, or other natural and/or man-made conveyances and held in the lagoon for treatment prior to disposal by evaporation, seepage, and/or disposal by land application.

(c)
Manure Solids Holding Areas. Manure solids holding areas associated with dry manure systems that are used to store manure solids prior to removal for use as a fertilizer or other beneficial reuse.
2)
Wet Manure Systems. Waste management systems utilizing wet manure system includes those CAFOs that provide areas for generation and collection of manure (i.e.,
feces and urine) and that rely on a liquid transport system to collect and remove the
waste from the confinement area to the treatment areas a liquid slurry.

(a)
Concrete Pits Under Barns. Waste management for wet manure systems generally include a concrete pit with a maximum depth of 2 feet that is constructed undera slatted floor as a part of the barn foundation . The concrete pit includes all appurtenances used to wash manure from the inside of the barn down through the slotted floors into the pits and to wash the manure from the pits to the lagoon.
(b)
Anaerobic Digesters. Waste management for wet manure systems may include the use of anaerobic digesters to reduce the volatile solids loading on the anaerobic lagoon . Digesters are designed to maximize anaerobic degradation of manure solids while minimizing the loss of nutrients.
(c)
Short-term Anaerobic Lagoons. Waste management systems for wet manure systems may include the use of an anaerobic lagoon (liquid depth greater than 10 feet) to use biological degradation to reduce the amount of organic loading prior to disposal by discharge or disposal by land application . The short-term anaerobic lagoon provides temporary storage (i.e., less than one year) of wastes prior to disposal.
(d)
Long-term Anaerobic Lagoons. Long-term anaerobic lagoons provide long-term storage (greater than one year, generally greater than five years) and treatment of organic wastes and generally do not include discharge to the environment or to land application disposal systems in order to maintain quiescent conditions.
(e)
Aerobic Lagoons. Aerobic lagoons are shallow lagoons (liquid depth less than 10 feet) that utilize oxygen-based biological degradation to reduce the organic loading of the waste prior to disposal by discharge or by land application. Lagoon may also be considered to be aerobic if mechanical aerators or other methods of introducing oxygen to the wastewater are employed as waste management controls.
(f)
Composting. Composting of herbivorous manure only.
3)
Batch process. A batch process is a process that generates wastewater in an intermittent time period wherethe facility can be operating normally and not generate
wastewater for extended periods of time. Abatch process means that the facility can continue to operate without generating wastewater, except for contaminated storm water. For example, a dry manure system that only generates wastewater as a result of contaminated storm water runoff can be considered a "batch process" because the wastewater is only generated during a storm event.

4)
Continuous process. A continuous process is a process that generates wastewater on a regular basis where the facility can be operating normally and expect to generate wastewater either daily or weekly regardless of the generation of contaminated storm

water. A continuous process means the facility would have to shut down partially or

totally in order to prevent the generation of wastewater. For example, a wet manure system at a swine facility generates wastewater on a daily basis and must discharge to the treatment system on a regular basis .

40. "Water pollution control structure" means a structure built or used for handling, holding, transferring, or treating manure or process wastewater, so as to prevent it from entering the waters of the state. The term also includes berms, ditches, or other structures used to prevent clean water from coming in contact with manure .
41 . "Waters of the state" (NDCC 61-28-02 .11 .) means all waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marches, watercourses, waterways, and all other bodies of accumulations of water on or under the surface of the earth, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, except those private waters that do not combine or effect a junction with natural surface or underground waters just defined.
42. Additional term and associated chart. Equivalent Animal Numbers. An "animal unit equivalent" is a unit less number developed from the nutrient and volume characteristics of manure for a specific livestock type. The term "animal units" is used to normalize the number of animals (e .g ., head) for each specific livestock type which produce comparable bulk quantities of manure. The animal unit equivalents for types of livestock and the numbers of livestock for facility size thresholds of 300 animal units (a.u.), and so forth, are listed in the following table.

Equivalent Numbers of the Livestock (hd) for Four Sizes (a.u.) of Animal Feeding Operations

Equivalent Numbers of the Livestock (hd)
For Four Sizes (a.u.) of Animal Feeding Operations

Livestock Type ' Animal Unit 300 a.u. 1,000 a.u. 2,000 a.u . 5,000 a.u. Equivalent
150 hd 500 hd 1,000 hd 2,500 hd

1.3300 225 750 1,500 3,750
0.7500 400 1,333 2,667 6,667
1.0000 300 1,000 2,000 5,000
01 1 beef feeder-finishing 1 .0000 300 1,000 2,000 5,000
1 beef feeder-back grounding 0.7500 400 1,333 2,667 6,667
1 mature bison 1.0000 300 1,000 2,000 5,000
1 bison feeder 1 .0000 300 1,000 2,000 5,000
0.4000 750 2,500 5,000 12,500
1 goose or duck 0.2000 1,500 5,000 10,000 25,000
1 sheep 0.1000 3,000 10,000 20,000 50,000
1 swine, nursery 0.1000 3,000 10,000 20,000 50,000
1 turkey 0.0182 16,500 55,000 110,000 275,000
1 chicken 0.0100 30,000 100,000 200,000 500,000

&ENFORCEMENT
Enforcement, inspections and emergency response. Neither the approval of construction plans, specifications, or the waste management system, nor the issuance of a permit or certification by the county, shall not prohibit the county from taking any enforcement action if the animal waste management system fails to protect the waters of the state, meet any specified effluent criteria, or comply with state surface and groundwater quality standards. In addition, this approval, issuance, or certification shall not constitute a defense by the operator regarding violation of any statute, regulation, permit condition, or requirement.

1 . On-site inspections. The operator shall allow the county representative, or other county authorized personnel, upon the presentation of credentials and other documents as may be required by law, to perform the following regulatory functions:
a) Entry. Enter the premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of these or applicable CAFO-related state and federal regulations .
b) Access to records. Have access to and photocopy, at reasonable times, any records that must be kept at the facility under conditions of these or applicable CAFO-related state and federal regulations.

c)
Inspection . Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required by these or applicable CAFO-related state and federal regulations.

d)
Sample or monitor. Sample or monitor, at reasonable times, for the purpose of assuring compliance with permit conditions and these regulations or applicable CAFO-related state and federal regulations.

e)
Observe. Observe the use and application of chemicals, water and waste transfer equipment, and all aspects of the waste management system, including land application of wastes and wastewaters and sludges, and the use of land application equipment.

f)
Search warrant. Should the county or their agents be denied access to any land where such access is sought for the purpose authorized, the county may apply to anycourt of competent jurisdiction for a search warrant authorizing access to such land for such purposes . The court, upon such application, may issue the search warrant for the purpose requested.

2.
Spill response. When a spill of chemicals or other toxic materials occurs or is suspected to have occurred at the facility or at the land application area that may reasonably pose a threat to public health or the

environment, the operator shall cooperate with county representative, or other authorized personnel, upon
t he presentation of credentials and other documents as may be required by law to:
a) Entry. Enter the premises where the spill is alleged to have occurred using emergency response

personnel, from both the facility and the county at any time of the day or night, when necessary, in order
to observe the immediate effects of the spill.

b) Access to records and emergency response personnel. Have access within 12 hours of the spill to
records, including equipment specifications and personnel testimony that may indicate the type of waste
spilled, the amount of the spill, how the spill occurred, and what was done by the facility after the spill
occurred.

1)
Minimum information at time of spill. The county shall have access to certain information
immediately upon notification of the spill, including the Material Safety Data Sheet for the
chemical or toxic material that was spilled, and the approximate volume of the spill. If the spill is
significant, additional information may be required by the county.

2)
Spill report. The spill report shall be submitted to the county within ten (10) working days of the
spill, unless a greater time is granted by the county. The spill report shall contain, at a minimum,
the following information:

(a)
When and where the spill occurred and when it was discovered, including date and time of
day and the person(s) that discovered the spill.
(c)
How the spill occurred, the purpose of any associated device(s), and how the spill can be
prevented in the future.
(d)
Damage assessment, including the volume of chemicals or other toxic materials were released, extent of release into the waste management system, the wastewater treatment
system, and/or the environment and immediate and potential damages associated with the
spill into surface waters, groundwaters and soils, the volume of spilled chemical or

materials that can be reclaimed, and other information as required by the county during the
investigation .
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(e)
Corrective action planned or performed to reduce adverse impacts on surface water, groundwaters, and soils and all sampling and analysis related to the spill.
c)
Inspection. Perform an emergency inspection, at a time close to the spill as possible, of any
facilities, equipment (including monitoring and control equipment), practices, or

operations
regulated or required by these or applicable CAFO-related state and federal regulations.

d)
Sample and monitor. Sample or monitor, at a time as close to the spill as possible, for the purpose
of determining the extent of damage to public health or the environment. If the operator is also
sampling and/or monitoring the spill, the county reserves the right to ask for a split sample whenever
possible.

e)
Abatement procedures. Require the operator to implement emergency clean-up procedures in
addition to those already employed by the operator upon observation of a significant threat to public
health or the environment.

f)
Follow-up inspection. Perform follow-up inspection(s) of the spill area or areas of the facility
connected with the spill in order to determine the effectiveness of the abatement procedures carried
out by the operator.

3. Compliance with proper operation and maintenance.
a) Needto halt or reduce not a defense. It shall not be a defense for a permittee in an enforcement
action to plead that it would have been necessary to halt or reduce the permitted activity on order to
maintain compliance with the conditions of these regulations or the permit.
b) Duty to mitigate. The operator shall take all reasonable steps to minimize or prevent any discharge
in violation of these regulations which has a reasonable likelihood of adversely affecting human
health or the environment or creating a public nuisance.
c) Proper operation and maintenance. The operator shall, at all times, properly operate and maintain
all facilities and systems of treatment and control (and related appurtenances) which are installed or
used by the operator to achieve compliance with the regulations.
1) Proper operation and maintenance includes the operation of backup or auxiliary facilities or
similar systems only when necessary to achieve compliance with these regulations.
2) The operator shall provide an adequate operating staff which is duly qualified and certified to
carry out operation, maintenance and testing functions required to insure compliance with the
regulations.

d)
Unit failure report. The operator shall report to the county and state immediately when a unit failure
has occurred that results in a release of wastes, wastewaters or sludges outside of the normal waste
management system and/or into the environment (e.g., berm failure, severe leakage from lagoon,
pipe burst, irrigation equipment failure, etc.) . The unit failure written report shall be submitted to the
county within ten (10) working days of the failure and contain at a minimum, the following:

1) When and where the unit failure occurred and when it was discovered, including date and
time of day and the person(s) that discovered the failure.
2) How the unit failed, the purpose of the device(s), and how the failure can be prevented in the

future (e.g., pipe burst).
3) Why the unit failed (e.g., backpressure on the pipe due to traps not cleaned properly).
4) Damage assessment, including the volume of wastewater released extent of release into the

environment and immediate and potential damages associated with release into surface waters,
groundwaters and soils, volume that can be reclaimed, and other information as required by the
county during the investigation.

5)
Corrective action planned or performed to reduce adverse impacts on surface water, groundwaters, and soils and all sampling and analysis related to failure.

e)
Anticipated non-compliance. The operator shall give advance warning to the county of any
planned changes in the facility or activity which mayresult in noncompliance with permit conditions
or standard condition of these regulations .

f)
Fines and other legal actions. Penalties for violations of any duty to obtain a permit, violation of
orders, rules and permits, and other violations of duties imposed pursuant to law, may include:
1) Criminal penalties. In accordance with NDCCTitle 36.
2) Civil penalties. Violations in civil proceedings shall be subject to penalties of not more than

$500.00 per violation ; each day the violation continues shall be a separate violation.

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□
(a)
Administrative penalties. Violations in administrative proceedings shall be subject to
assessment of an administrative penalty not to exceed $250.00 per day of noncompliance.
(b)
Falsification of data. False statements, falsification of data, omission of material data and
similar acts are a violation of NDCC Section 12.1-11-02 or successor statues.
4. Severability
If any paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid or
unconstitutional by a court of competentjurisdiction, such decision shall not affect the validity of the
remaining portion of this ordinance.
C. PERMIT PROCEDURES
1 . Duty to apply. Any person engaged in an activity requiring registration and/or permit as provided by law

and this rule shall first complete, sign and file with the county an appropriate registration form or permit
application. An application shall be required for a new permit, major modification of an existing permit, or new
ownership of an existing facility that does not have a permit but is required to obtain a permit as provided by
law and these regulations.

2. Requirement for registration. Concentrated animal feeding operations that have an animal unit capacity
between 300 and 999 animal units are required to register with the county. The registration of these facilities
is for purposes of determining the waste loading within watersheds of the county. The registration information
shall be used to assist the county in determining long-term adverse impacts these small facilities may have
on the environment in a cumulative impact scenario.
3. Requirement to obtain a permit under the dual permitting program. It shall be unlawful for any person
to carry on the following activities at a concentrated animal feeding operation with animal unit capacity of
1000 animal units or more without first obtaining a county construction or operating permit from the county,
as set forth in these regulations.
a) The construction, installation, operation, and closure of any surface impoundment or treatment system,
or the use of any existing unpermitted surface impoundment or treatment system with the jurisdiction of
the county and which is proposed to be used for the containment or treatment of CAFOwaste and
wastewater,
b) The construction, installation, or operation of any CAFOsubject to the permitting authority of the county,

the operation of which would cause an increase in the discharge of waste into waters of the state or
would otherwise alter the physical, chemical, or biological properties of any waters of the state in any
manner not already lawfully authorized by the county.

c) The construction or use of any new outfall or impoundment for the discharge or seepage of any CAFO
waste and wastewater or pollutants into waters of the state:
d) Any major addition, extension, expansion, operational change or other change proposed for a facility
permitted pursuant to these rules shall require the approval of the county through the major modification
of the facility's permit prior to construction or implementation of such addition, extension, or change.
e) Any major expansion shall require a construction permit if the expansion increases the animal unit
capacity of the existing facility to 1000 animal units or more.
f) Construction, installation, or operation of any CAFOwith animal unit capacity between 300 and 1000
animal units, if it is determined by the county that the facility represents a significant water pollution
potential.
g) Multiple CAFO's with animal unit capacity less than 1000 animal units but located within one mile of

each other, either in-a straight line or at each unproductive corner of a section or combination of

sections, whose total animal unit capacity would be 1000 animal units or more may be considered to
be one facility and may be required to be permitted as one facility, if the multiple CAFO's are
commonly owned or operated, the source of pollution is commonly owned, or they share a common

waste management system, including but not limited to impoundments, piping, and land application
or permitted separately with cumulative impacts as the criteria for requiring a permit if separately
owned or operated.

4 Duration of permit and renew. The duration of permits issued by the county pursuant to these rules
shall be as follows:
a) Construction permit. For a term of 270 days during which time the applicant must commence

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construction or reapply for a construction permit. The construction permit is a onetime permit issued

prior to commencement of construction . The applicant shall apply for an operating permit within six

(6) months of commencementof operation.
b) Permit review. Permits will be reviewed every 5 years. The review will encompass all provisions of
the original permitting process.
c) Expansion. Expansion, either singularly or multiple expansions, of an existing permitted facility
that is less than 20 percent (20%) of the animal unit capacity may be permitted by modifying the
existing operating permit. Expansion of an existing permitted facility greater than 20% shall be
permitted with a construction permit for the expansion and as a major modification of the
existing operating permit. Expansion of an existing nonpermitted facility that will result in animal
unit capacity greater than 1000 animal units shall be permitted with a construction permit for the

expansion and issuance of an operating permit for the entire facility.

5. Application submittal. Applications for registration or permits shall be submitted on forms approved and
provided by the county, with necessary attachments, as follows:
a) All application must be typewritten or otherwise clearly legible .
b) Reduced or enlarged forms are not acceptable and will be returned.
c) When a facility is owned by one person(s) but is operated by another person(s), it is the operator's
duty to complete the appropriate forms and provide necessary attachments and file them with the
county on behalf of the owner.

6.
Signature requirements. All applications must be duly signed by the appropriate person. Photostatic

copies will not be accepted. The application signature shall be made as follows :
a) If the applicant is a private corporation, the application must be signed by

:
1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal
business function, and
2) The person responsible for safety and/or environmental affairs.
b) If the applicant is a partnership, sole proprietorship, or individual person, the application must be
signed, respectively by a general partner, the proprietor, or the individual.

c)
If the applicant is a municipality, political subdivision, the State or Federal government or other public
agency or entity, the application must be signed by the principal executive officer of the entity or the
ranking elected official.

7. Time to apply. The following schedules shall be followed when applying for county approval of animal
feeding operations:
a) Registration. A registration form shall be filed with the county thirty (30) days prior to
commencement of construction for all new facilities that require only registration. Existing facilities
that only require registration with the county shall file a registration form within 180 days of the
effective date of these rules.

b)
New construction or expansion. An application for new or expansion construction permit shall be
filed with the county a minimum of one hundred and twenty (120) days prior to proposed
commencement of construction date of any activity requiring a permit.
c) Existing facilities. An application for an existing facility that requires a permit shall be filed with the
county within one (1) year of the effective date of these regulations.
d) Newoperating facilities. Facilities that are constructed after the effective date of these regulations
shall obtain a construction permit prior to construction and shall obtain an operating permit after the
facility has operated a maximum of 120 days by submitting amendments to the construction permit
application that describe any changes between the proposed construction design and the "as-built"
design for the facility.

8. Construction and operation without authority. The filing of an application form itself shall not be
construed as authority to carry on such activity. Activities carried on without a permit are unlawful and
shall be subject to applicable enforcement provisions and penalties contained in this regulation and all
applicable federal and state regulations and law. Unauthorized activities must cease until a proper permit
is obtained from the county, including but not limited to administrative hearings and public notice
processes . Initiation of construction before the issuance of a new or modified county permit shall be
deemed to be solely at the risk of the owner or operator of the facility. The

determination by the county to
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issue a permit shall not be influenced by the capital investment of an owner or operator that has
constructed the facility without proper issuance of a county permit.

9 . Necessary Attachments To Permit Application.
a) Site selection and assessment standards
1)
Objective
This section describes the information required to evaluate the location of a new or

expanding CAFO or AFO. Site selection is the single most important factor in protecting
water and air quality resources from animal waste. Adequate surface and subsurface information is necessary to limit the potential of new or expanding facilities to degrade
water and air quality resources.

(a) Site Selection Standard. Geologic and hydrologic conditions that control the movement of manure or wastewater to surface water r ground water sources are preferred for newor expanding facilities . Upland sites underlain by low permeability
soil and located away from surface water are ideal for minimizing the migration of pollutants to surface water and ground water. Facilities that are located at less desirable sites typically require engineered improvements (e.g ., above-ground storage
tanks or constructed clay liners) to obtain approval for operation.
(b)
The following site conditions shall be considered when evaluating the location of a CAFO or AFO:
Proximity to surface water;
Surface and subsurface soil types (e.g., the presence of sand lenses versus continuous clay liners);
Depth to ground water;
Surface topography;
And, distance to nearby residents, particularly in the prevailing downwind direction. Site conditions shall be evaluated by the county during the permit application review process and shall be considered when developing
approval conditions for an animal facility .
2)
General requirements

(a) -feet from a public water supply well, 50 feet from a private water supply well and not within 500 feet of any down gradient water supply well .
(b) Manure Storage Considerations.
The location of storage structures for an animal manure system should be as close as

practicable to the manure source. Open storage structures should be located so that the prevailing wind direction will not be toward nearby occupied areas. Consideration
should also be given to topography, vegetative screening and building location to minimize visual or air quality impacts from an operation. Water supply wells at existing
operations should be protected from animal waste impacts.
3)
Site Assessments Standards

(a) Scope of Site Assessment
The scope of a site assessment is dependent on the size and location of the proposed

livestock feed facility. Larger facilities or those located in sensitive hydrogeologic settings generally require more information to adequately evaluate the site. The assessment work required for these facilities is discussed in paragraph (b) . Smaller facilities located in less sensitive hydrogeologic settings generally require less information. The scope of work required at these facilities is discussed in paragraph (c). Contact the county commissioners or their representatives with any site assessment questions.

In general, the following operations require more subsurface soil information:

(a-1) New large CAFOs, with the exception of open lot beef facilities with fewer than 2,000 animals and less than 20 acres in size;

(a-2) Existing operations expanding to large CAFO status, with the exception of open lot beef facilities with fewer than 2,000 animals and less than 20 acres in size; or

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(a-3) New, existing or expanding AFOs that meet any of the following criteria:

(3-A) The site overlies or is located within 1 mile of a glacial drift aquifer;

(3-B) The site overlies a sensitive ground water area, as defined by the Health Department ;

(3-C) Soils at the site have a sandy loam, loamy sand, sand or gravel textural classes as defined by Natural Resources Conservation Service (NRCS) soil survey maps;

(3-D) A water supply well is screened at a depth within 30 feet of the ground surface at the facility;

(3-E) The site is within 1/4 mile of a neighboring private water supply well, within 1/2 mile of a non-community public water supply well or within 1 mile of a community public water supply well ;

(3-F) The site is located within a delineated wellhead or source water protection area (see attached map) ; or

(3-G) The facility will use a storage pond that stores manure and waste water from an enclosed facility, as opposed to a pond that stores runoff from an open lot facility.

b) Site Assessment Requirements for Large Facilities and Those Located in Sensitive Hydrogeologic Settings.

Data regarding subsurface soil types shall be obtained by advancing soil borings, using a method that retrieves a relatively undisturbed soil sample. The soil borings shall be advanced to at least 25 feet below ground surface or at least 10 feet below the base of the waste pond whichever depth is greater. There shall be a minimum of three borings in the waste pond area or one boring per acre of pond area, whichever is greater. In outdoor feedlot areas, there should be one additional soil boring per 10 acres of feedlot area drilled to at least 25 feet below ground surface. Soil borings should be spaced throughout the proposed facility to enable an accurate assessment of the subsurface geology.

The borings shall be continuously logged, and the soil shall be classified using the Unified Soil Classification System (as outlined in ASTM D-2487) or the equivalent. Soil

types shall be recorded in a soil boring log, along with soil colors, soil moisture conditions and the depth of any ground water encountered during drilling. The ground

surface elevation at each location shall be obtained to evaluate the boring elevation in
relation to the base of the waste pond. The elevation data shall either be reported in
feet above mean sea level or referenced to an arbitrary site benchmark.
All soil borings shall be completed and abandoned by a certified monitoring well or water well contractor, according to the requirements established in NDAC Chapter 3318-
20 (Ground Water Monitoring Well Construction Requirements).
Depending on site geology or facility location, the county may require additional soil
borings to adequately characterize soil and ground water. Additional borings may be required at sites with complex subsurface geology, such as sites with rapid transition
from fine-to coarse textured soil.

c) Site Assessment Requirements for Smaller Facilities Not Located in Sensitive Hydrogeologic Settings.
Site assessments at facilities that do not meet any of the conditions of Section 3.1

typically require less detailed subsurface assessment. The assessment may be conducted using soil borings or by an alternative soil evaluation method that is approved by the county prior to site assessment.
Subsurface soils should be evaluated and logged to at least 12 feet below ground surface or at least 8 feet below the base of the waste pond, whichever depth is greater. There shall be a minimum of three soil evaluations in the waste pond area or
one soil evaluation per acre of pond area, whichever is greater. In outdoor feedlot

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areas, there should be one additional soil evaluation per 10 acres of feedlot, to a depth of at least 12 feet below ground surface . Subsurface soils shall be continuously
logged, and soil shall be classified using the Unified Soil Classification System (as
outlined in ASTM D-2487) or the equivalent. Soil types shall be recorded on a soil boring log, along with soil colors, soil moisture conditions and the depth of any ground
water encountered during drilling. The ground surface elevation at each boring location shall be obtained to evaluate the boring elevation in relation to the base of the
waste pond. The elevation data shall either be reported in feet above mean sea level

or referenced to an arbitrary site benchmark.
If soil borings are used for evaluating subsurface soil, they shall be completed and

abandoned by a certified monitoring well or water well contractor, according to requirements established in NDAC Chapter 33-18-20 (Ground Water Monitoring Well Construction Requirements). Excavated or disturbed areas resulting from the use of alternative soil evaluation methods shall be filled with compacted soil to achieve permeability equal to or less than the existing geologic formation.

b) The facility's legal location and mailing address.
c) A topographic map of the area where the facility is located showing the specific production area.

d)
Specific information about the number, size, and type of animals proposed for the

facility; the number of days per year animals will be handled ; and the type of confinement (open or housed under roof).

e)
The type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, under-floor pits, above-ground storage tanks, underground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and

process wastewater storage (tons/gallons) .

f)
The total number of acres under control of the applicant and available for land application of manure, litter, or process wastewater.

g)
Estimated amounts of manure, litter, and process wastewater generated per year (ton/gallons) .

h) Estimated amounts of manure, litter, and process wastewater transferred to other persons per year (tons/gallons).
I) Designs for all manure storage and water pollution control structures and site-specific
background information.

j) An operation and maintenance plan . The required elements of an Operation and Maintenance
Plan for a concentrated animal feeding operation shall include at least:
1) The names, addresses, and telephone number of the operator and of the operation and all owners of animals confined at the operation;
2) The location, including latitude and longitude, and number of acres of the operation;
3) A map indicating the general layout of the operation, including the location of each building or other structure, the location of all portions of the containment system,
the location and flow of any surface water, the location of water supply wells, and the
direction and degree of all grades within the property lines of the operation ;
4) A certification by the operator that the operator will be responsible for and will ensure compliance with the Operation and Maintenance Plan and the requirements of this ordinance and a certification by each owner of one (1) or more animals confined at the operation acknowledging the potential joint liability of the animal owner if the operator violates the terms of the permit or the requirements of this ordinance with respect to a discharge from the operation;

5) An estimate of the annual animal production and the annual quantity of each type of animal waste produced by the operation ;
6) the crop or vegetative cover schedule for any agricultural lands owned or leased by the operator;

7)
information necessary to determine the land area required for the application of animal waste from the operation as determined in accordance with the requirements of this ordinance and any crop or vegetative cover schedule specified in the plan;

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8) a schedule for periodic testing of soil nutrient levels;
9) a schedule for periodic testing of animal waste nutrient levels;
10) information necessary to determine the land area available to the operator for the

application of animal waste, including copies of deeds of title and written agreements
for use of lands not owned by the operator for application of animal waste;
11) if methods of disposal for animal waste other than land application by or on behalf of the operator will be used, a description of those methods and the annual quantity of animal waste to be disposed of by each of these methods;

12)
a description of the methods, structures, or practices that the operator will use to prevent soil loss, surface water pollution and ground water pollution while minimizing odors and pests caused by animal waste during collection, storage, and application;

13)
a description of methods, procedures, and practices that the operator will usefor:
** operation, monitoring, maintenance, and inspection of animal waste storage operations; and
** handling, transportation, application, and treatment of animal waste, including storage volume, schedules for emptying storage operations, andapplication schedules, rates, and locations;

14)
a description of contingency measures that the operator will use to minimize environmental pollution resulting from any unexpected waste leak or discharge;

15)
a description of practices and procedures that the operator will use for maintaining

records detailing compliance with the Operation and Maintenance Plan and this ordinance;

16)
and, any additional requirements imposed by the county.

k) Nutrient Utilization Plan. All newCAFOs with animal unit capacity of 1000 or more shall develop a
nutrient utilization plan as apart of the permit application. All newpermitted CAFOsshall implement the
plan upon commencement of operation of a permitted facility. Existing CAFOswith animal unit capacity
of 1000 animal units or more shall develop and implement a plan within one (1) year of the effective date
of these regulations.

1) County Requirements for Swine Facilities. Each nutrient utilization plan shall address site-
specific conditions for land application of manure, wastewater and other nutrient sources, comply
with the requirements of state law and regulations, and contain at a minimum, the following:

(a) Asite mapof all land application areas, including section, township and range.
(b) Crop rotations on the land application areas.
(c) Annual recordsof soil tests, manure nutrient analyses, and calculations required by
state law and regulations and this ordinance.
(d) Nutrient budgets for the land application areas.
(e) Rates, methods, frequency and timing of application of manure, wastewater and

other nutrient sources to the land application areas.
(f) The amounts of nitrogen and phosphorous appliedto the land application areas.
(g) Precipitation records andthe amounts of irrigation and other water applied.
(h) Records of inspections and preventative maintenance of equipmentrequired by state
law and regulation and this ordinance.
(i) Copies of all landowner agreements for land that is not owned by the swine facility and
Is scheduled to receive manureor wastewater.
(j) Names of employees and contractorswhom the operator of the swine facility identified
pursuant to law to supervise the process of transferring manure or wastewater to land
application equipment and the processof land application .
(k) Records of training of all personnel who supervise and conduct land application of
manure or wastewater, as required by law; and
(I) Any other information required by the county to facilitate approval.
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(m) Conduct soil tests, including but not limited to the following :
(m-1) Tests for nitrogen, phosphate, chloride, copper and zinc, on the land application
areas prior to preparation of the nutrient utilization plan and at lease annually thereafter,
or as often as required by best available soil science and standards relative to the soils
of, and crops to be grown on, the land application areas, and
(m-2) Include the results of such tests in the nutrient utilization plan.
(n) Conduct manure nutrient analyses of manure and wastewater prior to preparation of
the nutrient utilization plan and at least every two years thereafter and include the results
of such analyses in the nutrient utilization plan .
(n-1) Compare the manure nutrient analyses with the soil tests to calculate needed
fertility and application rates for pasture production and crop target yields on the land
application areas prior to the preparation of the nutrient utilization plan and each time
thereafter when new soil tests or manure nutrient analyses are conducted or required.
(n-2) Include such calculations in the nutrient utilization plan.
(o) If a swine facility finds that the soil tests indicate that the phosphorus holding capacity
for any soils in the facilities land application areas may be exceeded within five years,
the facility shall promptly initiate the process to obtain access to the additional land
application areas needed, or make other adjustments, to achieve the capability to apply
manure or wastewater at appropriate agronomic rates.
(p) The facility may be required to apply manure or wastewater on all or a portion of the
facility's land application areas at a rate within the agronomic phosphorus needs of the
crops or pasture, or the soil phosphorus holding capacity, in less than the time originally
allowed in the approved nutrient utilization plan if the county finds that the land
application actions of the facility are contributing to the impairment of groundwater or
surface water.
(q) The plans shall include compliance with the requirement that manure or

Wastewater shall not be land applied on bare ground by any process, other than by incorporation into the soil, within 2,500 feet of any habitable structure, wildlife refuge
or city, county, state or Federal Park, unless:

(q-1) The manure or wastewater has been subjected to physical, biological, or biochemical treatment or other treatment method for odor reduction approved by the county.
(q-2) The manure or wastewater is applied with innovative treatment or application that is

best available technology for swine facilities and best management practices for swine
facilities or other technology approved by the county, or
(q-3) The owner of the habitable structure has provided a written waiver to the facility .

(r) Classification of waste, wastewater analysis. Prior to the first land application event,
the permittee shall provide a wastewater analysis of the wastewater intended to be disposed of by land application. The sampling shall include at least three composite

samples composed of grab samples at several depths in the impoundment to insure that

the resulting analyses represents the quality of wastewater to be land applied. Analyses
shall include at a minimum the following parameters:
(r-1) Nitrogen content (mg/I and Ibs/gallon), including total Kjeldahl nitrogen, ammonium nitrogen, nitrite-nitrogen, and nitrate-nitrogen .
(r-2) Phosphorus content (mg/I and Ibs/gallon), including total phosphorus in liquid

and total phosphorus in solids.
(r-3) Biochemical oxygen demand (mgll and Ibs/gallon) (BOD five day method).
(r-4) Zinc and copper (mg/1).
(r-5) Total dissolved solids (mg/I TDS and Ibs/gallon) .
(s) Calculations of nutrient content. Calculate nitrogen and phosphorus content showing
all expected losses throughout the waste management system to justify the final amount,
including but not limited to losses due to volatilization and adsorption.
(t) Management of other pollutants of concern. Calculate the loading of salts, metals,
and BOD based on the volume of wastewater that must be disposed of at each crop cycle. Compare the waste loading to acceptable loading rates for metals, salts, and BOD
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as used in land application of municipal wastewater and sludges. If the acreage required
for waste loading is higher than that used for nutrient loading, use the higher acreage
requirement.

(u) Soil testing prior to land application. The county mayrequire soil testing beyond that
required by the state on a case-by-case basis as a condition of the permit. The operator
shall provide the soil testing data to the county.
(v) Surface water and groundwater information . Provide groundwater information on each land application site, including the depth to groundwater, direction of groundwater

flow, and the legal description of each well used to determine groundwater information .
(v-1) Maps . Provide a topographic map containing 1 foot contours of the land application sites clearly indicating all waters of the state, including immediate watershed and topography that would cause storm water runoff to enter waters of the state.
(v-2) Water quality monitoring. Provide the number, design specifications, total depth, depth of completion, and legal description of the monitoring wells proposed for or located at a land application site, including well logs or driller logs, if available. Indicate the elevation of each well as surveyed, the depth to static water level, and the date the static water level was measured.
(v-3) Existing wells. Provide information on existing wells located in the land application area and within 500 feet of the outside boundary of each land application site, and whenever possible from well completion records in the public files, provide information including the total depth, depth of completion, and static water level ofeach well and date static water level was measured, and show locations on a topographic mapof the site and surrounding area.
(w) Amendments. Changes to the nutrient utilization plan shall be submitted to the county as amendments to the plan and shall be incorporated into the permit upon review of the county permit, unless modification of the permit is warranted .
v'

2)
County requirements for non-swine facilities. The county may require a nutrient utilization plan to be developed for non-swine facilities as a condition of the permit on a case-by-case basis. The non-swine nutrient utilization plan shall contain at a minimum, the following :

(a)
Nutrient utilization plan. All portions of the swine nutrient utilization plan that are applicable to non-swine facilities, such as waste classification, nutrient calculation, crop needs, maps, records of precipitation and amounts of irrigation, records of disposal, soil tests, and those requirements that mayoccur.
(b)
Amendments. Changes to the nutrient utilization plan shall be submitted to the county as amendments to the plan and shall be incorporated into the permit upon review of the county permit, unless modification of the permit is warranted.
(c)
Rates and frequencies of land application. When setting limits on animal feeding operations waste and wastewater disposal by land application (including loading, hydraulic, and application rates, and frequency and timing of application), the county shall base its determination on the parameters to be monitored and sampled and criteria and factors set forth in classifications of waste and wastewater and environmental risk. The loading requirements for animal feeding operation waste and wastewater disposal by land application shall be subject to the following factors and criteria, at a

minimum:
(c-1) Hydraulic loading rates. At a minimum, the hydraulic loading shall not result in

uncontrolled and contaminated surface water runoff or persistent ponding or flooding .
Hydraulic loading rates shall be determined using regional and local Plant Available

Nitrogen (PAN) evaporation rates, precipitation rates, properties of the soil indicative of
water capacity and agronomic water requirements.
(c-2) Concentration or mass loading rates. Concentration or mass loading rates of metals, biochemical oxygen demand, salts, and other toxic waste constituents shall be
determined and shall be limited to values that at a minimum, provide for average crop
yields during the life of the facility and do not exceed the annual assimilative capacity of
the soil for non-nutrients, especially for salinity, metal toxicity, and biochemical oxygen
demand . Persistent or conservative pollutants that can cause irreparable harm to the soil

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shall be monitored to determine when fifty percent (50%) of the assimilative capacity of

the soil has been consumed.

(c-3) Nutrient loading rates. The amount of nutrients to be land applied (Ibs/acre/year)

shall be determined for nitrogen, phosphorus, and potassium .

(3-A) Acomparison shall be made between the PAN and the nitrogen uptake of the vegetation sustained on the land. Soil tests used to determine residual nitrogen as required by the PAN equation shall be at a minimum one composite sample per two feet depth to a total depth of the soil profile if soil is not dominated by sandy materials or to a depth of 10 feet if the soil profile is dominated by sandy materials in order to determine the depth of penetration of nitrogen compounds below the root zone.
(3-B) Nitrogen loading rates shall be maintained to minimize the formation and infiltration of nitrates in concentrations that may adversely impact groundwater and/or create a stormwater runoff that may adversely impact surface water.
(3-C) At no time shall the nitrogen loading rate exceed the plan nitrogen uptake rate for the average yield of the intended crop.
(3-D) Phosphorus loading rates shall be maintained to minimize stormwater runoff that may adversely impact surface water. Soil tests used to determine residual phosphorous shall be at a composite sample for each two inches of soil to a total depth of four inches.
(3-E) At no time shall the phosphorus loading on the soils exceed agronomical rates in compliance with the nitrogen management in the direct watershed of an impaired stream.

(c-4) Enteric bacteria (e.g., Salmonella). The land application of waste and wastewater,
including contaminated stormwater shall be performed in such a manner to prevent or reduce the viability of enteric bacteria on the soil surface, especially Salmonella.

(4-A) Soils shall be tested once a year at fourteen days past the land

application event to determine if Salmonella is still visible in the soil profile.
(4-B) If Salmonella is found to be viable, the operator shall develop a strategy to reduce the recurrence by the next land application event and incorporate that strategy, if successful, into the nutrient utilization plan.

(d)
Post-application evaluation. The county may require soil testing after land application
to determine the transport and fate of applied nutrients and wastes to determine if the
loading rates used are appropriate for the assimilative capacity of the soil for BOD, salts,
metals, and other pollutants of concern and the crop nutrient needs for nitrogen and

phosphorus. Analytical results shall be submitted to the county and used to amend the
nutrient utilization plan as needed.
(e)
Emergencyresponse. The operator shall have an emergency response plan dedicated to unit failure of the land application equipment, including pumps, piping, fittings, safety
valves, anti-pollution devices, irrigation equipment, and stormwater runoff controls.
(e-1) On-site observation. At no time shall wastes and wastewaters be land applied without direct on-site observation by the operator of the facility. The observer shall be
trained in emergency response and have procedures to handle unit failure in such a manner as to reduce or minimize the amount of wastes and wastewaters that are released as a result of normal operation and in the case of unit failure .
(e-2) Reporting. The operator shall notify the county within four (4) hours or sooner if
possible, upon first knowledge of an emergency situation in the land application area and
fulfill the requirements of a unit failure report.
3)
Land Application and Sludge Disposal The following general requirements apply to all CAFOs
with animal unit capacity of 1000 animal units or more that utilize land application as a method of
disposal of CAFOgenerated wastes, wastewater and/or sludges .

(a) Beneficial Use. No person may apply sludge or wastewater to the land except for the purpose
of beneficial use, unless it is shown that the land application will not pollute or tend to pollute the
environment, nor pose a risk to human health, nor cause any deterioration of the long-term use of
the site, land surfaces, soils, surface water, and/or ground waters.
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(a-1) Timing. Timing and rate of land applications shall be in response to crop needs,

assuming usual nutrient losses, excepted precipitation, and soil conditions.

(a-2) Nutrient benefit. Land application of wastes, wastewaters, and sludges shall not

exceed the nitrogen uptake of the crop coverage or planned crop planting. If the local

water quality is threatened by phosphorus, the land application rate shall not

exceed the

phosphorus uptake rate of the crop coverage or planned crop planting.

(a-3) Crop restrictions. Land application of wastes and wastewaters shall not be applied

on any human consumptive food crop that may be eaten raw. Land application of wastes

and wastewaters may be land applied on secondary human consumptive crops, such as

corn, wheat, and oats, provided a period of thirty (30) days elapses between the last

application and harvest.

(b)
Prevention of deterioration of soils. Land application of wastes and wastewaters, including stormwater, shall be performed using conservative evaluation between waste

loading, nutrient loading, and hydraulic loading, such that the following are met:
(b-1) Assimilative capacity. The assimilative capacity of the environment shall not be
exceeded beyond 50% of the reasonable assimilative capacity of metals, salts, and other
conservative pollutants.
(b-2) Viability of soil. At no time shall the loading occur to the point that the soil is no
longer viable for normal agricultural purposes.
(b-3) Crop rotation. Crop rotation and other similar agricultural practices shall be utilized
to insure that the s soil is maintained for long-term agricultural uses and to prevent
erosion.
(b-4) Highly erodible soils. Land application shall not occur on lands classified as highly
erodible according to the conservation compliance provisions of the federal food security
act of 1985, as in effect on the effective date of these regulations, and classified as highly
erodible on the basis of erosion resulting from water runoff, unless approved by the

county.
(b-5) Soil pH. Any site with soil having a natural pH of less than 5.5, or a pH otherwise
not conducive to optimum crop yield, shall not be used for the land application of wastes
and wastewaters unless the soil pH is amended prior to application and documentation of
such amendment is recorded on site as Ibs amendment per acre and the final pH
determined with soil tests meets or exceeds these requirements.
(c)
Climate restrictions. Wastes, wastewaters, and sludges shall not be applied to the land
when the ground is frozen or saturated or during rainfall events, regardless of soil

conservation practices allowed by the state. The practice of land application shall be
performed to reduce or minimize ponding or puddling ofwastewater and shall be limited
to those discreet times when crop uptake of nutrients warrants the application of wastes

and wastewaters. The operator shall plan ahead and maintain enough storage volume in the waste managementsystem to allow storage until the appropriate climate conditions and crop nutrient requirements prevail.

(d)
Discharges and runoff prohibited. Wastes, wastewaters, and sludges shall not be land applied in wetlands or any other waters of the state nor allowed to enter such as surface runoff or by other means. All discharges to waters of the state due to contaminated stormwater runoff, infiltration to shallow groundwater and subsequently surface water, and other hydrologic means from land application sites are prohibited unless a permit has been obtained from the county that specifically authorizes such discharge in an environmentally sound manner.

(e)
Sludge incorporation. Sludge applied to the surface of the land shall be incorporated into the soil before the end of each working day.

(f)
Odors, disease vectors, and spray drift. Land application of wastes, wastewaters and sludges shall be done in a manner and at certain times of the day that minimize or prevents the occurrence of nuisance conditions, such as odors; shall control disease vectors, such as flies, and rodents ; shall avoid spray drift from the land to which it is applied ; and shall prevent contamination of soils, ground water and surface water.

(g)
Waste classification. The wastes, wastewaters, and sludges shall be sampled and analyzed to determine the presence and concentration of pollutants of concern in order to
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determine the waste classification, including but not limited to total nitrogen, ammonia nitrogen, nitrate-nitrogen, phosphorus, potassium, total dissolved solids (TDS), biochemical oxygen demand, Salmonella, and metals, such as copper and zinc.

(h)
Soil condition. The type of soils shall be identified according to standard soil classification used by the NRCS using both soil surveys and field verification. All background and required soil sampling and analyses shall be, at a minimum, of a composite sample taken from an area 80 acres or less in size at each site proposed or used for land application of wastes and wastewaters . The number of composite samples shall be sufficient to identify all types of soils located within the land application area as identified in the county soil survey. The county mayapprove a larger sampling area or require a smaller sampling area as a condition of the permit.

(i)
Site and location requirements. The following requirements apply to all land proposed to be used for land application of CAFOgenerated wastes, wastewaters, and sludges:

(i-1) Proximity to habitable structures. At no time, shall wastes, wastewaters, or sludges be land applied within 500 feet of a habitable structure.

(i-2) Proximity to surface water. At no time, shall wastes, wastewaters, or sludges be

land applied within 300 feet of surface water.
(i-3) Habitable structures, refuge, and parks. At no time shall untreated wastes and

wastewaters be land applied on bare ground, without incorporation into the soil on the
same day, within 2,500 feet of any habitable structure, wildlife refuge, or city, county,
state or federal park or the surveyed plat or federally funded plan thereof that was in
existence on the effective date of these regulations.

(3-A) If the operator submits soil conservation practices to the state to allow land application of raw waste or wastewater to the soil without incorporation, the county shall review the practices and make a determination as a condition

of the permit.
(3-B) If the operator submits innovative technology basis to the state to allow land application of raw waste or wastewater to the soil without incorporation, the county shall review the technology and make a determination as a

condition ofthe permit.
(3-C) If the operator submits a waiver from the owner of the habitable structure as a condition for the state to allow land application of raw waste or, wastewater, the county shall require said waiver to be filed as a restriction of the deed prior to a determination as a condition of the permit.

(i-4) Alluvial terrace deposits and sand dunes. Land associated with alluvial terrace
deposits, sand dunes, or excessive erosion shall be avoided, especially if also associated
with shallow groundwater hydrologically connected to surface water.
i-5) Topography. The land application site(s) shall have minimal slope or be contoured
to prevent ponding and soil erosion.

(5-1) No application shall occur on land having a slope exceeding five percent (5%) unless erosion and runoff control provisions are implemented.
(5-2) Land having a slope of ten percent (10%) or less may be utilized for the land application of dewatered or dried sludges if they are knifed in or otherwise incorporated into at least the top six (6) inches of soil.

(i-6) Grassed strips. Edge-of-field, grassed strips shall be used, at a minimum, to separate water courses from contaminated stormwater runoff carrying eroded soil, manure particles, and other pollutants of concern .
(i-7) Wildlife. Land application shall not occur it if is likely to adversely affect a
threatened or endangered species listed under Section 4 of the Federal Endangered Species Act, 16 U.S.C. 1533(c), or the critical habitat of such species, or other wildlife
protected by the state as a threatened species.

Q)
Wellhead protection. Land application of wastes and wastewaters and sludges shall not
occur within 300 feet of a private or public drinking water well nor within 100 feet of any
facility water well.

I) Closure and financial assurance instruments.

1)
The Towner County Commissioners shall establish by rule the conditions and standards for proper closure of a concentrated animal feeding operation upon cessation of operations. These shall address at a minimum lagoon draining, cleaning and filling, removal of waste handling facilities and equipment, and other conditions to assure public health and safety.

2)
Financial assurance instruments (irrevocable letter of credit, cash surety bonds or cash bonds) shall be posted in an amount sufficient to ensure proper closure. The exact amount shall be site-specific and shall be determined by a study conducted by a professional engineer or consultant licensed by the state. The cost of the engineer's or consultant's study will be paid for by the developers (posting entity).

3)
Upon proper closure, as determined by an inspection by the Health Department and/or County Representative the financial assurance instrument shall be returned to the posting entity.

4)
If upon inspection by the Health Department and/or County Representative it is determined that conditions exist that do not comply with the closure rules, funds shall be acquired from the financial assurance instrument to achieve such compliance. Anyunspent portion of such financial assurance instrument shall be returned to the posting entity.

5)
If the County Commissioners determine that an emergency situation requiring immediate corrective action exists, they can utilize the financial assurance instrument to correct the emergency situation. The financial assurance instrument will be reimbursed to the original amount by the duly signed person(s) on the permit or registration application within ninety (90) days of the emergency or as agreed upon by the County Commissioners.

6)
The County Commissioners must sign on the bond between the facility and the bonding company. If there is any change in the bond, security, or surety, the County must be immediately notified in writing.

7)
Closure requirements. The following closure requirements are intended for all new CAFOs located in Towner County that have an animal unit capacity of 1000 animal units or more. Existing facilities may use these closure regulations voluntarily as a part of their environmental program. The county reserves the right to

require closure of any impoundment using these requirements that is shown to pose imminent and
substantial harm to human health or the environment.

(a)
Notice of termination. The owner, operator or permittee (if permitted) shall provide the county
with a minimum of thirty (30) days written notice prior to permanent cessation or abandonment of
the animal feeding operation or any part of the wastewater treatment system . Written notice shall
contain, at a minimum, the following information:
(a-1) Name, address, and title of person(s) who is in charge or will remain in charge of or
otherwise have continuing management responsibility of the facility or site and who will
retain an ownership interest in personal or real property affected by the permitted action.
(a-2) A detailed schedule of proposed closure activities of the operation and/or any part
of the abandoned wastewater treatment system.
(a-3) Forwarding addresses and names of each present owner and/or operator and the
forwarding addresses and names of any other person listed in a County Permit for the

facility, in the case of closure of the operation.

(b)
Requirements are mandatory. It shall be a violation of these rules to permanently cease the use
or abandon any facility or site or any part of the wastewater treatment system, including but not
limited to pits, lagoons, impoundments, piping, disposal areas, storage areas, and land application
sites without complying with notice and closure requirements.
(c)
Correction of environmental damage. The county may require such continuing monitoring,
sampling, reporting, or other remedial measures as deemed appropriate and necessary to correct
environmental damage resulting from the activities subject to the requirements of these rules .
Appropriate and necessary remediation measures shall be reviewed and approved and/or

determined by the county on a case-by-base basis as allowed by this regulation and other
applicable rules and laws. The county may require that the permittee or person(s) responsible for
proper closure of the facility to provide such information to the county as is necessary to determine
what remedial measures are appropriate and necessary.
(d)
Conditions requiring closure and time for closure. When any part of a wastewater treatment
system, including but not limited to concrete pits, surface impoundments, sludge disposal areas,
carcass disposal areas, and land application sites, is to be permanently taken out of the intended
service or if the contents of the system or use of the system poses an direct, imminent, or
substantial risk to the health and environment or irreparable harm to waters of the state, the owner
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or operator or permittee (whichever is applicable) shall be required to properly close the part of the

wastewater treatment system within six (6) months, unless a longer amount of time is granted by

the county.

(d-1) Imminent harm. The county may order or otherwise require closure within a

shorter period of time as allowed by law in appropriate circumstances, such as in cases

where it is necessary to protect human health and welfare or to protect wildlife or beneficial uses of waters of the state.

(d-2) Waiver of closure requirements. The county may waive some or all closure

requirements if the surface impoundments or other aspects of the wastewater treatment

system must be closed under federal (e.g., RCRA regulations) or state regulations (e.g.

N .D. regulations), if such regulations provide equivalent protection of the health and environment as provided by these county regulations.

(d-3) Prevention of formation of nitrates. The closure of surface impoundments that contained wastes and wastewaters generated by a wet manure system shall be considered a priority in order to prevent the formation of nitrates by any accumulation of ammonium saturated soils that when environmentally conditions change may be biologically changed to nitrates.

(d-4) Emptysurface impoundments. At no time shall a surface impoundment be placed into operation if allowed to dry to the point of erosion and cracking of the soil liner system without physical improvement to the liner system, a new assessmentof the liner permeability and seepage, and approval by the county to utilize the lagoon as part of the wastewater treatment system for a wet manure system .

(d-5) Liner integrity. The partial or total closure of surface impoundments shall be

required if the liner integrity has been jeopardized beyond reasonable repair, including but not limited to the following situations:

(5-A) Flexible membrane liner bubbles. If the flexible membrane liner develops bubbles that push the liner material from the subgrade material. A partial closure maybe required to remove the liquid in the lined lagoon prior to remedying the problem area. A total closure maybe required, if the integrity of the liner has been jeopardized beyond reasonable repair.

(5-B) Soil or clay liner erosion . If the soil or clay liner has eroded beyond reasonable repair causing the potential for leakage into the subsurface, a partial or total closure may be required .

(e) Closure requirements. The following closure requirements apply to any animal feeding operation wastewater treatment system which is permitted by the county or contains or has contained wastes regulated by the county:

(e-1) Pre-closure site investigation . Prior to submitting a closure plan to the county, the owner or operator or permittee, whichever is appropriate, shall perform a

pre-closure site
investigation after the county has approved the pre-closure site investigation and sampling plan.
(1-A) Plan submittal. A pre-closure site investigation and sampling plan shall be prepared and submitted to the county for approval at least thirty (30) days prior to any pre-closure sampling, monitoring, or other site investigation. The plan shall including the following :

(1-A-i) Narrative description of the proposed pre-closure site investigation including a list of all systems, impoundments, appurtenances, structures, disposal areas, and other areas of environmental concern will be evaluated for potential sites for sampling, monitoring, or other names of investigation used to determine closure activities.
(11 -A-ii) Adetailed description of any groundwater, surface water, and/or soil sampling including a facility map showing intended sites for sampling; description of sampling methods, list of analytical parameters including EPA method, detection limit, and units of reporting; and intended purpose for each type of sampling and analysis.

(1-B) Monitoring plan. Any monitoring plan shall include the applicable requirements as listed by the state and this ordinance.
(1-C) Approval of plan. The county will review the pre-closure site investigation and sampling plan within thirty (30) days of submittal to the county and respond to the submitter with either a list of deficiencies or an approval of the plan. If deficiencies are identified by the county, the submitter shall promptly correct such deficiencies and submit a revised plan.
(1-D) Site investigation and reporting. The owner or operator or permittee,

whichever is applicable, shall perform the site investigation and report to the county the results of all groundwater, surface water, and soil analyses, as well as prepare a brief summary of all critical environmental problems that will be addressed in the closure plan.

(e-2) Closure procedure. The following procedure shall be used for proper closure

of animal feeding operation wastewater treatment systems:
(2-A) Plan submittal. A written closure plan shall be submitted to the county at least ninety (90) days prior to commencing closure, unless a lesser amount of time is granted by the county.
(2-B) Closure action. Closure activities shall occur as specified in the closure plan.

(2-B-i) The county shall be notified at least five (5) working days prior to the commencement of closure in order to facilitate on-site inspection or other site visit.
(2-B-ii) If the wastewater treatment system contained Class I or Class II wastewater or is located in a high risk environment, the closure activities shall be overseen by a professional engineer registered in the State of North Dakota or if approved by the county, by an environmental specialist with formal training in wastewater treatment and groundwater pollution controls.

(2-C) Amendments. Any amendments to the closure plan shall be submitted in

writing to the county for review and approval before any closure activity is altered, replaced, or deleted. Arrangements may be made with county for verbal approval of changes during closure activities, when necessary for safe

and effective closure, providing that the changes are immediately submitted in writing for inclusion in the public file.
(2-D) Commence activities. Closure activities shall not commence until the closure plan and all amendments thereto have been evaluated by the county and the county has issues a written determination that, based upon information provided to the county, the closure plan or the amended closure plan meets the

requirements of the county and these regulations.

(2-E) Certification of closure. Aclosure shall not be considered complete until

the county has received written certification of closure, which shall include the

following:

(2-E-i) Astatement that all activities listed in the county-approved

closure plan were performed.

(2-E-ii) A list of all closure activities that were performed (e.g., filed

notes from the attending engineer) and a narrative discussion of all

inspections, sampling and analysis, andother pertinent information

as may be required by the county.

(2-E-iii) If the wastewater treatment system contained a Class I or

Class II wastewater, the certification shall be prepared and signed by

a professional engineer registered in the state of ND, or if approved

by the county, by an environmental specialist with formal training in

wastewater treatment and groundwater pollution controls .

(e-3)
Closure plan content requirements. At a minimum, the written closure plan shall include the following information, as well as information as requested by the county:

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□
(3-A) General information. The following general information shall be

provided in all closure plans :
(3-A-i) Purpose of closure. State the purpose of closure indicating the reason whythe waste managementsystem, in part or in whole, is or is proposed to be no longer in use.
(3-A-ii) Permit number. Provide the federal, state and county permit numbers for the facility . If the facility has not been permitted, the county may require information usually submitted with a permit application.
(3-A-iii) Ownerloperator. Provide the name, address, and telephone number for the owner of the facility and the operator of the facility .
(3-A-iv) Consent. If the operator is not the sole record owner of the land, surface property interests and all water rights, then the operator shall provide a written document from such owner(s) indicating that the owner(s) have read the proposed written closure plan and consent to any specified on-site or off-site disposal of wastes, wastewaters, contaminated soils, construction debris, and other

potential wastes identified during closure.
(3-A-v) Time schedule. Provide a time schedule indicating the major closure activities, the approximate time to complete each activity, and the estimated time required to achieve completion of all closure activities.
(3-A-vi) Certification. If the waste managementsystem, in part or in whole, that is proposed to be closed contained Class I or Class II waste or wastewaters, the closure plan shall be reviewed and signed by a licensed professional engineer registered in the State of ND with a certification statement that the closure plan activities will be protective of human health and the environment, including water of the state.

(3-B) Site assessment. The following minimum information about the site

shall be provided in the closure plan:
(3-B-i) Soil information. Identify the type of soil(s) by soil series name impacted and include a description of the soil profile and the depth to bedrock and/or to the producing aquifer. List chemicals and physical properties of the soil, and their average values for the site, that predict the transport and fate of the pollutants of concern in the waste contained in the waste managementsystem to be closed. Photocopies of soil maps from the Soil Conservation Service and/or recent aerial photographs shall be included .
(3-B-ii) Groundwater information. Identify major and minor groundwater aquifers, recharge areas, depth to groundwater for both shallow and drinking water sources, local and regional direction of flow, and estimated or actual background water quality of the shallow and drinking water source. Topographic, geologic, hydrologic, and other maps shall be used to indicate location and extent of groundwater at the site, including local and regional direction of groundwater flow.
(3-13-iii) Surface water information . Identify surface water bodies that may be hydraulically connected to the groundwater or are immediately downgradient of the drainage area around the waste managementsystem, including the land application area to be closed. Trace the drainage to the nearest major watercourse on a topographic map of appropriate scale.
(3-B-iv) Plans and specification. Provide the engineering plans and specification that details the "as-built" conditions of the waste managementsystem to be closed indicating the dimensions of the

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impoundments, location of and materials used for piping and appurtenances, location of inflow and outflow piping, location and thickness of sludge, and depth of wastewater in each impoundment.

(3-B-v) Land application area. Provide records that state the amount and type of wastewater land applied to the land application area, the type of crops grown, number of crops grown using wastewater, annual volumes of wastewater applied, wastewater analysis (es), and soil tests.

(3-C) Waste characterization. The following minimum information about

the wastes currently contained and historically contained in the waste

management system shall be provided in the closure plan.

(3-C-i) Historically contained wastewater. Provide an inventory of

wastes and other records that indicate the types and concentration of

wastes and wastewaters that are contained in the waste

management system to be closed. Indicate the frequency and

volume of each type of waste that was or may have been contained or otherwise placed in the system, including but not limited to pesticides, rat and fly bait, pharmaceuticals, manure and urine, disinfectants, feed additives (e.g., metals, nutrients, and other conservative materials) and any solid waste, such as dead animals, placentas, waste feed, and sharps. Include spill response data sheets.

3-C-ii) Currently contained wastewater. Provide a wastewater analysis of the waste or wastewater currently contained in the waste management system using composite samples for overall characterization and grab samples that are representative of the

most concentrated portions of the waste to determine areas of priority

clean-up.

(3-D) Sampling, analysis, and monitoring plans. Sampling, analysis,

and monitoring used before, during, and after closure shall be proposed to the

county in a written plan as follows:
(3-D-i) Sampling and analysis plan. All sampling and analysis of the currently contained wastewater shall be performed according to a pre-approved written sampling and analysis plan developed using regulations for "pre-closure sampling".
(3-D-ii) Monitoring plan. All monitoring shall be performed according to a pre-approved written monitoring plan developed using regulations for "monitoring plan".
(3-D-iii) Sampling and monitoring locations. All sampling and monitoring locations shall be clearly indicated on a facility map accompanied with a description of the location of each site, purpose of each sampling and monitoring site, and duration of sampling and monitoring at each site.
(3-E) Treatment, removal, and disposal . The closure plan shall include

the following minimum discussion of treatment, removal, and disposal activities,

as well as any additional information required by the county or deemed

necessary for clarification :
(3-E-i) Treatment. Describe all treatment methods to be used to treat or reduce any wastewater and/or sludge in the impoundment (e.g., chemical or physical treatment, phase separation, wastestabilization, or other method). Provide a written rationale for each treatment method to be used, the anticipated outcome of that treatment, and sufficient evidence of its effectiveness.
(3-E-ii) Removal. Describe all removal activities for all wastes, wastewaters, sludges, liner materials, and contaminated subsoils

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(e.g., volume to be removed, equipment used, dust control, spill response, containers, transport, and other activities).
(3-E-iii) Backfill. If the waste management system, part or in whole, is to be closed by backfilling with soil, estimate the volume of soil

needed considering compaction and settling. Include discussion of the material used as backfill, its source, method of compaction, and other activities.
(3-E-iv) Disposal. Provide the nameand location of all off-site facility(ies) to be used to dispose of materials removed from the site, including but not limited to piping and fittings, tanks, concrete, liner materials, appurtenances, construction debris, contaminated subsoils, wastes and wastewaters (both treated and raw waste), and provide the name of the issuing agency (if disposal permit is required), permit number or other information necessary to determine proper authorization can and will be obtained for such disposal.

(3-F) In-place closure requirements. In addition to the other requirements listed in these closure regulations, the following additional requirements shall apply for "in-place closure":

(3-F-i) Pollutants of concern. List the types and potential concentrations of the pollutants of concern that are or may be present in the wastes and wastewaters, sludges, and contaminated subsoils.
(3-F-ii) Alternatives. If the pollutants cannot be physically removed in total or must otherwise be closed in place, the closure plan shall include a discussion or remediation alternatives evaluated prior to the decision to use "in-place closure" (ie., closing with some portion of the pollution in-place) . Typical alternatives include: clean closure, waste reduction, or chemical, physical, or biological treatment and documentation as to the effectiveness of each alternative .
(3-F-iii) Containment. Include a discussion of containment alternatives (e.g., waste stabilization, impervious cap, or other system of protecting waters of the state, public health and the environment) and documentation as to the effectiveness of the containment measure.
(3-F-iv) Partial remediation. Include a proposal of which remediation and/or containment alternative(s) will be implemented for each portion of the waste management system to be closed. Include sampling and analysis plan that will provide information about the type and concentration of pollutants left in the closed facility and portions thereof that are part of the waste managementsystem closed .
(3-F-v) Post-closure activities. Include discussion of all post-closure activities, such as groundwater monitoring, surface water monitoring, water or land use restriction, or deed restrictions.

(3-G) Clean closure requirements. In addition to other requirements listed in these closure regulations, the following additional requirements shall apply for "clean closure":

(3-G-i) Pollutants of concern . List the types and potential concentrations of the pollutants of concern that are or may be present in the wastes and wastewaters, sludges, and contaminated subsoils.
(3-G-ii) Alternatives. Provide an evaluation of the feasibility of "clean closure" (ie., complete removal all wastes and wastewaters, contaminated subsoils, liner materials, equipment, piping, concrete, etc. and insuring contaminated subsoils are at a level similar to background concentration or at a level that will not adversely impact

the environment, waters of the state, or public health). Include a discussion of available technology to be used, extent of contamination, effectiveness of technology, and other decision

factors.
(3-G-iii) Full remediation. Include a proposal of which remediation and/or containment alternative(s) will be implemented for each portion of the waste managementsystem to be closed . Include sampling and analysis plan that will provide information about the type and concentration of pollutants left in the closed facility and portions thereof that are part of the waste management system closed.
(3-G-iv) Clean-up target. Discuss target clean-up level of pollutants of concern in the wastes and wastewaters, sludges, and contaminated subsoils, and the sampling and analytical methods to be used to determine that clean closure has been achieved for the pollutants of concern.
(3-G-v) Post-closure activities. Include discussion of all post-closure activities, such as groundwater monitoring, surface water monitoring, water or land use restrictions, or deed restrictions.

10. Permit conditions. The county may impose any reasonable condition upon a state animal feeding
operation permit including:
a) Sampling, testing, and monitoring of the facilities or manure, process wastewater, or
runoff.
b) Prevention and abatement of nuisance conditions caused by operation of the facility .
c) Record keeping and reporting.
d) Compliance schedules for existing facilities needing upgrades to meet the requirements

of this chapter.

e)
The operator must notify the county within thirty days of construction completion and
provide certification from the engineer that construction of manure storage and water
pollution control structures was completed according to designs provided with the application or subsequent approved changes.

f)
Permit review. The operating permit will be reviewed every 5 years. The review will encompass all provisions of the original permitting process.

g)
Ownership change. An operator of a facility that includes an animal feeding operation
having a permit granted by this ordinance shall notify the county of the sale, or the
transfer of the ownership of that operation.

h)
Operating change. An operator of a facility that includes an animal feeding operation
having a permit granted by this ordinance shall notify the county of intent to include an
alternate livestock type. Thenotice shall be given at least 120 days prior to the anticipated date of the change.

11 .
Facility requirements.
a)
An animal feeding operation shall be located, maintained, and operated in accordance

with this ordinance, and its county animal feeding operation permit. In addition, best
management practices shall be applied to prevent pollution of waters of the state.

b)
All concentrated animal feeding operations shall be located, maintained, and operated in
accordance with this ordinance and its county animal feeding operation permit. In addition, best management practices shall be applied to prevent pollution of waters of the

state.

c)
Operation and maintenance plan. Operators of animal feeding operations and concentrated animal feeding operations requiring a permit shall submit an operation and
maintenance plan that indicates how the manure and process wastewater will be disposed of or recycled. The operator shall indicate howthe manure and process wastewater will be managed to minimize the impact of odors on neighbors. This plan will
be maintained in the facility.

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d)
Nutrient managementplan. A nutrient management plan shall be submitted and

maintained in the facility.
e) A closure plan will be submitted and maintained in the facility .
f) Manure storage structures. All animal feeding operation requiring permits under this

ordinance and all concentrated animal feeding operations requiring permits and which

are constructed or expanded after October 10, 2003, shall meet the following requirements:
1) All facilities regulated under this ordinance shall have manure storage

structures designed and constructed to store runoff from a 25-year, 24-hour

rainfall event, except swine, chicken, turkey, and veal calf facilities which shall

be designed and constructed to store runoff from a 100-year, 24-hour rainfall

event. In addition, all facilities shall collect and store all manure, process

wastewater and runoff for a minimum of two hundred and seventy days. No

discharge is allowed from storage structures except overflow due to a

chronic or catastrophic rainfall event in excess of those specified.

2)
A groundwater site assessment is required for all manure storage structures.

3)
All manure storage structures shall be designed and maintained to withstand natural forces and to prevent impacts to waters of the state. The maximum seepage allowed from the storage structures shall not exceed one-sixteenth of an inch per day.

4)
Other manure storage structure requirement specified in this ordinance shall be met.

5)
The county may specify additional design or monitoring requirements as needed to ensure facilities will satisfactorily prevent pollution to waters of the state.

g)
Liquid storage facilities. Facilities that store liquid manure, process wastewater, or
manure-contaminated runoff must meet the following requirements:
1) Newfacilities, expanding facilities significantly increasing their number of

livestock, or those facilities that have not housed livestock within five years shall not be located over an unconfined glacial drift aquifer unless a variance is granted by the county.

2)
Newfacilities constructed after October 10, 2003, or those with upgrades to water pollution control structures (other than minor repairs) shall be designed by or under the supervision of an engineer. After completion, the engineer shall certify that the construction was completed according to design plan.

3)
Other requirements specified by the county.

h)
Odor management. An operator shall manage a facility to minimize the impact of orders
on neighbors and comply with the odor requirements of section 11 of NDCC Chapter 2325,
chapter 33-15-16 of NDAC Article 33-15, and any other requirements by the county.

I)
Best management practices. An operator is responsible for applying best management practices to ensure compliance with the requirements of this ordinance and the permit
and to prevent pollution of waters of the state. The best management practices used shall be included in the operation and maintenance plan or in the nutrient management
plan.

12. Record keeping and reporting requirements.
a) The operator of an animal feeding operation shall record and maintain the following for a period

of not less than three years : (1) any sampling, testing and monitoring results; (2) maintenance and

inspection records; and (3) reports and data required by this ordinance and the permit. This period

of record retention shall be extended if requested by the county or during the course of any

unresolved litigation regarding the discharge of pollutants by the operation . The information shall

be provided to county representatives upon request.

b) Sampling, testing, and monitoring results; maintenance and inspection records;

reports and data

obtained by an operator shall be submitted to the county in accordance with the schedule

prescribed in the county permit. Reports shall be submitted at least annually on the appropriate

forms supplied by the county or in a manner specified by the county.

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D. Purpose of setback distances. The purpose of setback distances includes butis not limited to, reducing impacts
of odors on neighboring habitablestructures, providing biosecurity to humans due to human-animal transferable
disease, reducing impacts of air pollution otherthan odors on neighboring habitable structures (e.g., sulfur compounds,
carbon monoxide, ammonia, dust, dander and otherallergens), to minimize the potential for property value reduction
due to the proximity of an existing habitable structure to a new or expanding confined animal feeding operation without
due compensation, and to provide protection to wildlife refuges and public facilities .

1 . The operator of a new animal feeding operation that has more than 1,000 animal units shall not locate or
establish that operation:
a)
Within a delineated source water protection area for a public water system. The source water
protection areas for water supply wells include the entire wellhead protection area . For the surface-
water intakes of public water systems, source water protection areas include all or portions of the
surface waterthat supplies the water for the public water system, including all or portions of the
surface-water's shoreline.

b)
Within 1,200 feet (365.6 meters) of a private ground water well which is not owned by the operator or
within 1,500feet (457.1 meters) of a public ground water well which does not have a delineated
source water protection area.

c)
Within 1,000 feet (304 .7 meters) of surface water which is not included in a source protection area.

2. Odor Setbacks
The operator of a facility for an animal feeding operation shall not locate that operation within the extra
territorial zoning jurisdiction of an incorporated city. An owner of property shall locate and establish a
residence, business, church, school, public park or zone for residential use so as to provide a separation
distance from any existing animal feeding operation. The separation distances or setbacks are listed in
the following table. An owner of property who is an operator maylocate the owner's residence or
business within the setbacks. County Commissioners mayvary the setback distance

after review of the
permitting process. See definition 29(c) (Risk Classification).
Setback Distance forAnimal Feeding Operation

ANIMAL UNITS HOGOPERATIONS OTHER ANIMAL OPERATIONS
Established Residence Less than 300 None None
300 to 1,000 1 Mile 1 Mile
1,001 to 10,000 1 112 Mile 1 Mile
More than 10,000 2 miles 2 Miles
Churches, businesses,
Commercially Zoned
Areas, Recreational Area, Less than 300 None None
Schools
300 to 1,000 1 Mile 1 Mile
1,001 to 10,000 1 112 Miles 1 Mile
More than 10,000 2 Miles 2 Miles
Incorporated City Limits
and Unincorporated Platted Less than 300 None None
Limits
300 to 1,000 2Miles 2 Miles
1,001 to 10,000 21/2 Miles 2 Miles
More than 10,000 3 Miles 3 Miles
Federal or State Highway
ROW Less than 300 None None
300 to 1,000 150 feet 150 feet
1,001 to 10,000 150 feet 150 feet
More than 10,000 150 feet 150 feet
County Road ROWand
Adjacent Property Lines Less than 300 None None
300to 1,000 150 feet 150 feet
1,001 to 10,000 150 feet 150 feet
More than 10,000 150feet 150 feet

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E. Public Participation
1 . All orders of rulemaking referenced in this Ordinance shall be adopted only pursuant to state laws governing
administrative rules and regulations, with full public review and comment and public hearings upon draft
rules .
2. Upon submission of an application for a construction permit and waste management plan, there shall be a
public notice in a county newspaper of general circulation, and by personal notice to all landowners within a
three mile radius of the concentrated animal feeding operation. The public notice shall include at a minimum
the location and animal capacity of the facility, general construction design and waste managementfeatures
and a topographical map of the land application sites . The complete permit application and waste
management plan shall be available for public viewing at the public library in the county and at the office of
the county clerk; this availability shall be stated in the public notice. The applicant shall pay for all costs
associated with the public notice provisions .
3. Areasonable period shall be provided for public comment on the waste management plan andthe
construction permit application -such period shall be no less than 30 days. These comments shall be shared
with the applicant, and the applicant may be given the opportunity to revise the design and waste

management plans as a result of the public comments. The county shall issue a written report on all
significant public comment and shall indicate how the public comments effected decisions to approve, reject,
or modify the permit application.
4. Thecounty may hold a single public hearing upon the written requests of 20 impacted voting citizens, and
shall follow the same procedures as in 3 above.

ARTICLE 3 - DISTRICTS AND BOUNDARIES

SECTION 1 . ESTABLISHMENT OF DISTRICTS: In order to effectively carry out the provisions of these regulations,
the land covered by the jurisdiction of these regulations shall be divided into the following zoning districts:

"AG"Agriculture District

"RR" Rural Residential District

"CO" Commercial District

"IN" Industrial District

"RE" Rural Recreational District

SECTION 2. ZONING MAP: The location and boundaries of the zoning districts are hereby established as shown on
the mapsattached and made a part of this ordinance. The maps shall be kept on file with the zoning administrator and
shall be regularly updated to show any change in the zoning boundary lines resulting from amendments.

SECTION 3. INTERPRETATION OF BOUNDARIES: The following rules shall apply to the boundaries of the zoning
districts on the zoning district maps.

A. Where zoning district boundaries follow streets, highways, roads, railroad lines, or extensions thereof, such
boundary lines shall be centerline of those streets, highways, roads, railroad lines or extensions thereof.
B . Zoning district boundaries indicated as approximately following platted lot lines or other property lines shall
be construed to follow such lines or extensions thereof.
C. Zoning district boundaries which do not follow streets, highways, roads, railroad lines, property lines, or lot
lines, or extensions thereof shall be determined by the use of a scale or dimensions appearing on the map.

SECTION 4. AGRICULTURAL DISTRICT (AG).

A. Intent and Purpose -This district is established for the Intent purpose of preserving and protecting
agricultural uses and other natural land uses in the County.
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B. Permitted Uses -The following uses shall be permitted in this district:
1 . Agriculture and agriculture related buildings and farm dwellings, provided such use are maintained
in connection with a farm or farming operation where the primary source of the operator's income is
derived from farming-no permit is needed

2. Park and outdoor recreational facilities and related buildings for outdoor

recreation.
3. Single-family non-farm dwellings (subject to the Residential Guidelines of this section).
4. Churches and similar places of worship and parish homes.
5. Greenhouses, nurseries, and garden centers.
6. Hobbyfarms, whether or not there is a dwelling on the same site or contiguous to the site. If there
is a dwelling (either farm or non-farm) associated with the site it is subject to the Residential guidelines
of this section.
7. Bed and Breakfast facilities.
8. Wind power generation facilities and towers as described in Section 12 of Article II herein .
C. Conditional Uses -Thefollowing uses shall be considered conditional uses and shall be permitted only after
conditional use permit has been obtained in accordance with these zoning regulations.
1 . Mineral extraction and exploring (including sand and gravel) subject to the requirements of Article 2,
Section 7 of these regulations.
2. Multiple family, non-farm dwellings.
3. Mobile Home Parks.
4. Animal Feeding Operations.
5. Radio or TV Towers, utility lines, wind generator towers, substations and pipelines subject to the
requirements of Article 2, Section 6 of these regulations.
6. Commercial grain elevators
7. Cemetery.
8. Junk yards, auto wrecking yard or salvage yard provided that all operations are conducted within an
area enclosed on all sides with a solid fence or wall not less than eight (8) feet in height.
9. Retail agriculture chemical and fertilizer outlets.
10. Bulk storage of chemicals.
11 . Wind power generation facilities and towers not consistent with Section 12 of Article II herein .
D. Prohibited Uses -Land uses which are not listed in this section as a permitted use or as a conditional use
shall be considered a prohibited use and shall not be allowed in this zoning district without following the
amendment or variance procedures of these regulations.
E. Shelter Belts -No shelterbelts or major tree plantings shall be established closer than 115 feet for planting
on the windward side (generally north and west) and 99 feet for planting on the south and east. This is to be
measured from all section lines and the centerline of all improved and unimproved roads.

F. Residential Development -The following regulations shall be applied to the construction of individual nonfarm
dwelling units. (The terms of lot size and density shall exclude the immediate family of the surface
owner).
1 . Lot Size -Not less than three acres.
2. Lot Density -Not more than one non-farm dwelling per 40 acres.
3. Lot Location -The development and location of all lots related to non-farms shall provide their own
access to an existing improved road. (An improved road is one which is gravel or hard surfaced
and is regularly maintained in good driving condition .)
G. Dimensional Standards
1 . Building and Structure Setbacks -100 feet from all section lines and the centerline of all townships

and county roads and/or 250 feet from the centerline of all state and federal highways.
SECTION 5. RURAL RESIDENTIAL DISTRICT (RR):

A. Intent and Purpose -This district is established for the purpose of providing for and guiding the development of any rural subdivisions and for preserving and protecting the character of residential areas in unincorporated villages in Towner County
B. Permitted Uses -the following uses shall be permitted in this district:
1 . All single family dwellings .
2. Multiple family dwellings.
3. Parks and outdoor recreational facilities and related buildings for outdoor recreation.
4. Churches and facilities related to religious activities.
5. Public and parochial schools.
6. Utility facilities necessary to serve the area.
Conditional Uses -The following uses shall be considered conditional use and shall be permitted only after a conditional use permit has been obtained in accordance with these zoning regulations.

1 . Mobile Home Parks.
2. Homeoccupations, including Bedand Breakfast facilities.
C. Prohibited Uses -Land uses which are not listed in this section as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district without following the amendmentor variance procedures of these regulations .
E. Dimensional Standards:
1 . Lot size -not less than 5,000 square feet if served by a sewer collection systems common to other adjoining users; not less than three acres if the sewer is drained into an on site user owned drainage field.
2. Setbacks:
a. Front yard -20 feet from lot line or 100 feet from the centerline if abutting a federal, state, county or township road.

b. Side yard -20 feet from lot line or 100 feet from the centerline if abutting a federal, state, county or township road.
c. Rear yard -20 feet from lot line or 100 feet from the centerline if abutting a federal, state, county or township road .
d. Shoreline -100 feet from highest water level shoreline accessory buildings and uses (such as boathouses, personal storage units, ramps, docks, and retaining walls).
SECTION 6. COMMERCIAL DISTRICT (CO):

A. Intent and Purpose -This district is established for the purpose of allowing commercial areas adjacent to highways and for the grouping together of retail and service businesses in areas to best serve the needs of persons traveling in the county and to also provide area residents convenient access to those entities.
B. Permitted uses -Generally any commercial retail or service business which may include but is not limited to the following:

1 . Automobile/truck sales, supply, service, and repair.
2. Service Stations, bulk fuel sales.
3. Grocery and convenience stores.
4. Farm implement sales, supply, service, and repair.
5. Motels, hotels, or lodging establishments.
6. Public buildings and churches.
7. Parks and playgrounds.
8. Restaurants, lounges, and liquor stores.
9. Banks and other savings and lending institutions.
10. Apparel, department, clothing, toy, variety, furniture, hardware, and other retail
establishments.
11 . Medical, dental, health, and veterinary clinics.
C. Conditional Uses -Thefollowing uses shall be considered conditional uses and may be permitted only
after a conditional use permit has been obtained in accordance with these zoning regulations.
1 . Commercial grain elevators .
2. Welding shops.
3. Wholesale supply and warehouse storage facilities.
4. Storage facilities for building materials, such as lumber, steel, concrete blocks or pipe;
provided that these materials are either:
a) Enclosed by a wall or fence not less than five feet high or,
b) stored in an enclosed structure.

5. Retail agriculture chemical and fertilizer outlets.
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D. Prohibited Uses -Land uses which are not listed in this section as a permitted use or as a conditional use shall be
considered a prohibited use and shall not be allowed in this zoning district without following the amendments or
variance procedures of these regulations.
E. Dimensional Standards:
1. Lotsize -not less than 5,000square feet if served by a sewer collection system common to other
adjoining users; notless than three acres if the sewer is drained into an on site user owned
drainage field.
2. Setbacks -No minimum setbacks, except in the case of the property abutting a federal, state,
county, or township road. If the property abuts a federal, state, county, or township road, building
setbacks shall be a minimum of 100feet from the centerline of that road.
3. Lot coverage by buildings -No requirements otherthan those that mayexist with regard to fire
protection.
SECTION 7. INDUSTRIAL DISTRICT (IN)

A. Intent and Purpose -This district is intended to provide areas for industrial development andthose land
uses which aregenerally notcompatible with agriculture, commercial, or residential land uses.
B. Permitted Uses -The following uses shall be permitted in this district.
1 . All Commercial (CO) Districts permitted uses.
2. Airports, railroads, essentialpublic utilities, and public service installations.

3. Radio and television transmitting stations.
4. Overhead, above grade andunderground storage facilities for oil, gas, flammable liquids and gases, as
approved by Fire Code regulations.

5. Manufacturing industries.
6. Processing industries consisting of agricultural products and foodstuffs .
7. Concrete mixing and concrete product manufacturing plants.
C. Conditional Uses -Thefollowing uses shall be considered conditional uses and maybe permitted only after a
conditional use permit has been obtained in accordance with this ordinance:
1 . Petroleum or petroleum products refining .
2. Junk yard, auto wrecking yard or salvage yard provided that all operations are conducted
within an area enclosed on all sides with a solid fence or all not less than eight (8) feet in
height.
3. Commercial bulk storage of chemicals.
D. Prohibited Uses -Land uses which are not listed in this section as a permitted use or as aconditional use shall
be considered a prohibited use and shall not be allowed in this zoning district withoutfollowing the amendment or
variance procedures of these regulations.
E. Dimensional Standards
1 . Lot size -No minimum standard.
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2. Setbacks -No minimum setbacks, except in the case of the property abutting a federal, state county, or
township road. If the property abuts a federal, state, county, or township road, building setbacks shall be a
minimum of 100 feet from the centerline of the road.
3. Lot coverage by buildings -No requirements other than those that mayexist with regard to fire protection.
SECTION 8. RURAL RECREATION DISTRICT (RE)
A. Intent and Purpose of District -The "RE" Rural Recreational District is established for the Purpose of protecting
general farm operations and providing areas for the establishment of permanent recreational residential
developments, small rural vacation or seasonal residential developments, recreational vehicle parks for short term
or seasonal parking and the uses that serve them by restricting and regulation density, land coverage and land
use.

B. Permitted Uses:
1 . General farm operations -This shall not include or permit:
a. The spreading, accumulation, feeding or use of garbage in any form on the surface of
the land.
b. Any activity within 300 feet of an "RE" District which is noxious or offensive by reason of dust,
odor, or noise.
2. Single family lake cabins and cottages.
3. Utility facilities necessary to serve the area .
4. Golf courses, except miniature golf courses and driving tees operated for commercial purposes.
5. Park, playground, or community buildings.
6. Customary accessory uses and structures located on the same tract with the principal use.
7. Temporary structures incidental to construction work, but only for the period of such work. Basements
and cellars maynot be occupied for residential purposes until the building is complete.
C. Conditional Uses -The following uses shall be considered conditional uses and may be permitted only after a
conditional use permit has been obtained in accordance with this ordinance :

1 . Any public building erected on land used by any department of the City, County, State or Federal
Government.
2. Airports and heliports.
3. Churches.
4. Cemetery.
5. Commercial lake resort.
6 . Boat livery, including boat docks, sales, rental, construction and repair and sale of bait and fishing
equipment, fuel. Etc.
7. Commercial campgrounds (tent and/or recreational vehicle).
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8 .
Recreational vehicle park, two or more acres in area.
9.
Camps and campgrounds operated by non-profit charitable institutions.
D. Prohibited Uses -Land uses which are not listed in this section as a permitted use or as a conditional use shall be
considered a prohibited use and shall not be allowed in this zoning district without following the amendmentor
variance procedures of these regulations.
E.
Dimensional Standards:
1 . Lot size -lot width shall not be less than 100 feet and lot depth shall not be less than 150 feet. All
structures shall conform to the North Dakota health regulations as they refer to wells, irrigation, septic, and
sanitary systems.
2.
Setbacks:
a. Front yard -20 feet from lot line, or 45 feet from two-way traffic roadway centerline or
33 feet from one-way traffic roadway centerline.
b. Side yard -20 feet from lot line, or 45 feet from two-way traffic roadway centerline or 33 feet from
one-way traffic roadway centerline.
c. Rear yard-20 feet from lot line, or 45 feet from two waytraffic roadway centerline or
33 feet from one-way traffic roadway centerline.
d. Shoreline -50 feet from any shoreline excepting accessory buildings and uses (such as
boathouses, personal storage units, ramps, docks, and retaining walls).
ARTICLE 4 -ADMINISTRATION AND ENFORCEMENT

SECTION 1 . PLANNING COMMISSION: The administration and enforcement of these Zoning Regulations
is hereby vested in the Planning Commission of Towner County. Members of the Planning Commission shall be
appointed by the County Commission in accordance with State Statutes. Duties of the Planning Commission shall
include.

A.
Issuance of all permits.
B.
Inspection for permit compliance in accordance with these zoning regulations.
C.
Maintenance of the records for the regulations and permits.
D.
Collection of any fees instituted by the County Commission in the administration of the ordinance.

E.
Interpret district boundaries on the Official Zoning Map.
F. Establishment of rules, regulations, and procedures for the purpose of administering these zoning
regulations.
G.
Periodic review of the provisions of these regulations.
H. Conduct public hearings on conditional use permits, variance permits, regulation amendments, and any
other business pertaining to these zoning regulations which may require a public hearing .
1)
Administrative Review Committee: the Planning Commission President may appoint an Administrative Review Committee that has the authority to conduct public hearings and render
decisions regarding those issues that require a public hearing and are routine in nature. This

provision does not preclude the full Planning Commission from conducting public hearings on those
occasions where it is deemed necessary by any Planning Commissioner or County Commissioner.

I . The Planning Commission shall serve as an advisor to the County Commission and make
recommendations regarding the implementation of these Zoning Regulations. The County Commission
shall have final review of Planning Commission decisions with regard to conditional use permits,
variance permits, and zoning regulation amendments.
J. The Planning Commission may request the County Commission to officially appoint a

Zoning Administrator to conduct the business of the Planning Commission for any part of
the above mentioned duties.

SECTION 2. BOARD OF ZONINGAPPEALS: A board of Zoning Appeals is hereby created. Such Board shall
consist of County Commission and shall have the authority to grant variances to these regulations.

A. Records -The Board shall keep minutes of its proceedings, show evidence presented, finding of fact by
the Board, decisions of Board, and voting upon each question. Records of all official actions of the Board
shall be filed in the office and shall be a public record .
B. Public Hearing and Notice -the Board of Zoning Appeals shall within thirty days of filing fix a date of the
hearing of an appeal . Notice of the time, place and subject of such hearing shall be published once in the
official county newspaper at least ten days prior to the date fixed for the hearing. A copy of said notice shall
be mailed to each party to the appeal.
C. Powers and Jurisdiction -The Board of Zoning Appeals shall administer the details of appeals or
other matters referred to it regarding the application of the zoning regulations. The Board shall
have the following specific powers:
1 . To hear and decide on appeals where it is alleged that there is error in any order, requirement,

decision, or determination made by the planning commission in the enforcement of the zoning
regulations.
2. To interpret the provisions of these regulations in such a way as to carry out the intent and
purpose of the adopted comprehensive plan and as shown upon the zoning district maps.
3 . The concurring vote of three-fourths of all members of the Board shall be necessary to reverse any
order, requirement, decision, or determination of the planning commission, or to decide in favor of the
applicant any matter upon which it is required to pass under this ordinance or to affect any variation of
these regulations.
D. Procedure -The appeals process is outlined below:
1 . Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, by any officer of the
County or by any governmental agency or body affected by any decision of the official administering the
provisions of these zoning regulations.

2. Appeals shall be taken with 30 days of filing provided by the rules of the Board, by filing a notice of
appeal specifying the grounds thereof and payment of the required filing fee.
3. The Board of Zoning Appeals shall advertise and hold a public hearing as required in Section 2.2 of this
Article.
4. Notice of the decision of the Board of Zoning Appeals shall be in writing and transmitted within 15 days
to the appellant. Acopy of such decision shall also be transmitted to the official administering the regulations
for action, if action is required.
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SECTION 3. BUILDING PERMITS: No building or structure, other than those associated with the normal incidents of

agriculture, shall be erected, moved, added to, or structurally altered without a building permit. No building permit shall

be issued except in conformity with the provisions of this ordinance unless a written order has been received from the

County Commission in the form of a conditional use or variance, or the Board of Zoning appeals in the form of an

administrative review, as provided by this ordinance. No permit is required for maintenance of any building or

structure, which does not structurally alter the building . If no construction takes place in a year from the issuance of a

building permit, the permit shall expire.

A. Procedure -The building permit process is outlined below:
1 . All applicants whowish to build or alter any structure as defined in these zoning regulations must apply to the
Planning Commission for a permit.
B. If the applicant's plans meet district regulations as prescribed in these zoning regulations and any other
applicable ordinances, the Planning Commission or designated Zoning Administrator collects any applicable

fees and issues the building permit.
C. If the applicant's plans do not comply with district regulations, the amendments, variance,
conditional use procedures, or appeals sections of these regulations may be applied.

SECTION 4. CONDITIONAL USE PERMITS

A. Requirements for Conditional Uses -Aconditional use permit maybe granted following compliance with the
procedure set forth in this section (if the conditional use is one set forth in the District Regulations), provided that
no application for a conditional use shall be granted unless all of the following conditions are found to be present:
1 . The conditional use will not be detrimental to or endanger the public health, safety or general welfare.
2. The existing permitted uses in the area will not be substantially impaired or diminished by the
establishment of the conditional use.
3. The conditional use will not impede the normal and orderly development of the surrounding property for
uses permitted in the district.
4. Adequate utilities, access roads, drainage, and other necessary site improvements have been or are
being provided.
5. Adequate measures have or will be taken to provide access and exit so designed as to minimize traffic
congestion in the public roads and streets.
6. The conditional use shall conform to all provisions of the district in which it is located.
The Conditional Use Permit may be issued for a specified period of time with automatic cancellation
at the end of time unless it is renewed, or conditions maybe applied to the issuance of the Permit and
periodic review may be required to determine if the conditional use has any detrimental effects on
neighboring uses or district. The Permit shall be granted for a particular use and not for a particular
person or firm.

B. Applications -Application for a Conditional Use Permit shall be submitted by the property owner to the Planning
Commission. The application shall include:
1 . The name and address of the applicant.
2. The date of the application.

3 . A description of the site and the immediate surrounding area.
4. A preliminary map showing boundary lines and location of structures.
5. Location of existing structures on adjacent property.
6. Parking plans showing off street parking areas and/or loading areas.
7. Names and addresses of adjacent property owners.
8. Any reasonable information the Planning Commission deems necessary.
I . Payment of the required filing fees.
C. Planning Commission Recommendation -The Planning Commission, upon receipt of an application for a
conditional Use Permit that has specified improvements or actions valued in excess of $15,000, shall at its regular
or special meeting, specify a time and date within the next 30 days for a public hearing, the Planning Commission
shall consider the application and make a recommendation to the County Commission within 30 days.
An application for a Conditional Use Permit that has specified improvements or

actions valued at less than $15,000
may be issued by the Zoning Administrator without a public hearing if the requirements of Section 4.1 are met.
D. Public Hearing and Notice -The Planning Commission shall publish a notice of the public hearing in the official
county newspaper at least ten days before the hearing. Notice shall include the date, time, place, and purpose of
the hearing. In addition to the published notice, the Planning Commission may require that the notice be mailed to
those persons designated by the Planning Commission.
E. County Commission -Upon receipt of the Planning Commission's recommendations, the County Commission may
either grant the proposed conditional use, grant the proposed conditional use with additional conditions, or
deny the proposed conditional use.
SECTION 5. VARIANCE PERMITS: To permit a variation in the yard, setback and height requirements of any district

where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular
shape of lot, or topographical or other conditions, provided such variation will not seriously affect any adjoining property
of the general welfare, or where variations may be permitted which allow unusual arrangement on the lot and still
clearly and unmistakably accomplish the intent of these regulations. The Board must find that the granting of such
variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable or unusual
hardship or difficulty.

The Variance Permit may be issued for a specified period of time with automatic cancellation at the end of that time
unless it is renewed, or conditions maybe applied to the issuance of the Permit and periodic review may be required to
determine if the variance has any detrimental effects on neighboring uses or districts. Thepermit shall be granted for a
particular use and not for a particular person or firm.

A. Applications -Application for a Variance Permit shall be submitted by the property owner to the Planning
Commission on forms provided by the Commission. The application shall include:
1 . The name and address of the applicant.
2. Thedate of the application.
3. A description of the site and the immediate surrounding area.
4. A preliminary map showing boundary lines and location of structures.
5. Location of existing structures on adjacent property.
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6. Parking plan showing off street parking areas and/or loading areas.
7. Names and addresses of adjacent property owners.
8. Any reasonable information the Planning Commission deems necessary.
9. Payment of the required filing fee.
B. Planning Commission Recommendation -The Planning Commission, upon receipt of an application for a Variance
Permit that has specified improvements or actions valued in excess of $15,000, shall at its regular or special
meeting, specify a time and date within the next 30 days for a public hearing for the proposed variance use .
Following the public hearing, the Planning Commission shall consider the application and make a
recommendation to the County Commission within 30 days.
C. Public Hearing and Notice -The Planning Commission shall publish a notice of the

public hearing in the official
county newspaper at least ten days before the hearing. Notice shall include the date, time, place, and purpose of
the hearing . In addition to the published notice, the Planning Commission may require that the notice be mailed
to those persons designated by the Planning Commission.
D. County Commission -Upon receipt of the Planning Commission's recommendations, the County Commission may
either grant the proposed conditional use, grant the proposed conditional use with additional conditions, or deny
the proposed conditional use.
SECTION 6. AMENDMENTS: The County Commission mayfrom time to time amend, supplement, or change the
district boundaries or regulations contained in these zoning regulations. A proposal for an amendmentor a change in
zoning may be initiated by the County Commission, by the Planning Commission, or upon application of the owner of
the property affected:

A. Applications -The party desiring any change in zoning district boundaries or zoning regulations as to any lot, tract,
or area of land, shall file with the Zoning Administrator an application upon forms provided, and such application
shall be accompanied by such data and information as may be prescribed by the Planning Commission.
B. Public Hearing and Notice -Before the Planning Commission shall, by proper action, formulate its
recommendation to the County Commission on any such proposed or requested change of zoning district
boundary or regulation, whether initiated by the County Commission, the Planning Commission, or by the property
owner, the Planning Commission shall hold a public hearing on such a proposal. The Planning Commission shall
cause anotice of public hearing to be published once a week for two successive weeks prior to the time set for the
said hearing in the official county newspaper. Such notices shall contain:
1 . The time and place of the hearing.
2. Adescription of any property involved in any zoning change, by street address and/or other legal description.
3. Adescription of the nature, scope and purpose of the proposed regulation, restriction, or boundary.
4 . Astatement of the times at which it will be available to the public for inspection and copying at the office of
the County Auditor.
C. County Commission Approval -Upon receipt of the recommendation of the Planning Commission on any
amendment, or in the event of the failure of the Planning Commission to so report after 30 days from the time of the
filing of the proposed amendmentto the Planning Commission, the County Commission shall hold a public hearing.
Notice of the public hearing shall be published once a weekfor two successive weeks prior to the time set for said
hearing. The notice shall contain the same information required for the Planning Commission public hearing listed in
Section 6.2 of this Article. A majority decision of the County Commission shall be sufficient to approve an amendment
of the zoning regulations.
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SECTION 7. CERTIFICATE OF COMPLIANCE

A. A Certificate of compliance is required before any structure, building or land

can be occupied which has been
built or structurally altered such as it requires a building permit.
B. The certificate of compliance process is outlined below:
1 . Upon notification of completion of any work requiring a building permit, the Planning Commission or its
designee conducts an on site inspection of the work specified on the building permit.
2. If the completed work is found to be in accordance with the zoning ordinance, the

Planning Commission will issue a certificate of compliance.
3. Reasons for refusing to issue a certificate of compliance must be stated by the Planning
Commission in writing within 15 days after the request of the applicant for the certificate.
Notice of such refusal shall be sent in writing to the applicant within one week after such refusal is
made.

SECTION 8. SCHEDULE OF FEES AND CHARGES: The County Commission shall establish a schedule of fees,
charges, and a collection procedure for permits, appeals, and other matters pertaining to these regulations. The
schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amendedonly by the
County Commission . Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken
on any application or appeal.

A. Building Permits -Abuilding permit is required for all new construction or anything that alters the structural
shape or integrity of the lot, excluding decks, porches, and fences. The following schedule shall be used for
issuing building permits:

1 . Residential $50.00.
2. Commercial $100.00.
B. Other permits and hearings -A fee of $150.00 shall be paid by the applicant upon filing an application for an
amendment, conditional use permit, variance permit, or any other activity which requires an advertised public
hearing.
SECTION 9. PENALTIES

A. Enforcement-The County Sheriff and the Sheriffs staff shall enforce these zoning regulations. Appeal from the
decision of the Sheriff maybe made to the County Commission.
B. Complaints -Any person may file a written and signed complaint whenever a violation of these regulations occurs,
or is alleged to have concurred. Such a complaint shall state the cause and basis thereof and be filed with the
County Sheriff. The County Sheriff shall record the complaint, promptly investigate, and take action thereon as
provided by these regulations .
C. Violations -If any building or structure is erected, reconstructed, altered, enlarged, converted, or moved, or any
building, structure, or land is used in violation of these regulations, the County Sheriff shall order In writing, the
correction of such violation. The County Sheriff, States Attorney, or other official designated by the County
Commission, may institute appropriate action of proceedings for the purpose of:
1 . Prosecuting any violation.
2. Restraining, correcting, of abating such violation.

3. Preventing the occupancy of any building, structure, or land in violation of these regulations.
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4. Preventing any illegal act, conduct business, or use in or about any buildings, structure or land in violation of these regulations.

D . Penalty -Any persons, firm, or corporation violating the provisions of these regulations shall constitute the maintenance of a public nuisance and shall be a Class B misdemeanor. Nothing herein contained shall prevent the County from taking such other lawful action to prevent or remedy any violation of the zoning regulations.

ARTICLE 5 -DEFINITIONS

SECTION 1 . RULES: For the purpose of these regulations, the following rules shall apply:

A. Words used singularly shall include the plural. Words used in the plural form shall include the singular. Words used in the present tense shall include the future.

B. The word "persons" includes a corporation, members of a partnership, a business organization, a committee, board, trustee, receiver, agent, or other representative.

C. The word "shall" is mandatory. The word "may" is permissive.

D. The word "including" shall mean including, but not limited to.

SECTION 2. DEFINITIONS: The following words, terms, and phrases are hereby defined and shall be interpreted in

the same fashion throughout these regulations. Terms not herein defined shall have the meaning customarily

assigned to them.

Access. Away of means of approach to provide physical entrance to property.

Accessory Buildings and Uses. A subordinate building or portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises.

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 see crops ; dairy animals and dairy products; poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutation or hybrids thereof, including the breeding and grazing of nay or all of such animals; bees and apiary products; fur animals; trees and forest products; fruit of all kinds including grapes, nuts, and berries; vegetables, nursery, floral, ornamental, and greenhouse products; or lands devoted to a soil conversation of forestry managementprogram.

"Animal feeding operation" means a place where livestock have been, are, or will be confined, concentrated and fed for 45 days in any 12 month period, pasture, crops, or other vegetation, are not normally managed or sustained for grazing during the normal growing season; and, animal waste or manure accumulates. This term does not include an animal wintering operation. Adjoining animal feeding

operations under common
ownership are considered to be one animal feeding operation, if they use common area or system for
manure handling.

"Animal Wintering operation" means the confinement of cattle or sheep used or kept for breeding purposes in
a feedlot or sheltered area at any time between October 15 and May 15 of each production cycle under
circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. The
term includes the weaned offspring of cattle and sheep, but it does not include (1) breeding operations of
more than 1000 animal units or (2) weaned offspring which are kept longer than 120 days and that are not
retained.

Airport. A place where aircraft can land and take off, usually equipped with hanger, facilities for refueling
and repair and various accommodations for passengers.

Alteration. Any change or rearrangement in the supporting members of an existing building, such as bearing
walls, columns, beams, girders, or interior partitions; any change in doors, windows, or any enlargement to or
diminution of a building or structure, whether horizontally or vertically; or the moving of a building or structure
from one location to another.

Animal Feeding Operation. Any building, structure, enclosure, or premises used, designed, or intended for
the concentrated feeding or fattening of livestock for more than 45 days in any 12 month period for marketing
and which less than 50% of the feed is raised by the owner and which animal waste or manure accumulates
and is a separate pursuit to the normal incidence of farming. Adjoining animal feeding operations under
common ownership are considered to be one animal feeding operation, if they use common areas or
systems for manure handling.

Building. A structure having a roof supported by columns or walls.

Conditional Use. A use which generally would not be suitable in a particular zoning district, which would be
acceptable under certain circumstances. Thepermit shall be granted for a particular use and not for a
particular person or firm

County Commission. Shall mean the Towner County Commission .

Dwelling. Any building or portion thereof, which is designed and uses exclusively for residential purposes.

Dwelling, Non-farm. Asingle family dwelling or mobile home located on a farm or otherwise of which the

occupant does not derive at least 50% of their income from agricultural activities.

Farm. Farm means a single tract or continuous tracts of agricultural land containing

a minimum of ten acres
and which normally provides a farmer, whois actually farming the land or engaged in the raising of livestock
of other similar operation normally associated with farming and ranching, with their source of primary annual
income.

HobbyFarm. Means any agriculture and agriculture related farm buildings, where the uses are not
maintained in connection with a normal farm or farming operation and does not provide the surface owner
with his/her source of primary annual income, but is operated as a pursuit of pleasure.

Farmer. Means any individual who normally devoted the major portion of their time to the activities of
producing products of the soil, poultry, livestock, or dairy farming and such products, and who normally
receives not less than 50% of their annual net income from any one or more of their foregoing activities (as
defined in North Dakota Century Code 57-02); and the term also includes an individual who is retired
because of illness or age andwho at the time of retirement owned or occupied as a farmer, as above defined
the residence in which they live and which is exempt from taxation pursuant to the laws of North Dakota.

Home Occupations. An occupation or activity carried on in a residential dwelling and provides the occupant
with their primary source of annual income.

Junk Yard. An area of more than two hundred square feet, or any area not more than fifty feet from any
street, used to for the storage, keeping processing or abandonment of junk, including scrap metals or other
scrap materials or goods used for dismantling, demolition, storage or abandonment of automobiles or other
vehicles or machinery, or parts thereof.

Livestock. Domestic animals or types customarily raised or kept on farms for profit or other purposes.

Lot . Apiece, plot, or area of land, or contiguous assemblage as established by survey, plat, or

Deed, occupied or to be occupied by a building , or a unit group of buildings, and/or accessory buildings

thereto or for other use, together with such open spaces as may be required under these regulations and

having its frontage on a street or officially approved place.

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Mineral Exploration/Production. Any activity, use or technique which when applied to the surface of the land,
will aid in the discovery, evaluation of production of coal, oil, gas, potash, sand, gravel, and/or rock, or other
subsurface minerals as defined in North Dakota Century Code 38-12.

Nonconforming Uses. Useof a building or of land that does not conform to the

regulations as to use for the
district, which it is situated.

Park. A tract of land designated and used by the public for active and passive recreation.

Permitted Use . Any use allowed in a zoning district and subject to the restrictions applicable to that zoning
district .

Planning Commission. The Planning Zoning Commission of Towner County, North Dakota.

Prohibited Uses. A use not permitted in a zone district.

Public Hearing. Ameeting announced and advertised in advance and open to the public, with the public
given an opportunity to talk and participate.

School. Any building or part thereof, which is designed, constructed, or used for education or instruction in
any branch of knowledge.

Setback. The open space extending the full width of a lot between a building and a public right of way line,
easement or property line.

Shelter Belt . A barrier of trees and shrubs that is used to protect crops, farmsteads and npn-farm dwellings
from wind and storms.

Sign . Anysurface, fabric, device, or display, which bears lettered, pictorial, or sculptured matter, including
forms shaped to resemble any human, animal, or product, designed to convey information visually and which
is exposed to public view. For purposes of these regulations, the term "sign" shall include all structural
members. A sign shall be constructed to be a display surface or device containing organized and related
elements composed to form a single unit. In cases where matter is displayed in a random or unconnected
manner without organized relationship of the components, each such component shall be considered to be a
single sign.

Billboard. A sign, which directs attention to a business, commodity, service, or entertainment
conducted, sold, or offered at a location other than the premises on which the sign is located.

Bulletin Board. Asign, which identifies an institution or organization on premises of which it is
located and which contains the nameof the institution or organization, the names of individuals
connected with it, and general announcements of events or activities occurring at the institution or
similar messages.

Illuminated. Asign lighted by or exposed to artificial lighting either by lights on or in the sign
(directly illuminated), or directed toward the sign (indirectly illuminated).

Marquee. Any sign attached to and made part of a marquee. A marquee is defined as a

permanent roof like structure projecting beyond the building's wall and generally designed and
constructed to provide protection against the weather.

Portable. A sign that is not permanent, affixed to a building, structure, or the ground.

Roof. A sign that is mounted on the roof of a building, or which is wholly dependent upon a
building for support and which projects above the point of a building with a flat roof, the eave line of
a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

Temporary. A sign or advertising display constructed of cloth, canvass, fabric, plywood, or other
light material and designed or intended to be displayed for a short period of time.

Wall. A sign fastened to or painted on the wall of a building or structure in such a manner that the
wall becomes the supporting structure for, or forms the background surface of the sign, and which
does not project more than 12 inches from such building or structure.

Street. Any thoroughfare or public space, which has been dedicated to, and accepted by the
public for public use, and includes all the right-of-way sidelines.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or
attachment to something having a permanent location of the ground, including, but without limiting the
generality of the foregoing, advertising signs, billboards, back stops for tennis courts, and arbors of breeze
ways, but excepting utility poles, fences, retaining walls, and ornamental light fixtures.

Structural Alterations. Any change in the supporting members of a building, such as bearing walls or
partitions, columns, beams, or girder, or any complete rebuilding of the roof or exterior walls.

Utility . Any person, firm, corporation, municipal department or board duly authorized to furnish and
furnishing under public regulations, to the public: Electricity, gas, heat, power, steam, telephone, telegraph,
transportation, or water.

Variance. The relaxation of the terms of the Zoning Regulations in relation to height, area, size, and open
spaces where specific physical conditions, unique to the site, would create an unreasonable hardship in the
development of the site for permitted uses.

Yard. An open space on the same lot with a building, unoccupied and obstructed by any portion of a
structure from the ground upward. In measuring a yard for the purpose of determining the width of a side
yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot
line and the main building shall be used.

Front. A yard that extends across the full width of the lot. The depth is measured as the least
distance between the front lot line and the front building line.

Rear. A yard that extends across the full width of the lot. The depth is measured as the least
distance between the real lot line and the real building line.

Side. A yard extending from the front to the rear yard. Thedepth is measured from the side lot
line and side building line.

Zoning Map. The map or mapswhich are a part of the zoning regulation
and delineate the boundaries of the zoning districts.