Title 13 ▶ Chapter 21

Concentrated Animal Feeding Operations

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Sec. 13-20-1 Purpose

The purpose of this Ordinance is to effectively, efficiently and comprehensively regulate the operation of Large-Scale Concentrated Animal Feeding Operations of 500 animal units or greater ("CAFO") in the Town of Big Bend, 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 Big Bend and to achieve water quality standards within the Town of Big Bend. 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 Big Bend (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 CAFOs 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 in Appendices A. & B. Section

Sec. 13-21-2 Authority

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

Sec. 13-21-3 Definitions

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

B. **"Large-Scale Concentrated Animal Feeding Operation" or "CAFO"** means: A lot or facility, other than a pasture or grazing area, where 500 or more animal units, as calculated from the Wisconsin DNR's Animal Unit Calculation Worksheet, 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 500 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.

a. Any lot or any facility, regardless of location that meets the definition of Section 3.2.a. and uses land in the Town to manage waste.

C. "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.

D. "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.

E. "Private Nuisance" means a non-trespassory 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.

F. "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.

Sec. 13 21-4 License Required

Regardless of siting, a livestock facility with 500 or more animal units shall be allowed to conduct operations within the Town of Big Bend only as provided under this Ordinance.

Applicants shall apply for a CAFO Operations Permit to operate in the Town of Big Bend under this Ordinance prior to conducting any operations.

1. General
   A CAFO Operations Permit issued by the Town of Big Bend is required for new or expanded livestock facilities that will operate with 500 or more animal units.

2. Licenses for Existing Livestock Facilities
   Notwithstanding Sec. 12-13-21-4(1) above, enforcement of this ordinance will be suspended for a period of three years for those livestock facilities with 500 or more animal units lawfully operating within the Town upon the date of the enactment of this ordinance.

Sec. 13-21-5 Licensing Administration

The Town Board shall administer this Ordinance and related matters thereto and shall have the authority to issues licenses under this Ordinance, and to designate the local authority/ies to whom the Operator is required to submit all reports and notices and shall have the authority to enforce the license requirements, including immediate revocation of the license for flagrant violations.

Sec. 13-21-6 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 Big Bend. 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 Big Bend; and that the applicant and the application meet all other requirements of this Ordinance.

Sec. 13-21-7 License Application Fee

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

Sec. 13-21-8 Application Procedure

1. An applicant for a CAFO Operations Permit shall complete a Town of Big Bend 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 and sign the application. The application must also be signed by the property owner, who agrees to be held by the same standards as the operator, and by one or more qualified and professionally licensed third-party engineers or geoscientists who attest that they have prepared or have reviewed the plans and certify that they will meet the following performance requirements:

a. Prevent the spread of infectious diseases from the CAFO to other animals, livestock and humans;

b. The CAFO Waste Management Plan as implemented with engineered perimeter berms and liners, or equivalent or better containment measures, will prevent any obnoxious odors emanating from waste management activities, any discharge of contaminated runoff to surface water, and any seepage to ground water, including impacts to surface water and ground water from offsite management or disposal of animal wastes and that the CAFO has applied for and will not operate until it has received a zero-discharge permit from the State, or in absence of action by the State, from the Town, a local zero discharge waste water and storm water permit(s);

c. The Animal Population Control and Depopulation Plans provide for the daily recording and reporting of animal counts and mortality and reporting to the Town-designated local authority within 24 hours of any unusual mortality, as defined in the plan, and that the provisions for managing the movement and transportation of livestock, containment and treatment of bodily fluids from carcasses, and safe disposal of carcasses, will prevent the spread of disease to other livestock, animals, workers and other residents and humans in the area;

d. The Biosecurity and Animal Health Plan provides for the health and humane

treatment of all animals, routine observation and routine testing for diseases of concern (as defined in the plan), and for the separation and quarantine of diseased animals and animals in contact with diseased animals, their euthanasia, and the handling and disposal of diseased animals, sufficient to prevent the spread of disease to workers, other livestock and animals and to humans and provides for quarterly reporting of animal testing results and plan-specified enforceable metrics confirmation that the livestock and conditions at the facility, based on plan-identified metrics, are healthy by a third-party inspector and that any deviations from the metrics and any detection of diseases of concern will be immediately reported to the local health department and local authority; and that the plan provides for adequate financing and immediate implementation of emergency containment measures by third- party contractors, including testing of workers and contractors who may have come into contact with diseased animals, and other emergency measures in the event of an outbreak of disease, based on the latest authoritative disease containment guidance;

e. The Animal Transportation Plan, in combination with the biosecurity and animal health plans, will provide for the safe transportation of all livestock to and from the CAFO, the disinfection of transport trailers and treatment of water used to disinfect trailers, the prevention of disease, and provide for coordination with local traffic and road authorities to assure their safe transport and prevent traffic accidents and to provide the necessary emergency response measures in the event of an accident;

f. The Water Use Plan is based on a thorough hydrogeologic characterization study, including identification of all onsite and nearby wells and springs, and artesian fed streams and water bodies (including ponds, wetlands, and lakes) within 5 miles, and that the planned use of water will have no impact, considering projected 50-year growth of population in the area, on the flow rate, extent, volume and storage capacity for any existing well or spring, or artesian fed water body within 2 miles of the CAFO and the quarterly reporting of water use to the local authority or their designated hydrogeologist;

g. The Odor and Toxic Air Pollution Prevention Plan will prevent the presence of odiferous smells noticeable to human olfactories and the detection of toxic air pollutants along the property boundaries and provides for adequate offsets, waste containment, air and odor emission control devices including particulate filters to prevent air pollution and the transmission of disease particles from the CAFO or offsite waste management area;

h. The Community Economic, Land Use and Property Value Assessment and Impact Study has been performed by a licensed appraiser and a qualified land use planner, is scientifically sound and concludes that there will be no negative impact to properties within 3 miles of the proposed CAFO, and a net positive benefit to the Town, including considering the risks of the operations on the public health;

i. The Construction, Fire and Road Plans, including signed engineered drawings for the measures required to meet the performance requirements of this ordinance and the measures specified in the plan have been submitted with the application, and include a fire prevention/fire-fighting capacity/fire-water capacity needs analysis and the requisite fire water storage/fire prevention/fire-fighting equipment plans, as well as a traffic study and

road improvement needs analysis and road traffic and roadway improvement plans, along with letters of conformance, on agency letterhead, stating that application-submitted plans are complementary with and are in conformance with the associated traffic and road plans and requirements of and from the local, regional, state and federal road and transportation authorities; The Compliance Assurance Testing, Sampling and Monitoring Plan shall provide for an identified chain-of-command, including local authority incident commanders, for the reporting and correction, including emergency measures, of any and all deviation(s) from the plan's enforceable metrics, as well as the daily monitoring of all operations for compliance with the enforceable metrics identified in the plan, including inspection and sampling of storm water discharges, quarterly ground water monitoring at locations that will allow corrective actions and containment measures to prevent offsite migration or vertical migration of contamination, identification and verification of the efficacy of testing methods and quality assurance reviews of test results, and reporting within 24 hours of any and all deviations from compliance metrics to the owner, the third-party corrective measures contractor, and the local authorities identified in the local permit;

j. The Compliance Assurance Testing, Sampling and Monitoring Plan shall provide for an identified chain-of-command, including local authority incident commanders, for the reporting and correction, including emergency measures, of any and all deviation(s) from the plan's enforceable metrics, as well as the daily monitoring of all operations for compliance with the enforceable metrics identified in the plan, including inspection and sampling of storm water discharges, quarterly ground water monitoring at locations that will allow corrective actions and containment measures to prevent offsite migration or vertical migration of contamination, identification and verification of the efficacy of testing methods and quality assurance reviews of test results, and reporting within 24 hours of any and all deviations from compliance metrics to the owner, the third-party corrective measures contractor, and the local authorities identified in the local permit;

k. The Compliance Assurance Plan shall document that the prepared plans and procedures are based on sound science and includes an updated review of best practices and technologies and test methods, and provides for specific compliance metrics to assure the performance requirements of the plans are met and the permit approval conditions are satisfied, and for annual audits, inspections, and certification by qualified and experienced, and licensed third party(ies), of compliance with the procedures and provisions of the various operational plans, including with the identified metrics in the plans;

l. The Closure/Cleanup/Decommissioning and Site Restoration Plan shall be sealed by a licensed engineer and based on engineering estimates of the typical cost to address the contamination of ground water within a quarter-mile radius, the replacement cost for any wells or water supplies within a quarter mile, the remediation cost for 1/2 mile of the sediment of a receiving stream, and the complete and timely removal, closure and restoration of the subject facility to approximate its original condition, including demolition based on a site-specific closure plan and removal of all manure, chemical waste or other hazardous materials, assuming 1 foot of affected soil below all ponds, tanks and animal holding areas, including a reasonable contingency based upon the uncertainty in the

estimate as identified by the engineer.

2. Upon signing and submitting a CAFO Operations Permit Application to the Town Clerk, the applicant shall include and sign a statement that the applicant agrees 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 statement shall also state that the applicant agrees to fully compensate the Town for all legal services, expert consulting services and other expenses, for verifying and enforcing compliance with the terms of the permit, with or without conditions, if approved 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 three 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 Big Bend 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. The amount of the financial assurance shall be based on a Closure/Cleanup/Decommissioning and Site Restoration Plan, sealed by a licensed engineer, and based on engineering estimates of the typical cost to address the contamination of ground water within a quarter-mile radius, the replacement cost for any wells or water supplies within a quarter mile, the remediation cost for 1/2 mile of the sediment of a receiving stream, and the complete removal, closure and restoration of the subject facility to approximate its original condition, including demolition based on a site-specific closure plan, assuming 1 foot of affected soil below all ponds, tanks and animal holding areas, including a reasonable contingency based upon the uncertainty in the estimate as identified by the engineer. Upon notification of the required amount of the financial assurance by the Town, 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 receipt of adequate form of finance assurance (as noted below) or deposit approval and verification of conformance with license conditions as verified by a third-party engineer, 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 financial assurance required on an annual basis.

4. Financial assurance shall be resubmitted by the applicant annually on or before the date of the originally approved application.

5. A Performance Bond obligation. The amount determined will be required with the application in the amount specified in the current Town Fee Schedule.

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; including provisions for specific air emissions controls, retention ponds and berms to prevent releases to surface water, liners under operational areas to prevent infiltration to ground water, the annual testing of nearby wells and springs, and annual inspections for permit compliance by representatives of local authorities;

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, including the operator's paying for periodic inspections and air emission, surface water, and ground water testing by consultants retained by local authorities, including the following added provisions:

a. The Waste Management Plan in Section 13-21-8.1.b. will include scientifically significant baseline data on the water quality of local human drinking and agricultural wells.

b. For applications that include land spreading of manure,

i. the amount of land used to spread waste as part of the Waste Management Plan in Section 13-21-8.1.b. will be based on spreadable acres, not total acres, and

ii. the application will include all Manure Land Application Agreements, with a minimum contract period of five (5) years, and such agreements must include provisions for application of waste in accord with the Waste Management Plan required in Section 13-21-88. 1. b.

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, including provisions for health department inspections and testing of dead animals and provisions for the safe treatment and off-site disposal of sanitation wastes at a separately permitted commercial facility;

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, including provisions for frequent testing of livestock for specific diseases of concern and development of emergency containment measures in the event of the detection of a disease of particular concern;

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, including completion of a traffic and transportation needs analysis and applicant's paying for traffic control and roadway improvements, including provisions for high-pressure washing with disinfectant of all transport trailers coming into the Town to include treatment and disposal of water used for disinfectant;

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, including provisions for completing a thorough survey and mapping of private and public wells and springs and artesian fed water bodies, including wetlands, as well as a thorough hydrogeologic characterization of ground water within 5 miles of the proposed CAFO;

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, including provisions for property boundary offsets, air emission and air quality testing and for specific types of air emission controls on all facility exhaust fans, waste management areas, and livestock quarantine holding areas;

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, as well as provisions for annual certification of compliance by the owner/operator and by qualified and licensed third-party auditor, approved by the Town;

10. Conditions relating to the monitoring of surface water, ground water, air quality, noise, and all other environmental factors and considerations, including retention pond sampling and testing and ground water quality monitoring at compliance points sufficiently far from the facility's property line to allow implementation of prevention of offsite migration corrective action and containment measures acceptable to the Town;

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, including provisions for adequate fire-fighting equipment and storage of adequate fire-fighting water based on a needs analysis approved by the Town and a Fire Safety Needs Analysis Plan that is annually reviewed and updated based on the

following:

a. Guidelines from the National Fire Protection Association NFPA 1141: Standard for Fire Protection Infrastructure for Land Development in Wildland, Rural, and Suburban Areas;

b. Water Supply Needs Analysis based on guidelines included in NFPA 1142: Standard on Water Supplies for Suburban and Rural Fire Fighting;

c. Wildlands Fire Analysis based on NFPA1144: Standard for Reducing Structure Ignition Hazards and Wildland Fires;

d. Animal Housing Analysis based on NFPA 150: Fire and Life Safety in Animal Housing Facilities Code.

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 operator, not the land. In the event of a change in ownership of the livestock facility, the new operator/owner of the facility will need to apply for a new license including the required fees. The license is not transferrable upon change of ownership of the land.

Upon change of ownership of the livestock facility, the owner of the facility shall file information with the Town Clerk within 30 days that such event occurs and provide 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. Permit 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. The Town may request any information it finds reasonably necessary to evaluate whether requirements and conditions are being met and whether substantial changes or modifications to the operation have taken place, and the permittee shall provide such information. 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.

The license has a term of 5 years, so long as the permittee remits the annual renewal fee and may be renewed for additional 5-year periods if there are no substantial changes or modifications proposed in the CAFO's operations, including changes to the animal species or number of animals, and there have been no permit violations or compliance problems. If substantial changes or modifications are determined to have taken place or if there have been violations of the permit conditions or requirements under the ordinance or under any state or federal requirements, the permittee shall have to reapply for an operations permit and follow all steps required under this ordinance.

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 materially 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 $5000 and not more than $10,000, plus the applicable surcharges, assessments, and costs for

each violation.

2. Second and subsequent violations requires forfeiture of not less than $5000.00.
3. Each day a violation exists or continues shall be considered a separate offense under this Ordinance.
4. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.
5. 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 §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 §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 Rusk 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.

Title 13 – CHAPTER 21 – CAFO (Concentrated Animal Feeding Operations)

This Ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

Tom Meisner, Town Chairman _____

Alec Christianson, Supervisor _____

Marc Wiesner, Supervisor _____

Attest
Sandy Rassbach, Clerk _____

Date Posted Draft: August 23, 2026 – Website / Town Hall Notice Boards

Town Board Adopted Date: 2nd day of September 2026

Effective Date: September 3, 2026

Town Adopted Published Date: September 3, 2026