

**ARTICLE 48.1-09
NONTRADITIONAL LIVESTOCK**

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**CHAPTER 48.1-09-01
DEFINITIONS - GENERAL REQUIREMENTS**

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48.1-09-01-01. Definitions.

For purposes of this article:

1. "Confinement" means any structure or other means intended to keep an animal within bounds or restrict its movement.
2. "Environmentally dangerous animal" means animals that are known to cause exceptionally serious depredation to the environment.
3. "Herd" means any group of livestock maintained on common ground, or two or more groups of livestock under common ownership or supervision which are geographically separated from other herds, but can have an interchange or movement without regard to health status, as determined by the state veterinarian.
4. "Hybrid" means an animal produced by interbreeding different species or subspecies. If a hybrid is produced from animals of different nontraditional livestock categories, the produced hybrid animal is classified the highest of the different nontraditional livestock categories of the different species or subspecies regardless of the hybrid ratio.
5. "Importation permit number" means authorization obtained from the board for the importation of animals into the state.
6. "Inherently dangerous animal" means any animal that is intrinsically dangerous by nature and poses life-threatening risks.
7. "License" means a document obtained from the board and issued to a person for the maintenance of a category 2 or category 3 species in the state.
8. "Maintain" means to own, possess, control, restrain, or keep in captivity.

9. "Nontraditional livestock" means any nondomestic species held in confinement or which is physically altered to limit movement and facilitate capture. Nontraditional livestock includes ova, semen, eggs, or embryos of such livestock.
10. "Nontraditional livestock auction permit" means a document that may be issued by the board for organized auctions or sales of category 2 or category 3 nontraditional livestock.
11. "Nonvenomous injurious reptile" means a reptile that is normally considered a nonvenomous or nonpoisonous species where found in its native habitat and which can cause serious bodily injury or death upon a human being.
12. "Protected species" means wild varieties of geese, brant, swans, ducks, plovers, snipes, woodcocks, grouse, sage hens, pheasants, Hungarian partridges, quails, partridges, cranes, rails, coots, wild turkeys, mourning doves, crows, white-tailed deer, mule deer, moose, elk, bighorn sheep, mountain goats, antelope (pronghorn), mink, muskrats, weasels, wolverines, otters, martens, fishers, kit or swift foxes, beavers, raccoons, badgers, wolves, coyotes, bobcats, lynx, mountain lions, black bears, red or gray foxes, and tree squirrels.
13. "Species category list" is a listing of species previously reviewed and currently categorized by the board.
14. "Venomous reptile" means a reptile that is normally considered a venomous or poisonous species where found in its native habitat and which can cause serious bodily injury or death upon a human being, regardless of whether an individual animal has been devenomized.
15. "Wildlife" means any member of the animal kingdom, including any mammal; fish; bird, including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement; amphibian; reptile; mollusk; crustacean; or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. Wildlife does not include domestic animals or birds or animals held in private ownership.
16. "Zone 1" is that area bordered by a line that begins at the junction of the Montana border and Missouri River, runs east along the Missouri River to state highway 49, south to state highway 21, west to state highway 22 to the Slope-Bowman county line, and west to Montana.
17. "Zone 2" is that area bordered by a line that begins at the Minnesota state line on United States highway 2, runs west to Towner and north along the Souris River to the Canadian border.
18. "Zoo" means an organization with a class C exhibitor's license which follows United States department of agriculture regulations and is inspected by USDA-APHIS-VS.

History: Effective July 1, 2016.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-08.4, 36-01-12

48.1-09-01-02. Categories of nontraditional livestock.

1. Nontraditional livestock category 1 species:
 - a. Category 1 species of nontraditional livestock are those species generally considered domestic, or other species that are not inherently dangerous, that do not pose a health risk to humans, domestic animals, or wild animals, and do not pose a hazard to the environment, as determined by the board.

- b. Category 1 species of nontraditional livestock includes turkeys, geese, and ducks morphologically distinguishable from wild turkeys, geese, ducks, pigeons, rabbits, ratites, chinchilla, Guinea fowl, ranch foxes, ranch mink, peafowl, all pheasants, quail, chukar, hedgehog, degus, and other species as ordered by the board.
 - c. Category 1 species of nontraditional livestock do not require a nontraditional livestock license, but owners must otherwise comply with the rules in this title.
2. Nontraditional livestock category 2 species:
- a. Category 2 species of nontraditional livestock are certain protected species or those species that may pose health risks to humans or animals or may be environmentally hazardous, as determined by the board.
 - b. Category 2 species of nontraditional livestock includes the following species and their hybrids, all nondomestic ungulates, including all deer (cervidae) and pronghorn, zebras, nondomestic cats not listed in category 3, waterfowl, shorebirds, upland game birds not listed in category 1, crows, wolverines, otters, bats, martens, fishers, kit or swift foxes, badgers, coyotes, mink, red and gray foxes, muskrats, beavers, weasels, opossums, prairie dogs, and other ground squirrels, other species as ordered by the board and the following varieties of sheep: black Hawaiian, Corsican, painted desert, multi-horned hair, New Mexico dall, Texas dall, and desert sand.
3. Nontraditional livestock category 3 species:
- a. Category 3 species of nontraditional livestock are those species that pose special concerns, including species which are inherently dangerous or environmentally hazardous.
 - b. Category 3 species of nontraditional livestock includes the following species and their hybrids:
 - (1) All wild species of the family suidae, except swine considered domestic in the state by the board.
 - (2) Big cats, including mountain lion, jaguar, leopard, lion, tiger, and cheetah.
 - (3) Bears.
 - (4) Wolves.
 - (5) Venomous reptiles and nonvenomous injurious reptiles.
 - (6) Primates.
 - (7) Nondomestic sheep and nondomestic goats not listed in nontraditional livestock category 2.
 - (8) Other species as ordered by the board.
4. Exempt animals. Unless the state veterinarian determines it is necessary based on disease incidence information or human health or safety concerns, the following are exempt from the importation permit and certificate of veterinary inspection requirement:
- a. Arachnids.
 - b. Amphibians.

- c. Invertebrates.
 - d. Nonvenomous noninjurious reptiles.
 - e. Tropical freshwater and saltwater fish.
 - f. Gerbils.
 - g. Guinea pigs.
 - h. Hamsters.
 - i. Mice.
 - j. Rats.
 - k. Sugar gliders.
5. Prohibited animals. The board may prohibit, by policy or rule, ownership or possession of any animal deemed to be a significant threat to human or animal health in the state.
- a. Skunks and raccoons may not be imported into the state for any purpose.
 - (1) If the state veterinarian determines that a skunk or raccoon is being kept in captivity in violation of North Dakota Century Code section 36-01-08.4, the state veterinarian may serve upon the owner or keeper of such skunk or raccoon a notice of intent to confiscate the animal.
 - (2) The owner or keeper of the animal may request a hearing within ten days of receipt of the notice. Such a hearing, if requested, must be conducted by an administrative law judge, who shall make a recommended decision to the board.
 - (3) If the owner or keeper of the animal does not request a hearing within the prescribed time period, the state veterinarian may confiscate and place the animal at a licensed zoo, if feasible, or have it humanely destroyed.
 - (4) The state veterinarian may obtain the assistance of agents and employees of other state agencies or local law enforcement officials in carrying out this chapter and North Dakota Century Code section 36-01-08.4.
6. Nontraditional livestock not otherwise referred to in this section or Century Code must be reviewed by the board for determination of importation requirements and licensure requirements prior to importation.
7. Reclassification of any species is contingent upon scientific information indicating the risks posed by these species to native wildlife populations and domestic animals and must be reviewed by the board.

History: Effective July 1, 2016.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-08.4, 36-01-12

48.1-09-01-03. License requirements for nontraditional livestock category 2 and category 3 species.

- 1. The owner shall obtain a license from the board before acquiring animals classified as nontraditional livestock category 2 and category 3 species. Fees must be paid under North Dakota Century Code section 36-01-08.1 before issuance of a license.

2. An owner, before acquiring or possessing category 2 or category 3 nontraditional livestock on such owner's premises, shall provide to the board a description and a sketch or map of the premises and facilities.
 - a. The sketch or map must include, at a minimum, the proposed exterior boundary, location of the holding and handling facilities, the quarantine area, and the proposed location of all gates at the time of application for a nontraditional livestock license. The board may require additional information.
 - b. An owner may not acquire or possess category 2 or category 3 nontraditional livestock on such owner's premises and facilities until the board has inspected and approved the facility and issued the license.
3. Upon initial application, inspection of premises and facilities to meet board guidelines will be conducted by an individual approved by the board. Subsequent inspections will be conducted as deemed necessary by the board.
4. An owner of nontraditional livestock shall allow inspection of inventory and health records, holding facilities, and licensed nontraditional livestock by the board during the term of the license and during normal working hours. The licensee or the licensee's agent shall accompany the person conducting the inspection.
5. Category 2 and category 3 species may not be maintained, released, imported, transported, sold, bartered, or traded within the state except as authorized.
6. Licenses expire on January thirty-first of each year and failure to renew a nontraditional livestock license within ninety days requires the owner to dispose of livestock as ordered by the board.
7. Inventory reports are due on January thirty-first of each year. When an annual inventory report is received, the board may evaluate the existing holding facility to determine if it is adequate to contain the number and type of nontraditional livestock for which applied and the purpose for which they will be held.
 - a. Annual inventory reports must be recorded on the forms provided by the board and must be filled out completely and accurately.
 - b. Total purchases, sales, deaths, releases or other animal transfers, and births must be reported on the annual inventory reports.
 - c. Any livestock transferred, bought, or sold must include an itemized bill of sale, a certificate of veterinary inspection, or a manifest at transfer of ownership that must include individual identification, if applicable, species, age, sex, number of animals, buyer and seller and their respective addresses, date of sale, and available nontraditional livestock license numbers. All manifests and bills of sale must be submitted to the board within two weeks of the occurrence.
 - d. Prior to sale of nontraditional livestock, the seller shall notify the buyer if a North Dakota nontraditional license is required.
8. No owner of category 2 or category 3 nontraditional livestock, without prior written approval from the board, may release or abandon livestock. Game bird releases must be stipulated in the license application.
9. Upon expiration or revocation of a license, all formerly licensed nontraditional livestock in possession must be disposed of by the licensee as ordered by the board.

- a. No formerly licensed nontraditional livestock may be abandoned, released, or removed from the holding facility without prior written approval of the board.
 - b. All formerly licensed nontraditional livestock remaining at the holding facility, upon a reasonable period after expiration or revocation of the license, may be disposed of by the board.
10. The board may revoke any license or deny any license application and may dispose of any nontraditional livestock imported or transported for failing to comply with these rules or with conditions placed on the license at the time of issuance. The board may revoke any license or deny any license application if the applicant, or agent, falsified information on the license application or on the certificate of veterinary inspection, or falsified or failed to keep or submit records as required by this chapter. The revocation of a license or denial of a license application must comply with North Dakota Century Code chapter 28-32.
 11. Any animal determined by the board to pose a significant threat to the state's wildlife resources, domestic animals, or human health must be held in quarantine at the owner's expense until disposition is determined by the board or the state veterinarian.

History: Effective July 1, 2016.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-08.1, 36-01-12

48.1-09-01-04. Holding and handling facilities.

1. A license or permit may not be granted by the board until it is satisfied that the provisions for housing and caring for such nontraditional livestock and for protecting the public are proper and adequate and in accordance with the standards prescribed by the board.
2. The board may examine all lands and buildings licensed as game bird and animal farms, deer farms, or fur farms to determine whether all nontraditional livestock held on licensed farms are treated in a humane manner and confined under sanitary conditions with proper and adequate housing, care, and food.
3. Category 2 or category 3 nontraditional livestock operators must have holding and handling facilities that enable handling, marketing, and individual identification of all nontraditional livestock on the premises. A permanent or portable handling facility must be accessible to the nontraditional livestock farm at all times. If the handling facility is adjacent to the perimeter, additional fencing may be required.

History: Effective July 1, 2016.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12

48.1-09-01-05. Quarantine facility.

1. Category 2 and category 3 nontraditional livestock premises must have an approved quarantine facility within its exterior boundary or submit an action plan to the board that guarantees access to an approved quarantine facility within the state.
2. If the state veterinarian imposes a quarantine, the nontraditional livestock owner shall provide an onsite quarantine facility or make arrangements at the owner's expense to transport the animals to the approved quarantine facility named in the quarantine action plan.
3. The quarantine facility must meet standards prescribed by the state veterinarian concerning isolation, separate feed and water, escape security, and the humane holding and care of any quarantined nontraditional livestock for extended periods of time.

History: Effective July 1, 2016.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12

48.1-09-01-06. Fencing requirements.

1. Owners of all categories of nontraditional livestock shall comply with fencing or enclosure standards that will assure containment.
2. Unless otherwise specified, perimeter fences for cervids, nondomestic sheep and goats, and nondomestic hybrid sheep and goats must follow the height requirements in this section. The bottom of the fence must be at or below ground level. The fence must be a mesh of a size to prevent escape and not spaced more than six inches apart.
 - a. Electric fencing materials may be used on perimeter fences, only as a supplement to conventional fencing materials.
 - b. All gates in the perimeter fence must be locked and there must not be more than six inches below or between gates.
 - c. Posts must be of sufficient strength to keep nontraditional livestock securely contained. The posts must extend to the upper limits of the height requirement and be spaced no more than twenty-four feet apart.
 - d. Each fawning or lambing pen may not exceed one hundred sixty acres.
 - e. The minimum standards for perimeter fences are as follows:
 - (1) A four-foot fence for small cervid species, including muntjac.
 - (2) A four-foot fence made of twelve-gauge or heavier woven wire, or other material of similar strength for black Hawaiian, Corsican, painted desert, multi-horned hair, Texas dall, New Mexico dall, and desert sand sheep.
 - (3) A six-foot fence for fallow deer.
 - (4) An eight-foot fence for white-tailed deer, mule deer, red deer, category 3 nondomestic sheep, and category 3 nondomestic goats.
3. Animals may be subject to additional fencing requirements at the discretion of the state veterinarian.

History: Effective July 1, 216.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12

48.1-09-01-07. Identification.

1. Category 2 and category 3 nontraditional livestock maintained within North Dakota or transferred to any nontraditional livestock premises within the state of North Dakota must be identified as prescribed by the board.
2. Category 2 or category 3 hooved nontraditional livestock not distinguishable from wild species must be identified individually with a visual tag approved by the board and must be marked within twelve months of birth, and before removal of the animal from the nontraditional livestock premises.

3. An owner of category 2 or category 3 nontraditional livestock shall record the number and other information as specified and approved by the board.
4. Change of animal identification must be reported on the annual inventory report.
5. Identification assigned to an individual nontraditional livestock animal may not be transferred to any other animal.

History: Effective July 1, 2016.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-08.2, 36-01-12

48.1-09-01-08. Escaped nontraditional livestock.

1. Category 2 or category 3 nontraditional livestock escapes must be reported to the board within one working day of discovery.
2. An owner of category 2 or category 3 nontraditional livestock shall notify the board within one working day of the capture or death of an escaped category 2 or category 3 animal.
3. An owner of category 2 or category 3 nontraditional livestock shall recapture or destroy the escaped category 2 or category 3 animal within four days, except where public safety or the health of the domestic or wild population is at risk, in which case the animal may be disposed of immediately. An extension may be granted at the discretion of the state veterinarian.
4. The board may authorize an agent to seize, capture, or destroy category 2 or category 3 nontraditional livestock that have escaped and are outside the control of the producer.
 - a. A reasonable fee will be assessed to the owner to seize, capture, or destroy the animal.
 - b. The owner must reimburse costs, not to exceed fifty dollars per animal, to the responding agent.
5. The board may inspect any recaptured animal before it is commingled with other animals.

History: Effective July 1, 2016.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12, 36-01-12.2

48.1-09-01-09. Zoos.

Licensed zoos, research facilities, education facilities, and class B brokers, as defined by the United States department of agriculture, dealing with a licensed zoo, shall comply with requirements established for nontraditional livestock. Zoos accredited by the American zoo and aquarium association importing exotic animals shall coordinate directly with the state veterinarian's office.

1. Exemptions to specific testing may be allowed by the state veterinarian for endangered or highly valuable animals in instances where risk of harm or death due to drug immobilization or physical restraint outweighs the likelihood that the animal harbors the disease in question.
2. The state veterinarian shall determine any testing needed. Zoos must conduct testing that is deemed appropriate by the state veterinarian.

History: Effective July 1, 2016.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12