ORDINANCE NO. B2022-01-08

#B2022-01-04, AN ORDINANCE AMENDING ORDINANCE B2022-01, AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR DEUEL COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTERS 11-2, 1967 SDCL, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Deuel County, South Dakota: that Article XIII, "Concentrated Animal Feeding Operation Regulations" adopted by Ordinance B2022-01, as amended, of the Zoning Ordinance of Deuel County be amended by adding language in bold and underline and removing strikeout language:

Section 1304. Concentrated Animal Feeding Operation Control Requirements.

6. Required Setbacks and Separation Distance for New Class A, B, C, and D, concentrated animal feeding operations and those existing, non-permitted concentrated animal feeding operations expanding into a Class A, B, C, or D Concentrated animal Feeding Operations after November 15, 2022 October 1, 2024. See Table 1304.6.2.

Table 1304.6.2
Required Minimum Separation Distances And Setbacks ^{1,4}

Number of Animal Units	Under 500 Animal Units	500 to 999 Animal Units	1,000 to 1,999 Animal Units	2,000 to 4,999 Animal Units	5,000 to <mark>7,500</mark> <mark>7,499</mark> Animal Units	Over 7,500 <u>to</u> 9,999 Animal Units	Over 10,000 Animal Units
Established Residences ^{2,3}	1,320 feet	1,320 feet	1,760 feet	2,640 feet	3,960 feet 5,280 feet	5,280 feet 10,560 feet	<u>21,120 feet</u>
Churches, Businesses and Commercially Zoned Areas	1,320 feet	1,320 feet	2,640 feet	2,640 feet	3,960 feet 5,280 feet	<mark>5,280 feet</mark> 10,560 feet	21,120 feet
Incorporated Municipality Limits ³	1,320 feet	2,640 feet	5,280 feet plus	5,280 feet plus 440' for each 1,000 animal units over 2,000 animal units or portions thereof	6,600 feet plus 440 feet for each additional 1,000 animal units over 5,000 animal units	8,800 7,700 feet plus 440 feet for each additional 1,000 animal units over 10,000 animal units over animal units	17,600 feet plus 440 feet for each additional 1,000 animal units over 10,000 animal units
Established Private Water Well ^{5,6,<mark>7</mark>}	1,320 feet	1,320 feet	1,760 feet	2,640 feet	2,640 feet	2,640 feet	2,640 feet
Existing Public Water Well ⁷	1,320 feet	1,320 feet	1,760 feet	2,640 feet	2,640 feet	2,640 feet	2,640 feet
Lakes and Streams classified as Fisheries as identified by the State	200 feet	200 feet	500 feet	500 feet	500 feet	500 feet	500 feet
Federal, State & County Road ROW							
Confinement	200 feet	200 feet	300 feet	300 feet	300 feet	300 feet	300 feet
Open Lot	150 feet	150 feet	150 feet	150 feet	150 feet	150 feet	150 feet
Township Road ROW		1					
Confinement	150 feet	150 feet	150 feet	150 feet	150 feet	150 feet	150 feet
Open Lot	150 feet	150 feet	150 feet	150 feet	150 feet	150 feet	150 feet

- 1. Two (2) or more CAFOs under common ownership are a single concentrated animal feeding operation if they adjoin each other (within one mile) or if they use a common area or system for disposal of manure. Required setbacks for the two (2) or more CAFOs treated as a single operation shall not be less than the minimum setback required for each operation if said operations were treated as individual operations.
- 2. Established residences do not include any residence established after June 3, 1997 less than one-half (1/2) mile from any Concentrated Animal Feeding Operation which was active at the time of the residence's construction.
- 3. The Board of Adjustment may allow a setback of less than the minimum required provided a written waiver by the entity deriving the benefit of the setback is filed with the application
- 4. The Board of Adjustment may utilize Section 1304.7 to increase or decrease the required setback.
- 5. Setback does not apply to the wells of the CAFO operator.
- 6. Established private water wells refer to wells used as a source of potable water for human consumption for at least one (1) week within one (1) year prior to application date for the proposed CAFO.
- 7 The Board of Adjustment may require a lessor setback if the well is upgradient and greater setback if the well is downgradient from the concentrated animal feeding operations exceeding 7,499 animal units. This may be used to change the setback from the CAFO to a well or public water supply.
- 7. Exemptions to Separation and/or Setback Distance Requirements
 - f. All Concentrated Animal Feeding Operations in operation prior to July 1, 2022 October 1, 2024 which do not comply with the required minimum setback/separation requirements, but continue to operate, and are not expanded in a manner which will result in the one of the following examples are exempt from the suggested separation distance:
 - i.. Example 1: A Class D CAFO expands to a Class A or B CAFO
 - ii. Example 2: A Class B CAFO expands to a Class A CAFO.
 - iii. Example 3: A Class A CAFO expands by 10% of the number of animal units

Provided, that the expansion does not further encroach the setback/separation distance existing on July 1, 2022 October 1, 2024. See Figure 1304.7.

g. Any Concentrated Animal Feeding Operation in operation as of July 1, 2022 October 1, 2024 which does not comply with the suggested minimum setback/separation distance requirements is allowed to be replaced in the event of a calamity without obtaining a variance. Provided, that the replacement does not further encroach the setback/separation distance existing at the time of the calamity. See Figure 1304.7.

1st Reading: September 16, 2024 2nd Reading: October 1, 2024 Adopted: October 1, 2023 Published: October 9, 2023 Effective: October 29, 2024