

CHAPTER 37
OF THE GRANT COUNTY CODE OF ORDINANCES

GRANT COUNTY
ANIMAL WASTE STORAGE AND NUTRIENT UTILIZATION ORDINANCE
05/19/1999

00.01 AUTHORITY. This Ordinance is adopted under authority granted by Section 92.16, Wis. Stats.

00.02 TITLE. This Ordinance may be cited as the Grant County Animal Waste Storage And Nutrient Utilization Ordinance and is herein referred to as the Ordinance.

00.03 FINDINGS and DECLARATION of POLICY. The Grant County Board of Supervisors finds that storage of animal waste in storage facilities that do not meet technical design and construction standards, and that improper management and utilization of the animal waste from these storage facilities, may cause pollution of the surface and ground waters of Grant County, and result in potential harm to the health of county residents and transients and to livestock, aquatic life and other animals and plants, thereby damaging the tax base of Grant County.

The Grant County Board of Supervisors further finds that the technical standards developed by the USDA, Natural Resources Conservation Service and adopted by the Grant County Land & Water Conservation Committee provides effective and environmentally safe methods of storing and utilizing animal waste.

00.04 PURPOSE. The purpose of this Ordinance is to regulate the location, design, construction, installation, alteration, closure and the use of animal waste storage facilities, including the transfer of wastes into storage facilities and the utilization of animal waste from these facilities covered by this Ordinance, in order to prevent water pollution, protect the water resources and provide for safety of people and animals of Grant County. It is also intended to provide for the administration and enforcement of the Ordinance and to provide reasonable penalties for its violation.

00.05 APPLICABILITY. This Ordinance shall apply to the unincorporated areas of Grant County.

00.06 INTERPRETATION. In the interpretation and application, provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Grant County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes or County Ordinances.

00.07 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.

00.08 EFFECTIVE DATE. This Ordinance shall become effective upon its adoption and publication by the Grant County Board of Supervisors.

00.09 DEFINITIONS. For the purposes 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 discretionary. 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) "Animal Waste" means livestock excreta and other materials that may be included in the stored waste, such as bedding, rain or other water, soil, hair, feathers, and other debris, including milkhouse waste normally included in animal waste handling operations.
- (2) "Animal Waste Storage Facility" means a concrete, steel, or otherwise fabricated structure used for storage of animal waste, or an excavated or earthen facility of constructed earth dikes, excavated pits or ponds, or a combination of these, used for storage of animal waste. Falling under this Ordinance are facilities that store manure greater than thirty (30) consecutive days or more than a volume of 3500 cubic feet of animal waste. (approx. 34' x 34' x 3')
- (3) "Applicant" means any person who applies for a permit under this Ordinance.
- (4) "Bedrock" means consolidated rock material and weathered in-place material with >50% by volume, larger than 2 mm in size.
- (5) "Corporation Counsel" means the legal authority for Grant County.
- (6) "Idle and/or Abandoned Animal Waste Storage Facility" means an animal waste storage facility which is no longer being used for its intended purpose and no longer having any additional animal waste placed into it for a period of eighteen (18) months.
- (7) "Land & Water Conservation Committee (LWCC)" means any and all members appointed to the LWCC, personnel employed by the Grant County Land & Water Conservation Department (LWCD) and those personnel employed by support agencies.
- (8) "Manure Transfer System" means the 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.

(9) "Nutrient Management Plan" means a written plan detailing amount, form, placement, and timing of the application of plant nutrients, including animal waste from the animal waste storage facilities, commercial fertilizers, legume crops and crop residues.

(10) "Permit" means the signed, written statement issued by the Grant County LWCC under this Ordinance authorizing the applicant to construct, install, reconstruct, enlarge, substantially alter or close an animal waste storage facility, and to use or dispose of waste from the facility.

(11) "Permittee" means any person to whom a permit is issued under this Ordinance.

(12) "Person" means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency, the federal government, or any combination thereof.

(13) "Saturation" The following criteria apply:

1. Regional High Water Table - The seasonal high free water surface of a large body of groundwater covering a region. All soil below the regional water table is saturated. Soil mottling (redoximorphic features) is not necessarily an indicator of the regional high water table, but is an indication of soil saturation.
2. Confined Lenses and Perched Water - Water bearing deposits of stratified lacustrine material or material laid down by glaciers between deposits of less permeable till. Perched water is saturation found above and separated from the regional high water table

(14) "Technical Guide" means the United States Department of Agriculture, (USDA) Natural Resources Conservation Service Technical Guide as adopted by the Grant County Land & Water Conservation Committee.

(15) "USDA, Natural Resources Conservation Service (NRCS)" means any and all personnel employed by the USDA, NRCS and those personnel employed by support agencies.

(16) "Water Pollution" means 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.

00.10 ACTIVITIES TO BE SUBJECT TO REGULATION.

(1) General Requirement. A permit is required for any person who constructs, installs, reconstructs, enlarges, substantially alters or closes an animal waste storage facility; or who employs another person to do the same, on land subject to this Ordinance and shall be subject to the provisions of this Ordinance.

(2) Idle and/or Abandoned Animal Waste Storage Facility. Any person who owns an animal waste storage facility that has been determined to be idle and/or abandoned must develop a nutrient management plan and lower the level of the animal waste in the facility to an elevation of one (1) foot above the floor of the facility within a period of six (6) months from the date the facility was determined to be idle and/or abandoned.

(3) Re-use of an Idle and/or Abandoned Animal Waste Storage Facility. Any person wanting to re-use an animal waste storage facility after it has been determined to be idle and/or abandoned shall notify the LWCC to inform them of their intent. Before re-use is authorized the following procedure shall be used:

1. For Concrete Facilities:

- a. A visual inspection will be conducted by the LWCD.
- b. If found to be structurally sound, re-use will be approved.
- c. If found to be structurally unsound, re-use will be denied.

2. For Earthen Facilities:

- a. Proof of facility meeting NRCS standards and specifications applicable to this Ordinance must be provided to the LWCC.
- b. If proof is provided that facility meets NRCS standards and specifications, re-use will be allowed.
- c. If proof can not be provided that facility meets NRCS standards and specifications, re-use will not be allowed.

3. Within 45 days after receiving notice of intent to re-use a facility the LWCC will notify the person in writing as to the approval or denial of re-use.

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

00.11 STANDARDS

(1) Standards for Animal Waste Storage Facilities¹. The construction, reconstruction, enlargement, alteration, closure and operation of any and all animal waste storage facilities covered under this Ordinance in Grant County shall comply with all of the provisions of the following technical guides issued by the USDA, NRCS:

1. Technical Guide 313 (Waste Storage Facility)
2. Technical Guide 634 (Manure Transfer)
3. Technical Guide 590 (Nutrient Management)

(2) Standard for Nutrient Management. Nutrient management of all animal waste from permitted storage facilities shall be handled and shall comply with all of the provisions of the Technical Guide 590, issued by the USDA, NRCS, and 00.14 (9) of this ordinance.

(3) The LWCC shall, at least once a year, for no longer than five (5) years, monitor the maintenance of the animal waste storage facilities and the nutrient management plans.

00.12 APPLICATION FOR AND ISSUANCE OF PERMITS

(1) Permit Required. No person shall undertake an activity subject to this Ordinance without first obtaining a permit from the LWCC prior to beginning the proposed activity.

(2) Exception to Permit Requirement. Normal maintenance, such as bolt replacement or pump repair, and emergency repairs such as repairing a broken pipe or equipment, leaking dikes, surface leaks, or the removal of stoppages may be performed without a permit. Any repairs significantly altering the original design or construction of

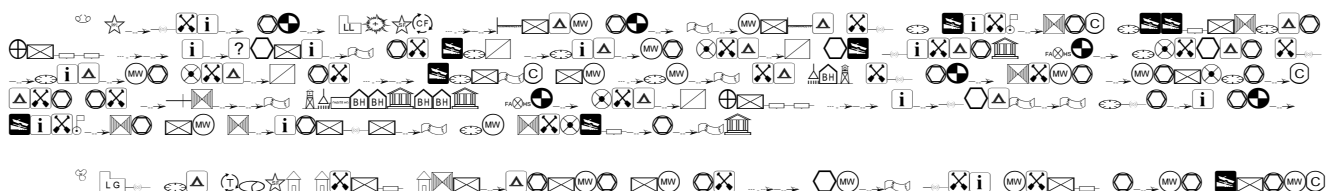
¹Copies of current standards cited in this Ordinance are available from the LWCD office during normal business hours.

a facility shall be reported to the LWCC office within three (3) working days of the emergency for a determination by the LWCC whether the repairs made were reasonably necessary to respond to the existing emergency. The LWCC determination shall be rendered within one (1) business day of the reporting, whether 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.

00.13 FEE. The fee for a permit under this Ordinance shall be \$1.00 per \$1,000 of estimated cost, payable upon issuance of the permit.

00.14. ANIMAL WASTE STORAGE FACILITY PLAN AND NUTRIENT MANAGEMENT PLAN REQUIRED. Each application for a permit under this section shall include an animal waste storage facility and nutrient management plan. Plans must be in accordance with applicable standards. Plans may be provided through the LWCD², county, state or federal government agencies or registered civil professional engineers. Plans developed by a registered civil professional engineer must bear the engineer's seal and be accompanied by verification that the plan is in accordance with applicable standards. In addition to the management and site assessment documentation noted in NRCS standard 313, the plan shall specify:

- (1) 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 sketch shall be drawn to scale, with a scale no smaller than 1 inch = 100 feet.
- (2) The north arrow, scale of the drawing, legal description of location of the proposed facility, description and elevation of a temporary benchmark.
- (3) The structural details, including, but not limited to dimensions, cross sections, concrete thickness, reinforcing steel location, design loading details and all computations necessary for the design.
- (4) The location of any wells within 500 feet of the facility.
- (5) The soil test pit locations, including test from borrow area, elevations and soil descriptions to a depth of at least five feet below the planned bottom of the facility. A professional Soil Scientist³ or a registered civil professional engineer or their representative, must be present for soil test pit excavation.



(6) The elevation of saturation 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 saturation areas . If a body of water lies within 500 feet of the facility, the location and distance to the body of water shall be shown.

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

(9) Plans for nutrient management/waste utilization that conforms with USDA, NRCS's Nutrient Management (590) Specification. The landowner shall sign a statement confirming that they have a thorough understanding of the plan, of the benefits of following the plan and that they will follow the plan to the best of their abilities.

(10) Failure to submit any of the above plans with a permit application under this Ordinance will result in rejection of the permit. Any plan submitted must also evidence that the applicant will be in compliance with all of the standards of this Ordinance in order to be approved.

(11) If the applicant wishes to close an animal waste storage facility, the applicant must submit a closure plan for approval by Grant County LWCC and obtain a permit for the closure. The applicant seeking to close an animal waste storage facility must comply with all of the applicable standards of this Ordinance.

00.15 REVIEW OF APPLICATION.

(1) The LWCC shall review all permit applications and plans and determine if the proposed facility meets required standards set forth in Section 00.11 of this Ordinance.

(2) Within 45 days after receiving the completed application, plans and fee, the LWCC shall inform the applicant in writing whether the permit application and plans are approved and whether they will issue the permit.

(3) If additional information is required, the LWCC shall so notify the permit applicant. The LWCC has 15 days from receipt of the



additional information in which to approve or disapprove the application and plans.

(4) If the LWCC fails to approve or disapprove the permit application and plans in writing within 15 days of receipt of the additional information, the application and plans shall be deemed approved and the applicant may proceed as if a permit had been issued.

(5) In the case of disapproval, the LWCC shall inform the applicant in writing of the reasons for disapproval.

00.16 PERMIT CONDITIONS. All permits issued under this Ordinance shall be issued subject to the following conditions and requirements:

(1) Animal waste storage facility design, construction, management, and nutrient management activities shall be carried out in accordance with the animal waste storage and nutrient management plan specified in Section 00.14 of this Ordinance and applicable standards specified in Section 00.11 of this Ordinance.

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

(3) Approval in writing must be obtained from the LWCC prior to any modifications to the animal waste storage facility plan after a permit has been issued.

(4) The plan developer, shall certify in writing that the facility was installed as planned (in accordance with USDA, NRCS standards) within 60 days of the deadline date of permit issuance or extension.

(5) Activities authorized by permit must be completed within one (1) year from the date of issuance after which such permit shall be void, unless an extension is granted through the Land And Water Conservation Committee.

00.17 PERMIT REVOCATION. The LWCC may revoke any permit issued under this Ordinance if the holder of the permit has misrepresented any material fact in the permit application, if the holder of the permit violates any of the conditions of the permit, Ordinance or any of the standards referred to in this Ordinance.

00.18 ADMINISTRATION.

(1) Delegation of Authority. The agencies designated to administer and enforce this Ordinance are the Land And Water Conservation Committee/Department and the Corporate Counsel for Grant County.

(2) Administrative Duties. In the administration and enforcement of this Ordinance, LWCC shall:

1. Receive and review all permit applications and plans. Keep an accurate record of all permit applications, animal waste storage facility and nutrient management plans, permits issued, inspections made, and other official actions.
2. Inspect animal waste storage facility construction to ensure the facility is being constructed according to plan specifications.
3. Investigate complaints relating to compliance with the Ordinance.
4. Approve or deny permits.
5. Perform other duties as specified in this Ordinance.

(3) Inspection Authority. The LWCC and its supporting agencies are 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 LWCC shall be according to Sections 92.07 (14), WI. Stats.

(4) Enforcement Authority. The LWCC, is authorized to post an order stopping work upon the construction site that has had a permit revoked or on the construction site currently undergoing activity in violation of this Ordinance. Notice is given by both posting upon the site 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 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 LWCC, or by a court of competent jurisdiction; or, until the activity is brought into compliance with the Ordinance, as determined by the LWCC.

The LWCC 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 further legal proceedings seeking penalties and other appropriate relief in enforcement of the Ordinance, as set forth in section 00.19.

00.19 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 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 \$25.00 nor more than \$500.00, plus costs of prosecution for each violation. Each day that a violation exists shall be a separate offense.

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

00.20 APPEALS FROM ADMINISTRATIVE DECISIONS.

(1) Authority. The Grant County Land & Water Conservation Committee shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the LWCC in administering this Ordinance.

(2) Procedure. Any appeal shall be made by written request, mailed or delivered to the Grant County Land & Water Conservation Committee c/o Land Conservation Office, 150 W. Alona Lane, Lancaster, WI 53813. The request shall state the ground or grounds upon which it is contended that the decision should be modified or reversed. The LWCC shall, as soon as possible, but within 45 days, review the determination under appeal.

(3) Statutory Administrative Review and Certiorari. The decision of the Grant County Land & Water Conservation Committee shall be subject to further administrative review by the Grant County Board of Adjustment if a written appeal seeking such review is filed within thirty (30) days after the decision of the Committee. The decision of the Board of Adjustment shall be subject to judicial review if, within thirty (30) days after the decision of the Board of Adjustment an action seeking the remedy available by certiorari is commenced, as authorized by section of the Grant County Code of Ordinances and section 59.99 of the Wisconsin Statutes.

(4) Who May Appeal. Appeals may be taken by any person having a substantial interest that is adversely affected by the order, requirement, decision, or determination for which review is sought within thirty (30) days from the order, requirement, decision, or determination made by the LWCC in administering this Ordinance.

(end)