

Understanding Local and State Regulations for New and Expanding Livestock Facilities

This overview outlines key local and state regulations beyond the permits issued by local governments under the Livestock Facility Siting Law (Siting Law), ATCP 51 Wis. Admin. Code, and Department of Natural Resources (DNR) permits for concentrated animal feeding operations (CAFO) under NR 243 Wis. Admin. Code. Local and state officials can provide more detailed regulatory information, including copies of applicable plans and ordinances.

Local planning

Comprehensive land use plans define future land uses, including delineation of areas slated for development and transition out of agriculture. County farmland preservation plans define areas for agricultural preservation. Zoning and other land use regulation must be consistent with these plans.

Local zoning

Towns and counties have the authority to regulate rural land use through zoning. In addition, cities and villages can exercise extraterritorial zoning in areas surrounding their incorporated boundaries. Locally-established zoning districts specify what uses are allowed. Livestock facilities can be prohibited, or allowed as a permitted or a conditional use. Conditional use permits (CUPs) must be issued in accordance with the Siting Law, and cannot be used to exclude a proposed facility. To prohibit or limit the size of livestock farms within agriculturally zoned districts, the Siting Law requires that a local ordinance include reasonable public health and safety justifications backed by scientifically defensible findings of fact. Also, at least one other agriculturally-zoned district must allow for livestock operations of any size. Zoning designations can change. For example if a dairy is located on land that is re-zoned to a non-agricultural use, it becomes a non-conforming use and restrictions on the ability to modernize or expand the farm can be imposed.



Development restrictions near lakes, rivers, wetlands and floodplains

Locally enforced shoreland-wetland zoning ordinances and floodplain ordinance implement minimum state standards for development in these areas. Farmers cannot construct stream crossings or other structures within navigable waterways without a DNR Chapter 30 Permit. DNR approval is needed for filling and grading wetlands, and an Army Corps of Engineers wetlands permit may also be necessary.

Setbacks

Farm structures must meet minimum setback distances specified in zoning or other local ordinances. These ordinances establish property lines and road setbacks for structures, subject to limits imposed by the Siting Law. A variance to the setback requirement may be granted by a local board of adjustments or similar body. Referenced in local ordinances, Natural Resources Conservation Services (NRCS) technical standards require that practices be constructed and operated according to standards, including setback distances. For example, manure storage structures must be located 400 feet from a sinkhole, and manure cannot be applied within 50 feet of a well.

Air quality regulation

Certain facilities covered by the Livestock Facility Siting Law must comply with an odor standard that uses a predictive model to determine acceptable odor levels from the farm structures. The Siting Law does not provide authority to monitor and regulate air pollutants. In the future, livestock farms may be required to meet air emission standards for hydrogen sulfide and ammonia under the DNR air toxics rule NR 445, Wis. Admin.

Road access and vehicle weight limits

The Department of Transportation and local governments can restrict highway access points and impose road weight limits to prevent damage, including seasonal weight restrictions. Local requirements are determined by the authority responsible for maintaining the road.



Water-Related Regulations

State runoff management rules

State runoff rules require all livestock operations to properly store manure, divert clean water from animal lots, prevent overgrazing of streambanks, and apply manure and other fertilizers to croplands according to a nutrient management plan. In the northeastern part of the state, farms must meet targeted standards design to protect groundwater against pathogens. Most farms must be offered cost-share funding to be required to meet state standards. Farmers may have to comply with standards without cost-sharing as a condition for receiving a permit or a tax credit through the farmland preservation program.



County land and water conservation departments (LCDs) are primarily responsible for implementing the runoff rules. Generally local regulations must implement state runoff standards, with limited options to address additional resource concerns. Under s. 92.15 Wis. Stats, counties and towns can impose more stringent local standards for livestock operations if the local standards are supported by water quality justifications, and have been approved by DNR and DATCP. For more information go to <http://runoffinfo.uwex.edu/>

Local manure storage and management permits

County ordinances require a permit to ensure that new or modified manure storage structures are designed and constructed according to NRCS technical standards. A nutrient management plan must be developed to ensure that stored manure is properly land applied. County LCDs help farmers identify special design considerations for sensitive sites, as well as explain other local requirements such as winter manure spreading plans. LCD contact information can be found at, <https://wisconsinlandwater.org/files/pdf/WILandWaterDirectory.pdf>

Towns and counties can adopt an ordinance under the Siting Law that requires a permit for new or expanding livestock facilities with 500 or more animal units (a few local ordinances can require a permit for smaller facilities). Siting permits are issued under a licensing ordinance or as a conditional use permit under a zoning ordinance. Through a siting permit a local government can enforce state water quality standards for manure storage, runoff and nutrient management, and also an odor management standard (see prior page). A siting ordinance can include a more stringent local standard if it is based on defensible findings of fact justifying that the local requirement is necessary to protect public health and safety. To determine where siting



State permits for large livestock operations

Livestock farms with 1,000 or more animal units, about 700 milking cows, must obtain a Wisconsin Pollution Discharge Elimination System (WPDES) permit from the DNR. Permit requirements exceed the manure management standards in the state runoff rules. State permits do not restrict the number of animals at a facility; however, permits can impose additional requirements to adequately protect water quality. For information, go to <http://dnr.wi.gov>

Stormwater and erosion control

Prior to construction activities disturbing one acre or more, landowners must obtain a DNR storm water construction site general permit, which includes post-construction stormwater management requirements. Local stormwater and erosion control approvals may also be necessary.

High capacity well permit

DNR approval is required when the combined pumping capacity of all private wells on a farm exceed 70 gallons per minute. Capacity certification may be required if a farm well serves 25 or more people daily.

Local groundwater protection

Local governments have adopted requirements designed to protect groundwater including manure spreading restrictions.

