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3 ORDINANCE BY THE RACINE COUNTY ECONOMIC DEVELOPMENT AND LAND USE  
4 PLANNING COMMITTEE CREATING SECTION 20-1167 PROCEDURES FOR SITING  
5 LIVESTOCK FACILITIES & SECTION 20-44 SAME-ADDITIONAL REQUIREMENTS  
6 FOR LIVESTOCK FACILITY SITING, AMENDING SECTION 20-1 DEFINITIONS, &  
7 AMENDING SECTION 20-1226(12) USES PERMITTED CONDITIONALLY, CHAPTER  
8 20, RACINE COUNTY CODE OF ORDINANCES  
9

10 To the Honorable Members of the Racine County Board of Supervisors:

11  
12 The Racine County Board of Supervisors ordains as follows:

13  
14 CREATE SECTION 20-1167 PROCEDURES FOR SITING LIVESTOCK FACILITIES  
15 to read as follows:

16  
17 Sec. 20-1167 Procedures for Siting Livestock Facilities

18  
19 (a) These procedures apply to livestock facilities that require a  
20 conditional use permit under this chapter which are all new or  
21 expanded livestock facilities that will have five hundred (500) or  
22 more animal units.

23  
24 (b) Permits for Existing Livestock Facilities

25  
26 (1) A permit is required for the expansion of a pre-existing  
27 or previously approved livestock facility if the number  
28 of animal units kept at the expanded livestock facility  
29 will exceed all of the following:

30  
31 a. The applicable size threshold for a conditional use  
32 permit established in the zoning district where the  
33 facility is located.

34  
35 b. The maximum number previously approved or, if no  
36 maximum number was previously approved, a number  
37 that is 20% higher than the number kept on May 1  
38 2006, or on the effective date of the permit  
39 requirement, whichever date is later.

40  
41 (2) A permit is not required for livestock facility that  
42 existed before May 1, 2006, or before the effective date  
43 of the permit requirement in this ordinance, except as  
44 provided in sub.(1).

45  
46 (3) A permit is not required for livestock facility that was  
47 previously issued a conditional use permit or other local  
48 approval, except as provided in sub. (1). A prior  
49 approval for the construction of a livestock facility  
50 implies approval for the maximum number of animal units

4 that the approved livestock facility was reasonably  
5 designed to house, except as otherwise clearly provided  
6 in the approval. Prior approval of a single livestock  
7 structure, such as a waste storage structure, does not  
8 constitute prior approval of an entire livestock  
9 facility.

10 (c) Application Procedures

11  
12 In addition to the standard conditional use application  
13 requirements of Sec. 20-1161, a livestock operator must complete  
14 the application and worksheets prescribed by ATCP 51, including any  
15 authorized local modifications. The application requirements  
16 specified in ATCP 51, Wis. Adm. Code, are incorporated by  
17 reference, without reproducing them in full. The application form  
18 and worksheets establish compliance with the standards in ATCP 51  
19 and this ordinance.

20 The operator must file four (4) duplicate copies of the ATCP  
21 51 application form, including worksheets, maps and documents  
22 (other than engineering design specifications) included in the  
23 application.

24  
25 (d) Application Fee

26  
27 In addition to the standard conditional use filing fee, a non-  
28 refundable ATCP 51 application fee as established by Racine County  
29 Board of Supervisors resolution shall accompany an application.

30  
31 (e) Application Review Procedure

32  
33 (1) Within forty-five (45) days after the Racine County  
34 Planning and Development Department receives an  
35 application, it shall notify the applicant whether the  
36 application is complete. If the application is not  
37 complete, the notice shall describe the additional  
38 information needed. Within fourteen (14) days after the  
39 applicant provides all of the required information, the  
40 Department shall notify the applicant that the  
41 application is complete. This notice does not constitute  
42 an approval of the proposed livestock facility.

43  
44 (2) Within fourteen (14) days after the Department notifies  
45 an applicant that the application is complete, the  
46 Department shall notify adjacent landowners of the  
47 application. The Department shall use the approved  
48 notice form in ATCP 51, and mail a written notice to each  
49 adjacent landowner.

4 (3) The Economic Development and Land Use Planning Committee  
5 shall grant or deny an application within ninety (90)  
6 days after the notice of a complete application is  
7 provided as required by (2) above. The Economic  
8 Development and Land Use Planning Committee may extend  
9 this time limit for good cause, including any of the  
10 following:

- 11 a. The Committee needs additional information to act  
12 on the application.  
13  
14 b. The applicant materially modifies the application  
15 or agrees to an extension.  
16

17 The Committee shall give written notice of any extension. The  
18 notice shall specify the reason for the extension, and the extended  
19 deadline date by which the Committee will act on the application.  
20

21 (f) Public Hearing  
22

23 The Economic Development and Land Use Planning Committee will  
24 schedule a public hearing on the application within ninety (90)  
25 days after issuing notice of a complete application.  
26

27 (g) Standards  
28

29 The standards for issuing a permit are as follows:  
30

31 (1) The state livestock facility siting standards adopted  
32 under ATCP 51, Wis. Adm. Code. These standards are  
33 incorporated by reference, without reproducing them in  
34 full.  
35

36 (2) Setbacks authorized by this chapter.  
37

38 (h) Criteria for Issuance of a Permit  
39

40 (1) A permit shall be issued if the application for the  
41 proposed livestock facility contains sufficient credible  
42 information to show, in the absence of clear and  
43 convincing information to the contrary, that the proposed  
44 livestock facility meets the standards specified in the  
45 ordinance. NOTE: If the application and worksheets  
46 prescribed by ATCP 51 are properly completed, there is a  
47 rebuttable presumption that the applicant has met the  
48 application requirements.  
49

4 (2) A permit may be denied if any of the following apply:

5 a. The application, on its face, fails to meet the  
6 standard for approval.

7  
8 b. The political subdivision finds, based on other  
9 clear and convincing information in the record,  
10 that the proposed livestock facility does not  
11 comply with applicable standards in this ordinance.

12  
13 c. Other grounds authorized by s. 93.90, Stats., that  
14 warrant disapproving the proposed livestock  
15 facility.

16  
17 (3) No conditions may be imposed on the permit other than the  
18 standards provided in this chapter.

19  
20 (i) Record of Decision

21  
22 (1) The Economic Development and Land Use Planning Committee  
23 shall issue its decision in writing. Its decision shall  
24 be based on written findings of fact supported by  
25 evidence in the record.

26  
27 (2) In the event that a permit is approved, the applicant  
28 shall receive a duplicate copy of the approved  
29 application, marked "approved." The duplicate copy must  
30 include worksheets, maps and other documents (other than  
31 engineering specifications) included in the application.

32  
33  
34 (j) Notice to the Department of Agriculture, Trade and Consumer  
35 Protection

36  
37 Racine County, as required by ATCP 51.34(5), within thirty  
38 (30) days of the county decision on the application shall do all  
39 of the following:

40  
41 (1) Give the Department of Agriculture, Trade and Consumer  
42 Protection written notice of the town/county decision.

43  
44 (2) File with the ATCP a copy of the final application  
45 granted or denied, if the county has granted or denied an  
46 application under this ordinance. (The copy shall  
47 include all of the worksheets, maps and other attachments  
48

4 included in the application, except that it is not  
5 required to include the engineering design  
6 specifications).

7 (3) If the county has withdrawn a local approval under this  
8 ordinance, file with the department a copy of the county  
9 final notice or order withdrawing the local approval.

10  
11 (k) Expiration of Permit

12  
13 A permit remains in effect regardless of the amount of  
14 time that elapses before the livestock operator exercises the  
15 authority granted under the permit, and regardless of whether the  
16 livestock operator exercises the full authority granted by the  
17 approval. However, the political subdivision may treat a permit  
18 as lapsed and withdraw the permit if the permit holder fails to do  
19 all of the following within two (2) years after the issuance of  
20 the permit:

21  
22 (1) Begin populating the new or expanded livestock facility.

23  
24 (2) Begin constructing all of the new or expanded livestock  
25 housing or waste storage structures proposed in the  
26 permit application.

27  
28 (l) Permit Modifications

29  
30 The operator may make reasonable changes that maintain  
31 compliance with the standards in this ordinance, and the county  
32 shall not withhold authorization for those changes. It is Racine  
33 County's responsibility to determine what changes are reasonable.

34  
35 (m) Compliance Monitoring

36  
37 The county shall monitor compliance with the chapter as  
38 follows:

39  
40 (1) Upon notice to the livestock facility owner, request the  
41 right of the Zoning Administrator to personally view  
42 the permitted facility at a reasonable time and date to  
43 ensure that all commitments of the application as  
44 approved are being complied with.  
45  
46  
47  
48

- 4 (2) If the livestock facility owner refuses the Zoning  
5 Administrator the right to view the permitted facility,  
6 the Zoning Administrator may request the assistance of  
7 the sheriff or deputy sheriff to obtain an inspection  
8 warrant from the circuit court to inspect the permitted  
9 facility for the purpose of protection of the public  
10 health and safety under Sec. 66.0119, Wis. Stats.
- 11 (3) If a permitted facility is found not to be in compliance  
12 with the commitments made in the approved application,  
13 the Zoning Administrator shall issue a written notice to  
14 the livestock facility owner stating the conditions of  
15 non-compliance and directing that compliance of the  
16 commitments of the approved application be complied with  
17 in a reasonable amount of time stated in this notice.
- 18 (4) If non-compliance of the permit conditions as described  
19 in the written notice given by the Zoning Administrator  
20 continue past the stated reasonable time to comply, the  
21 Zoning Administrator may take further action as provided  
22 in this ordinance, including, but not limited to,  
23 issuance of a citation or seeking of injunctive relief.
- 24 (5) If the livestock facility owner disputes that the  
25 conditions of the permit have not been complied with,  
26 the livestock facility owner may request a hearing in  
27 writing within five (5) days of receipt of the notice of  
28 non-compliance. The Economic Development and Land Use  
29 Planning Committee shall schedule a hearing within five  
30 (5) days to determine if the conditions of the permit  
31 have been complied with or whether non-compliance of the  
32 commitments of the approved application and local  
33 approval exists. The date of the hearing shall be based  
34 on the Economic Development and Land Use Planning  
35 Committee's published hearing schedule.

36 (n) Terms of the Permit

37 A permit and the privileges granted by a permit issued under  
38 this chapter are conditioned on the livestock operator's compliance  
39 with the standards in this chapter and with commitments made in the  
40 application for a permit. Racine County is authorized to suspend a  
41 permit or seek other redress provided in this ordinance for non-  
42 compliance.

2  
3 (o) Transferability

4  
5 (1) A permit and the privileges granted by the permit run  
6 with the land and remain in effect, despite a change in  
7 ownership of the livestock facility, as long as the new  
8 operator does not violate the terms of the local  
9 approval. An applicant may record with the Register of  
10 Deeds, at the applicant's expense, the duplicate copy of  
11 the approved application.  
12

13 (2) Upon change of ownership of the livestock facility, the  
14 new owner of the facility shall file information with the  
15 town/county clerk providing pertinent information,  
16 including, but not limited to, such information as the  
17 name and address of the new owner and date of transfer of  
18 ownership.  
19

20  
21 CREATE SECTION 20-44 SAME-ADDITIONAL REQUIREMENTS FOR LIVESTOCK  
22 FACILITY SITING to read as follows:  
23

24 (a) The Racine County Zoning Board of Adjustment is not  
25 authorized to grant a variance from the state requirements to  
26 livestock facility siting, except as provided in s. 93.90, Stats.,  
27 and ATCP 51.  
28

29 (b) The Board of Adjustment has the discretion to reduce  
30 setbacks using factors it deems appropriate, including compliance  
31 with procedures for setbacks to roads and property lines and for  
32 new manure storage structures.  
33

34  
35 AMEND SECTION 20-1 DEFINITIONS as follows:  
36

37 Delete the definition for *feedlot, commercial*.  
38

39 Repeal and re-create the definitions of *animal unit* to read as  
40 follows:  
41

42 *Animal unit* shall have the meaning that was given in NR  
43 243.03(3) as of April 27, 2004.  
44

45 Add the following definitions in their proper alphabetical  
46 location:  
47

48 *Expanded livestock facility* shall mean the entire livestock  
49 facility that is created by the expansion, after May 1, 2006.  
50 Expanded livestock facility includes all livestock structures in  
51 the expanded facility, regardless of whether those structures are  
52 new, existing or altered.

2  
3 *Expansion* shall mean (for livestock siting purposes) an  
4 increase in the largest number of animal units kept at a livestock  
5 facility on at least ninety (90) days in any twelve (12)-month  
6 period. The acquisition of an existing livestock facility, by the  
7 operator of an adjacent livestock facility, does not constitute an  
8 "expansion" unless that operator increases the largest number of  
9 animal units kept at the combined livestock facilities on at least  
10 ninety (90) days in any twelve (12)-month period.  
11

12 *Livestock* shall mean domestic animals traditionally used in  
13 this state in the production of food, fiber, or other animal  
14 products. Livestock includes cattle, swine, poultry, sheep, and  
15 goats. Livestock does not include equine animals, bison, farm-  
16 raised deer, fish, captive game birds, rarities, camelids, or mink.  
17

18 *Livestock facility* shall mean a feedlot, dairy farm, or other  
19 operation where livestock are or will be fed, confined, maintained,  
20 or stabled for a total of forty-five (45) days or more in any  
21 twelve (12)-month period. A livestock facility includes all of the  
22 tax parcels of land on which the facility is located, but does not  
23 include a pasture or winter grazing area. Related livestock  
24 facilities are collectively treated as a single livestock facility  
25 for purposes of this chapter, except that an operator may elect to  
26 treat a separate species facility as a separate livestock facility.  
27

28 *Livestock structure* shall mean a building or other structure  
29 used to house or feed livestock, to confine livestock for milking,  
30 to confine livestock for feeding other than grazing, to store  
31 livestock feed, or to collect or store waste generated at a  
32 livestock facility. Livestock structure includes a barn, milking  
33 parlor, feed storage facility, feeding facility, animal lot or  
34 waste storage facility. Livestock structure does not include a  
35 pasture or winter grazing area, a fence surrounding a pasture or  
36 winter grazing area, a livestock watering or feeding facility in a  
37 pasture or winter grazing area, or a machine shed or like facility  
38 that is not used for livestock.  
39

40 *New livestock facility* shall mean a livestock facility that  
41 will be used as a livestock facility for the first time, or for the  
42 first time in at least five (5) years. New livestock facility does  
43 not include an expanded livestock facility if any portion of that  
44 facility has been used as a livestock facility in the preceding  
45 five (5) years.  
46

47 *Qualified nutrient management planner* shall mean a person  
48 qualified under s. ATCP 50.48.  
49  
50  
51



4 *Related livestock facilities* shall mean livestock facilities  
5 that are owned or managed by the same person and related to each  
6 other in at least one of the following ways:

- 7 (1) They are located on the same tax parcel of adjacent tax  
8 parcels of land.

9  
10 NOTE: A mere acquisition of a neighboring livestock  
11 facility does not constitute an "expansion" unless more  
12 animal units are added to the combined facilities.

- 13  
14  
15 (2) They use one or more of the same livestock structures to  
16 collect or store manure.

- 17  
18 (3) At least a portion of their manure is applied to the same  
19 landspreading acreage.

20  
21 NOTE: Compare definition of "animal feeding operation"  
22 under s. NR 243.03(2). "Related livestock facilities"  
23 are treated as a single livestock facility for purposes  
24 of local approval, except that a "separate species  
25 facility" may be treated as a separate livestock  
26 facility.

27  
28 *Separate species facility* shall mean a livestock facility  
29 that meets all of the following criteria:

- 30  
31 (1) It has only one of the following types of livestock, and  
32 that type of livestock is not kept on any other livestock  
33 facility to which the separate species facility is  
34 related. (See definition of a "related livestock  
35 facility.")

- 36  
37 a. cattle  
38 b. swine  
39 c. poultry  
40 d. sheep  
41 e. goats

- 42  
43 (2) It has no more than five hundred (500) animal units.

- 44  
45 (3) Its livestock housing and manure storage structures, if  
46 any, are separate from the livestock housing and manure  
47 storage structures used by livestock facilities to which  
48 it is related.

4 (4) It meets one of the following criteria:

5 a. Its livestock housing and manure storage  
6 structures, if any, are located at least  
7 750feet from the nearest livestock housing or  
8 manure storage structure used by a livestock  
9 facility to which it is related.

10  
11 b. It and the other livestock facilities to which  
12 it is related have a combined total of fewer  
13 than 1,000 animal units

14  
15 *Stable, commercial* shall mean a building or land where horses  
16 are kept for remuneration, hire, sale, boarding, riding, or show.

17  
18 *Waste* shall mean (for livestock siting purposes) manure,  
19 milking center waste and other organic waste generated by a  
20 livestock facility.

21  
22 *Waste storage facility* shall mean one or more waste storage  
23 structures. Waste storage facility includes stationary equipment  
24 and piping used to load or unload a waste storage structure if the  
25 equipment is specifically designed for that purpose and is an  
26 integral part of the facility. Waste storage facility does not  
27 include equipment used to apply waste to land.

28  
29 *Waste storage structure* shall mean a waste storage impoundment  
30 made by constructing embankments, excavating a pit or dugout, or  
31 fabricating a structure. Waste storage structure does not include  
32 equipment used to apply waste to land. For purposes of ss. ATCP  
33 51.12(2) and 51.14, waste storage structure does not include any of  
34 the following:

35  
36 (1) a structure used to collect and store waste under a  
37 livestock housing facility;

38  
39 (2) a manure digester consisting of a sealed structure in  
40 which manure is subjected to manage biological  
41 decomposition.

42  
43 *Winter grazing area* shall mean cropland or pasture where  
44 livestock feed on dormant vegetation or crop residue, with or  
45 without supplementary feed, during the period from October 1 to  
46 April 30. Winter grazing area does not include any of the  
47 following:

48  
49

- 2
- 3 (1) an area, other than a pasture, where livestock are kept
- 4 during the period from May 1 to September 30;
- 5
- 6 (2) an area which at any time has an average of more than
- 7 four (4) livestock animal units per acre;
- 8
- 9 (3) an area from which livestock have unrestricted access to
- 10 navigable waters of the state, such that the livestock
- 11 access prevents adequate vegetative cover on banks
- 12 adjoining the water;
- 13
- 14 (4) an area in which manure deposited by livestock causes
- 15 nutrient levels to exceed standards in ATCP 51.16.
- 16

17 AMEND SECTION 20-1226(12) USES PERMITTED CONDITIONALLY to read as  
 18 follows:

19

20 (12) This conditional use category is created in recognition of the  
 21 potential which exist in ~~commercial feedlot~~ livestock facility  
 22 operations for uncontrolled runoff and animal waste pollution  
 23 of surface and groundwater and potential for such uses to  
 24 become a nuisance. ~~Commercial feedlots~~ Livestock facilities as  
 25 defined herein, including livestock and poultry of all types,  
 26 may be permitted as conditional uses in all agricultural  
 27 districts subject to the following:

- 28
- 29 a. No ~~feedlot~~ livestock facility operation shall be
- 30 permitted on less than thirty-five (35) acres of
- 31 agriculturally-zoned land (including A-2) nor closer than
- 32 one thousand (1,000) feet from any land presently zoned
- 33 residential (does not include A-2 zoned parcels).
- 34
- 35 b. No accessory residence shall be permitted closer than one
- 36 hundred (100) feet to the ~~feedlot-operation~~ livestock
- 37 facility.
- 38
- 39 c. Except as provided for waste storage structures, nNo part
- 40 of the ~~feedlot~~ livestock facility operation shall be
- 41 closer than ~~three~~ one hundred ~~(300)~~ (100) feet from the
- 42 right-of-way line of any public road if the livestock
- 43 facility will have fewer than one thousand (1,000) animal
- 44 units, and one hundred fifty (150) feet if the livestock
- 45 facility will have one thousand (1,000) or more animal
- 46 units, nor closer than ~~two~~ one hundred ~~(200)~~ (100) feet
- 47 if the livestock facility will have fewer than one
- 48 thousand (1,000) animal units, and two hundred (200) feet
- 49 if the livestock facility will have one thousand (1,000)
- 50 or more animal units from any other lot lines of the site
- 51 on which the production unit is situated. In addition to

4 the requirements below, pProximity to lakes, ponds,  
5 rivers, streams, wells, bedrock and groundwater for  
6 feedlot and manure storage facility must meet NRCS  
7 standards.

- 8 d. A new waste storage structure may not be located within  
9 three hundred fifty (350) feet of the nearest point of  
10 any public road right-of-way.

11 A single new waste storage structure may be constructed  
12 closer to the property line or public road if a new  
13 structure is:

- 14 ▪ located on the same tax parcel as a waste storage  
15 structure in existence before May 1, 2006;
- 16 ▪ no larger than the existing structure;
- 17 ▪ no further than fifty (50) feet from the existing  
18 structure; or
- 19 ▪ no closer to the road or property line than the  
20 existing structure.

21 This setback requirement does not apply to existing waste  
22 storage structures, except that an existing structure  
23 within three hundred fifty (350) feet of a property line  
24 or road may not expand toward that property line or road.

- 25 e. A livestock facility shall comply with setback and  
26 related requirements in any applicable shoreland or  
27 wetland zoning ordinances enacted within the scope of  
28 authority granted under s 59.692, 61.351 or 62.231,  
29 Stats., and a livestock facility shall comply with  
30 setback and related requirements in any applicable  
31 floodplain zoning ordinance that is enacted within the  
32 scope of statutory authority granted under s. 87.30,  
33 Stats.

- 34 f. All wells located in a livestock facility shall comply  
35 with chs. NR811 and 812. New or substantially altered  
36 livestock structures shall be separated from existing  
37 wells by the distances required in chs. NR 811 and 812,  
38 regardless of whether the livestock facility operator  
39 owns the land on which the wells are located. A livestock  
40 structure in existence on May 1, 2006, may be altered as  
41 long as the alteration does not reduce the distance  
42 between the livestock structure and an existing well.

d.g. It is important that careful planning and sound management be applied to the operation of manure handling and waste run-off. A ~~conservative~~ conservation plan addressing the proposed methods of manure handling, storage, disposal and waste runoff controls shall be prepared and made a part of the plan of operation for any proposed ~~feedlot~~ livestock facility operation and shall be approved by the Racine County Land Conservation Department, the ~~Planning and Development~~ Economic Development and Land Use Planning Committee and town in which the facility is located.

e.h. Animal waste shall not be surface applied on the land between December first and April first unless the manner of application has been reviewed by and approved by the town plan commission and Racine County Land Conservation Department staff.

f.i. ~~The s~~Site plan must show surface water drainage patterns and the methods to be employed to control, contain or divert clean water runoff from the ~~feedlot~~ livestock facility/manure storage facilities. All polluted surface water runoff must conform to NRCS standards.

g.j. An operations plan detailing the method of operation and the equipment necessary to accomplish a safe and sanitary disposal of animal waste. An agreement must be filed with the town and county by the owner of the land that nay manure discharged in a drainage way or a public way, either intentionally or accidentally, will be cleaned up by the owner and that the town and county may clean up such condition and the cost thereof assessed back to the property owner.

h.k. A statement of the maximum number of animals to be contained in the proposed ~~animal feedlot~~ livestock facility. This plan shall include numbers, types, and weights.

1. No single-family residence shall be constructed within one thousand (1,000) feet of a livestock structure or building. This provision shall not apply to dwelling units that are accessory to a livestock facility.

AN ORDINANCE TO AMEND that Certain Ordinance Entitled RACINE COUNTY ZONING ORDINANCE adopted December 2, 1969, found on pages 185 to 232 of the OFFICIAL PROCEEDINGS OF THE RACINE COUNTY BOARD OF SUPERVISORS FOR THE YEAR 1969 as recodified May 28, 1991, by Ordinance 91-196.

4 The Racine County Clerk is directed to transmit duplicate copies of  
5 this ordinance by registered mail to all affected Town Clerks  
6 within seven (7) days after this ordinance is adopted.

7 Respectfully submitted,  
8 ECONOMIC DEVELOPMENT & LAND USE PLANNING COMMITTEE

9  
10  
11  
12 Jeff Halbach, Chair Robert D. Grove, Vice Chair

13  
14  
15  
16 Q. A. Shakoor, II, Secretary Karen A. Nelson

17  
18  
19  
20 Mark M. Gleason Ken Hall

21  
22  
23  
24 Thomas Pringle

25		
26		
27	VOTE REQUIRED: MAJORITY	BOARD ACTION:
28		
29	1st Reading _____	Adopted
30		For
31	2nd Reading _____	Against
32		Absent
33		

34 The Certificate of Publication, in compliance with State Statutes,  
35 is available at Racine County Planning.

36  
37 FISCAL NOTE - NOT APPLICABLE

38  
39