

# TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

## CHAPTER 20 - REGULATION OF ANIMALS

### 20.01 DEFINITIONS

For purposes of this Chapter:

- (1) "At Large" means to be off the premises of the owner, and not under the direct control of the owner or some other person. A dog or cat enclosed within its owner's vehicle, or within the vehicle of another person with the owner's consent, shall be considered to be on the owner's premises, and not "at large". Neither dogs or cats shall be considered "at large" when the animal is under the direct control of its owner or authorized handler and the owner or handler has obtained prior permission from the landowner to allow the animal on the property.
- (2) "DCSO" shall mean the Dane County Sheriff's Office.
- (3) "Direct Control" means that the animal is in view of the owner or authorized handler at all times the animal is off the premises of the owner and the owner or handler has the ability to immediately physically restrain the animal.
- (4) "Domestic animal" or "animal" includes livestock, dogs, cats, birds and reptiles.
- (5) "Habitually" means three or more documented occasions within a period of 60 days.
- (6) "Humane Officer" shall mean a person appointed as a humane officer by Dane County pursuant to § 173.03, Wis. Stats.
- (7) "Impoundment" shall mean the confinement of an animal in a County-approved, supervised facility such as a veterinarian's kennel, commercially operated kennel or the Dane County Humane Society.
- (8) "Law Enforcement Officer" shall mean a person sworn as a law enforcement officer for the DCSO or another police department having jurisdiction and authority to act in the Town.
- (9) "Officer" shall mean either a Humane Officer or a Law Enforcement Officer.
- (10) "Owner" means any person who owns, harbors, keeps, or controls a dog or cat. The occupant of any premises on which a dog or cat remains, or to which it customarily returns daily, for a period of ten days, shall be presumed to be harboring or keeping the dog or cat.
- (11) "Permit" shall include the otherwise unregulated right to keep an animal currently not covered by a requirement for a Town license or permit.
- (12) "PHMDC" shall mean the Public Health Madison & Dane County, or its successor.
- (13) "Residential area" shall, for the purposes of this section, include only those parcels of land zoned principally for residential use and designated under Dane County Zoning Code as any Single Family Residence District of 2 acres or less (SFR-08, SFR-1), Two Family Residential (TFR-08), Multi-Family Residential (MFR-08) and/or the RR-1 Rural Residential, 1 to 2 acres District.
- (14) "Veterinarian" has the meaning designated under § 89.02(7), Wis. Stats.

### 20.02 RESTRICTIONS ON KEEPING DOGS AND CATS

- (1) An owner will be in violation of this ordinance if their dog or cat, does any of the following within the Town:
  - (a) Habitually pursues any vehicle upon any street or highway.

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

- (b) Assaults, or attacks any person.
- (c) Is at large.
- (d) Habitually barks or howls to the reasonable annoyance of any person.
- (e) Kills, wounds, or worries any domestic animal.
- (f) Is suspected of biting a person, or being infected or exposed to rabies; has not been quarantined as specified in § 95.21(4)-(5), Wis. Stats.
- (g) Exhibits symptoms of rabies, as determined by a veterinarian, during a quarantine period; and has not been destroyed as specified in § 95.21(5)(d), Wis. Stats.
- (h) Defecates in any public park or recreation area, or within any public right-of-way within the Town, without the waste or manure being immediately collected and removed by the person in control of said animal. This section shall not apply to a person who is visually or physically handicapped.
- (i) Being a dog more than five months of age, which is not licensed in accordance with the provisions of §§ 174.05 and 174.07, Wis. Stats.
- (j) Defecates upon any private property, other than that owned or occupied by the animal's owner or caretaker, without the waste or manure being immediately collected and removed by the person in control of said animal. This section shall not apply to a person who is visually or physically handicapped.

### (2) ANIMAL WASTE DISPOSAL

A person will be in violation of this ordinance if, within the Town, the person knowingly deposits, dumps, disposes or otherwise places animal waste or manure in any public park, recreation area, public right of way, or private property not owned or leased by the person, unless the person has permission from the property owner to do so. This section shall not apply to a person who is visually or physically handicapped.

### (3) POLICE K-9 DOGS EXEMPTED

A police "K-9" dog shall not be considered in violation of the provisions of (1)(a)-(1)(h), at any time it is on duty with its handler. This exemption applies to K-9 dogs assigned to any appropriately trained law enforcement officer in the state.

### (4) LICENSING OF DOGS

- (a) The provisions of §§ 174.05 - 174.09, Wis. Stats. are hereby adopted and made a part of this ordinance with the same force and effect as if they were fully reprinted herein.
- (b) No person shall own or keep any dog more than five months of age without obtaining a dog license from the Town Treasurer.
- (c) The licensing year shall be from January 1 through December 31.
- (d) A license fee, set by resolution of the Town Board, shall be paid annually to the Town Treasurer, along with submission of the Town application form (available from the Town Clerk), in addition to the dog license fee imposed by Dane County.
- (e) A late fee, set by resolution of the Town Board, shall be paid to the Town Treasurer in addition to the license fee for any dog that is required to be licensed under (b) above but is not

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

licensed before April 1st.

### (5) DUTY OF OWNER IN CASE OF DOG OR CAT BITE

(a) Every owner who knows, or reasonably could believe, that their dog or cat has bitten any person, shall immediately report the incident to the Dane County Sheriff's Department; and shall keep the animal quarantined under the supervision of a veterinarian, for not less than 14 days after the incident occurred.

(b) The owner of any such dog or cat, shall surrender it for veterinary examination on the first and last day of isolation, and on one intervening day and shall be responsible for any expenses incurred as a result of such examinations.

(c) No person shall remove any dog or cat from quarantine, until the veterinarian certifies that the animal has not exhibited any signs of rabies.

### (6) IMPOUNDMENT OF DOGS AND CATS

(a) In addition to any penalty imposed against owners of animals which are in violation of this ordinance, any law enforcement officer of the Town may impound any dog or cat in accordance with the provisions of § 174.046, Wis. Stats.

(b) Owners or their authorized representatives may repossess dogs and cats impounded under this section, by:

1. Providing their name, address, and telephone number.
2. Paying the cost of keeping the dog or cat to the place of impoundment.
3. Providing evidence that a dog is vaccinated against rabies, or a receipt from a licensed veterinarian for prepayment of a rabies inoculation.
4. Providing evidence that a dog is licensed in accordance with (4).

(c) Dogs impounded for a minimum of seven days shall be considered to be unclaimed, and may be disposed of in accordance with the provisions of § 174.13, Wis. Stats.

### (7) ENFORCEMENT

Any person who believes that a dog, cat, or an owner, has violated this ordinance, shall file a complaint with the Dane County Sheriff's Department. Upon request of the municipal court, the person complaining, shall sign a formal written complaint, and appear in court to testify in support of their complaint.

### (8) PENALTY FOR VIOLATION

Violations of this ordinance shall be punishable as Class C forfeitures, under TCG § 25.04.

### (9) EFFECTIVE DATE

(a) The original dog ordinance was adopted January 6, 1992, with the licensing provisions adopted March 2, 1992. Animal Waste Disposal was added June 18, 2007.

(b) This section shall take effect upon passage and publication.

## 20.03 OFFENSES AGAINST ANIMALS

### (1) STATE STATUTES INCORPORATED BY REFERENCE

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

The following Wisconsin Statutes defining offenses against animals are hereby adopted by reference. Any future amendments, revisions or modifications of the Wisconsin Statutes incorporated herein by reference are intended to be made part of this Code. The penalty for the commission of such offenses shall be limited to a forfeiture imposed under TCG § 25.04. For convenience, ordinances incorporating the Wisconsin Statutes may be referred to using the prefix “20” and the Wisconsin Statute. That is, as 20- \_\_\_\_\_ (insert Wisconsin Statute number).

951.01 Definitions.

951.015 Construction and application.

951.02 Mistreating animals.

951.025 Decompression prohibited.

951.03 Dognapping and catnapping.

951.04 Leading animal from motor vehicle.

951.05 Transportation of animals.

951.06 Use of poisonous and controlled substances.

951.07 Use of certain devices prohibited.

951.08 Instigating fights between animals.

951.09 Shooting at caged or staked animals.

951.095 Harassment of police and fire animals.

951.097 Harassment of service dogs.

951.10 Sale of baby rabbits, chicks and other fowl.

951.11 Artificially colored animals; sale.

951.13 Providing proper food and drink to confined animals.

951.14 Providing proper shelter.

951.15 Abandoning animals.

(2) EFFECTIVE DATE

(a) The referenced state statutes were adopted as part of TCG § 20.02, on June 7, 1993. This section was last amended on October 6, 2014.

(b) This section shall take effect upon development, passage and publication (when required by law).

### **20.04 OTHER ANIMAL REGULATIONS**

(1) OWNERS OR CUSTODIANS TO CONTROL ANIMALS.

(a) An owner or custodian of an animal shall not permit, whether negligently or otherwise, the animal to run at large. An animal is considered to be running at large if it is off the premises of the owner or custodian and not under the control of the owner or custodian.

(b) When an animal is off the property of its owner or custodian, the owner or custodian shall not permit, whether negligently or otherwise, the animal to attack, bite or otherwise injure:

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

1. any other domestic animal;
2. any person who is engaged in a lawful activity.

### (2) PENALTY FOR VIOLATION

Any violation of this section shall be subject to a Class D forfeiture as specified in TCG § 25.04(1)(b). Each and every day such violation occurs shall be considered a separate offense.

### (3) EFFECTIVE DATE

- (a) The original ordinance was adopted on October 6, 2014.
- (b) This section shall take effect upon passage, posting and publication (when required by law).

## **20.05 DANGEROUS ANIMALS REGULATED.**

### STATEMENT OF PURPOSE; GRANT OF AUTHORITY AND JURISDICTION

#### (a) PURPOSE OF ORDINANCE.

It is hereby declared that regulation of dangerous animals is a matter of public interest pertaining to the health, safety and welfare of residents of and visitors to the Town of Cottage Grove, and that existing laws are inadequate to deal with the threat to public health and safety posed by dangerous animals. It is further declared that the owning, keeping or harboring of dangerous animals is a public nuisance.

#### (b) GRANT OF AUTHORITY AND JURISDICTION TO DANE COUNTY HUMANE OFFICERS AND PHMDC.

Pursuant to § 173.03(3), Wis. Stats. the Town hereby affirms that a Humane Officer appointed by Dane County is fully authorized to carry out his or her duties in the Town, and shall have all powers and duties set forth in TCG Ch. 20, relevant Dane County Ordinances and Ch. 173, Wis. Stats. (See Wis. Stats. ch. 173, which is entitled "Animals; Humane Officers," for further information on Humane Officer's authority and responsibility.) The Town expressly acknowledges that, because the Humane Officers report directly to Dane County and PHMDC, PHMDC shall have the authority in the Town as is necessary for the Humane Officer to carry out his or her duties in the Town.

#### (c) GRANT OF AUTHORITY TO DCSO AND LAW ENFORCEMENT OFFICERS.

The Town acknowledges that, for various reasons outside of the Town's control, a Humane Officer will not always be available to respond to a call regarding regulation of dangerous animals within the Town. When a Humane Officer is not available within a reasonable time frame, or in the event of an emergency, the Town hereby affirms that a Law Enforcement Officer shall have the authority to apply and enforce TCG Ch. 20. Where references within TCG § 20.05 2 are made to DCSO or another law enforcement agency having jurisdiction to act within the Town.

NOTE: To reach the DCSO by telephone:

For Emergencies: 911

24 Hour Non-Emergency: (608) 266-4948

If you wish to speak to the On-Duty Officer, please call the non-emergency number which is answered by the Dane County 911 Center.

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

### (d) WISCONSIN STATUTE INCORPORATED BY REFERENCE.

To the extent not inconsistent with this section, the provisions contained in Ch 173, Wis. Stats. are hereby incorporated by reference as if set forth in full herein.

### (2) IMPOUNDMENT—BITING OR ATTACKING ANIMAL

(a) A Humane Officer or Law Enforcement Officer shall have the power to summarily and immediately impound an animal whenever the Officer has reasonable grounds pursuant to the "DETERMINATION" section of this ordinance to believe that the animal is a dangerous animal. The animal may remain impounded during the entire determination process. If the animal is determined to be dangerous, it shall remain impounded until the Owner has complied with all restrictions outlined by the DCSO or PHMDC and found in the "DANGEROUS ANIMALS RESTRICTIONS" section of this ordinance or until such time as the DCSO or PHMDC determines that the animal may be safely returned to the Owner. Any Law Enforcement Officer or Humane Officer may enter and inspect private property to enforce the provisions of this section. The Owner of the animal shall be liable to the Town and the County for the costs and expenses of impounding and keeping said animal, which costs expressly include associated legal costs incurred by the Town and other third-party costs reasonably incurred by the Town, unless the DCSO or PHMDC determination is ultimately overturned by administrative review or a reviewing court. For determinations made by the DCSO or PHMDC, administrative review shall be by the Town Board.

(b) An animal impounded pursuant to this section, may be returned to the Owner upon payment of all outstanding Town and County fees and charges including costs and expenses of impounding the animal when the investigation and determination is completed. If the animal is determined to be dangerous, the animal shall remain impounded until the Owner provides proof to the DCSO or PHMDC that the Owner has complied with all restrictions outlined by the DCSO or PHMDC and found in the "DANGEROUS ANIMALS RESTRICTIONS" section of this ordinance or until such time as the DCSO or PHMDC determines that the animal may be safely returned to the Owner.

(c) In lieu of impoundment, if there was no tearing of flesh or multiple wounds by the animal and the animal is currently immunized against rabies, or if the animal species is at low risk for transmitting this or other diseases, the DCSO or PHMDC may permit the animal to be confined at the Owner's residence provided that the Owner complies with conditions set forth by the DCSO or PHMDC.

(d) The Owner or custodian of an animal confined under Subdivision (c) above shall immediately notify the DCSO or PHMDC if said animal is loose, unconfined, has attacked or bitten or injured another animal or has attacked, bitten or injured a human being or has died. The animal shall not be sold or given away during the impoundment period.

### (3) DETERMINATION

A Humane Officer or Law Enforcement Officer shall investigate situations in which there are reasonable grounds to believe an animal is dangerous. Reasonable grounds to believe an animal is dangerous are that the animal.

(a) Has attacked, bitten or injured another domesticated animal or human being engaged in a lawful activity; or

(b) Has without provocation and off the property of its Owner, chased, confronted or approached a person in a menacing fashion such as would put an average person in fear of attack; or

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

(c) Has been trained for fighting or attack and is being handled, kept or maintained in a manner that causes or should cause an Owner to know that it potentially poses a threat to public health and safety; or

(d) Has acted in any manner that causes or should cause an Owner to know that the animal is a threat to public health and safety.

### (4) DANGEROUS OR AT-RISK ANIMAL, DECLARED

The DCSO or PHMDC, after considering appropriate evidence, may declare any animal to be a dangerous animal. The DCSO or PHMDC shall make a reasonable attempt to personally notify the Owner of the pendency of the DCSO or PHMDC's investigation and shall notify the Owner in writing of its determination. Mailing a copy of the determination to the Owner's last known address and posting in accordance with approved DCSO or PHMDC policy shall satisfy this notice requirement. The notice requirement may also be met by providing the written determination in person or via a commercial delivery service such as Federal Express.

The DCSO or PHMDC may also declare any animal to be an at-risk animal. At-risk animals shall be reevaluated periodically and may have the at-risk designation removed in appropriate circumstances. For example, the at-risk designation could be removed following satisfactory completion of obedience training and certification by the American Kennel Club (AKC) as a "canine good citizen."

### (5) DANGEROUS ANIMAL, DISPOSITION

(a) It shall be unlawful for any person to own, possess, harbor or keep any animal declared by the DCSO or PHMDC to be dangerous, except as allowed in (b) below.

(b) Any animal declared by the DCSO or PHMDC to be a dangerous animal shall be humanely destroyed, removed from the Town or placed under restrictions as set forth in this section and in DCSO or PHMDC policies. Either the Chief of the DCSO or the Director of PHMDC shall issue an order authorizing the destruction, removal or restriction of the animal within two (2) days after the time for appeal as provided in the "BOARD REVIEW OF DETERMINATION" section of this ordinance below has passed without notice of appeal being filed.

(c) Any animal declared by the DCSO or PHMDC to be dangerous, if not already impounded by the DCSO or PHMDC, shall be immediately surrendered to the DCSO or PHMDC upon the order of the DCSO or Director of Public Health, and an Officer is authorized to take up and impound any such animal.

### (6) DANGEROUS ANIMAL RESTRICTIONS

Any Owner of an animal that has been declared dangerous pursuant to this section and placed under restrictions must comply with the restrictions set forth below as well as any additional restrictions imposed by the Officer, DCSO and/or PHMDC. The Owner must provide documentation to the DCSO or PHMDC of compliance with these restrictions. Said documentation must be provided within thirty (30) days of the animal being declared dangerous.

(a) The Owner of the animal must provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

(b) The Owner must provide written proof from a licensed veterinarian that a microchip has been placed in the animal so that the animal can be easily identified. The microchip must contain the following information:

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

1. The name of the animal,
  2. The name of the Owner, and
  3. The following language "Dangerous Animal, contact DCSO at 608--266-4948.
- (c) The Owner must provide written proof from a licensed veterinarian that the animal is current with rabies vaccinations.
- (d) The Owner must provide written proof that the Owner has notified Owner's insurance provider of the dangerous animal, and written proof of coverage confirming that the Owner continues to have sufficient property damage and comprehensive liability coverage for claims related to the dangerous animal. While the Town Clerk will maintain copies of the documents that Owner submits, the Town is not undertaking the responsibility to verify the sufficiency of said insurance coverage for the benefit of third parties and shall not be held liable therefor.
- (e) The animal must be in compliance with all license requirements.
- (f) The Owner must post signs no smaller than 8x11 inches, made of metal or plastic, bearing the wording "Warning Dangerous Animal" or "Beware of Dog", no smaller than three inches high. These signs shall be posted at each entrance to the building in which the dangerous animal is kept and at each entrance through a fence and at such location as to be viewable from the public right-of-way to ensure adequate warning and visibility to anyone approaching said building and fence.
- (g) When outside but still on the property of the Owner or caretaker, the dangerous animal must be supervised by a competent adult and physically restrained at all times to prevent the animal from leaving the property. If the DCSO or PHMDC determines that the animal may be kept in a secure kennel or pen, hereinafter referred to as "structure", and not under the direct supervision of an adult, the DCSO or PHMDC may require that the structure be constructed under some or all of the following guidelines:
1. The structure shall be constructed of strong metal fencing to prevent the animal from exiting on its own volition.
  2. The structure shall be secure on all sides and have a secure top attached.
  3. The structure shall have a secure bottom or floor attached to the sides of the structure or the sides of the structure shall be embedded in the ground no less than two (2) feet.
  4. The structure shall be kept locked at all times with a key or combination lock.
  5. The structure shall provide adequate light, ventilation and shelter from the environment for the animal.
  6. The structure shall be maintained in a clean and sanitary condition.
  7. The structure must be in compliance with all other building and zoning ordinances.
- (h) The dangerous animal shall be muzzled and leashed at all times when outside and not within an "approved "structure," whether on or off the Owner's property. The muzzle must be made in a manner that will not cause injury to the animal but that will prevent it from biting any person or animal. The leash shall be attached to a secure collar that is of sufficient strength to restrain the animal. The leash shall be no longer than four (4) feet in length and must be secured by and under



## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

the direct control and supervision of a competent adult.

(i) The Owner shall allow the DCSO or PHMDC to take four (4) photographs depicting the animal and Owner as outlined below:

1. One (1) photograph showing a close view of the animal's entire face, so that the animal is recognizable,
2. One (1) photograph showing the animal's entire left side of its body, including its legs and tail.
3. One (1) photograph showing the animal's entire right side of its body, including its legs and tail, and
4. One (1) photograph showing the Owner, so that the Owner is easily identifiable. Prior to a dangerous animal being sold or given away, the current Owner must provide the name, address and telephone number of the proposed new Owner to the DCSO or PHMDC. Prior to taking physical custody of the dangerous animal, the new Owner must comply with all requirements of this ordinance and any other restriction the DCSO or PHMDC determines to be appropriate to ensure the public's safety.

To ensure compliance with this ordinance, the Owner or caretaker of a dangerous animal shall allow the DCSO or PHMDC on an annual basis and at any other reasonable time determined by the DCSO or PHMDC the opportunity to inspect the property where the dangerous animal is kept.

### (7) DANGEROUS ANIMAL LICENSE REQUIRED

[NOTE: TCG §20.05 is not intended to and does not in any way modify the general licensing requirements for dogs set forth in Ch. 174, Wis. Stats. which are incorporated by reference in the Town's ordinances, and remain in full force and effect. Licensing for dangerous animals is in addition to any other licenses or permits that are required by law.]

Any animal declared dangerous under this section, shall be required to have a dangerous animal license as set forth herein. Application for said license must be made within ten days of said declaration.

All animals that have been declared dangerous pursuant to TCG § 20.05 may not be kept within the Town of Cottage Grove unless the Owner has applied for a dangerous animal license within ten days of said declaration. The license fee shall be no less than one hundred fifty dollars (\$150) and shall be an annual license issued from January 1st until December 31st of each year, or portion thereof, and shall be set by resolution of the Town Board. The license fee may be hereafter changed by resolution of the Town Board. The license shall be issued after the Owner complies with this ordinance and all other restrictions imposed by an Officer, DCSO or PHMDC. In addition to the forfeitures specified elsewhere in this ordinance, any violation of this section may result in the DCSO or PHMDC immediately impounding the dangerous animal and conducting a new dangerous animal investigation.

### (8) SUBSEQUENT DETERMINATION AND PENALTY

(a) The DCSO or PHMDC may make a new determination if an Owner fails to comply with the terms or restrictions imposed in the "DANGEROUS ANIMAL, DISPOSITION" and/or "DANGEROUS ANIMAL RESTRICTIONS" sections of this ordinance.

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

(b) The failure of any person to comply with any term, condition or restriction imposed by the DCSO or PHMDC is a violation of this ordinance.

### (9) BOARD REVIEW OF DETERMINATION

The Owner or any person aggrieved by a DCSO or PHMDC determination declaring any animal to be a dangerous animal may appeal such determination to the Town Board by filing a notice of appeal stating the grounds therefor with the following persons: (1) Dane County Sheriff (for determinations issued by any Law Enforcement Officer) or Director of PHMDC (for determinations issued by Humane Officer); and, Town Clerk (for all determinations). Such notices of appeal shall be filed within seven days of the date of mailing of the DCSO or PHMDC Determination under subsection (4) above. Board review pursuant to this procedure is required prior to seeking court review. Failure to so obtain Board review shall be deemed a full and complete waiver of the right to any additional review of the determination.

If an appeal is timely and properly filed, the Board shall schedule a hearing on whether to affirm, conditionally affirm or reject the determination within 32 days, but not sooner than five days, and shall make reasonable efforts to notify the Owner, bite or attack. victims and their representatives, if any, witnesses and other interested parties of such hearing and the opportunity to present evidence and testimony to the Board. The Board shall, within a reasonable period of time after the hearing, issue its decision in writing and serve a copy of the same by first class mail upon the Owner and all parties requesting the same. The notice requirement may also be met by providing the written determination in person or via a commercial delivery service such as Federal Express.

### (10) APPEALS TO CIRCUIT COURT

Any person aggrieved by a determination of the Town Board under subsection (9) above may appeal such action on a dangerous animal determination to Circuit Court by writ of certiorari within ten days of notification of such final action by mailing of the decision under subsection (9).

### (11) PROSECUTION

An investigation or determination under this section shall not prohibit the Town from prosecuting the same Owner for other animal control violations relating to the same animal or other animal.

### (12) VIOLATION

(a) Any violation of this section shall be subject to a Class D forfeiture as specified in TCG §25.04. Each and every day such violation continues shall be considered a separate offense.

(b) The failure or neglect of any person to comply with any lawful order of an Officer, the DCSO or the PHMDC issued pursuant to this ordinance shall constitute a violation of this ordinance.

### (13) SEVERABILITY

In the event that any section of this ordinance shall be declared or adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the other sections of this ordinance, which shall be in full force and effect as if the said section(s) were not originally a part thereof.

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

### (14) EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication.

### **20.06 NUMBER OF ANIMALS REGULATED.**

#### STATEMENT OF PURPOSE; GRANT OF AUTHORITY AND JURISDICTION

##### (a) PURPOSE OF ORDINANCE.

It is hereby declared that regulation of the number of animals is a matter of public interest pertaining to the health, safety and welfare of residents of and visitors to the Town, and that existing laws are inadequate to deal with the harm to public health and safety posed by having too many animals in a residential area. It is further declared that the owning, keeping or harboring of too many animals in a residential area detracts from the healthful, comfortable and safe lifestyle for which such areas are created and, particularly with respect to pack animals such as dogs, is a public nuisance.

##### (b) GRANT OF AUTHORITY AND JURISDICTION TO DANE COUNTY HUMANE OFFICERS AND PHMDC.

Pursuant to § 173.03(3), Wis. Stats., the Town hereby affirms that a Humane Officer appointed by Dane County is fully authorized to carry out his or her duties in the Town, and shall have all powers and duties set forth in TCG Ch. 20, relevant Dane County Ordinances and Ch. 173., Wis. Stats. The Town expressly acknowledges that, because the Humane Officers report directly to Dane County and PHMDC, PHMDC shall have the authority in the Town as is necessary for the Humane Officer to carry out his or her duties in the Town.

##### (c) GRANT OF AUTHORITY TO DCSO AND LAW ENFORCEMENT OFFICERS.

The Town acknowledges that, for various reasons outside of the Town's control, a Humane Officer will not always be available to respond to a call regarding regulation of the number of animals within the Town. When a Humane Officer is not available within a reasonable time frame, or in the event of an emergency, the Town hereby affirms that a Law Enforcement Officer shall have the authority to apply and enforce TCG Ch. 20. Where references within TCG § 20 are made to DCSO, such authority shall also apply to the DCSO or another law enforcement agency having jurisdiction to act within the Town.

NOTE: To reach the DCSO by telephone

For Emergencies: 911

24 Hour Non-Emergency: (608) 266-4948

If you wish to speak to the On-Duty Officer, please call the non-emergency number which is answered by the Dane County 911 Center.

##### (d) WISCONSIN STATUTE INCORPORATED BY REFERENCE.

To the extent not inconsistent with this section, the provisions contained in Ch. 173, Wis. Stats. are hereby incorporated by reference as if set forth in full herein.

### (2) LIMITING NUMBER OF DOGS IN RESIDENTIAL AREA

No person or household shall own, harbor or keep more than five dogs in any residential area, with the exception that a litter of pups, or a portion of a litter, may be kept for a period of time not exceeding 18 weeks from birth.

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

### (3) EXCEPTIONS; REVOCATION OF EXCEPTIONS

Notwithstanding the limitation on the number of dogs set forth in this ordinance, those persons living in a residential area who have more than five licensed dogs on the date of adoption of this ordinance may be eligible for an exception to this limitation. This exception may be granted in the reasonable discretion of the Town Clerk; provided that the owner and household comply with all of the following requirements:

(a) Written request must be submitted to Town Clerk requesting an exception to the limitation, and including the following information: (i) identify all existing dogs in the household by breed, size and age; (ii) confirm who owns each of the dogs; (iii) describe training each dog has received; (iv) describe principal reason for owning each dog (e.g., hunting, breeding, protection, companion dog); (v) describe dog's living conditions (e.g., kennel, in-home, fenced yard); (vi) describe each dog's health and veterinary care provided; (vii) provide summary of any complaints received or made regarding each dog; and (viii) request an exception for the life of current dogs or an exception for the life of current and replacement dogs.

(b) Written request must be complete and received by the Town Clerk no later than 60 days following adoption of this Chapter.

(c) The household address where the dogs will be located shall be provided to the Town Clerk and shall be the address used by the Town for all notices related to this ordinance. Notice shall be given when sent to the household address by first class U.S. mail or commercial delivery service, or when personally delivered.

(d) None of the dogs in the household may be classified as a "Dangerous Animal" pursuant to this Chapter.

(e) The owner and household must grant an Officer the right to complete on-site inspections to verify the number of dogs, the accuracy of the information provided in the written request, and the adequacy of the dog's living conditions. This authority must be provided in writing upon request.

The Town Clerk's denial of an exception may be appealed to the Town Board, provided that written notice of appeal is given to the Town Clerk in writing within 30 days of the Town Clerk's denial of an exception. Failure to timely appeal shall bar all other remedies that may have been available to the owner and/or household.

Following receipt of a complaint, the Town Board may review any exceptions granted under this ordinance and, where appropriate, revoke the exception. The Town Board may request assistance from a Humane Officer or Law Enforcement Officer to conduct an investigation of the complaint or concerns raised by the Town Board. The Town Board's review may include, but shall not necessarily be limited to, the accuracy of the information provided in the written request under subsection (a) above and/or an on-site inspection under subsection (e) above. The Town Board may revoke an exception where the Town Board finds that the required information provided is inaccurate, there is a "Dangerous Animal" in the household, the dog(s)' living conditions are inadequate, the owner or household has violated this or another Town ordinance regulating animals, and/or based on other findings based on the totality of the circumstances presented. The Town Board's determination on revocation of an exception shall be final.

### (4) DETERMINATION

A Humane Officer or Law Enforcement Officer shall investigate situations in which there are

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

reasonable grounds to believe that an Owner is harboring or keeping dogs in excess of the limits set forth in this ordinance and shall make a determination as to the number of dogs.

### (5) VIOLATION

(a) Any violation of this ordinance shall be subject to a Class C forfeiture as specified in TCG § 25.04. Each and every day such violation continues shall be considered a separate offense.

(b) The failure or neglect of any person to comply with any lawful order or determination of the Town Clerk, an Officer, the DCSO or the PHMDC issued pursuant to this ordinance shall constitute a violation of this ordinance.

### (6) SEVERABILITY

In the event that any section of this ordinance shall be declared or adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the other sections of this ordinance, which shall be in full force and effect as if the said section(s) were not originally a part thereof.

### (7) EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication.

## 20.07 LICENSING OF LIVESTOCK FACILITIES

### (1) AUTHORITY

This ordinance is adopted pursuant to the powers granted under Wisconsin Constitution, and Wisconsin Statutes including but not limited to §§ 92.15 and 93.90, Wis. Stats. Further this ordinance is adopted pursuant to the powers granted to the Town Board under the grant of Village powers pursuant to § 60.22, Wis. Stats. for the protection of public health and safety.

### (2) PURPOSE

The purpose of this ordinance is to comply with requirements of § 93.90 of Wis. Stats. and Wis. Admin. Code ATCP 51, and to establish standards and authority to protect the public health and safety of the people of the Town. This ordinance sets forth the procedures for obtaining a license for the siting of New and Expanded Livestock Facilities in the Town.

### (3) DEFINITIONS

For purposes of this Section:

(a) “Adjacent” means located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.

(b) “Animal Unit” has the meaning that was given in Wisconsin Admin. Code NR 243.03 (3) as of April 27, 2004.

(c) “Complete application for local approval” means an application that contains everything required under s. ATCP 51.30 (1) to (4).

(d) “Expanded Livestock Facility” means the entire Livestock Facility that is created by the expansion, after May 1, 2006, of an existing Livestock Facility. “Expanded Livestock Facility” includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing or altered. Note: This chapter applies to local approvals of new or Expanded Livestock Facilities that will have 500 or more animal units (or will exceed a lower permit

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

threshold incorporated in a local zoning ordinance prior to July 19, 2003). Although this chapter covers all Livestock Structures in an “Expanded Livestock Facility,” existing structures are subject to less rigorous standards than new or expanded structures, and are completely exempt from certain requirements.

(e) “Expansion” means an increase in the largest number of animal units kept at a livestock facility on at least 90 days in any 12-month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an “expansion” unless that operator increases the largest number of animal units kept at the combined livestock facilities on at least 90 days in any 12-month period. Note: See s. ATCP 51.04.

(f) “Livestock” means domestic animals traditionally used in this state in the production of food, fiber or other animal products. “Livestock” includes cattle, swine, poultry, sheep and goats. “Livestock” does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids or mink.

(g) “Livestock Facility” means a feedlot, other than a pasture, where animals used in the production of food, fiber or other animal products are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. “Livestock Facility” does not include an aquaculture facility.

(h) “Livestock Structure” means a building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a Livestock Facility. “Livestock Structure” includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. “Livestock Structure” does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

(i) “Manure” means excreta from livestock kept at a livestock facility. “Manure” includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.

(j) “New Livestock Facility” means a Livestock Facility that will be used as a livestock facility for the first time, or for the first time in at least 5 years. “New Livestock Facility” does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years. Note: This chapter applies to local approvals of New or Expanded Livestock Facilities that will have 500 or more Animal Units (or will exceed a lower permit threshold incorporated in a local zoning ordinance prior to July 19, 2003).

(k) “Operator” means a person who applies for or holds a local approval for a Livestock Facility.

(l) “Person” means an individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.

(m) “Populate” means to add animal units for which local approval is required.

(n) “Property line” means a line that separates parcels of land owned by different persons.

(o) “Related Livestock Facilities” means Livestock Facilities that are owned or managed by the same person, and related to each other in at least one of the following ways:

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

1. They are located on the same tax parcel or adjacent tax parcels of land. Note: A mere acquisition of a neighboring Livestock Facility does not constitute an “expansion” unless more animal units are added to the combined facilities. See sub. (e).
2. They use one or more of the same Livestock Structures to collect or store manure.
3. At least a portion of their manure is applied to the same landspreading acreage “Related Livestock Facilities” are treated as a single Livestock Facility for purposes of local approval, except that a “Separate Species Facility” may be treated as a Separate Livestock Facility. See subs (g) and (p).

(p) “Separate Species Facility” means a Livestock Facility that meets all of the following criteria:

1. It has only one of the following types of livestock, and that type of livestock is not kept on any other Livestock Facility to which the Separate Species Facility is related under sub. (p):
  - Cattle
  - Swine
  - Poultry
  - Sheep
  - Goats

*Note: For purposes of par. 1, cattle and poultry are different “types” of livestock, but dairy and beef cattle are livestock of the same “type” (“cattle”). Milking cows, heifers, calves and steers (all “cattle”) are livestock of the same “type.” Turkeys, ducks, geese and chickens are livestock of the same “type” (“poultry”).*

2. It has no more than 500 Animal Units.
3. Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by Livestock Facilities to which it is related under sub. (o).
4. It meets one of the following criteria:

Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related under sub. (o).

It and the other livestock facilities to which it is related under sub. (o) have a combined total of fewer than 1,000 animal units.

(q) “Waste storage facility” means one or more waste storage structures. “Waste storage facility” includes stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. “Waste storage facility” does not include equipment used to apply waste to land.

(r) “Waste storage structure” means a waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. “Waste storage structure” does not include equipment used to apply waste to land. For purposes of ss. ATCP 51.12 (2) and 51.14, “waste storage structure” does not include any of the following:

1. A structure used to collect and store waste under a livestock housing facility.

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

2. A manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.

(s) “WPDES permit” means a Wisconsin pollutant discharge elimination system permit issued by DNR under ch. NR 243. History: CR 05-014: cr. Register April 2006 No. 604, eff. 5-1-06.

The remaining definitions in ATCP 51 are hereby incorporated by reference without reproducing them in full in this ordinance.

### (4) LICENSE REQUIRED

#### (a) General

A license issued by the Town is required for New or Expanded Livestock Facilities that will have 500 or more Animal Units.

#### (b) Licenses for Existing Livestock Facilities

1. A license 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 all of the following:

The applicable size threshold for a license.

The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number kept on (May 1, 2006 or on the effective date of the license requirement, whichever date is later)

2. A license is not required for livestock facility that existed before May 1, 2006 or before the effective date of the license requirement in this ordinance, except as provided in sub. 1
3. A license is not required for livestock facility that was previously issued a conditional use permit, license or other local approval, except as provided in sub. 1. A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.

### (5) LICENSING ADMINISTRATION

The Town does hereby create the position of Livestock Facility Siting Administrator who shall have the primary responsibility of administering this ordinance and related matters thereto. The Livestock Facility Siting Administrator shall be appointed by the Town Board to serve at the pleasure of said board.

### (6) LICENSING STANDARDS

The standards for issuing a license are as follows:

(a) The state livestock facility siting standards adopted under Wisconsin Admin. Code, ATCP 51 inclusive of all appendixes and worksheets and any future amendments to this chapter, except as may be noted in this section of the ordinance, are incorporated by reference in this ordinance, without reproducing them in full.

(b) The following setbacks shall apply to livestock structures:



## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

1. Property lines: Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1,000 animal units, and 200 feet from the property line if the livestock facility will have 1,000 or more animal units.

The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the property line.

2. Public road right-of-way: Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units.

The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the public road right-of-way.

3. Waste Storage Structure: A new waste storage structure may not be located within 200 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way.

A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

- Located on the same tax parcel as a waste storage structure in existence before May 1, 2006.
- No larger than the existing structure.
- No further than 50 ft. from the existing structure.
- No closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within 200 feet of a property line or road may not expand toward that property line or road.

### (7) LICENSE APPLICATION

A livestock operator must complete the application form and worksheets prescribed by Wisconsin Admin. Code ATCP 51, including any authorized local modifications. The application form and worksheets demonstrate compliance with standards in ATCP 51 and this ordinance.

The operator must file four copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.

### (8) LICENSE APPLICATION FEE

A non-refundable application fee of \$750 payable to the Town of Cottage Grove shall accompany an application for the purpose of offsetting the Town costs to review and process the

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

application.

### (9) APPLICATION PROCEDURE

(a) Pursuant to Wisconsin Admin. Code ATCP 51.30(5), within 45 days after the Town receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the Town shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed Livestock Facility.

(b) Pursuant to Wisconsin Admin. Code ATCP 51.30(6), within 14 days after the Town notifies an applicant that the application is complete, the Town shall notify adjacent landowners of the application. The Town shall use the approved notice form in Wisconsin Admin. Code ATCP 51, and mail by first class mail a written notice to each adjacent landowner.

(c) Upon determination of completeness the Town Clerk shall give notice of a public hearing to receive information from the applicant and receive public input on the application. Public notice shall be a Class 2 notice the last of which is at least a week before the date of the public hearing. The public hearing may be continued, but final decision shall be made within the time limits described in the next paragraph.

(d) Pursuant to ATCP 51.32, the Town shall grant or deny an application within 90 days after the Town gives notice that the application is complete under paragraph (c) above. The Town may extend this time limit for good cause, including any of the following:

1. The Town needs additional information to act on the application.
2. The applicant materially modifies the application or agrees to an extension.

The Town shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the town will act on the application.

### (10) CRITERIA FOR ISSUANCE OF LICENSE

(a) A license shall be issued if the application for the proposed Livestock Facility:

1. Complies with this ordinance, and
2. Is complete, and
3. Contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed Livestock Facility meets the standards specified in this ordinance, specifically Section (6) above.

(b) A license shall be denied if any of the following apply:

1. The application, on its face, fails to meet the standard for approval in the previous paragraph,
2. The Town finds, based on other clear and convincing information in the record, that the proposed Livestock Facility does not comply with applicable standards in this ordinance.
3. Other grounds authorized by § 93.90, Wis. Stats., that warrant disapproving the proposed Livestock Facility.

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

### (11) RECORD OF DECISION

The Town must issue its decision in writing. The decision must be based on written findings of fact supported by evidence in the record. Findings may be based in part on the presumptions created by Wisconsin Admin. Code ATCP 51.

If the Town approves the application, it must give the applicant a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.

The Town Clerk as required by Wisconsin Admin. Code ATCP 51.36 within 30 days of the Town decision on the application shall do all of the following:

- (a) Give the Department of Agriculture, Trade and Consumer Protection written notice of the town decision.
- (b) File with the Department a copy of the final application granted or denied, if the town has granted or denied an application under this ordinance. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.)
- (c) If the Town has withdrawn a local approval under this ordinance, file with the department a copy of the town final notice or order withdrawing the local approval.

*Note the information in this paragraph shall be submitted to the Department of Agriculture, Trade and Consumer Protection at the following address:*

Wisconsin DATCP—Agricultural Resource Management Division  
Bureau of Land and Water Resources  
P.O. Box 8911  
Madison, Wis. 53708-8911  
Fax (608) 224-4615

### (12) TRANSFERABILITY OF LICENSE

A license 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. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application.

The Town requests that 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.

### (13) EXPIRATION OF LICENSE

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

- (a) Begin populating the New or Expanded Livestock Facility.

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

(b) Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the application for local approval.

### (14) LICENSE TERMS AND MODIFICATIONS

A license and the privileges granted by a license 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 license. The Operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the town shall not withhold authorization for those changes. A violation of the license or a failure to comply with the commitments made in the application may result in suspension and/or termination of the license as provided in Section (13) of this ordinance

### (15) COMPLIANCE MONITORING

The Town shall monitor compliance with the ordinance as follows:

(a) Upon notice to the Livestock Facility owner request the right of the Town Livestock Facility Siting Administrator under Section (5) of this ordinance to personally view the licensed premises at a reasonable time and date to ensure that all commitments of the application as approved are being complied with.

(b) If the Livestock Facility owner refuses the Town Livestock Facility Siting Administrator the right to view the licensed premises, the Administrator may request the assistance of law enforcement personnel to obtain an inspection warrant from the circuit court to inspect the licensed premises for the purpose of protection of the public health and safety under § 66.0119, Wis. Stats.

(c) If a licensed premises is found not to be in compliance with the commitments made in the approved application, the Livestock Facility Siting Administrator shall issue a written notice to the Livestock Facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application and license be complied with in a reasonable amount of time stated in this written notice.

(d) If non-compliance of the license conditions as described in the written notice given by the Administrator continue past the stated reasonable time to comply, the Administrator may take further action as provided in this ordinance, including but not limited to issuance of a citation or seeking of injunctive relief.

(e) If the Livestock Facility owner disputes that the conditions of the license have not been complied with, the Livestock Facility owner may request a hearing in writing within five days of receipt of the notice of non-compliance. The Town Board shall schedule a hearing within five days to determine if the conditions of the license have been complied with or whether non-compliance of the commitments of the approved application and local approval exists.

### (16) 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) In addition to, and separate from, any penalty specified in any applicable state statute; violations of this ordinance shall be punishable as class D forfeitures, under TCG § 25.04.

## TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

- (b) Each day a violation exists or continues shall be considered a separate offense under this ordinance.
- (c) In addition, 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 license 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.
- (e) The Town shall exercise sound judgment in deciding whether to suspend or revoke a license. The town shall consider extenuating circumstances, such as adverse weather conditions, that may affect an operator's ability to comply.
- (f) 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 § 823.06, Wis. Stats. 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 § 66.0627, Wis. Stats. unless paid earlier.

### (17) APPEALS

An "Aggrieved Person" under this section as defined in § 93.90(5), Wis. Stats. means a person who applied to the Town for approval of a livestock siting or expansion, a person who lives within 2 miles of the Livestock Facility that is proposed to be sited or expanded, or a person who owns land within 2 miles of a Livestock Facility that is proposed to be sited or expanded.

In addition to other appeal rights provided by law, § 93.90 (5), Wis. Stats, provides that any Aggrieved Person may request review by the Livestock Facility Siting Review Board of any decision by the town in connection with a permit application. An Aggrieved Person may challenge the decision on the grounds that the Town incorrectly applied the standards under this ordinance or violated § 93.30, Wis. Stats.

An Aggrieved Person may request review of any decision of the Livestock Facility Siting Administrator decision or action by the Town Board.

Any appeal brought under this section must be requested with 30 days of the Town approval or disapproval or within 30 days after the decision on appeal before the Town Board.

Any appeal to the State Livestock Facility Siting Review Board shall comply with § 93.90, Wis. Stats. and administrative rules of said board.

### (18) 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.

### (19) EFFECTIVE DATE

- (a) This ordinance shall take effect upon passage and publication.
- (b) The ordinance was adopted on September 5, 2006.