

**Imposing a Moratorium on Expansion and Creation
of Large-Scale Livestock Facilities**

Pepin County, Wisconsin

The Pepin County Board of Supervisors does ordain as follows:

Section 1. Legislative Findings

The Pepin County Farmland Preservation Plan adopted November 15, 2016, states:

“Using well sample results from 1990 for comparison, the Land Conservation Department has conducted further well monitoring of 50 wells in 2008, 2010 and 2015. The most recent results from 2015 indicate that 24 percent of the wells tested for nitrates in the County exceeded the Environmental Protection Agency’s safe Standard of 10 mg/L. The County average well nitrate level in 2015 is 6.8 mg/L.”

“The natural level of nitrate in Wisconsin’s groundwater is less than 1 mg/L. Elevated nitrate levels can be an indicator of other potential contaminants. Using the average nitrate trend for the County from sample years of 1990, 2008, 2010, and 2015, a projected average nitrate level is calculated to be 6.8 – 7.7 mg/L by 2020, 7.19 – 8.46 mg/L by 2025 and will exceed 10 mg/L by 2035-2050.”

“Ground water supplies all of the human consumption needs in Pepin County. About 44 percent of the county has bedrock within ten feet of the ground surface. Nonpoint source pollutants are the primary cause of surface water quality problems in the county. Agriculture and to a lesser extent, urban land disturbing activities are the primary sources of pollutants to the county’s surface water resources. Sources of surface water pollutants include: barnyard runoff, nutrient and sediment runoff from cropped fields, manure runoff from improperly stacked/ stored animal waste, concentrated flow erosion from cropped fields and logging trails, ephemeral erosion from cropped fields and runoff from construction projects.”

The Pepin County Comprehensive Plan 2013-2033 adopted September 18, 2013, states:

“Land Use, Goal A- Protect and provide for the public health, safety, and general welfare of the residents of the county.”

“Agriculture, Natural and Cultural Resources, Element, Goal F- Prevent introduction into the environment of chemicals, particulate matter, or biological materials which cause discomfort, disease, damage or death to humans, other living organisms, the natural environment, or built environment.”

“Goals, Strategies, Policies and Actions for Land Use, Goal B, Policies- “Work with Pepin County programs to achieve NR 151 and ATCP 50 performance standards in agricultural practices.”

“Goals, Strategies, Policies and Actions for Land Use, Goal D, Objective- Owners and developers whose operations involve exceeding seasonal road weight limitations or which create unreasonable wear-and-tear, damage or safety concerns related to a dramatic increase in traffic or other impacts so as to warrant upgrades to the existing roads, should be solely responsible for the necessary upgrades to and for the ongoing maintenance of the affected roads.”

“Goals, Strategies, Policies and Actions for Utilities and Community Facilities, Objective Water- (a) Adequate capacity for industrial and commercial expansion and (b) Encourage monitoring/ sampling for potential contaminants in groundwater.”

“Goals, Strategies, Policies and Actions for Utilities and Community Facilities, Objective Sanitary- (d.) Evaluate treatment alternatives for large scale disposal operations and (e) Develop standards for small scale alternative waste disposal options.”

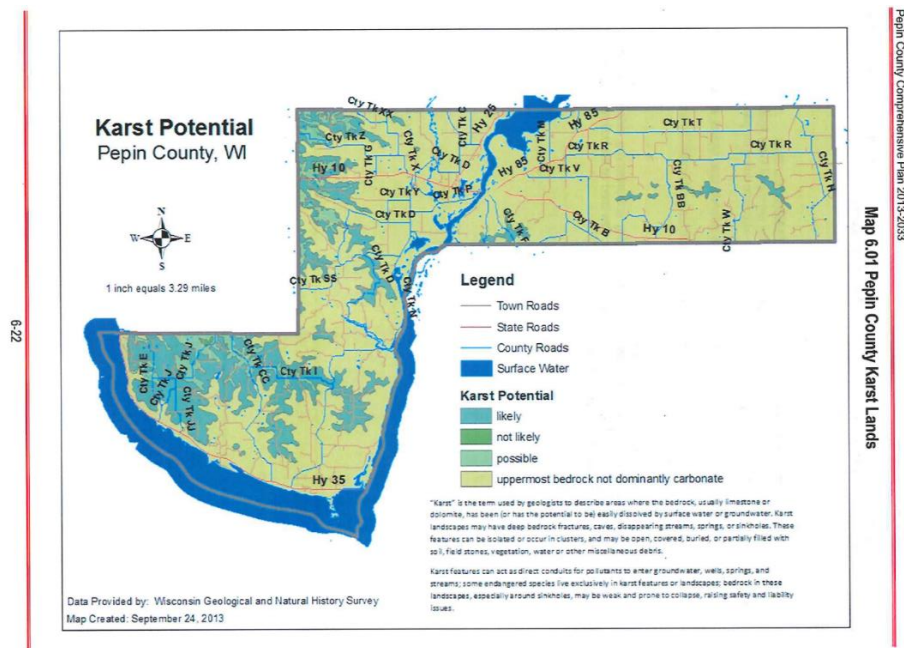
“Agriculture, Natural and Cultural Resources, Groundwater- “From 1990-2006 81% of the 59 private wells sampled collected in Pepin County met the health based drinking water level for nitrate-nitrogen. In 2002, a study estimated that 52% of private drinking wells in the region of Wisconsin that includes Pepin County contained a detectable level of an herbicide or herbicide metabolite. As of 2006, there are 102 atrazine prohibition areas in Wisconsin, covering about 1.2 million acres. Atrazine is a corn herbicide used to control weeds in corn fields. There are no atrazine prohibition areas in Pepin County.”

“Goals, Strategies, Policies and Actions For Agricultural, Natural and Cultural Resources, Goal B, Objectives- (b) Encourage land use practices that minimize environmental pollution and (c) Improve and protect surface and groundwater quality;”

“Goals for the Natural Resources Element, Goal A- Protect surface and ground water quality and quantity and Policies- (e) Adhere to EPA and State of Wisconsin guidelines regulating CAFO’s.”

“Goals for the Natural Resources Element, Goal F, Objective (a) Limit or decrease emissions from stationary, mobile, or natural sources of pollution.”

“Map 6.01 Pepin County Karst Lands, illustrates the Karst Potential in Pepin County, Wisconsin. Karst features can act as direct conduits for pollutants to enter groundwater, wells, springs, and streams.”



The Federal Clean Water Act, 33 U.S.C. Statute 1251 et. seq. (1972), established the law for regulating discharges of pollutants into the waters of the United States.

The Clean Water Act is partially encoded into Wisconsin State law under Wisconsin Chapter NR 140, Groundwater Quality, and clearly establishes the levels of pollutants, including nitrates, which must be met before a Wisconsin Pollution Discharge Elimination System (WPDES) permit can be issued.

Chapter NR 140 prohibits the issuance of a WPDES permit if groundwater nitrate levels are 10 mg/L or greater and health is impacted.

Current Pepin County Ordinances regarding large livestock facilities do not adequately protect the health, safety and welfare of Pepin County residents. It is critical that all necessary and appropriate safeguards be in place before large livestock facilities commence or expand in Pepin County.

Section 2. Authority

This ordinance is adopted pursuant to the powers granted under Wisconsin Constitution, and Wisconsin Statutes including but not limited to Sections 59.02(2), 59.03(2)(a), and 59.69.

Section 3. Purposes

The purposes of this ordinance are as follows:

1. To allow Pepin County to investigate the impacts of large-scale livestock facilities on groundwater, surface water and air quality, specifically as those issues apply in Pepin County.
2. To allow Pepin County adequate time to review current ordinances and study, review, consider and determine whether amendment of existing ordinances and/or creation and adoption of a Livestock Facilities Licensing Ordinance or other ordinance applicable in all unincorporated areas within Pepin County is required to protect the public health, safety and welfare of the residents of Pepin County and the quality of land, air and water resources of Pepin County.

Section 4. Definitions

1. “Expansion” means, for the purpose of this ordinance, the addition of livestock at a pre-existing livestock facility that would result in the number of livestock to exceed 500 animal units fed, confined, maintained, or stabled.
2. “Livestock facility” means a feedlot, dairy farm or other operation where livestock are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A “livestock facility” includes all of the tax parcels of land on which the facility is located but does not include pasture or winter grazing area. Related livestock facilities are collectively treated as a single “livestock facility,” except that an operator may elect to treat a separate species facility as a separate “livestock facility.”
3. “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:
 - (a) They are located on the same tax parcel or adjacent tax parcels of land.
 - (b) They use one or more of the same livestock structures to collect or store manure.
 - (c) At least a portion of their manure is applied to the same land spreading acreage.
4. “Separate species facility” means a livestock facility that meets all of the following criteria:
 - (a) 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. 3:
 1. Cattle.
 2. Swine.
 3. Poultry.
 4. Sheep.
 5. Goats.
 6. Mink and other furbearing animals.
 - (b) It has no more than 500 animal units.

- (c) 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. 3.
- (d) It meets one of the following criteria:
 - 1. 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. 3.
 - 2. It and the other livestock facilities to which it is related under sub. 3 have a combined total of fewer than 500 animal units.

Section 5. Moratorium Imposed

The Pepin County Board of Supervisors hereby imposes a moratorium on the establishment of all new livestock facilities that will have 500 or more animal units, and/ or the expansion of currently existing livestock facilities if the number of animal units kept at the expanded facility will be 500 or more.

Section 6. Exception

The moratorium imposed herein shall not apply to existing facilities who are not currently expanding herd size or to applicants who have submitted complete permit applications to establish or expand a livestock facility of/ to 500 or more animal units as of the date of adoption of this ordinance.

Section 7. Duration of Moratorium

This moratorium shall be in effect for a period of twelve (12) months from the date this ordinance is passed by the County Board of Supervisors unless the County Board of Supervisors rescinds this moratorium at an earlier date. This moratorium may be extended for up to twelve (12) months by a majority vote of the Pepin County Board of Supervisors.

Section 8. Action and Study During Moratorium

The Pepin County Board of Supervisors hereby directs the Pepin County Land Conservation and Planning Department to:

- 1. Research, gather, analyze, and synthesize scientific literature regarding the impact of livestock facilities of 500 or more animal units on groundwater, surface water, air quality, and public health and safety, specifically as these issues apply to Pepin County.
- 2. Identify areas where new regulations may be needed, where current regulations need to be modified, and where enforcement of current regulations is inadequate and needed to protect the public health and safety.
- 3. Propose solutions to the Pepin County Land Conservation Committee and the Pepin County Board of Supervisors. This report shall be presented no less than 90 days prior to the end of the moratorium adopted pursuant to this ordinance.

Section 9. Severability

If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Section 10. Effective Date

This ordinance shall take effect upon passage and publication as provided by law. This ordinance shall not be codified.

Enacted by the Pepin County Board of Supervisors this 21st day of March, 2018

Enacted on: March 21, 2018

OFFERED BY THE LAND CONSERVATION
COMMITTEE

Published on: March 29, 2018

/s/ Tom Milliren
Tom Milliren, Chair

ATTEST:

/s/ Audrey Bauer
Audrey Bauer, County Clerk

COUNTERSIGNED:

/s/ Dwight Jelle
Chair
Pepin County Board of Supervisors

