

LAFAYETTE COUNTY
ANIMAL WASTE STORAGE AND NUTRIENT MANAGEMENT
ORDINANCE

APPROVED BY THE LAFAYETTE COUNTY
LAND CONSERVATION COMMITTEE

05/06/14


Leon Wolfe, LCC Chairman

ADOPTED BY LAFAYETTE COUNTY BOARD OF SUPERVISORS

06/17/14

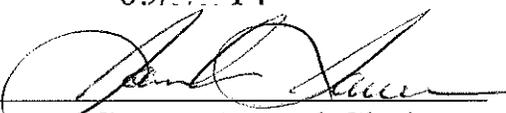

Jack Sauer, County Board Chairman

TABLE OF CONTENTS

SECTION		PAGE NO.
6-4-6.57	AUTHORITY AND NAME.....	6-97
6-4-6.58	FINDINGS AND DECLARATION OF POLICY.....	6-97
6-4-6.59	PURPOSE.....	6-97
6-4-6.60	INTERPRETATION.....	6-97
6-4-6.61	SEVERABILITY CLAUSE.....	6-97
6-4-6.62	EFFECTIVE DATE.....	6-98
6-4-6.63	APPLICABILITY.....	6-98
6-4-6.64	DEFINITIONS.....	6-98
6-4-6.65	ACTIVITIES SUBJECT TO REGULATION.....	6-100
6-4-6.66	STANDARDS.....	6-100
6-4-6.67	APPLICATION FOR AND ISSUANCE OF PERMITS.....	6-101
6-4-6.68	ADMINISTRATION.....	6-104
6-4-6.69	VIOLATIONS.....	6-105
6-4-6.70	APPEALS FROM ADMINISTRATIVE DECISIONS.....	6-105

LAFAYETTE COUNTY ANIMAL WASTE STORAGE AND NUTRIENT MANAGEMENT ORDINANCE

- 6-4-6.57 (A) AUTHORITY AND NAME. This ordinance is adopted under authority granted Section 92.16, Wis. Stats.
- (B) This ordinance shall be known as, referred to, and may be cited as the Lafayette County Animal Waste Storage and Nutrient Management Ordinance and is hereinafter referred to as the Ordinance.
- 6-4-6.58 (A) FINDINGS AND DECLARATION OF POLICY. The Lafayette County Board of Supervisors finds that storage of animal waste in storage facilities not meeting technical design and construction standards may cause pollution of the surface and ground waters of Lafayette County, and may result in actual or potential harm to the health of county residents and transients; to livestock, aquatic life and other animals and plants; and to the property tax base of Lafayette County.
- (B) The Lafayette County Board of Supervisors also find that improper management of animal waste storage facilities, and nutrient management, including land application, of stored animal waste, may cause pollution of the ground and surface waters of Lafayette County.
- (C) The Lafayette County Board of Supervisors further finds that the technical standards developed by the U.S.D.A. Natural Resource Conservation Service provide effective, practical, and environmentally safe methods of storing and nutrient management of animal waste.
- 6-4-6.59 PURPOSE. The purpose of this ordinance is to regulate the location, design, construction, installation, alteration and use of animal waste storage facilities, and the application of wastes from these facilities in order to prevent water pollution and thereby protect the health of Lafayette County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Lafayette County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.
- 6-4-6.60 INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- 6-4-6.61 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.
- 6-4-6.62 EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the Lafayette County Board of Supervisors and publication.
- 6-4-6.63 APPLICABILITY. This ordinance applies to the unincorporated areas of Lafayette County and to all animal waste storage facilities constructed therein.

DEFINITIONS.

- (A) **“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.
- (B) **“Animal waste storage facility”** means a concrete, steel, or otherwise fabricated structure, or an earthen facility of constructed earth dikes, excavated pits or ponds, or a combination of these, used for storage of animal waste facility, that stores an animal waste volume of more than 5000 cubic feet. (Approx. 24' x 24' x 9')
- (C) **“Applicant”** means any person who applies for a permit under this ordinance.
- (D) **“Bedrock”** means the solid or consolidated rock formation typically underlying loose surficial material such as soil, alluvium or glacial drift. Bedrock includes but is not limited to limestone, dolomite, sandstone, shale and igneous and metamorphic rock.
- (E) **“Idle animal waste storage facility”** means an animal waste storage facility which is no longer being used for its intended purpose and/or no longer having any additional animal waste placed into it for a period of twenty four (24) months.
- (F) **“Manure Stack”** means an uncontained deposit of animal waste placed on an earthen, concrete or other surface for limited periods necessary to facilitate daily or periodic land spreading.
- (G) **“Nutrient Management Plan”** means a written plan detailing amount, form, placement, and timing of the application of plant nutrients. This includes nutrients from the animal waste storage facilities, commercial fertilizers, legume crops and crop residues.
- (H) **“Permit”** means the signed, written statement issued by the Lafayette County Land Conservation Department (“LCD”) and Lafayette County Planning and Zoning Manager (“P&Z Manager”) under this ordinance authorizing the applicant to construct, install, reconstruct, enlarge, or substantially alter an animal waste storage facility and to use or dispose of waste from the facility.
- (I) **“Permittee”** means any person to whom a permit is issued under this ordinance.
- (J) **“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.
- (K) **“Subsurface Saturation”** means the following criteria apply:
- a. Free water or wet soil identified by glistening, due to the slow release of water.
 - b. Gleyed soil, that may extend uninterrupted from an observed free water surface.
 - c. The presence of distinct gray redoximorphic features with a chroma of 2 or less based on Munsell color charts.

- (L) **“Technical Guide”** means the United States Department of Agriculture (U.S.D.A.) Natural Resource Conservation Service Technical Guide as adopted by the Lafayette County Land Conservation Committee and the Land Conservation Department.
- (M) **“Temporary storage”** means an animal waste storage facility of less than 5000 cubic feet.
- (N) **“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.

6-4-6.65

ACTIVITIES SUBJECT TO REGULATION.

- (A) General requirement. Any person who designs, constructs, installs, reconstructs, 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.
- (B) 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 LCD and P&Z Manager before beginning activities subject to regulation under this ordinance, and complies with the requirements of the permit.
- (C) Manure Stack. The ordinance shall not apply to manure stacks as defined herein, where daily or periodic direct removal to fields is implemented.
- (D) Temporary Storage. A person is not subject to permit when complying with either 313-10, Table 2, or, 634-7, Table 1.
- (E) Idle animal waste storage facility. Any person who owns an animal waste storage facility that has been determined to be idle must lower the level of the animal waste in the facility to an elevation of one (1) foot above the floor of the facility within a period of six (6) months from the date the facility was determined to be idle. The idle waste storage facility shall be subject to Standard 360, Closure of Waste Impoundments. The animal waste shall be uniformly spread on cropland or pasture according to their Nutrient Management Plan.

6-4-6.66

STANDARDS.

- (A) Standards for Animal Waste Storage Facilities. The construction, reconstruction, enlargement, alteration, closure and operation of any and all animal waste storage facilities covered under this Ordinance in Lafayette County shall comply with all of the provisions of the following technical guides issued by the USDA, NRCS:
 - (a) Technical Guide 313 (Waste Storage Facility)
 - (b) Technical Guide 634 (Manure Transfer)
 - (c) Technical Guide 590 (Nutrient Management)
 - (d) Technical Guide 360 (Closure of Waste Impoundments)
- (B) Standard for Nutrient Management. Nutrient management of all animal waste from permitted storage facilities shall be handled and comply with all of the provisions of the Wisconsin Field Office Technical Guide 590, issued by the USDA, NRCS, ATCP 50.04(3) and 6-4-6.64 (M) of this Ordinance.

APPLICATION FOR AND ISSUANCE OF PERMITS.

- (A) **Permit required.** No person may undertake an activity subject to this ordinance without obtaining a permit from the LCD and P&Z Manager prior to beginning the proposed activity.
- (B) **Exception to permit requirement.** Emergency repairs such as repairing a broken pipe or equipment, leaking dikes, or the removal of stoppages may be performed without a permit. If repairs will significantly alter the original design and construction of the facility, a report shall be made to the LCD and P&Z Manager within two (2) work days of the emergency for a determination by the LCD and P&Z Manager on whether a permit will be required for any additional alteration or repair to the facility. The LCD and P&Z Manager shall consult with the Land Conservation Committee prior to rendering a determination.
- (C) **On site investigation required.** Each application for a permit under this section shall require an onsite inspection prior to issuance and include a summary report on site conditions. The site inspection shall be conducted by the LCD and P&Z Manager and/or the Land Conservation Department staff.
- (D) **Fee.** The non-refundable fee for a permit under this ordinance, set by the Land Conservation Committee, will be \$500.00 to construct/alter an Animal Waste Storage Facility, and \$250.00 to close an Idle Animal Waste Storage Facility
- (E) **Animal waste storage facility plan required.** Each application for a permit under this section shall include an animal waste storage facility plan. The plan shall specify:
- (1) The number and kinds of animals for which storage is provided, the duration for which storage is to be provided, and the volume of storage provided.
 - (2) A sketch 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 the North arrow scale of drawing, legal description of the proposed facility, and location, description and elevation of temporary bench mark.
 - (3) The structural details, including dimensions, cross sections, and concrete thickness.
 - (4) The construction and material specifications, including but not limited to, applicable specifications for earthen fill, excavation, concrete, reinforcing steel, timber and pipes.
 - (5) The location of any wells within 300 feet of the facility.
 - (6) The soil test pit locations and soil descriptions to a depth of at least three feet below the planned bottom of the facility.
 - (7) The elevation of subsurface saturation or bedrock if encountered in the soil profile and the date of any such determinations.

- (8) 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 and distance to the body of water shall be shown.
- (9) A time schedule for construction of the facility.
- (10) A description of the method in transferring animal waste into and from the facility.
- (11) Plans for nutrient management of the animal waste, including the amount of land available for application of waste, method, schedule, identification of the areas where the waste will be used, crops to be grown, soil types and any limitations on waste applications due to soil limitations, type and proximity of bedrock or subsurface saturation, slope of land, and proximity to surface water.

(F) **Review of application.** The LCD and P&Z Manager shall receive and review all permit applications and shall determine if the proposed facility meets required standards set forth in Standards of this ordinance. Within thirty (30) working days after receiving the completed application and fee, the LCD and P&Z Manager shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the LCD and P&Z Manager shall so notify the permit applicant and shall have 30 working days from the receipt of the additional information in which to approve or disapprove the application. No construction may commence without the final approval by the LCD and P&Z Manager. In making these determinations the Zoning Administrator shall consult with the Land Conservation Committee.

Storage facility design may be provided through the Land Conservation Department, cooperating members or county, state, or federal government agencies, private consultants, prequalified or preapproved plans. Private consultants shall be registered professional engineers, licensed in the state of Wisconsin. Preapproved or prequalified plans must be approved by a registered professional engineer, licensed in the state of Wisconsin meeting the requirements of this ordinance.

(G) **Permit conditions.** All permits issued under this ordinance shall be issued subject to the following conditions and requirements.

- (1) Animal waste storage facility design and construction, management, and utilization activities shall be carried out in accordance with the animal waste facility plans and applicable standards specified in Standards and Application for and issuance of permits Sections of this ordinance.
- (2) The permittee shall give two (2) working days notice to the LCD and P&Z Manager before starting any construction activity authorized by the permit.
- (3) Approval in writing must be obtained from the LCD and P&Z Manager prior to any modifications to the approved animal waste facility plan.

- (4) The permittee and, if applicable, the contractor, or the consulting engineer, shall certify in writing that the facility was installed as planned.
 - (5) The LCD and P&Z Manager and staff may conduct onsite inspections before, during and after construction.
 - (6) Activities authorized by permit must be completed within two (2) years from the date of issuance after which such permit shall be void.
- (H) **Permit revocation.** The LCD and P&Z Manager may revoke any permit issued under this ordinance if the holder of the permit has misrepresented any material in the permit application or animal waste facility plan, nutrient management plan, or if the holder of the permit violates any of the conditions of the permit.

ADMINISTRATION.

- A) **Delegation of authority.** Lafayette County hereby designates the LCD and P&Z Manager to administer and enforce this ordinance. The LCD and P&Z Manager shall seek out the advice of the Land Conservation Committee in the administration and enforcement of this ordinance.
- (B) **Administrative duties.** In the administration of this ordinance, the LCD and P&Z Manager with assistance from the Land Conservation Committee shall:
- (1) Keep an accurate record of all permit applications, animal waste facility plans, permits issued, inspections made, and other official actions.
 - (2) Review permit applications and issue permits in accordance with the application for and issuance of permits section of this ordinance.
 - (3) Inspect animal waste facility construction to insure the facility is being constructed according to plan specifications.
 - (4) Investigate complaints relating to compliance with the ordinance.
 - (5) Perform other duties as specified in this ordinance.
- (C) **Inspection authority.** The LCD and P&Z Manager and staff are authorized to enter upon any lands affected by this ordinance to inspect the land prior to or after permit issuance to determine compliance with this ordinance. If permission cannot be received from the applicant or permittee, the permit may be denied or entry by LCD and P&Z Manager and staff shall be according to Sections 66.122 and 66.123, Wis. Stats. Refusal to grant permission to enter lands affected by this ordinance for the purposes of inspection may be grounds for denial of the permit.
- (D) **Enforcement authority.** The LCD and P&Z Manager and Land Conservation Committee are 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.
- (1) Any permit revocation or order stopping work shall remain in effect until retracted by the Land Conservation Committee, the LCD and P&Z Manager, or by a court of general jurisdiction; or, until the activity is brought into compliance with the ordinance.
 - (2) The LCD and P&Z Manager 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.

6-4-6.69

VIOLATIONS.

- (A) **Penalties.** Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this ordinance shall be subject to a forfeiture of up to \$200.00 plus costs of prosecution for each violation. An unlawful violation includes failure to comply with any standard of this ordinance or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense.
- (B) **Enforcement of injunction.** As a substitute for or as an addition to forfeiture actions, Lafayette County may seek enforcement of any part of this ordinance by court actions seeking injunctions or restraining orders.

6-4-6.70

APPEALS FROM ADMINISTRATIVE DECISIONS.

- (A) **Authority.** The Lafayette County Land Conservation Committee shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by LCD and P&Z Manager in administering this Ordinance.
- (B) **Procedure.** Any appeal shall be made by written request, mailed or delivered to the LCD and P&Z Manager, 1900 Ervin Johnson Drive, Darlington, WI 53530. 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.
- (C) **Statutory Administrative Review and Certiorari.** The decision of the LCD and P&Z Manager shall be subject to further administrative review by the Land Conservation Committee if a written appeal seeking such review is filed within thirty (30) days after the decision of the LCD and P&Z Manager. The decision of the Land Conservation Committee shall be subject to judicial review if, within thirty (30) days after the decision of the Land Conservation Committee an action seeking the remedy available by certiorari is commenced, as authorized by the Lafayette County Code of Ordinances and section 59.99 of the Wisconsin Statutes.
- (D) **Appeals Committee.** The Land Conservation Committee shall act as the Appeals Committee.
- (E) **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 for which review is sought. Said Appeal must be commenced within fifteen (15) days of the written determination by LCD and P&Z Manager.