

**TOWN OF TRADE LAKE
BURNETT COUNTY, WISCONSIN**

ORDINANCE NO. 2022-04

AMENDED CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO) ORDINANCE

The Town Board of the Town of Trade Lake, Burnett County, Wisconsin, does ordain as follows:

Section 1. Authority

This Ordinance is adopted pursuant to the powers granted under Wisconsin Constitution, and Wisconsin Statutes including but not limited to Section 92.15. This Ordinance is further adopted pursuant to the powers granted to the Town Board under the grant of village powers pursuant to Sec. 60.22 of Wis. Statutes for the protection of public health, safety and general welfare and Sec. 66.0415 of Wis. Statutes, which allows a town to regulate “any industry, thing or place where any nauseous, offensive or unwholesome business is carried on.”

Section 2. Purpose and Findings

Purpose: The purpose of this Ordinance is to effectively, efficiently and comprehensively regulate the operation of Large-Scale Concentrated Animal Feeding Operations of 500 animal units or greater ("CAFO") in the Town of Trade Lake (also referred to as “the Town”), without respect to siting, to protect public health (including human and animal health), safety, and general welfare, to prevent pollution and the creation of private nuisances and public nuisances, and to preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town of Trade Lake and to achieve water quality standards within the Town of Trade Lake. This Ordinance sets forth the procedures for obtaining and maintaining a CAFO Operations Permit for the operation of new and expanded livestock facilities in the Town of Trade Lake (sometimes referred to as "the Town").

Findings: The need for this Ordinance is based upon the Town's obligation to protect the health, safety and general welfare of the public and is based upon reasonable and scientifically defensible findings, as adopted by the Town Board, clearly showing that these requirements are absolutely necessary to protect public health and safety.

By Resolution No. 20-04 the Board authorized the creation of the “CAFO Permitting Study Committee” (the “Committee”) to evaluate and review the potential effects of CAFO’s on health, safety, and general welfare of the residents of the Town, including impact on air quality, public infrastructure, property values, and the local economy. By Resolution No. 22-02 the Board extended the mission of the Committee through December 31, 2022.

The Committee presented its Report to the Board on February 10, 2022. The Board adopts the findings contained in the Committee’s Report and Appendix in support of this Amended Concentrated Animal Feeding Operations Ordinance and incorporates those findings herein by reference.

The Town finds that there is ample scientific research and evidence establishing that CAFO's pose a significant risk to the integrity of the Town's groundwater, surface water, air quality, the health

and well-being of its residents, and local property values. The findings contained in the Committee's Report and the references contained in the Appendix to that Report support the Conditions set forth below.

Section 3. Definitions

- a. "Applicant" or "Permit Holder" refer to the entity seeking a CAFO Operations Permit under the terms of this Ordinance.
- b. "Large-Scale Concentrated Animal Feeding Operation" or "CAFO" means a lot or facility, other than a pasture or grazing area, where 500 or more animal units have been, are, or will be stabled or concentrated, and will be fed or maintained by the same owner(s), manager(s) or operator(s) for a total of 45 days or more in any 12-month period. Two or more smaller lots or facilities under common ownership or common management or operation are a single Large-Scale Concentrated Animal Feeding Operation or CAFO if the total number of animals stabled or concentrated at the lots or facilities equal 500 or more animal units and at least one of the following is true: (1) The operations are adjacent; (2) The operations utilize common systems for the land spreading of manure or wastes; (3) Animals are transferred between the lots or facilities; (4) The lots or facilities share staff, vehicles, or equipment; or (5) Manure, barnyard runoff or other wastes are comingled in a common storage facility at any time.
- c. "Operations" means a course of procedure or productive activity for purposes of conducting and carrying on the business of a CAFO including populating animal housing facilities, storing and managing animal and other waste materials, and conducting any other business activities.
- d. "Pollution" means degradation that results in any violation of any environmental law as determined by an administrative proceeding, civil action, criminal action or other legal or administrative action investigation or proceeding.
- e. "Private Nuisance" means a 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 of controlling liability for negligent or reckless conduct, or for abnormally dangerous conditions or activities.
- f. "Public Nuisance" means a thing, act, occupation, condition or use of property which shall continue for such length of time as to " (1) substantially annoy, injure or endanger the comfort, health, repose or safety of the public; (2) in any way render the public insecure in life, health or in the use of property; or (3) unreasonably and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage or public use any street, alley, highway, navigable body of water or other public way or the use of public property or other public rights.

Section 4. Permit Required

Regardless of siting, a livestock facility with 500 or more animal units shall be allowed to conduct operations within the Town of Trade Lake only as provided under this Ordinance. Applicants shall apply for a CAFO Operations Permit to operate in the Town of Trade Lake under this Ordinance prior to conducting any operations. Existing operations that exceed the 500-animal unit threshold for application of the ordinance will have 5 years from the date the ordinance is enacted to come into compliance, unless the existing operation increases in size by 20%, based upon the size of the operation at the time the ordinance was enacted. An existing operation that exceeds 500 animal units and increases in size by more than 20% must comply with the ordinance.

a. General

A CAFO Operations Permit issued by the Town of Trade Lake is required for 1) new or 2) expanded livestock facilities that will operate with 500 or more animal units.

b. Permits for Existing Livestock Facilities

A CAFO Operations Permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed 500 animal units.

Section 5. Licensing Administration

The Town Board shall administer this Ordinance and related matters thereto and shall have the authority to issue permits under this Ordinance. The Board may also designate an individual or committee to issue permits under this ordinance.

Section 6. Permit Application and Standards

The Applicant shall apply for a CAFO Operations Permit prior to conducting any operations associated with a Large-Scale Concentrated Animal Feeding Operation in the Town of Trade Lake. The application shall be submitted on a form provided by the Town Clerk.

The Town Board shall decide whether to approve and issue a CAFO Operations Permit to an Applicant that has submitted a complete application and paid the required application fee, after holding a public hearing on the application and considering any evidence concerning the application and the proposed operation presented by the Applicant and any other interested persons or parties, including members of the public and other governmental agencies or entities. The Town may need to retain special legal counsel and expert consultants to assess an application. If that occurs, the Applicant agrees to reimburse the Town for the actual cost of such special legal counsel and expert consultants hired by the Town Board to review the application and advise the Town Board. Those costs may exceed the application fee set forth in Section 7.

The Town Board shall approve and issue a CAFO Operations Permit, either with or without conditions, if it is determined by a majority vote of all members, supported by clear and convincing evidence presented by the Applicant, that the operations as proposed, 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 Town of Trade Lake, and that the Applicant and the application meets all other requirements of this Ordinance.

Section 7. Permit Application Fee

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

Section 8. Application Procedure

a. An Applicant for a CAFO Operations Permit shall complete a Town of Trade Lake CAFO Operations Permit Application and pay the required application fee. At the time the application is submitted, the Applicant must be an owner or officer of the corporate entity proposing to operate the CAFO and sign the application. The application must also be signed by the property owner, who agrees to be held by the same standards as the operator, and by one or more qualified and professionally licensed third party engineers or geoscientists, approved by the Town, who attest that they have prepared or reviewed the plans and certify that they will meet the following performance requirements, as further clarified in the “conditions” section, below:

1. Prevent the spread of infectious diseases from the CAFO to other animals, livestock and humans;
2. The CAFO Waste Management Plan as implemented with engineered perimeter berms and liners, or equivalent or better containment measures, will prevent any obnoxious odors emanating from waste management activities, any discharge of contaminated runoff to surface water, and any seepage to ground water, including impacts to surface water and ground water from offsite management or disposal of animal wastes and that the CAFO has applied for and will not operate until it has received zero-discharge permit from the State, or in absence of action by the State, from the Town, a local zero discharge waste water and storm water permit(s);
3. The Animal Population Control and Depopulation Plans provide for the daily recording and reporting of animal counts and mortality and reporting to the Town of Trade Lake (the Town Board unless the Town Board has designated a person or committee to fulfill this function) within 24 hours of any unusual mortality, as defined in the plan, and that the provisions for managing the movement and transportation of livestock, containment and treatment of bodily fluids from carcasses, and safe disposal of carcasses, will prevent the spread of disease to other livestock, animals, workers and other residents and humans in the area;
4. The Biosecurity and Animal Health Plan provides for: 1) the health and humane treatment of all animals; routine observation and testing for diseases of concern--as defined in the plan; 2) the separation and quarantine of diseased animals; 3) the separation and quarantine of animals in contact with diseased animals; 4) euthanasia when required; 5) the handling and disposal of diseased animals, sufficient to prevent the spread of disease other animals and humans inside and outside of the facility; 6) for quarterly reporting of animal testing results; 7) plan-specified enforceable metrics; 8)

confirmation by a third-party inspector (selected or approved of by the Town) that, based on plan-specified enforceable metrics, the livestock and conditions at the facility are healthy and that any deviations from the metrics and/or any detection of diseases of concern will be immediately reported to the local health department and Town-designated local authority; 9) adequate financing for and immediate implementation of emergency containment measures by third-party contractors (selected or approved of by the Town) that includes testing of workers and contractors who may have come into contact with diseased animals and other emergency measures in the event of an outbreak of disease, based on the latest authoritative disease containment guidance;

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

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

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

8. The Community Economic, Land Use and Property Value Assessment and Impact Study has been performed by a licensed appraiser and a qualified land use planner, is scientifically sound and concludes that there will be no negative impact to properties within 1 mile of the proposed CAFO, and a net positive benefit to the Town, including considering the risks of the operations on the public health;

9. The Construction, Fire and Road Plans, including signed engineered drawings for the measures required to meet the performance requirements of this ordinance and the measures specified in the plan have been submitted with the application, and include a fire-prevention/fire-fighting capacity/fire-water capacity needs analysis and the requisite fire water storage/fire prevention/fire-fighting equipment plans, as well as a traffic study and road improvement needs analysis and road traffic and roadway improvement plans, along with letters of conformance, on agency letterhead, stating that application-submitted plans are complementary with and are in conformance with

the associated traffic and road plans and requirements of and from the local, regional, state and federal road and transportation authorities;

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

11. The Compliance Assurance Plan shall be updated annually and document that the prepared plans and procedures are based on sound science and: include an updated review of best practices and technologies and test methods; provide for specific compliance metrics to assure the performance requirements of the plans are met and the permit approval conditions are satisfied; provide for annual audits, inspections, and certification by qualified, experienced, and licensed third party(ies) (selected or approved of by the Town); and compliance with the procedures and provisions of the various operational plans;

b. Upon signing and submitting a CAFO Operations Permit Application to the Town Clerk, the Applicant shall unconditionally agree to fully compensate the Town for all legal services, expert consulting services, and other expenses which may be reasonably incurred by the Town in reviewing and considering the application, regardless of whether or not the application for a Permit is subsequently approved, with or without conditions, or denied by the Town Board. The Applicant shall submit an administrative fee deposit as required by the Town Clerk.

c. After receiving the application and the application fee, the Town Clerk shall mail a notice that a CAFO Operations Permit Application has been received to all landowners within 3 miles of the proposed CAFO with the date and time of a Town Board meeting at which the application will be considered. The notice shall provide information on how interested persons and parties may inspect and obtain a copy of the application.

d. The Town Clerk shall place the application on the agenda for the next regular Town Board meeting for which required notice can be provided.

e. At a formal public hearing held by the Town Board on the application at least sixty (60) days after it has been determined to be complete, the Town Board shall consider any evidence concerning the application and the proposed CAFO presented by the Applicant and any other interested persons or parties, including members of the public and other governmental agencies or entities, and special legal counsel and expert consultants who may be hired by the Town to review the application and advise the Town Board. The Applicant agrees to reimburse the Town for the actual cost of special legal counsel and consultants hired by the Town Board to review the application and advise the Town Board.

f. In its review and consideration of a CAFO Operations Permit Application, the Town Board shall act in a quasi-judicial capacity, and its final decision on whether to approve and issue a CAFO Operations Permit, either with or without conditions, shall be based on written findings of fact and conclusions of law consistent with the provisions of this Ordinance, which shall be filed with the Town Clerk and served on the Applicant by regular U.S. Mail.

g. The Town Board shall approve and issue a CAFO Operations Permit, either with or without conditions, if it determines by a majority vote of all members of the Town Board, supported by clear and convincing evidence presented by the Applicant, that the operations of the proposed CAFO, with or without conditions, will protect health (including human and animal), safety, and general welfare, prevent pollution and the creation of private nuisances and public nuisances, and preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town and that the application meets all other requirements of this Ordinance.

Section 9. Financial Surety

A CAFO Operations Permit shall require the Applicant and all contractors, subcontractors, agents and representatives, to ensure that sufficient funds will be available for pollution clean-up, nuisance abatement, and proper closure of the operation if it is abandoned or otherwise ceases to operate as planned and permitted, based on the following provisions:

a. A determination shall be made of the amount of financial assurance required by the scale of the operation. As a condition of the permit, the required financial assurance shall be filed with the Town of Trade Lake in an amount sufficient to clean up environmental contamination if the same were to occur, to abate public nuisances caused by the operation, including but not limited to the testing and replacement of any potentially contaminated private and public wells and water supplies within the areas subject to operations, and to ensure proper closure of the operations should the Applicant elect to close or should closure occur for some other reason. Upon notification of the required financial assurance, but prior to commencing operations, the Applicant shall file with the Town Clerk the financial assurance conditioned on faithful performance of all requirements for the permit. Upon notification of finance assurance or deposit approval and conformance with permit conditions, the Applicant may commence operations.

b. The Applicant may deposit cash or irrevocable letters of credit established with a bank acceptable to the Town as the required financial assurance.

c. The Town may reevaluate and adjust accordingly the amount of the financial assurance required on an annual basis.

Section 10. Conditions of Approval

A CAFO Operations Permit may be approved with conditions to protect public health (including human and animal health), safety, and general welfare, prevent pollution and the creation of private nuisances and public nuisances, and preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town. To the extent not expressly or

otherwise preempted by Wis. Stat. 93.90, and Wis. Admin. Code Ch. ATP 51 or any other provision of state or federal law, such conditions may include, but are not limited to:

1. Conditions relating to the operational characteristics of the proposed operation, to protect public health, prevent point and non-point sources of air and water pollution, and prevent private nuisances and public nuisances;

a) Information Provided Pursuant to These Conditions and Consent to Conditions

As a condition of operating within the Town of Trade Lake the Applicant agrees that the information required by the Town of Trade Lake to be produced and maintained, as set forth in these conditions, is not confidential, a trade secret or proprietary. Any claim as to the confidential or alleged protected nature of the information referenced in these conditions is waived by the Applicant as a condition of operating in the Town of Trade Lake. By submitting an application to operate in the Town of Trade Lake the Applicant acknowledges that the information provided pursuant to these conditions shall be accessible to representatives of the Town of Trade Lake, Representatives of Burnett County and representatives of the State of Wisconsin and that this information may be made public on Town, County or State websites or in response to requests made under the Freedom of Information Act. Furthermore, by accepting a Permit issued by the Town containing conditions imposed hereunder, the Applicant submits itself to the jurisdiction of the Town and agrees and consents to the terms of the conditions imposed hereunder.

b) Violations and Sanctions for Failure to Comply with Conditions

Violations of the Conditions contained in any Permit issued pursuant to the Town's ordinance may be enforced by the Town Board or any committee authorized by the Board to oversee CAFO operations.

Violation of Conditions imposed by the Town of Trade Lake shall result in assessment to the Applicant of all costs required to investigate and remediate any damages caused by the violation. Violations of Conditions imposed by the Town of Trade Lake may also result in lump-sum penalties if the violation has been cured or daily penalties that accrue until the violation has been cured. Such lump-sum or accruing penalties may include the cost of professional monitoring or assessment by engineers or other technical experts retained by the Town to address the violation.

Depending upon the nature and extent of the Violation of Conditions imposed by the Town of Trade Lake, the Town may withdraw the Applicant's Permit to operate until all violations have been cured. Serious or repeated Violations of Conditions imposed by the Town of Trade Lake may result in permanent withdrawal of an Applicant's Permit to operate.

c) False Statements or Misrepresentations

Any false statement or misrepresentation made by the Applicant in its application or in information provided to the Town, County or State in association with an application to operate a CAFO within the Town of Trade Lake shall be grounds for denial of a Permit.

d) Construction and Fire Plans

The Applicant must include signed engineered drawings for the measures required to meet the performance requirements of this ordinance and the measures specified in the plans submitted with the application. The Applicant shall include a fire-prevention/fire-fighting capacity/fire-water capacity needs analysis and the requisite fire water storage/fire prevention/fire-fighting equipment plans.

2. Conditions relating to the management of animal and other waste that may be generated as part of an operations' ongoing operation, to protect public health, prevent point and non-point sources of air and water pollution, and prevent private nuisances and public nuisances;

- a) In addition to the requirements stated below, see requirements for disposal of manure under Condition 6.
- b) Design: The production area shall be designed, operated and maintained to contain the entire design storage volume. To contain means to prevent any release of any pollutant from the area, including by leakage into groundwater.
- c) Design storage volume means double the estimated volume of manure, litter and other processed waste waters accumulated during the storage period.
- d) New facilities may not use outdoor lagoons.
- e) The Waste Management Plan required by Section 8(a)(2) will include scientifically significant baseline data on the water quality of local human drinking and agricultural wells.
- f) A site-specific assessment shall be done by a Professional Engineer.
- g) Inspections: Each facility must conduct and record inspections of the production and storage areas (and as otherwise required of the fields where manure is deposited) according to the schedule and standards attached to this Permit.
 - Inspection records are public property and must be provided to listed authorities upon request and at least every 6 months.
 - Each facility must correct any identified deficiencies within 48 hours of discovery. Correcting an identified deficiency does not relieve the owner or operator of responsibility for reporting any Permit violation.
 - Dead animals shall be disposed of in a manner that prevents creation of a public health hazard. All handling practices shall be in accordance with all applicable state and local regulatory requirements. (See Condition 3.)
 - Daily visual inspections for mortalities shall be performed and mortalities shall be removed and disposed of upon discovery. (See Condition 3.)
 - Clean water must be diverted, as appropriate, from the production area. Any clean water that is not diverted and comes into contact with raw materials, products or by-

products including manure, litter, feed, or bedding is subject to the effluent limitations specified above.

- Each facility must prevent direct contact of confined animals with the waters of the state or with land within 30 feet of the waters of the state.
- Permit Holders must ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, or processing area or in any stormwater storage or treatment system unless specifically designed to treat such chemicals and other contaminants. (Ex. Pesticides and petroleum products).

h) Nutrient Management Plan (NMP)

- i. Site Specific Conservation Practices: Site specific practices to be implemented include buffers or equivalent practices, to control runoff of pollutants to waters of the state, and specifically to minimize the runoff of nitrogen and phosphorus. The NRCS Practice Standard, Code 590, including residue management, conservation crop rotation, grassed waterways, strip cropping, vegetated buffers, riparian buffers, setbacks, terracing and diversions may be utilized to prevent runoff of pollutants. At a minimum, such practices must be adequate to keep erosion levels in each field at or below the soil loss tolerance specified by the Town of Trade Lake Licensing Authority.
- ii. Additional prevention of runoff attention must be given to areas at greater risk for erosion due to topography or increased potential to contribute to pollution of the waters of the state.
- iii. Injection or “knifing in” of manure onto local fields is required. No form of surface spraying shall be allowed.
- iv. Signed leases with disclosure of manure spreading to property owners receiving such are required for each property utilized for disposal/spreading of manure.
- v. Disclosure of loss of any leases to Trade Lake Town Board.
- vi. Adherence to all record keeping requirements per separate document.

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;

- a) The Animal Population Control and Depopulation Plans provide for the daily recording and reporting of animal counts and mortality and reporting to the Town-designated local authority within 24 hours of any unusual mortality, as defined in the plan, and that the provisions for managing the movement and transportation of livestock, containment and treatment of bodily fluids from carcasses, and safe disposal of carcasses, will prevent the spread of disease to other livestock, animals, workers and other residents and humans in the area.
- b) Applicant’s depopulation plan shall include a three-step, or 3D,

process - Depopulation, Disposal and Disinfectant. All or parts of this process shall apply to three circumstances:

- i) **Standard mortality** - The tonnage of dead animals produced annually by normal operations is substantial. For example, mortality rates in a typical 5,000 sow farrow-to-finish farming system run up to 10% and will produce over 200,000 pounds of carcasses annually. In many systems losses may be higher. Horizontal integration of livestock agriculture systems can concentrate mortality losses into smaller and smaller geographic areas.
 - ii) **Non-diseased animal catastrophe** - The need for the 3D process can be triggered by catastrophic events such as the hurricanes, tornadoes or fire. In addition, CAFOs can be impacted by human pandemics. For example, chicken and hog CAFOs were forced to depopulate in 2020 when high worker Covid-19 infection rates shutdown processing plants.
 - iii) **Diseased animal catastrophe** - CAFO operators face disease outbreaks such as Foot-and-Mouth, Avian Influenza and Porcine Reproductive and Respiratory Syndrome (PRRS). Minnesota and Iowa have an especially virulent PRRS mutant affecting both sow and hog finishing barns. USDA earmarked \$500 million in September 2021 in an effort to keep the global African Swine Fever outbreak from entering the country.
- c) Each part of the plan shall include, at a minimum the following components:
- i. Removal of livestock/Euthanasia protocols.
 - ii. Protocols for removal of any biohazardous materials, including but not limited to animals that have been euthanized from the facility, including the use of protective equipment, temporary storage of the carcasses outside the buildings during the removal.
 - iii. Protocols for disposal of the carcasses or animal tissue (e.g., Composting on-site; Composting off-site; Burial; Burial above ground; Rendering; Incineration; Burning (mobile gasifier or similar). The plan shall include an estimate of the volume of animal carcasses (in pounds) expected annually and, once operations begin, actual numbers of the volume of animal carcasses (in pounds) shall be provided to the Town. Animal carcasses and related material must be removed promptly and frequently from the site so that they do not generate odors or excess insect populations. When carcasses and related materials are removed from the site, the materials being removed must be in an enclosed truck or trailer to contain odors and ensure that debris does not fall out.
 - iv. If carcasses and related materials are to be composted, a composting plan must be approved by an environmental engineering firm (selected or approved of by the Town) to ensure the health and safety of the residents of the area. If the composting results in objectionable odor the CAFO will have to use other means to dispose

of the carcasses.

- v. Protocols for remediation of any pollution, including contaminated soils or waters and chemical disinfection of all contaminated structures, equipment, vehicles, and surfaces on the premises follows animal euthanasia and disposal and application of insecticides and rodenticides.
- vi. Protocols for repopulating the facility with stock free of major diseases. Producers shall thoroughly analyze risk factors for herd re-infection as well as the level of biosecurity that can be maintained. Hog CAFOs located in swine-dense areas are at great risk for re-infection.
- vii. No animal carcasses or related material may be hauled into the site from other locations.
- viii. The removal of equipment.

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;

- a) In the context of animal agriculture, biosecurity is a series of management steps and practices implemented to prevent: 1) the introduction of infectious agents, especially Foreign Animal Diseases (FAD), into a herd or flock; 2) the spread of these agents through the herd; and 3) the spread of these agents out of the herd to other animals or humans. Each Applicant must produce an acceptable Biosecurity and Animal Health Plan. The Biosecurity and Animal Health Plan provides for the health and humane treatment of all animals, routine observation and routine testing for diseases of concern--as defined in the plan--and for the separation and quarantine of diseased animals and animals in contact with diseased animals, their euthanasia, and the handling and disposal of diseased animals, sufficient to prevent the spread of disease to workers, other livestock and animals and to humans. The Biosecurity and Animal Health Plan must also provide for quarterly reporting by a third-party inspector of animal testing results and plan-specified enforceable metrics, confirmation that the livestock and conditions at the facility (based on plan-identified metrics) are healthy, any deviations from the metrics, and that any detection of diseases of concern will be immediately reported to the local health department and local authority. The plan must provide for adequate financing and immediate implementation of emergency containment measures by third-party contractors, including testing of workers and contractors who may have come into contact with diseased animals, and other emergency measures in the event of an outbreak of disease, based on the latest authoritative disease containment guidance

The movement of people and equipment among livestock farms is a primary route of transmission for disease. Inspection of cleanliness and disinfection of

incoming transport vehicles may be necessary for the Biosecurity and Animal Health Plan to be effective. Mitigation strategies to tackle outbreaks go beyond ordinary preventative measures. Accordingly, strategies such as animal traceability, disease syndrome reporting, and analysis and risk-based herd health management should all be considered when preparing the Biosecurity and Animal Health Plan.

- b) A strong biosecurity program is critical and must be properly implemented by the Applicant and not just developed as a plan on paper. The protocol shall include the following components:
 - i) Utilization of technology needed to characterize rapidly evolving, highly pathogenic and efficiently transmitted viruses.
 - ii) A plan to notify the Town, County and State within 24 hours of the Applicant becoming aware of the presence of infectious agents, especially Foreign Animal Diseases (FAD), into a herd or flock, the spread of these agents through the herd, and out of the herd to other animals or humans.

5. Conditions relating to transportation of animals as part of the ongoing operations, to protect public health, prevent pollution, and prevent private nuisances and public nuisances;

a) General Use of the Roadways

The Applicant will prepare a Transportation Plan which shall include a traffic study, road improvement needs analysis and road traffic and roadway improvement plans, along with letters of conformance, on agency letterhead, stating that application-submitted plans are complementary with and are in conformance with the associated traffic and road plans and requirements of and from the local, regional, state and federal road and transportation authorities.

The plan will also include the following elements:

- i) Due to the recreational nature of the Trade Lake area, and the large number of people that use our roads to walk, bike, ride ATV's and ride snowmobiles, all trucking and moving of materials in and out of the CAFO facility will be done during standard business hours of 8:00 AM to 5:00 PM Monday through Friday. This includes the use of farm tractors and any other such vehicles.
- ii) All trucks, tractors and farm equipment will follow all weight limits and laws. Any and all increased or enhanced maintenance or damage to roadways will be repaired by the Town or County having jurisdiction over the roadway. The CAFO will be responsible for reimbursing the appropriate governmental subunit for the total cost of the required increased or enhanced maintenance or repairs.
- iii) The exterior of trucks, tractors and all other farm vehicles when leaving the property will be free from manure and other debris in order to keep the roadways roads clean and free from debris.
- iv) Jake braking will not be allowed.

- v) Livestock trucks will be designed and operated in such a way so that material will not fall from them.
- vi) All vehicles going in and out of the facility will comply with the cleaning and sterilization requirements contained in the Applicant's Biosecurity and Animal Health Plan.

b) Mandatory Transportation Log

The Applicant shall keep a log of all trucks entering and leaving the Applicant's facility that are used for transportation of livestock, manure, feed, other waste (including biological and non-biological waste), construction material, or any other material identified by the Town of Trade Lake as falling under this condition.

The log shall include the following information:

- i) the date and time the vehicle entered and left the facility;
- ii) the identify the owner and company name of the trucking company;
- iii) the type of truck, including the weight per axle;
- iv) the license plate number of the truck;
- v) the name of the insurance carrier insuring the vehicle and the insurance policy number;
- vi) the name and driver's license number for the operator;
- vii) the material being transported;
- viii) where the truck came from and where it's next stop will be;
- ix) if the truck is hauling drugs or disinfectants, a detailed explanation of their intended use;
- x) if the truck is hauling live animals to the facility, where the animals came from, a copy of a certificate of health, the number of animals and their weight;
- xi) if the truck is hauling live animals away from the facility, where the animals are going, a certificate of health, the number of animals and their weight.

All trucks hauling livestock have the risk of spreading diseases. To prevent the spread of disease, the Transportation Plan provide that all trucks shall be cleaned and washed with disinfectant before leaving the Applicant's facility. All wash water and cleaning materials will be considered to be infected and will have to be removed to an appropriate facility for treatment or storage of the contaminated water.

6. Conditions relating to protection of private and public drinking and agricultural wells, and other public water supplies, as part of an ongoing operation to protect public health, prevent pollution, and prevent private nuisances and public nuisances;

The Applicant will produce a Water Protection Plan that addresses protection of local wells, groundwater and surface water to protect the health, safety and welfare of Trade Lake residents and visitors. The water protection plan shall address the following:

- a) The Applicant must disclose information regarding all wells that will be drilled or existing wells that will be utilized in its operation. The information shall include: 1) location; 2) depth; 3) pumping capacity; 4) rate of flow; and 5) ultimate use or purpose for the well. All wells utilized by the Applicant must be metered so as to effectively monitor the amount of water used by Applicant. The Town may place conditions on such wells to ensure that such wells do not cause significant environmental impact.

- b) If the Applicant intends to dispose of manure by depositing the manure on local fields, whether those fields are within the Town of Trade Lake or outside of its boundaries, Applicant will provide executed field leases for each such property. Each lease must explicitly disclose that the field is going to be used for the disposal of manure or other animal byproducts and must contain a provision allowing representatives of the Town, at its discretion, to enter the property to perform testing or inspection. Any leases that lapse, are cancelled or otherwise become unenforceable shall be reported to the Town as soon as the change in status of the lease occurs. If the loss of a lease renders an Applicant unable to dispose of manure without complying with all of the conditions placed upon the Applicant, the Applicant shall find other acceptable methods of disposing of its manure or cease operations.
- c) If the Applicant intends to dispose of manure by depositing the manure on local fields, whether those fields are within the Town of Trade Lake or outside of its boundaries, the amount of land used to spread waste as part of the Waste Management Plan in Section 8(a)(2) will be based on *spreadable* acres, not total acres.
- d) If the Applicant intends to dispose of manure by depositing the manure on local fields, whether those fields are within the Town of Trade Lake or outside of its boundaries such manure must be injected or “knifed” into the ground or otherwise deposited below the surface of the field by other means. No surface spreading of any kind will be allowed.
- e) Applicant may not deposit manure on any field where the water table is less than 24 inches from the surface.
- f) Applicant may not deposit manure on fields that have slopes with a grade steep enough so that substantial manure runs off into adjacent ditches, streams, lakes, or adjacent fields for which the Applicant does not have an executed field lease. The term “substantial” when used in this section means sufficient to adversely affect any pond, lake, stream, creek, river or wetland into which the manure may run off.
- g) Applicant may not deposit manure on fields when weather conditions exist that might cause the manure to run off the field into adjacent ditches, streams, lakes, or adjacent fields for which the Applicant does not have an executed field lease. For example, where precipitation is occurring or expected, or where the ground is frozen.
- h) The Town is aware that there have been substantial failures, in Wisconsin and other states, of lines (pipes, hoses, etc.) transmitting manure to fields where the manure is applied. Such failures would be devastating in Trade Lake because of the number of waterways, wetlands, sensitive wildlife areas and the proximity to the St. Croix River. Accordingly, manure may not be transported in hoses, piping or other conduit running through or across drainage ditches, rivers, creeks, streams, ponds, lakes or wetlands.
- i) Applicant must incorporate an emergency manure disposal procedure in its plan that provides for an alternative method of disposing of manure, other than knifing it into a farm field or depositing it below the surface of the field by other means, for occasions where weather conditions are not conducive to spreading manure or where the

Applicant no longer has sufficient acreage upon which to deposit manure. Such an alternative method may include, for example, approved waste treatment facilities. The Applicant should not expect to receive an exception to this condition.

- j) In consultation with a qualified consultant, approved by or designated by the Town, the Applicant will provide the Town with a plan (and upon initiation of operations, effectuate that plan) for monitoring the groundwater on fields where manure is being spread. The consultant will determine the location, the frequency, and depth of groundwater test wells. Consultant will also determine how often test results need to be obtained. All test results for this and any other condition will be made available to the consulting expert, the Town of Trade Lake, representatives of Burnett County and representatives of the State of Wisconsin.
- k) If the Applicant intends to deposit manure on fields that are adjacent to ditches, streams, creeks, rivers, ponds lakes, wetlands or other bodies of water, whether those bodies of water are permanent or seasonal, Applicant shall, in consultation with a qualified consultant, (selected or approved by the Town) provide the Town with a plan (and effectuate that plan) for monitoring any surface waters that could be affected by the Applicant's operation.

7. Conditions relating to air emissions and dust control as part of an ongoing operation, to protect public health, prevent pollution and prevent private nuisances and public nuisances;

The Applicant will submit an Air Emissions and Dust Control Plan that includes the following conditions:

- a) In consultation with a qualified consultant, approved by or designated by the Town, the Applicant will provide the Town with a plan (and upon initiation of operations, effectuate that plan) for filtration of air exiting barns or other structures that are part of its operation.
- b) The plan referenced in the preceding paragraph must include:
 - i) the incorporation of a filtration system for outgoing air exiting any building housing livestock or used for storage of manure, carcasses or other waste.
 - ii) engineering drawings of the outgoing air filtration system;
 - iii) identification of the make, model and specifications for the outgoing air filtration system;
 - iv) protocols for replacing and/or cleaning the filters or other components incorporated in the filtration system that require such maintenance;
 - v) protocols for the testing of air outside of the facility to monitor odor, chemicals including, but not limited to ammonia, hydrogen sulfide and methane, particulate matter and any other chemical or biological hazards that may be identified by the consultant. Such monitoring may also apply to field where manure is deposited.
 - vi) a description of setbacks and/or physical barriers incorporated into the design of the Applicant's facility

8. Conditions relating to protection of the private and public property rights and property values of affected property owners, as part of an ongoing operation, to protect the general welfare of the Town's residents and property owners, and to prevent private nuisances and public nuisances;

The Applicant will submit a Community Economic, Land-Use and Property Value Assessment and Impact Study performed by a licensed appraiser and qualified land use planner which demonstrates that there will be no negative impact to properties within 3 miles of Applicant proposed facility. Applicant will provide the Town with any studies appraisals or other information referenced in the Community Economic, Land-Use and Property Value Assessment and Impact Study.

9. Conditions relating to Permit compliance, enforcement and monitoring, including establishment of fees that may be assessed against the Permit Holder to cover the costs of hiring, training, and maintain Town personnel, or for contracting with private consultants, to conduct Permit compliance, enforcement and monitoring activities for the Town. Conditions relating to the monitoring of surface water, ground water, air quality and all other environmental factors and considerations.

The Applicant will provide financial surety to help enforce compliance with the conditions imposed by the Town, as set forth below.

a) Fees

The Applicant shall include and sign a statement that the Applicant agrees to fully compensate the Town for all legal services, expert consulting services, and other expenses which may be reasonably incurred by the Town in reviewing and considering the application, regardless of whether or not the application for a Permit is subsequently approved, with or without conditions, or denied by the Town Board. The Applicant statement shall also state that the Applicant agrees to fully compensate the Town for all legal services, expert consulting services and other expenses, for evaluating Applicant's application, verifying and enforcing compliance with the terms of the Permit, with or without conditions, if approved by the Town Board. The Applicant shall submit an administrative fee deposit as required by the Town Clerk.

b) Financial Surety

i) Notification.

The Trade Lake Town Board shall determine the required financial assurance level of the CAFO and shall notify the Applicant. As a condition of a Permit, the Town Board shall require financial assurance to be filed with the Town 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 Town Board, but prior to commencing operations of the CAFO, the Applicant shall file with

the Town Board said financial assurance conditioned on faithful performance of all requirements of this chapter and the Permit. Upon notification by the Town Board of financial assurance or deposit approval and conformance with Permit conditions, the Applicant may commence CAFO operations.

c) Bond Requirements.

- i) 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 Town of Trade Lake.
- ii) Each bond shall provide that the bond shall not be canceled by the surety, except after not less than 90 days' notice to the Town Board, in writing, by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the Applicant or Permit Holder under this chapter must deliver to the Town Board a replacement bond or approved alternate financial assurance in absence of which all CAFO operations shall cease.
- iii) The bond shall be payable to "Town of Trade Lake, Wisconsin."
- iv) The bond shall provide that the Town may obtain recovery from the bond through arbitration under the rules of the American Arbitration Association. The Town may recover against the bond for any damages to public or private property, degradation or impairment of surface water, groundwater or air quality. Trade Lake property owners may also bring action against the bond in the event that they are damaged by the Applicant's failure to comply with the terms of the conditions imposed hereunder.

d) 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.

e) Financial Assurance Reevaluation.

- i) The Trade Lake Town 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.
- ii) The Applicant or Permit Holder shall notify the Trade Lake Town 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.
- iii) The Trade Lake Town Board shall notify the Applicant in writing within 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.

f) Financial Assurance on Multiple Projects.

Any Applicant or Permit Holder that receives a Permit from the Trade Lake Town 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 assurance on each CAFO. Any financial assurance so posted shall be in an amount equal to the estimated cost to the Town 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 assurance previously posted on an individual CAFO the separate financial assurance shall not be released until the new financial assurance has been accepted by the Town Board.

g) Financial Assurance Release.

The Trade Lake Town Board shall release the Applicant's or Permit Holder's financial assurance after providing notice to all property owners within 3 miles of the CAFO of the intent to release financial insurance and allowing such owners 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 Permitd 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. Title 5, Chapter 6, Public Safety Adopted in its Entirety 1-26-16 Published 1-30-16 8

h) 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 a 90 days' notice to the Town Board in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90 days' notice of cancellation, the Applicant or Permit Holder shall deliver to the Town 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.

i) 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 Trade Lake Town Board at least 60 days' notice prior to changing methods of financial assurance and may not actually change methods without the written approval of the Town Board.

j) Bankruptcy Notification.

The Applicant or Permit Holder under this chapter shall notify the Trade Lake Town 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 10 days of commencement of the bankruptcy proceeding.

10. Conditions relating to the monitoring of surface water, ground water, air quality and all other environmental factors and considerations.

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

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

11. Any other conditions deemed reasonably necessary or appropriate by the Town Board to effectively, efficiently, and comprehensively regulate the operations of a facility, to protect public health (including human and animal health), safety, and general welfare, prevent pollution and the creation of private nuisances and public nuisances, and preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town.

The Town of Trade Lake recognizes that scientific and technical developments continue and the Town requires some flexibility to impose additional conditions not referenced above, or relax conditions as technology improves, in order to protect the health, safety and general welfare of Trade Lake's property owners and residents. Accordingly, the Town may impose additional conditions, at the discretion of the Board, where the Board determines that they are required by reasonable and scientifically defensible findings of fact.

The conditions stated above may apply not only to the CAFO facility itself, but also to any property upon which manure, carcasses, body tissue or other byproducts of the CAFO are spread, deposited or disposed of. Any conditions imposed under this Ordinance may be

modified by the Town Board at the time of each annual review. Any modifications must be documented as required by Section 14.

Section 11. Record of Decision

The Town Board must issue its decision in writing. The decision must be based on written findings of fact supported by evidence in the record.

Section 12. Transferability of Permit

A CAFO Operations Permit and the privileges granted by this Permit run with the land approved under the Permit and remain in effect, despite a change in ownership of the livestock facility, as long as the former operator was not in violation of the terms of its Permit and the new operator does not violate the terms of the local approval or any conditions contained within a duly approved CAFO Operations Permit.

Upon change of ownership of the livestock facility, the new owner of the facility shall provide the Town with information, including but not limited to the name and address of the new owner, contact information for the facility manager and responsible corporate representative of the new owner, and date of transfer of ownership. A new owner must provide all of the Plans required herein or endorse the existing Plans of the previous owner. A new owner is required to establish to the Town's satisfaction that it is able to comply with the Plans provided or endorsed by the new owner and is required to comply with all of the existing or future Permit conditions, including financial surety and reimbursement of costs incurred by the Town of Trade Lake in evaluating the new owner's ability to comply with the conditions imposed on the Applicant's operation.

Section 13. Expiration of Permit

A CAFO Operations Permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under this Permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the Town may treat a CAFO Operations Permit as lapsed and withdraw the Permit if the Permit holder fails to do all of the following within 2 years after issuance of Permit:

- a. Begin populating the CAFO.
- b. Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the application for local approval.
- c. Pay the renewal fee on or before January 1 of each calendar year as required by Section 14 of this Ordinance.

Section 14. Permit Terms and Modifications

A CAFO Operations Permit and the privileges granted by a CAFO Operations Permit issued under this Ordinance is conditioned on the livestock operator's compliance with the standards in this Ordinance, and with commitments made in the application for a CAFO Operations Permit. The operator may make reasonable changes that maintain compliance with the standards in this Ordinance, and the Town Board shall not withhold authorization for those changes. A violation of the Permit or a failure to comply with the commitments made in the application may result in suspension and/or termination of the Permit.

The Town Board, or its designee, shall work to ensure on an ongoing basis that all requirements and conditions of any Permit issued under this Ordinance are followed by the Permit Holder. 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 15. Penalties

Any person who violates any of the provisions of this Ordinance, or who fails, neglects or refuses to comply with the provisions of this Ordinance, or who knowingly makes any materially false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be subject to the following penalties:

- a. Upon conviction by a court of law, pay a forfeiture of not less than \$100 nor more than \$1,000, plus the applicable surcharges, assessments, and costs for each violation.
- b. Each day a violation exists or continues shall be considered a separate offense under this Ordinance.
- c. The Town Board may seek injunctive relief from a court of record to enjoin further violations.
- d. In addition, the Town Board may suspend or revoke the local approval of a CAFO Operations Permit under this Ordinance after due notice to the livestock facility owner and a public hearing to determine whether the Permit should be suspended or revoked.

The Town shall exercise sound judgment in deciding whether to suspend or revoke a CAFO Operations Permit. The Town shall consider extenuating circumstances, such as adverse weather conditions, that may affect an operator's ability to comply.

If a CAFO Operations Permit issued under this Ordinance is later suspended or revoked, all operations of the CAFO shall cease within thirty (30) days after such suspension or revocation. The sole remedy for reinstating a suspended or revoked CAFO Operations Permit shall be for the owner or operator of a facility under such Permit to re-apply for a CAFO Operations Permit pursuant to this Ordinance.

In addition to any other penalty imposed by this Ordinance, the cost of abatement of any public nuisance on the permitted premises by the Town may be collected under this Ordinance or Sec. 823.06 of Wis. Statutes against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Sec. 66.0627 of Wis. Statutes unless paid earlier.

Section 16. Appeals

An Applicant or any other person or party who is aggrieved by a final decision of the Town Board on whether to issue a CAFO Operations Permit, either with or without conditions, or a taxpayer, may, within thirty (30) days after the filing of the decision with the Town Clerk, commence an action seeking the remedy available by certiorari in Burnett County Circuit Court. The court shall

not stay the decision appealed from, but may, with notice to the Town Board, grant a restraining order. The Town Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof. If necessary for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

In any certiorari proceeding brought under the preceding paragraph, attorney fees and costs shall not be allowed against the Town Board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

A final decision of the Town Board under this ordinance is not subject to appeal under Wis. Stat. 93.90(5), Wis. Stat 93.30, or Wis. Admin Code Ch. ATPC 51, which apply only to siting decisions.

Section 17. Severability

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to that end, the provisions of this Ordinance are severable.

Section 18. Effective Date

This Ordinance is effective the day after publication or posting as required by law. Adopted this 10th day of March, 2022 by the Town Board of Supervisors.

Roll Call Vote:

By: Ramona Moody ☒ Aye ☐ Nay
Ramona Moody, Chairperson

By: Scott Doornink ☒ Aye ☐ Nay
Scott Doornink, Supervisor

By: Adam Lesak ☒ Aye ☐ Nay
Adam Lesak, Supervisor

Attested by Clerk: Mary Gravelle Date: 3-10-2022

Posted: 3/10/2022