

CHAPTER 13

LIVESTOCK WASTE MANAGEMENT

13.01 Authority

13.02 Findings and Declaration of Policy

13.03 Purpose

13.04 Interpretation

13.05 Jurisdiction

13.06 Effective Date

13.07 Definitions

13.08 Activities Subject to Regulation

13.09 Standards and Specifications

13.10 Application and Issuance of Permits

13.11 Permit Fee

13.12 Permit Revocation

13.13 Administration

13.14 Abandonment

13.15 Appeals

Revised 11/01

LIVESTOCK WASTE MANAGEMENT - CHAPTER 13

13.01 AUTHORITY

- (1) This Chapter of the Code is adopted pursuant to authority granted in Chapter 59, and sec. 92.11, 92.15 and 92.16, Wis. Stats.
- (2) This Chapter of the Code incorporates by reference the technical standards developed by the United States Department of Agriculture and the Natural Resources Conservation Service, hereinafter called the **USDA-NRCS Technical Guide**, adopted by the Winnebago County Land and Water Conservation Department for use in the design, construction, operation, and maintenance of livestock waste storage facilities and animal lots. Any such standards shall apply until amended and then shall apply as amended.
- (3) This chapter of the Code also incorporates by reference the Soil Survey of Winnebago County, 1980, USDA-Soil Conservation Service and Wis. Administrative Code NR812 (the Wisconsin Well Code).

13.02 FINDINGS AND DECLARATION OF POLICY

- (1) The Winnebago County Board of Supervisors finds that storage of livestock wastes in facilities and animal lots and the land application of livestock waste may cause pollution of the surface waters and ground waters of Winnebago County, and may result in actual or potential harm to the health and safety of County residents and transients, to livestock, aquatic life and other animals and plants, and to the property tax base of Winnebago County.
- (2) The Winnebago County Board of Supervisors also finds that the USDA-NRCS Technical Guide, as adopted by the Winnebago County Land and Water Conservation Department, provides the basis for effective and environmentally safe methods of construction, operation, and maintenance of livestock waste storage facilities and animal lots.
- (3) The County of Winnebago permits operation of properly conducted agricultural operations within the county. If property is located near agricultural lands of operation or included within an area zoned for agricultural purposes, it may be subject to conditions arising from such operations. These conditions may include, but are not limited to: noises, odors, lights, fumes, dust, operation of machinery, and the storage and disposal of manure. One or more of these conditions described may occur as a result of any agricultural operation, which is in conformance with existing laws and regulations and accepted customs and standards. Those residing near an agricultural area should be prepared to accept such outcomes as a normal and necessary aspect of living in a county with strong rural character and an active agricultural sector. Winnebago County has established the Land Conservation Committee to assist in the resolution of any animal waste management disputes, which might arise between residents of the county regarding agricultural operations.

13.03 PURPOSE

The purpose of this Chapter is to assure the safe handling and spreading of animal waste as well as to regulate the location, design, construction, alteration, operation, and maintenance of all animal lots and livestock waste storage facilities. Also to regulate the abandonment of livestock waste storage facilities in order to prevent water pollution, protect the health and safety of residents and transients, prevent the spread of disease, and promote the prosperity and general welfare of the citizens of Winnebago County.

13.04 INTERPRETATION

The provisions of this Chapter of the Code shall be held to be minimum requirements and shall be liberally construed in favor of Winnebago County and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes.

13.05 JURISDICTION

This Chapter shall apply to all unincorporated areas of Winnebago County.

13.06 EFFECTIVE DATE

This Chapter shall become effective upon the date following its County publication.

13.07 DEFINITIONS

- (1) **"Abandonment"** means a livestock waste storage facility that is no longer being used for its intended purpose, and is no longer receiving animal wastes, has not received any animal wastes for a period of one year and, based on available evidence, is unlikely to receive animal wastes from an active livestock operation within the next six months.
- (2) **"Animal"** means domesticated and other types of animals together with fish and birds.
- (3) **"Animal lot"** means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals, specifically designed as a confinement area in which animal waste may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal lots. Pastures shall not be considered animal lots under this ordinance.
- (4) **"Applicant"** means any person who applies for a permit under this chapter of the Code.

- (5) “**Bedrock**” means any naturally formed consolidated rock material and weathered in-place material with > 50%, by volume, larger than 2 mm in size. Bedrock includes, but is not limited to limestone (dolomite), sandstone, shale and igneous and metamorphic crystalline rock, including granite, rhyolite, quartzite, gabbro, basalt, gneiss, schist, diorite and greenstone.
- (6) "**Department**" means the Winnebago County Land and Water Conservation Department.
- (7) “**Ground Water**” means the water filling all the unblocked pores of underlying material below the water table.
- (8) “**Incorporation**” means to blend, mix or combine into the soil, which may include injection, discing, plowing, chisel plowing, roto-tilling, or other tillage methods.
- (9) "**Livestock Waste**" means livestock excreta, bedding material, rain or other water, soil, hair, feathers or other debris normally included in animal waste handling operations.
- (10) "**Livestock Waste Management Permit**" means the signed, typed statement issued by the Winnebago County Land and Water Conservation Department under this chapter of the Code authorizing the applicant to construct, reconstruct, enlarge, or substantially alter a livestock waste storage facility or animal lot.
- (11) "**Livestock Waste Storage Facility**" means an excavated or earthen impoundment or a fabricated structure of concrete, wood and/or steel used for temporary storage of animal waste or other organic waste.
- (12) “**Non-cropped Wetland**” means a wetland that has not been farmed within the last five years.
- (13) “**Nutrient Management Plan (590)**” means a plan that outlines the management and crediting of nutrients from all sources, including legumes, manure, and soil reserves for the application of manure and commercial fertilizers. Management includes the rate, method, and timing of the application of all sources of nutrients to minimize the amount of nutrients entering surface and groundwater. This practice includes manure nutrient testing, routine soil testing, and residual nitrogen soil testing.
- (14) “**Pasture**” means areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.
- (15) "**Person**" means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.

- (16) **“Sinkhole”** means a depression or opening on the land surface, usually funnel-shaped, generally formed by solution or collapse of limestone, dolomite or to a lesser extent sandstone bedrock occurring at or near the surface. Sinkholes may be partially or completely filled with unconsolidated material and solution enlargement of vertical passages, often extend to the water table. Collapse of mine workings in other consolidated formations are also considered sinkholes.
- (17) **“Surface Water”** means any lake, perennial, or intermittent stream as identified on USGS 1:24,000 Quadrangle maps or direct conduits to such waters as determined by the Land and Water Conservation Department.
- (18) **"Technical Standards"** means the current, written standards and specifications for animal lots and livestock waste storage facilities contained in the USDA-NRCS Technical Guide.
- (19) **"NRCS"** means the Natural Resource Conservation Service, an agency of the United States Department of Agriculture.
- (20) **“Waters of the State”** means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water and groundwater, natural or artificial, public or private within the state or its jurisdiction as defined in Section 147.015(20) of the Wisconsin Statutes.
- (21) **"Water Pollution"** means contaminating or rendering unclean or impure the ground or surface waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life.
- (22) **“Water Quality Management Area”** means any of the following:
- a) The area within 1,000 feet from the ordinary high-water mark of a lake, pond or flowage.
 - b) The area within 300 feet from the ordinary high-water mark of a stream or river.
 - c) A site that is susceptible to groundwater contamination or that has the potential to be a direct conduit for contamination to reach groundwater.
- (23) **“Wetland”** means an area that has a predominance of hydric soils and that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances does support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

13.08 ACTIVITIES SUBJECT TO REGULATION

- (1) **APPLICABILITY.** Any person or their agent who acquires ownership of, leases, or constructs, reconstructs, enlarges, abandons or substantially alters any livestock waste storage facility or animal lot or applies livestock waste on land subject to this ordinance, shall be subject to the provisions of this chapter of the Code.
- (2) **COMPLIANCE.** A person is in compliance with this chapter of the Code if the procedures of this chapter have been followed, a permit from the Winnebago County Land and Water Conservation Department has been issued prior to commencing construction activities subject to regulation under this section, and there is full compliance with the requirements of the permit.

13.09 STANDARDS AND SPECIFICATIONS

- (1) **ANIMAL LOTS.** The standards and specifications for design, construction, operation and maintenance of animal lots are those identified in Standard 350 and 312, USDA-NRCS Technical Guide and the Wisconsin Administrative Code NR812.
- (2) **ANIMAL LOT SETBACK REQUIREMENTS.** All new animal lots shall be sited a minimum of 50 feet from wells, and 300 feet from any surface water. An Animal lot may be sited between 300 feet and 75 feet from surface water with an approved variance from the Winnebago County Land and Water Conservation Department.
- (3) **LIVESTOCK WASTE STORAGE FACILITIES.** The standards and specifications for design, construction, operation, and maintenance of livestock waste storage facilities are those identified in Standard 313, and 634, USDA-NRCS Technical Guide and the Wisconsin Administrative Code NR812
- (4) **LIVESTOCK WASTE STORAGE FACILITIES SETBACK REQUIREMENTS.** All new livestock waste storage facilities shall be sited a minimum of 75 feet from surface water.
- (5) **LIVESTOCK WASTE MANAGEMENT AND UTILIZATION.** Animal wastes for which storage permits are issued under this chapter of the Code and all wastes from existing livestock waste storage facilities shall be managed and utilized in accordance with Standard 590, USDA-NRCS Technical Guide. A current (590) Nutrient Management Plan shall be submitted by the operator of the livestock waste storage facility by June 1st annually to the Winnebago County Land and Water Conservation Department until the animal waste storage facility is no longer in use and it has been properly abandoned.
- (6) **MANURE HANDLING AND SPREADING REQUIREMENTS.** The following setbacks and separation distances are required for all sources of manure spread within the county.

Manure and organic byproducts shall not be applied to the following areas unless injected or incorporated within 72 hours:

- (a) Within 200 feet of surface water
- (b) Within 200 feet up-gradient of sinkholes, cracked bedrock, or wells.

Manure and organic by products shall not be applied on frozen or snow covered ground in the following areas:

- (a) Within 200 feet of surface water
- (b) Within 200 feet up-gradient of sinkholes, cracked bedrock and wells
- (c) On slopes greater than 9% (Exception: Up to 12% is allowed if contour stripped with sod, or contour farmed with all corn residue remaining.

Manure and organic by products shall not be spread in waterways, non-cropped wetlands, terrace channels, ditches or any other direct conveyance to surface water.

- (7) **ANIMAL WASTE PROHIBITIONS.** The following practices are prohibited pursuant of this ordinance.
 - (a) Overflow of livestock waste storage facilities.
 - (b) Unconfined manure stacking (piling) within a water quality management area.
 - (c) Direct runoff from animal lots or stored manure to waters of the state.
 - (d) Unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod cover.

13.10 APPLICATION AND ISSUANCE OF PERMITS

- (1) **PERMIT REQUIRED.** Except as hereinafter provided, no person or their agent may construct, reconstruct, enlarge, or substantially alter any livestock waste storage facility or animal lot without first obtaining a **LIVESTOCK WASTE MANAGEMENT PERMIT** from the Winnebago County Land and Water Conservation Department.
- (2) **EXCEPTION TO PERMIT REQUIREMENT.** Emergency repairs for broken pipes or equipment, leaking dikes, or the removal of obstructions may be performed without a permit from the Land and Water Conservation Department. If such repairs alter the original design and construction of the facility, the person who initiates such repairs shall make a report to the Land and Water Conservation Department within two business days of the emergency. The determination as to need for additional work and a permit shall be rendered by the Department within two business days of the aforementioned report.
- (3) **LIVESTOCK WASTE STORAGE FACILITY PLAN REQUIREMENTS.** Each application for a permit under this chapter of the Code shall include a **LIVESTOCK WASTE STORAGE FACILITY PLAN**. Such plans shall include the following:
 - (a) A plan map showing location of the facility, including buildings and homes

within 300 feet of the proposed site. The sketch shall be drawn to scale, with a scale no smaller than 1 inch=100 feet.

- (b) The location of any wells within 300 feet of the facility.
- (c) The location of all soil test pits, including a detailed log of each pit to a depth of at least 5 feet below the planned bottom elevation of the facility. The soil test pit log shall include: the location and surface elevation, depth of the pit, description of the soil profile, and the USDA Uniform Soil Classification. The location of each test pit, prior to digging, and the log descriptions of each pit, as it is excavated, shall be determined and recorded by Winnebago County Land and Water Conservation Department or NRCS staff.
- (d) Depth of high ground water, estimated or observed, in the soil profile and date determined.
- (e) Depth to bedrock, estimated or observed.
- (f) Ground contours (2-foot maximum intervals), with spot elevations, indicating land slope at and around the site for a minimum distance of 100 feet.
- (g) Provisions for adequate drainage and control of runoff to prevent pollution of surface and ground water. The location of any navigable body of water within 500 feet of the proposed site must be shown. Lakes, ponds and flowages in Winnebago County shall be presumed navigable if they are listed in Wis. Dept. of Natural Resources publication "Surface Water Resources of Winnebago County" or are shown on U.S. Geological Survey (USGS) quadrangle maps for Winnebago County, revised 1980. Rivers and streams in Winnebago County shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on the USGS maps.
- (h) The number(s) and type(s) of animals for which storage is to be provided.
- (i) Planned duration of storage, expressed in days or months, and volume of storage, expressed in cubic feet.
- (j) Description of the type(s) of materials the facility is to consist of; size, dimensions, and cross sections of the facility, and any other specific details including, but not limited to, concrete, concrete thickness in floors and walls, steel schedules, and fencing.
- (k) A time schedule for construction of the facility.
- (l) Description of how waste will be transferred into and removed from the facility.
- (m) A preliminary Nutrient Management Plan, verifying the ability of the landowner/operator to comply with USDA – NRCS 590 Standard.

- (n) Scale of the plan drawing(s) and north arrow.
 - (o) Description of bench mark(s) including elevation(s) expressed in feet and hundredths.
- (4) **ANIMAL LOT FACILITY PLAN REQUIREMENTS.** Each application for a permit under this chapter of the Code shall include an **ANIMAL LOT FACILITY PLAN**. Such plans shall include the following:
- (a) A plan map showing location of the facility, including buildings, homes, and wells within 300 feet of the proposed site. The sketch shall be drawn to scale, with a scale no smaller than 1 inch:100 feet.
 - (b) The location of any wells within 300 feet of the facility.
 - (c) The location of all soil test pits, including a detailed log of each pit to a depth of at least 3 feet below the planned bottom elevation of the facility. The soil test pit log shall include: the location and surface elevation, depth of the pit, description of the soil profile, and the USDA Uniform Soil Classification. The location of each test pit, prior to digging, and the log descriptions of each pit, as it is excavated, shall be determined and recorded by Winnebago County Land and Water Conservation Department or NRCS staff
 - (d) Depth of high ground water, estimated or observed, in the soil profile and date determined.
 - (e) Depth to bedrock, estimated or observed.
 - (f) Ground contours (2-foot maximum intervals), with spot elevations, indicating land slope at and around the site for a minimum distance of 100 feet.
 - (g) Provisions for adequate drainage and control of runoff to prevent pollution of surface and ground water. The location of any navigable body of water within 500 feet of the proposed site must be shown. Lakes, ponds and flowages in Winnebago County shall be presumed navigable if they are listed in Wis. Dept. of Natural Resources publication "Surface Water Resources of Winnebago County" or are shown on U.S. Geological Survey (USGS) quadrangle maps for Winnebago County, revised 1980. Rivers and streams in Winnebago County shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on the USGS maps.
 - (h) Description of the type(s) of materials the facility is to consist of; size, dimensions, and cross sections of the facility, and any other specific details including, but not limited to, concrete, concrete thickness in floors and walls, steel schedules, and fencing.
 - (i) A time schedule for construction of the facility.

- (j) Scale of the plan drawing(s) and north arrow.
 - (k) Description of bench mark(s) including elevation(s) expressed in feet and hundredths.
- (5) REVIEW OF APPLICATION. The Land and Water Conservation Department shall receive and review all permit applications to determine if the proposed facility will comply with ordinance requirements. The procedure will generally be as follows:
- (a) Prior to issuance of a permit, livestock waste storage facility and or animal lot plans shall be approved either by the NRCS Area Engineer, by a DATCP representative, by a registered professional civil engineer, or by a Land and Water Conservation Department staff person having the appropriate Engineering Job Approval authority.
 - (b) Within thirty days after an application has been submitted to the Department, the applicant shall be notified in writing whether the application has been approved or disapproved. Approval of such plans may be conditional based upon on-site specific requirements determined by the Department or NRCS.
- (6) PERMIT CONDITIONS. All permits issued under this chapter of the Code shall be issued subject to the following conditions and requirements:
- (a) The livestock waste storage facility or animal lot design, construction, operation, and maintenance shall be carried out in accordance with the facility plan and standards specified in Section 13.09 of this chapter of the Code.
 - (b) Any modifications to an approved facility plan must be approved in writing by an authorized representative of the Land and Water Conservation Department. Written approval by the Department shall occur only after the NRCS Area Engineer has reviewed and verbally approved the proposed modifications.
 - (c) All activities authorized by permit must be completed within two years from the date of issuance after which time such permit shall be void unless renewed prior to expiration.
- (7) RENEWALS. A permit may be renewed once. The landowner or his contractor responsible for installation of a livestock waste storage facility or animal lot may renew a permit prior to expiration date by submitting a renewal form and the appropriate fee to the Land and Water Conservation Department. Prior to any permit renewal a complete review of the project site conditions and design parameters shall be made by the Department to determine if any changes have occurred that would alter the permit criteria. The permit shall expire two years from the date of renewal. No additional renewals shall be granted.

13.11 PERMIT FEE

- (1) The initial fee for a permit under this chapter shall be \$100.00.
- (2) The initial fee for a permit issued after the fact, shall be doubled.
- (3) The renewal fee for a permit under this chapter shall be \$50.00.

13.12 PERMIT REVOCATION

The Land and Water Conservation Department may revoke any permit issued under this chapter if the person issued the permit has misrepresented any information in the permit application for the livestock waste storage facility or animal lot, or if the person violates any of the conditions of the permit.

13.13 ADMINISTRATION

- (1) **ADMINISTRATIVE AUTHORITY.** The Land and Water Conservation Department shall administer and enforce this chapter based upon technical review and advice from NRCS/DATCP Area Engineering staff.
- (2) **ADMINISTRATIVE PROCEDURES.** The administration and enforcement of this chapter by the Land and Water Conservation Department shall be carried out pursuant to established County and Department procedures and policies.
- (3) **INSPECTION AUTHORITY.** Staff or representatives of the Winnebago County Land and Water Conservation Department shall be authorized to enter upon any lands affected by this chapter to inspect the site prior to and after permit issuance to determine compliance with the ordinance.
- (4) **ENFORCEMENT AUTHORITY.** The Land and Water Conservation Department shall be authorized to issue a stop work order on livestock waste storage facilities or animal lot sites that have had permits revoked or where activity is in violation of this chapter. Issuance and retraction of stop work orders shall be carried out pursuant to established procedures and policies of the Department.
- (5) **PENALTIES.** Any person who violates any of the provisions of this chapter, upon conviction of such violation, shall be subject to a penalty as provided in Sec. 25.04 of the Code. Each day that a violation exists shall constitute a separate offense. The following schedule of cash deposits as provided in Sec. 25.04(4)(b)(7) of the code is hereby established.

- (a) Failure to obtain a Permit - \$500.00.
- (b) All other violations of this chapter - \$250.00.

13.14 ABANDONMENT

- (1) The owner and/or operator of any existing animal waste storage facility in Winnebago County shall not abandon nor otherwise make said facility inoperative prior to preparing an Abandonment Plan. The plan must be prepared in accordance with USDA, NRCS Technical Standard 313 and approved by the Winnebago County Land & Water Conservation Department.
- (2) Should the local Health Officer determine that any animal waste storage facility constitutes a human health hazard pursuant to Section 254.59, Wisconsin Statutes, Winnebago County reserves the right to abate said human health hazard and to assess costs pursuant to Section 254.59, Wisconsin Statutes.

13.15 APPEALS

Any person aggrieved by a decision of the Land and Water Conservation Department, concerning the enforcement of this chapter, may file a written appeal of the decision with the Winnebago County Land Conservation Committee within 30 days of the Department's decision. A hearing upon the appeal shall be commenced within 60 days of the date of the appeal. The decision of the Committee may be appealed to the Circuit Court pursuant to Chapter 68, Wisc. Stats.