

CHAPTER 9

ANIMAL WASTE STORAGE

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MONROE COUNTY ANIMAL WASTE STORAGE ORDINANCE

9.01 AUTHORITY This ordinance is adopted under authority granted by sections 59.02, 59.03, and 92.16, Wisconsin Statutes.

9.02 TITLE This ordinance shall be known as, referred to, and may be cited as the Monroe County Animal Waste Storage Ordinance and is hereinafter referred to as the "ordinance".

9.03 FINDINGS AND DECLARATION OF POLICY The Monroe County Board of Supervisors finds that storage of animal waste in storage facilities not meeting technical design and construction standards is a threat to cause pollution of the surface and ground waters of Monroe County, and may result in 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 Monroe County.

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

9.04 PURPOSE The purpose of this ordinance is to regulate the location, design, construction, installation, alteration, abandonment, and use of animal waste storage facilities, in order to prevent water pollution and thereby protect the health of Monroe County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Monroe County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.

9.05 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 Monroe County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

9.06 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.

9.07 APPLICABILITY This Chapter applies to the unincorporated areas of Monroe County.

9.08 EFFECTIVE DATE This ordinance shall become effective upon its adoption by the full Monroe County Board of Supervisors and required publication.

9.09 DEFINITIONS

- 1) “Abandoned Storage Facility” means any animal waste storage facility not used for its intended purpose for three (3) consecutive years, and will by all available evidence, not again be used to store animal waste and manure by an active livestock operation.
- 2) “Animal Waste” means excreta from livestock, poultry and other materials, such as bedding, rain or other water, soil, hair, feathers, and other debris normally included in animal waste handling operations.
- 3) “Manure or Animal Waste Storage Facility” means any earthen, concrete, wooden, steel or otherwise fabricated structure intended to temporarily store an accumulation of animal waste. For the purposes of this ordinance, any facility constructed or excavated for the purpose of storing animal waste shall be considered a waste storage facility.
- 4) “Applicant” means any person who applies for a permit under this ordinance.
- 5) “County Conservationist” means the department head for the Monroe County Land Conservation Department.
- 6) “Land Conservation Committee”, referred to as the “LCC”, means the committee of the Monroe County Board assigned the responsibility of supervising the functions and activities of the Monroe County Land Conservation Department.
- 7) “Land Conservation Department”, referred to as the “LCD”, means the county staff assigned the responsibility of enforcing and providing technical assistance for this ordinance.
- 8) “Nutrient Management Plan” means a written plan detailing the amount, form, placement, and timing of the application of plant nutrients, including animal waste. The plan must meet NRCS Standard 590 and must be written or approved by a person certified to do nutrient management planning.
- 9) “Permit” means the signed, written statement issued by the Monroe County Land Conservation Department under this ordinance authorizing the applicant to construct, install, reconstruct, enlarge, substantially alter, or abandon an animal waste storage facility and to use or dispose of waste from the facility.
- 10) “Permittee” means any person to whom a permit is issued under this ordinance.
- 11) “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.
- 12) “Substantially Altered” means any modification that alters the integrity of the liner or the structure.
- 13) “Technical Guide” means the USDA Natural Resources Conservation Service Field Office Technical Guide as adopted by the Monroe County Land Conservation Committee and its’ Department.
- 14) “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.

9.10 ACTIVITIES SUBJECT TO REGULATION

- 1) **GENERAL REQUIREMENT** Any person who designs, constructs, installs, re-constructs, enlarges, or alters an animal waste storage facility; or who employs another person to do the same, on land subject to this ordinance, shall be subject to the provisions of this ordinance.

The requirements of this ordinance are in addition to any other permits or requirements that may apply to construction or abandonment of animal waste storage facilities.

- 2) **CLOSURE REQUIREMENT** An abandoned manure storage facility must be closed and restored to a safe and

sanitary condition in compliance with NRCS Technical Standard 313 within two (2) years of the time the storage facility is declared abandoned.

- 3) **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 Land Conservation Department before beginning activities subject to regulation under this ordinance, and complies with the requirements of the permit.

9.11 STANDARDS

Compliance with this Ordinance shall be through standards, specifications, and policies adopted by the Monroe County Land Conservation Committee. Standards and specifications are minimums. The following components of the USDA Natural Resources Conservation Service's Technical Guide will be used when a storage facility is to be designed, constructed, installed, moved, reconstructed, enlarged, removed, abandoned, or substantially altered:

- 1) **STANDARDS FOR ANIMAL WASTE STORAGE FACILITIES** The standards for design and construction of animal waste storage facilities is standard 313 (waste storage facility) and 634 (manure transfer) in the Technical Guide.
- 2) **STANDARDS FOR ANIMAL WASTE MANAGEMENT AND UTILIZATION** The standard for management of animal waste storage facilities and utilization of animal waste is standard 590 (nutrient management) in the Technical Guide.
- 3) **SUBSEQUENT MODIFICATION OF STANDARDS** The standards of the Technical Guide are adopted and by reference made a part of this ordinance as if fully set forth. Any future amendment, revision or modification of the Standards incorporated herein are made a part of this ordinance.

9.12 APPLICATION FOR AND ISSUANCE OF PERMITS

- 1) **PERMIT REQUIRED** A permit from the Land Conservation Department is required for the following activities: a) construction or substantial alteration of a manure storage facility; b) to meet the requirements of Section 9.10 (2) for proper closure and restoration of a facility declared abandoned; c) to close any facility that is no longer used for storage.
- 2) **EXCEPTION TO PERMIT REQUIREMENT** Emergency repairs such as repairing a broken pipe or equipment, leaking dikes, or the removal of obstructions from transfer pipes may be performed without a permit. If repairs will substantially alter the original design and construction of the facility, the Land Conservation Department must be notified within two (2) work days of the emergency for a determination by the Land Conservation Department on whether a permit will be required for any additional alteration or repair to the facility.
- 3) **FEES** A non-refundable fee of ~~\$100.00~~ will be required for the permit. A non-refundable fee of ~~\$500.00~~ will be charged for a permit after any construction has commenced without a permit. No fee will be charged for an abandonment permit.
- 4) **ANIMAL WASTE STORAGE FACILITY PLAN** Each application for a permit under this section shall include an animal waste storage facility plan meeting NRCS 313 and 634 standards. At a minimum, the plan shall include:
- The number and kinds of animals for which storage is provided.
 - 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, and should include a north arrow and temporary bench mark.
 - The structural details, including dimensions, cross sections showing elevations, concrete thickness and quantity, reinforcing type and specifications.
 - Make and model of prequalified structure, if used. Concrete quantity not included in prequalified structure.
 - Agitation access layout, grading plan to keep clean water from entering structure, seeding specifications, and tile and drainfill layout, if needed.

- f. The construction and material specifications including but not limited to, applicable specifications for earthen fill, excavation, concrete, reinforcing steel, timber, and pipes.
- g. The location of any wells within three hundred (300) feet of the manure storage facility.
- h. The location of any sinkholes within four hundred (400) feet of the manure storage facility.
- i. The soil test pit locations and soil descriptions to a depth of at least three (3) feet below the planned bottom of the facility. Certain site conditions or liner materials may require soil descriptions to a depth of five (5) feet.
- j. The elevation of a high groundwater level or bedrock if encountered in the soil profile and the date of any such determination.
- 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, elevation, and distance to the body of water shall be shown.
- l. A time schedule for construction of the facility.
- m. A description of the method to be used in transferring animal waste into and from the facility.
- n. A description of the location and type of fences, warning signs and safety features needed to meet the technical standards.
- o. Certification by a registered Professional Engineer (PE), Department of Agriculture Trade and Consumer Protection (DATCP), Land Conservation Department (LCD), or Natural Resources Conservation Service (NRCS) certified Agricultural Engineering Practitioner that the plans meet the requirements of the ordinance.
- p. A written operation, maintenance, and safety plan for the facility.
- q. A nutrient management plan meeting the NRCS 590 standard.

5) ABANDONMENT PLAN Each application for an abandonment permit under this ordinance shall include an abandonment plan prepared in accordance with Technical Standard 313 that specifies the following:

- a. A description of the type and size of the waste storage facility and an estimate of the amount of waste in the facility.
- b. A description of where and how the waste and soil saturated with manure will be land applied in accordance with Technical Standard 590.
- c. A description of where the liner, if any, will be disposed of.
- d. A description of how the transfer system will be removed or permanently plugged.
- e. A description of how the excavated area will be filled in and where the clean fill will come from.
- f. A plan view showing the final grade, the area to be reseeded, and how runoff will be diverted away from the site.
- g. Certification by a registered Professional Engineer (PE), Department of Agriculture Trade and Consumer Protection (DATCP), Land Conservation Department (LCD), or Natural Resources Conservation Service (NRCS) certified Agricultural Engineering Practitioner that the plans meet the requirements of the ordinance.

6) REVIEW OF APPLICATION The Land Conservation Department shall receive and review all permit applications. Permit applications must be received on forms approved by the LCD. The LCD shall determine if the proposed facility meets required standards set forth in this ordinance. Within fifteen (15) working days after receiving the completed application and fee, the Land Conservation Department shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the Land Conservation Department shall so notify the permit applicant. The Land Conservation Department has 15 working days from the receipt of the additional information in which to approve or disapprove the application. If the applicant receives no response within fifteen (15) working days of application, the application will be considered approved and the applicant may proceed as if a permit had been issued.

7) PERMIT CONDITIONS All permits issued under this ordinance shall be issued subject to the following conditions and requirements:

- a. Animal waste storage facility design, construction, management, and utilization activities shall be carried out in accordance with the LCD approved animal waste facility plans and applicable standards specified in Section 9.11 of this ordinance.
- b. The permittee shall give five (5) working days notice to the LCD before starting any construction activity authorized by the permit.
- c. Approval in writing must be obtained from the County Conservationist prior to any modifications to the approved

- animal waste facility plan.
- d. Within thirty (30) days of completion, the facility must be certified as meeting standards, including as-built plans and design changes. The certification must be made by a registered PE, or by a DATCP, LCD, or NRCS certified Engineering Practitioner. This certification must be made before the storage facility is put into service.
 - e. Animal waste storage facility removal or abandonment shall be carried out in accordance with the facility abandonment plan and applicable standards. The plan shall be certified as meeting the requirements of this Ordinance by a registered PE, or by a DATCP, LCD, or NRCS certified Engineering Practitioner.
 - f. The LCD staff may conduct on site inspections during and after construction.
 - g. Activities authorized by permit must be completed within eighteen (18) months from the date of issuance after which such permit shall be void. Extensions of up to one year may be granted by the County Conservationist upon written request from the permittee.
- 8) **PERMIT REVOCATION** The LCD may revoke any permit issued under this ordinance if the holder of the permit has misrepresented any material in the permit application or plans referenced in this ordinance, or if the holder of the permit violates any of the conditions of the permit.

9.13 ADMINISTRATION

- 1) **DELEGATION OF AUTHORITY** Monroe County hereby designates the Monroe County Conservationist to enforce this ordinance.
- 2) **ADMINISTRATIVE DUTIES** In the administration of this ordinance, the County Conservationist or that person's representative shall:
 - a. Keep an accurate record of all permit applications, animal waste facility plans, permits issued, inspections made, and other official actions.
 - b. Review permit applications and issue permits in accordance with this ordinance.
 - c. Investigate complaints relating to compliance with the ordinance.
 - d. Monitor permitted activities for compliance with this chapter.
 - e. Provide technical services to the extent resources are available
 - f. Perform other duties as specified in this ordinance.
- 3) **INSPECTION AUTHORITY** Pursuant to Sec. 92.07(14), Wis. Stats, the LCC and its agents, are authorized to enter upon lands affected by this ordinance to insure compliance. If the applicant or permittee refuses permission to enter the land, then the Monroe County LCC or its designee shall enter under its legal authority.
- 4) **ENFORCEMENT AUTHORITY** The County Conservationist is authorized to post an order stopping work upon land which has had a permit revoked or on land in violation of this ordinance. Notice is given by both posting upon the land where the violation occurs, one or more copies of a poster stating the violation, and by mailing a copy of the order by certified mail to the person whose activity is in violation of this ordinance. The order shall specify that the activity must cease immediately and be brought into compliance within five (5) working days.

Any permit revocation or order stopping work shall remain in effect unless retracted by the LCC, the County Conservationist, or by a court of general jurisdiction; or until the activity is brought into compliance with the ordinance. The Land Conservation Department is authorized to refer any violation of this ordinance to the corporation counsel for commencement of further legal proceedings seeking penalties and other appropriate relief in enforcement of the ordinance.

9.14 VIOLATIONS

- 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 the penalties provided by Monroe County Ordinance Sec. 25.04.
- 2) **ENFORCEMENT OF INIUNCTION** As a substitute for or as an addition to forfeiture actions, Monroe County may seek enforcement of any part of this ordinance by court action seeking injunctions or restraining orders.

9.15 APPEALS

- 1) **AUTHORITY** Under authority of Chapter 68, Wis. Stats., the Monroe County Land Conservation Committee is authorized to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination by the County Conservationist in administering this Ordinance.
- 2) **PROCEDURE** Any appeal shall be made by written request, mailed or delivered to the Monroe County Land Conservation Committee, 820 Industrial Drive, Suite 3, Sparta, WI 54656. 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) **WHO MAY APPEAL** Appeals may be taken by any person having a substantial interest, which is adversely affected by the order, requirement, decision, or determination made by the County Conservationist, the LCD, or the LCC.