



February 22, 2022

Town of Laketown Board of Supervisors  
Laketown Town Hall  
2153 275<sup>th</sup> Avenue  
Cushing, Wisconsin 54006

*SENT VIA ELECTRONIC MAIL*

RE:               Opposition to the Proposed CAFO Ordinance

Chairman King:

Wisconsin Manufacturers & Commerce (WMC), the Wisconsin Dairy Alliance (WDA), and Venture Dairy Cooperative write again to demonstrate our vehement opposition to the proposed "Concentrated Animal Feeding Operations (CAFO) Ordinance." Not only is it bad policy, but it is unlawful. Your last meeting made it clear that farmers know that this ordinance would spell disaster for their livelihoods, as was evidenced by the testimony, both oral and written, at your previous meeting. Do not ignore the voices of your farming constituents.

Although we have been painted by some as outsiders, they could not be more wrong. Our organizations answer to our members and simply give them a voice. These members are not only farmers of all sizes all over the state (including members we represent from Laketown), but also those industries that rely on those farmers. When you ignore us as "outsiders" you are only ignoring them – the farmers, employers, families and taxpayers.

With that in mind we reiterate the following: It is deeply concerning to Wisconsin's business community, especially Wisconsin's agricultural sector, that the town board continues to move forward with proposals like these despite nearly unanimous opposition by farmers, agricultural business, agricultural associations, and in the strident contravention of the advice of county and town legal counsel. Farmers comprise a vital and necessary part of Wisconsin's economy. Enacting this ordinance will only serve to harm local farms and your agricultural future, and likely lead to

reputation-damaging litigation for which your taxpayers (including the farmers you are harming) will have to pay<sup>1</sup>.

Farmers are some of the most responsible conservationists of our land throughout the state. Wisconsin farmers, and especially large producers, work consistently to lower their environmental footprint through improved farming practices, including responsible and mandated nutrient management. The ability of farmers to continue to efficiently feed the world is compromised when policymakers ignore farmers and enact hostile policies like this proposed ordinance. Because of the ordinance's stifling effect, it harms not only those farmers, but the nutritionists, veterinarians, farm supply and equipment dealers and other professionals in the area that serve the farmers of Laketown.

Farmers rely on clean water and soil to be successful and sustainable. They want clean water too because their families drink it too! However, it is counter-productive to continue to barrage large producers with new regulations when your current standards that are in place are largely not being followed. Imposition of new burdensome regulations do nothing but cost farmers tremendous amounts of money while doing very little to actually improve water quality. Wisconsin CAFOs are already held to some of the highest standards in the United States. They must abide by Nutrient Management Plans and are audited annually by the DNR to ensure they are compliant. CAFOs are already subject to a zero-discharge standard per the terms of their stringent Wisconsin Pollutant Discharge Elimination System (WPDES) permit

Our members stand against this attempt to skirt state law and enact policy that will ensure no farm will be able to grow in Laketown. Eliminating a business plan option for multi-generational family farms, and negatively affecting the future value of their equity, which is often times their retirement plan, is unfair to your local farmers. Piling on a parallel regulatory scheme alongside the State's makes expansion out of the question. So, if the goal of this Board is to tell farmers to "get out" if their business plan is to grow and expand, then tell us that that is your goal. Be clear about your intention as it relates to agriculture so your farmer-constituents know where you stand. Be straightforward instead of renewing "temporary" moratoria in perpetuity or enacting extreme licensure schemes like this under the guise of improving the environment.

This Board's anti-agricultural agenda has been on display with its continued support of a moratorium despite its awareness of its legal flaws. Now that agenda continues with this anti-farm, activist-driven draft ordinance.

With this ordinance, the Board is attempting to step into the shoes of the state and implement its own regulatory scheme without any requisite authority in law, or, in fact, seemingly any concern about what they can and cannot legally do. The proposal is frankly insulting and disregards the extremely stringent regulatory scheme which already exists for large farms.

The proposed Ordinance gives the Town nearly unfettered authority to impose any condition on licensure as long as the Town determines that it is "reasonable and necessary" to protect public

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<sup>1</sup> The Town should be very careful in relying on insurance coverage for such litigation costs. Typically, insurance companies deny coverage where legal action results from conduct taken in willful disregard of legal advice and the law.

health. There are no bounds on what conditions the town might impose and moreover, no notice to the Town's constituent-farmers as to what conditions they may be subject to under the ordinance.

Moreover, under the proposal, a farmer must pay for any legal services, consulting fees or other costs incurred by the Town when it does its review of the application. This is yet another provision that intends on ensuring no farmer applies. There are not limitations on what costs a Town might incur during this process and no way for a farmer to predict what they might owe. Ordinances like these drive costs up and farmers out of Wisconsin.

Not only is the ordinance bad public policy, it is also unlawful.

If adopted, this ordinance will be unenforceable and illegal because it is preempted by and conflicts with the State Livestock Siting Law. The statute is clear that if local units of government choose to regulate livestock operations, it may only do so in a manner consistent with the state law -- a law that has been upheld by the Wisconsin Supreme Court. The ordinance conflicts with the siting law by requiring the development of multiple plans not required by state law and without establishing that such more stringent regulations are required in this specific jurisdiction. Additionally, the ordinance provides none of these plans, making compliance with the requirement impossible because there are no standards against which the Town will judge these plans for compliance with the ordinance or not. This renders the ordinance illegally vague and violates farmers' due process rights. Where water quality concerns are involved, which is pointed to throughout the ordinance, the Town must first obtain the approval of the ordinance by either DNR or DATCP to be enforceable, which has not been done. As such, the ordinance fails procedurally and is illegal to enforce. The Town should not adopt it until it corrects these problems, or it is simply inviting a lawsuit.

If you stand with farmers and believe in the responsible use of your constituents' tax dollars, you will reject this proposed ordinance.

Sincerely,

Kim Bremmer- Venture Dairy Cooperative

Cindy Leitner- Wisconsin Dairy Alliance

Scott Manley- Wisconsin Manufactures & Commerce

cc: Town of Laketown Board of Supervisors

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