

April 5, 2017

LIVESTOCK OPERATIONS STUDY GROUP
Wednesday, April 12, 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 March 16, 2017, meeting (attached).
3. Action items:
 - a) Large-scale Concentrated Animal Feeding Operations Ordinance draft (attached);
 - b) Manure Storage Ordinance draft (attached); and
 - c) Next steps (meeting date and topics).
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



4/5/17

Name

Date

LIVESTOCK OPERATIONS STUDY GROUP
Thursday, March 16, 2017, 2:00 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, Steve Rannenberg, Carolyn Pierce (Advisor - arrived at 2:43 p.m.). Absent – Terry White. Others present – Mark Liebaert (arrived at 2:06 p.m.), Dan Corbin, Mary Brill, Leah Nicol, Kaci Lundgren, Committee Clerk.

APPROVAL OF MINUTES: Motion by Ryan, second Baker, to approve the minutes of the January 18, 2017, meeting. Motion carried.

INFORMATIONAL ITEMS:

February 9, 2017, CAFO Conference Held in Rice Lake: New technologies and the future discussed; bail-wrapping plastic drop off location discussed for Douglas County.

Groundwater Program Grant: Verbal approval given; written agreement to be received in June.

Bayfield County Progress: Corporation Counsel in discussion with Department of Justice; amended document may emerge.

Presentation: DNR's Role in CAFO Regulation by Leah Nicol, WDNR: Nicol presented. 289 permitted CAFO's in Wisconsin; 40 pending. Permit length is five years.

ACTION ITEMS:

Large-scale Concentrated Animal Feeding Operations Ordinance Draft: Recommended changes submitted recently with no chance to review. Approval of second draft to be on next meeting's agenda.

ACTION: Motion by Baker, second Ryan, to review suggested changes and edit draft as necessary. Motion carried.

Next Steps (Meeting Date and Topics – Draft Manure Storage Ordinance: Draft manure storage ordinance to be referred to next meeting.

FUTURE AGENDA ITEMS: Large-scale concentrated animal feeding operations ordinance; manure storage ordinance.

ADJOURNMENT: Motion by Baker, second Ryan, to adjourn. Motion carried. Meeting adjourned at 3:44 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) and 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 and 243.23, a determination that any type of unacceptable practice has occurred under Wis. Admin. Code § NR 243.24, and 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.

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.

____ ¼ of ____ ¼, 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.

8.____ DOUGLAS COUNTY ANIMAL MANURE STORAGE ORDINANCE

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

SECTION I. AUTHORITY AND APPLICABILITY

This Ordinance is adopted under authority granted by §92.16, Wisconsin Statutes and applies to the entire geographical areas of Douglas County and to all animal manure storage facilities constructed therein. The provisions of this Ordinance shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

SECTION II. PURPOSE AND FINDINGS AND DECLARATION OF POLICY

2.1 Purpose

The purpose of this Ordinance is to regulate the location, design, construction, installation, operation, alteration and use of animal manure storage facilities, as well as abandonment and the application of manure from these facilities in order to prevent water pollution and thereby protect the health of Douglas County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Douglas County. It is also intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation.

2.2 Findings and Declaration of Policy

The Douglas County Board of Supervisors finds that storage of animal manure in storage facilities not meeting the technical design and construction standards may cause pollution of the surface and ground waters of Douglas County, and may result in actual or potential harm to the health of County residents and transients; to livestock, aquatic life and other animals and plants; and to the property tax base of Douglas County. The Douglas County Board of Supervisors also finds that improper management of animal manure storage facilities, and utilization, including land application of stored animal manure, may cause pollution of the ground and surface waters of Douglas County.

The Douglas County Board of Supervisors further finds that the technical standards issued by the U.S.D.A. Natural Resources Conservation Service and developed with the assistance of the Interagency Standards Oversight Committee provide effective, practical, and environmentally safe methods of storing and utilizing animal manure.

SECTION III. DEFINITIONS

3.1 For the purpose of this ordinance, certain terms or words herein shall be interpreted or defined as follows:

- (1) Abandonment. A livestock waste storage facility that is no longer being used for its intended purpose and has not received any animal wastes for a period of two consecutive years.
- (2) Animal Manure. Excretion from livestock, poultry and other materials, such as bedding, rain or other water, soil, hair, feathers, and other debris normally included in animal manure handling operations.
- (3) Animal Manure Storage Facility. Both fabricated and earthen facilities as herein defined.
- (4) Animal Unit. A unit of measure to determine the total number of single animal types or combination of animal types, as specified in NR243, which are fed, confined, maintained, or stabled in an animal feeding operation.
- (5) Applicant. Any person who applies for a permit under this Ordinance.
- (6) Discontinuance of Use. A farming operation that has removed the livestock units that were principally using the animal manure storage facility must empty that animal manure storage facility within one hundred twenty (120) days or when land becomes fit based on weather conditions and at such time as the animal manure may be utilized following the nutrient management plan for that farm.
- (7) Earthen Animal Manure Storage Facility. A structure above or below grade, excavated or constructed of earth beams or dikes, or utilizing pits, depressions or ponds, which may be lined with earth, nonstructural concrete, or a flexible membrane material, to contain animal manure and associated liquids for storage for a period of thirty (30) or more days or that has the capacity to store 5,000 cubic feet or more of animal manure.
- (8) Fabricated Animal Manure Storage Facility. A concrete, steel, or otherwise fabricated storage of animal manure with one or more walls to contain manure and associated liquids for a period of thirty (30) or more days or that has the capacity to store 5,000 cubic feet or more of animal manure.
- (9) High Ground Water Level. The higher of either the elevation to which the soil is saturated as observed as a free water surface in an unlined hole, or the elevation to which the soil has been seasonally or periodically saturated as indicated by soil redoximorphic features throughout the soil profile.

- (10) LWCD: Land and Water Conservation Department of Douglas County.
- (11) Nutrient Management Plan. Written plan detailing the amount, form, placement, and timing of application of plant nutrients, including animal manure.
- (12) Permit. The signed, written statement issued by the Douglas County Land and Water Conservation Department under this Ordinance authorizing the applicant to construct, abandon, install, enlarge, or substantially alter an animal manure storage facility and to use or dispose of manure from the facility.
- (13) Permittee. Any person to whom a permit is issued under this Ordinance.
- (14) Person. Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or State agency within Wisconsin, the Federal government, or any combination thereof.
- (15) Substantially altered. A change initiated by an owner or operator that results in a relocation of a structure or facility or significant changes to the size, depth, or configuration of a structure or facility including:
 - (a) Replacement of a liner in a manure storage structure.
 - (b) An increase in the volumetric capacity or area of a structure or facility by greater than 20%.
 - (c) A change in a structure or facility related to a change in livestock management from one species of livestock to another such as cattle to poultry. NR 151.015(20) Wisc. Admin. Code.
- (16) Technical Guide. The United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service Technical Guide, as adopted by the Douglas County Land and Water Conservation Committee and the Department of Land and Water Conservation, which provides standards incorporated in this Ordinance.
- (17) Technical Standard 312. "Waste Management System" A planned system in which all necessary components are installed for managing liquid and solid waste, including runoff from concentrated waste areas, in a manner that does not degrade air, soil, or water resources.
- (18) Technical Standard 313. "Waste Storage Facility" is a practice standard within the Technical Guide that covers the proper location, design, construction, installation, alteration, operation and maintenance of a manure storage facility.

- (19) Technical Standard 360. "Waste Facility Closure" is a practice standard within the Technical Guide that covers decommissioning of facilities, and/or the rehabilitation of contaminated soil, in an environmentally safe manner, where agricultural waste has been handled, treated, and/or stored and is no longer used for the intended purpose.
- (20) Technical Standard 590. "Nutrient Management" is a practice standard within the Technical Guide that covers managing the amount, form, placement and timing of plant nutrients associated with organic wastes (manure and organic by-products), commercial fertilizers, legume crops and crop residues.
- (21) Technical Standard 634. "Manure Transfer" is a practice standard within the Technical Guide that covers the design, material types and quality, and installation of components such as conduits, pumps, valves and other structures or devices to transfer manure and waste from buildings and yards and other sources to storage, loading areas, crop fields and other destinations. The standard establishes the minimum acceptable requirements for design, construction, and operation of waste transfer system components.
- (22) Temporary Manure Stack. An uncontained deposit of animal waste, placed on an earthen, concrete, or other surface necessary to facility daily or periodic land spreading.
- (23) Water Pollution. Contaminating or rendering unclean or impure the ground or surface waters of the State, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life.

SECTION IV. ACTIVITIES SUBJECT TO REGULATION

4.1 General Requirement

Any person who designs, constructs, installs, reconstructs, abandons or makes changes to an animal manure storage facility resulting in its being substantially altered; or who employs another person to do the same, on land subject to this Ordinance, shall be subject to the provisions of this Ordinance.

4.2 Compliance with Permit Requirements

A person is in compliance with this Ordinance if he or she follows the procedures of this Ordinance, receives a permit from the LWCD before beginning activities subject to regulation under this Ordinance, and complies with the requirements of the permit.

SECTION V. STANDARDS

5.1 Standards for Animal Manure Waste Storage Facilities.

The standards for design and construction of animal waste storage facilities are those in Standards 312 (Waste Management System) 313 (Waste Storage Facility) 360 (Closure of Waste Impoundments) and 634 (Manure Transfer) of the USDA-NRCS Technical Guide.

5.2 Standards for Nutrient Management Plan

The standards for a nutrient management plan shall be as provided in Section IV of the Technical Guide, Standard 590, including any and all existing and future standards amended thereto.

5.3 Subsequent Modification of Standards.

The standards of the Technical Guide are adopted and by reference made a part of this Ordinance as if fully set forth. Any future amendment, revision or modification of the standards incorporated herein are made a part of this Ordinance.

5.4 Human Household Wastewater Prohibited.

Human household wastewater shall not be discharged into animal manure storage facilities unless provided for through other permitting process outside of this Ordinance.

SECTION VI. APPLICATION FOR ISSUANCE OF PERMITS

6.1 Permit Required

Except as provided below, no person may undertake an activity subject to this Ordinance without obtaining a permit from the LWCD prior to beginning the proposed activity.

Note: DNR and other permits may be needed for construction site erosion control and stormwater management, floodplain and shoreland construction, and livestock facilities with 1,000 or more animal units.

6.2 Exception to Permit Requirements

Emergency repairs such as repairing a broken pipe or equipment, leaking dikes, or the removal of stoppages may be performed without a permit. If repairs will significantly alter the original design and construction of the facility, a report shall be made to the LWCD within two (2) work days of the emergency for a determination by the LWCD on whether a permit will be required for any

additional alteration or repair to the facility. Pre-existing waste storage facilities, except where the facility is substantially altered, do not require a permit.

6.3 Abandoning an Existing Livestock Waste Storage Facility

A permit, a fee, and a nutrient management plan are not required to abandon an existing livestock waste storage facility. However, a waste storage facility must be closed in compliance with Standards 313 and 360 of the USDA Technical Guide, including any and all existing and future standard amendments thereto, if the facility is inactive for 2 years or more.

6.4 Exception to Avoid Closure

The owner or operator may avoid closure of a facility as required under paragraph (c) by demonstrating to the county that all of the following conditions are met:

- (1) The facility is designed, constructed and maintained in accordance with Technical Standard 313.
- (2) The facility is designed to store manure for a period of time longer than 24 months.
- (3) Retention of the facility is warranted based on anticipated future use.

6.5 On-Site Investigation Required

Each application for a permit under this Section shall require an on-site inspection prior to issuance and include a summary report of on-site conditions. The site inspection shall be conducted by the LWCD staff.

6.6 Fee

There is no fee for new storage facilities or substantially altering manure storage facilities, however a permit is required.

6.7 Animal Manure Storage Facility Plan and Nutrient Management Plan Required

Each application for a permit under this Section shall include an animal manure storage facility plan and nutrient management plan. The plan shall specify:

- (1) The number, kinds, and weights of animals for which storage is provided and the duration for which storage is to be provided. Storage volume computations and the storage facility volume shall be provided.
- (2) A plan view of the facility and its location in relation to buildings within five hundred feet (500') and homes within one thousand feet (1,000') of the

proposed facility. The plan view shall be drawn to scale, with a scale no smaller than one inch equals one hundred feet (1"=100'), the North arrow, scale of drawing, township, range, and quarter-quarter section of the proposed facility, and location, description and elevation of temporary bench mark.

- (3) The structural details, load assumptions, design computations, dimensions, cross sections, concrete thickness, reinforcing steel to be used, and facility elevations. The construction and material specifications set forth in Section IV of the Technical Guide including any and all existing and future amendments including, but not limited to, applicable specification for earthen fill quantities and soil types, excavation quantities and soil types, timber and pipes.
- (4) The location of any existing or proposed well within one thousand feet (1,000') of the facility.
- (5) The soil test pit locations and soil descriptions to a depth of at least three feet (3') below the planned bottom of the facility. Surface elevation of soil test pits shall be provided. Soil tests shall be done by a certified soil tester and evaluated by the LWCD or the Douglas County Zoning Department.
- (6) The elevation of high ground water level or bedrock if encountered in the soil profile and the date of any such determinations.
- (7) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and ground water. If a navigable body of water lies within five hundred feet (500') of the facility, the location and distance to the body of water shall be shown.
- (8) A time schedule for construction of the facility.
- (9) A description of the method and materials proposed in transferring animal manure into and from the facility.
- (10) Plans for utilization of the animal waste will follow Standard 590 Nutrient Management of the Technical Guide. Preliminary plans will include the amount of land available for the application of waste, identification of the areas where the waste will be used, soil types and any limitations on waste application due to soil limitations, type and proximity of bedrock, or water table, slope of land, and proximity to surface water.
- (11) An operation and maintenance plan, operating safety provisions, and details of the manure transfer system, including, but not limited to, materials quality, shall be provided.

6.8 Review of Application

The LWCD shall receive and review all permit applications and shall determine if the proposed facility meets required standards set forth in Section V of this Ordinance. Within thirty (30) business days after receiving the completed application, the LWCD shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the LWCD shall notify the permit applicant. The LWCD shall have thirty (30) business days from the receipt of the additional information in which to approve or disapprove the application. No construction may commence without the final approval by the LWCD. If after thirty (30) business days the LWCD has not responded, the application is considered approved, and the applicant may go ahead with the project. If the LWCD determines additional review of the plan is necessary by the Natural Resources Conservation Service, Department of Natural Resources, or Department of Agriculture, Trade and Consumer Protection and notifies the applicant of such determination within the 30 business day time period, the time period shall be extended for an additional thirty (30) business days.

6.9 Permit Conditions

All permits issued under this Ordinance shall be issued subject to the following conditions and requirements:

- (1) Animal manure storage facility design and construction, management, and utilization activities shall be carried out in accordance with the animal manure facility plan and applicable standards specified in Section V of this Ordinance.
- (2) The permittee shall give at least two (2) business days' notice to the LWCD before starting any construction activity authorized by the permit.
- (3) Approval in writing must be obtained from the LWCD prior to any modifications to the approved animal manure facility plan.
- (4) The permittee and, if applicable, the contractor, shall certify in writing that the facility was installed as planned.
- (5) The LWCD staff may conduct on-site inspections before, during and after construction.

Activities authorized by permit must be completed within two (2) years from the date of issuance after which such permit shall be void. (Permit for construction may also be subject to County Zoning Ordinance time limitations.)

6.10 Permit Revocation

The LWCD may revoke any permit issued under this Ordinance if the holder of

the permit misrepresents any of the materials to be used for constructing and /or reconstructing the animal manure facility, misrepresents the plans of the animal manure facility, makes statements within the permit application which misrepresent the facts, or if the holder of the permit violates any of the conditions of the permit. The permittee shall be immediately notified of the revocation in writing giving reason(s) for the revocation.

SECTION VII. ADMINISTRATION

7.1 Delegation of Authority

Douglas County Board of Supervisors hereby designates the Douglas County LWCD to administer and enforce this Ordinance.

7.2 Administrative Duties

In the administration of this Ordinance, the LWCD shall:

- (1) Keep an accurate record of all permit applications, animal manure facility plans, permits issued, inspections made, and other official actions.
- (2) Review permit applications and issue permits in accordance with Section V of this Ordinance.
- (3) Inspect animal manure storage facility construction to ensure the facility is being constructed according to plan specifications.
- (4) Investigate complaints relating to compliance with this Ordinance.
- (5) Perform other duties as specified in this Ordinance.

7.3 Design and Construction Plan Approval

Storage facility design and construction plans may be provided through the LWCD, cooperating members or County, State, or Federal government agencies, and private consultants. Private consultants shall be registered professional engineers, licensed in the State of Wisconsin. Storage facility designs, construction plans, and specifications utilizing preapproved or prequalified Natural Resources Conservation Service plans must be prepared by a registered professional engineer, licensed in the State of Wisconsin. The approval of preapproved or prequalified plans must state that plan meets the requirements of this Ordinance. Construction plans utilizing a preapproval or prequalified plan must be adapted to fit site conditions making it comply with Standard 313.

7.4 Inspection Authority

The LWCD is authorized to enter upon any lands affected by this Ordinance to

inspect the land prior to or after permit issuance to determine compliance with this Ordinance. If permission cannot be received from the applicant or permittee, the permit may be denied or entry by the LWCD shall be in accordance with §92.07(14), Wis. Stats.

- 7.5 Enforcement Authority. The LWCD is authorized to post an order stopping work upon land which has had a permit revoked or on land in violation of this Ordinance. Notice is given by both posting upon the land where the violation occurs, one or more copies of a poster stating the violation, and by mailing a copy of the order by certified mail, return receipt requested, to the person whose activity is in violation of this Ordinance. The order shall specify that the activity must cease immediately and be brought into compliance within five (5) working days. Any permit revocation or order stopping work shall remain in effect unless retracted by the LWCD, or until the activity is brought into compliance with this Ordinance. The LWCD is authorized to refer any violation of this Ordinance or of any order stopping work issued pursuant to this Ordinance to the Corporation Counsel for commencement of further legal proceedings.

SECTION VIII. VIOLATIONS

- 8.1 Any person who violates, neglects, refuses to comply with or resists the enforcement of any of the provisions of this Ordinance shall be subject to a forfeiture of not less than \$100.00 not more than \$1,000.00 for each violation. A violation includes failure to comply with any standard of this Ordinance or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense. The County Conservationist may refer violations of this Ordinance to Corporation Counsel for enforcement.
- 8.2 Enforcement of Injunctions: As a substitute for or as an addition to forfeiture actions, Douglas County may seek enforcement by injunction order at the suit of the County or the owner or owners of the land within the district affected by the regulations of this Ordinance.

SECTION IX. APPEALS FROM ADMINISTRATIVE DECISIONS

9.1 Authority

The Douglas County Land and Water Conservation Committee shall hear and decide appeals where it is alleged that there is error in an order, requirements, decision or determination by the Land and Water Conservation Department staff in administering this Ordinance.

9.2 Procedure

Any appeal shall be made by written request, mailed or delivered to the Douglas County Land and Water Conservation Committee, c/o Land and Water

Conservation Department, Douglas County Courthouse Room 206, 1313 Belknap Street, Superior, WI 54880. The request shall state the ground or grounds upon which it is contended that the decision should be modified or reversed. The appeal shall be heard within sixty (60) days of the date the appeal is filed with the LWCD. A copy of the meeting notice shall be sent to the applicant and the appropriate Town Board. The LWCD shall transmit to the Committee all documents constituting the record from which the appeal was taken. The Committee shall issue a written decision regarding the appeal within sixty (60) days after the appeal hearing.

9.3 Statutory Administrative Review and Certiorari

The decision of the Douglas County Land and Water Conservation Committee shall be subject to judicial review if, within 30 days after the decision of the Douglas County Land and Water Conservation Committee, an action seeking the remedy available by certiorari is commenced, as authorized by §59.694, Wis. Stats.

SECTION X. FORCE AND EFFECT

Except as specifically modified and amended by this ordinance, the Douglas County Code of Ordinance shall remain in force and effect exactly as originally adopted and previously amended. All ordinances or parts of ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

SECTION XI. SEVERABILITY

If a court of competent jurisdiction adjudges any section, clause, provision, or portion of this Ordinance unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

SECTION XII. EFFECTIVE DATE

This Ordinance shall become effective upon its adoption by the Douglas County Board of Supervisors, and publication.

Dated this _____ day of _____, 2017.