



Livestock Facility Siting

What Livestock Operators Need to Know About Livestock Facility Siting

Questions and Answers

Does the siting rule (ATCP 51) apply to all livestock operations?

No. This rule only applies to *new or expanding* livestock facilities that are covered by local ordinances, and then only if the facilities exceed the local permit threshold, which is typically 500 or more “animal units.

When does the rule apply to a farm?

The siting rule does not apply until a local government such as a county or town has adopted an ordinance. Between 2006 and 2013, 89 local governments (including 24 counties and 61 towns) adopted siting ordinances. In the same time period, 113 siting permits have been issued across the entire state, and no permits have been denied.

How do I know if my livestock facility is covered?

You can use DATCP’s interactive website, <http://datcpgis.wi.gov/livestock/> to check for any local siting regulations. Not every town and county has reported their ordinances to DATCP. You should always contact your county and town directly to ask whether there is an ordinance that requires a permit to site or expand your facility. If neither has adopted an siting ordinance, the siting requirements **do not** apply to your farm. Local approval can take the form of conditional use permit, a permit or license to operate, or feedlot construction permit.

Can I be prohibited from siting or expanding my livestock facility based on its location in a zoning district?

Yes, in certain cases if: 1) the facility is located in a nonagricultural district, or 2) it is located in an agricultural district and the local government has at least one other agricultural district that allows operations of all sizes.

What standards will I have to meet to site or expand my livestock facility? Can state standards change?

In most cases, you will only need to meet the siting standards established by state rule (ATCP 51). A local government may adopt a stricter siting standard by ordinance, but only if the standard is justified based on public health and safety. They may also require compliance with shoreland and floodplain zoning ordinances.

Once you receive a local permit, you only have to follow the standards incorporated into the permit. Over time, DATCP may review and update state siting standards in ATCP 51. Farms may be subject to these newer standards if they must later apply for a permit.

The siting standards **only** apply to new and expanding livestock facilities in areas that require local approval, and then **only** if the facilities exceed 500 or more AUs*.

*(Some towns and counties are authorized to use a lower threshold for issuing permits. Permits may not be required for expansions of less than 20 percent, even if they exceed a local permit threshold).

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Can a local government deny my siting application because of incompatible uses, traffic, noise, dust, light, workforce, scenic or lifestyle issues?

No. Ordinances cannot include local standards adopted to address public welfare concerns.

Do the same standards apply to all livestock facilities that are covered by the rule?

No. Requirements may vary according to the type, size and location of the livestock facility, and whether the facility is new or expanding. To see how the rule applies to your proposed livestock facility, you should look at the *application form and worksheets*.

Why do we need a standard related to odor?

Odor is a very real, and often highly charged, issue for neighbors and local government. The odor standard establishes a fair system for managing odor that balances the interests of farmers and their neighbors. The standard is also helps protect livestock operators against future odor challenges particularly in the case of encroaching development.

Do I have to follow other laws when I site my new or expanded livestock facility?

Yes. You also may need to comply with other laws including local manure storage ordinances, shoreland and floodplain zoning ordinances, construction site erosion control and stormwater management ordinances, and generally applicable building, electrical, and plumbing codes.

Siting Worksheets and Standards

Animal Units

Odor Management

Waste and Nutrient Management

Waste Storage

Runoff Management

What do I need to do to get my new or expanding livestock facility approved?

You need to submit the standard *application form and worksheets* to the appropriate local government. These forms ask for all the information needed to determine if your facility will be approved or denied. Completing the worksheets will show you in advance—before you actually submit the application—whether your facility will qualify for approval. If you submit a complete application the local government *must approve* the application unless it has other clear and convincing information that show

that the information is incorrect.

Do I need to complete an application for local approval if I've already received a WPDES pollution discharge permit from the Department of Natural Resources?

If you already hold a WPDES permit for the same facility from DNR (that covers the number of animal units you are proposing), you may submit your WPDES permit in lieu of worksheets 3, 4 and 5.

Will I need professional help to complete the application?

Yes. Your county land conservation department may be able to help (if they are not the permit issuing agency), but you may need to hire some services. To prepare a complete



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application, you will need the following help (check first with your county land conservation department):

- A registered professional engineer or certified agricultural engineering practitioner to evaluate your waste storage facilities and runoff management.
- A qualified nutrient management planner, if your proposed facility is required to complete the nutrient management checklist.

What are the costs and benefits related to livestock facility siting rule?

This rule is designed to ensure the standards, process, and costs are predictable and reasonable. Major costs of compliance such as those for manure storage and nutrient management planning are expense that are imposed by other regulations. Some costs for odor control practices are new. However, farmers benefit from the “right to farm” protections in the law. Siting permits are permanent and transferable. They document compliance with state standards. Permits add certainty for future expansions by establishing a fixed point for measuring a farm’s odor score.

Will I have to pay an application fee or post a bond or other security?

A local government can charge a reasonable fee, not to exceed \$1000, to offset its costs to review and process an application. The fee must be set by local ordinance. A local government may not charge any other fee, or require the applicant to pay any bond or security.

Does a local government have to offer me cost-sharing to help me meet the standards?

No. However, a local government may provide cost-sharing for conservation practices if it wishes. Cost-sharing and other investment grants may also be available from other sources.

Can I get a variances if I cannot meet a siting standard?

Local governments may grant variances to reduce setback requirements if their ordinances offer this option. However, a local government may not change the other standards you are required to meet.

Will I know if my facility is approved or denied within a reasonable time frame?

Yes. A local government must notify you, within 45 days, whether your application is complete. If the application is not complete, the local government must tell you the information that is needed. After you provide this information, the local government must notify you within 14 days that your application is complete. The local government must grant or deny your application within 90 days after it gives this notice of completeness.

The local government must return a copy of the application to you with its approval decision clearly marked. You may record this application with the Register of Deeds.

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Does the local government have to give me the reasons for its decision to approve or deny my facility?

Yes. The local government must issue its decision in writing. The decision must be based on written findings of fact, supported by evidence, included in the decision. The local government also must document its decision making process. The official record must include the application for approval, a record of any public hearing, a copy of any local ordinance cited in the decision, and other documents or evidence considered by the local government. The local government must keep the record for at least 7 years.

What if I—or my neighbor— fails to live up to the terms of approval after we site or expand our livestock facility?

A livestock operator must construct and operate the approved facility according to rule standards, and must honor representations made in the application for local approval. A local government may monitor compliance. A local government may suspend its approval, or take other action allowed under its ordinance, if approval conditions are not met. You may modify your facility as long as you continue to comply with the standards, without filing a new application. However, you must notify the local government before making those modifications, and provide documentation to show that you will remain in compliance with your permit.

Can I appeal a local government decision? Can others appeal?

Yes and yes.

Local governments often provide an internal appeal process. You may also appeal a local siting decision to the state Livestock Facility Siting Review Board (LFSRB) or court. You are not required to exhaust the local appeal process before appealing to the Board. Persons who may appeal include the applicant and people who reside or own land within 2 miles of the proposed livestock facility.

The LFSRB must review the local decision based on the evidence in the local record. The local government must certify its record to the Board within 30 days after it receives notice of the appeal. The Board must make its decision within 60 days after it receives the certified local record. The appellant or the local government may appeal the Board's decision to circuit court. The court must review the Board's decision based on the evidence in the local record.

Where can I get more information?

For more information about livestock facility siting, please contact Richard Castelnovo at richard.castelnovo@wi.gov (608-224-4608), or Chris Clayton at Christopher.Clayton@wi.gov (608-224-4630).

Also, more information can be found on this Website: <http://livestocksiting.wi.gov>