

The Livestock Facility Siting Law **Meets the Needs of Local Governments and Farmers**

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You will not find the most important story about the siting law by reading headlines about the Wisconsin Supreme Court's first ruling that interprets this law. As important as the court's decision is, it makes no changes to a system of shared responsibility for permitting new and expanding livestock operations adopted in 2006 as a compromise to meet the needs of both local governments and farmers. In the six years since its adoption, the law has provided a predictable framework that retains local management options while imposing state requirements for permitting livestock operations. For those who may not fully appreciate the benefits of the siting law, one of its strengths is that the standards and procedures at the core of the system must be periodically reviewed, and may be updated through rulemaking.

While the Department of Agriculture, Trade, and Consumer Protection (DATCP) has oversight of the siting law, with the support from the Livestock Facility Siting Review Board, local governments have important responsibilities and choices in regulating livestock operations under the siting law. After the siting law, local governments retained the right to develop land use plans, which can form the basis for ordinances that determine the location of livestock operations within a community. There are examples of communities that have implemented sophisticated zoning ordinances to carefully manage possible conflicts between livestock operations and other land uses. Also local governments still have authority to regulate livestock operations outside of issuing permits under the siting law, an option that the Supreme Court affirmed in its decision. Using zoning, Wis. State ch. 92, and other regulatory authority, a number of local governments have imposed special requirements on farms relating to manure applications.

One of the most important choices left to local governments is the decision to require permits for new and expanding operations in their community. It is important to note that local governments are not required to implement the siting law and if they do not act, the state will not issue permits for them. Counties, towns and other local governments take on the responsibility for permitting by adopting either zoning or license ordinances. So far, 67 local governments have adopted these ordinances, and have issued 83 permits under these ordinances. DATCP has an interactive web-based map, <http://datcpgis.wi.gov/livestock>, that identifies if a local government has a siting ordinance, the animal unit (AU) threshold at which a permit is required under the ordinance, and contact information for local officials who can provide additional information about how to obtain a permit

Local governments have seen real benefits from implementing siting ordinances. The well-defined process required under the siting law provides a mechanism for the orderly and timely resolution of contentious issues that could drag out over time. The state siting standards

required of all applicants are based on science, and do provide measureable protections for water and air quality. They protect public health and safety by regulating building setbacks, odor management, manure and nutrient management, manure storage facilities and runoff management. At this time, for example, the annual nutrient management plan required under the siting rule is the best tool to prevent runoff and groundwater problems from the land spreading of manure. There is no question that a community is safer when feedlots and manure storage are designed and maintained to prevent discharges. Once a permit is issued, local governments have the right to monitor permitted facilities to make sure that structures and practices are properly installed and maintained. In one case, a community used this authority to prevent facility from using a leaking manure storage facility.

Of course, as the Supreme Court made clear, there is only one mechanism in the siting law for local governments to condition a permit on locally established standards, and that mechanism is in Wis. Stat. § 93.90(3)(ar). Local standards may only be adopted to protect public health and safety. Protecting drinking water involves public health and safety, but protecting neighbors' property values does not. To make it enforceable for applicants for a permit, a local standard must be adopted into a siting ordinance and supported by scientifically defensible findings of fact to justify that the more stringent standard is necessary to protect public health and safety. Any local government with ordinance that includes more stringent local standards, should make sure that its local standards were properly adopted.

It goes without saying that the siting law has benefited farmers. The law's clear guidelines for permitting enable farmers to better plan for the future, including the challenges of coordinating construction with permitting. With its clear timelines, the law has resulted in permits being issued within four months. Because the standards for permitting are spelled out in detail, farmers who submit a completed permit application know that they have done all that is expected of them. These same qualities of certainty and timeliness that benefit farmers also serve the needs of local governments that issue permits.

Once farmers are permitted under the siting law, they gain important "right to farm" protections. Farmers can rely on their permits to demonstrate compliance with standards if they receive odor and other complaints. After earning a passing odor score on their first permit application, farmers can expand without worrying about their impact on new neighbors who later build closer to the farm.

If local governments are sitting on the sidelines wondering about a siting ordinance, they need to appreciate the benefits of the law. Too often local governments wait until a livestock facility is proposed in their area, and then it is too late to adopt an ordinance. As part of any advance planning, local officials need to understand the commitment involved in implementing a siting ordinance. While the \$1,000 application fee is adequate to cover administrative costs involved in processing a permit, local governments must be comfortable with the full set of

responsibilities entailed in a permit program, such as the level of engagement in permit monitoring and the resources to complete this activity.

For those concerned that siting standards are not perfect, everyone involved with the law sees room for improvement. Farmers want clearer standards for making determinations regarding the completeness of an application, and more flexibility in recognizing new technologies to control odor. Fortunately, those who designed the siting law created a mechanism to make such improvements. DATCP is responsible for reviewing the standards to see if they meet certain statutory goals such the protection of public health and safety, and also the rulemaking authority to make improvements.

From a decision to adopt siting ordinance to questions applying the specific standards to permit applicant, DATCP's siting program has experts that can guide you through siting law. We have an engineer available to provide comprehensive, technical assistance to farmers, consultants, and local governments on the odor and other standards. Questions concerning the livestock siting program can be directed to Richard Castelnovo at 608-224-4608 or Richard.Castelnovo@wisconsin.gov. Also you can access facts sheets and other information about the siting law at this web site, livestocksiting.wi.gov

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SEEKING PROPOSALS FOR TOWN ASSESSOR

The Town of Primrose, Dane County, is accepting proposals for a Town Assessor for 2013 and beyond. We have an estimated population of 738 with an assessed value of \$83,611,500 in 2010. Total parcel count is 978. Proposals will include maintaining the assessment roll and individual property classifications within 10% of equalized value, Open Book and Board of Review, and future revaluation. The Town was revalued in 2010. The proposal will include the conversion of all data from "cards" to the electronic format as required by the State of Wisconsin. Please send your proposal along with a copy of certification of insurance, references and resume by September 1, 2012 to: Jamie Baker, Clerk, Town of Primrose, 8468 County Highway A, Verona, WI 53593. Questions to Clerk at clerk@tn.primrose.wi.gov. The Town of Primrose reserves the right to reject any and all proposals.

MOSINEE FIRE DISTRICT EMPLOYMENT OPPORTUNITY FIRE CHIEF

Mosinee Fire District is looking for a chief to cover approximately 8,722 people, To direct and supervise 50+ paid on call Fire fighters & EMT. The annual budget for the District is \$600,000.00 Requirements: Wisconsin Certified Fire Fighter II, Current Wisc. Or National Registry Emergency Medical Technician IV or higher, Current NIMS Certification, Ten years of continuous responsible experience in a department comparable with MFD. Possession of a valid Wisconsin Drivers License. Or ability to obtain one within 6 months. Salary will be 45,000.00 to 65,000.00. If interested send resume to Chairperson, Mosinee Fire District 601 Rangeline Road Mosinee, Wisconsin. Applications must be received by no later than 6:00P. M. (CDT) on September 4, 2012 MFD is an Equal Opportunity Employer. Confidentiality must be requested by applicant and cannot be guaranteed for finalists.