

CHAPTER XII

ANIMAL WASTE STORAGE

12.101 ANIMAL WASTE STORAGE

12.10 Authority.

(1) This ordinance is adopted pursuant to authority granted in Section 92.16, 59.69, 59.70(1) Wisconsin Statutes.

12.11 Findings and Declaration of Policy.

(1) The Ozaukee County Board of Supervisors finds that storage of animal waste in storage facilities not meeting technical design and construction standards may cause pollution of the surface and ground waters of Ozaukee County and may result in actual or potential harm to the health of county residents and transients, to livestock, aquatic life and other animals and plants and to the property tax base of Ozaukee County. The Ozaukee County Board of Supervisors also finds that improper management of animal waste storage facilities, and utilization, including land application, of stored animal waste, may cause pollution of the ground and surface waters of Ozaukee County.

(2) The Ozaukee County Board of Supervisors also finds that the USDA-NRCS technical standards provide effective, practical and environmentally safe methods of storing and utilizing animal waste.

12.12 Purpose.

(1) The purpose of this ordinance is to regulate the design, siting, construction, installation, alteration, closure, and use of animal waste storage facilities, and the application of wastes from these facilities in order to prevent water pollution, and thereby protect the health and safety of residents and transients, prevent the spread of disease and promote the prosperity and general welfare of the citizens of Ozaukee County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.

12.13 Interpretation.

(1) The provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Ozaukee County and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes.

12.14 Applicability.

(1) This ordinance shall only apply to the unincorporated areas of Ozaukee County and to all animal waste storage facilities constructed therein. Animal waste storage facilities shall comply with all federal, state, and local laws, rules, and regulations.

12.15 Severability Clause.

(1) If any section, provision or portion of this ordinance is ruled invalid by a court, the remainder shall not for that reason be rendered ineffective.

12.16 Effective Date.

(1) This ordinance shall become effective upon its enactment and publication by the Ozaukee County Board of Supervisors.

12.17 Definitions.

(1) “Animal Waste” means excreta from livestock, poultry and other materials such as bedding, rain or water, soil, hair, feathers and other debris normally included in animal waste handling operations.

(2) “Animal Waste Storage Facility” means a waste storage impoundment made by constructing an embankment and or excavating a pit or dugout, or by fabricating a structure to contain manure and other animal and agricultural wastes.

(3) “Applicant” means any person who applies for a permit under this ordinance.

(4) “Earthen Animal Waste Storage Facility” means a facility above or below grade, excavated or constructed of earth dikes, pits or ponds to contain animal waste and associated liquids for storage.

(5) “Fabricated animal waste storage facility” means concrete, steel or otherwise fabricated structure used in storage of animal waste with one or more walls to contain waste and associated liquids.

(6) “Livestock”, means any horse, bovine, sheep, goat, pig, llama, domestic rabbit or domestic fowl, including game fowl raised in captivity.

(7) “Milking Center Waste” means wastewater, cleaning, ingredients, waste milk or other discharge from milking parlor or milkhouse.

(8) “Closure” means permanently disabling and sealing a leaking, abandoned or improperly sited manure storage system.

(9) “Substantially Altered” means a change initiated by an owner or operator that results in a relocation of a structure or facility or significant changes to the size, depth, or configuration of a structure or facility including:

(a) Replacement of a liner in a manure storage system

- (b) An increase in volumetric capacity or area of a structure or facility by greater than 20%
- (c) A change in a structure or facility related to a change in livestock management from one species to another such as cattle to poultry
- (10) "Nutrient Management Plan" means a written plan detailing the amount, form, placement and timing of application of plant nutrients, including animal waste.
- (11) "Permit" means the signed, typed statement issued by the Ozaukee County Land and Water Management Department under this ordinance authorizing the applicant to construct, install, reconstruct, enlarge, close or substantially alter an animal waste storage facility.
- (12) "Person" means an individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency within Wisconsin, the federal government or any combination thereof.
- (13) "NRCS" means the Natural Resources Conservation Service, an agency of the United States Department of Agriculture.
- (14) "Technical Standards" means the current written standards and specifications for animal waste storage facilities contained in the USDA-NRCS Technical Guide.
- (15) "Water Pollution" means contaminating or rendering unclean or impure the ground or surface waters of the state or making the same injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.

12.18 Activities Subject to Regulation.

- (1) Any person who constructs, installs, reconstructs, enlarges, closes, or substantially alters any animal waste storage facility or who employs another person to do the same on land subject to this ordinance shall be subject to the provision of this ordinance.
 - (a) New Construction and Alterations.
 - 1. New or substantially altered manure storage facilities shall be designed, constructed and maintained to minimize the risk of structural failure of the facility, minimize leakage of the facility in order to comply with groundwater standards, and maintain one foot of freeboard storage or adequate freeboard storage to the equivalent volume of a 25-year, 24 hour storm, whichever is greater.
 - (b) Closure.
 - 1. Closure of a manure storage facility permitted under this ordinance shall occur when an operation where the facility is located ceases operation, or manure has not been added or removed from the facility for a period of 24 months. Manure storage facilities shall be closed in a manner that will prevent future contamination of groundwater and surface waters. Compliance with NRCS Technical Guide, Standard 360, Closure of Waste Impoundments and this Ordinance is required.

2. The owner or operator may retain the facility for a longer period of time by demonstration to the Land and Water Management Department that all of the following conditions are met:

- a. The facility is designed, constructed and maintained in accordance with NR 151.05(2).
- b. The facility is designed to store manure for a period of time longer than 24 months.
- c. Retention of the facility is warranted based on anticipated future use.

(c) Abandonment.

1. Animal waste storage facilities left idle for two years, where manure has not been added or removed for a period of 24 months are considered abandoned. Facilities once abandoned must comply fully with this ordinance before they can be used again.

2. A person is in compliance with this ordinance if the procedures of this ordinance have been followed, a permit from the Ozaukee County Land and Water Management Department has been issued prior to commencing construction activities subject to regulation under this section and there is full compliance with requirements of the permit.

12.19 Standards.

(1) All standards and specifications for design, construction, closure and management of animal waste storage facilities are those in Standards (313) Waste Storage Facility, 634 (Manure Transfer), 360 (Closure of Waste Impoundments) of the USDA-NRCS Technical Guide.

(2) The standards for management and utilization of animal waste are those in Standard 590 of the USDA-NRCS Technical Guide.

(3) The standards of the USDA NRCS Technical Guide are adopted and reference made a part of this ordinance as if fully set forth. Any future amendment, revision or modification of the standards incorporated herein are made part of this ordinance.

12.20 Application and Issuance of Permits.

(1) Except as hereinafter provided, no person may undertake an activity subject to this ordinance without first obtaining an Animal Waste Storage Permit from the Ozaukee County Land and Water Management Department.

(2) Emergency repairs for broken pipes or equipment, leaking dikes or the removal of obstructions may be performed without a permit from the Land and Water Management Department. If such repairs alter the original design and construction of the facility, the person who initiates such repairs shall make a report to the Land and Water Management Department within 2 days of the emergency. The determination as to need for additional work and a permit shall be rendered by the Land and Water Management Department within 2 days of the aforementioned report.

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(3) Each application for a permit under this ordinance shall include an Animal Waste Storage Facility Plan and a Nutrient Management Plan. Technical assistance for animal waste storage facility plan development shall be made available to applicants, upon request, through the Land and Water Management Department in cooperation with the Natural Resources Conservation Service, or the services of a private consultant may be employed. Such plans shall include the following:

(a) A plan map showing location of the facility, including buildings and homes within 300 feet of the proposed sight. The sketch shall be drawn to scale, with a scale no smaller than 1 inch = 100 feet.

(b) The location of any wells within 300 feet of the facility.

(c) A minimum of 3 soil test pits. The location and elevation of all soil test pits, including a detailed log of each pit to a depth of at least 5 feet below the planned bottom elevation of the facility.

(d) Depth seasonably of high ground water, estimated or observed, in the soil profile and date determined.

(e) Depth to bedrock, estimated or observed, in the soil profile and date determined.

(f) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater. The location of any navigable body of water within 500 feet of the proposed site must be shown.

(g) The number(s) and type(s) of animals for which storage is to be provided.

(h) Quantity of milking center waste based on gallons per day if adding into a waste storage facility.

(i) Planned duration of storage expressed in days or months and volume of storage expressed in cubic feet.

(j) Description of the type(s) of materials the facility is to consist of: size, dimensions and cross sections of the facility and any other specific details, including but not limited to, concrete, concrete thickness in floors and walls, steel schedules and fencing.

(k) A time schedule for construction of the facility.

(l) Description of how waste will be transferred into and removed from facility.

(m) Scale of the plan drawing(s) and north arrow.

(n) Description of bench mark(s) including elevation(s) expressed in feet and hundredths.

(o) The Nutrient Management Plan that complies with ATCP 50.04 (3) is required to ensure that suitable area is available for land application and crop uptake of nutrients. The Nutrient Management Plan shall specify plans for utilization of the animal waste, including the amount of land available for application of waste, identification of the areas where the waste will be used, soil types and limitations on waste application due to soil limita-

tions, the crop to be grown, type and proximity of bedrock or water table, slope of land and proximity to surface water.

(4) The Land and Water Management Department shall receive and review all permit applications to determine if the proposed facility will comply with ordinance requirements. The procedure will generally be as follows:

(a) Prior to issuance of a permit, animal waste storage facility plans shall be approved either by the NRCS Area Engineer or designee, by a registered professional engineer or by a Land and Water Management Department staff person having the appropriate engineering job approval authority.

(b) Within 30 days after the final completed application has been received and acknowledged by the Land and Water Management Department, the applicant shall be notified in writing whether the application has been approved or disapproved. If additional information is required, the Land and Water Management Department shall notify the permit applicant. The Land and Water Management Department have 14 working days from the receipt of the additional information in which to approve or disapprove the application. Approval of such plans may be conditional based on site specific requirements determined by the Land and Water Management Department or NRCS.

(5) All permits issued under this ordinance shall be issued subject to the following conditions and requirements:

(a) The animal waste storage facility design and construction shall be carried out in accordance with the facility plan and standards specified in Section 12.20 of this ordinance.

(b) Any person applying for a permit under this ordinance must develop a Nutrient Management Plan as part of the application process in order to demonstrate their ability to utilize the animal waste in an environmentally safe manner.

(c) Any modification to an approved facility plan must be approved in writing by the Land and Water Management Department. Written approval by the Department shall occur only after the NRCS Area Engineer or designee, registered professional engineer or Land and Water Management Department staff person having the appropriate engineering job approval authority has reviewed and verbally approved the proposed modifications.

(d) All activities authorized by permit must be completed within 2 years from the date of issuance, after which time such permit shall be void, unless an extension is approved by the Land and Water Management Department.

(e) The permittee and the contractor, if any, shall certify in writing that the animal waste storage facility was installed as planned.

(f) The permittee shall give 2 working days notice to the Land and Water Management Department before starting any construction activity authorized by the permit.

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12.21 Permit Fee.

- (1) There will be no charge for this permit.

12.22 Permit Revocation.

- (1) The Land and Water Management Department may revoke any permit issued under this ordinance if the permit holder has misrepresented any information in the permit application or animal waste facility plan or if the person violates any of the conditions of the permit.

12.23 Administration.

- (1) The Land and Water Management Department shall administer and enforce this ordinance.
- (2) In the administration and enforcement of this ordinance, the Land and Water Management Department shall:
 - (a) Keep an accurate record of all permit applications, Animal Waste Storage Facility Plans, Nutrient Management Plans, permits issued, inspections made and other official actions.
 - (b) Review permit applications and issue permits in accordance with Subsection 12.20 of this ordinance.
 - (c) Inspect animal waste storage facility construction to insure the facility is being constructed according to plan specifications.
 - (d) Investigate complaints relating to compliance with this ordinance.
 - (e) Perform other duties as specified in this ordinance.
 - (f) Provide technical services to the applicant to the extent resources are available.
- (3) The Land and Water Management Department shall be authorized, to enter upon any lands affected by this ordinance, to inspect the site prior to and after permit issuance to determine compliance with the ordinance. If permission cannot be received from the applicant or permittee, entry by the Land and Water Management Department Director or designee shall be according to Section 66.0119, Wis. Stats.
- (4) The Land and Water Management Department is authorized to post a stop work order on land that has had a permit revoked or is currently undergoing activity that is violating this ordinance. Notice shall be given to the violator of this ordinance by both posting one or more copies of a legal notice on the site stating the violation and by mailing to the landowner a copy of the order by certified mail. The order shall specify that the activity shall cease immediately.
 - (a) Any permit revocation, or order stopping work, shall remain in effect until retracted by the Environment and Land Use Committee, the Land and Water Management Department or by a court of competent jurisdiction or until the activity is brought into compliance with the ordinance.

(b) The Land and Water Management Department is authorized to refer any violation of this ordinance, or of a stop work order issued pursuant to this ordinance, to the Corporation Counsel for commencement of legal proceedings.

(5) A violation includes any failure to comply with any standard of this ordinance, with any condition or qualification attached to any permit or any failure to comply with notice of a permit revocation or stop work order. Each day that a violation exists shall be a separate offense.

(a) Any person who violates, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this ordinance shall be subject to a forfeiture of not less than (\$9.00) nor more than two hundred dollars (\$200.00) per offense, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense.

12.24 Appeals from Administrative Decisions.

(1) Under the authority of Chapter 68, Wisconsin Statutes, the Land Conservation Committee, created under Section 59.70 (19), Wisconsin Statutes, and under Section 2.03 5(c) of the Ozaukee County Policy and Procedural Manual and acting as an appeal authority under Section 68.09 (2), Wisconsin Statutes, shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by the Land and Water Management Department in administering this ordinance.

(2) Any appeal shall be made by written request mailed or delivered to the Ozaukee County Environment & Land Use Committee, c/o Land and Water Management Department, Post Office Box 994, Port Washington, Wisconsin 53074-0994. The request shall state the ground or grounds upon which it is contended that the decision should be modified or reversed. The Committee shall, as soon as reasonable, but no later than its next regular meeting, review the determination under appeal.

(3) Appeals may be made by any person having a substantial interest which is adversely affected by the order, requirement, decision or determination for which review is sought.