

March 2, 2017

LIVESTOCK OPERATIONS STUDY GROUP
Thursday, March 16, 2017, 2:00 p.m., Courthouse, Room 207C
1313 Belknap Street, Superior, Wisconsin

Please call the County Clerk's Office (715-395-1569) if you are unable to attend.

MEMBERS: Mary Lou Bergman, Chair Nick Baker
 Pat Ryan Terry White
 Jane Anklam Steve Rannenberg
 Christine Ostern Sue Hendrickson (Alternate)
 Carolyn Pierce (Advisor)

A G E N D A

(Committee to maintain a two-hour meeting limit or take action to continue meeting beyond that time.)

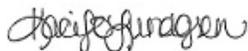
1. Roll call.
2. Approval of minutes from the January 18, 2017, meeting (attached).
3. Informational items:
 - a) February 9, 2017, CAFO conference held in Rice Lake;
 - b) Groundwater program grant; and
 - c) Bayfield County progress.
4. Presentation: DNR's role in CAFO regulation by Leah Nicol, WDNR.
5. Action items:
 - a) Large-scale Concentrated Animal Feeding Operations Ordinance draft (attached); and
 - b) Next steps (meeting date and topics – draft manure storage ordinance).
6. Future agenda items.
7. Adjournment.

A quorum of the Zoning Committee will be present at this meeting due to membership of this committee's members on that committee and a quorum of the Transportation & Infrastructure Committee will be present at this meeting due to the attendance of Douglas County Board Supervisors appointed to that committee.

Cc: Shelley Nelson (Telegram) Andy Lisak Sue Hendrickson Fred Strand
 Carolyn Pierce Susan Sandvick Ben Dufford Jason Fischbach
 Douglas County Website

NOTE: Attachments to agenda are available in County Clerk's Office for review or copying. Action may be taken on any item listed on the agenda. The County of Douglas complies with the Americans with Disabilities Act of 1990. If you are in need of an accommodation to participate in the public meeting process, please contact the Douglas County Clerk's Office at (715) 395-1341 by 4:00 p.m. on the day prior to the scheduled meeting. Douglas County will attempt to accommodate any request, depending on the amount of notice we receive.

Posted: Courthouse, Government Center, Telegram Copied



3-2-17

Name

Date

LIVESTOCK OPERATIONS STUDY GROUP
Wednesday, January 18, 2017, 1:00 p.m., Courthouse, Room 207C
1313 Belknap Street, Superior, Wisconsin

Meeting called to order by Chair Mary Lou Bergman.

ROLL CALL: Present – Mary Lou Bergman, Christine Ostern, Pat Ryan, Jane Anklam, Nick Baker, Terry White, Steve Rannenberg, Carolyn Pierce (Advisor). Others present – Mark Liebaert, Shelley Nelson, Dan Corbin, Mary Brill, Kaci Lundgren, Committee Clerk.

APPROVAL OF MINUTES: Motion by Baker, second White, to approve the minutes of the November 3, 2016, meeting. Motion carried.

INFORMATIONAL ITEMS:

Review of Previous Meeting: Ordinances reviewed and manure spraying presentation given; manure spraying is considered best available management practice to aid against water pollution. Transportation is a concern due to large machinery on failing roads; challenges of creating or reforming zoning districts discussed.

Bayfield County Ordinance Challenge Update: Still in court; DNR and Bayfield County attempting to negotiate proposed ordinance.

ACTION ITEMS:

Large-Scale Concentrated Animal Feeding Operations: Bayfield County chapter 6.0 ordinance is in court for negotiation. New CAFOs consist of over 5,000 animal units; separate regulations for different size operations discussed.

ACTION: Motion by Baker, second White, to recommend a draft ordinance for Douglas County, using Bayfield's ordinance as a template, and incorporate other potential regulatory options. Motion carried.

South Fish Creek Watershed Animal Waste Storage and Management: Bayfield County chapter 7.0 ordinance currently being challenged in court; questionable items in ordinance to be reviewed for change, if Douglas County adopts similar.

ACTION: Motion by Ryan, second White, to refer to next meeting. Motion carried.

Review Other Options for Regulation: Manure storage ordinance exists in many southern counties. Bayfield County drafting ordinance; template to be provided next meeting. Manure digester requirement for CAFOs may be another option to include in ordinance.

Next Steps (Meeting Date and Topics): Meeting date and time to be determined among committee members.

FUTURE AGENDA ITEMS: Chapter 6 ordinance draft; Chapter 7 ordinance review; ordinance challenge update; watershed information; manure storage ordinance.

ADJOURNMENT: Motion by Baker, second Ryan, to adjourn. Motion carried. Meeting adjourned at 2:36 p.m.

Submitted by,
Kaci Jo Lundgren, Committee Clerk

LARGE-SCALE CONCENTRATED ANIMAL FEEDING OPERATIONS
ORDINANCE

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF DOUGLAS DOES
ORDAIN AS FOLLOWS:

SECTION I. AUTHORITY

This ordinance is adopted pursuant to the powers granted under the Wisconsin Constitution and the Wisconsin Statutes, including but not limited to Wis. Stats. §§ 59.03(2), 59.70(1), 254.51(5) & 254.59(7).

SECTION II. TITLE AND PURPOSE

The title of this ordinance is the Large-Scale Concentrated Animal Feeding Operations Ordinance.

The purpose of this ordinance is to effectively, efficiently, and comprehensively regulate the *operations* of Large-Scale Concentrated Animal Feeding Operations of 1,000 animal units or greater (“CAFOs”), 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 Douglas County (“the County”).

SECTION III. DEFINITIONS

- A. All definitions located in Section 8.10 of the Douglas County Code of Ordinances are hereby adopted and incorporated by reference as if set forth herein.
- B. “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 other 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.

- C. “Operations” means a course of procedure or productive activity for purposes of conducting and carrying on the business of a “Large-Scale Concentrated Animal Feeding Operation” or “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, including but not limited to a determination of a violation of a livestock or cropland performance standard under Wis. Admin. Code. §§ NR 151 & 243.23, a determination that any type of unacceptable practice has occurred under Wis. Admin. Code § NR 243.24, a determination that malodorous emissions have been caused or allowed in violation Wis. Admin. Code § NR 429.03. For the purpose of this paragraph, issuance of an order or other communication addressing corrective action or a stipulated agreement, fine, forfeiture or other penalty, is considered a determination of a violation, regardless of whether there is a finding or admission of liability.
- E. “Private nuisance” means a nontrespassory 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 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.
- G. “Siting” means determination of the place where the structures and other physical facilities associated with development of a “Large-Scale Concentrated Animal Feeding Operation” or “CAFO” may be located, pursuant to Douglas County Ordinance 8.10, Wis. Stat. §93.90, and Wis. Admin. Code Ch. ATCP 51.

SECTION IV. LARGE-SCALE CONCENTRATED ANIMAL FEEDING OPERATIONS OR CAFOS

- A. Regardless of siting, a Large-Scale Concentrated Animal Feeding Operation or CAFO shall be allowed to conduct operations within the County only as provided for under this ordinance.
- B. The applicant shall apply for a “CAFO Operations Permit” prior to conducting any operations associated with a Large-Scale Concentrated Animal Feeding Operation or CAFO within the County. The application shall be submitted on a form provided to the applicant by the County Clerk, a copy of which is attached hereto as Appendix A.
- C. The Douglas County Board of Supervisors (“County Board”) shall decide whether or not 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 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 County to review the application and advise the County Board.
- D. The County 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 County Board, supported by clear and convincing evidence presented by the applicant, that the operations of the proposed CAFO, with or without conditions, will 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 County, and that the application meets all other requirements of this Ordinance.
- E. The County Board shall issue a CAFO Operations Permit, with or without conditions, to an applicant that has met all other requirements of this Ordinance provided it determines, based on information provided by the applicant and verified by the County, that a CAFO having substantially similar operational characteristics, housing the same species of animals, and utilizing similar operations, has been continuously operated in the United States for at least ten (10) years without causing pollution of groundwater or surface water, and without causing either a private nuisance or a public nuisance, as determined by an administrative proceeding, civil action, criminal action or other legal or administrative action, investigation or proceeding. However, this requirement may be waived by the County Board at the specific request of the applicant for a CAFO Operations Permit if the County Board determines after a hearing and based on clear and convincing evidence provided by the applicant and verified by the County, that the proposed CAFO will otherwise meet the requirements set forth in Section IV (D), above.

- F. A CAFO Operations Permit approved by the County Board can be voided at any time if the permittee violates any conditions of the permit or any conditions of any other required Federal, State or County permits or licenses, at any time. The County Board shall hold a hearing in advance of the voiding of any permit and provide the permittee an opportunity to prove, by clear and convincing evidence, that there has been no violation of conditions of the permit or condition of any other required Federal, State or County permits or licenses.

SECTION V. PROCEDURES

- A. An applicant for a CAFO Operations Permit shall complete a Douglas County CAFO Operations Permit Application (Appendix A) and pay the required application fee of one dollar (\$1.00) per proposed animal unit to Douglas County, at the time the application is submitted to the County Clerk.
- B. Upon signing and submitting a CAFO Operations Permit Application to the County Clerk, the applicant shall agree to fully compensate the County for all legal services, expert consulting services, and other expenses which may be reasonably incurred by the County 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 County Board. Within thirty (30) days of a request by the County Administrator, the applicant shall provide an administrative fee deposit with the County Clerk in an account such that funds are available to be withdrawn by the County and used to pay for or reimburse the County for the costs and expenses the County incurs in connection with processing the permit application. The County Administrator, in consultation with other County employees, independent consultants and/or legal counsel, shall determine the initial administrative fee deposit based upon the anticipated costs necessary to process the application. After the initial administrative fee deposit, should the County Board at any time determine that additional fees related to the processing of the application will be necessary, the applicant will make an additional fee deposit into the related administrative fee account within fifteen (15) days of receipt of a request for additional funds by the County Board. Any funds remaining in the administrative fee account once the permit application process is complete shall be returned to the applicant. If the administrative fee account is insufficient to cover all remaining costs the CAFO Operations Permit Application, the County shall issue a bill for the remaining costs to the applicant, who shall pay said bill within thirty (30) days.
- C. After receiving the application and the application fee, the County Clerk shall mail a notice that a CAFO Operations Permit Application has been

received to all landowners within three (3) miles of the proposed CAFO with the date and time of the County Board meeting at which the application will be first considered. The notice shall provide information on how interested persons and parties may inspect and obtain a copy of the application.

- D. The County Clerk shall then place the application on the agenda for the next regular County Board meeting for which required notice can be provided, at which time the County Board shall conduct an initial review of the application and schedule further proceedings for review and consideration of the application by the County Board. Such proceedings shall include: (a) Considering the need to hire special legal counsel and expert consultants to review the application and advise the County Board; (b) Developing a plan to make a determination of the completeness of the application within a reasonable amount of time; (c) Developing a plan to schedule further proceedings, including scheduling a formal public hearing before the County Board on the application at least sixty (60) days after the application has been determined to be complete by the County Board, and scheduling a subsequent special meeting of the County Board to decide whether or not to grant the requested permit and what, if any, conditions shall be required if the requested permit is granted, within a reasonable amount of time.
- E. At the formal public hearing held by the County Board on the application at least sixty (60) days after it has been determined to be complete, the County 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 County to review the application and advise the County Board.
- F. In its review and consideration of a CAFO Operations Permit Application, the County Board shall act in a quasi-judicial capacity, and its final decision on whether or not 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 County Clerk and served on the applicant by regular U.S. Mail.
- G. The County 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 County Board, supported by clear and convincing evidence presented by the applicant, that the operations of the proposed CAFO, with or without conditions, will 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 County and that the application meets all other requirements of this Ordinance.

- H. The County Board shall issue a CAFO Operations Permit, with or without conditions, to an applicant that has met all other requirements of this Ordinance if it determines, based on information provided by the applicant and verified by the County, that a CAFO having substantially similar operational characteristics, housing the same species of animals, and utilizing similar operations, has been continuously operated in the United States for at least ten (10) years without causing pollution of groundwater or surface water, and without causing either a private nuisance or a public nuisance. However, this requirement may be waived by the County Board at the specific request of the applicant for a CAFO Operations Permit if the County Board determines, upon a hearing and based on clear and convincing evidence provided by the applicant and verified by the County, that the proposed CAFO will otherwise meet the requirements set forth in Secs. 5-6-4 (d) and 5-6-5 (g), above.
- I. The County Board shall, in granting any CAFO Operations Permit, require the applicant to ensure that sufficient funds will be available for pollution clean-up, nuisance abatement, and proper closure of the CAFO if it is abandoned or otherwise ceases to operate as planned and permitted, based on the following provisions:
1. Notification. The County Board shall determine the required financial assurance level of the CAFO and shall notify the applicant. As a condition of a permit, the County Board shall require financial assurance to be filed with the County Board in an amount sufficient to clean up environmental contamination if the same were to occur, to abate public nuisances caused by CAFO operations, 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 CAFO operations, and to ensure proper closure of the CAFO, should the applicant elect to close or should the closure occur for some other reason. Upon notification of the required financial assurance levels by the County Board, but prior to commencing operations of the CAFO, the applicant shall file with the County Board said financial assurance conditioned on faithful performance of all requirements of this chapter and the permit. Upon notification by the County Board of financial assurance or deposit approval and conformance with permit conditions, the applicant may commence CAFO operations.
 2. Bond Requirements.
 - A. Bonds shall be issued by a surety company licensed to do business in this state. At the option of the applicant or permit holder a performance bond or a forfeiture bond may be filed.

Surety companies may have the opportunity to complete the clean-up of environmental contamination or complete proper closure of the CAFO in lieu of cash payment to the County.

- B. Each bond shall provide that the bond shall not be canceled by the surety, except after not less than ninety (90) days' notice to the County Board, in writing, by registered or certified mail. Not less than thirty (30) days prior to the expiration of the ninety (90) day notice of cancellation, the applicant or permit holder under this chapter must deliver to the County Board a replacement bond or approved alternate financial assurance in absence of which all CAFO operations shall cease.
 - C. The bond shall be payable to "Douglas County, Wisconsin."
3. Alternate Financial Assurance. An applicant or permit holder may deposit cash, irrevocable letters of credit, irrevocable trusts, established escrow accounts, negotiable certificates of deposit or negotiable government securities with the County in lieu of a bond. Certificates of Deposit shall be automatically renewed or replaced with an alternate security before the maturity date. Any interest earned by the financial assurance will be paid to the applicant at the time such financial assurance is cancelled or withdrawn.
 4. Financial Assurance Reevaluation.
 - A. The County Board may reevaluate and adjust accordingly the amount of the financial assurance required for the CAFO, including reevaluating said financial assurance when requested to do so by the applicant or permit holder, provided that the applicant or permit holder may only request a reevaluation once per year.
 - B. The applicant or permit holder shall notify the County Board in writing if there is a ten percent (10%) change in the average daily number of animal units housed at the CAFO in any 365-day period. This notification shall be provided at any time such a change occurs, and not just for financial assurance reevaluation.
 - C. The County Board shall notify the applicant in writing within sixty (60) days of a decision to adjust the amount of the financial assurance for the CAFO, whether the adjustment results in a greater or lesser financial assurance requirement.
 5. Financial Assurance on Multiple Projects. Any applicant or permit

holder that receives a permit from the County Board for two or more CAFOs may elect, at the time the second or subsequent CAFO is approved, to post a single financial assurance in lieu of separate financial assurances on each CAFO. Any financial assurance so posted shall be in an amount equal to the estimated cost to the County to clean-up environmental contamination if the same were to occur at all such CAFOs, to abate public nuisances caused by CAFO operations, 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 CAFO operations, and to ensure proper closure of all such CAFOs, should the applicant elect to close or should the closure occur for some other reason. When an applicant elects to post a single financial assurance in lieu of separate financial assurances previously posted on an individual CAFO the separate financial assurances shall not be released until the new financial assurance has been accepted by the County Board.

6. Financial Assurance Release. The County Board shall release the applicant's or permit holder's financial assurance after providing notice to all property owners within three (3) miles of the CAFO of the intent to release financial insurance and allowing such owners ninety (90) days to object, if it finds, after inspection of the CAFO and documentation provided by the permit holder, that the permit holder has completed or ceased CAFO operations at the permitted location and all associated parcels, and that there is no environmental contamination or public nuisance remaining at any locations used for any part of the CAFO operations, after operations have ceased.
7. Cancellation. The financial assurance shall provide that it may not be canceled by the surety or other holder or issuer except after not less than ninety (90) days' notice to the County Board in writing by registered or certified mail. Not less than thirty (30) days prior to the expiration of the ninety (90) days' notice of cancellation, the applicant or permit holder shall deliver to the County Board a replacement financial assurance. In the absence of this replacement financial assurance, all CAFO operations shall cease until the time the required financial assurance is delivered and in effect.
8. Changing Methods of Financial Assurance. The operator of a CAFO may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to this chapter. The permit holder shall give the County Board at least sixty (60) days' notice prior to changing methods of financial assurance and may not actually change methods without the written approval of the

County Board.

9. Bankruptcy Notification. The applicant or permit holder under this chapter shall notify the County Board by certified or registered mail of the commencement of voluntary or involuntary proceedings under the United States Bankruptcy Code, U.S. Code Title 11-- Bankruptcy, naming the applicant or permit holder as a debtor, within ten (10) days of commencement of the bankruptcy proceeding.
- J. The County Board may approve a CAFO Operations Permit and attach 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 County. 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 CAFO, 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 a CAFO's ongoing operations, 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 a CAFO's 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 a CAFO's ongoing operations 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 a CAFO's ongoing operations, 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 a CAFO's ongoing operations, to protect the general welfare of the County'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 County personnel, or for contracting with private consultants, to conduct permit compliance, enforcement and monitoring activities for the County;
10. Any other conditions deemed reasonably necessary or appropriate by the County Board to effectively, efficiently, and comprehensively regulate the *operations* of a CAFO, 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 in the County.

K. An applicant or any other person or party who is aggrieved by a final decision of the County Board on whether or not to approve and issue a CAFO Operations Permit, either with or without conditions, or a taxpayer, or any officer, department, board or bureau of the County, may, within thirty (30) days after the filing of the decision with the County Clerk, commence an action seeking the remedy available by certiorari in the Douglas County Circuit Court. The court shall not stay the decision appealed from, but may, with notice to the County Board, grant a restraining order. The County 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.

- L. In any certiorari proceeding brought under the preceding paragraph, attorney fees and costs shall not be allowed against the County 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.
- M. A final decision of the County Board under this ordinance is not subject to appeal under Wis. Stat. § 93.90(5) or the provisions of Douglas County Ordinance 8.10, Wis. Stat. § 93.90, and Wis. Admin. Code Ch. ATCP 51, which apply only to *siting* decisions.
- N. The County 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.

SECTION VI. PERMIT TERM & EXTENSIONS

- A. A permit issued by the County Board under this ordinance shall be for an initial term of five (5) years, so long as the permittee remits the annual renewal fee set forth in Section V (N), above. Thereafter, if no substantial changes or modifications are proposed to the CAFO operations and there have been no permit violations or compliance problems a permittee may apply for extension of the same permit for additional five (5) year periods. The County Board may request any information it finds reasonably necessary to evaluate whether no substantial changes or modification are proposed or have taken place, and the permittee shall provide such information. If substantial changes or modifications are determined to have taken place, or if there have been violations of the permit conditions or requirements under this 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 VII. PENALTIES

- A. Any violation of this ordinance shall be punishable by a forfeiture of not less than \$100.00 or more than \$5,000.00 per day for every day of violation of this ordinance, plus the costs of prosecution, including the County's reasonable attorney fees and costs, for each and every violation.

- B. Each day of violation shall constitute a separate offense. In addition, the County Board may: (1) issue a notice of violation and order that specifies required remedial action, which may include a stop operations and work order; (2) suspend or revoke the permit; or (3) impose any other available enforcement remedy.

DRAFT #1 March 1, 2017

APPENDIX "A"

DOUGLAS COUNTY CAFO OPERATIONS PERMIT APPLICATION

Application Filing Fee: \$ _____ (# of Animal Units) x \$1.00 per AU = \$ _____

Date of Application: _____

Name of Individual or Organization Operating CAFO): _____

Name of Individual Completing Application: _____

Federal Employer ID# _____ State Employer ID# _____

Contact Person:

Address:

City _____ State _____ Zip _____

Phone: () _____ Fax: () _____ Cell Phone: () _____

Email: _____

Provide the Legal Description and owner name and contact information for each parcel of the land at which the livestock facilities will be located. If any of the land is rented include a copy of the lease agreement or other document demonstrating permission to use the land and/or facilities as proposed. Provide the following information for each parcel.

_____ 1/4 of _____ 1/4, Section _____ Township _____ N. Range _____ W. Town of _____

Tax Parcel ID Number: _____ Acreage _____

Name and Address of Land Owner:

Name:

Address:

City _____ State _____ Zip _____

Provide the Legal Description and owner name and contact information for each parcel of **Owned or Rented** land proposed to be used in conjunction with CAFO Operations (e.g. manure spreading). For each parcel of **Rented** land include a copy of a cropland lease agreement or other document demonstrating permission to use the land as proposed. The term of the lease agreement must be clearly indicated in the lease agreement. Provide the following information for each parcel.

____ 1/4 of ____ 1/4, Section ____ Township ____ N. Range ____ W. Town of _____

Tax Parcel ID Number: _____ Acreage _____

Name and Address of Land Owner:

Name:

Address:

City _____ State _____ Zip _____

(1) Describe current land uses within and immediately adjacent to the proposed CAFO site, including aerial photographs. For lands being used for crop production, include a description of crops currently being grown with an estimate of acreage of each crop.

(2) Permits:

- a. Does this CAFO have a Douglas County Siting License? **Yes No**
- b. Does this CAFO have a Wisconsin Pollutant Discharge Elimination Systems Permit? **Yes No**
- c. Does this CAFO have Douglas County Land Use Permit(s)? **Yes No**
If so, identify the permits held.

- d. If this CAFO lacks any of the above permits, please set forth all plans to obtain any of the above permits, including when applications have been or will be filed, and the expected date for approval or denial of the permit.

(3) Location/Crops/Phosphorus:

- a. Identify each structure or facility intended to be used in conjunction with the proposed CAFO, setting forth the location, physical dimensions, and intended use for each structure, as well as how many animal units, if any, will be housed in each structure. At a minimum, include all information and drawings required by Wisconsin Administrative Rules, Chapter NR 243.12(1)(a) 1 through 5.

- b. List each crop that will be grown on land managed by the CAFO. Provide an annual yield estimate for each crop and an explanation of how that estimate was determined.
- c. Provide aerial photos that identify all perennial streams, intermittent streams, navigable waters, and direct conduits to navigable waters on or within 1,000 feet of any parcel of land intended to be used in conjunction with the proposed CAFO.
- d. Provide a soil map using SSURGO data for all parcels of land intended to be used in conjunction with the proposed CAFO. Include a soil map unit description for each predominant and critical soil type shown on the maps and include an estimate of soil depth to bedrock or gravel or sand deposits. Include soil test data for phosphorus with one sample per five acres. The soil test data must have been collected no more than 12 months prior to submission of this application.
- e. Using the P-Trade report in SNAP-PLUS or other viable means, provide an estimate of total annual field edge phosphorus losses for all fields to be used in conjunction with the proposed CAFO for each of the two full calendar years prior to the date submitting this application.
- f. Provide an estimate of total annual phosphorus losses for each of the two full calendar years prior to the date submitting this application for all existing agricultural facilities (buildings, animal lots, animal feeding areas, feed storage etc.) on all lands to be used in conjunction with the CAFO.
- g. Provide an estimate of total annual phosphorus losses for each of the full five calendar years of the proposed operations for all existing agricultural facilities (buildings, animal lots, animal feeding areas, feed storage, etc.) on all lands to be used in conjunction with the CAFO.

(4) CAFO operations:

- a. Describe the method or methods the CAFO will employ to store any and all animal waste products, including describing the exact location where such products will be stored at any time during operation of the CAFO. You may refer to information and drawings submitted in response to paragraph (3) a. above, as appropriate.
- b. Describe the method or methods the CAFO will employ to handle and process any and all animal waste products, including the specific machinery and methods that will be employed, the location where the processing of waste will take place, and any materials or chemicals that will be used. Describe any technology or processes that will be used

(such as anaerobic digestion) that will alter pathogen loads, nutrient content, or moisture levels of the manure prior to land-spreading.

- c.** Provide a complete nutrient management plan that meets the requirements of Wisconsin Administrative Code Chapter NR 243.14. The plan shall be based on the volume of manure that will be generated by the operation in each of the five calendar years covered by this Permit. Include all lands being used in conjunction with the operations of the CAFO, including but not limited to: spreading manure, growing and harvesting crops, applying commercial fertilizer, shall be included in the nutrient management plan. Provide a copy of a cropland lease agreement or other document for all rented lands included in the nutrient management plan. The lease agreements must clearly allow the land use as proposed in the nutrient management plan.
- d.** Provide an estimate of how many livestock mortalities are expected for the operation in a given year and a description of how that estimate was determined. Describe the method or methods the CAFO will use to store dead animals (carcasses), including describing the exact location where such carcasses will be stored and for how long.
- e.** Describe the method or methods the CAFO will use to handle, process, and dispose of any and all dead animals, including the specific technology, machinery, and methods that will be employed, the location where the processing/disposal of carcasses will take place, and any materials or chemicals that will be used. If licenses or approvals are necessary from the Wisconsin Department of Natural Resources or other state, town, or federal agency, provide copies of those licenses, permits, and/or approvals. If this CAFO lacks any of the required licenses, permits, and/or approvals, describe all plans and expected dates for receiving them.
- f.** Describe the technologies or method(s) the CAFO will employ to reduce, eliminate, or treat methane, nitrous oxide, ammonia, hydrogen sulfide, and particulate emissions from the proposed CAFO, including the specific technology, machinery, and methods that will be employed, and any materials or chemicals that will be used.
- f.** Describe how animals will be transported to, from, and within the CAFO, including a description of the type, size and weight (loaded gross vehicle and each axle) of the transportation vehicles, all highways or roads within the County that will be used, the proposed hours of operation for said transportation, and the specific path of travel for all such transportation.
- g.** Describe how all animal waste will be transported to, from and within the CAFO, including a description of the type, width, length, and weight (loaded gross vehicle and each axle) of the transportation vehicles, all highways or roads within the County that will be used, the proposed hours

of operation for said transportation, and the specific path of travel for all such transportation.

- h.** Describe how all other products or materials (apart from animals or manure) will be transported to, from and within the CAFO, including a description of the type, width, length, and weight (loaded gross vehicle and each axle) of the transportation vehicles, all highways or roads within the County that will be used, the proposed hours of operation for said transportation, and the specific path of travel for all such transportation.
- i.** Describe the type, width, length, and weight (loaded gross vehicle and each axle) of each implement of husbandry (excluding manure and animal hauling equipment) that will be used on highways or roads within the County. Provide an aerial photos showing the specific path of travel for the implements of husbandry and the estimated hours of operation of the equipment on the highways or roads in Douglas County.
- j.** If manure is transported by pipeline (permanent or temporary) to fields for land-spreading provide a map showing the intended route and the location and photo of every culvert used along the route. Show all perennial streams, intermittent streams, and direct conduits to navigable waters on the map(s). If required, provide a copy of the permit(s) allowing use of the right-of-way or culvert. If crossing driveways or land not under the control of the CAFO, provide a letter from the landowner clearly granting permission to cross the driveway or land with the permanent or temporary pipeline.
- k.** Identify all residential and business structures within 500 feet of a gravel road in Douglas County used at any time of the year by implements of husbandry, agricultural CMVs, tractor-trailers, or semi-trailers. Describe how road dust generated by use of the gravel roads by the CAFO will be controlled.
- l.** Identify the source of all water to be used at the proposed CAFO facility and the anticipated quantity of water that will be necessary for all CAFO related operations, and also set forth the location of any private or public well located within 1000 feet of any parcel of real estate to be used in conjunction with the proposed CAFO facility. Provide well-drilling records, if available, for all private or public wells within 1000 feet of any parcel of real estate to be used in conjunction with the proposed CAFO facility.
- m.** Identify a CAFO having substantially similar operational characteristics, housing the same species of animals, and utilizing similar operations, that

has been continuously operated in the United States for at least ten (10) years without causing pollution of groundwater or surface water, and without causing either a private nuisance or a public nuisance. Set forth in what ways said existing CAFO has similar operational characteristics of the CAFO proposed in this application. In the alternative, state whether the applicant is requesting a waiver of this requirement and, if so, provide information that may be verified by the County, to show that the proposed CAFO will otherwise meet the requirements set forth in Section V, of the Ordinance.

(5) Animal Welfare:

- a. Describe how all animals will be housed in the proposed CAFO, including a description of the size of each pen or stall any animal will be kept in, the number of animals that will be kept within each pen, and the location and type of any outdoor area allotted for animals.
- b. In the event of power outages or equipment failure, describe how the welfare of animals housed by the CAFO will be maintained including, but not limited to: providing water, venting hazardous air emissions, cooling, and feeding.
- c. Describe how all animal units will be fed, including the type of feed, the amount of feed per animal, the method of feeding each animal, etc.
- d. Apart from the feed identified above, identify all products (including chemicals or medicines) that will be injected in, fed to, or otherwise administered to animals in the CAFO on an ongoing basis (i.e. at least once per month):
- e. Identify any and all measures that will be taken to prevent the spread of disease between animals and between animals and humans at the proposed CAFO.
- f. Identify all veterinary care that will be routinely administered to or available to the animals of the proposed CAFO, and identify all medicines or treatments that are anticipated to be administered to animals of the proposed CAFO. Identify steps that will be taken by the CAFO to limit development of resistance to antibiotics.

(6) Employee Welfare:

- a. Identify the number of anticipated employees at the proposed CAFO.
- b. What type of education will employees receive regarding operating safe CAFOs and maintaining safe and healthful conditions for animals and employees at said facility?

- c. What type of healthcare will be made available to employees of the proposed CAFO, or what type of routine medical examinations will be performed?
- d. What are the hours and days of anticipated operation of the proposed CAFO specifically identifying days and times where machinery or other equipment that may make noise detectable to neighboring properties will be in use?

(7) Emergency management:

- a. Set forth in detail an emergency plan of action in the event of soil, water or air contamination emanating from the proposed CAFO, or in the event of a spill of animal waste products, whether on or off the proposed CAFO site, including the name and contact information for emergency management response team members, the equipment and location of equipment available to respond to such an emergency situation, the anticipated timeline for response to an emergency event, and the anticipated testing measures to be used to ensure the emergency response was effective. At a minimum, include all information and drawings required by Wisconsin Administrative Rules, Chapter NR 243.12(13)6.
- b. Set forth in detail an emergency plan of action in the event of a mass animal mortality event (death of more than 5% of the animals within a 72-hour period) caused by natural disaster, disease, equipment failure, or other cause. Include the name and contact information for the emergency management response team members, the equipment and location of equipment available to respond to such an emergency situation, the anticipated timeline for response to an emergency event, and the anticipated testing measures to be used to ensure the emergency response was effective.
- c. Identify all residences and businesses within 1000 feet of the proposed CAFO site and provide names and contact information for all the owners of those residences and businesses. Indicate how each of those owners will be contacted within 30 minutes of a failure of air filtration or other equipment intended to limit emission of hazardous gasses or particulates.
- d. Set forth in detail all regular testing or monitoring that will take place to ensure that no contamination or environmental degradation is occurring as a result of CAFO related activities. Provide a description of the testing or monitoring protocols and schedule as well as how the data will be communicated to the County.

(8) Environmental impact:

- a. List resources that may be impacted by the proposed CAFO such as timber, agriculture, surface water, ground water, air quality, noise pollution and plant, wildlife or fish habitat. Describe measures that will be taken to mitigate those impacts.
- b. Are there any known endangered species on or near the proposed CAFO site?
Yes / No. If yes – describe the species and whether an environmental impact statement will need to be prepared?
- c. Will groundwater monitoring wells be installed? If not, describe why not. If so, provide information on each monitoring well including anticipated well depth, well location, chemicals and/or substances that will be monitored, and the schedule and protocol for testing the water from each well. How will this information be shared with Douglas County and the public?
- d. Describe erosion control practices that will be used during the CAFO operations. If no measures will be used, explain why none are needed.
- e. Describe how concentrated flow areas and direct conduits to surface waters will be maintained in perennial vegetation. If concentrated flow areas and/or direct conduits to groundwater are rutted during field operations, describe how the concentrated flow areas and/or direct conduits to surface water will be repaired. Provide an estimate of how often the concentrated flow areas and/or direct conduits to surface water will need to be repaired.

(9) Public and private nuisances:

- a. Describe measures that will be taken to screen the CAFO operation from view of surrounding land uses or explain why such measures are not needed (include photos of the area to show affected areas or why no areas will be affected).
- b. Describe how odor from the livestock facilities and land-spreading activities will be controlled. If no such measures are necessary, explain why. Also explain the schedule and method for air quality testing, if any, within a quarter mile of the proposed **CAFO's** boundaries before, during and after the CAFO is opened, worked and closed.

(10) Financial Security:

- a. Set forth all bonds already in place in relation to CAFO operations and in support of this permit or, if no such bonds exist, set forth the amount the operation anticipates obtaining in a bond amount. Explain why this

amount is sufficient pursuant to the terms of the Douglas County Livestock Operations Ordinance.

(11) Example CAFO Operations:

- a. Set forth all bonds already in place in relation to CAFO operations and in support of this permit or, if no such bonds exist, set forth the amount the operation anticipates obtaining in a bond amount. Explain why this amount is sufficient pursuant to the terms of the Douglas County Livestock Operations Ordinance.

Print or Type the Livestock **Operator's** Name:

Legal Name of Livestock

Company: _____

Legal address of Livestock

Company: _____

City _____ State _____ Zip _____

Signature:

Authorized Operating Company Representative's Signature

Date

Note: Signature of this application by the applicant or **applicant's** representative authorizes the County and its designees to enter upon the property to perform needed inspections at any time and on as many occasions as the County or its designee deems necessary without prior notice to applicant(s).

Note: Applicant(s) are required to provide **twenty-five (25) copies** of their completed application to the County Clerk upon submission, along with the application filing fee. The additional copies are for the County Board, adjoining landowners, and the general public at the public hearing.

Note: If the answers to any of the above questions can be found in an approved Douglas County Siting Permit or WPDES permit, applicant may refer to the appropriate sections of said permit and attach a copy thereof to this application.