

April 13, 2022

Via email to: livestocksiting@wi.gov

Department of Agriculture, Trade, and Consumer Protection
2811 Agriculture Dr.
PO Box 8911
Madison, WI 53708-8911

Re: Request for Material Review of Local Municipal Ordinances

Dear DATCP Livestock Siting Staff and Chief Legal Counsel Attorney Fratney Miller:

The Dairy Business Association (DBA), Edge Dairy Farmer Cooperative and the undersigned farms located in Burnett and Polk counties write to request that the Department conduct an urgent material review of several township-level ordinances that attempt to regulate livestock farms illegally. These towns have clearly ignored current laws, regulations and related review and approval processes prescribed by our state Legislature and the Department that provide methods local governments may use to regulate farms. These methods were consciously created and thoroughly tested by our law and policymakers to provide an equitable balance between the interests of our farming community and our local municipalities.

After a joint effort that was largely one-sided, excluding farm interests altogether, six town governments in Burnett and Polk counties in northwestern Wisconsin have created a model ordinance that claims to legally regulate growing farm operations. It does not. The towns assert to rely on a town's general police power¹, a town's ability to regulate nuisances² and a local municipality's jurisdiction to prescribe livestock regulations³, even though no evidence has been provided that either the Department of Natural Resources or DATCP have reviewed and approved any ordinance as mandated in the statute.

The model ordinance, and subsequently enacted ordinances, go far beyond current rules and regulations applicable to livestock operations. The towns attempt to hold more farms under a Concentrated Animal Feeding Operation (CAFO) standard, as defined under the federal Clean Water Act, that are lesser in size than the threshold calls for. They try to impose regulatory aspects that are dealt with in other areas of the law that farmers otherwise must comply with, such as water use, animal safety and implements of husbandry. Lastly, the towns attempt to regulate operational aspects of a farm, which makes abundantly clear why the towns have altogether evaded Wisconsin's Livestock Facility Siting Law — because siting cases have proven the law does not allow for that.

¹ Wis. Stat. §60.22.

² Wis. Stat. §66.0415.

³ Wis. Stat. §92.15.

To date, three of the six towns have enacted ordinances based on the jointly created model ordinance. The Town of Trade Lake in Burnett County⁴, the Town of Laketown in Polk County⁵ and the Town of Eureka in Polk County⁶ have passed mocked-up versions of the ordinance that set out to illegally regulate farms starting at 500 animal units. The remaining three towns have yet to pass and enact their own versions of the ordinance, but may do so soon⁷.

It is unlikely the towns have or will request any advisory opinion, review and/or approval from the Department, therefore we urge the Department to act on our request to provide a material review on the enacted and proposed ordinances. The time is of the essence for the Department to aid in curbing these efforts before more farmers face uncertain and outlandish regulatory measures, such as the ones at hand. We appreciate the Department's consideration of our request and future work to uphold the law.

Sincerely,

Chad Zuleger
Associate Director of Government Affairs,
Dairy Business Association and
Edge Dairy Farmer Cooperative

Four Cubs Farm, LLC
Grantsburg, Burnett County

Minglewood, Inc.
Deer Park, Polk County

Cc: Secretary Randy Romanski; Town of Trade Lake, Burnett County; Town of Laketown (Polk County); Town of Sterling (Polk County); Town of Eureka (Polk County); Town of Luck (Polk County); Town of Bone Lake (Polk County)

⁴ Town of Trade Lake, Burnett County, Wisconsin, Ordinance No. 2022-04. Available at [2022-04-Trade-Lake-CAFO-Operations-ordinance-final.pdf \(tradelakewi.com\)](#).

⁵ Town of Laketown, Polk County, Wisconsin, Ordinance No. 22-01. Available at [Final-Concentrated-Animal-Feeding-Operations-Ordinance-22-01.pdf \(townoflaketown.org\)](#).

⁶ Town of Eureka, Polk County, Wisconsin, Ordinance No. 22-01-O. Available at [Eureka-DRAFT-CAFO-Ord-2.2.22.pdf \(townofeureka.org\)](#) and [Eureka-DRAFT-CAFO-Ord-App-B-Maps-2.2.22.pdf \(townofeureka.org\)](#). Passed at March 10, 2022 Town Board meeting ([Microsoft Word - 03-10-2022 Reg Town Bd Min \(townofeureka.org\)](#)).

⁷ Ordinances proposed but not yet enacted: Town of Sterling, Polk County, Wisconsin ([Sterling-DRAFT-CAFO-Ord.pdf \(townofsterling.com\)](#)); Town of Luck, Polk County, Wisconsin; Town of Bone Lake, Polk County, Wisconsin.