

ORDINANCE NO. 33 (2000)
MANURE MANAGEMENT ORDINANCE

The Dunn County Board of Supervisors does ordain as follows:

23.01 AUTHORITY.

This ordinance is adopted under authority granted by Sections 59.02, 59.03, and 92.16, Wisconsin Statutes and Wisconsin Administrative Code ATCP 50.96.

23.02 TITLE.

This ordinance shall be known as, referred to, and may be cited as the Dunn County Manure Management Ordinance and is hereinafter referred to as the ordinance.

23.03 FINDINGS AND DECLARATION OF POLICY.

1. The Dunn County Board of Supervisors finds that the storage of animal wastes in facilities not meeting technical design and construction standards may cause pollution of the surface and ground waters of Dunn County. It 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 the property tax base of Dunn County.
2. The Dunn County Board of Supervisors also finds that the USDA-NRCS technical standards approved by the Dunn County Land Conservation Committee, provide effective, practical, and environmentally safe methods of storing and handling animal waste and manure.

23.04 PURPOSE.

The purpose of this ordinance is to regulate the location, design, construction, installation, operation, and maintenance of all new or altered manure storage facilities and the application of manure from all new or altered facilities. It is intended to insure the proper closing of all abandoned manure storage facilities, and control the location of unconfined manure piles. It is intended to prevent ground and surface water pollution, prevent the spread of disease, and to protect the health, safety and general welfare of the citizens of Dunn County. It is intended to provide for the administration and the enforcement of the ordinance and to provide penalties for its violation.

23.05 APPLICABILITY.

This ordinance shall apply to all the unincorporated areas of Dunn County.

23.06 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 Dunn County and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes.

23.07 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.

23.08 EFFECTIVE DATE.

This ordinance shall become effective upon its adoption by the Dunn County Board of Supervisors and publication pursuant to section 59.14 of the Wisconsin Statutes.

23.09 DEFINITIONS.

1. Abandoned Manure Storage Facility. A manure storage facility not actively receiving manure for a period of one year.
2. Animal Waste and Manure. Means livestock excreta, bedding material, milk house waste, soil, compost, hair, feathers, egg shells, or other debris normally included in manure handling operations.
3. Applicant. Any person who applies for a permit under this ordinance.
4. Existing Manure Storage Facility. A manure storage facility which has been installed and placed in use prior to the adoption of this ordinance.
5. Final Certification. The written statement signed by the Division stating that the new or altered manure storage facility is designed and constructed according to NRCS Technical Standards and that the facility can now be used.
6. Final Inspection Report. A Report signed by the project engineer stating that the new or altered manure storage facility is constructed according the current NRCS Technical Standards. Included in this report will be a redlined plan detailing all changes made to the original facility plan and documentation detailing construction checks and material tests completed.
7. Inspection Plan. The inspection plan will state that the project engineer is responsible for the onsite job inspections to ensure that construction of the entire facility will meet NRCS Technical Standards. The plan will also indicate what tests will be performed to assure all standards have been met.
8. Land Conservation Division. A division of Dunn County Government which is responsible for soil and water conservation activities in Dunn County and is hereinafter referred to as the Division.
9. Technical Standards. The written standards and specifications contained in the United States Department of Agriculture (USDA) - Natural Resources Conservation Service (NRCS) Field Office Technical Guide (Technical Guide), Engineering Field Handbook (EFH) and Agriculture Waste Management Field Handbook (AWMFH).
10. Malfunctioning Manure Storage Facility. A manure storage facility which is no longer functioning as intended, as defined by the Technical Guide, and poses a real or potential threat to the environment. A storage facility in which the liner has been damaged or eroded, such that a potential water quality or safety concern exists. A malfunctioning storage facility includes, but is not limited to the following:
 - A. A storage facility in which there are deformities of the structure and shape of the inside walls(s).
 - B. A storage facility in which the waste and manure is leaking.
11. Manure Storage Facility. An impoundment specifically designed and made for the purpose of temporarily storing and holding animal waste and manure. This includes any impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure. For the purposes of this chapter, a storage area intended to hold an accumulation of manure within an area excavated, or diked, for the purpose of storing manure, shall also be considered a storage facility.
12. Mismanaged Manure Storage Facility. A manure storage facility which is not functioning properly due to neglect or carelessness of the owner or operator, and poses a real or potential threat to any person, the groundwater, any lake, stream or river, or any other component of the environment. A mismanaged storage facility includes, but is not limited to the following:
 - C. A storage facility that is being managed inconsistent with the Technical Guide.
 - D. A storage facility that is overflowing.
13. Nutrient Management Plan. A written plan and map developed in accordance with the current NRCS 590 Nutrient Management Standard. The plan balances the needs of a crop with the nutrients available from legumes, manure, and fertilizer. The nutrient management plan shall be updated annually.

14. 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.
15. Permit. The signed, written statement issued by the Division under this ordinance authorizing the applicant to construct, install, reconstruct, enlarge, substantially alter, or remove an animal manure storage facility.
16. Project Engineer. A Registered Engineer licensed by the State of Wisconsin.
17. Unconfined Manure Pile. The temporary stacking of manure or compost on the ground surface.
18. Water Quality Management Area. Means any of the following:
 - A. The area within 1000 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, “water quality management area” means the area within 1000’ from the high-water mark of the lake.
 - B. The area within 300 feet from the ordinary high-water mark of navigable waters that consist of a river or stream.
 - C. A site that is susceptible to groundwater contamination or that has the potential to be a direct conduit for contamination to reach groundwater.

23.10 ACTIVITIES SUBJECT TO REGULATION.

1. Manure Storage Facilities. Any person who constructs, designs, or installs a new manure storage facility, or reconstructs, enlarges, alters, changes, or moves an existing manure 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. No permit shall be issued to move, reconstruct, extend, enlarge, convert, or substantially alter an existing earthen manure storage facility unless the entire structure meets the standards set fourth in Section 23.11. No permit shall be issued to move, reconstruct, extend, enlarge, convert, or substantially alter an existing non-earthen manure storage facility unless the entire structure is determined to be environmentally safe by the Division.
2. Abandoned Storage Facilities. Any person who owns an abandoned manure storage facility is responsible for the removal of the waste and the restoration of the facility to a safe and sanitary condition as determined by the Division. This is required within one year of the date that the facility becomes abandoned. The Land Conservation Committee may extend this time for good cause, such extensions are not to exceed one year increments.
3. Malfunctioning or Mismanaged Facilities. Any person who owns a facility found to be malfunctioning shall be required to repair the facility to a condition meeting the standards of the Technical Guide within 1 (one) year of the date the facility is found to be malfunctioning. A facility found to be mismanaged shall be brought into compliance within a time frame as determined by the Division depending on the severity of the problem. The time frame may not exceed six months and may include clean-up as determined by the Division.
4. Unconfined Manure Piles. The temporary stacking of manure on the ground surface does not require a permit. The location of temporary stacks in water quality management areas is prohibited and they must be removed. This may include cleanup as determined by the Division.

23.11 STANDARDS.

1. The following NRCS Technical Guide standards are hereby adopted and made part of this ordinance, except as otherwise specifically provided in this ordinance, or limited by law. NRCS Technical Guide; Standard 313, Waste Storage Facility; Standard 590, Nutrient Management; and Standard 634, Waste Transfer.

23.12 APPLICATION FOR AND ISSUANCE OF PERMITS.

1. Permit Required. Except as hereinafter provided, no person may undertake any activity subject to this ordinance without first obtaining an *ANIMAL WASTE STORAGE PERMIT* from the Division.
2. Compliance. A person is in compliance with this ordinance if the procedures of this chapter have been followed and a permit from the Division has been issued prior to commencing activities subject to regulation. No person may place manure in a new or altered waste storage facility until the Division has issued the Final Certification stating that the design and construction meets the standards of the Technical Guide.
3. Exception To Permit Requirement. Emergency repairs of broken pipes or equipment, leaking dikes, or the removal of obstructions may be performed without a permit from the Division. If such repairs alter the original design and construction of the facility, the person who initiates such repairs shall make a report to the Division within ten (10) days of the emergency. The determination as to the need for additional work and or the need for a permit will be rendered by the Division within ten(10) days of the aforementioned report.
4. Plan requirements. Each application for a permit under this ordinance shall include a plan package completed in accordance with the standards in Section 23.11. The plan package must be signed and stamped by the project engineer and include the following:
 - A. The existing and anticipated numbers and kinds of animals and the animal units for which storage is to be provided.
 - B. Site maps drawn at a scale of not less than (1) inch equals (100) feet of the facilities location, including identification of all buildings, navigable and intermittent streams, and wetlands or water bodies within (1000) feet on the facility.
 - C. The structural details including dimensions, cross sections, concrete thickness, reinforcing schedules, and thickness and placement of liners.
 - D. Well locations within 300 feet of the facility.
 - E. Soil test pit locations and soil descriptions to a depth of at least five (5) feet below the planned bottom of the facility, or to bedrock if at a lesser depth.
 - F. A representative of the Division shall be on site to verify soil samples taken during all soil foundation investigations. The landowner shall inform the Division (3) three working days prior to digging the soil test pits.
 - G. Groundwater and bedrock elevations if encountered in the soil profile, and the date of such determinations.
 - H. Provisions for drainage and control of runoff to prevent pollution of surface and ground water and the location and distance to water bodies.
 - I. Drawing scale and associated keys.
 - J. A timetable for construction and a construction inspection schedule.
 - K. A description of the methods for transferring animal waste into and out of the facility.
 - L. A nutrient management plan meeting the standards set fourth in Section 23.11.
 - M. An operation and maintenance plan.
5. Review Of Application. The Division shall receive and review all permit applications to determine if the proposed facility and nutrient management plan meet the required standards as set fourth in Section 23.11.

- E. If additional information is required the Division shall notify the applicant.
 - F. The Division shall notify the applicant in writing within (90) days of receiving the complete plan package, whether the permit application is approved or disapproved.
 - G. Approval of such plans may be conditional based on site specific requirements determined by the Division.
6. Permit Conditions. All permits issued under this ordinance shall be issued subject to the following conditions and requirements:
- A. All new or altered animal waste storage facilities will be located, designed, and constructed in accordance with the standards specified in Section 23.11.
 - B. All abandoned waste storage facilities will be closed in accordance with the standards specified in Section 23.11.
 - C. Any modification to an approved facility plan must be approved in writing by the Division.
 - D. All activities authorized by permit must be completed within two (2) years from the date of issuance after which time such permit shall be void.
 - E. The permittee shall give three (3) working days notice to the Division before starting any construction activity authorized by the permit.
 - F. Upon completion the project engineer must issue a Final Inspection Report to the Division signed by the project engineer stating that the new or altered waste storage facility is constructed according to the NRCS Technical Standards.
 - G. After receiving and reviewing the Final Inspection Report the Division will issue a Final Certification Statement within (10) ten working days that will allow the facility to be used. No person may place manure in a new or altered manure storage facility until the Division has issued the Final Certification Statement.

23.13 PERMIT FEE.

There will be no charge for the permit.

23.14 PERMIT REVOCATION.

1. The Division may revoke any permit issued under this chapter if the person issued the permit has misrepresented any information in the permit application or animal waste facility plan, or if the person violates any of the conditions of the permit.

23.15 ADMINISTRATION.

1. Administrative Authority. The Division will administer and enforce this ordinance based upon technical review and assistance from NRCS and Wisconsin Department of Agriculture, Trade, and Consumer Protection, engineering staff.
2. Administrative Duties. In the administration and enforcement of this ordinance, the Division shall:
 - A. Keep an accurate record of all permit applications, animal waste storage facility plans, nutrient management plans, permits issued, inspections made, and other official actions.
 - B. Review permit applications and issue permits in accordance with Section 23.12.
 - C. Inspect animal waste storage facility construction to insure the facility is being constructed according to plan specifications.
 - D. Investigate complaints relating to compliance with this ordinance.
 - E. Perform other duties as specified in this ordinance.

- F. Provide technical services and oversight to the applicant.
3. Inspection Authority. The Division shall be authorized to enter upon any lands affected by this ordinance to inspect the site to determine compliance with the ordinance.
 4. Enforcement Authority. The Division shall be authorized to post a stop work order on land that has had a permit revoked or is currently undergoing activity that is violating this ordinance. Notice shall be given to the violator of this ordinance by both posting one or more copies of a legal notice on the site stating the violation, and by mailing the landowner a copy of the order by certified mail. The order shall specify that the activity shall cease immediately. Any permit revocation or order stopping work shall remain in effect until retracted by the Dunn County Land Conservation Committee, the Division, or by a court of competent jurisdiction. The Division is authorized to refer any violation of this ordinance or of a stop work order issued pursuant to this ordinance to the Corporation Counsel for commencement of legal proceedings.
 5. Violations. A violation includes any failure to comply with any standard of this ordinance or with any condition or qualification attached to any permit or any failure to comply with notice of a permit revocations or stop work order. Each day that a violation exists shall be a separate offense.
 6. 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 ten dollars (\$10.00) nor more than two hundred dollars (\$200.00) per day.
 7. Enforcement Injunction. As a substitute for, or an addition to, forfeiture actions, the County may seek enforcement of any part of this by court actions seeking injunctions or restraining orders.

23.16 APPEALS FROM ADMINISTRATIVE DECISIONS.

1. Authority. Under the authority of Chapter 68, Wisconsin Statutes, the Dunn County Land Conservation Committee created under Section 59.70 (20), Wisconsin Statutes, acting as an appeal authority under Section 68.09 (2), Wisconsin Statutes, shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by the Division in administering this ordinance.
2. Procedure. Any appeal shall be made by written request mailed or delivered to the Dunn County Land Conservation Committee, c/o Dunn County Land Conservation Division. 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 15 days, review the determination under appeal.
3. Who May Appeal. Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirement, decision, or determination for which review is sought.

Offered by the Planning, Resources, and Development Committee this 18th day of April, 2000, at Menomonie, Wisconsin.

ENACTED ON: April 18, 2000

PUBLISHED ON: April 26, 2000

OFFERED BY PLANNING, RESOURCES, AND DEVELOPMENT COMMITTEE:

Francis Eiseth, Chairman

Marvin Saxton

Maynard Moe

Richard H. Johnson

Ellen B. Ochs