

- 6.7.2.4 All pipelines, natural gas, petroleum pipelines and other energy transfer lines shall be placed deep enough in the ground so as to not interfere with or become hazardous to normal farming operations.
- 6.7.2.5 Excavation for tunneling of any pipelines under roads, farm drains, group drains and local drains shall be done by the company owning or leasing said pipelines and the cost of said excavation and damages to be born by the said company.

6.8 Public and Non-Profit Wildlife Management Areas

6.8.1 Purpose

These provisions are designed to address the need for Public Wildlife Management Areas and at the same time preserve and protect the interest of the township for its tax lease and investment in construction and maintenance of public roads.

6.8.2 General Requirements

6.8.2.1 All publicly owned and non-profit agency wildlife management areas established after adoption of these regulations require a conditional use permit subject to the provisions of Section 8.2.

6.8.2.2 If the area is leased for this purpose, the public agency is required to provide the following as a part of the petition for a conditional use permit:

A road maintenance agreement specifying duties and responsibilities of the owner/lessee for access and through roads.

Duties and responsibilities of the owner/lessee for the control of noxious weeds in the wildlife management area.

6.8.2.3 If the land is purchased by a public agency for such a purpose, the public agency shall arrange for compensating the township for the loss of the property tax.

6.8.2.4 When a township road provides access to the wildlife management area, a road maintenance agreement specifying the duties and responsibilities of the public agency shall be a part of the conditional use permit.

6.9 Animal Feeding Operations

6.9.1 Purpose

These regulations are designed to allow commercial feedlots for feeding of livestock, fur bearers and poultry at the same time protect the adjoining uses against odor, run off

and other incompatible characteristics associated with feedlots.

6.9.2 General Provisions

6.9.2.1 Equivalent Animal Numbers

An animal unit equivalent" is a unitless 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

Livestock Type	Animal Unit Equivalent	Equivalent Numbers of the Livestock (hd) for Four Sizes (a.u.) of Animal Feeding Operations			
		300 a.u.	1,000 a.u.	2,000 a.u.	5,000 a.u.
1 horse	2.0	150 hd	500 hd	1,000 hd	2,500 hd
1 dairy cow	1.33	225	750	1,500	3,750
1 mature beef	1.0	300	1,000	2,000	5,000
1 beef feeder - finishing	1.0	300	1,000	2,000	5,000
1 beef feeder - backgrounding	0.75	400	1,333	2,667	6,667
1 mature bison	1.0	300	1,000	2,000	5,000
1 bison feeder	1.0	300	1,000	2,000	5,000
1 swine, > 55 lbs	0.4	750	2,500	5,000	12,500
1 goose or duck	0.2	1,500	5,000	10,000	25,000
1 sheep	0.1	3,000	10,000	20,000	50,000
1 swine, nursery	0.1	3,000	10,000	20,000	50,000
1 turkey	0.0182	16,500	55,000	110,000	275,000
1 chicken	0.01	30,000	100,000	200,000	500,000

6.9.3 Environmental Protection

The *operator* of a new facility for animal feeding is expected to locate, construct, operate and maintain the facility so as to minimize, reduce or abate effects of pollution on environmental resources and on public safety and health. The *operator* of an existing facility is expected to operate and maintain the facility so as to minimize,

reduce or abate effects of pollution on environmental resources and on public safety and health. Each *operator* shall comply with applicable state laws and rules, including the laws and rules administered by the North Dakota Department of Health and with any permits granted by that department.

6.9.4 Enforcement

In the event of a violation of this ordinance or a judgement on a civil action by the North Dakota Department of Health, the local unit of government, after due process, can order cessation of a facility for animal feeding within a reasonable period of time and until such time as the *operator* corrects or abates the cause(s) of the violation. If the cause(s) of the violation are not remedied within a reasonable period of time as set by the local unit of government, the permit may be revoked.

6.9.5 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 competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance .

6.9.6 Setback Requirements

6.9.6.1 Water Resource Setbacks

The *operator* of a new *animal feeding operation* that has more than 1,000 animal units shall not locate or establish that operation:

6.9.6.2 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 water that supplies the water for the public water system, including all or portions of the surface-water's shoreline.

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

6.9.6.4 *(The following provision is optional.* Within 1,000 feet (304.7 meters) of surface water which is not included in a source water protection area.)

6.9.7 Odor Setbacks

The *operator* of a new 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* may locate the owner's residence or business within the setbacks.

Setback Distances for <i>Animal Feeding Operations</i>		
Number of Animal Units	Hog Operations	Other Animal Operations
fewer than 300	none	none
300 - 1000	0.50 mi (0.805 km)	0.50 mi (0.805 km)
1001 or more	0.75 mi (1.207 km)	0.50 mi (0.805 km)
2001 or more	1.00 mi (1.609 km)	0.75 mi (1.207 km)
5001 or more	1.50 mi (2.414 km)	1.00 mi (1.609 km)

The *operator* of a new *animal feeding operation* shall locate the site of that operation from existing residences, businesses, churches, schools, public parks and areas of property that are zoned residential so as to exceed the corresponding listed setback from these places.

If notified in writing by an *operator* of a planned future expansion of an *animal feeding operation*, the local unit of government may implement the corresponding odor setback for a temporary time period not to exceed two years, after which time the setback will remain in effect only if the expansion was completed.

The county may increase or decrease a setback distance for a new *animal feeding operation* after consideration of the proposed operation's plans, if it determines that a greater or lesser setback distance is necessary or acceptable, respectively, based upon site conditions or demonstrable safety, health, environmental or public welfare concerns.

6.9.8 Conditional Uses

6.9.8.1 Permit Procedures

6.9.8.1.1 Applicability

The operator of a new livestock facility or an existing livestock facility, which meets the definition of an animal feeding operation and which is a conditional (or special) use of land as listed below, shall apply for and obtain a conditional (or special) use permit.

6.9.8.1.2 A new *animal feeding operation* that would be capable of handling, or that expands to handle, more than 1,000 animal units is a conditional (or special) use of land.

6.9.8.1.3 An *existing animal feeding operation* that expands to handle more than 1,000 animal units is a conditional (or special) use of land.

Whenever the capacity of an animal feeding operation is expanded to handle more than 2,000 or 5,000 animal units, the operator shall apply for a new conditional (or special) use permit.

6.9.8.2 Procedure.

The local unit of government may practice any or all of the provisions in the following subparagraphs in harmony with the permitting process of its general zoning regulations.

6.9.8.2.1 Application for a conditional use (or special use) permit shall be submitted to the local unit of government for tentative approval. The local unit of government shall notify the Department of Health that it has received such application.

6.9.8.2.2 The local unit of government shall notify by certified mail all property owners having property within the corresponding odor setback distance of a proposed new animal feeding operation. This notification must occur within 21 days of receiving the application. The approval process utilized by the local unit of government may include at least one advertised public hearing.

6.9.8.2.3 Following tentative approval or denial of the application by the local unit of government, the applicant shall be notified by letter of the decision, including conditions imposed, if any.

6.9.8.2.4 The applicant shall then forward its application for a conditional (or special) use permit, together with the tentative approval by the local government, to the North Dakota Department of Health.

6.9.8.2.5 Following a review by the Department of Health of the operator's application for a state permit, the Department of Health will notify the local unit of government of its decision.

6.9.8.2.6 The conditional (or special) use permit will become final following the granting of a permit by the Department of Health.

6.9.8.2.7 A conditional (or special) use permit granted to the

operator of a new animal feeding operation shall be put into use within twenty-four (24) months, or the permit shall lapse and the operator may re-apply.

6.9.8.3 Application Requirements.

The application for a conditional use (or special use) permit to operate a facility for an animal feeding operation shall include a scaled site plan. If the facility will handle more than 1,000 animal units, the scaled site plan shall be prepared by a registered land surveyor, a civil engineer or other person having comparable experience or qualifications. The local unit of government may require any or all of the following elements, or require additional elements, in its site plan review process when needed to determine the nature and scope of the animal feeding operation.

6.9.8.3.1 Proposed number of animal units.

6.9.8.3.2 Total acreage of the site of the facility.

6.9.8.3.3 Existing and proposed roads and access ways within and adjacent to the site of the facility.

6.9.8.3.4 Surrounding land uses and ownership, if the operation will have the capacity to handle more than 1,000 animal units.

6.9.8.3.5 A copy of the permit application submitted by the applicant to the Department of Health.

6.9.9 Ownership Change

An operator of a facility that includes an animal feeding operation having a permit granted by this ordinance shall notify the local unit of government of the sale, or the transfer of the ownership of that operation.

6.9.10 Operating Change

An operator of a facility that includes an animal feeding operation having a permit granted by this ordinance shall notify the local unit of government of intent to include an alternate livestock type. The notice shall be given at least 120 days prior to the anticipated date of the change.

6.9.11 Sewage Disposal

Certain soil types in ASHLAND Township have limitations for soil absorption disposal systems (septic tanks) as is indicated in the maps and tables of the Soil Conservation Service Survey of ASHLAND Township Soils. Said soils shall be avoided when

designing a septic tank system. If said soils cannot be avoided, proof that adequate precautionary steps will be taken, shall be provided to the Township Supervisors.

All soil absorption systems shall adhere to the following restrictions:

1. Soil absorption systems shall be located at a point lower than elevation grade of any nearby water well or spring;
2. Soil absorption systems shall not be located within fifteen (15) feet of a dwelling, within one hundred(100) feet of a private water supply, or within one hundred(100) feet of any public water supply, stream, river, lake, reservoir or other water area;
3. No part of a seepage pit or drain field shall be located closer than fifteen (15) feet to any property line nor closer than one hundred twenty (120) feet to any lake or drainage ditch.

A soil absorption system shall not be constructed on any lot smaller than one (1) acre (43,560 square feet) in soils with slight limitations; nor on any lot smaller than two (2) acres (87,120 square feet) in soils with severe sewage disposal limitations.

Inspection and approval by the Township Code Administrator of any proposed sewage disposal system site shall be required prior to the issuance of a building permit for said site or to the installation of any sewage disposal system. Disapproval of any such site by the Township Code Administrator may be appealed to the Township Supervisors, which shall then either uphold or reverse the decision of the Township Code Administrator.

The Township Code Administrator and/or the Township Supervisors may require percolation testing of the proposed site prior to its decision. The costs of said testing shall be borne by the developer of the test site(s).

6.10 Structures in Flood Prone Hazard Areas

Construction of any structure other than agricultural buildings in flood prone areas and flood hazard areas identified by the Federal Insurance Administration, the State Water Commission or other government body shall be in accordance with the regulations set forth in this section.

6.10.1 Description

The flood hazard areas in Ashland Township are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base.

6.10.2 Methods of Reducing Flood Losses

In order to limit flood damages in Ashland Township, this ordinance has provisions for restricting, prohibiting or guiding development activities that are subject to flood damage.

6.10.3 Permit Review

All building permit applications shall be reviewed by the Township Supervisors to determine if the proposed development adversely affects the flood carrying capacity of a flood prone area to assure that all development sites are reasonably safe from flooding. All applications shall also be reviewed to determine if all necessary permits have been obtained from those Federal, State or Local agencies from which prior approval is required. For the purposes of this ordinance, “adversely affects” means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent over-bank areas.

- (a) If it is determined that there is no adverse effect and the development is not a building, then the permit may be granted.
- (b) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer) for the proposed development shall be required.
- (c) If the proposed development is a building, then the provisions of **6.10.4** shall apply.

6.10.4 General Standards

If a proposed building site is located in a flood prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall conform to the following standards:

1. Anchoring
 - (a) All new construction and substantial improvements shall be anchored to prevent flotation collapse or lateral movement of the structure.
2. Construction Materials and Methods
 - (a) All new construction and substantial improvements shall be constructed using methods and materials that minimize flood damage.
3. Utilities
 - (a) All new and replacement water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - (b) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
4. Subdivision Proposal
 - (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
 - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

6.11 Geophysical Exploration Requirements

Any persons intending to carry out geophysical (including seismic) exploration activities in Ashland Township shall obtain a Geophysical Exploration permit at least two weeks prior to commencement of such activities. In addition, a copy of the surety bond filed with the ND Industrial Commission shall be affixed to the permit. Only the Township Zoning Commission may issue a Geophysical Exploration permit, it may also at its discretion suspend or revoke said permit, with or without prior notice to the permit holder or other parties. The fee for geophysical exploration shall be as follows:

Geophysical Exploration Permit.....\$50.00
Drilling Fee: first 10 holes.....\$25.00 per hole
after first 10 holes.....\$10.00 per hole

Suspension or revocation of a Geophysical Exploration Permit shall be accompanied by cessation of all activities at all sites covered by said permit, excepting those activities specifically allowed to continue, which shall be specified in written form. Notice of suspension or revocation of any Geophysical Exploration Permit shall be delivered to the permit holder or any of his agents at any site covered by the permit or at any office of the permit holder. Any damages, special meeting costs, or other costs associated with any Geophysical Exploration Permit or exploration activities which are incurred after issuance of said permit may be assessed against the permit holder.

Geophysical exploration activities are further required to be conducted in compliance with all State and Federal laws and regulations relating thereto, including but not limited to those summarized in **Appendix I**.

6.12 Wind Energy Facility

6.12.1 Purpose

The purpose of the Ordinance is to provide a regulatory framework for the siting, construction and operation of Wind Energy Facilities in the Township, subject to reasonable restrictions, which will preserve the safety and well-being of the residents, while Stutsmaning equitable and orderly development of Wind Energy Facilities.

6.12.2 Regulatory Framework

6.12.2.1 Zoning

Wind Energy Facilities may be constructed within the Township, subject to the restrictions and conditions of this Ordinance.

6.12.2.2 Principal or Accessory Use

A different existing use or an existing structure on the same parcel shall not