

TOWN OF TRENTON
Official Minutes

**A Public Hearing of the Town of Trenton Town Board and Plan Commission was held
Monday, June 9, 2025, at 6:00 p.m. at the Town of Trenton
Town Hall, 1071 State Highway 33 East, West Bend, WI 53095.**

Chairman Mike Lipscomb called the Public Hearing to order at 6:00 p.m.

Lipscomb read the Notice of Public Hearing called to consider amendments to the Zoning Code of the Town of Trenton, Ordinance #Z2025.06.03, Text Amendment Regarding Zoning Districts.

Plan Commission members present: Mike Lipscomb, Scott Schweizer, Dennis Kay, Ray Werhand, Doug Hein, Bob Roden. The town board supervisors present were Chairman Mike Lipscomb, Supervisor Barb Davies, and Supervisor Tony Thoma. Town Administrator Cindy Komro, Clerk Heather Krueger, and Attorney Jacob Curtis were also present. Excused: Lee Kidney

Members of the public: 28

Public Comments:

James Reinartz, 360 Cedar Sauk Rd: The Town of Trenton is already too residential to be appropriate for a large farming operation. There is insufficient crop acreage to allow more farming.

John Jansen, 5939 Wausaukee Road: Conditional Use Permit or Operations Ordinance should require groundwater monitoring, not just at the farm site, but also at the manure spreading sites. Also, having buffer zones to limit spreading in residential areas would be helpful.

Jay Koenitzer, 6262 Congress Drive: Concerned about farm size, truck traffic noise, potential groundwater and well water contamination. He wishes to protect the rural neighborhood and all the natural resources in the Town of Trenton.

Marie Dominguez, 6109 Tuscola Lane: Industrial farms and large industrial businesses are inappropriate in the Town of Trenton.

Tim Mueller, 2163 Paradise Drive: Large farming has risks, especially regarding groundwater and well contamination.

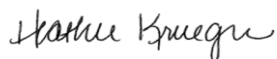
Emily Kearns, 5859 County Hwy Y: AE should be more restrictive than currently proposed. The farm is currently requesting a WPDES permit, which is hindering the health of the nearby residents. Trucks are hurting roads

Jodi Cassetta, 6728 Eastwood Trail: I urge the Plan Commission and Town Board to make sure to consider the interests of the entire community, not just a minority.

Roxanne Ramirez, 4382 Hickory Road (Village of Newburg resident): Health and safety of residents is important, especially with respect to water contamination.

Lipscomb closed the Public Hearing at 6:34 p.m.

Respectfully submitted,



Heather Krueger

Clerk of the Plan Commission

Affidavit of Posting: These minutes were approved at the July 14, 2025 Plan Commission meeting and the July 21, 2025 Town Board meeting and were posted on the town's official website on July 22, 2025.

DATE: June 09, 2025

TO: Town of Trenton Planning Commission

FROM: Wisconsin Dairy Business Association

RE: Proposed Ordinance Z2025.06.03

TO WHOM IT MAY CONCERN

The Dairy Business Association supports the Town of Trenton Planning Commission recommendation of proposed changes to the Agricultural Enterprise and Exclusive Agricultural Districts. The Town of Trenton officials deserve recognition for the time and consideration they have given these changes in the last year and a half. The Dairy Business Association has been collaborating with its members and staying abreast of these discussions and how the local government leadership has worked hard to hear from all stakeholders in the Town of Trenton. They have put forth a commonsense set of guidelines and parameters for livestock producers and will give our family farm's confidence by having a consistent set of rules to follow. Following the requirements outlined in Wis. Statutes 93.9 and the Wis. Admin. Code ch. ATPC 51 to ensure consistency and compliance with state law is not only good for agriculture but also critical for the Town when navigating the complexity of livestock facility siting.

The adoption of this ordinance will allow both agriculture and our local communities to continue to thrive. In 2022 the dairy industry contributed over \$52.8 billion dollars to the state's economy and supports over 3.3% of state employment.

Again, thank you for your time and consideration on this critical issue and for your dedication in seeing that all your community stakeholders were able to have their voices heard and considered.

Respectfully,

Tim Baumgartner
Director of Regulatory & Permitting Services
Dairy Business Association

Attorney Christa O. Westerberg
cwesterberg@pinesbach.com

June 6, 2025

VIA E-MAIL

townadmin@townoftrenton.wi.gov

Town of Trenton Town Board and Plan
Commission
c/o Cindy Komro, Town Administrator
1071 Highway 33
West Bend, WI 53095

Re: Comments on Proposed Ordinance Z2025.06.03 for June 9, 2025, public hearing

Dear Members of the Trenton Town Board and Plan Commission:

This letter is submitted to comment on proposed Ordinance Z2025.06.03, on behalf of a concerned citizen in the Town of Trenton. The ordinance would make changes to the existing Exclusive Agriculture ("EA") and Agricultural Enterprise ("AE") districts that change and expand the ability of concentrated animal feeding operations ("CAFOs") to locate in the Town of Trenton ("Town"), including CAFOs of more than 1,000 animal units ("AUs").

1. The Town should not pass Ordinance Z2025.06.03 as proposed

The Town should not pass the ordinance as proposed. Some of the reasons why are contained in our letter of May 9, 2025, which I enclose for your convenience as Exhibit A. Other reasons are that Town residents are already struggling with existing livestock facilities in the Town, particularly this spring where residents had to endure strong odors, poor air quality, noise, and heavy truck traffic associated with manure spreading in the area. The Town's ordinances currently allow livestock facilities of no more than 1,000 animal units ("AUs") in the EA and AE districts, and potentially more than 1,000

AUs in the AE district.¹ Allowing CAFOs to expand when current conditions are already intolerable defies common sense.

Additionally, these changes apparently have been prompted by Roden Farms' desire to expand its existing CAFO, even though it has not complied with Town zoning rules for several months or more, by expanding to above 1,000 AUs in the EA district. Roden Farms also did not obtain a needed permit from the Department of Natural Resources ("DNR"). It is puzzling why the Town should bend over backwards to amend its ordinance to accommodate an entity that has not complied with existing rules, rather than simply enforce those rules.

The fact that Roden Farms has been allowed to operate in violation for so long also indicates that the Town may not be capable of conducting proper monitoring of the operation. A recent DNR document indicates Roden Farms now has an astonishing herd size of 1,895 animal units ("AUs") – almost double what is currently allowed by the Town and by the DNR allows without a permit. The facility still does not have any DNR permit. Moreover, as August 2024, DNR documents indicated Roden Farms' herd size was 1,470 AUs, indicating it has expanded by more than 400 AUs just in the last year, all while understanding it was in noncompliance with Town and DNR rules. Its planned herd size is even larger, at 2,925 AUs.

The Town should not pass Ordinance Z2025.06.03.

2. Changes to the proposed ordinance would better protect Town residents

In addition to the above general reasons why Ordinance Z2025.06.03 should not be passed at this time, there are also specific issues with the ordinance that we identify below. If the Town is determined to modify the AE and EA zoning districts in some way, it should make the following adjustments to better protect the public health, welfare, and safety of the Town's residents. Some of these are relatively simple, while others may require additional research to accommodate the Town's environmental resources.

¹ We have explained in prior correspondence to the Town why the ordinances are at best vague on whether CAFOs of more than 1,000 AUs are allowed as conditional uses in the AE district. See Corresp. from Christa Westerberg to Mike Lipscomb and Cindy Komro, 8/16/24.

a. Remove the CAFO conditional use in the EA district

State law requires the Town have at least one district where CAFOs over 500 AUs in size are allowed. Wis. Stat. § 93.90(3)(b). The Town has and will have that in the current AE district.

The proposed ordinance allows CAFOs of over 500 AUs in the EA district as conditional uses. *See* Section 2.C.1 (allowing CAFOs of 500-999 AUs as conditional uses in the EA district). However, it does not need to since CAFOs above 500 AUs will be allowed in the AE district. The Town is creating a headache for itself and its residents by permitting CAFOs of 500-999 AUs in the large EA district, both because this is such an intensive use, and because the CUP process can be laborious, time-consuming, and divisive. This provision could allow for unpleasant land use disputes in the years ahead, at a time when Town residents are already fed up with the impact of CAFOs.

The Town should remove CAFOs of 500-999 AUs in the EA district entirely, and only allow smaller (up to 499 AUs) livestock facilities in the EA district.

b. More stringent standards in the AE district

The AE district as proposed in Ordinance Z2025.06.03 allows CAFOs of 1,000 AUs or larger as a conditional use. However, the rules it uses to regulate these CAFOs are the default rules of the Department of Agriculture, Trade, and Consumer Protection (“DATCP”) in Wis. Admin. Code ch. ATCP 51. As we mentioned in our May 9, 2025, these rules were enacted approximately 20 years ago, have not been updated, and do not follow the science and other advancements in CAFO management that have evolved over the last 20 years.

Rather than rely on these outdated default rules, the Town should be more proactive in protecting its residents and the unique local environment, including Cedar Creek and the Cedarburg Bog. It may enact more stringent standards than the state’s default rules if the standards are adopted in ordinance and based on “reasonable and scientifically defensible findings of fact” adopted by the Town “that clearly show the requirement is necessary to protect public health or safety.” Wis. Stat. § 93.90(3)(ar).

Before enacting Ordinance Z2025.06.03, the Town should engage a consultant and/or form a research committee to determine whether and which local conditions require additional protections, and to propose reasonable and scientifically defensible findings of fact in support of those protections. This may include requiring permitted CAFOs to pay for independent monitoring of manure spreading and other conditions to ensure no

runoff or contamination enters local waterways and groundwater. The Town should not open the barn door to more or expanded CAFOs until this process is complete.

c. The Ordinance should clarify grandfathering

Ordinance Z2025.06.03 appears to allow existing livestock facilities to be grandfathered in the AE district without obtaining a CUP, unless they expand by more than 20% of the size that was kept on May 1, 2006, or “on the effective date of the permit requirement, whichever date is later.” See Section 3.C.13(a)(ii). However, if a facility was not a CAFO as of May 1, 2006, or came into existence between May 1, 2006 and the date of enactment of the ordinance, it is not clear whether a CUP will be required in the AE district even if the CAFO expands. Additionally, if a facility was unauthorized or expanded without permission, as is the case with Roden Farms, it is unclear whether any CUP would be required. The Town should clarify the grandfathering provisions of the ordinance to ensure any unregulated CAFOs are required to obtain a CUP, particularly if they intend to expand beyond their current size as of the time of enactment.

3. The Town should pass an operations ordinance to better monitor manure spreading and protect water quality

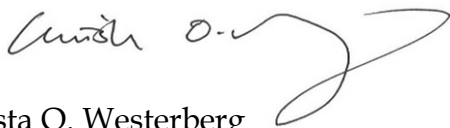
Finally, regardless of whether the Town enacts Ordinance Z2025.06.03 to regulate CAFO *siting*, it should also enact an ordinance to regulate CAFO *operation*. Other towns across the state have done so to ensure manure spreading and other activity goes not impair the health, safety, and welfare of the citizens, including towns in Polk and Wood counties. We enclose samples with this letter as Exhibits B and C. Existing conditions in the Town, and understaffing and other limitations at DNR, show more is needed to ensure local citizens and the environment are not harmed by this intensive and disruptive land use.

Please let me know if you have any questions. Thank you for your consideration.

Sincerely,

PINES BACH LLP

Christa O. Westerberg



COW:hej

encl.

cc: Tony Thoma, Supervisor
supervisor.thoma@townoftrenton.wi.gov

Barb Davies, Supervisor
supervisor.davies@townoftrenton.wi.gov

Mike Lipscomb, Chairman
chairman@townoftrenton.wi.gov

Attorney Jacob Curtis
jcurtis@hjclawandconsulting.com

EXHIBIT A

Attorney Christa Westerberg
cwesterberg@pinesbach.com
Attorney Samantha R. Foran
sforan@pinesbach.com

May 9, 2025

VIA E-MAIL

Mike Lipscomb, Chair
Town Board & Plan Commission
Town of Trenton
P.O. Box 259
Newburg, WI 53060
chairman@townoftrenton.wi.gov

Cindy Komro, Administrator
Town of Trenton
townadmin@townoftrenton.wi.gov

Re: Amendments to Ordinance

Dear Chair Lipscomb and Administrator Komro:

As you know, this firm represents a concerned citizen in the Town of Trenton ("Town"). I write to address the proposed amendments to the Town's Zoning Ordinances, included in the meeting packet for the May 12, 2025 meeting.

I have reviewed the proposed amendments and have identified some issues and areas for improvement for the Plan Commission to consider.

1. Remove conditional use within the Exclusive Agricultural District.

The proposed amendments to the Exclusive Agricultural District ordinance would allow for livestock facilities with up to 499 animal units per parcel. It also would, as a conditional use, allow "livestock facilities of 500-999 or more¹ animal units...on

¹ I assume the addition of "or more" is an error, based on the context of the Ordinance.

individual or contiguous parcels totaling 70 acres or more.” §380-13(C)(1). The amendments to the Agricultural Enterprise District allow for livestock facilities of no more than 999 animal units, permitting more animal units as a conditional use.²

The creation of a conditional use for livestock facilities larger than 499 animal units in the Exclusive Agricultural District is not necessary, considering the amendments to the Agricultural Enterprise District. Because the Town will have “an agricultural zoning district in which livestock facilities of that type are permitted or conditional uses without respect to number of animals,” the Town can prohibit a livestock facility in this agricultural zoning district based on the number of animal units. Wis. Stat. § 93.90(3)(b).³ There is no need to provide an additional conditional use for livestock facilities over 499 animal units in the Exclusive Agricultural District, and would likely cause additional confusion and administrative burden. I urge the Plan Commission to remove this conditional use from the Exclusive Agricultural District.

2. More stringent standards for conditional uses in the Agricultural Enterprise District.

The proposed amendment to the Agricultural Enterprise District includes procedures and standards for issuing a permit to a livestock facility with 1,000 or more animal units. Specifically, the proposed amendment would adopt the state livestock facility siting standards under Wis. Admin. Code ch. ATPC 51.

The state standards under Wis. Admin. Code ch. ATPC 51 provide a base level of standards. These standards have not been updated since 2006. The Town can adopt more stringent standards if the standards are “based on reasonable and scientifically defensible findings of fact” and “are needed to protect public health or safety.” Wis. Admin. Code. § ATPC 51.10(3).

The Town and Plan Commission should consider, given the specific environmental conditions of the Town and scientific developments since 2006, whether more stringent standards are necessary. More stringent standards would provide protection for the health and safety of the Town’s residents.

² The proposed amendment to §380-14(C)(13) currently reads: “Livestock Facilities of 1,000 animal units”. As with the proposed amendment to the Exclusive Agricultural District ordinance, I assume that this is also an error and should read: “Livestock Facilities of 1,000 animal units *or more*.”

³ Wis. Stat. § 93.90(3)(b) reads:

a political subdivision may not prohibit a type of livestock facility in an agricultural zoning district based on number of animal units if livestock facilities of that type with fewer animal units are allowed in that zoning district, unless the political subdivision also has an agricultural zoning district in which livestock facilities of that type are permitted or conditional uses without respect to number of animal units.

3. Location of amended zoning districts.

Based on the information provided in meeting minutes and packets online, it does not seem that the Plan Commission has selected the location of the proposed amended zoning districts. However, we are aware that this amendment is largely intended for the benefit of one farm, Roden Echo Valley/Rob-n-Cin Farms ("Roden Farms"). It is imperative that the Plan Commission knows and understands that it has the authority to decide what is best for the Town and not solely for one farm. The Town is not required to create agricultural zoning allowing livestock facilities where Roden Farms wants it. Rather, the Town must decide where these amended zoning districts make the most sense given the Town's Comprehensive Plan and needs of its residents.

I respectfully request that this letter be included in the May 12, 2025 meeting packet, read aloud during the May 12, 2025 meeting, and/or otherwise distributed to the members of the Plan Commission prior to their vote on their proposed amendments. Thank you for your attention to this matter. I am happy to discuss further.

Sincerely,

PINES BACH LLP



Christa O. Westerberg
Samantha R. Foran

SRF/COW:

EXHIBIT B

SECTION 1: INTRODUCTION

1.1 Title. This Ordinance shall be referred to as the Livestock Operation Ordinance.

1.2 Authority. This Ordinance is adopted pursuant to the authority granted in Wis. Stat. §§ 60.10, 60.22, 61.34, 92.11, and 92.15.

1.3 Findings of Fact and Declaration of Policy. The Town of Saratoga makes the following findings and declarations in support of this Ordinance:

(1) The Town recognizes the importance of protecting groundwater quality, and that proper land use and management, including proper management of nutrients from livestock operations, is essential to the protection of groundwater quality, public health, safety and welfare, and the property tax base of the Town. The Town's 5,385 residents rely on private wells for their drinking water.

(2) Land application of animal wastes can significantly impact groundwater quality by increasing the level of nitrates and increasing the risk of pathogens and other contaminants, particularly in environmentally vulnerable areas.

(3) Nitrates and other contaminants present significant environmental and public health risks. Scientific research shows that elevated concentrations of nitrate in drinking water has been associated with the risk of methemoglobinemia, or "blue baby syndrome," in humans. Contaminated groundwater directly threatens the health of Town residents, who rely on private wells for their water supply.

(4) The Town lies in an area that is recognized by scientists as being particularly susceptible to nonpoint source pollution of its groundwater due to sandy and highly leachable soils. Sandy soils are prone to leaching because they allow water—and any contaminants in the water, such as nitrate—to quickly pass through them.

(5) The U.S. Geological Survey has classified Wisconsin soils, and has determined that the sandy soils present in the Central Sands, in which the Town is located, are among the most susceptible to groundwater contamination. (Attachment A) The Natural Resource Conservation Services (NRCS) has also classified soil types based upon, among other things, the permeability of the soil and how quickly water infiltrates the soil.

Nearly all of the soil in the Town is categorized as among the poorest in terms of permeability and thus leaching potential due to the ability of water to rapidly pass through the soil. (See <http://websoilsurvey.nrcs.usda.gov>). Under the NRCS soil classification system, the predominant soil type in the Town is classified as Plainfield Series soil, and other types include soil in the Friendship and Meehan series categories. The NRCS characterizes the permeability of all of

these soil types as rapid or very rapid, which exacerbates the potential for leaching of contaminants into the Town's groundwater.

(6) Crops take up nitrate in varying amounts, depending on the crop, but can only do so if the nitrate remains in the root zone during relatively brief periods during the growing season. Water, whether in the form of rain or irrigation, will drive nitrates down below the root zone, sometimes in a matter of hours if sufficient water is applied to the soil. The problem is exacerbated by the need to irrigate because the sandy soil is poor at retaining water. And research has shown that the conditions in the Central Sands region result in even more rapid movement of water than is typically seen in sandy soils generally. Kung, K J S, *Preferential Flow in a Sandy Vadose Zone: 2. Mechanism and Implications*, *Geoderma* 46 (1-3): 59–71. doi:10.1016/0016-7061(90)90007-V (1990); Kung, K J S, *Preferential Flow in a Sandy Vadose Zone: 1. Field Observation*, *Geoderma* 46 (1): 51–58. doi:10.1016/0016-7061(90)90006-U (1990); Kung, K J S, *Laboratory Observation of Funnel Flow Mechanism and Its Influence on Solute Transport*, *Journal of Environment Quality* 22 (1): 91. doi:10.2134/jeq1993.00472425002200010012x (1993).

(7) Because of the susceptibility of sandy soils to leaching, nutrient management techniques that might otherwise succeed in preventing groundwater contamination in more favorable soils are not effective in areas like the Central Sands. This fact has been extensively documented in longstanding scientific research. For example, in 1989 scientists studying the conditions leading to groundwater contamination from agriculture in the Midwest offered the Central Sands of Wisconsin as a case study. They concluded that "...the Central Sand Plains situation combines virtually every factor for adverse groundwater impact; i.e., soils with high hydraulic conductivities, very shallow aquifers, level terrain, substantial precipitation, and crops with high moisture and fertilizer requirements. . . ." Mossbarger, W A, and Yost, R W, *Effects of Irrigated Agriculture on Groundwater Quality in Corn Belt and Lake States*, *Journal of Irrigation and Drainage Engineering* 115 (5): 773–90 (1989).

(8) Subsequent research has repeatedly confirmed the original conclusion that the soils in the Central Sands are highly susceptible to groundwater contamination. A 2001 analysis of a nationwide dataset from United States Geological Survey (USGS) National Water-Quality Assessment Program (1992-1995) identified predictors of a high likelihood of nitrate contamination. The resulting statistical model indicated that the presence of "well-drained" soils, such as the soils present in the Town, significantly increased the probability of dangerous nitrate levels in groundwater. Nolan, Bernard T., *Relating Nitrogen Sources and Aquifer Susceptibility to Nitrate in Shallow Ground Waters of the United States*, *Ground Water* 39: 290–99 (2001).

In 2002, other researchers sought to identify the key factors leading to nitrate contamination of groundwater, by examining the importance of crop type, presence of irrigation, soil permeability, and the nature of the aquifer. The situation most susceptible to nitrate contamination was irrigated, highly permeable soils, overlying an unconsolidated aquifer – precisely the situation in the Town. Burkart, M R, and Stoner, J D, *Nitrate in Aquifers Beneath Agricultural Systems*, *Water Science & Technology* 45 (9): 19–29 (2002).

(9) Research conducted specifically in the Central Sands area also confirms the high likelihood of nitrate contamination in the sandy soils present in the Town. A study of nitrate concentrations

and estimated loadings beneath irrigated sandy agricultural fields near Nekoosa, Wisconsin revealed nitrate contamination of groundwater, with concentrations above the safe level for human consumption. Stites, Will, and Kraft, George J, *Groundwater Quality Beneath Irrigated Vegetable Fields in a North-Central U.S. Sand Plain*, Journal of Environmental Quality 29 (January): 1509–17 (2000); Stites, W, and Kraft, G J, *Nitrate and Chloride Loading to Groundwater From an Irrigated North-Central U.S. Sand-Plain Vegetable Field*, Journal of Environmental Quality 30 (4), American Society of Agronomy, Crop Science Society of America, Soil Science Society: 1176–79. doi:10.2134/jeq2001.3041176x. (2001); Kraft, George J, and Stites, Will, *Nitrate Impacts on Groundwater From Irrigated-Vegetable Systems in a Humid North-Central US Sand Plain*, Agriculture, Ecosystems & Environment 100 (1): 63–74. doi:10.1016/S0167-8809(03)00172-5 (2003).

The groundwater at the nearby University of Wisconsin Hancock Agricultural Research Station in Waushara County has also been extensively studied, and testing there shows that the application of fertilizer to potatoes has resulted in levels of nitrates unsafe for human consumption. Bero, Nicholas J; Ruark, Matthew D, and Lowery, Birl, *Controlled-Release Fertilizer Effect on Potato and Groundwater Nitrogen in Sandy Soil*, Agronomy Journal 106 (2), The American Society of Agronomy, Inc.: 359–10. doi:10.2134/agronj2013.0331 (2014).

(10) The high likelihood for groundwater contamination in the Town from the application of nutrients is also confirmed by the experience at a nearby Concentrated Animal Feeding Operation, Central Sands Dairy, which is located only a few miles from the Town in Juneau County, Wisconsin. Central Sands is operating pursuant to a permit issued by the Wisconsin Department of Natural Resources. Despite this oversight and compliance, Central Sands' application of manure and fertilizer to its crop fields has resulted in substantial exceedances of the health standard for nitrates of 10 parts per million.

Central Sands has been operating four groundwater monitoring wells since December 2014. One of the wells currently has a nitrate level below the human health standard of 10 parts per million, but that well is nearing the enforcement standard with a level of 8 parts per million. The remaining wells show substantial exceedances, ranging as high as 48 parts per million. (Attachment B) In July 2015, one of the monitoring wells recorded a nitrate level of 77 parts per million, nearly eight times the health standard. (Attachment B)

In addition, in 2016 Central Sands began testing the water in three of its irrigation wells, all of which show substantial exceedances of the nitrate health standard. As of July 2016, the nitrate levels in the irrigation wells were 22, 30 and 33 parts per million, respectively. (Attachment B)

(11) A recent experience in the Town has also confirmed the high likelihood of nitrate contamination from agricultural practices in the Town's vulnerable sandy soil. A 160-acre parcel was converted from pine plantation to agricultural crops, and in a period of only about two and a half years, the nitrate level in a nearby Town monitoring well downgradient from the converted crop fields spiked from 2.5 parts per million to 12.6 parts per million as of September 2016. (Attachment C)

(12) Results from the Town's groundwater monitoring wells confirm that, with the exception of

the recently contaminated well described in the preceding paragraph, the groundwater in the Town is exceptionally clean, with nitrate levels as of September 2016 ranging from undetectable amounts to a high of 3.2 parts per million. (Attachment C)

(13) The Town has engaged experts in nutrient management and hydrogeology to evaluate the likely groundwater impacts of the proposed Golden Sands Dairy Concentrated Animal Feeding Operation. The conclusions of the Town's experts are consistent with the academic research and the observed nitrate levels in and near the Town in agricultural areas. The Town's experts have modeled the potential impacts of the Golden Sands operation, using Golden Sands' submissions to the DNR, and have concluded that within three to five years the nutrient applications proposed by Golden Sands would raise nitrate levels in residential wells downgradient from Golden Sands' crop fields above the human health standard.

(14) Given the vulnerable sandy soils and the characteristics of the aquifer beneath the Town, land use and management regulations beyond the performance standards, prohibitions, conservation practices and technical standards contained in Wis. Stat. § 281.16(3) and Wis. Adm. Code ch. NR 151 are necessary to achieve or maintain water quality standards under Wis. Stat. § 281.15.

1.4 Purpose. The purpose of this Ordinance is as follows:

(1) To provide for the administration and enforcement of standards necessary to preserve and protect the Town's groundwater resources.

(2) To promote the protection of public health, safety, and general welfare of the citizens of the Town by protecting and preventing contamination of groundwater quality in the Town by regulating local land use and land management practices that cause excessive nonpoint source water pollution due to the vulnerable soil and other natural features of the Town.

1.5 Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town of Saratoga, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.6 Severability.

(1) Should any section, clause, provision, or portion of this Ordinance be adjudged to be unconstitutional or invalid, unlawful, or unenforceable by a final order of a court of competent jurisdiction, the remainder of the Ordinance shall remain in full force and effect.

(2) If any application of this Ordinance to a particular parcel of land is adjudged unconstitutional or invalid by a final order of a court of competent jurisdiction, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment.

1.7 Effective Date. This Ordinance shall become effective the day after publication or posting as provided by Wis. Stat. § 60.80.

1.8 Definitions. Unless specifically defined herein, all terms in this Ordinance have the meaning provided for in Wis. Stat. chs. 92 and 281, and Wis. Admin. Code chs. ATCP 50, 51, and NR 151.

(1) “Manure” means excreta from livestock kept at a livestock facility and includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.

(2) “Person” means an individual, corporation, partnership, cooperative association, limited liability company, trust, or other legal organization or entity.

(3) “Point of standards application” has the meaning set forth in Wis. Stat. § 160.01(5) and Wis. Admin. Code § NR 140.22.

(4) “Town” means the Town of Saratoga, Wisconsin.

SECTION 2: ADMINISTRATION

2.1 Town Powers. The Town may:

(1) Consult with the County public health department and other appropriate resources to obtain accurate public health data and expertise necessary to the administration of this Ordinance.

(2) Respond to elevated groundwater contaminant levels as provided in sec. 3.4.

(3) Refer a violation of this ordinance to the Town’s legal counsel for legal action.

(4) Issue a citation for a violation of this ordinance.

(5) Use any other lawful means to enforce this Ordinance, or take any emergency or interim action necessary to prevent or mitigate imminent harm to public health or safety, or other actions authorized by law.

(6) Hear and decide appeals, through the Town’s Board of Adjustment, where it is alleged there is an error in a Town decision.

2.2 Other Lawful Means of Enforcement. Nothing in this section may be construed to prevent the Town from using any other lawful means to enforce this Ordinance.

2.3 Administrative Duties. In the administration and enforcement of this Ordinance, the Town shall:

(1) Investigate complaints relating to compliance with this Ordinance.

- (2) Keep an accurate record of all inspections made, and other official actions.
- (3) Perform other duties as specified in this Ordinance.

2.4 Inspection Authority. The Town may make any inspections necessary under this Ordinance to protect public health and safety. Where the Town does not have permission to enter lands subject to this Ordinance for inspection purposes, entry shall be according to Wis. Stat. § 66.0119. Refusal to grant permission to enter lands affected by this Ordinance for inspection purposes pursuant to the requirements of s. 66.0119 shall be grounds for initiating an enforcement action.

SECTION 3: LAND APPLICATION OF MANURE.

3.1 NRCS 590. All land application of manure shall conform to the United States Department of Agriculture Natural Resources Conservation Service (NRCS) Standard 590.

3.2 Nutrient Management Plans. Where the land application of manure is a component of a nutrient management plan required under Wis. Adm. Code §§ NR 151.07 or NR 243.14, the land application shall conform to the nutrient management plan.

3.3 WPDES Permits. Where the land application of manure is regulated by a WPDES permit, the land application shall comply with all terms of the permit, including any additional restrictions DNR imposes pursuant to Wis. Adm. Code § NR 243.14(10), based upon DNR's determination that such restrictions are necessary to prevent exceedances of groundwater quality standards.

3.4 Procedures For Groundwater Standards Exceedances From Manure Application.

(1) The Town may require a person engaged in the land application of manure to file a report with the Town, by a deadline set by the Town, under either of the following circumstances:

(a) A groundwater contaminant exceeds a water quality Preventive Action Limit established by Wis. Adm. Code § NR 140.10, Table 1, at a point of standards application; there is a reasonable basis to conclude that manure application up-gradient from the contamination has contributed to the contamination; and the concentration of the contaminant has increased more than 50% since the commencement of manure application; or

(b) A groundwater contaminant exceeds a water quality Enforcement Standard established by Wis. Adm. Code § NR 140.10, Table 1, at a point of standards application; and there is a reasonable basis to conclude that manure application up-gradient from the contamination has contributed to the contamination.

(2) The report required under Section 3.4(1) shall include, at a minimum, the following along with any other information specified by the Town:

- (a) If the person responsible for the manure application disputes that the manure application has caused or contributed to the increase in the contaminant level, the factual basis for this position;
 - (b) All testing results and other information regarding the level of the contaminant on the property where the manure application occurs as well as any off-site, down-gradient areas;
 - (c) Proposed steps to investigate the causes and extent of the contamination;
 - (d) Proposed steps to curtail the increase in the contaminant level, and to avoid exceedances of the enforcement standard for the pollutant;
 - (e) Proposed steps to remediate the contamination.
- (3) In addition to or in lieu of requiring a report, when either of the circumstances specified in 3.4 (1) is present, the Town may also do one or more of the following:
- (a) Take no action;
 - (b) Require the installation and sampling of groundwater monitoring wells;
 - (c) Require a change in an existing groundwater monitoring program, including increased monitoring;
 - (d) Require an investigation of the extent of groundwater contamination;
 - (e) Require a revision of the operational procedures associated with the land application;
 - (f) Require an alternate method of manure application or disposal;
 - (g) Require remedial action to renovate or restore groundwater quality; or
 - (h) Require remedial action to prevent or minimize the further discharge or release of the contaminant to groundwater.
- (4) A person engaged in land application of manure shall provide copies to the Town of all groundwater testing results that the person provides to the DNR or other governmental entity.
- (5) A person engaged in land application of manure shall notify the Town within two business days when they become aware of an exceedance of a groundwater enforcement standard under Wis. Adm. Code § NR 140.10, Table 1.

SECTION 4: VIOLATIONS, PENALTIES, AND APPEALS

4.1 Violations.

- (1) It is unlawful for any person to violate Sections 3.1, 3.2 or 3.3 of this Ordinance, or to fail to submit a report or take a required action under Section 3.4.
- (2) It is unlawful for any person to knowingly provide false information, make a false statement, or fail to provide or misrepresent any material fact to a Town agent, board, commission, department, employee, officer, or official acting in an official capacity under this Ordinance.

(3) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this Ordinance.

(4) A separate offense is deemed committed on each day that a violation occurs or continues.

4.2 Penalties.

(1) This Ordinance may be enforced through civil forfeiture or through issuance of an injunction by the circuit court in an action initiated by the Town.

(2) A person will, upon conviction for a violation of this Ordinance, forfeit not less than \$1000 no more than \$5000 for each offense, together with the costs of prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time.

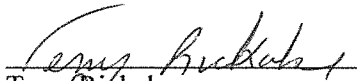
(3) In the event an offense is not abated as ordered, the Town may take such action as is necessary to abate the offense and the cost of such abatement will become a lien upon the person's property and may be collected in the same manner as other taxes.

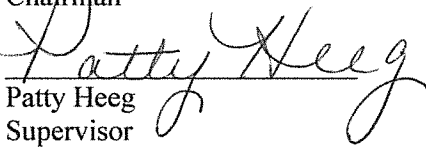
4.3 Appeals. Any person aggrieved by a decision of the Town may seek review before the Board of Adjustment.

Section 5. EFFECTIVE DATE

(1) The Ordinance shall take upon passage by the Town Board of the Town of Saratoga and upon publication provided by law.

Adopted this 30th day of November, 2016.

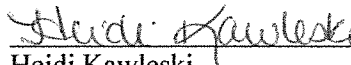

Terry Rickaby
Chairman


Patty Heeg
Supervisor

ABSENT
Danny Forbes
Supervisor

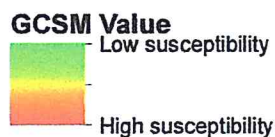
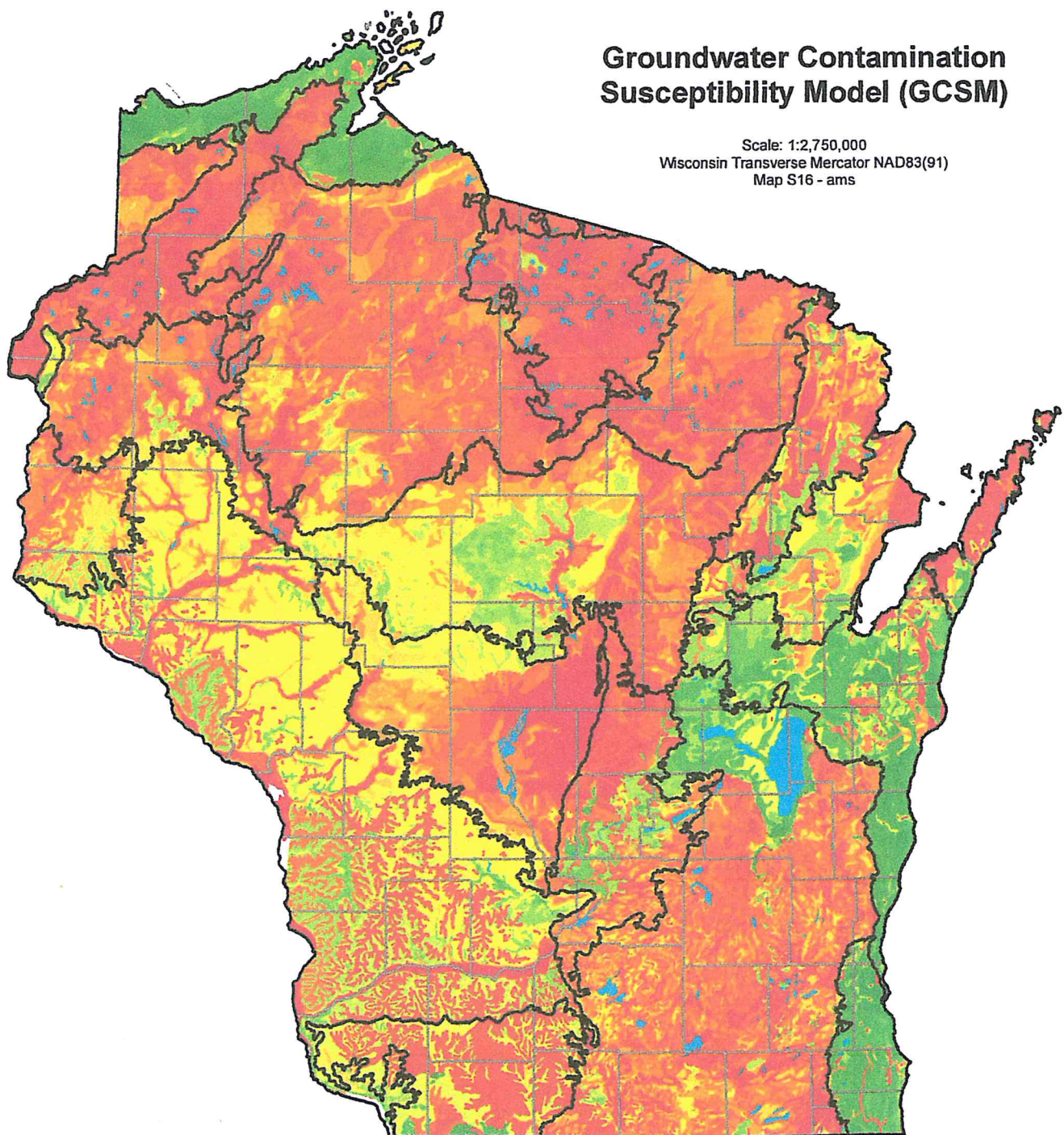

Douglas Passineau
Supervisor


John Frank
Supervisor


Heidi Kawleski
Clerk

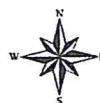
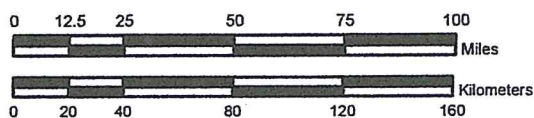
Groundwater Contamination Susceptibility Model (GCSM)

Scale: 1:2,750,000
Wisconsin Transverse Mercator NAD83(91)
Map S16 - ams



- Ecological Landscape
- County Boundaries
- Open water - not susceptible

The Groundwater Contamination Susceptibility Model (GCSM) for Wisconsin estimates the susceptibility of the state's groundwater to contamination from surface activities. The GCSM was developed by the DNR, the US Geological Survey (USGS), the Wisconsin Geological & Natural History Survey (WGNHS), and the University of Wisconsin – Madison in the mid-1980s. The results of the GCSM are illustrated in a map published in 1987 at a scale of 1:1,000,000 (available from the Wisconsin Geological & Natural History Survey: <http://www.uwex.edu/wgnhs/maps.htm>).



Nitrate Levels at Central Sands D. (through July 2016)



**QUARTERLY
GROUNDWATER MONITORING RESULTS
GOLDEN SANDS DAIRY
TOWN OF SARATOGA, WISCONSIN**

Well Number	Date Sampled	Water Level Elevation (ft msl)	Depth to Water (ft bTOC)	Chloride (mg/L)	Nitrate + Nitrite, as N (mg/L)	E. Coli (MPN/100 ml)	Total Coliform (MPN/100 ml)	Total Phosphorous (mg/L)	Soluble Reactive Phosphorous (mg/L)
Drinking Water Standard		--	--	250 ^S	10 ^P	4/100 ml ^P	5% ^P	--	--
MW-U1	12/17/2014	1030.02	8.94	20.6	1.5	ND	>2419.6	3.3	
MW-U1	3/19/2015	1029.62	9.34	3.6	0.7	--	--	6.85	
MW-U1	6/30/2015	1030.46	8.50	7.6	1	--	--	2.54	
MW-U1	9/23/2015	1030.42	8.54	46	5.2	--	--	0.637	
MW-U1	12/16/2015	1030.79	8.17	7.6	1.8	ND	ND	6.22	
MW-U1	3/30/2016	1031.97	6.99	49.4	3.1	--	--	1.00	
MW-U1	6/22/2016	1031.02	7.94	128	0.5	--	--	0.416	ND
MW-U1	9/14/2016	1029.95	9.01	32.8	0.6	--	--	--	0.013
MW-U1									
PZ-U1	12/17/2014	1030.07	8.92	12.1	0.9	ND	10.9	0.262	
PZ-U1	3/19/2015	1029.68	9.31	ND	ND	--	--	0.044	
PZ-U1	6/30/2015	1030.53	8.46	ND	0.1	--	--	0.044	
PZ-U1	9/23/2015	1030.58	8.41	ND	ND	--	--	0.036	
PZ-U1	12/16/2015	1030.86	8.13	ND	ND	ND	ND	0.040	
PZ-U1	3/30/2016	1032.00	6.99	1.0	ND	--	--	0.084	
PZ-U1	6/22/2016	1031.08	7.91	0.7	0.1	--	--	0.010	0.016
PZ-U1	9/14/2016	1029.97	9.02	ND	ND	--	--	--	0.025
PZ-U1									
PZ-U1									
MW-D1	12/17/2014	1019.66	16.55	105	1	ND	>2419.6	3.77	
MW-D1	3/19/2015	1019.30	16.91	132	1.7	--	--	2.96	
MW-D1	6/30/2015	1019.77	16.44	68.4	1	--	--	2.03	
MW-D1	9/23/2015	1019.37	16.84	55.7	0.5	--	--	1.29	
MW-D1	12/16/2015	1019.22	16.99	14.3	0.2	ND	12	1.01	
MW-D1	3/29/2016	1021.09	15.12	24.4	0.3	--	--	3.78	
MW-D1	6/22/2016	1021.01	15.20	27.1	0.4	--	--	0.541	0.006
MW-D1	9/14/2016	1019.74	16.47	90.7	0.7	--	--	--	0.006
MW-D1									
MW-U2	12/17/2014	1023.58	12.96	9.3	0.1	ND	>2419.6	2.58	
MW-U2	3/19/2015	1023.31	13.23	4.1	ND	--	--	8.63	
MW-U2	6/30/2015	1023.87	12.67	10.7	ND	--	--	4.94	
MW-U2	9/23/2015	1023.79	12.75	9.7	ND	--	--	2.64	
MW-U2	12/16/2015	1023.78	12.76	27.6	0.3	ND	24.1	0.987	
MW-U2	3/29/2016	1025.92	10.62	9.5	ND	--	--	1.06	
MW-U2	6/22/2016	1024.95	11.59	4.7	0.4	--	--	0.975	0.013
MW-U2	9/14/2016	1023.43	13.11	5.9	ND	--	--	--	0.013
MW-U2									

**QUARTERLY
GROUNDWATER MONITORING RESULTS
GOLDEN SANDS DAIRY
TOWN OF SARATOGA, WISCONSIN**

Well Number	Date Sampled	Water Level Elevation (ft msl)	Depth to Water (ft bTOC)	Chloride (mg/L)	Nitrate + Nitrite, as N (mg/L)	E. Coli (MPN/100 ml)	Total Coliform (MPN/100 ml)	Total Phosphorous (mg/L)	Soluble Reactive Phosphorous (mg/L)
Drinking Water Standard		--	--	250 ^S	10 ^P	4/100 ml ^P	5% ^P	--	--
MW-U3	12/17/2014	1004.14	13.53	2.9	1.3	ND	>2419.6	1.5	
MW-U3	3/19/2015	1003.82	13.85	0.7	1.6	--	--	2.67	
MW-U3	6/30/2015	1004.56	13.11	1.7	1.5	--	--	1.39	
MW-U3	9/23/2015	1003.81	13.86	ND	2.7	--	--	0.488	
MW-U3	12/16/2015	1003.41	14.26	1.6	5.7	ND	2	0.356	
MW-U3	3/29/2016	1005.38	12.29	ND	1.3	--	--	0.852	
MW-U3	6/22/2016	1005.19	12.48	ND	1	--	--	0.266	ND
MW-U3	9/14/2016	1004.14	13.53	ND	0.7	--	--	--	ND
MW-U3									
MW-U4	12/17/2014	986.22	24.15	4.1	2.4	ND	5.2	3.21	
MW-U4	3/19/2015	985.76	24.61	0.5	1.7	--	--	2.1	
MW-U4	6/30/2015	986.16	24.21	8.9	1.7	--	--	1.03	
MW-U4	9/23/2015	985.85	24.52	13.8	3.9	--	--	0.416	
MW-U4	12/16/2015	985.53	24.84	9.9	3.5	ND	ND	0.27	
MW-U4	3/29/2016	986.50	23.87	25.8	6	--	--	0.34	
MW-U4	6/22/2016	987.42	22.95	51.9	6.2	--	--	0.722	ND
MW-U4	9/14/2016	986.51	23.86	29.9	12.6	--	--	--	ND
MW-U4									
MW-D2	12/17/2014	952.06	41.41	6.9	ND	ND	137.6	1.24	
MW-D2	3/19/2015	951.63	41.84	3	ND	--	--	2.32	
MW-D2	6/30/2015	951.72	41.75	31.6	0.3	--	--	0.403	
MW-D2	9/23/2015	951.83	41.64	38.7	ND	--	--	0.511	
MW-D2	12/16/2015	951.88	41.59	7.3	0.2	ND	1.0	0.198	
MW-D2	3/29/2016	952.40	41.07	16.5	0.2	--	--	0.616	
MW-D2	6/22/2016	952.71	40.76	5.4	ND	--	--	0.244	0.019
MW-D2	9/14/2016	970.07	23.40	10.8	ND	--	--	--	0.015
MW-D2									
MW-D3	12/17/2014	962.55	33.85	5.4	0.7	ND	>2419.6	1.47	
MW-D3	3/19/2015	961.93	34.47	ND	0.1	--	--	1.81	
MW-D3	6/30/2015	961.76	34.64	0.5	0.3	--	--	0.701	
MW-D3	9/23/2015	961.91	34.49	ND	ND	--	--	0.292	
MW-D3	12/15/2015	961.74	34.66	0.6	0.2	ND	79.4	0.412	
MW-D3	3/29/2016	962.02	34.38	ND	0.9	--	--	0.446	
MW-D3	6/22/2016	963.56	32.84	ND	0.8	--	--	0.20	0.013
MW-D3	9/14/2016	962.80	33.60	ND	2.8	--	--	--	0.019
MW-D3									

**QUARTERLY
GROUNDWATER MONITORING RESULTS
GOLDEN SANDS DAIRY
TOWN OF SARATOGA, WISCONSIN**

Well Number	Date Sampled	Water Level Elevation (ft msl)	Depth to Water (ft bTOC)	Chloride (mg/L)	Nitrate + Nitrite, as N (mg/L)	E. Coli (MPN/100 ml)	Total Coliform (MPN/100 ml)	Total Phosphorous (mg/L)	Soluble Reactive Phosphorous (mg/L)
Drinking Water Standard		--	--	250 ^S	10 ^P	4/100 ml ^P	5% ^P	--	--
MW-D4	12/17/2014	936.62	30.41	10.3	2.3	ND	18.9	0.847	
MW-D4	3/19/2015	936.24	30.79	3.5	2.4	--	--	2.04	
MW-D4	6/30/2015	936.30	30.73	2	2.6	--	--	0.268	
MW-D4	9/23/2015	936.33	30.70	2.7	2.7	--	--	0.362	
MW-D4	12/15/2015	936.34	30.69	2.1	3.1	ND	3.1	0.348	
MW-D4	3/29/2016	937.04	29.99	1.7	3.1	--	--	0.104	
MW-D4	6/22/2016	937.03	30.00	4.1	3.3	--	--	0.233	0.013
MW-D4	9/14/2016	936.59	30.44	5.8	3.2	--	--	--	0.008
MW-D4									
PZ-D1	12/17/2014	936.59	30.40	1.4	ND	ND	1	0.123	
PZ-D1	3/19/2015	936.23	30.76	ND	ND	--	--	0.055	
PZ-D1	6/30/2015	936.27	30.72	0.6	ND	--	--	0.036	
PZ-D1	9/23/2015	936.35	30.64	ND	ND	--	--	0.053	
PZ-D1	12/15/2015	936.31	30.68	1.0	ND	ND	ND	0.023	
PZ-D1	3/29/2016	937.03	29.96	ND	ND	--	--	0.023	
PZ-D1	6/22/2016	936.99	30.00	ND	0.3	--	--	0.037	0.019
PZ-D1	9/14/2016	936.48	30.51	ND	0.024	--	--	--	0.024
PZ-D1									

NOTES

- : No data collected or no applicable Federal Primary or Secondary Standard has been established, as applicable.
- S : Federal Secondary Drinking Water Standard.
- * : Preventive Action Limit for Indicator Parameters.
- ND : Constituent not detected above laboratory method detection limit.
- P : Federal Primary Drinking Water Standard.
- > : Constituent detected at a concentration greater than the laboratory maximum detection limit.
- MPN/100 ml : Most probable number of coliform per 100 milliliters of sample
- mg/L : Milligrams per Liter
- ft bTOC : Feet below top of casing
- ft msl : Feet mean sea level

EXHIBIT C

**TOWN OF EUREKA
POLK COUNTY, WISCONSIN**

**ORDINANCE NO. 20-01 (0)
CONCENTRATED ANIMAL FEEDING OPERATIONS ORDINANCE**

The Town Board of the Town of Eureka, Polk County, Wisconsin, does ordain as follows:

Section 1. Authority

This Ordinance is adopted pursuant to the powers granted under Wisconsin Constitution, and Wisconsin Statutes including but not limited to Section 92.15. This Ordinance is further adopted pursuant to the powers granted to the Town Board under the grant of village powers pursuant to Sec. 60.22 of Wis. Statutes for the protection of public health, safety and general welfare.

Section 2. Purpose and Findings

The purpose of this Ordinance is to effectively, efficiently and comprehensively regulate the operation of Large-Scale Concentrated Animal Feeding Operations of 1,000 animal units or greater ("CAFO") in the Town of Eureka, without respect to siting, to protect public health (including human and animal health), safety, and general welfare, to prevent pollution and the creation of private nuisances and public nuisances, and to preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town of Eureka and to achieve water quality standards within the Town of Eureka. This Ordinance sets forth the procedures for obtaining a CAFO Operations Permit for the operation of new and expanded livestock facilities in the Town of Eureka (sometimes referred to as "the Town").

The need for this Ordinance is based upon the Town's obligation to protect the health, safety and general welfare of the public and is based upon reasonable and scientifically defensible findings, as adopted by the Town Board, clearly showing that these requirements are absolutely necessary to protect public health and safety. Specifically, the Town finds that there is ample scientific research and evidence establishing that CAFO's pose a significant risk to the integrity of the Town's groundwater, surface water, air quality, the health and well-being of its residents and local property values. These findings are based in part on the scientific articles and research studies discussed and listed below and in Appendix A.

On November 2, 2019, the American Public Health Association enacted a policy statement advising federal, state and local governments and public health agencies to impose a moratorium on all new and expanding CAFOs recommending a complete halt until additional scientific data has been collected and public health concerns associated with CAFOs are addressed.

CAFOs confine large numbers of animals of the same species—such as beef and dairy cattle, swine, broilers (poultry raised for meat consumption) and laying hens—on a small area of land. The scale, density, and practices associated with these operations present a range of public health and ecological hazards, including large volumes of untreated animal waste, the release of environmental contaminants to air, water, and soil, and the generation and spread of antibiotic-resistant pathogens. There is a significant body of evidence which shows CAFOs are directly

associated with occupational and community health risks, as well as the social and economic decline of rural communities.

In 2010, the National Association of Local Boards of Health published a report identifying the following Environmental Health Effects of CAFOs:

1. Groundwater
2. Surface Water
3. Air Quality
4. Greenhouse Gas and Climate Change
5. Odors
6. Insect Vectors
7. Pathogens
8. Antibiotics
9. Property Values

Pollutants commonly found in air surrounding CAFOs include the following:

CAFO Emissions	Source	Traits	Health Risks
Ammonia	Formed when microbes decompose undigested organic nitrogen compounds in manure	Colorless, sharp pungent odor	Respiratory irritant, chemical burns to the respiratory tract, skin, and eyes, severe cough, chronic lung disease
Hydrogen Sulfide	Anaerobic bacterial decomposition of protein and other sulfur containing organic matter	Odor of rotten eggs	Inflammation of the moist membranes of eye and respiratory tract, olfactory neuron loss, death
Methane	Microbial degradation of organic matter under anaerobic conditions	Colorless, odorless, highly flammable	No health risks. Is a greenhouse gas and contributes to climate change.
Particulate Matter	Feed, bedding materials, dry manure, unpaved soil surfaces, animal dander, poultry feathers	Comprised of fecal matter, feed materials, pollen, bacteria, fungi, skin cells, silicates	Chronic bronchitis, chronic respiratory symptoms, declines in lung function, organic dust toxic syndrome

Pathogens found in animal manure that have been determined to cause illness in humans include the following:

Pathogen	Disease	Symptoms
<i>Bacillus anthracis</i>	Anthrax	Skin sores, headache, fever, chills, nausea, vomiting
<i>Escherichia coli</i>	Colibacillosis, Coliform mastitis-metris	Diarrhea, abdominal gas
<i>Leptospira pomona</i>	Leptospirosis	Abdominal pain, muscle pain, vomiting, fever
<i>Listeria monocytogenes</i>	Listeriosis	Fever, fatigue, nausea, vomiting, diarrhea
<i>Salmonella</i> species	Salmonellosis	Abdominal pain, diarrhea, nausea, chills, fever, headache
<i>Clostridium tetani</i>	Tetanus	Violent muscle spasms, lockjaw, difficulty breathing
<i>Histoplasma capsulatum</i>	Histoplasmosis	Fever, chills, muscle ache, cough rash, joint pain and stiffness
<i>Microsporum</i> and <i>Trichophyton</i>	Ringworm	Itching, rash
<i>Giardia lamblia</i>	Giardiasis	Diarrhea, abdominal pain, abdominal gas, nausea, vomiting, fever
<i>Cryptosporidium</i> species	Cryptosporidiosis	Diarrhea, dehydration, weakness, abdominal cramping

Researchers at the Johns Hopkins Center for a Livable Future have found that the primary human health concerns related to industrial food animal production (IFAP) (also referred to as concentrated animal feeding operations (CAFOs)) include: infections resulting from transmission of harmful microorganisms from animal operations to nearby residents; respiratory effects from increased exposure to air pollution from animal operations; and multiple negative health impacts due to increased exposure to ground and/or surface waters that can be contaminated by manure from animal operations.

Disease Transmission

The poor conditions, including crowding, characteristic of industrial animal operations present opportunities for disease transmission among animals, and between animals and humans.¹⁻² (Footnotes refer to sources listed in Appendix A, References.) Nearby residents may have an increased risk of infection from the transmission of harmful microorganisms from operations via flies or contaminated air and water.³⁻⁹

Of additional concern is exposure to pathogens that are resistant to antibiotics used in human medicine. Administering antibiotics to animals at levels too low to treat disease (non-

therapeutic use) fosters the proliferation of antibiotic-resistant pathogens, and this practice is common in CAFOs. Resistant infections in humans are more difficult and expensive to treat ¹⁰ and more often fatal ¹¹ than infections with nonresistant strains. A growing body of evidence provides support that antibiotic-resistant pathogens are found on animal operations that administer antibiotics for non-therapeutic purposes ¹²⁻¹³ and are also found in the environment in and around production facilities, ¹³⁻¹⁵ specifically in the manure, ¹⁶⁻¹⁸ air, ¹³ and flies. ¹⁹

Manure runoff from CAFO operations may introduce these harmful microorganisms into nearby water sources. ²⁰ Land application of manure presents an opportunity for pathogens contained in the manure to leach into the ground or run off into recreational water and drinking water sources, potentially causing a waterborne disease outbreak. ¹⁷ This is of particular concern for residents who rely on private wells for drinking water and household use; ²¹ private wells are not monitored by government agencies to ensure safe levels of pathogens.

Air Pollution

Community members living near CAFO operations also face increased exposure to air pollution from these operations, which can cause or exacerbate respiratory conditions including asthma ²²⁻²⁴; eye irritation, difficulty breathing, wheezing, sore throat, chest tightness, nausea ²⁵; and bronchitis and allergic reactions. ²³ Air emissions include particulates, volatile organic compounds, and gases such as nitrous oxide, hydrogen sulfide, and ammonia. ^{22,26} Odors associated with air pollutants from large-scale hog operations have been shown to interfere with daily activities, quality of life, social gatherings, and community cohesion ^{22, 27-29} and contribute to stress and acute increased blood pressure. ²⁹⁻³⁰

Contaminated Ground and Surface Water

The increase in concentration of livestock and poultry and transition to large, high-density, confined animal feeding operations over the last several decades has resulted in the concentration of animal waste over small geographic areas. ¹⁷ Although animal manure is an invaluable fertilizer, waste quantities of the magnitude produced by CAFO operations represent a public health and ecological hazard through the degradation of surface and ground water resources. ¹⁷ (For example a CAFO application recently submitted to Burnett County, WI indicated that the proposed operator expected a single facility to generate in excess of 9 million gallons of manure per year and that it intended to dispose of that waste by spreading it on local farm fields.)

Manure from these operations can contaminate ground and surface waters with nitrates, drug residues, and other hazards, ^{6, 31-33} and studies have demonstrated that humans can be exposed to waterborne contaminants from livestock and poultry operations through the recreational use of contaminated surface water and the ingestion of contaminated drinking water. ³²⁻³⁴ Exposure to elevated levels of nitrates in drinking water is associated with adverse health effects, including cancer, ³⁵⁻³⁸ birth defects and other reproductive problems, ^{34, 35, 39, 40} thyroid problems, ³⁴⁻³⁵ and methemoglobinemia. ^{34, 41}

Nutrient runoff (including nitrogen and phosphorus) has also been implicated in the growth of harmful algal blooms, ^{17, 42} which may pose health risks for people who swim or fish in recreational waters, or who consume contaminated fish and shellfish. Exposure to algal toxins has been linked to neurological impairments, liver damage, gastrointestinal illness, severe dermatitis, and other adverse health effects. ⁴³⁻⁴⁴

Given the potential impacts to health, safety and general welfare, the Town has an obligation to enact reasonable regulations on the operations of CAFOs.

In addition to the general impacts, the Town of Eureka has also determined that this Ordinance is necessary to achieve water quality standards under Wis. Stat. 281.15 which are designed to protect the public interest including the present and prospective future use of the Town's water for public and private water systems, propagation of fish and aquatic life and wildlife, domestic and recreational purposes and agricultural, commercial, industrial and other legitimate uses.

The waters of the Town of Eureka are vitally important to its residents and the impacts of CAFOs on water systems, fish and aquatic life, agricultural, commercial and industrial uses require the Town's protection and regulation. Water contamination and impairment may result in detected levels of veterinary antibiotics, elevated levels of nitrates and the presence of pathogenic organisms.

Elevated nitrates in drinking water can be harmful to infants leading to various syndromes and the possibly of death. Low blood oxygen in adults can also lead to birth defects, miscarriages and poor general health.

Before a CAFO may begin operation within the Town of Eureka, it is imperative that the operational risks be analyzed, base lines be established to control medical risks and the monitoring of each risk be established for evaluation and appropriate review.

It is for these reasons the Town of Eureka enacts this Ordinance.

Section 3. Definitions

1. "Applicant" or "permittee" refer to the entity seeking a CAFO Operations Permit under the terms of this Ordinance.

2. "Large-Scale Concentrated Animal Feeding Operation" or "CAFO" means a lot or facility, other than a pasture or grazing area, where 1,000 or more animal units have been, are, or will be stabled or concentrated, and will be fed or maintained by the same owner(s), manager(s) or operator(s) for a total of 45 days or more in any 12-month period. Two or more smaller lots or facilities under common ownership or common management or operation are a single Large-Scale Concentrated Animal Feeding Operation or CAFO if the total number of animals stabled or concentrated at the lots or facilities equal 1,000 or more animal units and at least one of the following is true: (1) The operations are adjacent; (2) The operations utilize common systems for the land spreading of manure or wastes; (3) Animals are transferred between the lots or facilities; (4) The lots or facilities share staff, vehicles, or equipment; or (5) Manure, barnyard runoff or other wastes are comingled in a common storage facility at any time.
3. "Operations" means a course of procedure or productive activity for purposes of conducting and carrying on the business of a CAFO including populating animal housing facilities, storing and managing animal and other waste materials, and conducting any other business activities.
4. "Pollution" means degradation that results in any violation of any environmental law as determined by an administrative proceeding, civil action, criminal action or other legal or administrative action investigation or proceeding.
5. "Private Nuisance" means a nontrespasory invasion of another's interest in the private use and enjoyment of land, and the invasion is either: (1) intentional and unreasonable, or (2) unintentional and otherwise actionable under the rules of controlling liability for negligent or reckless conduct, or for abnormally dangerous conditions or activities.
6. "Public Nuisance" means a thing, act, occupation, condition or use of property which shall continue for such length of time as to " (1) substantially annoy, injure or endanger the comfort, health, repose or safety of the public; (2) in any way render the public insecure in life, health or in the use of property; or (3) unreasonably and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage or public use any street, alley, highway, navigable body of water or other public way or the use of public property or other public rights.

Section 4. License Required

Regardless of siting, a livestock facility with 1,000 or more animal units shall be allowed to conduct operations within the Town of Eureka only as provided under this Ordinance. Applicants shall apply for a CAFO Operations Permit to operate in the Town of Eureka under this Ordinance prior to conducting any operations.

1. General

A CAFO Operations Permit issued by the Town of Eureka is required for new or expanded livestock facilities that will operate with 1,000 or more animal units.

2. Licenses for Existing Livestock Facilities

A CAFO Operations Permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed 1,000 animal units.

Section 5. Licensing Administration

The Town Board shall administer this Ordinance and related matters thereto and shall have the authority to issue licenses under this Ordinance.

Section 6. License Application and Standards

The applicant shall apply for a CAFO Operations Permit prior to conducting any operations associated with a Large-Scale Concentrated Animal Feeding Operation in the Town of Eureka. The application shall be submitted on a form provided by the Town Clerk.

The Town Board shall decide whether to approve and issue a CAFO Operations Permit to an applicant that has submitted a complete application and paid the required application fee, after holding a public hearing on the application and considering any evidence concerning the application and the proposed operation presented by the applicant and any other interested persons or parties, including members of the public, other governmental agencies or entities, special legal counsel and expert consultants who may be hired by the Town Board to review the application and advise the Town Board.

The Town Board shall approve and issue a CAFO Operations Permit, either with or without conditions, if it is determined by a majority vote of all members, supported by clear and convincing evidence presented by the applicant, that: the applicant can and will comply with all conditions imposed by the Town; that the applicant's operations as proposed, with or without conditions, will protect public health (including human and animal health), safety, and general welfare, prevent pollution, prevent the creation of private nuisances, prevent the creation of public nuisances and preserve the quality of life, environment, existing small-scale livestock and other agricultural operations of the Town of Eureka; and that the applicant and the application meet all other requirements of this Ordinance.

Section 7. License Application Fee

A non-refundable application fee of One Dollar (\$1.00) per proposed animal unit payable to the Town of Eureka shall accompany an application for the purpose of offsetting the Town costs to review and process the application.

Section 8. Application Procedure

1. An applicant for a CAFO Operations Permit shall complete a Town of Eureka CAFO Operations Permit Application and pay the required application fee. The applicant must be an owner or officer of the corporate entity proposing to operate the CAFO.
2. Upon signing and submitting a CAFO Operations Permit Application to the Town Clerk, the applicant shall agree to fully compensate the Town for all legal services, expert consulting services, and other expenses which may be reasonably incurred by the Town in reviewing and considering the application, regardless of whether or not the application for a permit is subsequently approved, with or without conditions, or denied by the Town Board. The applicant shall submit an administrative fee deposit as required by the Town Clerk.
3. After receiving the application and the application fee, the Town Clerk shall mail a notice that a CAFO Operations Permit Application has been received to all landowners within 3 miles of the proposed CAFO with the date and time of a Town Board meeting at which the application will be considered. The notice shall provide information on how interested persons and parties may inspect and obtain a copy of the application.
4. The Town Clerk shall place the application on the agenda for the next regular Town Board meeting for which required notice can be provided.
5. At a formal public hearing held by the Town Board on the application at least sixty (60) days after it has been determined to be complete, the Town Board shall consider any evidence concerning the application and the proposed CAFO presented by the applicant and any other interested persons or parties, including members of the public and other governmental agencies or entities, and special legal counsel and expert consultants who may be hired by the Town to review the application and advise the Town Board.
6. In its review and consideration of a CAFO Operations Permit Application, the Town Board shall act in a quasi-judicial capacity, and its final decision on whether to approve and issue a CAFO Operations Permit, either with or without conditions, shall be based on written findings of fact and conclusions of law consistent with the provisions of this Ordinance, which shall be filed with the Town Clerk and served on the applicant by regular U.S. Mail.
7. The Town Board shall approve and issue a CAFO Operations Permit, either with or without conditions, if it determines by a majority vote of all members of the Town Board, supported by clear and convincing evidence presented by the applicant, that the operations of the proposed CAFO, with or without conditions, will protect health (including human and animal), safety, and general welfare, prevent pollution and the creation of private nuisances and public nuisances, and preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town and that the application meets all other requirements of this Ordinance.

Section 9. Financial Surety

A CAFO Operations Permit shall require the applicant and all contractors, subcontractors, agents and representatives, to ensure that sufficient funds will be available for pollution clean-up, nuisance abatement, and proper closure of the operation if it is abandoned or otherwise ceases to operate as planned and permitted, based on the following provisions:

1. A determination shall be made regarding the financial assurance level required by the scale of the operation. As a condition of the license, the required financial assurance shall be filed with the Town of Eureka in an amount sufficient to clean up environmental contamination if the same were to occur, to abate public nuisances caused by the operation, including but not limited to the testing and replacement of any potentially contaminated private and public wells and water supplies within the areas subject to operations, and to ensure proper closure of the operations should the applicant elect to close or should closure occur for some other reason. Upon notification of the required financial assurance, but prior to commencing operations, the applicant shall file with the Town the financial assurance conditioned on faithful performance of all requirements for the license. Upon notification of finance assurance or deposit approval and conformance with license conditions, the applicant may commence operations.
2. The applicant may deposit cash or irrevocable letters of credit established with a bank acceptable to the Town as the required financial assurance.
3. The Town may reevaluate and adjust accordingly the amount of the financial assurance required on an annual basis.

Section 10. Conditions of Approval

A CAFO Operations Permit may be approved with conditions to protect public health (including human and animal health), safety, and general welfare, prevent pollution and the creation of private nuisances and public nuisances, and preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town. To the extent not expressly or otherwise preempted by Wis. Stat. 93.90, and Wis. Admin. Code Ch. ATCP 51 or any other provision of state or federal law, such conditions may include, but are not limited to:

1. Conditions relating to the operational characteristics of the proposed operation, to protect public health, prevent point and non-point sources of air and water pollution, and prevent private nuisances and public nuisances;
2. Conditions relating to the management of animal and other waste that may be generated as part of an operation's ongoing operation, to protect public health, prevent point and non-point sources of air and water pollution, and prevent private nuisances and public nuisances;

3. Conditions relating to the population and depopulation of individual animal housing facilities, to protect public health and prevent the spread of animal-borne and vector-borne disease, to assure a safe level of sanitation, and to assure human health hazard control or health protection for the community;
4. Conditions relating to biosecurity and the maintenance of animal health and welfare, to prevent the spread of animal-borne and vector-borne disease, to protect public health, and provide for animal safety and welfare;
5. Conditions relating to transportation of animals as part of the ongoing operations, to protect public health, prevent pollution, and prevent private nuisances and public nuisances;
6. Conditions relating to protection of private and public drinking and agricultural wells, and other public water supplies, as part of an ongoing operation to protect public health, prevent pollution, and prevent private nuisances and public nuisances;
7. Conditions relating to air emissions and dust control as part of an ongoing operation, to protect public health, prevent pollution and prevent private nuisances and public nuisances;
8. Conditions relating to protection of the private and public property rights and property values of affected property owners, as part of an ongoing operation, to protect the general welfare of the Town's residents and property owners, and to prevent private nuisances and public nuisances;
9. Conditions relating to permit compliance, enforcement and monitoring, including establishment of fees that may be assessed against the permittee to cover the costs of hiring, training, and maintaining Town personnel, or for contracting with private consultants, to conduct permit compliance, enforcement and monitoring activities for the Town.
10. Conditions relating to the monitoring of surface water, ground water, air quality and all other environmental factors and considerations.
11. Any other conditions deemed reasonably necessary or appropriate by the Town Board to effectively, efficiently, and comprehensively regulate the operations of a facility, to protect public health (including human and animal health), safety, and general welfare, prevent pollution and the creation of private nuisances and public nuisances, and preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town.

These conditions may apply not only to the CAFO facility itself, but also to any property upon which manure, carcasses, body tissue or other by products of the CAFO are spread, deposited or

disposed of. Any conditions imposed under this Ordinance may be modified by the Town Board at the time of each annual renewal. Any modifications must be documented as required by section 11, below.

Section 11. Record of Decision

The Town Board must issue its decision in writing. The decision must be based on written findings of fact supported by evidence in the record.

Section 12. Transferability of License

A CAFO Operations Permit and the privileges granted by this license run with the land approved under the license and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval.

Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town Clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.

Section 13. Expiration of License

A CAFO Operations Permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under this permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the Town may treat a CAFO Operations Permit as lapsed and withdraw the license if the license holder fails to do all of the following within 2 years after issuance of license:

1. Begin populating the CAFO.
2. Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the application for local approval.
3. Pay the renewal fee on or before January 1 of each calendar year as required by Section 14 of this Ordinance.

Section 14. License Terms and Modifications

A CAFO Operations Permit and the privileges granted by a CAFO Operations Permit issued under this Ordinance is conditioned on the livestock operator's compliance with the standards in this Ordinance, and with commitments made in the application for a CAFO Operations Permit. The operator may make reasonable changes that maintain compliance with the standards in this Ordinance, and the Town Board shall not withhold authorization for those changes unless the Town can demonstrate good cause to do so. A violation of the Permit or a failure to comply with the commitments made in the application may result in suspension and/or termination of the Permit.

The Town Board, or its designee, shall work to ensure on an ongoing basis that all requirements and conditions of any permit issued under this Ordinance are followed by the permittee. To assist in accomplishing this task, any permit issued pursuant to this Ordinance shall be subject to an annual renewal fee in the amount of One Dollar (\$1.00) per animal unit. Modifications to the conditions of a CAFO Operations Permit may be made as described in Sections 10 and 11.

Section 15. Penalties

Any person who violates any of the provisions of this Ordinance, or who fails, neglects or refuses to comply with the provisions of this Ordinance, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be subject to the following penalties:

1. Upon conviction by a court of law, pay a forfeiture of not less than \$100 nor more than \$1,000, plus the applicable surcharges, assessments, and costs for each violation.
2. Each day a violation exists or continues shall be considered a separate offense under this Ordinance.
3. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.
4. In addition, the Town Board may suspend or revoke the local approval of a CAFO Operations Permit under this Ordinance after due notice to the livestock facility owner and a public hearing to determine whether the license should be suspended or revoked.

The Town shall exercise sound judgment in deciding whether to suspend or revoke a CAFO Operations Permit. The Town shall consider extenuating circumstances, such as adverse weather conditions, that may affect an operator's ability to comply.

In addition to any other penalty imposed by this Ordinance, the cost of abatement of any public nuisance on the licensed premises by the Town may be collected under this Ordinance or Sec. 823.06 of Wis. Statutes against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Sec. 66.0627 of Wis. Statutes unless paid earlier.

Section 16. Appeals

An applicant or any other person or party who is aggrieved by a final decision of the Town Board on whether to issue a CAFO Operations Permit, either with or without conditions, or a taxpayer, may, within thirty (30) days after the filing of the decision with the Town Clerk, commence an action seeking the remedy available by certiorari in Polk County Circuit Court. The court shall not stay the decision appealed from, but may, with notice to the Town Board, grant a restraining order. The Town Board shall not be required to return the original papers acted upon by it, but it shall be

sufficient to return certified or sworn copies thereof. If necessary, for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

In any certiorari proceeding brought under the preceding paragraph, attorney fees and costs shall not be allowed against the Town Board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

A final decision of the Town Board under this ordinance is not subject to appeal under Wis. Stat. 93.90(5), Wis. Stat 93.30, or Wis. Admin Code Ch. ATCP 51, which apply only to siting decisions.

Section 17. Severability

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to that end, the provisions of this Ordinance are severable.

Section 18. Effective Date

This Ordinance is effective the day after publication.

Adopted this 13 day of Feb, 2020 by the Town Board of Supervisors.

Town Chairman

Donald Anderson

Attested:

Lorica Beeders
Town Clerk