

**TOWN OF EUREKA  
POLK COUNTY, WISCONSIN**

**ORDINANCE NO. 20-01 (0)  
CONCENTRATED ANIMAL FEEDING OPERATIONS ORDINANCE**

The Town Board of the Town of Eureka, Polk 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.

**Section 2. Purpose and Findings**

The purpose of this Ordinance is to effectively, efficiently and comprehensively regulate the operation of Large-Scale Concentrated Animal Feeding Operations of 1,000 animal units or greater ("CAFO") in the Town of Eureka, 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 Eureka and to achieve water quality standards within the Town of Eureka. This Ordinance sets forth the procedures for obtaining a CAFO Operations Permit for the operation of new and expanded livestock facilities in the Town of Eureka (sometimes referred to as "the Town").

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. Specifically, 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. These findings are based in part on the scientific articles and research studies discussed and listed below and in Appendix A.

On November 2, 2019, the American Public Health Association enacted a policy statement advising federal, state and local governments and public health agencies to impose a moratorium on all new and expanding CAFOs recommending a complete halt until additional scientific data has been collected and public health concerns associated with CAFOs are addressed.

CAFOs confine large numbers of animals of the same species—such as beef and dairy cattle, swine, broilers (poultry raised for meat consumption) and laying hens—on a small area of land. The scale, density, and practices associated with these operations present a range of public health and ecological hazards, including large volumes of untreated animal waste, the release of environmental contaminants to air, water, and soil, and the generation and spread of antibiotic-resistant pathogens. There is a significant body of evidence which shows CAFOs are directly

associated with occupational and community health risks, as well as the social and economic decline of rural communities.

In 2010, the National Association of Local Boards of Health published a report identifying the following Environmental Health Effects of CAFOs:

1. Groundwater
2. Surface Water
3. Air Quality
4. Greenhouse Gas and Climate Change
5. Odors
6. Insect Vectors
7. Pathogens
8. Antibiotics
9. Property Values

Pollutants commonly found in air surrounding CAFOs include the following:

CAFO Emissions	Source	Traits	Health Risks
Ammonia	Formed when microbes decompose undigested organic nitrogen compounds in manure	Colorless, sharp pungent odor	Respiratory irritant, chemical burns to the respiratory tract, skin, and eyes, severe cough, chronic lung disease
Hydrogen Sulfide	Anaerobic bacterial decomposition of protein and other sulfur containing organic matter	Odor of rotten eggs	Inflammation of the moist membranes of eye and respiratory tract, olfactory neuron loss, death
Methane	Microbial degradation of organic matter under anaerobic conditions	Colorless, odorless, highly flammable	No health risks. Is a greenhouse gas and contributes to climate change.
Particulate Matter	Feed, bedding materials, dry manure, unpaved soil surfaces, animal dander, poultry feathers	Comprised of fecal matter, feed materials, pollen, bacteria, fungi, skin cells, silicates	Chronic bronchitis, chronic respiratory symptoms, declines in lung function, organic dust toxic syndrome

Pathogens found in animal manure that have been determined to cause illness in humans include the following:

Pathogen	Disease	Symptoms
<i>Bacillus anthracis</i>	Anthrax	Skin sores, headache, fever, chills, nausea, vomiting
<i>Escherichia coli</i>	Colibacillosis, Coliform mastitis-metris	Diarrhea, abdominal gas
<i>Leptospira pomona</i>	Leptospirosis	Abdominal pain, muscle pain, vomiting, fever
<i>Listeria monocytogenes</i>	Listeriosis	Fever, fatigue, nausea, vomiting, diarrhea
<i>Salmonella species</i>	Salmonellosis	Abdominal pain, diarrhea, nausea, chills, fever, headache
<i>Clostridium tetani</i>	Tetanus	Violent muscle spasms, lockjaw, difficulty breathing
<i>Histoplasma capsulatum</i>	Histoplasmosis	Fever, chills, muscle ache, cough rash, joint pain and stiffness
<i>Microsporium and Trichophyton</i>	Ringworm	Itching, rash
<i>Giardia lamblia</i>	Giardiasis	Diarrhea, abdominal pain, abdominal gas, nausea, vomiting, fever
<i>Cryptosporidium species</i>	Cryptosporidiosis	Diarrhea, dehydration, weakness, abdominal cramping

Researchers at the Johns Hopkins Center for a Livable Future have found that the primary human health concerns related to industrial food animal production (IFAP) (also referred to as concentrated animal feeding operations (CAFOs)) include: infections resulting from transmission of harmful microorganisms from animal operations to nearby residents; respiratory effects from increased exposure to air pollution from animal operations; and multiple negative health impacts due to increased exposure to ground and/or surface waters that can be contaminated by manure from animal operations.

#### Disease Transmission

The poor conditions, including crowding, characteristic of industrial animal operations present opportunities for disease transmission among animals, and between animals and humans.<sup>1-2</sup> (Footnotes refer to sources listed in Appendix A, References.) Nearby residents may have an increased risk of infection from the transmission of harmful microorganisms from operations via flies or contaminated air and water.<sup>3-9</sup>

Of additional concern is exposure to pathogens that are resistant to antibiotics used in human medicine. Administering antibiotics to animals at levels too low to treat disease (non-

therapeutic use) fosters the proliferation of antibiotic-resistant pathogens, and this practice is common in CAFOs. Resistant infections in humans are more difficult and expensive to treat<sup>10</sup> and more often fatal<sup>11</sup> than infections with nonresistant strains. A growing body of evidence provides support that antibiotic-resistant pathogens are found on animal operations that administer antibiotics for non-therapeutic purposes<sup>12-13</sup> and are also found in the environment in and around production facilities,<sup>13-15</sup> specifically in the manure,<sup>16-18</sup> air,<sup>13</sup> and flies.<sup>19</sup>

Manure runoff from CAFO operations may introduce these harmful microorganisms into nearby water sources.<sup>20</sup> Land application of manure presents an opportunity for pathogens contained in the manure to leach into the ground or run off into recreational water and drinking water sources, potentially causing a waterborne disease outbreak.<sup>17</sup> This is of particular concern for residents who rely on private wells for drinking water and household use;<sup>21</sup> private wells are not monitored by government agencies to ensure safe levels of pathogens.

### Air Pollution

Community members living near CAFO operations also face increased exposure to air pollution from these operations, which can cause or exacerbate respiratory conditions including asthma<sup>22-24</sup>; eye irritation, difficulty breathing, wheezing, sore throat, chest tightness, nausea<sup>25</sup>; and bronchitis and allergic reactions.<sup>23</sup> Air emissions include particulates, volatile organic compounds, and gases such as nitrous oxide, hydrogen sulfide, and ammonia.<sup>22,26</sup> Odors associated with air pollutants from large-scale hog operations have been shown to interfere with daily activities, quality of life, social gatherings, and community cohesion<sup>22,27-29</sup> and contribute to stress and acute increased blood pressure.<sup>29-30</sup>

### Contaminated Ground and Surface Water

The increase in concentration of livestock and poultry and transition to large, high-density, confined animal feeding operations over the last several decades has resulted in the concentration of animal waste over small geographic areas.<sup>17</sup> Although animal manure is an invaluable fertilizer, waste quantities of the magnitude produced by CAFO operations represent a public health and ecological hazard through the degradation of surface and ground water resources.<sup>17</sup> (For example a CAFO application recently submitted to Burnett County, WI indicated that the proposed operator expected a single facility to generate in excess of 9 million gallons of manure per year and that it intended to dispose of that waste by spreading it on local farm fields.)

Manure from these operations can contaminate ground and surface waters with nitrates, drug residues, and other hazards, <sup>6,31-33</sup> and studies have demonstrated that humans can be exposed to waterborne contaminants from livestock and poultry operations through the recreational use of contaminated surface water and the ingestion of contaminated drinking water. <sup>32-34</sup> Exposure to elevated levels of nitrates in drinking water is associated with adverse health effects, including cancer, <sup>35-38</sup> birth defects and other reproductive problems, <sup>34,35,39,40</sup> thyroid problems, <sup>34-35</sup> and methemoglobinemia. <sup>34,41</sup>

Nutrient runoff (including nitrogen and phosphorus) has also been implicated in the growth of harmful algal blooms, <sup>17,42</sup> which may pose health risks for people who swim or fish in recreational waters, or who consume contaminated fish and shellfish. Exposure to algal toxins has been linked to neurological impairments, liver damage, gastrointestinal illness, severe dermatitis, and other adverse health effects. <sup>43-44</sup>

Given the potential impacts to health, safety and general welfare, the Town has an obligation to enact reasonable regulations on the operations of CAFOs.

In addition to the general impacts, the Town of Eureka has also determined that this Ordinance is necessary to achieve water quality standards under Wis. Stat. 281.15 which are designed to protect the public interest including the present and prospective future use of the Town's water for public and private water systems, propagation of fish and aquatic life and wildlife, domestic and recreational purposes and agricultural, commercial, industrial and other legitimate uses.

The waters of the Town of Eureka are vitally important to its residents and the impacts of CAFOs on water systems, fish and aquatic life, agricultural, commercial and industrial uses require the Town's protection and regulation. Water contamination and impairment may result in detected levels of veterinary antibiotics, elevated levels of nitrates and the presence of pathogenic organisms.

Elevated nitrates in drinking water can be harmful to infants leading to various syndromes and the possibly of death. Low blood oxygen in adults can also lead to birth defects, miscarriages and poor general health.

Before a CAFO may begin operation within the Town of Eureka, it is imperative that the operational risks be analyzed, base lines be established to control medical risks and the monitoring of each risk be established for evaluation and appropriate review.

It is for these reasons the Town of Eureka enacts this Ordinance.

### **Section 3. Definitions**

1. "Applicant" or "permittee" refer to the entity seeking a CAFO Operations Permit under the terms of this Ordinance.

2. "Large-Scale Concentrated Animal Feeding Operation" or "CAFO" means a lot or facility, other than a pasture or grazing area, where 1,000 or more animal units have been, are, or will be stabled or concentrated, and will be fed or maintained by the same owner(s), manager(s) or operator(s) for a total of 45 days or more in any 12-month period. Two or more smaller lots or facilities under common ownership or common management or operation are a single Large-Scale Concentrated Animal Feeding Operation or CAFO if the total number of animals stabled or concentrated at the lots or facilities equal 1,000 or more animal units and at least one of the following is true: (1) The operations are adjacent; (2) The operations utilize common systems for the land spreading of manure or 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.
3. "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.
4. "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.
5. "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.
6. "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. License Required**

Regardless of siting, a livestock facility with 1,000 or more animal units shall be allowed to conduct operations within the Town of Eureka only as provided under this Ordinance. Applicants shall apply for a CAFO Operations Permit to operate in the Town of Eureka under this Ordinance prior to conducting any operations.

1. General

A CAFO Operations Permit issued by the Town of Eureka is required for new or expanded livestock facilities that will operate with 1,000 or more animal units.

## 2. Licenses 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 1,000 animal units.

### **Section 5. Licensing Administration**

The Town Board shall administer this Ordinance and related matters thereto and shall have the authority to issue licenses under this Ordinance.

### **Section 6. License 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 Eureka. 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, other governmental agencies or entities, special legal counsel and expert consultants who may be hired by the Town Board to review the application and advise the Town Board.

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 applicant can and will comply with all conditions imposed by the Town; that the applicant's operations as proposed, with or without conditions, will protect public health (including human and animal health), safety, and general welfare, prevent pollution, prevent the creation of private nuisances, prevent the creation of public nuisances and preserve the quality of life, environment, existing small-scale livestock and other agricultural operations of the Town of Eureka; and that the applicant and the application meet all other requirements of this Ordinance.

### **Section 7. License Application Fee**

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

## Section 8. Application Procedure

1. An applicant for a CAFO Operations Permit shall complete a Town of Eureka CAFO Operations Permit Application and pay the required application fee. The applicant must be an owner or officer of the corporate entity proposing to operate the CAFO.
2. Upon signing and submitting a CAFO Operations Permit Application to the Town Clerk, the applicant shall 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.
3. 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.
4. The Town Clerk shall place the application on the agenda for the next regular Town Board meeting for which required notice can be provided.
5. 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.
6. 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.
7. 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:

1. A determination shall be made regarding the financial assurance level required by the scale of the operation. As a condition of the license, the required financial assurance shall be filed with the Town of Eureka 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 the financial assurance conditioned on faithful performance of all requirements for the license. Upon notification of finance assurance or deposit approval and conformance with license conditions, the applicant may commence operations.
2. The applicant may deposit cash or irrevocable letters of credit established with a bank acceptable to the Town as the required financial assurance.
3. 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. ATCP 51 or any other provision of state or federal law, such conditions may include, but are not limited to:

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

3. Conditions relating to the population and depopulation of individual animal housing facilities, to protect public health and prevent the spread of animal-borne and vector-borne disease, to assure a safe level of sanitation, and to assure human health hazard control or health protection for the community;
4. Conditions relating to biosecurity and the maintenance of animal health and welfare, to prevent the spread of animal-borne and vector-borne disease, to protect public health, and provide for animal safety and welfare;
5. Conditions relating to transportation of animals as part of the ongoing operations, to protect public health, prevent pollution, and prevent private nuisances and public nuisances;
6. Conditions relating to protection of private and public drinking and agricultural wells, and other public water supplies, as part of an ongoing operation to protect public health, prevent pollution, and prevent private nuisances and public nuisances;
7. Conditions relating to air emissions and dust control as part of an ongoing operation, to protect public health, prevent pollution and prevent private nuisances and public nuisances;
8. Conditions relating to protection of the private and public property rights and property values of affected property owners, as part of an ongoing operation, to protect the general welfare of the Town's residents and property owners, and to prevent private nuisances and public nuisances;
9. Conditions relating to permit compliance, enforcement and monitoring, including establishment of fees that may be assessed against the permittee to cover the costs of hiring, training, and maintaining Town personnel, or for contracting with private consultants, to conduct permit compliance, enforcement and monitoring activities for the Town.
10. Conditions relating to the monitoring of surface water, ground water, air quality and all other environmental factors and considerations.
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.

These conditions may apply not only to the CAFO facility itself, but also to any property upon which manure, carcasses, body tissue or other by products 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 renewal. Any modifications must be documented as required by section 11, below.

**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 License**

A CAFO Operations Permit and the privileges granted by this license run with the land approved under the license and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval.

Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town Clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.

**Section 13. Expiration of License**

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 license if the license holder fails to do all of the following within 2 years after issuance of license:

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

**Section 14. License 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 unless the Town can demonstrate good cause to do so. 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 permittee. To assist in accomplishing this task, any permit issued pursuant to this Ordinance shall be subject to an annual renewal fee in the amount of One Dollar (\$1.00) per animal unit. Modifications to the conditions of a CAFO Operations Permit may be made as described in Sections 10 and 11.

### **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 material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be subject to the following penalties:

1. 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.
2. Each day a violation exists or continues shall be considered a separate offense under this Ordinance.
3. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.
4. 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 license 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.

In addition to any other penalty imposed by this Ordinance, the cost of abatement of any public nuisance on the licensed 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 Polk 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. ATCP 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.

Adopted this 13 day of Feb, 2020 by the Town Board of Supervisors.

Town Chairman

Donald Anderson

Attested:

Lucia Beeders  
Town Clerk