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DIV. OF WATER QUALITY

THE BUFFALO TOWNSHIP ZONING ORDINANCE

ZONING REGULATIONS:

Be **it** ordained by the Buffalo Township Board of Supervisors of Cass County , North Dakota :

An ORDINANCE to provide for dividing the unincorporated territory of Buffalo Township into **districts (zones)** to regulate and **redistrict** the location and use of buildings , structures and land for trade, industry, commerce , residence or other purpose ; to regulate and determine the area of yards and other open space about buildings; to regulate and determine the density of use of land and lot area. No regulation or restriction contained herein shall prohibit or prevent the use of land or buildings for farming or any of the normal incidentals of farming . The purpose of these regulations is to encourage orderly growth and development of the Municipality and adjacent area and promote health , safety and general welfare .

There is hereby created two Districts:

A., **RESIDENTIAL DISTRICT:** Shall consist of that portion of the North One-Half of the Southwest Quarter (N1/2SW1/4) and the Southwest Quarter of the Southeast Quarter (SW1/4SE 1/4) of Section Nineteen (19); and the South One-Half of the Northwest Quarter (S1/2NE1/4) and the Northwest Quarter of the Northeast Quarter (NW1/4NE1/4) of Section Thirty (30); all in Township one Hundred Forty (140) North , of Range Fifty-Four (54) West , of the 5th P.M. , that lying outside the corporate limits of the City of Buffalo.

Use Regulations: A building or premises shall be used only for the following purposes:

1. Single family dwelling
2. Agriculture, including the customary incidents thereof, together with agricultural buildings and structures utilized therewith.
- 3.. Churches
4. Public **and** private schools
- 5 Public or private Forest and Wildlife reservations.
- 6 Accessory buildings and uses customarily incident to any of the above uses.

Area Regulations:

Front Yard : There shall be a front yard having a depth of not less then Twenty-Five (25) Feet.

Side Yard: There shall be a side yard on each side of a building which yard shall have a width of not less then Fifteen (15) Feet.

Rear Yard: There shall be rear yard having a depth of not less than Thirty-Five (35) Feet.

Intensity US : Every lot or tract of land shall have a minimum width of One Hundred (100) feet at building line and an area of not less then Fourteen Thousand (14,000) square feet. Lot area required in individual cases may be reduced by the Township Board Supervisors when the lot is in a sub-division plot of record or otherwise when appropriate to the intendment hereof.

B. AGRICULTURE DISTRICT: This District consists of all area in Buffalo Township that has not been included in "A" Residence District.

ZONING DISTRICTS RELATED TO AGRICULTURAL LAND USAGES

This Zoning Ordinance identifies Permitted Uses within each identified District requiring no additional zoning action by the Board of Township Supervisors in the event of a proper application for a building permit, or any other application seeking township authorization.

As to each identified District there also exists a list of Conditional Uses. Upon proper application for a building permit, or any other application seeking township authorization for any use described as being a Conditional Use, the Zoning Administrator will identify all additional conditions in writing which will allow for such Conditional Use because (a) such additional conditions will overcome any detriment to the District, and (b) such additional conditions will substantially serve the public welfare. Such Conditional Use, as supplemented by the additional written conditions identified by the Zoning Administrator, are still subject to the approval of the Board of Township Supervisors under the following general standards:

No application for a Conditional Use permit shall be granted unless all the following conditions are present:

- a. that the uses, values and enjoyment of the other property in the area shall in no foreseeable manner, be impaired or diminished by the Conditional Use;
- b. that the Conditional Use will not be detrimental to or endanger the public health, safety, comfort or general welfare;
- c. that the Conditional Use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the District;
- d. that adequate utilities, access roads, drainage and other necessary site improvements have been made or are being provided;
- e. that the Conditional Use shall conform to all applicable regulations of the District in which it is located.

A. OPEN SPACE AND AGRICULTURAL CONSERVATION DISTRICT ["OAg"]

The predominant use of land within this District is agriculture and undeveloped land. It is the purpose of this zoning district to maintain these uses.

1. Permitted Uses: All Permitted Uses set forth in Table SIX(A) (1 & 2) plus the following:
 - a. Grain and crop farming, nurseries, greenhouses and roadside stands for the sale of products which are grown on the premises.
 - b. Golf courses, but not including miniature golf courses.
 - c. Public parks, facilities and playgrounds.
 - d. Farm drainage and irrigation systems.
 - e. Designated historical sites.
 - f. Accessory Use.
 - g. Farm Buildings.
2. Conditional Uses: All Conditional Uses set forth in Table SIX(A) (1 & 2) plus the following:
 - a. Utility lines and public service facilities.
 - b. Single family dwellings or Manufactured Home [no more than two Dwelling Units within any contiguous 160 acre tract].
 - c. Airports.
 - d. Churches and related facilities.
 - e. Cemeteries and crematoriums.
 - f. Public schools.
 - g. Radio and television towers and accessory buildings.
 - h. Temporary structures incidental to construction work but not extending beyond the period of such work.
3. Area and Density Requirements: All Area and Density Requirements set forth in Table SIX(A) (3 & 4 & 5) plus the following:
 - a. The minimum lot size shall be ten (10) acres.
 - b. No more than two (2) Dwelling Units within any contiguous 160 acre tract within the same section of land.
4. Building Height/Size Limits: All Building Height/Size Requirements set forth in Table SIX(A) (3 & 4 & 5) plus the following:

- a. For residential uses, the maximum height of structures shall be two and one-half (2.5) stories or 35 feet [but never more than 40 feet above the flood plain].
5. Setback Requirements: All Setback Requirements set forth in Table SIX(A) (3 & 4 & 5) plus the following:
- a. The minimum setback from road and highway rights-of-way shall be **75** feet.
- b. There shall be a minimum side and rear yard of 10 feet with no building line closer than 20 feet to another structure on an adjacent lot.

Table SIX(A) (1 & 2) Permitted Uses and Conditional Uses for		
Description of Use Based on Definitions in Section ONE	Permitted Use in District [yes or no]	Conditional Use Permit in District [yes or no]
1. Agricultural Service Establishment	no	no
2. Automobile and Truck Body Repair Shop	no	yes
3. Automotive Repair Shop	no	no
4. Club or Lodge	no	no
5. Commercial Agriculture	yes	n/a
6. Concentrated feeding operation (CAFO)	No	yes
7. Day Care Facility	no	yes
8. Dwelling, Farm	yes	n/a
9. Dwelling, Single Family	No	yes
10. Dwelling, Multiple	no	no
11. Essential Services	yes	n/a
12. Farm	yes	n/a
13. Farming or Ranching	yes	n/a

Table SIX(A) (1 & 2) Permitted Uses and Conditional Uses for		
14. Feedlot	no	yes

15. Home for Temporary Lodging and Meals	no	yes
16. Home Occupation	yes	n/
17. Hotel (Motel)	no	no
18. Kennel	no	no
19. Neighborhood Commercial Establishments	no	no
20. Nursing Home (Rest and Convalescent Homes)	no	no
21. Poultry Lot	yes	n/
22. Ranching or Farming	yes	n/
23. Salvage Yard	no	no
24. Service Station (Gas	no	no
25. Warehouse	no	no

Table SIX(A) (3 & 4 & 5) Minimum Lot Size, Yard Requirements, Spacing Requirements, and Access Points for Open Space and Agricultural Conservation District ["OAg"]	
Lot Size	10 acres
Yard Requirements:	
Front Yard	Road Type: Setback [from centerline]: Arterial Road 175 feet Collector Road 125
Rear Yard	20 feet
Side Yard	20 feet

Table SIX(A) (3 & 4 & 5) Minimum Lot Size, Yard Requirements, Spacing Requirements, and Access Points for Open Space and Agricultural Conservation District ["OAg"]	
Distance separating access points serving any parcel or	
Local Road	100 feet

Collector Road	100 feet (Township Roads and Section lines.)
Arterial Road	200 feet (State or County Roads)
Intersections	300 feet
Special Requirements	

Chapter 2

BUFFALO Township Feedlot Ordinance

AN ORDINANCE REGULATING THE PERMITTING, LOCATION, DEVELOPMENT AND EXPANSION OF FEEDLOTS. PROTECTING THE NATURAL ENVIRONMENT, AND SAFEGUARDING THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF THE CITIZENS OF BUFFALO TOWNSHIP.

SECTION 1: INTENT AND PURPOSE

This ordinance is adopted for the purpose of:

- Establishing a procedure for the permitting of feedlots.
- Regulating the location, development, and expansion of feedlots.
- Protecting the natural environment.
- Protecting human and animal health.
- Protecting human welfare.

SECTION 2: GENERAL PROVISIONS

1. **Jurisdiction.** The jurisdiction of this Ordinance shall apply to all the areas of Buffalo Township.
2. **Scope.** From and after the effective of this Ordinance and subsequent amendments, all existing or proposed feedlots shall be in conformity with the provisions of this ordinance.
3. **Application.**
 - A. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements to satisfy the Intent and Purpose of this Ordinance.
 - B. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

SECTION 3: DEFINITIONS

1. For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

- A. The word "shall" is mandatory, and not discretionary; the word "may" is permissive.
- B. Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular.
- C. Words shall be given their common usage if not defined.
- D. The word "Board" includes the "Buffalo Township Board" or any other word or words meaning the "Buffalo Township Board".

- E. The word "Commission" includes the "Buffalo Township Zoning and Planning Commission" or any other words or word meaning the "Buffalo Township Zoning and Planning Commission."
- F. The word "person" includes a firm, association, organization, partnership, trust, company, cooperative, corporation, or individual.

2. Animal Manure. Poultry, livestock or other animal excreta or mixture with feed, bedding, water or other materials.

3. Animal Unit (AU). A unit of measure used to compare differences in the production of animal manures that employs as a standard the average weight of the animal divided by 1,000 pounds. The total number of animal units subject to permit or registration shall be determined by including operations under common ownership or management and which utilize a common area or system for manure disposal. For purposes of this ordinance, the following equivalents shall apply (taken from ND century code 58-03-11.1. section 2) For purposes of this section, animal units are determined as follows:

- a. One mature dairy cow, whether milking or dry, equals 1.33 animal units;
- b. One dairy cow, heifer, or bull, other than an animal described in subdivision a equals 1.0 animal unit;
- c. One weaned beef animal, whether a calf, heifer, steer, or bull, equals 0.75 animal unit;
- d. One cow-calf pair equals 1.0 animal unit;
- e. One swine weighing fifty-five pounds [24.948 kilograms] or more equals 0.4 animal unit;
- f. One swine weighing less than fifty-five pounds [24.948 kilograms] equals 0.1 animal unit;
- g. One horse equals 2.0 animal units;
- h. One sheep or lamb equals 0.1 animal unit;
- i. One turkey equals 0.0182 animal unit;
- j. One chicken, other than a laying hen, equals 0.008 animal unit;

4. Board. The Buffalo Township Board of Supervisors.

5. Building, Agricultural. All buildings, other than dwellings, which are incidental to a farming operation.

6. Confined Animal Feeding Operation (CAFO). A Concentrated Animal Feeding Operation is defined as a lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of 45 days or more during any 12-month period, and where crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the lot of facility. This term does not include an animal wintering operation. Two or more animal feeding operations under common ownership are considered a single operation if they adjoin each other, or if they use a common area, or if they use a common area or system for disposal of manure.

For the purpose of these regulations, Concentrated Animal Feeding Operations are divided into the following classes:

- (A) If there are fewer than three hundred animal units.
- (B) If there are at least three hundred animal units but no more than one thousand animal units.
- (C) If there are at least one thousand one animal units but no more than two thousand animal units.
- (D) If there are at least two thousand one animal units but no more than five

thousand animal units.
 (E) If there are five thousand one or more animal units.

7. **Existing.** In place and operating on the date this ordinance is effective.

8. **Family.** For the purpose of this Ordinance a family shall include the feedlot, the feedlot owner's grandparents, parents or stepparents, aunts or uncles, siblings, spouses, children or stepchildren, or grandchildren.

9. **Farm.** A tract of land which is principally used for agricultural activities such as the production or cash crops, livestock or poultry farming.

10. **Feedlot.** A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designated as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Pastures shall not be considered feedlots under these rules. Fish farms shall be considered feedlots for the purpose of this Ordinance. Confined Animal Feeding Operations (CAFO) as defined by North Dakota, Federal, or Cass County definitions shall be considered feedlots for the purposes of this ordinance.

11. **Feedlot (New).** An unpermitted or unregistered feedlot, a feedlot constructed and operated at a site where no feedlot existed previously or where a pre-existing feedlot has been abandoned or unused for a period of two years.

12. **Feedlot Operator.** An individual, a corporation, a cooperative, a group of individuals, a partnership, joint venture, owner or any other business entity having charge or control of one or more livestock feedlots, poultry lots or other animal lots.

13. **Feedlot Runoff.** The movement of water from a feedlot, either in the form of rainfall, snow or as water from a waterway, ditch, etc. passing through a feedlot, carrying particles of manure as well as soil into a body of water and thereby constituting a potential pollution hazard.

14. **Floodplain.** The channel or beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Floodplain areas within Buffalo Township shall encompass all areas designated as Zone A on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency.

15. **Floodway.** The channel of the water course and those portions of the adjoining floodplains which are reasonably required to carry or store the regional flood discharge.

16. **Liquid Manure.** Manure that contains less than 15% solids content.

17. Manure Storage Structure. A structure where lot runoff, manure effluent or other diluted animal waste is stored or treated, including earthen manure storage basins, earthen lagoons, concrete or glass-lined storage.

18. Modification. Any change in the feedlot operation that does not result in an increase in animal numbers.

19. NDDH. North Dakota Department of Health.

20. NRCS. Natural Resources Conservation Service.

21. Owner. Any person having possession, control or title to a feedlot.

22. Parcel. A contiguous quantity of land legally described and recorded with the County Register of Deeds as the property of a person.

23. Pastures. Areas where grass or other growing plants are used for grazing, and where the concentration of animals is such that a vegetative ground cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

24. Permit, State. A document issued by the NDDH which contains requirements, conditions, and compliance schedules relating to the discharge of animal manure pollutants, and, issued to the contractor, owner or operator, cooperative, stating that the feedlot meets the minimum standards as required by this Ordinance and the NDDH.

25. Permit, Township. A document issued by Buffalo Township which contains conditions and compliance schedules relating to the discharge of animal pollutants, and, issued to the contractor, owner or operator, cooperative, stating the feedlot meets the minimum standards as required by this Ordinance and the NDDH.

26. Potential Pollution Hazard. A condition which indicated a potential for pollution of land and waters including:

- A. Allowing a discharge of biological oxygen demand (BOD) pollutants in excess of 25 parts per million;
- B. A feedlot or manure storage area located within a shore-land or floodplain.
- C. A feedlot or manure storage area located above a groundwater supply considered Waters of the State

27. Public Well. A well that accesses the Waters of the State for distribution to the public. This includes the Wellhead Protection Area.

28. Setback. The distance from a property boundary enclosing a concentrated animal feeding operation, including its animal waste collection system, and the nearest occupied residence, the nearest buildings used for nonfarm or non-ranch purposes, or the nearest land zoned for residential, recreational, or commercial purposes.

29. Solid Manure. Manure which has at least 15% solids content and contains added fibrous material excluding mineral solids.

30. Surface Waters. Waters of the State which include, but are not limited to rivers, streams, creeks, coulees, ponds, intermittent streams, and wetlands.

31. USDA. United States Department of Agriculture.

32. Waters of the State. All waters defined under North Dakota Century Code as Waters of the State.

33. Wetlands. Wetlands as defined by the USDA.

34. 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 1,000 animal units or (2) weaned offspring which are kept longer than 120 days and that are not retained for breeding purposes.*

SECTION FOUR: CONFINED ANIMAL FEEDING OPERATION PERMIT REQUIREMENTS

1. Owners of Class A, Class B, Class C, Class D and Class E Concentrated Feeding Operations are required to complete a permit application whenever any of the following occur:

- A. A new Concentrated Animal Feeding Operation is proposed where one does not exist.
- B. An expansion is proposed beyond what a current permit allows.
- C. A cumulative expansion by 300 or more animal units after 2/25/16 of existing feedlot that does not have a permit.
- D. A change in ownership.
- E. An existing feedlot is to be restocked after being idle for two (2) or more years.
- F. A signed complaint has been received by the Buffalo Township Zoning and Planning Committee or the Cass County Zoning Officer and after inspection reveals that the Concentrated Animal Feeding Operation is in violation of Township, County, or State regulations.

2. Procedure.

The Buffalo Township Board may practice any or all of the provisions in the following subparagraphs in harmony with the permitting process of its general zoning regulations.

- A. Application for a conditional use (or special use) permit shall be submitted to the Buffalo Township Board for tentative approval. The Buffalo Township Board shall notify the Department of Health that it has received such application.
- B. The Buffalo Township Board shall notify by certified mail all property owners having property within the corresponding odor setback distance of a proposed new (CAFO). This notification must occur within 21 days of receiving the application. The approval process utilized by the Buffalo Township Board may include at least one advertised public hearing.
- C. Following tentative approval or denial of the application by Buffalo Township Board, the applicant shall be notified by letter of the decision, including conditions imposed, if any.
- D. The applicant shall then forward its application for a conditional (or special) use permit, together with tentative approval by the Buffalo Township Board, to the North Dakota Department of Health.
- E. Following a review by the Department of Health of the operator's application for a state permit, the Department of Health will notify the Buffalo Township Board of its decision.
- F. The conditional (or special) use permit granted to the operator of a new confined animal feeding operation shall put into use within twenty-four(24) months, or the permit shall lapse and the operator may re-apply.

SECTION FIVE: CONFINED ANIMAL FEEDING OPERATION CONTROL REQUIREMENTS

1. **No Significant Contribution of Pollution:** In general, no Concentrated Animal Feeding Operation shall be constructed, located, or operated so as to create a significant contribution of pollution.
2. **State General Permit:** Classes A, B, C, D and E Concentrated Animal Feeding Operations shall obtain a North Dakota Department of Health Permit pertaining to the animal species of the Concentrated Animal Feeding Operation.
3. **County Special Use Permit:** A Cass County Special Use Permit must be obtained.
4. **Nutrient Management Plan:** The applicant shall develop, maintain, and follow a nutrient management plan to ensure safe disposal of manure and protection of surface and ground water. The Buffalo Township Zoning and Planning Commission must approve the plan prior to land application of any wastes. Due to crop rotation, site changes, and other operational changes, the producer shall update the plan annually to reflect the current operation and crops grown on the application sites. The applicant shall collect, store, and dispose of liquid and solid manure according to recognized practices of good agricultural management.
 - A. A generic nutrient management plan that the applicant may use in developing a nutrient management plan is available from the North Dakota Department of Health. The generic nutrient management plan is based on application of nitrogen. The applicant may use other plans, provided the alternate plan contains all the information necessary to determine compliance with conditions of this permit. Nitrogen, in addition to that allowed in the nutrient management plan, may be applied up to the amounts as indicated by soil or crop nitrogen test results that are necessary to adhere with recognized agronomic rates. Land for application of manure shall have soil tests yearly, with a minimum of four soil samples per forty acre parcels, in a transect across the parcel, that detail nitrogen levels or chemical derivatives. Results and copies of such tests shall be submitted annually to the Board. The applicant shall maintain records to show compliance with the plan.
 - B. The Buffalo Township Zoning and Planning Commission also requires applicants to develop nutrient management plans for phosphorous and potassium. Phosphorus and potassium, in addition to that allowed in the nutrient management plan, may be applied up to the amounts as indicated by soil or crop phosphorus and potassium test results that are necessary to adhere to recognized agronomic rates. Land for application of manure shall have soil tests yearly, with a minimum of four soil samples per forty acre parcels, in a transect across the parcel, that detail phosphorus and potassium levels or their chemical derivatives. Results and copies of such tests shall be submitted annually to the Board.
The applicant shall maintain records to show compliance with the plan. The plan shall comply with Township and County Manure Application Setbacks.
 - C. Manure shall be applied only to land which is suitable for the production of crops and where crops shall routinely grow to utilize the nutrient value of the applied manure on a yearly basis.

- D. Applicants shall provide proof of sufficient cropland acreage for application of total manure volume. If applicant does not own sufficient cropland acreage, binding written manure application agreements for the expected life of the facility shall be provided.
- E. Animal manure shall be applied within two (2) miles of the Concentrated Animal Feeding Operation. If sufficient suitable cropland cannot be obtained within two (2) miles of the Confined Animal Feeding Operation, a variance of no more than five (5) miles may be granted by the Board.
- H. Binding easements for transportation of manure waste via pipeline, hose or vehicular transport shall be provided, including township right of ways and ditches, legal drains or other properties or easements.
- I. A minimum of eight test wells shall be located no greater than one quarter mile from and surrounding the waste manure holding facility, two or more on four sides of the facility. These wells shall be located to a depth no greater than but sufficient to sample ground water in a downslope hydraulic grade from the waste manure storage facility, in the same ground water profile as the waste manure storage facility. Tests indicating levels of Nitrogen, Phosphorus, and Potassium or chemical derivatives shall be maintained by the applicant and copies shall be submitted annually to the Board. Violations of state water quality standards attributable to the waste management facility or ground application may be cause or grounds for revocation of the conditional use permit.

SECTION 6: REQUIRED SETBACKS AND SEPARATION DISTANCES FOR MANURE APPLICATION AND NEW CONFINED ANIMAL FEEDING OPERATIONS AND THOSE EXPANDING BY 300 OR MORE ANIMAL UNITS AND FOR AFTER 3/13/2016..

Required Setbacks and Separation Distances for New Confined Animal Feeding Operations:

- A. New animal feeding operations shall be set back from any existing residence, church, school, business, public building, park, or campground;
 - (1) If there are fewer than three hundred animal units (Class A), there is no minimum setback requirement.
 - (2) If there are at least three hundred animal units but no more than one thousand animal units (Class B), the setback for any animal operation is one mile.
 - (3) If there are at least one thousand one animal units but no more than two thousand animal units (Class C), the setback for a hog operation is one and one-half mile and the setback for any other animal operation is one and one quarter mile.
 - (4) If there are at least two thousand one animal units but no more than five thousand animal units (Class D), the setback for a hog operation is one and one-half mile and the setback for any other animal operation is one and one-half mile.
 - (5) If there are five thousand one or more animal units (Class E), the setback for a hog operation is two and one-quarter mile and the setback for any other animal operation is one and one-half mile.
 - (6) No setback will be greater than state law will allow for any applicable condition or zoning district, However, setback will be the greatest distance allowed for any applicable condition or zoning District.

B. New animal feeding operations shall be set back from any existing municipality, town, city, village, military facility or incorporated area.;

- (1) If there are fewer than three hundred animal units (Class A), there is no minimum setback requirement.
- (2) If there are at least three hundred animal units but no more than one thousand animal units (Class B), the setback for any animal operation is one mile.
- (3) If there are at least one thousand one animal units but no more than two thousand animal units (Class C), the setback for a hog operation is two and one-half miles. and the setback for any other animal operation is one and one-quarter mile.
- (4) If there are at least two thousand one animal units but no more than five thousand animal units (Class D), the setback for a hog operation is three and one-half miles. and the setback for any other animal operation is two and one-quarter miles.
- (5) If there are five thousand one or more animal units (Class E), the setback for a hog operation is four miles and the setback for any other animal operation is two and three-quarter miles.
- (6) No setback will be greater than state law will allow for any applicable condition or zoning district however, setbacks will be the greatest distance allowed for any applicable condition or zoning district.

C. Concentrated Animal Feeding Operation expansion of 300 or more animal units or more can apply to the Buffalo Township Zoning and Planning Commission for a variance to the required setback and separation distance regulations. Expansion of permitted animal units up to twenty-five percent shall require notification of the Buffalo Township Board of Supervisors within ten days of expansion. Expansion of permitted animal units exceeding permit are allowed only on one occasion.

D. If a Concentrated Animal Feeding Operation is closer than the separation distances provided in these regulations, the applicant can request a written waiver from the separation distance. A public hearing shall be required for any variance from the setback distances. Written notice of such hearing shall be provided to each person in the Township, and to every person within 4 miles of the facility in any adjoining townships or municipalities, or any persons attending schools, places of businesses, and members of church congregations within 4 miles of the proposed facility.

SECTION 7: MANURE STORAGE AND TRANSPORTATION

1. **Compliance with State, County, and Local Standards.** All animal manure shall be stored and transported in conformance with the Buffalo Township Feedlot Ordinance.
2. **Potential Pollution Hazard Prohibited.** No manure storage area shall be constructed, located, or operated so as to create or maintain a potential pollution hazard.
3. **Vehicles, Spreaders.** All vehicles used to transport animal manure on County, State, and Township highways and roads shall be leak proof. Manure spreaders with end gates shall be in compliance with this provision provided the end gate works effectively to restrict leakage and the manure spreader is leak proof.

4. **Utilization as Domestic Fertilizer.** Animal manure, when utilized as domestic fertilizer, shall not be stored longer than one year.
5. **Stacking of Manure Onsite.** For Class A, Class B, Class C, Class D and Class E Confined Animal Feeding Operations, solid manure that is stacked for more than six (6) months shall be stored on a concrete containment pad designed with a water containment and diversion plan approved by the NDDH.
6. **Runoff Control Structures.** All outside manure storage areas shall have runoff control structures to contain the liquid.
7. **Manure Storage and Utilization.** The manure Management Plan shall provide for twelve (12) months of storage and utilization capacity for new or expanding feedlots. A nutrient management plan shall also be required. The Plan must be approved by the Township Zoning and Planning Commission.
8. **Storage Design Approval.**
 - A. All plans for manure storage structures shall be reviewed and approved by the Township.
 - B. Plans for all earthen manure storage structures and all manure storage structures of 500,000 gallons or larger shall be approved by the NDDH.
9. **Minimum Location, Design, Construction and Maintenance Standards for Earthen Manure Storage Structures.**
 - A. **Location Standards.**
 - i. All location criteria for earthen manure storage structures, as established by the NDDH, shall be included in this standard.
 - ii. No earthen manure storage structure shall be located in an area where the seasonal high groundwater table will be within two (2) feet of the bottom of the structure sealing liner. The installation of a groundwater drainage system to lower the seasonal high groundwater table shall be prohibited.
 - iii. No earthen storage structure shall be located in an area identified as having a high susceptibility to groundwater contamination.
 - iv. No earthen manure storage structure shall be located in an area identified as primarily sand and/or gravel.
 - v. No earthen storage structure shall be located in an abandoned gravel pit, or other surface mined area.
 - vi. Before approval, a minimum of one (1) year of groundwater monitoring shall be implemented to determine hydraulic gradients at the site. This information shall be essential to lagoon design and proper placement of long-term monitoring wells.
 - B. **Design Standards.**
 - i. **Site Investigation.**
 1. A minimum of five soil borings for the first ½ acre of site area plus two soil borings per acre thereof shall be made at the proposed location of the structure by an ARCPACS certified soil scientist. The borings shall be advanced to a depth of ten (10) feet below the proposed bottom of the structure.
 2. A record of the findings of the soil borings shall be made and will include the following:
 - a. A listing of the soils types by USDA classification and the thickness of the soil layers encountered in the boring;
 - b. The depth to the highest evidence of seasonal high groundwater table;

- c. The depth to saturated soil conditions or groundwater table; and
- d. The date and location relative to the proposed basin to be shown on the plan set of the borings, the elevation of the ground at the borings and the name of the ARCPACS certified soil scientist conducting the boring operation and soils interpretation.

ii. Basic Design.

- 1. The earthen storage structure shall be designed with sufficient volume to hold the waste from the proposed number of animals for the design period while providing at least two (2) feet of freeboard between the surface of the waste and the lowest point in the surrounding embankment.
- 2. The design period shall not exceed 365 days.
- 3. The design of the structure shall be prepared and signed by a registered Professional Engineer qualified in the design of earthen structures.

iii. Liner Design.

- 1. Liner thickness shall be based on liquid depth and storage capacity.
 - a. The earthen structure shall have a clay liner that is at least 24 inches in thickness after compaction. The overall thickness shall be increased by 1.5 inches for each additional foot in design depth over 10 feet (not including freeboard depth). Liner thickness shall be increased as required to achieve a demonstrated permeability rate of 10^{-7} cm/second (500 gallons/acre/day) or less; all earthen structures shall also require a synthetic membrane liner of adequate thickness in relation to the depth and volume of the lagoon, and installed according to manufacturer specifications.
 - b. Minimum liner thickness shall be increased to thirty (30) inches for earthen structures of 1-1.5 million gallons of capacity.
 - c. Earthen structures having more than a two million-gallon capacity shall meet the technical standards for solid waste management facilities under NDDH standards.
 - d. The liner design standards required above shall apply to a feedlot where any combination of earthen structures have a total capacity that meet the above thresholds.
- 2. The interior side slopes of the liner shall not be greater than 2:1 (horizontal : vertical) or 50%, or 3:1 (horizontal : vertical) if compaction efforts on sidewalls are parallel to the slope.
- 3. The specified soil used to make up the liner shall be composed of at least 50% material finer than the #200 sieve and at least 25% small than 0.002 millimeters as tested by hydrometer. The soil shall contain no rock larger than 3 inches in diameter and no organic matter such as roots or grass.
- 4. The soil used in the liner specifications shall have a minimum liquid limit of 25% and a minimum plasticity index of 15% and be capable of attaining a demonstrated permeability rate of 10^{-7} cm/second (500 gallons/acre/day) or less.

iv. Liner Borrow Area.

- 1. Soil borings shall be conducted at the proposed source for the soil liner material. A minimum of five soil borings shall be made at the proposed location by an ARCPACS certified soil scientist. The borings shall be advanced to a depth below the proposed bottom of the excavation.

2. A record of the findings of the soil borings shall be made and will include the following:
 - a. A listing of soils types by USDA classification and the thickness of the soil layers encountered in the boring;
 - b. The depth to the highest evidence of seasonal high groundwater table;
 - c. The depth to saturated soil conditions or groundwater table; and
 - d. Size and location in boring hole of any rocks greater than 3 inches in diameter.
 - e. The date and location to be shown on plan set of the borings and the name of the ARCPACS certified soil scientist conducting the boring operation and soils interpretation.
 - f. An estimate of the volume of borrow material required and available.

C. Construction Standards

i. Liner Placement and Compaction.

1. The soil liner shall be placed in horizontal lifts of no more than six (6) inches in thickness after compaction. The liner on the side walls shall also be placed in horizontal lifts to facilitate compaction, unless the builder can demonstrate the ability to achieve the required compaction on the slopes using other methodologies. The surface of the lifts shall be scarified prior to placement of the succeeding lift to facilitate bonding of the lifts.
2. The moisture content of the liner soil shall be at or above the optimum moisture content identified in the preconstruction testing. In no case shall the moisture content exceed 4% above or fall below the identified optimum moisture content.
3. The soil shall be compacted to a minimum of 95% of the identified Proctor maximum density. The compaction shall be done with a "sheepsfoot" roller or other kneading compactors. The compaction shall be verified by field testing of the compacted material using nuclear density (ASTM D2922), and cone (ASTM D1556) or rubber balloon methods (ASTM D2167). One density test shall be conducted for each 1,000 square feet of surface area of the soil liner (including side walls) for each lift. These tests shall be conducted by qualified personnel.
4. No frozen soil materials shall be used in the construction of the liner nor shall placement or compaction of soil material take place during freezing weather conditions.

ii. Construction Certification.

1. All clay liner placement and compaction shall be observed by a registered Professional Engineer. Records of the construction activities and conditions shall be kept onsite.
2. Upon completion of construction of the liner, a construction report shall be filed with the Howes Township Zoning Commission, the County, and the NDDH. This report shall contain the testing results, a summary of the construction activities, an as-built plan set and a certification that the work was conducted according to the plans and specifications approved by the State, County, and Township for construction.

10. Underground Tanks. Underground tanks for manure storage shall be prohibited.

11. Earthen Pits. Unlined earthen pits for manure storage shall be prohibited.

12. **Fly and Odor Control Plan.** An Odor Control Plan shall be prepared by the feedlot operator for all new Class A, Class B, Class C, Class D and Class E Confined Animal Feeding Operations. A management plan is required for submission of a permit. The Township Planning and Zoning Commission shall review the plan, taking into consideration the prevailing wind direction and topography.
13. **Groundwater Monitoring.** After hydraulic gradient is determined, groundwater monitoring wells shall be placed in such locations as to best monitor any potential flow of leaching wastewater from the liquid manure handling system.
 - A. For lagoons and storage facilities a minimum of eight (8) wells, two on each side, and any additional wells being appropriate as determined by NDDH and a groundwater expert designated by the Township.
 - B. A minimum of two (2) lateral wells shall also be installed beneath the lagoon or storage facility to monitor for vertical leaching of wastewater.
14. **Odor Monitoring.** Odors shall be monitored according to the following conditions:
 - A. Upon an oral or written complaint of a citizen to the Township Board of Supervisors, the County Health Officer, or the County Sheriff of an unacceptable odor emanating from the facility, the NDDH or a citizens group trained in odor detection under provisions of North Dakota law shall determine if the level of odor is unacceptable. If findings are unacceptable, remedial measures for odor abatement shall be undertaken by the operator until satisfactory odor levels are met on a sustained basis.
 - B. Odor levels will be checked within two working days after the receipt of a written or oral complaint.
 - C. Odor levels will be checked downwind from the facility an equal distance from the facilities as the residence, place of business, or public facility of the complainant.

SECTION 8: FEEDLOT CLOSURE

1. **Responsible Parties.** The landowner, owner and operator of any feedlot shall be responsible for the ongoing management of manure and the final closure of the feedlot including the cleaning of buildings and the emptying and proper disposal of manure from all manure storage structures.
2. **Environmental Financial Assistance.** Financial assurance guaranteeing proper closure shall be required with all applications for new or expanding feedlots with a liquid manure storage structure as part of their basic design. Such assurance shall be a \$25,000 bond, letter of credit, or escrow account for each 1.0 million gallons of storage capacity.
3. **Closure Plan.** If a feedlot ceases operation, the owner shall submit to the Township a Closure Plan.
 - A. The Closure Plan shall be submitted at least 60 days prior to the final day of operation. This plan shall be prepared by a registered Professional Engineer.
 - B. Closure may be postponed for a period of 12 months if the property is posted for sale. However, pollution hazards must be remediated immediately.
 - C. Manure storage structure closure shall include the removal of the sludge in the facilities and its disposal by proper land application at agronomic rates or by other legally permissible method. Manure storage structure and the seeding of the area.
 - D. All wastes from the feedlot operation and its waste control system must be removed and disposed of on land or in some other manner which is legally permissible as soon as practical and in accordance with the approved Plan in order to promote and protect public health.

- E. Each time ownership of the feedlot changes, the new owner must notify the Buffalo Township Zoning and Planning Commission in writing within 60 days of the transfer of ownership that the approved Plan has been read and is understood and that all provisions of the Plan will be implemented.
- F. If the new ownership will continue to operate the feedlot, closure shall not be required.

SECTION 9: ABANDONMENT

1. Owners and operators of feedlots shall have joint and several liability for clean-up, closure or remediation of abandoned feedlot sites, including cases of neglect.
2. Abandoned live animals shall be assessed for health by the State Veterinarian and costs of disposal shall be assessed against the bond.

Signs: No outdoor advertising sign shall be erected, constructed or maintained within the boundaries of Buffalo Township without first obtaining a permit from the Clerk of the Township Board. The fee for such a permit shall be one dollar. (\$1.00)

Non-Conforming Uses: The lawful use of land or building existing at the date of adoption of these regulations, although such use does not conform to the provisions hereof may be continued, but if such non-conforming use is discontinued for an interval of Two (2) years, any further use of said premises shall be in conformity with the provisions of this Ordinance.

Appeals: Any person aggrieved by the regulations of this Zoning Ordinance may appeal to the Board of Adjustment. The Zoning Commission shall act as the Board of Adjustment and see that if any charges are made that the intent and purpose of the zoning regulations are carried out.

Enforcement and Administration: It shall be the duty of the Clerk of

the Buffalo Township Board to see that the provisions of this Ordinance are properly enforced .

Permits and Fee : Permits issued by the Buffalo Township Clerk showing authorization and conformity with these Regulations

and Ordinances shall be issued in suitable form under the authority of the Zoning Board. The fee for such Permit shall be one-hundred (\$100) dollars plus one dollar (\$1.00) for each \$1,000 over \$250,000 value. House remodeling not to be included.

Conditional Use Permit Applications: Costs and Attorneys Fees

Pending and future applicants for a Conditional Use Permit shall be liable for and pay to the Township Clerk sufficient sums of money to pay for and cover all costs incurred by the Township for the processing of such application, including, but not limited to: publication costs, attorney's fees and costs, mileage, copy expense, investigation expense, hearing recording expense, transcription expense, appeal expense, etc.

1. No Conditional Use Permit shall be issued until all such cost and fees prescribed herein have been paid by the applicant, unless the Township Zoning Board has otherwise provided by resolution for a particular case.
2. Pending Conditional Use Permit applicants are required to pay and are liable for costs and fees incurred after the effective date of this ordinance. Applicants are not required to pay for and are not liable for costs and fees incurred by the Township before the effective date of the ordinance.
3. No portion of the costs or attorney fees shall be refundable, regardless of whether the application is granted or denied.

Pipelines:

A permit shall be required prior to construction, the

application therefore showing the proposed route, area, product, depth, and such other pertinent data at the discretion and for consideration of the Zoning Board, which Board shall issue such Permit only if all shall appear in order.

High Voltage Electrical Transmission Lines and Towers:

Are hereby declared to be inherently and potentially dangerous and as such do constitute a menace to public health and safety and are a hazard and anuissance. A permit shall therefore be required prior to construction, lying out proposed route, altitude, voltage and such other pertinent details at the discretion and for consideration by the Zoning Board, which Board shall issue such Permit only if all shall appear in order.

Wells, Excess Flow:

A permit shall be required prior to digging an artesian well, to assure that any resultant over-flow shall be directed into a natural drain or adequate reservoir. It is expressly declared road ditches, as such, do not constitute a "natural drain".

Gravel Extraction:

Any person who leases, sells, or otherwise disposes of gravel for commercial use shall, as a pre-requisite thereto, require authorization from the Zoning Board as to the use of an appropriate route for the hauling thereof and shall provide and spread a gravel bed across such route and restore it to a comparable condition as prior to when taken without cost to the Township.

Interpretation and Application of Regulations : In interpreting and applying the provisions of this Ordinance, they shall be

held to be the minimum for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by these provisions to interfere with or abrogate or annul rules or permits previously adopted according to the law relating to the use of buildings or premises, nor to interfere with, abrogate or annul any easements, covenants or agreements between parties, provided however, that where these provisions impose greater restrictions as to use or require larger open spaces or less height than are required by such rules or permits or by easements, covenants or agreements, the provisions of this Ordinance shall control.

Saving Clause: If any section, subsection, sentence, clause or phrase of the above Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of said Ordinance.

Penalty: Any person , firm or corporation violating any of the provisions of this Ordinance shall , upon conviction thereof , be punished by a fine of not more than One Hundred Dollars, (\$100.00) , or by imprisonment for not more than Ninety (90) days, or by both such fine and imprisonment. Each and every day that a violation of this Ordinance shall be continued shall constitute and be considered a separate offense.

This ordinance shall take effect immediately upon final passage.

Approved and adopted this 13 day of April, 2016



Buffalo Township Officer

Attest:



Clerk