

**CHAPTER 4
ANIMAL MANURE STORAGE ORDINANCE**

9-4-1: ANIMAL MANURE STORAGE ORDINANCE ADOPTED

- A. Authority And Name: This Ordinance is adopted under authority granted by §92.16, Wis. Stats.

This Ordinance shall be known as, referred to, and may be cited as the *GREEN COUNTY ANIMAL MANURE STORAGE ORDINANCE* and is hereinafter referred to as this "Chapter."

- B. Findings And Declaration Of Policy: The Green County Board of Supervisors finds that storage of animal manure in storage facilities not meeting technical design and construction standards may cause pollution of the surface and ground waters of Green 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 Green County.

The Green County Board of Supervisors also finds that improper management of animal manure storage facilities, and utilization, including land application of stored animal manure, may cause pollution of the ground and surface waters of Green County.

The Green County Board of Supervisors further finds that the technical standards issued by the U.S.D.A. Natural Resources Conservation Service and developed with the assistance of the interagency Standards Oversight Committee provide effective, practical, and environmentally safe methods of storing and utilizing animal manure.

- C. Purpose: The purpose of this Chapter is to regulate the location, design, construction, installation, operation, alteration and use of animal manure storage facilities, as well as abandonment and the application of animal manure from these facilities in order to prevent water pollution and thereby protect the health of Green County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Green County. It is also intended to provide for the administration and enforcement of this Chapter and to provide penalties for its violation.
- D. Interpretation: In their interpretation and application, the provisions of this Chapter 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.
- E. Severability Clause: If any section, provision, or portion of this Chapter is ruled invalid by a court, the remainder of the Chapter shall not for that reason be rendered ineffective.
- F. Applicability: This Chapter applies to the unincorporated areas of Green County and to all animal manure storage facilities constructed therein.

9-4-2: DEFINITIONS

ABANDONMENT: Any animal manure storage facility not used for that purpose for six months or is shown to be a potential threat to groundwater or surface water pollution, shall be abandoned following the procedure as stated in Standard 313 of Section IV of the Technical Guide.

ANIMAL MANURE: Excrete from livestock, poultry and other materials, such as bedding, rain or other water, soil, hair, feathers, and other debris normally included in animal manure handling operations.

ANIMAL MANURE STORAGE FACILITY: Both fabricated and earthen facilities as herein defined.

APPLICANT: Any person who applies for a permit under this Chapter.

COMMITTEE: The Green County Land and Water Conservation Committee. It is a committee made up of members of the Green County Board of Supervisors and others, who under the

authority of Chapter 92 Wis. Stats., determine policy, provide direction for soil and water conservation activities and provide direction to the Department. The Committee is the decision making authority for purposes of implementation of this Chapter.

DEPARTMENT: The Green County Land and Water Conservation Department.

DIRECT RUNOFF: The runoff of stored manure, including manure and feed leachate that discharges a significant amount of pollutants to surface waters of the state or to a direct conduit of groundwater.

DISCONTINUE OF USE: A farming operation that has removed the livestock units that were principally using the animal manure storage facility must empty that animal manure storage facility within six months or when land becomes fit based on weather conditions and at such time as the animal manure may be utilized following the nutrient management plan for that farm.

EARTHEN ANIMAL MANURE STORAGE FACILITY: A facility above or below grade, excavated, or constructed of earth berms or dikes, or utilizing pits, depressions or ponds to contain animal manure and associated liquids for storage which may be lined with earth, nonstructural concrete, or a flexible membrane material for a period of 30 or more days or that has the capacity to store 5,000 cubic feet or more of animal manure.

FABRICATED ANIMAL MANURE STORAGE FACILITY: A concrete, steel, or otherwise fabricated storage of animal manure with one or more walls to contain animal manure and associated liquids for a period of 30 or more days or that has the capacity to store 5,000 cubic feet or more of animal manure.

FAILING AND LEAKING MANURE STORAGE FACILITIES: Any animal manure storage facility that fails to contain any component of the animal manure that it is intended to contain or creates water pollution in the ground or surface waters of the state.

FEEDLOT: Feedlot means a barnyard, exercise area, or other outdoor area where livestock are concentrated for feeding or other purposes and self-sustaining vegetative cover is not maintained. Feedlot does not include a winter grazing area or a bare soil area such as a cattle lane or a supplemental feeding area located within a pasture, provided that the bare soil area is not a significant source of pollution to waters of the state.

HIGH GROUND WATER LEVEL: The higher of either the elevation to which the soil is saturated as observed as a free water surface in an unlined hole, or the elevation to which the soil has been seasonally or periodically saturated as indicated by soil redoximorphic features throughout the soil profile.

MANURE TRANSFER SYSTEM: A combination of hoppers, reception structures, tanks, pumps, pipes, channels or conduits used to transfer animal manure and other fluids and residues associated with animal manure to an animal manure storage facility, a waste treatment strip, a loading area, cropland or satellite storage facility using permanent pipeline and conduits.

NUTRIENT MANAGEMENT PLAN: A written document that is annually updated outlining the requirements for managing the amount, form, placement and timing of applications of all sources of plant nutrients to cropland and pastures as identified in ATCP 50.04(3) Wis. Admin. Code.

PASTURE: The land on which livestock graze or otherwise seek feed in a manner that maintains the vegetative cover over the grazing area. Pasture may include limited areas of bare soil such as cattle lanes and supplemental feeding areas provided the bare soil areas are not significant sources of pollution to waters of the state.

PERMIT: The signed, written statement issued by the Green County Land and Water Conservation Department under this Chapter authorizing the applicant to construct, abandon, install, enlarge, or substantially alter an animal manure storage facility and to use or dispose of manure from the facility.

PERMITTEE: Any person to whom a permit is issued under this Chapter.

PERSON: Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or State agency within Wisconsin, the Federal government, or any combination thereof.

SAFETY DEVICES, STORAGE FACILITY: Devices which are designed to protect humans and livestock from the hazards associated with an animal manure storage facility. Safety devices shall be designed and installed as required by NRCS Standard 313 of Section IV of the Field Office Technical Guide.

SUBSTANTIALLY ALTERED: A change initiated by an owner or operator that result in a relocation of an animal manure storage facility or structure, or a significant change to the size, depth or configuration of a facility or structure including:

1. Replacement of a liner in a facility or structure;
2. An increase in the volumetric capacity or area of a facility or structure greater than 20%; or
3. A change in a facility or structure related to a change in livestock management from one species of livestock to another such as cattle to poultry.

TECHNICAL GUIDE: The United States Department of Agriculture Natural Resources Conservation Service Field Office Technical Guide, Section IV which contains the technical data, including the standards referenced within this Chapter to properly and safely locate, construct, install, alter, design, operate, maintain and close an animal manure storage facility and/or the associated animal manure transfer system. Any more restricting requirements above and beyond the Technical Guide may be set by Green County for use in this Chapter.

UNCONFINED MANURE STACK: Any uncontained mechanically deposited animal manure placed on an earthen, concrete, or other surface meeting Standard 313 of Section IV of the Technical Guide for a period of less than 30 days and/or having a total accumulation of less than 5,000 cubic feet to facilitate daily or periodic land spreading. These will not be regulated by this Chapter, but may be regulated due to a NR243 Notice of Discharge or NR151 complaint.

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.

WATERS OF THE STATE: Those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

9-4-3: ACTIVITIES SUBJECT TO REGULATION

- A. General Requirement: Any person who designs, constructs, installs, reconstructs, enlarges, abandons or alters an animal manure storage facility; or who employs another person to do the same, on land subject to this Chapter, shall be subject to the provisions of this Chapter.
- B. Failing and Leaking: Failing and leaking animal manure storage facilities are a menace to the health and general welfare of the citizens of Green County, and shall be considered a violation of this Chapter. An animal manure storage facility found to be failing or leaking shall be brought up to and maintained in a sanitary condition within the time frame identified by the Department.
- C. Idle Manure Storage Facilities: As specified in NRCS Technical Standard 360 of Section IV of the Technical Guide, removal of manure, contaminated soils and closure of any permitted or unpermitted idle animal manure storage facility to a safe and sanitary condition, as determined by the Department, is required within six months of the time the storage facility becomes idle. The owner or operator may retain the facility if they are able to verify that all of the following conditions are met:
 - 1. The facility has been designated, constructed and maintained in compliance with current applicable NRCS Standards and has functional safety components in place.
 - 2. Retention of the facility is warranted based on anticipated future use.
 - 3. The landowner agrees to develop and follow an operation and maintenance agreement for the facility.
- D. Direct Runoff of Animal Manure: Direct runoff of animal manure and feed leachate is a menace to the health and general welfare of the citizens of Green County and shall be considered a violation of this Chapter. Direct runoff that poses a threat to public health and safety or surface and/or groundwater resources because of over-application of manure to cropland or pasture or any alteration or mismanagement of an animal manure storage facility shall be remediated in a reasonable time frame as determined by the Department.
- E. Safety Devices: Fences and warning signs are required on all animal manure storage facilities less than five feet to ground elevation in Green County.
- F. Nutrient Management Plan: As specified in Standard 590 of Section IV of the Technical Guide, the amount, form, timing and placement of nutrient sources shall be done in accordance with an approved nutrient management plan that must be filed annually with the Department by the date identified. Standard 590 provisions shall apply to all landowners with an animal manure storage facility permit under this Chapter regardless of the date of

construction and to landowners who have received a bona fide offer of cost share funding as required by ATCP 50.08 Wis. Admin. Code.

- G. Compliance With Permit Requirements: A person is in compliance with this Chapter if he or she follows the procedures of this Chapter, receives a permit from the Department before beginning activities subject to regulation under this Chapter, and complies with the requirements of the permit.

9-4-4: STANDARDS

- A. Standards For Animal Manure Storage Facilities and Nutrient Management Plans: The standards for design and construction of animal manure storage facilities are the current standards in Section IV of the Technical Guide, Standards 313, 634, 360 and 590 as it existed on the date of adoption of this Chapter including any and all existing and future standards amended thereto.
- B. Human Household Wastewater Prohibited: Human household wastewater shall not be discharged into animal manure storage facilities unless provided for through other permitting process outside of this Chapter.
- C. Standards: Any or all standards contained or referenced in this Chapter shall be maintained and available through the Department.

9-4-5: APPLICATION FOR AND ISSUANCE OF PERMITS

- A. Permit Required: No person may undertake an activity subject to this Chapter without obtaining a permit from the Department prior to beginning the proposed activity.
- B. Exception To Permit Requirements: 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 Department within two work days of the emergency for a determination by the Department on whether a permit will be required for any additional alteration or repair to the facility.
- C. On-Site Investigation Required: Each application for a permit under this Section shall require an on-site inspection prior to issuance and include a summary report of on-site conditions. The site inspection shall be conducted by Department staff.
- D. Fee: The nonrefundable fee for a permit under this Chapter is as follows:
 - 1. \$500.00 for a facility between 5,000 cubic feet and 250,000 cubic feet.
 - 2. \$1,000.00 for a facility between 250,001 cubic feet and 500,000 cubic feet.
 - 3. \$2,500 for a facility between 500,001 cubic feet and 1,000,000 cubic feet.
 - 4. For each additional 500 cubic feet over 1,000,000 cubic feet, add \$1.00.

A double fee shall be charged for any after-the-fact applications and/or permits.

- E. Animal Manure Storage Facility Plan And Nutrient Management Plan Required: Each application for a permit under this Section shall include an animal manure storage facility plan and nutrient management plan. The plan shall specify:
1. The number, kinds, and weights of animals for which storage is provided and the duration for which storage is to be provided. Storage volume computations and the storage facility volume shall be provided.
 2. A plan view of the facility and its location in relation to buildings and homes within 1,000 feet of the proposed facility. The plan view shall be drawn to scale, with a scale no smaller than one inch equals one hundred feet (1" = 100'), the North arrow, scale of drawing, township, range, and quarter - quarter section of the proposed facility, and location, description and elevation of temporary bench mark.
 3. The structural details, load assumptions, design computations, dimensions, cross sections, concrete thickness, reinforcing steel to be used, and facility elevations. The construction and material specifications set forth in the Field Office Technical Guide including any and all existing and future amendments including, but not limited to, applicable specifications for earthen fill quantities and soil types, excavation quantities and soil types, timber and pipes.
 4. The location of any existing or proposed well within 1,000 feet of the facility.
 5. Log subsurface investigations for all manure storage facilities sufficient in detail and analysis to support the design. Describe the soil material encountered, location of any seeps, depth to subsurface saturation, and depth to bedrock. Department staff will be invited to observe or assist in all soil test pit evaluations.
 6. Provisions for adequate drainage and control of runoff to prevent pollution of surface water and ground water. 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.
 7. A time schedule for construction of the facility.
 8. A description of the method and materials proposed in transferring animal manure into and from the facility.
 9. A nutrient management plan for utilization of the animal manure, including, but not limited to, the amount of land available for application of manure, identification of the areas where the manure will be used, soil types and any limitations on animal manure application due to soil limitations, crop rotations, slope of land, and proximity to surface water. The nutrient management plan is required to ensure that suitable acreage is available for land application and crop uptake of animal manure nutrients. A nutrient management plan must be updated and submitted to the Department for every year the animal manure storage facility is utilized.
 10. An operation and maintenance plan, operating safety provisions, and details of the animal manure transfer system, including, but not limited to, materials quality, shall be provided.

11. The type of fencing to be used around the facility. Fencing shall be a minimum of eleven gauge, 47 inch woven wire with at least one barbed wire above it **or** 9 gauge, 52 inch woven livestock panels, **or** eleven and one-half gauge chain link no less than 48 inches high **or** any other fence that will provide greater protection. The facility shall be posted for "No Trespassing" and/or "Warning" **ANIMAL MANURE STORAGE FACILITY**. These signs shall be spaced at intervals of no more than 200 feet.
- F. Written Approval From Green County Zoning: Each application for a permit under this Section shall include written approval from the Green County Zoning Department.
- G. Review Of Application: The Department shall receive and review all permit applications and shall determine if the proposed facility meets required standards set forth in Section 9-4-4 of this Chapter. Within 30 working days after receiving the completed application and fee, the Department shall inform the applicant in writing whether the permit application is approved or denied. If additional information is required, the Department shall notify the permit applicant. The Department shall have 30 working days from the receipt of the additional information in which to approve or deny the application. No construction may commence without the final approval by the Department. If after 30 days the Department has not responded, the application is considered approved and may proceed with the project. If the plan is to be reviewed by the Natural Resources Conservation Service, Department of Natural Resources, or Department of Agriculture, Trade and Consumer Protection, another 30 working days is needed.
- H. Permit Conditions: All permits issued under this Chapter shall be issued subject to the following conditions and requirements:
1. Animal manure storage facility design and construction, management, and utilization activities shall be carried out in accordance with the animal manure facility plan and applicable standards specified in Section 9-4-4 of this Chapter.
 2. The permittee shall give three working days' notice to the Department before starting any construction activity authorized by the permit.
 3. Approval in writing must be obtained from the Department prior to any modifications to the approved animal manure storage facility plan.
 4. The agricultural or civil engineer registered with the State of Wisconsin or a DATCP or NRCS engineering practitioner shall certify in writing to the Department within 30 days of the project completion, that any activities permitted under this Chapter were installed as planned, meet the guidelines of the appropriate Technical Guide Standards and provide an "as-built" set of plans to the Department.
 5. Department staff may conduct on-site inspections before, during and after construction.
 6. All land applicators have, at a minimum, one set of spreading restriction maps and written instructions present for land application sites where animal manure is actively being applied.

Activities authorized by permit must be completed within two years from the date of issuance after which such permit shall be void. (Permit for construction may also be subject to County Zoning Ordinance time limitations.)

- I. Permit Revocation: The Department may revoke any permit issued under this Chapter if the holder of the permit misrepresents any of the materials to be used for constructing and/or reconstructing the animal manure facility, misrepresents the plans of the animal manure facility, makes statements within the permit application which misrepresent the facts, or if the holder of the permit violates any of the conditions of the permit. The permittee shall be immediately notified of the revocation in writing including reason(s) for the revocation.

9-4-6: ADMINISTRATION

- A. Delegation Of Authority: Green County Board of Supervisors hereby designates the Department to administer and enforce this Chapter.
- B. Administrative Duties: In the administration of this Chapter, the Department shall:
 - 1. Keep an accurate record of all permit applications, animal manure storage facility plans, permits issued, inspections made, and other official actions.
 - 2. Review permit applications and issue permits in accordance with Section 9-4-5.
 - 3. Inspect animal manure storage facility construction to ensure the facility is being constructed according to plan specifications.
 - 4. Investigate complaints relating to compliance with this Chapter.
 - 5. Perform other duties as specified in this Chapter.
- C. Design and Construction Plan Approval: Storage facility design and construction plans may be provided through the Department, cooperating members or County, State, or Federal government agencies, and private consultants. Private consultants shall be registered professional engineers, licensed in the State of Wisconsin. Storage facility designs, construction plans, and specifications utilizing preapproved or prequalified Natural Resources Conservation Service plans must be prepared by a registered professional engineer, licensed in the State of Wisconsin. The approval of preapproved or prequalified plans must state that the plan meets the requirements of this Chapter. Construction plans utilizing a preapproval or prequalified plan must be adapted to fit site conditions making it comply with Standard 313 of Section IV of the Technical Guide.
- D. Inspection Authority: Pursuant to §92.07(14) Wis. Stats., the Department is authorized to enter upon any lands affected by this Chapter to inspect the land prior to or after permit issuance to determine compliance with this Chapter. If permission cannot be received from the applicant or permittee, entry by the Department shall be in accordance with §66.0119 Wis. Stats. Refusal to grant permission to enter lands affected by this Chapter for purposes of inspection shall be grounds for permit denial or revocation.

- E. Enforcement Authority: The Department is authorized to post an order stopping work upon land which has had a permit revoked or on land in violation of this Chapter. 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, return receipt requested, to the person whose activity is in violation of this Chapter. The order shall specify that the activity must cease immediately and be brought into compliance within two working days.

Any permit revocation or order stopping work shall remain in effect unless retracted by the Department, or until the activity is brought into compliance with this Chapter. The Department is authorized to refer any violation of this Chapter or of any order stopping work issued pursuant to this Chapter to the Corporation Counsel for commencement of further legal proceedings.

9-4-7: VIOLATIONS

- A. Any person who violates, neglects, refuses to comply with or resists the enforcement of any of the provisions of this Chapter shall be subject to a forfeiture of not less than \$100.00 nor more than \$1,000.00 for each violation. A violation includes failure to comply with any standard of this Chapter or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense. The County Conservationist may refer violations of this Chapter to Corporation Counsel for enforcement.
- B. Enforcement Of Injunctions: As a substitute for or as an addition to forfeiture actions, Green County may seek enforcement by injunction order at the suit of the County or the owner or owners of the land within the district affected by the regulations of this Title.

9-4-8: APPEALS FROM ADMINISTRATIVE DECISIONS

- A. Authority: The Committee shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by Department staff in administering this Chapter.
- B. Procedure: Any appeal shall be made by written request, mailed or delivered to the Green County Land and Water Conservation Committee, c/o Land and Water Conservation Department, 1627 4th Avenue W, Monroe, WI 53566. The appeal shall be requested within 90 calendar days from the issuance of the order, requirement, decision, or determination. The request shall state the ground or grounds upon which it is contended that the decision should be modified or reversed. The appeal shall be heard within 60 days of the date the appeal is filed with the Department. A copy of the meeting notice shall be sent to the applicant and the appropriate town board. The Department shall transmit to the Committee all documents constituting the record from which the appeal was taken. The Committee shall issue a written decision regarding the appeal within 60 days after the appeal hearing.
- C. Statutory Administrative Review And Certiorari: The decision of the Committee shall be subject to judicial review if, within 30 days after the decision of the Committee, an action seeking the remedy available by certiorari is commenced, as authorized by this County Code and §59.694, Wis. Stats.

(Ord. 19-0401, 4/16/2019)