
**GENERAL CODE OF ORDINANCES
FOR MARATHON COUNTY
CHAPTER 11.02
ANIMAL WASTE STORAGE AND
NUTRIENT MANAGEMENT CODE**

Adpoted November 2008
Effective January 2009



TABLE OF CONTENTS

- (1) INTRODUCTION 1
 - (a) Authority 1
 - (b) Title 1
 - (c) Findings and Declaration of Policy 1
 - (d) Purpose 1
 - (e) Applicability 1
 - (f) Interpretation 1
 - (g) Compliance 1
 - (h) Severability and Non-liability 1
- (2) DEFINITIONS 2-4
- (3) ACTIVITIES SUBJECT TO REGULATION 5
 - (a) General Requirement 5
 - (b) Failing and Leaking 5
 - (c) Idle Waste Storage Facilities: 5
 - (d) Safety Devices 5
 - (e) Nutrient Management Plans 5
 - (f) Compliance With Permit Requirements 5
- (4) STANDARDS. The Technical Guide of the United States Department of Agriculture (U.S.D.A.) 6
- (5) APPLICATION FOR AND ISSUANCE OF PERMITS 6
 - (a) Permit Required 6
 - (b) Exception to Permit Requirement 6
 - (c) Fees 6
 - (d) Waste Storage Facility 7
 - (e) Review of Application 7
 - (f) Permit Conditions 7
 - (g) Permit Revocation 7
- (6) ADMINISTRATION 8
 - (a) Delegation of Authority 8
 - (b) Administrative Duties 8
 - (c) Inspection and Monitoring Authority 8
 - (d) Enforcement Authority 8
- (7) VIOLATIONS 9
 - (a) Penalty 9
 - (b) Enforcement of Injunction 9
- (8) APPEALS 9

The County Board of Supervisors of the County of Marathon does ordain as follows:
Section 11.02 of the General Code relating to Animal Waste is repealed and recreated as follows:

ANIMAL WASTE STORAGE AND NUTRIENT MANAGEMENT.
(Cr. #256)

(1) INTRODUCTION.

- (a) Authority. This section is adopted under authority granted by §59.02, §59.03, §92.15 and §92.16, Wisconsin Statutes and Wis. Administrative Codes ATCP 50.56.
- (b) Title. This section shall be known, referred to and cited as the, "County Animal Waste Storage and Nutrient Management Ordinance."
- (c) Findings and Declaration of Policy.
 - 1. The County Board finds that storage of animal waste in storage facilities and the utilization of livestock sourced nutrients not meeting state agricultural performance standards may cause pollution of the surface and ground waters 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 United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service and adopted by the Land Conservation and Zoning Committee provide effective, practical and environmentally safe methods of storing animal waste and utilizing nutrients.
- (d) Purpose. The purpose of this section is to regulate the location, construction, installation, alteration, design, operation, maintenance, closure, and the application of waste from all waste 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 section applies to all unincorporated areas of the 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.
- (g) Compliance. Waste storage facilities shall be constructed, maintained and operated in compliance with all applicable Federal, State, and local laws, codes and ordinances. It is the owner's/operator's responsibility to obtain any required permits and/or approvals from other governmental units.
- (h) Severability and Non-liability. Should any section, clause, provision or portion of this Ordinance be adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

(2) DEFINITIONS

- (a) Animal Waste. Includes agricultural manure (including bedding materials), manure processing derivatives, leachate, milkhouse wastewater and nutrient dense runoff from livestock operations.
- (b) Applicant. Any person who applies for a permit under this section.
- (c) Committee. Land Conservation and Zoning Committee (LC&ZC). A committee made up of members of the Marathon 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 Zoning Committee also provides direction for the Department. The Land Conservation and Zoning Committee shall be the decision making board for purposes of this ordinance.
- (d) Director. The Director of the Marathon County Conservation, Planning and Zoning Department.
- (e) Department. Marathon County Conservation, Planning and Zoning (CPZ) Department (responsible for soil and water conservation activities in Marathon County).
- (f) Failing and Leaking Waste Storage Facilities. Waste storage facilities that pose an imminent threat to public health or fish and aquatic life or are causing a violation of groundwater standards.
- (g) Idle Storage Facility. A waste 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 added or removed for a period of two (2) years.
 3. Will, by all the evidence available, not again be used to store animal waste and manure by an active livestock operation.
- (h) Manure Transfer System. A combination of hoppers, reception structures, tanks, pumps, pipes, channels, or conduits used to transfer animal waste and other fluids and residues associated with animal waste to a waste storage facility, a waste treatment strip, a loading area, cropland or satellite storage facility using permanent pipeline and conduits.
- (i) Natural Resources Conservation Service (NRCS). An agency of the United States Department of Agriculture (USDA) which, for purposes of this Section, provides the Marathon County Land Conservation and Zoning Committee and the 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.
- (j) Nutrient Management Plan. A planning document that outlines the requirements for managing the amount, form, placement, and timing of applications of plant nutrients to cropland.
- (k) Permit. The signed, written statement issued by the Director with the Department under this section authorizing the applicant to construct, install, move, reconstruct, extend, enlarge, convert, substantially alter or close a waste storage facility.
- (l) Permittee. Any person to whom a permit is issued under this section.

- (m) 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.
- (n) Safety Devices, Storage Facility. Devices which are designed to protect humans and livestock from the hazards associated with a waste 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 of another design that will provide the same or greater protection as the above fence.
 - 2. A grate covering the opening to 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 will be made available at cost by the Department.
 - a. Gravity flow reception pits.
 - b. Tanks (concrete or steel) used for temporary storage of manure.
 - c. Any other area where lethal gases could accumulate, as determined by the Department.
 - 7. Other like devices deemed necessary by the Department, or by the Technical Guide.
- (o) 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, maintain and close a waste storage facility.
- (p) Technical Standard 313. A section of the Technical Guide. This standard covers the proper location, construction, installation, alteration, design, operation and maintenance of a waste storage facility made by construction of an embankment and/or excavating a pit or dugout, or by fabricating a structure.

- (q) Technical Standard 634. A section of the Technical Guide. This standard 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.
- (r) Technical Standard 360. A section within the Technical Guide. This standard covers the closure of waste storage facilities that are no longer used for their intended purpose in an environmentally safe manner.
- (s) 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.
- (t) Topographic Map. A detailed map showing the surface topography, surface waters, intermittent streams, and drainage directions and patterns, as prepared by the Wisconsin Geological and Natural History Survey, U.S. Department of Interior Geological Survey, County GIS, or other recognized entity.
- (u) Waste 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 Section, 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.
- (v) Water Pollution. 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.

(3) ACTIVITIES SUBJECT TO REGULATION

- (a) General Requirement. Any person who locates, installs, moves, reconstructs, extends, enlarges, converts, substantially alters, closes or changes use of a waste storage facility or parts thereof; or who employs another to do the same, on land subject to this section, shall be subject to the provisions of this section.
- (b) Failing and Leaking. Failing and leaking waste storage facilities are a menace to the health and general welfare of the citizens of Marathon County; are declared to be nuisances, and shall be subject to forfeiture and injunctive provisions of this section. A storage facility found to be failing or leaking shall be repaired to a condition meeting the Technical Standards of the Department within two (2) years of the date that the storage facility is determined to be leaking or failing.
- (c) Idle Waste Storage Facilities. As specified in Technical Standard 360, removal of waste and closure of an idle waste storage facility to a safe and sanitary condition, as determined by the Department is required within two (2) years of the time the storage facility becomes idle.
- (d) Safety Devices. Certain safety devices, as defined in section 11.02(2)(n) are required on all storage facilities in Marathon County.
- (e) Nutrient Management Plans. As specified in Technical Standard 590, the distribution and utilization of animal waste from a waste storage facility shall be in accordance with an approved nutrient management plan on file with the department.
- (f) 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 Director of the Department before beginning activities subject to regulation under this section and complies with the requirements of the permit.

No permit or approval pursuant to this chapter shall be issued where the applicant is in violation of this or any code administered by the Department nor for any parcel(s) of land which have an outstanding violation until the violation has been corrected. A request for waiver of these provisions may be made, to grant or deny a permit or approval on the merits of the application, to the Corporation Counsel and the Committee.

Where issuance of an after-the-fact permit or approval would have the effect of correcting a violation it may be granted if all conditions required for issuance can be complied with.

(4) STANDARDS.

The Technical Guide of the United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service (NRCS) has been adopted by the Committee and the Department. These Technical Guides shall apply until amended and then shall apply as amended. The following components of the Technical Guide will be used when a storage facility is to be constructed, installed, abandoned, moved, reconstructed, extended, enlarged, converted, substantially altered, closed or emptied for application: 313 - Manure Waste Storage Facility; 634 - Waste Transfer System; 360 - Closure of Waste Impoundment; and 590 - Nutrient Management.

(5) APPLICATION FOR AND ISSUANCE OF PERMITS

- (a) Permit Required. No person may undertake an activity subject to this section without obtaining a permit from the Department prior to beginning the proposed activity.
- (b) Exception to Permit Requirement. All emergency repairs on any component of the waste storage facility or manure 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 Department within two days.

(c) Fees.

Application Fee. The application fee shall be as follows:

Livestock operations under 500 animal units	\$350
Livestock operations equal to or greater than 500 animal units.....	\$600
Waste Facility Closure.....	\$200

See animal unit definition at §17.08 in the General Code of Ordinances for Marathon County Chapter 17 Zoning Code.

Construction Permit. The construction permit fee under this section will be determined by storage volume of the storage facility:

50,000 gallons or less	\$150
50,001-150,000 gallons	\$300
150,001-250,000 gallons	\$350
250,001-500,000 gallons	\$400
500,001-1,000,000 gallons	\$450
1,000,001-5,000,000 gallons	\$600
5,000,001 gallons or greater	\$850

A double fee will be charged for all after-the-fact (ATF) applications.

Fees shall be set and amended from time to time by the Committee.

- (d) Waste Storage Facility. Plans and Specifications. Each application for a construction permit under this section shall include plans and specifications prepared in accordance with the criteria of the appropriate standard and shall describe the requirements for applying the practice to achieve its intended use.

The plans, specifications, and documentation for construction shall include:

1. Management Assessment.
 2. Site assessment.
 3. Safety design.
 4. Operation and Maintenance plan.
 5. Nutrient Management plan.
 6. Construction plan, schedules, and staging.
 7. Construction Inspection plan.
- (e) Review of Application. The Director shall receive and review all permit applications and shall determine if the proposed facility meets required standards set forth in sub. (4) of this section. Within 15 days after receiving the completed application and fee, the Director shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the Director shall so notify the permit applicant. The Director has 15 days from the receipt of the additional information in which to approve or disapprove the application. If the Director 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.
- (f) Permit Conditions. All permits issued under this section shall be issued subject to the following conditions and requirements. Activities authorized by permit shall be completed within 2 years from the date of issuance after which such permit shall be void.
1. Waste storage facility design, construction, alteration or closure shall be according to Department approved standards and plans.
 2. The permittee shall give five (5) working days' notice to the Department before starting any construction activity authorized by the permit.
 3. Approval in writing shall be obtained from the Department prior to any modifications to the approved storage facility plan.
 4. The permittee and, if applicable, the project engineer shall certify in writing that the facility was installed as planned.
- (g) Permit Revocation. The Director may revoke any permit issued under this section 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 Director, or that person's representative to administer and enforce this section.
- (b) Administrative Duties. In the administration and enforcement of this section, the Director or that person's representative shall:
1. Keep an accurate record of all permit applications, waste storage facility plans, closures, permits issued, inspections made and other official actions.
 2. Review permit applications and issue permits in accordance with sub. (5) of this section.
 3. Inspect facility construction to ensure the facility is being constructed according to plan specifications.
 4. Investigate complaints relating to compliance with the section.
 5. Track landowner compliance with state agricultural performance standards as specified by this section.
 6. Perform other duties as specified in this section.
- (c) Inspection and Monitoring Authority. Pursuant to authority granted by Section 92.07(14) Wisconsin Statutes, the Director, or that person's representative is authorized to enter upon any lands affected by this section to inspect the land prior to or after permit issuance to determine compliance with this section. If permission cannot be received from the applicant or permittee, entry by the Director or that person's representative, shall be according to §66.0119, Wisconsin Statutes. 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.
1. The Director, or that person's representative is authorized to post an order stopping work upon land which has had a permit revoked or is currently undergoing activity in violation of this section. Notice shall be 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 section. The order shall specify that the activity shall cease or be brought into compliance within 15 days.
 2. Any permit revocation or order stopping work shall remain in effect unless retracted by the Administrative Review Board, the Director or by court of general jurisdiction; or until the activity is brought into compliance with this section. The Director is authorized to refer any violation of this section or of an order stopping work issued pursuant to this section to the Corporation Counsel for commencement of further legal proceedings.

(7) VIOLATIONS

- (a) Penalty. Any person who violates, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this section, shall be subject to a forfeiture as provided in §25.04 of this General Code. A violation includes failure to comply with any standard of this section, or with any condition or qualification attached to the permit.
- (b) Enforcement of Injunction. As a substitute for, or an addition to, forfeiture actions, the County may seek enforcement of any part of this section by court actions seeking injunctions or restraining orders.

(8) APPEALS

Appeals from any administrative order issued pursuant to this Chapter shall be governed by Chapter 24 of the General Codes of Ordinances. Appeals from any County ordinance prosecution commenced pursuant to this Chapter, shall be governed by applicable state statutes concerning appeals.