

TOWN OF BYRON
FOND DU LAC COUNTY, WISCONSIN

**ORDINANCE INCORPORATING STATE LIVESTOCK FACILITY
SITING LAW INTO TOWN'S ZONING ORDINANCE**

The Town Board of the Town of Byron, deeming it necessary to promote the public health, safety and welfare, does ordain as follows:

**Article 1
Purpose; Authority; Abrogation and Greater Restrictions**

1.1 Purpose. The purpose of this Ordinance is to incorporate and apply the livestock facility siting law requirements found in Wis. Stats. § 93.90 and ATCP 51 of the Wisconsin Administrative Code in the Town's Exclusive Agricultural District (A-1) and, further, to prohibit the siting of new livestock facilities (with an excess of 500 animal units) and the expansion of existing livestock facilities by more than 20% (and over 500 animal units) in any other zoning district located within the Town.

1.2 Authority. This Ordinance is adopted pursuant to the Town's zoning powers found in Wis. Stats. §§ 60.62, 62.23(7) and 93.90, together with the administrative provisions set forth in ATCP 51 of the Wisconsin Administrative Code, inclusive of all future amendments to any provisions of these statutes and administrative rules.

1.3 Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

**Article 2
Local Livestock Regulation**

2.1 Incorporation of State Law. Pursuant to the provisions of Wis. Stat. § 93.90, the Town of Byron does hereby adopt and incorporate into its existing Zoning Ordinance the provisions of Wis. Stats. § 93.90 and ATCP 51 of the Wisconsin Administrative Code, inclusive of all future amendments to any provisions of Wis. Stats. § 93.90 and ATCP 51 of the Wisconsin Administrative Code. The Town of Byron's Zoning Ordinance is hereby deemed revised to reflect the provisions of Wis. Stats. § 93.90 and ATCP 51 of the Wisconsin Administrative Code as if said statutory and administrative provisions were set forth in their entirety within the text of the Town's Zoning Ordinance. The Town Clerk is authorized and directed to revise the text of the Town's Zoning Ordinance to reflect the incorporation of Wis. Stats. § 93.90 and ATCP 51 of the Wisconsin Administrative Code without further hearing or action by the Town Board.

2.2 Application of Regulations. A new or expanded livestock facility that will have 500 or more animal units may be sited only in an Exclusive Agricultural District (A-1) and only after obtaining a special use permit (also known as a conditional use permit) in accordance with the procedures of the Town's Zoning Ordinance. New or expanded livestock facilities that will have

500 or more animal units are prohibited in any other zoning district established by the Town's Zoning Ordinance.

2.3 Application Procedures. Any person or entity seeking local approval for a new or expanded livestock facility that will have 500 or more animal units shall complete and file with the Town Clerk the application form promulgated by the Department of Agriculture, Trade and Consumer Protection, as set forth in Appendix A to ATCP 51, as amended. An applicant shall submit four duplicate copies of the original application and all worksheets, maps and other attachments included in the application. The application shall be accompanied by an application fee of \$1,000 to offset the Town's costs to review and process the application. Within 45 days after the Town receives an application, the Town shall notify the applicant whether the application contains everything required under this Ordinance. If the application is not complete, the notice shall specifically describe what else is needed. Within 14 days after the applicant has provided everything required under this Ordinance, the Town shall notify the applicant that the application is complete. A notice of completeness does not constitute an approval of the proposed livestock facility. The remaining procedural requirements of Subchapter III of ATCP 51 apply to the application and hearing process.

2.4 Notice to DATCP. Within 30 days after the Town grants or denies an application under this Ordinance, or withdraws an approval under ATCP 51, the Town shall do all of the following:

- (a) Give DATCP written notice of its action;
- (b) File with DATCP a copy of the final application granted or denied, if the Town has granted or denied an application. The copy shall include all of the worksheets, maps and other attachments included in the application, except that the Town is not required to include engineering design specifications; and
- (c) File with DATCP a copy of the Town's final notice or order withdrawing a local approval under ATCP 51, if the Town has withdrawn a local approval.

2.5 Record of Decision-Making. The Town shall keep a complete written record of its decision-making relating to an application under ATCP 51. The Town shall keep the record for at least 7 years following its decision. The record shall include all of the following:

- (a) The application and all subsequent additions or amendments to the application;
- (b) A copy of any notice under ATCP 51, and copies of any other notices or correspondence that the Town issues in relation to the application;
- (c) A record of any public hearing related to the application. The record shall include any documents or evidence submitted by hearing participants;
- (d) Copies of any correspondence or evidentiary material that the Town considered in relation to the application;

- (e) Minutes of any board or committee meetings held to consider or act on the application;
- (f) The written decision required under ATCP 51;
- (g) Other documents that the Town prepared to document its decision or decision-making process; and
- (h) A copy of an local ordinance cited in the decision.

Article 3 **Miscellaneous Legal Provisions**

3.1 Interpretation. The provisions of this Ordinance shall be considered minimum requirements. Unless prohibited by Wis. Stats. § 93.90 or DATCP 51, where the provisions of this Ordinance impose greater restrictions than any statute, other regulation, ordinance or covenant, the provisions of this Ordinance shall apply. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions, the provisions of the statute, other regulation, ordinance or covenant shall prevail.

3.2 Severability. If any provision of this Ordinance is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance in its entirety or any part thereof, other than that so declared to be invalid.

3.3 Rules of Construction. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. References to the singular include the plural. References to "persons" extend to natural persons, firms, corporations, partnerships, limited liability companies or other entities.

3.4 Effective Date. This Ordinance shall take effect upon adoption and publication as required by law.

Adopted this 10 day of October, 2006.

TOWN OF BYRON

By Francis L. Engerer
Chairperson

Attest:

Spencer A. Weloy
Town Clerk

