CHAPTER 22

ANIMAL WASTE AND MANURE MANAGEMENT

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22.02 ANIMAL WASTE AND MANURE MANAGEMENT (CR #256)

(1) INTRODUCTION

(a) Authority. This chapter is adopted under authority granted by Sections 59.02, s.59.03 and 92.16 Wis. Stats.

(b) Title. This chapter shall be known, referred to, and cited as the, "County Animal Waste and Manure Management Ordinance"

(c) Findings and Declaration of Policy.

1. The County Board finds that storage of animal waste and manure in storage facilities not meeting technical design and construction standards may cause pollution of the surface and groundwaters of the 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 the County;

2. The County Board finds that the technical standards developed by the U.S.D.A. Natural Resources Conservation Service and adopted by the County Land Conservation and Agriculture Committee provide effective, practical and environmentally safe methods of storing animal waste and manure.

(d) Purpose. The purpose of this chapter is to regulate the location, construction, installation, alteration, design, operation, maintenance, abandonment, and the application of waste and manure from all storage facilities covered by this Ordinance; in order to prevent water pollution and thereby prevent the spread of disease; to further the appropriate use and conservation of land and water resources for its communities; and promote the prosperity, aesthetics and general welfare of the citizens of the County. It is also intended to provide for the administration and enforcement of this section and to provide penalties for its violation.

(e) Applicability. This ordinance applies to the entire geographical area of Jackson County.

(f) Interpretation. In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the County, and

shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

(2) DEFINITIONS

(a) Animal Manure. The fecal waste and excreta from domestic livestock, poultry or other animals kept for agricultural purposes. For the purpose of this chapter substances found in the manure (for example, bedding materials [straw, wood shavings, etc.], water from precipitation, milkhouse water, etc.), will be considered a part of the animal manure.

(b) Applicant Any person who applies for a permit under this chapter.

(c) Earthen Animal Manure Storage Facility. An animal manure storage facility which is constructed and lined totally or lined partially with solid materials, and in which the animal manure stored within the facility comes in direct contact with the earthen liner at any time.

(d) Engineering Field Handbook (EFH). A manual of engineering technical data published by the USDA Natural Resources Conservation Service.

(e) Existing Concrete Liners in Storage Facility. A concrete liner found within an animal waste and manure storage facility which fully or partially covers the bottom and/or the sidewalls of a waste and manure storage facility that has been installed and placed in use at a livestock operation in Jackson County prior to the adoption of this ordinance.

(f) Existing Earthen Storage Facility. An earthen animal waste and manure storage facility which has been installed and placed in use at a livestock operation in Jackson County prior to the adoption of this ordinance.

(g) Idle Storage Facility. A waste and manure storage facility which is:

1. No longer being used for its intended purpose and no longer having any additional

animal waste and manure placed into it.

2. Has not had any animal waste and manure placed into it for a period of one year.

3. Will, by all the evidence available, not again be used to store animal waste and manure by an active livestock operation.

4. Does not meet current Technical Guide standards.

(h) Land Conservation Department (LCD). The department of Jackson County government which is responsible for soil and water conservation activities in Jackson County.

(i) Land Conservation and Agriculture Committee (LCAC). A committee made up of members of the Jackson County Board of Supervisors and others who, by authority from Chap. 92, Wisconsin Statutes, determine policy and give direction for soil and water conservation activities. The Land Conservation and Agriculture Committee also provides direction for the Land Conservation Department. The Land Conservation and Agriculture Committee shall be the decision making board for purposes of this ordinance.

(j) Long-term Storage Facility. A storage facility that is intended to store animal waste and manure for more than 30 days.

(k) Malfunctioning Storage Facility. An animal waste and manure storage facility which is no longer functioning as intended, as defined by the Technical Guide and the EFH, and poses a real or potential threat to any person, the ground water, any stream, lake or river, or any other component of the environment. A malfunctioning storage facility includes, but is not limited to the following:

1. The storage facility in which the outside face of the sidewall(s) have been damaged or eroded, which may weaken the structure of the storage facility.

2. A storage facility in which there are visible and serious deformities of the structure and shape of the inside sidewalls(s).

3. A storage facility in which the waste and manure is visibly leaking through the sidewalls

or floor.

4. A storage facility in which any other serious deformity or activity that is not consistent with the design and function of a storage facility as determined by the Technical Guide and the EFH.

(l) Mismanaged Storage Facility. An animal waste and manure storage facility which is not functioning properly due to the neglect or carelessness of the owner or operator, and poses a real or potential threat to any person, the groundwater, any stream, lake or river, or any other component of the environment. A mismanaged storage facility includes, but is not limited to the following:

1. A storage facility that is overflowing or is being operated improperly and inconsistent with the recommended operating methods as defined by the Technical Guide and the EFH.

2. A storage facility in which the safety devices are absent or are nonfunctional.

(m) Natural Resources Conservation Service. An agency of the United States Department of Agriculture which, for purposes of this chapter, provides the Jackson County Land Conservation and Agriculture Committee and Land Conservation Department with technical assistance and information on the design criteria, size, shape, engineering strength and other necessary technical data for the proper and safe installation of a storage facility.

(n) Nutrient Management Plan and 590. A nutrient management plan is a plan that attempts to balance the nutrient needs of a crop with the nutrients available from legume crops, manure, fertilizer, etc. Standard 590 of the technical guide is the standard that includes the nutrient management information. The nutrient management plan is required to ensure that suitable acreage is available for land application and crop uptake of manure nutrient.

(o) Permit. The signed, written statement issued by the County Conservationist with the Land Conservation Department under this section authorizing the applicant to construct, install, move, reconstruct, extend, enlarge, convert or substantially alter a storage facility.

(p) Permittee. Any person to whom a permit is issued under this chapter.

(q) Person. Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency within Wisconsin, the Federal government or any combination thereof.

(r) Safety Devices, Storage Facility. Devices which are designed to protect humans and livestock from the hazards associated with a storage facility. Safety devices include the following:

1. A fence around the storage facility constructed of woven wire with barbed wire above it or woven livestock panels no less than 4 feet in height or a fence or another design that will provide the same or greater protection as the above fence.

2. A grate covering the opening of the pump or gravity flow collection pit that will hold a minimum of 400 pounds (two people) and will not allow any person, especially a child to fall between the bars of the grate. A barrier around the transfer system may be used in lieu of the grate providing the barrier provides protection to children and others that is equal to or greater than the above mentioned grate.

3. Proper ventilation is required in the area of the manure transfer system. Ventilation can be obtained by providing two or more windows in the immediate area of the transfer system, and a circulation or exhaust fan along with an opening for air to the outside or to the other areas of the livestock building.

4. Concrete curbing or metal posts anchored in concrete that will prevent a tractor, skid steer, or any other implement from sliding into the storage facility when pushing manure to a push off ramp.

5. Gates across access roads to a storage facility. The gates shall have the same ability to keep out children and livestock as the fence for the storage facility.

6. The following components of storage facilities shall have signs posted warning of lethal gases that can accumulate. Such signs may be made available by the Land Conservation Department.

a. Gravity flow reception pits

b. Tank (concrete or steel) used for temporary storage of manure.

c. Any other area where lethal gases could accumulate, as determined by the LCD.

7. Other like devices deemed necessary by the LCD, Technical Guide or EFH.

(s) Short-term Storage Facility. A storage facility that is intended to store animal waste and manure for less than 30 days.

(t) Storage Facility. Any site or area specifically designed and/or constructed for the purpose of storage or holding of animal waste and manure. This includes any storage facility previously designed and installed meeting the NRCS Technical Guidelines current at the time of installation, any commercial-prefabricated storage facility, concreted slabs, earthen dugouts, dikes or any other area intended for the storage of animal manure. For the purposes of this chapter, a storage area intended to hold an accumulation of manure within an area excavated, or diked for the purpose of storing the manure, no matter how small that accumulation may be or how long the manure is to be stored there, shall be considered a storage facility.

For the purposes of this chapter, an animal manure stacking area where the soil surface has not been disturbed prior to the stacking operation is not considered an animal manure storage facility.

(u) Technical Guide. The document provided by the Natural Resources Conservation Service which contains technical data, including the standards referenced within this ordinance to properly and safely locate, construct, install, alter, design, operate and maintain a storage facility.

(v) Technical Standard 313. A section of the Technical Guide. This standard covers the proper location, construction, installation, alteration, design, operation and maintenance of a manure

storage structure, normally placed above ground, with a nearly level bottom, and vertical sidewalls.

(w) Technical Standard 634. A section of the Technical Guide. This section covers installation of components such as conduits, pumps, valves, and other structures or devices to transfer animal waste from buildings and yards to a storage and/or loading area for final disposal and establishes the minimum acceptable requirements for design, construction, and operation of waste transfer system components. It includes mechanical pumping or elevation differential (gravity head) systems.

(x) Technical Standard 590. A section of the Technical Guide. This standard covers managing the amount, form, placement and timing of plant nutrients and establishes the minimum acceptable requirements for the application of plant nutrients associated with organic wastes (manure and organic byproducts), commercial fertilizer, legume crops and crop residues.

(y) Transfer System. A mechanism designed to transfer the animal waste and manure from a barn or feedlot where livestock are kept to the storage facility. The transfer system generally consists of, but is not limited to, a pump or gravity flow collection basin and a pipe leading to the storage facility.

(z) Water Pollution. Contaminating or rendering unclean or impure the ground or surface waters of the state, or making same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life.

(3) ACTIVITIES SUBJECT TO REGULATION

(a) General Requirement. Any person who locates, installs, moves, reconstructs, extends, enlarges, converts, substantially alters or changes use of a storage facility or parts thereof; or who employs another to do the same, on land subject to this chapter, shall be subject to the provisions of this chapter.

(b) Malfunctioning or Mismanaged. Malfunctioning or mismanaged storage facilities are a

menace to the health and general welfare of the citizens of Jackson County; are declared to be nuisances, and shall be subject to forfeitures and injunctional provisions of this chapter. A storage facility found to be malfunctioning shall be repaired to a condition meeting the Technical Standards of Jackson County Land Conservation Department within two (2) years of the date that the storage facility is found to be malfunctioning. A storage facility found to be mismanaged shall be brought into compliance within a time frame as determined by the Land Conservation Department depending on the potential severity of the problem. The time frame will not exceed one year and compliance may include clean-up of the waste as determined by the LCD. The decision of the LCD and LCAC may be appealed to the Zoning Board of Adjustment.

(c) Idle Storage Facilities. Removal of waste and manure and restoration of an idle manure storage facility to a safe and sanitary condition, as determined by the Land Conservation Department is required within two (2) years of the time the storage facility becomes idle. The Land Conservation and Agriculture Committee may extend this time for good cause, such extension not to exceed one (1) year increments.

(d) Existing Concrete and Earthen Lined Storage Facilities. No permit shall be issued to move, reconstruct, extend, enlarge, convert or substantially alter the use of an existing concrete-lined and earthen-lined storage facility unless such changes to the facility meets the current watertight requirements of the Technical Guide or is brought up to those requirements.

(e) Short Term Storage Facility of Animal Waste and Manure. A permit is required for the installation of a storage facility intended for short term storage of waste and manure (less than 30 days). This would involve one of the following design types:

1. In ground small concrete "manure pit" and above ground concrete manure storage facility (Technical Standard 313)

2. Precast in ground concrete tank, and

3. In ground metal tank

Types 1, 2 and 3 must comply with the Technical Guide and the standards for a Type 4 shall be adopted from Department of Commerce (DOC) standards for septic tanks.

(f) Safety Devices. Certain safety devices, as defined in Chapter 22.02(2)(q) are required on all storage facilities in Jackson County.

(g) Compliance With Permit Requirements. A person is in compliance with this section if he or she follows the procedures of this section, receives a permit from the County Conservationist before beginning activities subject to regulation under this section and complies with the requirements of the permit.

(4) STANDARDS

The Technical Guide of the U.S.D.A. Natural Resources Conservation Service has been adopted by the Jackson County Land Conservation and Agriculture Committee and the Land Conservation Department. The following components of the Technical Guide will be used when a storage facility is to be constructed, installed, moved, reconstructed, extended, enlarged, converted or substantially altered: 313-Manure Storage Pond and Manure Storage Structure; 634-Waste Transfer System; and 590-Nutrient Management.

(5) APPLICATION FOR AND ISSUANCE OF PERMITS

(a) Permit Required. No person may undertake an activity subject to this chapter without obtaining a permit from the County Conservationist prior to beginning the proposed activity.

(b) Exception to Permit Requirement. All emergency repairs on the animal manure storage facility or transfer system which cause any disruption of the original construction of the storage facility shall be done so as to restore the storage facility to the original state, as determined by the technical standards set forth in Section (4) above; and such repairs shall further be reported to the Jackson County Land Conservation Department within two days.

(c) Animal waste storage facility plan required. Each application for a permit under this chapter shall include an animal waste storage facility plan. The plan shall specify:

1. The number and kinds of animals for which storage is provided, the duration for which storage is to be provided, or daily gallons of waste and manure produced.

2. A plan view of the facility and its location in relation to buildings within 250 feet and homes within 500 feet of the proposed facility. The plan view shall be drawn to scale, with a scale no smaller than 1 inch - 100 feet and a north arrow.

3. The structural details, including dimensions, cross sections, concrete thickness, design loads, reinforcing steel and material specification.

4. The location of any wells within 500 feet of the facility.

5. The soil test pit locations and soil descriptions to a depth of at least three feet below the planned bottom of the facility.

6. The elevation of seasonally high groundwater or bedrock if encountered in the soil profile and the date of any such determinations.

7. Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater. If a navigable body of water lies within 500 feet of the facility, the location and distance to the body of water shall be shown. Any floodplains should be located also.

8. A time schedule for construction of the facility.

9. A description of the method in transferring animal waste into and from the facility.

10. 590 Nutrient Management Plan.

(d) Abandonment Plan Required
Each application for an abandonment permit under this section shall include an abandonment plan. The plan shall specify:

1. A description of the type and size of the manure storage facility and an estimate of the amount of manure in the facility.

2. A description of how and where the manure and soil saturated with manure will be land applied.

3. A description of how the liner, if any, will be disposed of.

4. A description of how the manure transfer system will be removed or permanently plugged.

5. A description of how the excavated area will be filled in and where the clean fill will come from.

6. A plan view showing the final grade, the area to be reseeded, and how rain and runoff will be diverted away from the site.

(e) Animal Waste Storage Structure Setbacks

A new waste storage structure, designed to contain 30 days or more of animal manure (long-term storage facility), may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way. A new animal waste storage structure, designed to contain less than 30 days of animal manure (short-term storage facility), may not be located within 100 feet of a property line, or within 100 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 an existing waste storage structure, except that an existing short-term storage facility within 100 feet of a property line or road may not expand toward that property line or road. An existing long-term storage facility within 350 feet of a property line or road may not expand toward the property line or road.

(f) Review of Application. The County Conservationist shall receive and review all permit applications and shall determine if the proposed facility meets required standards set forth in sub. (4) of this chapter. Within 15 days after receiving the completed application and fee, the County Conservationist shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the Conservationist shall so notify the permit applicant. The Conservationist has 15 days from the receipt of the additional information in which to approve or disapprove the application. If the County Conservationist fails to approve or disapprove the permit application in writing within 15 days of the receipt of the permit application or additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.

(g) Permit Conditions. All permits issued under this chapter shall be issued subject to the following conditions and requirements. Activities authorized by permit shall be completed within two (2) years from the date of issuance after which such permit shall be void.

1. Storage facility design and construction shall be according to LCD approved storage facility plan.

2. The permittee shall give five (5) working days' notice to the Land Conservation Department before starting any construction activity authorized by the permit.

3. Approval in writing shall be obtained from the LCD prior to any modifications to the approved storage facility plan.

4. The permittee and, if applicable, the contractor, shall certify in writing that the facility

was installed as planned.

(h) Permit Revocation. The County Conservationist may revoke any permit issued under this chapter if the holder of the permit has misrepresented any material fact in the permit application or storage facility plan, or if the holder of the permit violates any of the conditions of the permit.

(6) ADMINISTRATION.

(a) Delegation of authority. The County hereby designates the County Conservationist, or that person's representative, to administer and enforce this section. The County Conservationist shall adopt policies and standards for the regulation of private engineers performing services related to this chapter. Said policies and standards shall have the same force and effect as an ordinance.

(b) Administrative Duties. In the administration and enforcement of this ordinance, the County Conservationist or that person's representative shall:

1. Keep an accurate record of all permit applications, storage facility plans, permits issued, inspections made and other official actions.

2. Review permit applications and issue permits in accordance with sub. (5) of this Chapter.

3. Inspect facility construction to insure the facility is being constructed according to plan specifications.

4. Investigate complaints relating to compliance with the section.

5. Perform other duties as specified in this chapter.

(c) Inspection Authority. Pursuant to authority granted by Section 92.07(14) Wisconsin Statutes, the County Conservationist, or that person's representative is authorized to enter upon any lands affected by this chapter to inspect the land prior to or after permit issuance to determine compliance with this chapter. If permission cannot be received from the applicant or permittee, entry by the County Conservationist or that person's representative, shall be according to State Statute 66.122 and 66.123, Wis. Stats. Refusal to grant permission to enter lands affected by this ordinance for purposes of inspection shall be grounds for permit denial or revocation.

(d) Enforcement Authority. The Land Conservation Department is authorized to post an order stopping work upon land which has had a permit revoked or on land currently undergoing activity in violation of this ordinance. Notice is given by both posting upon the land where the violation occurs one or more copies of a poster stating the violation, and by mailing a copy of the order by certified mail to the person whose activity is in violation of this ordinance. The order shall specify that the activity must cease and/or be brought into compliance within 5 days.

Any permit revocation or order stopping work shall remain in effect unless retracted by the Board of Adjustment or by a court of general jurisdiction; or until the activity is brought into compliance with the ordinance. The County Conservationist is authorized to refer any violation of this ordinance or of any order stopping work issued pursuant to this ordinance to the corporation counsel for commencement of further legal proceedings.

(e) Severability Clause. If any part of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(7) VIOLATIONS

(a) Penalties. 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 forfeiture of not less than $25 and up to $2,500 plus costs of prosecution for each violation. An unlawful violation includes failure to comply with any standard of this ordinance or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense.

(b) Enforcement of Injunction. As a substitute for or an addition to forfeiture actions, Jackson County may seek enforcement of any part of this ordinance by court actions seeking injunctions or restraining orders.

(8) APPEALS

(a) Authority. Under authority of Chapter 68, Wis. Stats., the Jackson County Board of Adjustment, created under Section 59.69, Wis. Stats., and under Section Chapter 17, Sec.

17.96 Jackson County Zoning Code and acting as an appeal authority under Section 59.69(7)(a), Wis. Stats., is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by the County Conservationist and the Land Conservation and Agriculture Committee in administering this ordinance.

(b) Procedure. The rules, procedures, duties, and powers of the Board of Adjustment and Chapter 68, Wisconsin Statutes, shall apply to this ordinance.

(c) Who May Appeal. Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirement, decision, or determination made by the County Conservationist and Land Conservation and Agriculture Committee.