

1. BUFFALO COUNTY ANIMAL WASTE MANAGEMENT ORDINANCE

3/94

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SECTION 1. INTRODUCTION

1.01 AUTHORITY AND NAME This ordinance is adopted under authority granted by sections 59.07(51), 59.97, 92.16, Wis. Stats.

1.02 TITLE This ordinance shall be known as, referred to, and may be cited as the Buffalo County Animal Waste Management Ordinance and is hereinafter referred to as the "ordinance".

1.03 FINDINGS AND DECLARATION OF POLICY The Buffalo 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 Buffalo 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 Buffalo County.

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

The Buffalo County Board of Supervisors further finds that the technical standards developed by the United States Department of Agriculture Soil Conservation Service (U.S.D.A., S.C.S.) as adopted by the Land Conservation Committee, provide effective, practical, and environmentally safe methods of storing and utilizing animal waste.

1.04 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 Buffalo County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Buffalo County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.

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

1.06 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.

1.07 APPLICABILITY This ordinance applies to the entire geographical area of Buffalo County and to all animal waste storage facilities constructed therein.

1.08 EFFECTIVE DATE This ordinance shall become effective upon its adoption by the Buffalo County Board of Supervisors.

SECTION 2. 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 both fabricated and earthen facilities storing both solid and liquid waste generated from agricultural production or processing. All waste storage facilities constructed after the effective date must have a permit.

C. Applicant means any person who applies for a permit under this ordinance.

D. Bedrock means the rocks that underlay soil material or at the earth's surface. Bedrock is encountered when the weathered-in-place consolidated material, larger than two millimeters (2mm) in size, is greater than fifty percent (50%) by size.

E. Earthen Animal Waste Storage Facility means a facility above or below grade, excavated, or constructed of earth berms or dikes, or utilizing pits, depressions or ponds to contain animal waste and associated liquids for storage.

F. Fabricated Animal Waste Storage Facility means a concrete, steel, flexible membrane, or otherwise fabricated structure used in storage of animal waste with one or more walls to contain waste and associated liquids.

G. Groundwater Level means 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 color patterns throughout the soil profile. For the purpose of these rules, high groundwater color patterns should be established by the presence of low chroma mottles.

H. Nutrient Management Plan means a written plan detailing the amount, form, placement, and timing of application of plant nutrients, including animal waste.

I. Permit means the signed, written statement issued by the Buffalo County Land Conservation Department 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.

J. Permittee means any person to whom a permit is issued under this ordinance.

K. 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.

L. Technical Guide means the U.S.D.A. Soil Conservation Service Field Office Technical Guide as adopted by the Buffalo County Land Conservation Committee and its Department.

M. Temporary Manure Stack means an uncontained deposit of animal waste in place for less than 100 consecutive days located on an earthen, concrete, or other surface, necessary to facilitate daily or periodic land spreading. Manure stacks do not require a permit, but should have their location approved prior to stacking.

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.

SECTION 3. ACTIVITIES SUBJECT TO REGULATION

3.01 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.

3.02 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 Land Conservation Department before beginning activities subject to regulation under this ordinance, and complies with the requirements of the permit.

SECTION 4. STANDARDS

4.01 Standards for Animal Waste Storage Facilities. The standards for design and construction of animal waste storage facilities are standards 313 and 425 in the Technical Guide.

4.02 Standards for Animal Waste Management and Utilization. The standard for management of animal waste storage facilities and utilization of animal waste is standard 590 in the Technical Guide.

4.03 Standards for Animal Waste Transfer Systems. The standard for transferring animal waste from the source location to a storage or loading area is standard 358 in the Technical Guide.

4.04 Subsequent Modification of Standards. The standards of the Technical Guide are adopted and by reference made a part of this ordinance as if fully set forth. Any future amendment, revision or modification of the Standards incorporated herein are made a part of this ordinance.

SECTION 5. APPLICATION FOR AND ISSUANCE OF PERMITS

5.01 Permit Required. No person may undertake an activity subject to this ordinance without obtaining a permit from the Department of Land Conservation prior to beginning the proposed activity.

5.02 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 Department of Land Conservation within two (2) work days of the emergency for a determination by the Department of Land Conservation on whether a permit will be required for any additional alteration or repair to the facility.

5.03 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 on site conditions. The site inspection shall be conducted by the Land Conservation Department staff.

5.04 Fee. A non-refundable fee of \$25.00 will be required for the permit. A minimum of \$50.00 will be charged for a permit cost after any construction has commenced without a permit.

5.05 Animal Waste Storage Facility Plan 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. The plan shall specify:

1. A nutrient management plan for utilization 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, soil types and any limitations on waste applications due to soil limitations, type and proximity of bedrock or water table, slope of land, and proximity of surface water.

2. The number and kinds of animals for which storage is provided and the duration for which storage is to be provided.

3. 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.

4. The structural details, including dimensions, cross sections showing elevations, concrete thickness and quantity, reinforcing type, location, and quantity, and earth excavation and fill quantities.

5. Make and model of prequalified structure, if used. Concrete quantity not included in prequalified structure.

6. Agitation access layout, grading plan to keep clean water from entering structure, seeding specifications, and tile and drainfill layout, if needed.

7. The construction and material specifications including but not limited to, applicable specifications for earthen fill, excavation, concrete, reinforcing steel, timber, and pipes.

8. The location of any wells within 300 feet of the facility.

9. The soil test pit locations and soil descriptions to a depth of at least three feet below the planned bottom of the facility. The cost of test pits may be shared if the proposed animal waste storage site is within an eligible project area.

10. The elevation of a high groundwater level or bedrock if encountered in the soil profile and the date of any such determinations.

11. 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.

12. A time schedule for construction of the facility.

13. A description of the method to be used in transferring animal waste into and from the facility.

5.06 Review of Application. The Land Conservation Department shall receive and review all permit applications. The Land Conservation Department 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 Land Conservation Department shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the Land Conservation Department shall so notify the permit applicant. The Land Conservation Department has 30 working days from the receipt of

the additional information in which to approve or disapprove the application. If the applicant receives no response within thirty (30) working days of application, the application will be considered denied. No construction may commence without the final approval form being executed by the Land Conservation Department.

5.07 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 Land Conservation Department before starting any construction activity authorized by the permit.

3. Approval in writing must be obtained from the Land Conservation Department prior to any modifications to the approved animal waste facility plan.

4. The permittee and, if applicable, the contractor shall certify in writing that the facility was installed as planned.

5. The Land Conservation Department staff may conduct on site inspections during and after construction.

Activities authorized by permit must be completed within two (2) years from the date of issuance after which such permit shall be void.

5.08 Permit Revocation. The Land Conservation Department 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, or if the holder of the permit violates any of the conditions of the permit.

SECTION 6. ADMINISTRATION

6.01 Delegation of Authority. Buffalo County hereby designates the Buffalo County Land Conservation Department to administer and enforce this ordinance.

6.02 Administrative Duties. In the administration of this ordinance, the Land Conservation Department 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. Randomly determine individual compliance with the ordinance requirements at least once every four years.

6. Provide technical services to the extent resources are available

7. Perform other duties as specified in this ordinance.

6.03 Inspection Authority. The Land Conservation Department 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 received from the applicant or permittee, the permit may be denied or entry by the Land Conservation Department shall be according to Sections 66.122 and 66.123, Wis. Stats.

6.04 Enforcement Authority. The Land Conservation Department is 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.

Any permit revocation or order stopping work shall remain in effect unless retracted by the County Board of Adjustment, the LCC, the LCD, or by a court of general jurisdiction; or until the activity is brought into compliance with the ordinance. The Land Conservation Department 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.

SECTION 7. VIOLATIONS

7.01 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 activity or standard of this ordinance or with any permit requirement, condition or qualification. Each day that a violation exists shall be a separate offense.

7.02 Enforcement of Injunction. As a substitute for or as an addition to forfeiture actions, Buffalo County may seek enforcement of any part of this ordinance by court action seeking injunctions or restraining orders.

SECTION 8. APPEALS

8.01 Authority. The Buffalo County Board of Adjustments shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination by Land Conservation Department staff in administering this ordinance.

8.02 Procedure. Any appeal shall be made by written request, mailed or delivered to the Buffalo County Land Conservation Department, 407 South Second Street, Alma, WI 54610. 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.

8.03 Statutory Administrative Review and Certiorari. The decision of the Buffalo County Land Conservation Committee shall be subject to further administrative review by the Board of Adjustments if a written appeal seeking such review is filed within thirty (30) days after the decision of the committee. The decision of the Board of Adjustments Committee shall be subject to judicial review if, within thirty (30) days after the decision of the Board of Adjustment an action seeking the remedy available by certiorari is commenced, as authorized by Section 59.99 of the Wisconsin Statutes.

8.04 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.

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Adopted by the Buffalo County Board on this _____ day of _____, 1994.