

CHAPTER 26

MANURE MANAGEMENT

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26.01 Authority. This ordinance is adopted under authority granted by §59.02, 59.03, 92.11, 92.15 and 92.16 of the Wisconsin Statutes.

26.02 Title. This ordinance may be cited as the Manure Management and is herein referred to as the ordinance.

26.03 Definitions. For the purpose of this ordinance the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; the plural number includes the singular number; the word "shall" is mandatory and not directory. Words and phrases not defined herein shall be construed according to common and approved usage, but technical words and phrases and others that have a peculiar meaning shall be construed according to such meaning unless such construction would produce a result inconsistent with the manifest intent of this ordinance.

(1) ADEQUATE SOD, OR SELF-SUSTAINING VEGETATIVE COVER. Maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

(2) APPLICANT. Any person who applies for a permit under this ordinance.

(3) DIRECT RUNOFF. A discharge of a significant amount of pollutants to waters resulting from any of the following practices:

(a) Runoff from a manure storage

facility.

(b) Runoff from an animal lot that can be predicted to reach surface waters of the state through a defined or channelized flow path or man-made conveyance.

(c) Discharge of leachate from a manure pile.

(d) Seepage from a manure storage facility.

(e) Construction of a manure storage facility in permeable soils or over fractured bedrock without a liner designed in accordance with s. NR 154.04(3).

(4) IDLE STORAGE FACILITY. A facility where manure has not been added or removed for a period of twenty-four months.

(5) LAND APPLICATION. The physical transfer of manure from any animal confinement area or manure storage facility to fields for purposes of fertilization or disposal.

(6) LIVESTOCK OPERATION. A feedlot or other facility or a pasture where animals are fed, confined, maintained or stabled.

(7) MANURE. Livestock excreta. Includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.

(8) MANURE STORAGE FACILITY. An impoundment made by constructing an embankment or excavating a pit or dugout or by fabricating a structure to contain manure and other animal or agricultural waste.

(9) NAVIGABLE WATERS. Means any body of water that is navigable under the laws

of the state as per State Statutes 30.01 (4m).

(10) OWNERSHIP TRANSFER. The purchase, reorganization, retitling, donation or other change in property ownership requiring a filing of a deed at the county Register of Deeds office.

(11) PERMIT. The signed, written statement issued by the Land Conservation Department under this ordinance authorizing the applicant to construct, install, substantially alter, close or reuse a manure storage facility, and to use or dispose of waste from the facility.

(12) PERMITTEE. Any person to whom a permit is issued under this ordinance.

(13) 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.

(14) POLLUTANT. Any dredged, spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water as per State Statute 283.01(13).

(15) POLLUTION. Means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water as per State Statutes 283.01(14).

(16) RUNOFF. Means storm water or precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

(17) SAFETY DEVICES. Constructed measures designed to protect humans and livestock from hazards associated with a manure storage facility.

(18) SUBSTANTIALLY ALTER. 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 replacement of a liner in a manure storage structure, and an increase in the volumetric capacity or area of a structure or facility by greater than 20% or a change in a structure or facility related to a change in livestock management from

one species of livestock to another, such as cattle to poultry.

(19) TRANSFER SYSTEM. All components including pipes, pumps, gutters, flow channels, and any other component designed to convey manure either into or out of buildings, retention basins or storage facilities.

(20) TECHNICAL GUIDE. The United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service Technical Guide as adopted by the Sauk County Land Conservation Committee, and subsequent amendments or additions thereto.

(21) WASTE UTILIZATION. The land application of manure at an environmentally acceptable rate and in such a manner as to make use of the constituent nutrients for maintenance or improvement of the soil and plant resources.

(22) WATER POLLUTION. Any act or condition 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.

(23) WATER QUALITY MANAGEMENT AREA (WQMA). Land that includes any of the following: an area within 1000 feet of the ordinary high water mark of a navigable lake, pond or flowage; an area within 300 feet of the high water mark of a navigable river or stream; an area that is susceptible to groundwater contamination, or has the potential to be a direct conduit for contamination to reach groundwater.

26.04 Findings and Declaration of Policy. The Sauk County Board of Supervisors finds that improper management of manure from feedlots, improper management of animals near water resources, storage of manure in storage facilities not meeting sufficient technical design and construction standards, improper management of manure storage facilities, and improper utilization of manure, including the improper or excessive land application of manure, may cause pollution of the ground and surface waters of Sauk County, and result in actual or potential harm to the health of county residents and transients and to livestock, aquatic life and other animals and plants,

as well as damaging the tax base of Sauk County.

The Sauk County Board of Supervisors further finds that the technical standards developed by the United States Department of Agriculture, Natural Resources Conservation Service (USDA NRCS) and adopted by the Sauk County Land Conservation Committee provide effective, practical and environmentally safe methods of storing and utilizing manure.

26.05 Purpose. The purpose of this ordinance is to control the direct runoff from livestock feeding areas or manure management facilities to the waters of the county, to prevent unlimited livestock access to waters of the county at a level that would prevent adequate sod cover along the banks, to regulate the location, design, construction, installation, operation, closure and alteration of manure storage facilities, and improper or excessive land application of manure, in order to prevent surface and ground water pollution and thereby protect the health of Sauk County residents and transients; to prevent the spread of disease; and to promote the prosperity and general welfare of the citizens of Sauk County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.

A person is in compliance with this ordinance if he or she follows the procedures of this ordinance, receives a permit from the Land Conservation Department before beginning activities subject to regulation under this section, and complies with the requirements of this ordinance and the permit.

26.06 Applicability. This ordinance shall apply to all unincorporated areas of Sauk County.

26.07 Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Sauk County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes or County Ordinances.

26.08 Severability Clause. If any section, provision or portion of this ordinance is ruled

invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective.

26.09 Effective Date. This ordinance shall become effective upon its adoption by the Sauk County Board of Supervisors.

26.10 Activities to be Subject to Regulation. (1) Manure Management Prohibitions. Any person owning or managing a livestock operation within Sauk County shall manage their operations so as to prohibit any of the following:

- (a) The overflow of manure storage structures.
- (b) Any unconfined manure stacking (piling) within water quality management areas (adjacent to streambanks, lakeshores, and in drainage channels.)
- (c) The direct runoff from feedlots or stored manure to waters of the state.
- (d) The unlimited livestock access to waters of the state where high concentrations of animals prevent adequate sod cover maintenance.

Pursuant to Section 281.16(3) of the Wisconsin Statutes, a livestock operation that is in existence prior to October 1, 2002 shall not be required to comply with the manure management prohibitions unless cost-sharing is made available.

(2) Construction of New or Modifications of Existing Manure Storage Facilities. New or substantially altered manure storage facilities shall be designed, constructed and maintained to minimize the risk of structural failure of the facility and to prevent leakage of the facility in order to comply with Wisconsin Department of Natural Resources groundwater protection 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.

(3) Closure of Existing Manure Storage Facilities.

- (a) Closure of a manure storage facility 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.

(b) The owner or operator may retain a facility for a longer period of time by demonstrating to the department that all of the following conditions are met:

1. The facility is designed, constructed and maintained in accordance with 26.10 section B.

2. The facility is capable of storing the manure and all accumulated precipitation for a period of time longer than 24 months.

3. Future retention of the facility is warranted based on anticipated future use.

Idle facilities must be kept at a level that prevents overflow. Manure storage facilities that have had no manure added or removed for a period of 24 months or longer require inspection and verification of adequacy by the Land Conservation staff or a private consulting engineer prior to reuse as a manure storage facility.

(4) Ownership Transfer of Existing Facilities. Facilities installed before April 1990 will require a verification at the time of ownership transfer to assure the facility is in substantial compliance with standards designed to provide resource protection. Storage units installed before this date that are not in substantial compliance with NRCS Technical Guide Standards for groundwater protection in place at the time of construction will need to be properly closed as per 26.10 section C or brought into compliance with current groundwater protection standards as per 26.10 Section E.

(5) Failing and Leaking Existing Facilities. Manure storage facilities that may pose an imminent threat to public health or fish and aquatic life or that are causing a violation of Wisconsin Department of Natural Resources groundwater protection standards shall be upgraded, replaced or closed in accordance with this section.

26.11 Standards. (1) Standards for design and construction of manure management facilities. The standards for design and construction of manure management facilities shall be the current standards in the United States Department of Agriculture, Natural Resources Conservation Service (USDA NRCS) Technical Guide, including Code 313 Waste Storage Facility,

Code 634 Manure Transfer, Code 635 Vegetated Treatment Area Code 638 Water and Sediment Control Basin, and Code 629 Waste Treatment and any amendments to these codes.

(2) Standards for manure management and utilization. The standards for management of manure facilities and utilization of manure shall be the current standards in the USDA NRCS Technical Guide, including Code 590 Nutrient Management and any amendments.

(3) Standards for closure of manure storage facility. The standards for closure of an unused manure storage facility shall be the current standards in the USDA NRCS Technical Guide, including Code 360 Closure of Waste Impoundments and any amendments.

(4) Standards for determination of direct runoff. The standards for determination of direct runoff shall be the USDA NRCS Comprehensive Nutrient Management Plan Flowchart for Evaluation of Concentrated Livestock Areas, Code 635 Vegetated Treatment area and Code 638 Water and Sediment Control Basin.

(5) Standards for the determination of adequate sod or self sustaining vegetative cover. Standards for determination of adequate sod or self sustaining vegetative cover shall be the standards outlined in the USDA NRCS Technical Guide 528 Prescribed Grazing or vegetative measurement by grid sample at the site shall show at least 70 percent living plant material cover.

(6) Standards for determination of adequate resource protection for the purpose of an Ownership Transfer Permit shall be according to a review procedure as approved by the Land Conservation Committee. This procedure shall be reviewed and updated as needed by the Committee.

(7) Subsequent Modification of Standards. The standards of the USDA NRCS Technical Guide are adopted and by reference made a part of this Section as if fully set forth herein. Any future amendment, revision or modification of the standards incorporated herein are made a part of this section, unless otherwise acted upon by the Land Conservation Committee. Copies of the current standards are available at the Land Conservation Department.

26.12 Application for Issuance of

Permits. (1) Permit required. No person shall undertake an activity subject to this ordinance without obtaining a permit from the Land Conservation Department prior to beginning the proposed activity other than under the emergency provision provided for in this section.

(2) No permit required. Manure storage facilities in place as of the date of passage of this ordinance shall be determined to be existing storage facilities subject to the rules in place at the time of construction and shall not be required to obtain a permit unless they are being substantially altered or closed after the date of passage or upon an ownership transfer.

(3) Existing non-permitted facilities. Facilities installed before April 1990 were not required to obtain a permit or to meet minimum standards for the protection of water quality. For these reasons the continued use of these waste storage facilities can be a concern. To accommodate the inspection and verification to determine the adequacy of the facility to protect surface and groundwater resources an ownership transfer permit shall be required. This permit review applies only to water resource protection features, not sizing or other components.

(4) Exception to permit requirement. Emergency repairs such as repairing a broken pipe or equipment, leaking dikes or the removal of stoppages may be performed without a permit. Any repairs substantially altering the original design or construction of a facility shall be reported, in writing, immediately within one (1) day of the emergency to the Land Conservation Department for a determination by the department whether the repairs made were reasonably necessary to respond to the existing emergency.

A permit shall be required for any work deemed to constitute additional alteration or repair to the facility in excess of that reasonably necessary to respond to the emergency. The Land Conservation Department's determination shall be rendered within five (5) business days of the reporting. Work done without a proper permit shall constitute noncompliance with the ordinance. The passage of this ordinance is not to be construed as a requirement that livestock operations construct manure storage facilities but rather that facilities that are constructed be

required to obtain the appropriate permits and approvals.

26.13 Fees. The fee for permits issued under this ordinance shall be:

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|-------------------------------|-------|
| (1) Construction permit | \$200 |
| (2) Closure permit | \$100 |
| (3) Ownership transfer permit | \$100 |

Fees shall be reviewed annually by the Land Conservation Committee and subject to change as part of the annual budget process.

26.14 Manure Storage Facility Plan Requirements. Each application for a manure storage permit under this section shall include the completion of the county manure storage permit application and a detailed manure storage facility plan. The applicant can employ the services of a private design consultant or a registered professional engineer to prepare the plan. Technical assistance for plan development may also be made available to applicants upon request through the Land Conservation Department as available staff time will allow.

(1) A complete permit application for a new or modified storage facility shall include all of the following:

(a) The number, type and size of animals for which storage is provided and the duration for which storage is to be provided.

(b) The type of bedding to be used in the operation and all aspects of handling and recovery of this bedding material.

(c) A sketch of the facility and its location in relation to buildings within 250 feet and homes within 500 feet of the proposed facility. The sketch shall be drawn to scale, with a scale no smaller than 1 inch = 100 feet.

(d) The north arrow, scale of the drawing, legal description of the proposed facility, and location, description and elevation of a temporary benchmark.

(e) The structural details including, but not limited to, dimensions, cross-sections, concrete thickness, reinforcing steel location and design loading details when other than Natural Resources Conservation Service pre-qualified designs and drawings are used.

(f) The construction and material

specifications including, but not limited to, applicable specifications for earth fill, excavation, concrete, reinforcing steel, timber and pipes.

(g) The location of any wells within 500 feet of the facility.

(h) The location of all utilities within 500 feet of the facility.

(i) The soil test pit locations, elevations and soil descriptions to a depth of at least five (5) feet below the planned bottom of the facility or to the depth of any bedrock limitations at the site. Soil test pits must be verified by department staff at the time of investigation.

(j) The elevation of groundwater, bedrock or seasonally saturated conditions if encountered in the soil profile and the date of any such determinations.

(k) 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.

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

(m) The details and plans for the method and structures used in transferring manure into and from the facility.

(n) A plan to control erosion during the construction or modification of the facility.

(o) Plans that address the safety requirements of the facility as needed.

(p) An emergency response plan identifying the names and phone numbers of individuals or others to be notified in the event of any leaks, spills or other system failures that could discharge manure.

(q) A certification by a professional engineer registered in the State of Wisconsin, or an engineering practitioner certified by the Department of Agriculture, Trade and Consumer Protection or the Natural Resources Conservation Service that the plans meet technical and ordinance standards.

(r) An operation and maintenance plan for the facility signed by the owner that identifies the basics of operation, the manure removal interval, the use of agitation pads, and requires repairs to berms and roads that are a necessary part of the facility function and meets all other requirements

of Natural Resources Conservation Service Codes 313 and 634.

(s) A nutrient management plan that complies with ATCP 50.04. The nutrient management plan must be prepared by a nutrient management planner qualified under ATCP 50.48 and submitted as a part of the permit requirements for the first year of operation.

(2) A complete application for manure storage facility closure shall meet all standards as outlined in Natural Resources Conservation Service Code 360 and shall specify:

(a) Provisions to remove and properly dispose of all accumulated wastes in the manure facility.

(b) Provisions to remove any concrete or synthetic liner, or properly use pieces of the concrete or synthetic liner as clean fill at the site.

(c) Provisions to remove and properly dispose of any soil saturated with waste from the manure storage facility.

(d) Provisions to remove any soils, to the depth of significant manure saturation or two (2) feet, whichever is less, from the bottom and sides of a facility without a constructed liner.

(e) Provision to remove or permanently plug the waste transfer system serving the manure storage facility.

(f) Covering all disturbed area with topsoil, seeding the areas with a grass mixture, and mulching the seeded area. This section does not apply if an alternative use of the site is authorized under an abandonment plan approved by the county as part of the permit.

(3) A complete application for an ownership transfer permit shall include all of the following:

(a) Any available designs, plans or construction documents from the original installation.

(b) Proposed livestock operation details including, animal type, size, planned manure removal interval.

(c) An operation and maintenance plan for the facility signed by the owner that identifies the basics of operation, the manure removal interval, the use of agitation pads, and requires repairs to berms and roads that are a necessary part of the facility function and meets all other

requirements of Natural Resources Conservation Service Codes 313 and 634.

(d) A nutrient management plan that complies with ATCP 50.04. The nutrient management plan must be prepared by a nutrient management planner qualified under ATCP 50.48 and submitted as a part of the permit requirements for the first year of operation.

(e) An inspection and determination of adequacy performed by the Land Conservation Department staff or by a private consulting engineer that includes an inspection of all transfer and storage components of the system. This inspection may require the emptying and cleaning of the storage facility and the possible testing of lining materials to determine plasticity and strength. All joints and seams shall be watertight. Costs incurred to prove the adequacy of an existing facility will be the responsibility of the present owner. Existing facilities determined not to provide adequate resource protection will be required to be brought into compliance with resource protection standards or closed.

A flowchart for use in the evaluation of existing storage facilities is available through the Land Conservation Department.

26.15 Review of Application. The Land Conservation Department shall receive and review all permit applications. The department shall determine if the proposed facility meets required standards set forth in Section 26.11 of this ordinance. Within 30 days after receiving the completed application and fee, the Department shall inform the applicant, in writing, whether the permit application is approved and issue the permit or shall inform the applicant, in writing, of the reasons for disapproval. If additional information is required, the Land Conservation Department shall so notify the permit applicant. The Department has 30 days from receipt of the additional information in which to approve or disapprove the application. If the Land Conservation Department fails to approve or disapprove the permit application, in writing, within 30 days of the receipt of the permit application or requested additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if a

permit had been issued.

26.16 Permit Conditions. All permits issued under this ordinance shall be issued subject to the following conditions and requirements:

(1) Manure storage facility design, construction, closure, management and utilization activities shall be carried out in accordance with the manure facility plan and applicable standards specified in Section 26.11 of this ordinance.

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

(3) Written approval from the Land Conservation Department must be obtained prior to any modifications to the permitted plans.

(4) Activities authorized by permit must be completed within two (2) years from the date of issuance after which such permit shall be void. Permits can be extended annually upon request with approval from the Land Conservation Department.

(5) The permittee, design engineer or consultant and the contractor shall certify, in writing, that a new facility was installed as planned.

(6) The permittee, engineer and contractor shall participate in a pre-construction conference with county staff before initiating construction of a new facility to outline the requirements and responsibilities of all of the involved parties.

26.17 Permit Revocation. The Land Conservation Department may revoke the permit issued under this ordinance if the holder of the permit has misrepresented any material fact in the permit application or manure facility plan, or if the holder of the permit violates any of the conditions of the permit.

26.18 Administration. (1) Delegation of authority. The Sauk County Land Conservation Department shall be the agency designated to administer and enforce this ordinance.

(2) Administrative duties. In the administration and enforcement of this ordinance, the Land Conservation Department shall:

(a) Keep an accurate record of all permit applications, manure facility plans, permits issued, inspections made and other official actions.

(b) Review permit applications and issue permits in accordance with Section 26.11 of this ordinance.

(c) Review the nutrient management plan prepared for the facility.

(d) Inspect manure facility construction to insure the facility is being constructed according to plan specifications.

(e) Investigate complaints relating to compliance with the ordinance.

(f) Perform other duties as specified in this ordinance.

(3) Inspection authority. The Land Conservation Department is authorized to enter upon any lands affected by this ordinance to inspect the land prior to or after permit issuance to determine compliance with this ordinance. If permission cannot be received from the applicant or permittee, entry by the department shall be according to § 92.07(14) Stats.

(4) Enforcement authority. The Land Conservation Department is authorized to post an order stopping construction work upon any permitted facility 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 (1) 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 shall cease immediately. Failure to comply with such an order shall constitute a separate and independent violation of the ordinance.

Any permit revocation or order stopping work shall remain in effect until retracted by the Land Conservation Committee, the Land Conservation Department, or by a court of competent jurisdiction, or until the activity is brought into compliance with the ordinance and approved by the Land Conservation Department.

The Department is authorized to refer any violation of this ordinance, or of an order stopping work issued pursuant to this ordinance, to the Corporation Counsel for commencement of further

legal proceedings, seeking penalties and other appropriate relief in enforcement of the ordinance, as set forth in Section 26.19.

26.19 Violations. A violation includes any failure to comply with any standard of this ordinance or 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 notice of violation exists shall be a separate offense.

(1) 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 a forfeiture of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00) plus costs of prosecution for each violation.

(2) Enforcement by injunction. As a substitute for, or in addition to, forfeiture actions, Sauk County may seek enforcement of any part of this ordinance by court actions seeking injunctions or restraining orders.

26.20 Appeals from Administrative Decisions. **(1) Authority.** The Sauk County Land Conservation Committee shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by Land Conservation Department staff in administering this ordinance.

(2) Procedure. Any appeal shall be made by written request, mailed or delivered to the Sauk County Land Conservation Committee, c/o Land Conservation Department, 505 Broadway, Ste. 232, Baraboo, Wisconsin, 53913 within 60 days of any determination of the Department. 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) Statutory administrative review and certiorari. The decision of the Sauk County Land Conservation Committee shall be subject to further administrative review by the Sauk County Board of Adjustment if a written appeal seeking such review is filed within 30 days after the decision of the committee. The decision of the

Sauk County Board of Adjustment shall be subject to judicial review if, within 30 days after the decision of the Sauk County Board of Adjustment an action seeking the remedy available by certiorari is commenced, as authorized by Section 7.17 of the Sauk County Code of Ordinances and §59.694 Stats.

(4) Who may appeal. Appeals may be taken by any person having substantial interest which is adversely affected by the order, requirement, decision or determination for which review is sought.

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