

Chapter 13

Manure Storage and Management

Date Approved: 3/31/1997

Revision and Approval: 11/14/2000

Revision, Name Change and Approval: 6/17/2014

Revision, Name Change and Approved: 2/14/2023

Resolution: 27-22

1. Authority

This ordinance is adopted under authority granted by sections 59.70, 59.02, 59.03, 92.15 and 92.16, Wisconsin Statutes (Stats.), and ss. ATCP 50.56 and NR 151.05, Wisconsin Administrative Code (“Wis. Admin. Code”)

2. Title

This ordinance shall be known as, referred to, and may be cited as Lafayette County Manure Storage and Management Ordinance and is hereafter known as the Ordinance.

3. Findings and Declaration of Policy

The Lafayette County Board of Supervisors find that the following conditions may threaten the County’s natural and water resources, harm to the health, safety and welfare of people within the county and adversely impact the property tax base of the County:

- A. Any new construction or alteration of manure storage facilities that fail to meet performance and technical standards for proper design, construction and operation.
- B. Existing manure storage facilities that are not properly functioning and pose unreasonable risks related to structural failure and leakage.
- C. Existing manure storage facilities that overtop or are operated in a manner that creates an unreasonable risk of discharge to waters of the state.
- D. Existing manure storage facilities where no manure has been added or removed for a period of 24 months and are not slated for future use.
- E. Management of manure, including land application, which fails to meet performance and technical standards for proper handling and land application of manure.

The Lafayette County Board of Supervisors further finds that the technical standards developed by the USDA Natural Resources Conservation Service (“NRCS”), and certain performance standards, prohibitions and conservation practices codified by Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”) and Department of Natural Resources (“DNR”), if adopted by Lafayette County, provide effective, practical, and environmentally protective methods for storing and managing manure.

Lafayette County Board of Supervisors further finds that regulation of activities identified in this Ordinance will protect and promote the County’s agriculture industry; prevent pollution of surface and ground water; protect the health, safety and general welfare of the people and communities within the County; preserve the health of livestock, aquatic life and other animals and plants; advance the appropriate use of land and water conservation resources within the community; and protect the property tax base of the County.

4. Purpose

The purpose of this Ordinance is to regulate the location, design, installation, alteration, operation, maintenance, closure and use of manure storage facilities and associated transfer facilities, to ensure the proper application of manure from all storage facilities covered by this Ordinance, and to prescribe performance standards and prohibitions related to manure and manure management. It is also intended to provide for the administration and enforcement of the Ordinance and to provide penalties for its violation.

5. Applicability

The permitting and other requirements in this Ordinance apply to all of the unincorporated areas of Lafayette County.

6. Interpretation

In its interpretation and applications, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Lafayette County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes (Stats.). Unless a specific provision of this ordinance seeks to apply requirements that are more stringent than state law, this Ordinance shall be interpreted to be consistent with chs. 92 and 281.6, Stats. and chs. ATCP 50 and NR 151 Admin. Code.

7. Abrogation, Greater Restrictions and Severability

- A. **Abrogation and Greater Restrictions:** This Ordinance is not intended to repeal, annul, abrogate, impair or interfere with any existing covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or

issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

- B. **Severability:** Each Section, paragraph, sentence, clause, word and provision of this Ordinance is severable and if any portion shall be deemed unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance nor any part there of other than the portion affected by such decision.

8. **Effective Date**

This Ordinance shall become effective upon its adoption by the Lafayette County Board of Supervisors and publication.

9. **Definitions**

- A. For the purposes of this chapter, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory.
1. **"Agricultural Waste Management Field Handbook"** means a manual that provides specific guidance for planning, designing, and managing systems where agricultural wastes are involved, as published by the United States Department of Agriculture (USDA) Natural Resources Conservation Service. Hereinafter referred to as AWMFH.
 2. **"Applicant"** means any person who applies for a permit under this Ordinance
 3. **"Business Days"** means days Monday through Friday, except for days designated as holidays by the Lafayette County Board of Supervisors.
 4. **"DATCP"** means Wisconsin Department of Agriculture, Trade and Consumer Protection
 5. **"Direct Conduits to Groundwater"** has the meaning given in s. NR 151.002 (11m), Wis. Admin. Code, which means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.
 6. **"Direct Runoff"** has the meaning in NR 151.015(7), Wis. Admin. Code, which includes any of the following:

- a. Runoff from a feedlot that can be predicted to discharge a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water.
 - b. Runoff of stored manure, including manure leachate, that discharges a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water.
 - c. 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), Wis. Admin. Code.
 - d. Discharge of a significant amount of leachate from stored manure to waters of the state.
 - e. The criteria in s. NR 151.055(3), Wis. Admin. Code, will be used to predict or determine if a discharge is significant.
7. **“Engineering Field Handbook”** is a manual of engineering technical data published by the USDA natural resources conservation Service. Hereinafter referred to as EFH.
 8. **“Land Conservation Committee (LCC)”** is a committee made up of members of the Lafayette County Board of Supervisors and others who, by authority from Chap. 92, Wis. Stats., determine policy and give direction for soil and water conservation activities, and provides direction for the Land Conservation Department (LCD).
 9. **“Habitable Structure”** means any structure with electricity, heating or air-conditioning and/or potable water intended to be used for living, sleeping, eating, or purposes including, but not limited to, residences, multifamily dwellings, churches, schools and businesses.
 10. **“Manure”** means livestock excreta and the following when intermingled with excreta in normal farming operations: debris including bedding, water, soil, hair, and feathers; processing derivatives including separated sand, separated manure solids, precipitated manure sludges, supernatants, digested liquids, digested biosolids, composted bio solids, milkhouse waste and process water; and runoff collected from barnyards, and animal lots.
 11. **“Manure Storage Facility”** means one or more impoundments made by constructing an embankment, excavating a pit or dugout, or fabricating a structure, specifically for the purpose of storing manure and related wastes. Included in this definition is stationary equipment and piping used to load or unload a manure storage facility if the equipment is specifically designed for that purpose and is an integral part of the facility, and

specifically includes components to transfer waste from milking centers, and runoff from barnyards.

12. **“Margin of Safety Level”** has the meaning given in s. NR 243.03(37), Wis. Admin. Code, which means the level in a liquid storage or containment facility that is vertically one foot below the lowest point of the top of the facility or structure.
13. **“Natural Resources Conservation Service (NRCS)”** is an agency of the United States Department of Agriculture which, for purposes of this Ordinance, develops and maintains a technical guide with conservation practice standards and specifications, engineering manuals and handbooks, and other technical documentation related to manure storage facilities, nutrient management plans, and other technical matters covered by this Ordinance.
14. **“Navigable Water”** has the meaning given in s. 30.01(4m) Stats, which means any body of water which is navigable under the laws of the state of Wisconsin.
15. **“Nutrient Management Plan”** means an annual written plan developed and to be implemented to ensure the proper application of manure and other nutrients to any field, including pastures. A nutrient management plan shall meet the requirements under Sec. 12(D).
16. **“Overflow”** has the meaning given in s. NR 151.015 (15e), Wis. Admin. Code, which means discharge of manure to the environment resulting from flow over the brim of a facility or from flow directed onto the ground through a man-made device including a pump or pipe.
17. **“Percent fines”** means the percentage of a given sample of soil which passes through a #200 (0.075mm) sieve.
18. **“Permit”** means the signed, written statement issued under this Ordinance authorizing the applicant to construct, install, reconstruct, extend, enlarge, any alteration or close a manure storage facility, and to use or dispose of waste from the facility.
19. **“Permitting Authority”** means the Lafayette County Land Conservation Department and Planning & Zoning Department who act in collaboration. The term “County” may be used in this Ordinance to represent the Permitting Authority.
20. **“Permittee”** means any person to whom a permit is issued under this Ordinance.

21. **“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.
22. **“Safety Devices”** means devices which are designed to protect humans and livestock from the hazards associated with a manure storage facility.
23. **“Significant Discharge”** means a discharge of process waste that is determined as “significant” in accordance with the criteria in s. NR 151.055(3), Wis. Admin. Code.
24. **“Site that is susceptible to groundwater contamination”** has the meaning under NR 151.015(18) Wis. Admin. Code, which means any of the following:
- a. An area within 250 feet of a private well.
 - b. An area within 1000 feet of a municipal well.
 - c. An area within 300 feet upslope or 100 feet downslope of a direct conduit to groundwater.
 - d. A channel that flows to a direct conduit to groundwater.
 - e. An area where the soil depth to groundwater or bedrock is less than 2 feet.
 - f. An area where the soil does not exhibit one of the following characteristics:
 - 1. At least a 2-foot soil layer with 40 percent fines or greater above groundwater and bedrock.
 - 2. At least a 3-foot soil layer with 20 percent fines or greater above groundwater and bedrock.
 - 3. At least a 5-foot soil layer with 10 percent fines or greater above groundwater and bedrock.
25. **“Stop Work Order”** means an order to cease any activity in the operation or construction of an activity subject to regulation.
26. **“Substantially Altered”** has the meaning in s. NR 151.015(20), Wis. Admin. Code, which means 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:

- a. Replacement of a liner in a manure storage structure.
- b. An increase in the volumetric capacity or area of a structure or facility by greater than 20%.
- c. 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.

27. **“Technical Guide”** means the document provided by NRCS at the time of application which contains technical data, including the standards referenced within this Ordinance to properly and safely locate, construct, install, alter, design, operate and maintain a manure storage facility.
28. **“Technical Standard 313”** is a practice standard within the Technical Guide that covers the proper location, design, construction, installation, alteration, operation and maintenance of a manure storage facility.
29. **“Technical Standard 360”** is a practice standard within the Technical Guide that covers decommissioning of facilities, and/or the rehabilitation of contaminated soil, in an environmentally safe manner, where agricultural waste has been handled, treated, and/or stored and is no longer used for the intended purpose.
30. **“Technical Standard 634”** is a practice standard within the Technical Guide that covers the design, material types and quality, and installation of components such as conduits, pumps, valves, and other structures or devices to transfer manure and waste from buildings and yards and other sources to storage, loading areas, crop fields and other destinations. The standard establishes the minimum acceptable requirements for design, construction, and operation of waste transfer system components.
31. **“Technical Standard 590”** is a practice standard within the Technical Guide that covers managing the amount, form, placement and timing of plant nutrients associated with organic wastes (manure and organic by-products), commercial fertilizers, legume crops and crop residues.
32. **“Unconfined Manure Stack”** means a quantity of manure that is at least 175 cubic feet in volume and which covers the ground surface to a depth of at least 2 inches and is not confined within a manure storage facility, livestock housing facility or barnyard runoff control facility or covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater.

33. **“Waste Transfer System”** means components such as pumps, pipes, conduits, valves, and other mechanisms installed to convey manure, leachate and contaminated runoff, and milking center wastes from livestock structures to a storage structure, loading area, or treatment area.
34. **“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.
35. **“Water Quality Management Area”** or “WQMA” has the meaning in s. NR 151.015(24), Wis. Admin. Code, which means the area within 1,000 feet from the ordinary high water mark of navigable waters that consist of a lake, pond or flowage, except that, for a navigable water that is a glacial pothole lake, the term means the area within 1,000 feet from the high water mark of the lake; the area within 300 feet from the ordinary high water mark of navigable waters that consist of a river or stream; and a site that is susceptible to groundwater contamination, or that has the potential to be a direct conduit for contamination to reach groundwater.
36. **“Waters of the State”** is the meaning specified under s. 281.01(18), Stats, which includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

10. **Activities Subject to Regulation**

A. **Permit Requirements**

Any person or who employs another person to do the same, shall be subject to the permit requirements of this Ordinance under Sec. 12 if conducting any of the following:

1. Designs a manure storage facility and related transfer systems
2. Installs, constructs or re-constructs manure storage facility and related transfer systems
3. Replaces the liner of manure storage facility
4. Enlarges or reduces volumetric capacity of manure storage facility
5. Changes use of manure storage facility and related transfer systems
6. Closes a manure storage facility and related transfer systems

B. Performance Standards and Prohibitions

Any person who owns or operates cropland or livestock facilities in Lafayette County is subject to the performance standards and prohibitions in Sec. 11(C) and Sec. 11(D), regardless of whether they received a permit under this Ordinance. This Ordinance incorporates by reference the definitions in chapters ATCP 50 and NR 151, Wisconsin Admin. Code, to the extent that they are not explicitly referenced herein.

C. Safety Devices

All manure storage facilities shall be equipped with safety devices including fences and warning signs intended to protect humans and livestock from the hazards associated with such facilities. Safety devices shall be designed and installed as required by Technical Standard 313.

D. Road and Habitable Structure Setbacks

1. All setback measurements shall be measured from the outermost edges of all new and altered manure storage facilities.
2. Any new or altered waste storage facilities shall not be located within 63 feet from the centerline of any township road or recorded access easement, 75 feet from the centerline of any county highway and 110 feet from the centerline of any state highway.
3. Any new manure storage facilities shall not be located within 500 feet of any adjacent habitable structure existing at the time of application that is not owned by the applicant unless the following is done:
 - a. An agreement provided by the Permitting Authority is signed by the applicant and any person(s) who own a habitable structure that is not the applicant within less than 500 feet. Once the agreement is signed, it shall be recorded with the Lafayette County Register of Deeds. Upon recording, this agreement shall be binding upon the property owner(s), their heirs or assignees and shall run with the land until the manure storage is properly abandoned meeting Technical Standard 360 or the habitable structure is demolished.
4. Any manure storage facilities being altered to increase volumetric capacity shall not be located within 500 feet of any adjacent habitable structure existing at the time of application that is not owned by the applicant unless the following is done:
 - a. An agreement provided by the Permitting Authority is signed by the applicant and any person(s) who own a habitable structure that

is not the applicant within less than 500 feet. Once the agreement is signed, it shall be recorded with the Lafayette County Register of Deeds. Upon recording, this agreement shall be binding upon the property owner(s), their heirs or assignees and shall run with the land until the manure storage is properly abandoned meeting Technical Standard 360 or the habitable structure is demolished.

11. Performance Standards and Prohibitions

A. **Purpose:** The purpose of this section is to identify the agricultural performance standards and prohibitions that apply to manure storage facilities built or operated in the County, whether or not the owners or operators have received a permit under this ordinance. This section also outlines the procedures the County will follow in implementing and enforcing these standards and prohibitions consistent with state requirements and the circumstances under which an owner or operator of a livestock facility is required to comply with these standards and prohibitions.

B. Activities Subject to Agriculture Performance Standards and Prohibitions

1. **Manure Storage.** All owners and operators of livestock facilities shall store and manage manure in accordance with Sec. 11(C) and 11(D), whether or not a permit has been issued under Sec. 12 of this Ordinance.

C. Manure Storage Facilities Performance Standards and Prohibitions

1. Manure storage facilities constructed or substantially altered after October 1, 2002 shall be designed, constructed and maintained to minimize the risk of structural failure of the facility and minimize leakage of the facility in order to comply with groundwater standards.
 - a. Storage facilities that are constructed or substantially altered shall be designed and operated to contain the additional volume of runoff and direct precipitation entering the facility as a result of a 25-year, 24-hour storm.
 - b. A manure storage facility located in permeable soils or over fractured bedrock must be constructed with a liner designed in accordance with Technical Standard 313.
2. Closure of a manure storage facility shall occur when the farm where the storage facility is located ceases operation, or manure has not been added or removed from the storage facility for a period of 24 months. Manure storage facilities shall be closed in a manner that prevents future contamination of groundwater and surface waters and shall conform to the permitting and other requirements in this Ordinance. The owner or

operator may avoid closure of a facility as required under this section by demonstrating to the County that all of the following conditions are met:

- a. The facility is designed, constructed and maintained in accordance with this section.
 - b. The facility is designed to store manure for a period of time longer than 24 months.
 - c. Retention of the facility is warranted based on anticipated future use.
3. Manure storage facilities that pose an imminent threat to public health, fish and aquatic life, or groundwater shall be upgraded, replaced, or closed in accordance with this Ordinance.
 4. Manure storage facilities constructed or substantially altered after October 1, 2002 may be required to comply with par. (2) and par. (3) without cost-sharing.
 5. Levels of materials in manure storage facilities may not exceed the margin of safety level.

D. Manure Management Prohibitions

1. A livestock operation shall have no overflow of manure storage facilities.
2. A livestock operation shall have no unconfined manure stack in a water quality management area.
3. A livestock operation shall have no direct runoff from a feedlot or stored manure into the waters of the state.

E. Cost-Sharing Required:

1. The County shall follow the requirements of chapters ATCP 50 and NR 151, Wis. Admin. Code, to determine if a landowner of existing cropland or livestock facilities must receive a bona fide offer of cost-sharing to achieve compliance with a performance standard or prohibitions. The County shall do all of the following, notifying the landowner regarding its determinations:
 - a. Identify the specific areas where the landowner has failed to comply with the performance standards and prohibitions and the corrective actions the landowner must pursue to achieve compliance.

- b. Determine whether that farmland that is out of compliance is “existing cropland” or an “existing livestock facility.” If cropland or a livestock facility has been determined to be in compliance with a performance standard or prohibition, it no longer qualifies as an “existing” cropland or facility for cost-share purposes under that performance standard. If the cropland or facility later falls out of compliance with the performance standard, the landowner must restore compliance regardless of the availability of cost-sharing
2. The County shall determine whether cost-sharing is available following the requirements of ss. NR 151.09(4)(d) or NR151.095(5)(d), Wis. Admin. Code, when funding is provided under s. 281.65, Stats., and use ch. ATCP 50, Wis. Admin. Code, to make this determination when funds are from any other source.

12. Manure Storage Permits

A. Permit Required

1. No person may do any of the following without obtaining a permit in accordance with this section:
 - a. Construct a new manure storage facility or alter an existing manure storage facility, including the construction or alteration of waste transfer systems connected to a manure storage facility.
 - b. Upgrade, repair or replace a manure storage facility that has been identified as posing an imminent threat to public health, fish and aquatic life, or groundwater in accordance with this ordinance.
 - c. Closure of an existing manure storage facility as outlined in Sec. 11(C)(2).
2. Requirements of this Ordinance shall be in addition to any other legal requirements regulating manure. Specific exemptions to cost-share requirements apply to the issuance of permits. See ss. NR 151.095(5)(b)2. and ATCP 50.54(2)(b), Wis. Admin. Code. In the case of conflict, the most stringent provisions shall apply.
3. A person is in compliance with this section if he or she follows the application and other procedures specified in this section, receives a permit and approval from the County before beginning activities subject to regulation under this section, complies with the requirements of the permit and receives any required approvals or certifications from the County. The Permitting Authority may establish a timetable for the applicant to

complete required activities to ensure compliance with requirements of this Ordinance.

B. Exception to Permit Requirement: A permit is not required for the following:

1. Routine maintenance of a manure storage facility, not including activities listed under Sec. 12(A)(1)(a-c), of this ordinance.
2. Emergency equipment repairs of a manure storage facility, if all of the following conditions are met:
 - a. All emergency repairs on a manure storage facility or 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 Sec. 12(F)
 - b. Such repairs shall be further reported to the Permitting Authority within one (1) working day of the emergency for a determination on whether a permit will be required for any additional alteration or repair to the facility.
 - c. The Permitting Authority determination shall be rendered within three (3) working days of reporting

C. Fees:

1. Fees shall apply to the following activities in accordance with this ordinance:
 - a. Application for Manure Storage Permit, with activities specified in Sec 12(A)(1)(a) and Sec 12(A)(1)(b)
 - b. Application for Manure Storage Closure Permit, with activities specified in Sec 12(A)(1)(c)
 - c. Request for Appeal, with activities specified in Sec. 17(A)
 - d. Request for Variance, with activities specified in Sec. 17(B)
 - e. After-The-Fact Permit, where activities have started before permits were issued as referenced in Sec. 12(A).
2. Fees shall be set in accordance with the Land Conservation and Planning & Zoning Fee Schedule under the following conditions:

- a. Fee Schedule shall be annually reviewed by the Land Conservation Committee.
 - b. Any proposed increase or decrease shall be at the discretion of the Land Conservation Committee.
3. Any fee shall be payable upon submission of an application or After-The-Fact Permit.

D. Manure Storage Facility Construction Plan and Nutrient Management Plan Required:

Each application for a permit under Sec. 12(A)(1)(a) and 12(A)(1)(b) shall include a form provided by the County, include plans for the manure storage facility, including transfer system, and the nutrient management plan in accordance with following requirements:

1. A narrative of the general criteria required within Technical Standard 313, and of other applicable Technical Standards including management and site assessments. The narrative should include, but is not limited to:
 - a. The number and type of animals for which storage is provided, the duration for which storage is to be provided, daily gallons and/or cubic feet of waste and manure produced, bedding type, and manure handling practices, and availability of adequate land to meet Technical Standard 590 spreading requirements.
 - b. A description and construction plan of the method of transferring manure into and from the facility.
 - c. Soil test pit or boring logs and their locations with soil descriptions and test results. Soil test pit or boring criteria should follow Technical Standard 313 and characterize the subsurface (soils, saturation, and bedrock). This includes the elevation of redoximorphic features (mottling), gleyed soil and moisture condition.
2. A general location map drawing of the site which shall include:
 - a. The location of structures in relation to buildings, homes, property lines, roads, wells, karst features, public or private drainage ditches, creeks, flowages, rivers, streams, lakes, and wetlands within one thousand (1000) feet of the proposed facility or system.
 - b. Compliance with setbacks as listed in Sec. 10(D).

- c. The location of any floodplains.
 - d. The scale of the drawing and the north arrow with the date the general location map was prepared.
3. Engineering design drawings of the manure storage facility or transfer system which shall include:
 - a. Specific design components that shall comply with Technical Standard 313, and Technical Standard 634.
 - b. Recoverable benchmark(s) including elevation(s) expressed in feet and tenths.
 - c. The scale of the drawings and the north arrow. The engineering design drawing shall be drawn to a scale no smaller than one (1) inch equals one hundred (100) feet.
 - d. The date the engineering design drawings were prepared.
4. The structural details, including but not limited to dimensions, cross-sections, concrete thickness, concrete joint design and placement, design loads, design computations, reinforcement schedules, thickness and placement of groundwater protection liners, and all material specifications.
5. Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater.
6. A construction site erosion control plan.
7. Estimated start of construction and construction schedule.
8. A safety plan that identifies hazards to animals and people in the production area, and design features to minimize those hazards.
9. An operation and maintenance plan for installed practices signed by the applicant.
10. A nutrient management plan prepared in compliance requirements of this Ordinance, including Sec. 12(F).
11. An affirmation in which the applicant attests that he/she has a nutrient management plan in accordance with Wis. Admin. Code § ATCP 50.04(3), and affirms that he/she will maintain such nutrient management plan, as required by law.

12. Any other additional information required by the County to protect water quality and achieve compliance with the requirements of this Ordinance.

E. Manure Storage Facility Closure Construction Plan Required: Each application for a closure permit under Sec. 12(A)(1)(c). shall be on a form provided by the county and include plans for the closure of the manure storage facility, including transfer system. The plan shall include:

1. A general location map drawing of the manure storage facility which shall include:
 - a. The location of the manure storage facility in relation to buildings, homes, property lines, roads, wells, karst features, public or private drainage ditches and creeks, flowages, rivers, streams, lakes, or wetlands within one thousand (1000) feet of the existing facility.
 - b. The scale of the drawing and an arrow indicating north.
 - c. The date the general location map was prepared.
2. Engineering design drawings for the closure of the manure storage facility, including transfer system which shall include:
 - a. Specific design components that shall comply with Technical Standard 360.
 - b. Recoverable benchmark(s) including elevation(s) expressed in feet and tenths.
 - c. The scale of the drawings and the north arrow. The engineering design drawing shall be drawn to a scale no smaller than one (1) inch equals one hundred (100) feet.
 - d. The date the engineering design drawings were prepared.
3. A description of the method and specifications in transferring manure into and from the manure storage facility to ensure proper closure of transfer systems.
4. Provisions to remove or permanently plug the manure transfer system serving the manure storage facility.
5. Provisions to remove and properly dispose of all accumulated manure in the manure storage facility in compliance with Technical Standard 360 and Technical Standard 590.

6. For all waste impoundments, plan requirements and provisions shall be in compliance and consistent with applicable Technical Standards.
7. Any other additional information required by the County to protect water quality and achieve compliance with the requirements of this Ordinance.

F. Permit Standards:

1. **Manure Storage Construction.** Permit applications under Sec. 12(D) shall provide sufficient documentation to demonstrate that a new construction or alteration to a manure storage facility:
 - a. Is designed in accordance with Technical Standard 313 and Technical Standard 634.
 - b. Meets the performance standards in Sec. 11(C)
2. **Manure Storage Closure.** Permit applications under Sec. 12(C) shall provide sufficient documentation to demonstrate that the plan for manure storage facility closure meets Technical Standard 360.
3. **Manure and Nutrient Management.** Nutrient management plans submitted under Sec. 12(D) shall comply with Technical Standard 590, s. ATCP 50.04 (3), Wis. Admin. Code, and s. NR 151.07, Wis. Admin. Code.
4. **Other Standards.** Other technical guides such as AWMFH or EFH may be used to evaluate compliance with the requirements of this Ordinance.
5. **Incorporation of Standards and Specifications.** All standards and specifications are incorporated by reference and made part of this Ordinance. Any future amendment, revision or modification of the standards or specifications incorporated herein are made a part of this ordinance, unless the County specifically affirmatively acts to a different version. Copies of all applicable standards and specifications may be obtained from the Lafayette County Land Conservation Department.
6. **Certification.** All permit applications must include a certification provided by a qualified person that the designs and plans meet the technical standards and specifications in this subsection. A qualified person is someone who is either a Wisconsin licensed engineer, certified crop advisor, technical service provider or individual with proper job approval authority for the applicable standards.
7. **Variances.** Variances from these standards and specifications can only be granted if the applicant receives a variance or waiver from NRCS or DATCP.

8. **New Technology.** A permit may be granted for a transfer system or storage/processing facility that employs new technology only if it can be demonstrated to meet any existing, applicable NRCS standards included in the Technical Guide and the intent of this Ordinance.

G. **Review of Application:** All applications are to be submitted to the Permitting Authority. Said Permitting Authority will determine the completeness of the applications with associated fees. Within forty five (45) business days after deeming the application complete, the Permitting Authority shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the Permitting Authority shall also notify the permit applicant. The Permitting Authority has fifteen (15) business days from the receipt of the additional information in which to approve or deny the application. No construction may commence without the approval permit issued by the Permitting Authority.

H. **Permit Approval Conditions:** All permits issued under this Ordinance shall be issued subject to the following conditions and requirements:

1. Facility and system design, construction, and closure shall be carried out in accordance with the approved plans and applicable standards.
2. Permittees agree to obtain all required local, state and federal permits and authorizations before commencing construction activities.
3. The permittee shall give five (5) business days written notice to the Permitting Authority before starting any construction activity authorized by the permit.
4. Approval in writing must be obtained from the Permitting Authority prior to making any changes or modifications to the approved plans and specifications.
5. Following completion of construction and prior to use, a Wisconsin licensed engineer or other individual with proper authority, shall certify in writing that all storage facilities and transfer systems were installed as planned, in accordance with the plans and specifications and meets NRCS standards and provide, to the County, a final "as built" construction plan, including as-built dimensions, any notes or reports, and changes or modifications made as authorized per Sec. 12(H)(4).
6. Permittee shall provide materials specifications for approval for any component covered by current, applicable NRCS Wisconsin construction specifications of the storage facility prior to installation.
7. The County shall provide onsite inspection and final approval (via a Certificate of Use) for all construction projects conducted under a permit

issued under this Ordinance. To receive approval Certificate of Use, a manure storage facility must be fully constructed as designed including the marking of the maximum operating level and implementation of all safety devices.

8. No permitted manure storage facility may receive manure until the County provides a Certificate of Use. No manure may be emptied from permitted manure storage facility until the County approves the nutrient management plan submitted by the applicant.
- I. **Permit Expiration:** All activities authorized by a permit shall be completed within two (2) years from the date of issuance after which time such permit shall be void. No work shall commence or continue at a site where a permit has expired unless a new, subsequent permit has been applied for and issued.
- J. **Permit Revocation:** In addition to any other actions authorized under this ordinance, the County may revoke any permit issued under this Ordinance if the holder of the permit has misrepresented any material fact in the permit application, plan or specification, or if the holder of the permit violates any of the conditions of the permit. The decision to revoke a permit may be appealed to the Lafayette County Board of Adjustment.

13. Certificate of Use

- A. **Certificate Purpose:** The purpose of a Certificate of Use is to monitor and regulate the operation of a manure storage facility and adequacy of related nutrient management practices.
- B. **Certificate Requirement:** No person may operate or use a manure storage facility permitted under this Ordinance unless the person has a valid Certificate of Use for the storage facility or portion of the storage facility that is being operated or used.
- C. **Issuance:** The County may issue a Certificate of Use upon the operator's compliance with conditions in Sec. 12(H) and the certificate shall remain in effect for as long as the manure storage facility is operated under the terms of the Certificate and this Ordinance.
- D. **Operating Requirement:** The operator of an manure storage facility is in compliance with the Certificate of Use if the person does all of the following:
 1. Updates and follows an annual nutrient management plan that complies with requirements in this Ordinance and covers all manure from the manure storage facility subject to the Certificate of Use.
 2. Properly operates the storage facility in accordance with performance standards and prohibitions in Sec. 11 and consistent with the

recommended operating methods as defined by the Technical Guide, AWMFH and EFH.

3. Properly maintains the storage facility free from visible and serious damage, erosion, or deformities that would impair the facility's safety or function as determined by the Technical Guide, AWMFH, and the EFH.
 4. Properly maintains safety devices.
 5. Provides the permitting authority proof of compliance with the requirements in Sec. 13(D)(3) and Sec. 13(D)(4) upon request and submits to periodic inspections of the storage facility with advance notice from the Department.
 6. Develops and implements a plan for closure of the manure storage facility when the operator ceases use of the facility or closure is required based on conditions specified in this ordinance.
 7. The operating requirements shall remain with the facility regardless of property sale or transfer. In the event of a property sale or transfer, the new owner shall contact the Land Conservation Department to ensure compliance with the Certificate of Use.
- E. **Certificate Revocation:** In addition to any other actions specified under this ordinance, the Permitting Authority may revoke a Certificate of Use if there is a misrepresentation of any material fact in the documents submitted in connection with the certificate use, a misrepresentation of any material fact in the nutrient management plan, a failure to submit required documentation or allow inspection, a condition that immediately threatens public health and safety, or for multiple or repeat violations of this ordinance. The operator will be immediately provided written notice of the revocation and the reasons for the revocation. No manure shall be added or removed from a manure storage facility whose certificate has been revoked.

14. **Non-Conforming Facilities**

- A. A manure storage facility that lawfully existed at the time this ordinance was enacted but does not currently meet all the requirements of this ordinance shall be considered an existing non-conforming facility. This shall include:
1. Any manure storage facility built prior to March 31, 1997.
 2. Any manure storage facility built between April 1, 1997 and November 13, 2000 that received an approved permit and was in compliance with the standards and requirements prescribed in the Animal Waste Storage Ordinance adopted March 31, 1997.

3. Any manure storage facility built between November 14, 2000 and June 17, 2014 that met the following criteria and was exempted from permitting under the following:
 - a. It was determined to be “Temporary Storage”. Defined as confined or unconfined manure storage of less than 30 days.
 - b. “Temporary Storage” complied with table 6 of Technical Standard 313 dated 9/1998.
 4. Any manure storage facility built between June 17, 2014 and adoption of this ordinance that met the following criteria and was exempted from permitting under the following:
 - a. It was determined to be “Temporary Storage”. Defined as less than 5000 cubic feet capacity.
 - b. “Temporary storage” complied with page 10, table 2 of Technical Standard 313 dated 1/2014.
 - c. “Temporary storage” complied with page 7, table 1 of Technical Standard 634 dated 1/2014.
 5. Any facility that has received an approved permit from the Permitting Authority in conformance to prior revisions of this ordinance.
- B. A nonconforming facility that is leaking significantly or showing evidence of failure may be required to be closed under the provisions of this ordinance.
- C. If the non-conforming facility is being used for manure storage or intends to be used for manure storage, it must be determined to be designed, constructed and maintained to minimize the risk of structural failure and minimize leakage in order to comply with groundwater standards.
- D. Any non-conforming facility that does not meet applicable criteria of Sec.14 (A) shall be considered a violation of this ordinance and will be subject to Sec. 16.

15. Administration and Enforcement

A. Delegation of Authority

The Lafayette County Board of Supervisors hereby designates the Land Conservation Department and Planning & Zoning Department staff with the authority to administer and enforce this Ordinance.

B. Administrative Duties

The administration and enforcement of this Ordinance, shall entail:

1. Keeping an accurate record of all permit applications, manure facility plans, nutrient management plans, permits issued, inspections made, and other official actions.
2. Reviewing permit applications and issue permits in accordance with Sec. 12 of this Ordinance.
3. Conducting, or cause to conduct, inspections of manure storage facilities to determine if the facility construction, closure or operation meet the requirements of this Ordinance.
4. Conducting, or cause to conduct, reviews of the nutrient management plans.
5. Implementing the performance standards and prohibitions in accordance with Sec. 11 of this Ordinance.
6. Reviewing certificate applications and issuing Certificates of Use in accordance with Sec. 13 of this Ordinance.
7. Investigating complaints relating to compliance with the requirements of this Ordinance and act upon the findings in accordance with provisions of this Ordinance.
8. Performing other duties as specified in this Ordinance.

C. **Inspection Authority:** The Permitting Authority or its representative, is authorized to enter upon any lands affected by this Ordinance to inspect the land, and request records to determine compliance with this Ordinance including inspection of sites prior to or after the issuance of a permit or certificate, and sites with unpermitted manure storage facilities. See s. 92.07(14), Stats. If permission cannot be received from the applicant or permittee, entry by the Permitting Authority or its representative may proceed in accordance with s. 66.0119, Stats., to obtain a special inspection warrant. Refusal to grant permission to enter lands affected by this Ordinance for purposes of inspection shall be grounds for permit or Certificate of Use denial or revocation. The County may take any action authorized by this Ordinance to enforce this right of inspection.

D. **Enforcement Authority:** In addition to the permitting authority to revoke permits and certificates specified in this Ordinance, the Permitting Authority is authorized to issue a Stop Work Order for development that has started without a required permit or approval. Notice is given by mailing a copy of the order via certified mail or delivering it in person to the person whose activity is in violation of this Ordinance. The order shall specify that the activity must

cease immediately or be brought into compliance within a period of time agreed upon by the Permitting Authority.

1. Failure of the person to resolve the issues for which a stop work order is issued, or to seek compliance in the case of a violation, may result in an enforcement action including, but not limited to, the issuance of a citation or referring the matter to the Lafayette County Corporation Counsel.
2. Any permit revocation or order stopping work shall remain in effect unless retracted by the appropriate authority (e.g., Board of Adjustment, or a court of general jurisdiction); or until the activity is brought into compliance with this Ordinance.
3. Where an after-the-fact permit is required in order to bring the activity into compliance, an additional fee shall apply according to Sec. 12(C)(1)(d).

E. Abatement Order Authority: The Permitting Authority may issue an Order to Abate for any violation of this Ordinance. In the event an offense is not abated as ordered, the County may take such action as is necessary to abate the offense and the cost of such abatement will become a lien upon the person's property and may be collected in the same manner as other taxes.

F. Other Lawful Remedies: Nothing in this section may be construed to prevent the County from using any other lawful means to enforce this Ordinance.

16. Violations and Penalties

A. Violation Enforcement

- a. It is unlawful for a person to violate any provision of this Ordinance or any condition contained in a permit or certificate issued pursuant to this Ordinance.
- b. It is unlawful for any person to knowingly provide false information, make a false statement, or misrepresent or fail to provide any material fact to a county agent, board, commission, committee, department, office, employee, deputy, or official acting in an official capacity under this Ordinance.
- c. It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this Ordinance.

B. Penalty Provision

- a. Any person who violates any of the provisions of this Ordinance, except as otherwise provided shall upon determination and/or adjudication of such violation be subject to a penalty and/or penalties as defined herein, each day a violation continues to occur, shall constitute a separate violation and offense.
- b. The Lafayette County Sheriff's Office members are hereby authorized to issue citations to person or organizations, corporations/ partnerships, or entities that violate this ordinance upon completion of the investigation in conjunction with Land Conservation Department and Planning & Zoning Department staff.
- c. A citation issued to any violator of this ordinance shall include all the information required for citations by Section 66.0113 of the Wisconsin Statutes.
- d. If the violator receives a summons in addition to the citation, the violator must appear in court for the hearing on the citation.
- e. Any citation and/or citation and summons issued under this ordinance can be served on the violator by the Lafayette County Sheriff's Office either in person or via mail.
- f. Except as provided in Sec. 16(H) and Sec. 16(I), a violator receiving a citation under this ordinance must pay a forfeiture deposit of two hundred fifty dollars (\$250.00), plus statutory costs, assessments, surcharges and fees for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time. Upon finding of guilty or no contest to the citation, fees, fines amounts, or any restitution can be paid to the Lafayette County Clerk of Courts or by following instructions on the citation.
- g. Any person; entity, and/or violator who, upon conviction pursuant to a lawsuit complaint, is found guilty of violating this Ordinance or any part thereof shall forfeit not less than fifty dollars (\$50.00), or not more than one thousand dollars (\$1000.00) for each offense, in addition to the costs of prosecution/ for each day of violation. Default in payment will be in accordance with s. 800.095, Stats. under the court's discretion.
- h. A violator receiving a citation under this ordinance must pay a forfeiture deposit of \$500 for a violation of the provision contained in Sec. 11(D)(1), for each offense, together with the costs of prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time.
- i. The forfeitures specified in this section are doubled for a person who is cited for the same violation of this ordinance within a 24 month period.

17. Appeals and Variances

A. Appeals:

1. Appeals to the Lafayette County Board of Adjustment may be taken by any person aggrieved, or by an officer, county department, board, or municipality affected by any order, requirement, decision, or determination by the County in administering this Ordinance.
2. Such appeals must be filed within 30 days after issuance of any order, requirement, decision, or determination which is being appealed to be heard.
3. To file an appeal, the appellant must complete a Request for Appeal, provided by the Permitting Authority which is then filed with the County. The application shall include the name and address of the appellant, the decision being appealed, the date of the decision being appealed, and shall specify written evidence and the reason for the request, including which requirements from this Ordinance are involved.
4. The Board of Adjustment shall hear appeals as outlined in Sec. 17(C).

B. Variances:

1. To file a request for variance, the appellant must complete an Application for Variance, provided by the Permitting Authority which is then filed with the County. The application shall include the name and address of the appellant, section of this Ordinance of which requesting relief from, an explanation of why the proposed variance will not harm the public interest and the reasoning for the request.

C. Board of Adjustment Hearing:

1. The Lafayette County Board of Adjustment shall review appeals or variances on a monthly basis. The permitting authority shall give public notice of the hearings by a Class 2 publication in the official newspaper of the County one week prior to the hearing. The notice shall specify the date, time and place of hearing and the matters to come before the Board. A written notice shall be mailed by the County to the parties in interest at least one week prior to the hearing. The BOA shall decide the matter within a reasonable time. At the hearing, any party may appear in person, by agent, or by attorney. The BOA shall adopt such rules, as it deems necessary for the conduct of business.
2. Principles Guiding Board of Adjustment Hearings

- a. The burden is upon the appellant to prove the need for a variance.
- b. Pecuniary hardship, loss of profit, self-imposed hardships, such as that caused by ignorance, deed restrictions, proceeding without a permit, are not sufficient reasons for granting a variance.
- c. The Board of Adjustment is bound to not permit an activity or practice that may fail structurally or otherwise and cause significant water pollution or other off-site impacts.
- d. The Board of Adjustment is bound to be consistent with the spirit and purpose of this ordinance.
- e. The Board of Adjustment is bound to not grant a variance that will result in an outcome that is contrary to the public interest and be damaging to the rights of other persons.
- f. The Board of Adjustment is bound to not grant a variance solely on the fact that certain conditions existed prior to the effective date of the ordinance.
- g. The Board of Adjustment is bound to not grant a variance from the standards in Technical Guide unless the County receives a variance or waiver from the technical standards through the NRCS or DATCP.
- h. The Board of Adjustment is bound to not grant a variance from the performance standards and prohibitions in Sec. 11(C) and 11(D) unless the County complies with the variance requirements specified in s. NR 151.097, Wis. Admin. Code, and receives approval from the Wisconsin Department of Natural Resources. Requests for a variance shall be made in writing and shall provide information documenting the following:
 - 1. Compliance with the performance standard or technical standard is not feasible due to site conditions.
 - 2. The landowner or operator will implement best management practices or other corrective measures that ensure a level of pollution control that will achieve a level of water quality protection comparable to that afforded by the performance standards in Ch. NR 151, Wis. Admin. Code.
 - 3. The landowner or operator or their agents or assignees did not create the conditions for which the variance is requested.