

CHAPTER 4
SUBCHAPTER 2
PART 9

LAND USE MANAGEMENT AND ZONING, ENVIRONMENTAL
MANAGEMENT AND BOARD OF ADJUSTMENT
Subchapter 2 – Environmental Management

Part 9 – Animal Waste Management

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Part 9 – Animal Waste Management

Subpart 1: Introduction

4.901 Authority

This Ordinance is adopted under the authority granted by §59.02, §59.70(1), §92.07, §92.15, and §92.16, Wisconsin Statutes.

4.902 Title

This Ordinance may be cited as the Rock County Animal Waste Management Ordinance and is hereinafter referred to as “the Ordinance.”

4.903 Findings and Declaration of Policy

The County Board of Supervisors finds that unregulated storage of animal waste, animal waste storage facilities, and animal waste transfer pipeline systems not meeting technical design and construction standards may cause pollution of the surface water and/or groundwater in Rock County; will result in actual or potential harm to the health of County residents, transients, livestock, aquatic life and other animals and plants; and may decrease the property tax base of Rock County. The County Board also finds that improper management of animal waste storage facilities, failing and leaking animal waste storage facilities and utilization of animal wastes, including but not limited to land application of animal waste, may cause pollution of the groundwater and/or surface waters of Rock County. The County Board further finds that the technical standards developed by the United States Department of Agriculture - Natural Resources Conservation Service and adopted by the Land Conservation Committee provide effective, practical, and environmentally safe methods of storage, transfer and utilization of animal waste.

4.904 Purpose

The purpose of this Ordinance is to regulate the location, design, construction, installation, operation, alteration of animal waste storage facilities; the transfer systems that convey waste into and out of an animal waste storage facility; any conveyance from an animal waste storage facility to a point of application/utilization; the abandonment of an idle animal waste storage facility; the utilization of waste from an animal waste storage facility; prevent the spread of disease; to protect the waters of the state; and to promote the prosperity and general welfare of the citizens of Rock County. It is also intended to provide for the administration and enforcement of the Ordinance and to provide penalties for its violation.

4.905 Applicability

This Ordinance applies to all unincorporated areas of the County and to water quality management areas as defined in §281.16(1)(g), Wisconsin Statutes., and Section 4.933 of this Ordinance.

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

4.907 Severability Clause

If any section, provision, or portion of this Ordinance is ruled invalid by a court, with competent jurisdiction, the remainder of the Ordinance shall not for that reason be rendered ineffective.

4.908 Effective Date

This Ordinance shall become effective upon its adoption and publication.

Subpart 2: Definitions

For purposes of interpretation of this Ordinance, the following terms shall have the meanings set forth, except where the context and clear intent of the Ordinance require otherwise.

4.909 Animal Waste. Livestock/pet excreta and other materials such as bedding, rain, or other water, soil, hair, feathers, milkhouse waste products, contaminated runoff, waste processing derivatives, and other debris normally included in animal waste handling operations.

4.910 Animal Waste Storage Facility. A concrete, steel, or otherwise fabricated structure, or an excavated pond or earthen impoundment used for storage of animal or other organic waste which is designed to temporarily store manure, waste water, and contaminated runoff in a manner which safeguards the environment.

4.9101 Animal Waste Transfer Pipeline Systems. A system that includes pipe conduits, pipe appurtenances, and/or pumps that is used to convey/transfer animal waste to and/or from an animal waste storage facility.

4.911 Applicant. Any person who applies for a permit under this Ordinance.

4.912 Assignee. Any person to whom is transferred a permit or who succeeds to the ownership or control of the property/operation identified on the original application for a permit under the Ordinance prior to the expiration date of the original permit. A person succeeds to the control of a property/operation when he/she becomes the primary decision maker for the property/operation. Changes in control or ownership may be evidenced by lease, rental or sharecropping agreement, or any other form of arrangement

providing for a change in management or title, where the original applicant is no longer responsible for or the primary decision maker for the operation.

4.913 Extension. The term of a permit may be extended for an additional six (6) months if more than fifty percent (50%) of the total construction to be done has been completed prior to the original expiration date of the permit.

4.9131 Failing and Leaking Animal Waste Storage Facilities. Any animal waste storage facility that fails to contain any component of animal waste that it was designed or intended to contain.

4.914 High Groundwater. The higher of either the elevation to which the soil is saturated as observed as a free water surface in a unlined hole, or the elevation to which the soil has been seasonally or periodically saturated as indicated by soil color patterns throughout the soil profile.

4.915 Idle Animal Waste Storage Facility. An animal waste storage facility that is idle for a period of two (2) consecutive years, has had no animal waste added for one calendar year, will by all evidence available not be used to store animal waste in the future, or is no longer being used for its intended purpose.

4.916 Land Conservation Committee. A committee made up of members of the Rock County Board of Supervisors and others who are authorized in Chapter 92, Wis. Stats., to determine policy and give direction for soil and water conservation activities in Rock County. The committee shall be referred to hereinafter as “LCC”.

4.917 Land Conservation Department. The department of Rock County government which is responsible for county-wide soil and water conservation activities, including those within the scope of this Ordinance. The department shall be referred to hereinafter as “LCD”.

4.918 Livestock Operation. A feedlot or other facility or practice where animals are fed, confined, maintained or stabled.

4.919 Natural Resource Conservation Service. An agency of the United States Department of Agriculture which for purposes of this Ordinance provides the LCC and LCD with technical assistance and information on the design criteria, size, shape, engineering strength and other necessary technical data for the proper and safe installation of conservation practices. The service shall be referred to hereinafter as “NRCS”.

4.920 Nutrient Management Plan. A document that is annually updated outlining the requirements for managing the amount, placement, form and timing of application of all sources of plant nutrients to cropland or pastures.

4.921 Permit. A signed written statement issued by the LCD under this Ordinance authorizing the applicant or an assignee to construct, install, reconstruct, enlarge, abandon,

temporarily abandon, or substantially alter an animal waste storage facility, and to use or dispose of waste from a facility regulated under this Ordinance.

- 4.922 Permittee.** Any person to whom a permit under this Ordinance is issued or transferred.
- 4.923 Person.** Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government insofar as it consents to jurisdiction, or any combination thereof.
- 4.924 Prohibition Standards.** As identified in §281.16(3), Wisconsin Statutes, and Section 4.939 of this Ordinance.
- 4.925 Technical Guide.** The most current documents provided by the Natural Resource Conservation Service which contain technical information relating to the performance standards and prohibitions referenced within this Ordinance. The Technical Guide provides information to properly locate, construct, install, alter, design, operate and maintain conservation practices as adopted by the LCC.
- 4.926 Technical Standard 313.** A section of the Technical Guide that covers the proper location, construction, installation, abandon, alteration, design, operation, and maintenance of an animal waste storage facility. This section also establishes the minimum criteria for abandonment procedures.
- 4.9261 Technical Standard 360.** A section of the Technical Guide that covers the decommissioning of an animal waste storage facility or any component thereof, 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.
- 4.9262 Technical Standard 430.** A section of the Technical Guide that covers the installation of pipe conduits, pipe appurtenances, such as pumps, check valves, vents, air release valves, surge tanks, air chambers, and other structures for the transfer of animal waste from a storage facility to its field application point(s).
- 4.9263 Technical Standard 533.** A section of the Technical Guide that covers the installation of pumping stations designed to deliver a waste product at a designed pressure and flow rate through a combination of pumps, associated power units, plumbing, and appurtenances. This may include on-site fuel and energy sources, and protective covers.
- 4.927 Technical Standard 590.** A section of the Technical Guide that covers managing the amount, form, placement, and timing of plant nutrients and establishes the minimum acceptable requirements for the application of plants nutrients associated with organic wastes (animal waste and/or organic byproducts), commercial fertilizer, legume crops, and crop residues.

- 4.928 Technical Standard 634.** A section of the Technical Guide that covers installation of components such as conduits, pumps, valves, other structures or devices to transfer animal waste to and from an animal waste storage facility.
- 4.929 Temporary Animal Waste Storage Facility Abandonment.** An animal waste storage facility that has been idle for a period of one calendar year, has had no animal waste added for one calendar year, or is no longer being used for its intended purpose. The owner of the system plans to bring the system back into service within one calendar year from notification.
- 4.930 Unconfined Animal Waste Stack.** A quantity of animal waste that is at least 175 cubic feet in volume and which covers the ground surface to a depth of at least two inches and that is not confined within an animal waste storage facility, livestock housing facility, or barnyard runoff control facility.
- 4.931 Water Pollution.** Contaminating or rendering unclean or impure the ground or surface waters of the state; or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.
- 4.932 Waters of the State.** Notwithstanding §281.01(18), Wisconsin Statutes, “waters of the state” has the meaning given in §283.01(20), Wisconsin Statutes.
- 4.933 Water Quality Management Area.** As defined in §281.16(1)(g), Wisconsin Statutes, a water quality management area is defined as any of the following:
1. The area within one thousand (1,000) feet from the ordinary high water mark of navigable waters that consist of a lake, pond, flowage, except that, for a navigable water that is a glacial pot hole lake, “water quality management area” means the area within one thousand (1,000) feet from the ordinary high water mark of a lake.
 2. The area within three hundred (300) feet from the ordinary high water mark of a navigable water that consist of a river or stream.
 3. A site that is susceptible to groundwater contamination or that has the potential to be a direct conduit for contamination to reach groundwater.

Subpart 3: Activities Subject to Regulation

4.934 General Requirement

Any person who: constructs or installs a new animal waste storage facility, or; reconstructs, enlarges or alters an existing animal waste storage facility, or; abandons or temporarily abandons an idle animal waste storage facility, or installs an animal waste transfer pipeline system for conveyance of waste product stored in an animal waste storage facility, or; employs another person to do the same, on land subject to this Ordinance, shall be subject to the provisions of this Ordinance. Also, an animal waste storage facility or animal waste transfer pipeline system that is found to be failing or leaking shall be repaired within a timeframe identified by the LCD to a condition meeting the appropriate technical standard(s). The timeframe shall not be greater than two years from the date of official notice by the LCD.

4.935 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 before commencing activities subject to regulation under this section, and complies with the requirements of the permit. If construction is not completed within twelve (12) months, a permit will be required under this Ordinance to continue construction. Repair, enlargement, alteration, abandonment, or temporary abandonment of preexisting facilities or installation of an animal waste transfer pipeline system requires a permit that is subject to all terms of this Ordinance.

Subpart 4: Standards

4.936 Standards for Animal Waste Storage Facilities

The standards for design and construction of animal waste storage facilities and or abandonment/closure are those found in technical standards 313, 360, 430, 533, and 634 of the Technical Guide as it existed on the date of adoption of this Ordinance including any and all future standards amended thereto.

4.937 Standards for Animal Waste Management and Utilization

The standards for management of animal waste facilities and utilization of animal waste are those in technical standard 590 of the Technical Guide, including any and all existing and future standards amended thereto.

4.938 Septage

Human waste and associated wastewater shall not be discharged into animal waste storage facilities unless permitted by applicable federal, state, or local regulations for the disposal of human waste and wastewater.

4.939 Standards for Implementing Prohibition Standards

Prior to issuance of a permit under this Ordinance compliance with the prohibition standards, as identified in §281.16(3) Wisconsin Statutes and any amendments thereto, shall be addressed. The prohibition standards are:

1. That a livestock operation may have no overflow of an animal waste storage structure.
2. That a livestock operation may have no unconfined animal waste stack in a water quality management area.
3. That a livestock operation may have no direct runoff from a feedlot or stored animal waste into the waters of the state.
4. That a livestock operation may not allow unlimited access by livestock to the waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod cover.

Pursuant to §281.16(3)(e), Wisconsin Statutes, an owner of an agricultural facility or practice that is in existence prior to October 14, 1997 shall not be required to comply with these prohibition standards unless cost sharing is made available.

Subpart 5: Application For and Issuance of Permits

4.940 Permit Required

No person may undertake any activity subject to this Ordinance without obtaining a permit from the LCD prior to beginning the proposed activity.

4.941 Permit Application Forms

All permit applications shall be filed on forms provided to the Applicant by the LCD.

4.942 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 alter the original design and construction of the facility, a report shall be filed with the LCD defining the work performed to eliminate the emergency, within five (5) Department working days after the emergency. A determination by the LCD will be completed on whether a permit is required for the repair or any additional alterations needed to eliminate potential failures of the facility in the future.

4.943 Fees

The fee for a permit under this Ordinance shall be determined annually by the LCC during the annual LCD budget development cycle. The fee shall be no less than One Hundred Dollars (\$100.00) and shall be non-refundable and payable in advance to the LCD. Temporary Abandonment of an Animal Waste Storage Facility is exempt from the fee schedule.

4.944 Fees for Violations of Ordinance

The LCD shall charge twice the fee identified in Section 4.943 of this Ordinance for a permit if any activity that this Ordinance covers has commenced prior to issuance of a permit. Section 4.942 of this Ordinance shall apply only for emergency repairs.

4.945 Animal Waste Storage Facility, Animal Waste Transfer Pipeline System, and Nutrient Management Plan Required

Each application for a permit under this section shall include an animal waste storage facility plan and a nutrient management plan.

Technical assistance for the animal waste storage facility construction or abandonment plan development shall be through LCD, NRCS, or a consulting professional engineer registered under Chapter 443, Wisconsin Statutes. Technical assistance for the development of a nutrient management plan shall be through the LCD; NRCS; a consultant who meets the qualifications outlined in Wisconsin Administrative Code ATCP 50 and any amendments thereto. The landowner, applicant, or assignee may develop a nutrient management plan in accordance with ATCP 50 and any amendments thereto. The conditions and criteria as outlined in Technical Standards 313, 360, 430, 533, 590, and 634 in the Technical Guide shall be followed.

1. The Animal Waste Storage Facility Construction Plans shall include the following information as a minimum:
 - a. The number, age group, and type of animals for which storage is provided.
 - b. The total volume of animal waste and/or manure to be stored in the proposed facility.
 - c. A sketch of the facility and its location in relation to homes within five hundred (500) feet and other buildings within two hundred and fifty (250) feet and of the proposed facility. The sketch shall be drawn to scale, with a scale no larger than one (1) inch = fifty (50) feet.
 - d. All structural details, including dimensions, cross-sections, and concrete thickness and reinforcement.
 - e. The location of any wells within five hundred (500) feet of the facility.
 - f. The soil test pit locations and soil description logs of at least three feet below the planned bottom of a facility.
 - g. The elevation for groundwater or bedrock if encountered in the soil profiled and the date of any such determinations.
 - h. Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater. If a navigable body of water lies within one thousand (1000) feet of the facility, the location and distance to the body of water shall be shown.
 - i. The scale of drawing and the north arrow.
 - j. A time schedule for construction of the facility.
 - k. A description of the method for the transfer of animal waste into and from the facility.
 - l. An operation and maintenance plan.
2. The Animal Waste Storage Facility Abandonment Plan shall include the following information:
 - a. A detailed description of the type and size of the facility and an estimate of the volume of wastes being stored.
 - b. A detailed description of the disposal procedures for the facilities liner and/or soils saturated with animal wastes.
 - c. A detailed description of how the waste transfer system will be plugged or removed.
 - d. A detailed plan view of the proposed final grade.
 - e. A detailed seeding plan for all areas void of vegetation due to abandonment activities.

- f. If applicable, a description of the proposed use of facility if not abandoned.
 - g. Established time frame for all identified activities, maximum allowable one hundred and twenty (120) days
3. The Temporary Waste Storage Facility Abandonment Plan shall include the following information:
 - a. A detailed description of the type and size of the facility and an estimate volume of the wastes contained.
 - b. A detailed description of the disposal of the stored wastes.
 - c. A detailed operation and maintenance plan for the facility and components while it is out of service.
 - d. Established time frame for all identified activities, maximum allowable one hundred and twenty (120) days
 4. The Nutrient Management Plan shall include the following:
 - a. The total land base available for utilization of waste, include all rented land.
 - b. A current land use map that identifies where animal waste will be spread.
 - c. The application rate of animal waste/manure application. (i.e. gal./ac. or tons/ac.)
 - d. A soils map identifying associated limitations for waste application; i.e. coarse textured soils, high nutrient levels, surface and/or groundwater features.
 - e. Identification of all soils with depths less than or equal to two (2) feet to bedrock and/or ground water table.
 - f. All lands with slopes greater than or equal to nine percent (9%).
 - g. A map identifying all surface water features.
 - h. Written rental agreements for lands where animal waste is spread/utilized.
 5. The Animal Waste Transfer Pipeline System plan shall include the following:
 - a. A plan view of the layout of the pipeline.
 - b. Profile view of the pipeline.
 - c. Pipe specifications (material and sizes).
 - d. Pipe joint requirements.
 - e. Site specific construction specifications that describe in writing the installation of the pipeline. Include the specification for pressure testing completed system.
 - f. Final depth of cover and all backfilling requirements.
 - g. Disposal requirements for excess soil material.
 - h. Vegetative establishment requirements.
 - i. An operation and maintenance plan.

4.946 Review of Application

The LCD shall receive and review all permit applications and shall determine if the proposed facility or abandonment procedures meet required standards set forth in Subpart 4 of this Ordinance. Within thirty (30) days after receiving the completed application, fee, and plans, as outlined in Section 4.945 of this Ordinance, the LCD shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the LCD shall so notify the permit applicant. The LCD has thirty (30) days from the receipt of the additional information in which to

approve or disapprove the application. If the LCD fails to approve or disapprove the permit application in writing within thirty (30) days of the receipt of the permit application or additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.

4.947 Permit Conditions

All permits issued under this Ordinance shall be subject to the following conditions and requirements:

1. Animal waste storage facility abandonment, design, construction, management and/or animal waste utilization activities shall be carried out in accordance with the plans and applicable standards specified in Subpart 4 of this Ordinance and be maintained for a minimum of 10 years.
2. The permittee shall give three (3) working days notice to LCD before starting any construction activity authorized by the permit if the system's technical design and/or cost sharing is provided by a governmental unit.
3. Approval in writing must be obtained from the LCD prior to any modifications to the approved animal waste storage facility abandonment plan, construction plan, or nutrient management plan.
4. The permittee and, if applicable, the professional engineer shall certify in writing, that the facility was installed as in accordance to the plans submitted to the LCD and that the facility meets all applicable standards. Certification shall be completed on forms provided by the LCD. Such information will be forwarded to the LCD within fifteen (15) Department work days of the facilities completion. No animal waste may be stored in a facility until the LCD has received certification.
5. Activities authorized by permit must be completed within twelve (12) months from the date of issuance after which such permit shall be void.
6. An extension may be applied for by the applicant or assignee prior to the expiration date if, and only if more than fifty percent of the construction activities have been completed prior to the expiration date of the original permit.
7. The permit may be assigned to a different person if the following conditions are met:
 - a. The assignee has taken control of the property described in the original permit application.
 - b. The assignee agrees to all original permit conditions and agrees to sign a statement stating such.
 - c. The assignee meets the definition of Section 4.912 of this Ordinance.
8. Within 90 days following completion of the last component of the facility, a final red lined as built plan shall be submitted with any deviations from the original plan. In no case shall a red lined as built plan be submitted later than the expiration date of the permit to construct a facility.

4.948 Permit Revocation

Upon consultation with the Corporation Counsel, the LCD may revoke any permit issued under this Ordinance if the holder of the permit has misrepresented any material fact in the permit application, animal waste storage facility plan, nutrient management plan, or if

the permittee or assignee violates any of the conditions of the permit. Notification shall be sent by certified mail to the applicant or assignee.

Subpart 6: Administration

4.949 Delegation of Authority

The Rock County Board of Supervisors hereby designates the LCD to administer and enforce this Ordinance.

4.950 Administrative Duties

In the administration and enforcement of this Ordinance, the LCD shall:

1. Keep an accurate record of all permit applications, animal waste facility plans, nutrient management plans, permits issued, inspections made and other official actions.
2. Review permit applications and issue permits in accordance with Subpart 5 of this Ordinance.
3. Inspect animal waste facility construction to insure the facility is being constructed according to plan specifications, unless system was designed and construction over site was provided by a professional engineer.
4. Investigate complaints relating to compliance with the Ordinance.
5. Perform other duties as specified in this Ordinance.

4.951 Inspection Authority

The LCD is 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 obtained from a person with apparent legal authority to allow such inspection, entry by the LCD shall be in accordance with §66.122 and §66.123 and §92.07(14), Wisconsin Statutes.

4.952 Enforcement Authority

The LCD is authorized to post an order stopping work upon land that has had a permit revoked or on land currently undergoing activity in violation of this Ordinance. Notice shall be given by both posting upon the land where the violation occurs one or more copies of a poster stating the violation and by mailing a copy of the order by certified mail to the last known address of permittee. The order shall specify that the activity must cease or be brought into compliance within five (5) days.

Any permit revocation or order stopping work shall remain in effect until retracted by the LCD, or by a court of general jurisdiction. The LCD is authorized to refer any violation of this Ordinance or of an order stopping work issued pursuant to this Ordinance to the Corporation Counsel for commencement of further legal proceedings.

Subpart 7: Violations

4.953 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 not less than two hundred and fifty dollars (\$250.00) plus cost 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. Citations shall be issued by the LCD, upon approval of the Corporation Counsel, pursuant to law, for violations of the Ordinance.

4.954 Enforcement of Injunction

As a substitute for or an addition to forfeiture actions, Rock County may seek judicial enforcement of any part of this Ordinance by injunction or restraining order.

Subpart 8: Appeals

4.955 Authority

The LCC is authorized to act as an appeal authority and to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by the LCD in administering this Ordinance. Pursuant to §68.16, Wisconsin Statutes, it is the declared intent of Rock County that the technical noncompliance with the requirements of Chapter 68 shall not constitute grounds for reversal of Committee action, but that the substantive provisions of Chapter 68 may be utilized as a guide in providing for Committee review of administrative determinations.

4.956 Procedure

Any appeal shall be made in writing to the LCC. The rules, procedures, duties and powers of the LCC, shall apply to proceedings under this Ordinance, except insofar as the express terms of this Ordinance require otherwise.

4.957 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 LCD.