

PROPOSED REVISIONS

CHAPTER 13

LIVESTOCK WASTE MANAGEMENT

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Amended 2/22/2011

LIVESTOCK WASTE MANAGEMENT - CHAPTER 13

13.01 AUTHORITY

- (1) This Chapter of the Code is adopted pursuant to authority granted in Chapter 59.70, and sec. 92.15 and 92.16, Wisconsin Statutes (Wis. Stats.), and ss. ATCP 50.56 and NR 151.05, Wisconsin Administrative Code ("Wis. Admin. Code")
- (2) This Chapter of the Code incorporates by reference the technical standards and specifications developed by the United States Department of Agriculture (USDA) and the Natural Resources Conservation Service (NRCS), hereinafter called the **USDA-NRCS Field Office Technical Guide**, used by the Winnebago County Land and Water Conservation Department, hereinafter called the **Department**, for use in the design, construction, operation, and maintenance of livestock waste storage facilities and **livestock facilities and the management and application of livestock waste**. Any such standards shall apply until amended and then shall apply as amended.
- (3) This Chapter of the Code also incorporates by reference the current USDA- NRCS Soil Survey for Winnebago County, **the current USGS 1:24,000 Quadrangle Maps**, NR812 (the Wisconsin Well Code), **and all applicable Wis. Administrative Codes**.

13.02 FINDINGS AND DECLARATION OF POLICY

- (1) The Winnebago County Board of Supervisors finds that livestock waste storage facilities, **livestock facilities** and the land application of livestock waste may cause pollution of the surface waters and ground waters of Winnebago County, and may result in actual or potential harm to the health and safety of County residents and transients, to livestock, aquatic life and other animals and plants, and to the property tax base of Winnebago County.
- (2) The Winnebago County Board of Supervisors also finds that the USDA-NRCS **Field Office** Technical Guide, as used by the Department, provides the basis for effective and environmentally safe methods of construction, operation, and maintenance of livestock waste storage facilities and livestock facilities.
- (3) The County of Winnebago permits operation of properly conducted agricultural operations within the county. If property is located near **lands used for** agricultural operations or included within an area zoned for agricultural purposes, it may be subject to conditions arising from such operations. These conditions may include, but are not limited to: noises, odors, lights, fumes, dust, operation of machinery, and the storage and disposal of manure. One or more of these conditions described may occur as a result of any agricultural operation, which is in conformance with existing laws and regulations and accepted customs and standards. Those residing near an agricultural area should be prepared to accept such outcomes as a normal and necessary aspect of living in a county with strong rural character and an active agricultural sector. Winnebago County has the Land Conservation Committee assist in the resolution of any livestock waste management disputes, which might arise between residents of the county regarding agricultural operations.

13.03 PURPOSE

The purpose of this Chapter is to assure the safe handling and spreading of livestock waste as well as to regulate the location, design, construction, alteration, operation, and maintenance of all livestock facilities and livestock waste transfer and storage facilities; and to regulate the abandonment/closure of livestock waste transfer and storage facilities in order to prevent water pollution, protect the health and safety of residents and transients, prevent the spread of disease, and promote the prosperity and general welfare of the citizens of Winnebago County.

13.04 INTERPRETATION

The provisions of this Chapter of the Code shall be held to be minimum requirements and shall be liberally construed in favor of Winnebago County and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes. Each section, paragraph, sentence, clause, word and provision of this Chapter is severable and if any portion shall be deemed unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Chapter nor any part thereof other than the portion affected by such decision.

13.05 JURISDICTION

This Chapter shall apply to all unincorporated areas of Winnebago County.

13.06 EFFECTIVE DATE

This Chapter shall become effective upon the date following its County publication.

13.07 DEFINITIONS

- (1) **"Abandonment/Closure"** means a livestock waste transfer system and/or storage facility that is being closed or reclaimed to a safe and sanitary condition in accordance with all applicable Technical Standards and Codes.
- (2) **"Applicant"** means any person who applies for a permit under this chapter of the Code.
- (3) **"Bedrock"** means any naturally formed consolidated rock material and weathered in-place material with > 50%, by volume, larger than 2 mm in size. Bedrock includes, but is not limited to limestone (dolomite), sandstone, shale and igneous and metamorphic crystalline rock, including granite, rhyolite, quartzite, gabbro, basalt, gneiss, schist, diorite and greenstone.
- (4) **"Department"** means the Winnebago County Land and Water Conservation Department.
- (5) **"Ground Water"** means the water filling all the unblocked pores of underlying material below the water table.

- (6) **"Idle Livestock Waste Storage Facility"** means a livestock waste storage facility that is no longer being used for its intended purpose, and is no longer receiving livestock waste, has not received any livestock waste for a period of one year and, based on available evidence, is unlikely to receive livestock waste from an active livestock operation in the future.
- (7) **"Incorporation"** means to blend, mix or combine into the soil, which may include injection, discing, plowing, chisel plowing, roto-tilling, or other tillage methods.
- (8) **"Livestock"** means animals that are kept for human use or raised for sale or profit, including, but not limited to bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer and elk, farm raised game birds, camelids and ratites.
- (9) **"Livestock Facility"** means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of livestock, specifically designed as a confinement area in which livestock waste may accumulate, or where the concentration of livestock is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be livestock facilities. Pastures shall not be considered livestock facilities under this ordinance.
- (10) **"Livestock Waste"** means livestock excreta, bedding material, rain or other water, soil, hair, feathers, feed or other debris normally included in livestock waste handling operations, or that come in contact with livestock excreta.
- (11) **"Livestock Waste Management Permit"** means the signed, typed statement issued by the Department under this chapter of the Code authorizing the applicant to construct, reconstruct, enlarge, or substantially alter a livestock waste storage facility or livestock facility.
- (12) **"Livestock Waste Storage Facility"** means an excavated or earthen impoundment or a fabricated structure constructed of approved materials in accordance with all applicable technical standards and regulations used for temporary storage of livestock waste.
- (13) **"Livestock Waste Transfer System"** means components, such as pumps, pipes, conduits, valves, collection basins, and other structures used to convey livestock waste from buildings and livestock facilities to a livestock waste storage facility, loading area, or treatment area; and facilities, such as reception tanks and pits to temporarily catch and store livestock waste before conveyance. Gutters, barn cleaners and manure spreaders are not considered to be a Livestock Waste Transfer System.
- (14) **"Non-cropped Wetland"** means a wetland that has not been farmed within the last five years.

- (15) **“Nutrient Management Plan”** means a plan, written in accordance with the current NRCS 590 Standard, and all other applicable standards, specifications and regulations as determined by the Department.
- (16) **“Pasture”** means areas where grass or other growing plants are used for grazing and where the concentration of livestock is such that a vegetative cover is maintained except in the immediate vicinity of temporary supplemental feeding or watering devices.
- (17) **“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.
- (18) **“Process Wastewater”** means wastewater from the production area directly or indirectly used in the operation of livestock feeding operations that results from any or all of the following:
- (a) Spillage or overflow from livestock watering systems.
 - (b) Washing, cleaning, or flushing pens, barns, livestock waste facilities, or other livestock feeding operation facilities.
 - (c) Direct contact swimming, washing, or spray cooling of livestock or dust control.
 - (d) Water that comes in contact with any raw materials or livestock by-products including, but not limited to livestock waste, feed, milk, eggs or bedding.
- (19) **“Sinkhole”** means a depression or opening on the land surface, usually funnel-shaped, generally formed by solution or collapse of limestone, dolomite or to a lesser extent sandstone bedrock occurring at or near the surface. Sinkholes may be partially or completely filled with unconsolidated material and solution enlargement of vertical passages, often extend to the water table. Collapse of mine workings in other consolidated formations are also considered sinkholes.
- (20) **“Substantially Alter”** means a change that results in a relocation of, or significant changes to the size, depth, configuration or use as determined by the Department.
- (21) **“Surface Water”** means any lake, perennial, or intermittent stream as identified on USGS 1:24,000 Quadrangle maps or direct conduits to such waters as determined by the Department.
- (22) **“Technical Standards”** means the current, written standards and specifications contained in the USDA-NRCS Field Office Technical Guide.
- (23) **“Unconfined Manure Pile”** means a quantity of manure that is at least 175 cubic feet in volume and which covers the ground surface to a depth of at least 2 inches and is not confined within a manure storage facility, livestock housing facility or barnyard runoff control facility or covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater.

- (24) **“Waters of the State”**, as defined in Chapter 283.01(20) of the Wisconsin Statutes, means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water and 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.
- (25) **“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.
- (26) **“Water Quality Management Area”** means any of the following:
- a) The area within 1,000 feet from the ordinary high-water mark of a lake, pond or flowage.
 - b) The area within 300 feet from the ordinary high-water mark of a stream or river.
 - c) A site that is susceptible to groundwater contamination or that has the potential to be a direct conduit for contamination to reach groundwater.
- (27) **“Wetland”** means an area that has a predominance of hydric soils and that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

13.08 ACTIVITIES SUBJECT TO REGULATION

- (1) **APPLICABILITY.** Any person or their agent who acquires ownership of, leases, or constructs, reconstructs, enlarges, abandons/closes or substantially alters any livestock waste storage facility, livestock waste transfer system or livestock facility or applies livestock waste on land subject to this ordinance, shall be subject to the provisions of this chapter of the Code.
- (2) **COMPLIANCE.** A person is in compliance with this chapter of the Code if the procedures of this chapter have been followed, a permit from the Department has been issued prior to commencing construction activities subject to regulation under this section, and there is full compliance with the requirements of the permit.

13.09 STANDARDS AND SPECIFICATIONS

- (1) **LIVESTOCK FACILITIES.** The standards and specifications for design, construction, operation and maintenance of livestock facilities are those identified in the USDA-NRCS **Field Office** Technical Guide and the Wisconsin Administrative Codes.
- (2) **LIVESTOCK FACILITY SETBACK REQUIREMENTS.** All new livestock facilities shall be sited a minimum of 50 feet from wells, and 300 feet from **wetlands** and surface water. A livestock facility may be sited between 300 feet and 75 feet from **wetlands** and surface water with an approved variance from the Department.
- (3) **LIVESTOCK WASTE STORAGE FACILITIES AND TRANSFER SYSTEMS.** The standards and specifications for design, construction, abandonment/closure, operation and maintenance of livestock waste storage facilities or **transfer systems** are those identified in the USDA-NRCS Field Office Technical Guide and the Wisconsin Administrative Codes.
- (4) **LIVESTOCK WASTE STORAGE FACILITIES SETBACK REQUIREMENTS.** All new livestock waste storage facilities shall be sited a minimum of **300** feet from **wetlands** and surface water. **A livestock waste storage facility may be sited between 300 feet and 75 feet from wetlands and surface water with an approved variance from the Department.**
- (5) **LIVESTOCK WASTE MANAGEMENT AND UTILIZATION.** Livestock wastes for which storage permits are issued under this chapter of the Code and all wastes from existing livestock waste storage facilities shall be managed and utilized in accordance with **all applicable current USDA-NRCS Technical Standards.** A current Nutrient Management Plan shall be submitted by the **owner or** operator of the livestock waste storage facility by **March 31st** annually to the Department until the livestock waste storage facility is no longer in use or it has been properly abandoned/**closed.**
- (6) **LIVESTOCK WASTE MANAGEMENT AND APPLICATION REQUIREMENTS.** All livestock waste shall be managed and applied in accordance with all applicable technical standards. The following setbacks and separation distances are required for all sources of livestock waste applied within the county.
 - (a) **Livestock waste** and organic by-products shall not be applied to the following areas unless injected or incorporated within 72 hours:
 - (1) Within **300** feet of surface water
 - (2) Within **300** feet up-gradient of sinkholes, cracked bedrock, or wells.
 - (b) **Livestock waste** and organic by-products shall not be applied on frozen or snow covered ground in the following areas:
 - (1) Within **300** feet of surface water

- (2) Within 300 feet up-gradient of sinkholes, cracked bedrock and wells
 - (3) On slopes greater than 9% (Exception: Up to 12% is allowed if contour stripped with sod, or contour farmed with all crop residue remaining.
 - (c) Livestock waste and organic by-products shall not be applied in waterways, non-cropped wetlands, terrace channels, ditches or any other direct conveyance to surface water or groundwater.
- (7) **LIVESTOCK WASTE PROHIBITIONS.** The following practices are prohibited pursuant of this ordinance.
- (a) Overflow of livestock waste storage facilities.
 - (b) Unconfined livestock waste stacking (piling) within a water quality management area.
 - (c) Direct runoff of livestock waste or process wastewater to waters of the state.
 - (d) Unlimited access by livestock to waters of the state in a location where high concentrations of livestock prevents the maintenance of adequate sod cover.

13.10 APPLICATION AND ISSUANCE OF PERMITS

- (1) **PERMIT REQUIRED.** Except as hereinafter provided, no person or their agent may construct, reconstruct, enlarge, abandon/close or substantially alter any livestock waste storage facility, livestock waste transfer system or livestock facility without first obtaining a Livestock Waste Management Permit from the Department.
- (2) **EXCEPTION TO PERMIT REQUIREMENT.** Emergency repairs for broken pipes or equipment, leaking dikes, or the removal of obstructions may be performed without a permit from the Department. If such repairs alter the original design and construction of the facility, the person who initiates such repairs shall make a report to the Department within two business days of the emergency. The determination as to the need for additional work and a permit shall be rendered by the Department within two business days of the aforementioned report.
- (3) **LIVESTOCK WASTE STORAGE FACILITY AND TRANSFER SYSTEM PLAN REQUIREMENTS.** Each application for a permit under this chapter of the Code shall include a Livestock Wasted Storage Facility or Transfer System Plan. Such plans shall meet all applicable USDA, NRCS technical standards and Wisconsin Administrative Codes and at a minimum include the following:
 - (a) A plan map with a scale and north arrow showing location and dimensions of the facility, including buildings, homes, wells and soil types within 1000 feet of the proposed site.

- (b) The location of all soil test pits, including a detailed log of each pit to a depth of at least 5 feet below the planned bottom elevation of the facility. The soil test pit log shall include: the location and surface elevation, depth of the pit, description of the soil profile, and the USDA Uniform Soil Classification.
- (c) Depth of high ground water **and bedrock**, estimated or observed, in the soil profile and date determined.
- (d) Ground contours (2-foot maximum intervals), with spot elevations, indicating land slope at and around the site for a minimum distance of 100 feet.
- (e) Provisions for adequate drainage and control of runoff to prevent pollution of surface and ground water. The location of any **surface water or wetlands** within **1000** feet of the proposed site must be shown.
- (f) The number(s) and type(s) of **livestock** for which storage is to be provided.
- (g) Planned duration of storage, expressed in days or months, and volume of storage, expressed in cubic feet.
- (h) Description of the type(s) of materials the facility is to consist of; size, dimensions, and cross sections of the facility, and any other specific details including, but not limited to, concrete, concrete thickness in floors and walls, steel schedules, fencing, **gating and employee safety plans and signage** .
- (i) Description of how waste will be transferred into and removed from the facility.
- (j) A USDA-NRCS 590 Standard Nutrient Management Plan.
- (k) Description of bench mark(s) including elevation(s) expressed in feet and hundredths.
- (l) A time schedule for construction of the facility.

(4) LIVESTOCK FACILITY PLAN REQUIREMENTS. Each application for a permit under this chapter of the Code shall include a **Livestock Facility Plan**. **Such plans shall meet all applicable USDA-NRCS technical standards and Wisconsin Administrative Codes and at a minimum include the following:**

- (a) A plan map **with a scale and north arrow** showing the location and **dimensions** of the facility, including buildings, homes, wells and **soil types** **within 1000** feet of the proposed site.
- (b) Depth of high ground water **and bedrock** estimated or observed.
- (c) Ground contours (2-foot maximum intervals) with spot elevations, indicating

land slope at and around the site for a minimum distance of 100 feet.

- (d) Provisions for adequate drainage and control of runoff to prevent pollution of surface and ground water. The location of any surface water or wetland within 1000 feet of the proposed site must be shown.
- (e) If requested by the Department; a description of the bench mark(s), including elevation(s) expressed in feet and hundredths, type(s) of materials the facility is to consist of; size, dimensions, and cross sections of the facility, and any other specific details including, but not limited to, concrete, concrete thickness in floors and walls, steel schedules, and fencing.
- (f) A time schedule for construction of the facility.

(5) IDLE LIVESTOCK WASTE STORAGE FACILITIES

Removal of livestock waste and restoration of an idle livestock waste storage facility to a safe and sanitary condition, as determined by the Department, is required within one year of the date it is deemed idle. The Department may extend the restoration deadline for good cause; such extension shall not exceed one year increments. After a livestock waste storage facility has been idle for two years it must be inspected by a qualified engineer or a DATCP, NRCS or LWCD engineering practitioner and all deficiencies corrected to current technical standards before it can be put back in service.

(6) ABANDONMENT/CLOSURE

- (a) The owner and/or operator of any existing livestock waste storage facility in Winnebago County shall not abandon/close nor otherwise make said facility inoperative prior to submitting an approved Abandonment/Closure Plan and acquiring a Livestock Waste Management Permit. The Abandonment/Closure Plan must be prepared in accordance with all applicable USDA- NRCS Technical Standards and Wisconsin Administrative Codes and approved by the Department.
- (b) Should the local Health Officer determine that any livestock waste storage facility constitutes a human health hazard pursuant to Section 254.59, Wisconsin Statutes, Winnebago County reserves the right to abate said human health hazard and to assess costs pursuant to Section 254.59, Wisconsin Statutes.

(7) LIVESTOCK WASTE STORAGE FACILITY AND/OR TRANSFER SYSTEM ABANDONMENT/CLOSURE PLAN REQUIREMENTS. Each application for a permit under this chapter of the Code shall include a Livestock Waste Storage Facility or Transfer System Abandonment/Closure Plan. Such plans shall meet all applicable USDA, NRCS technical standards and Wisconsin Administrative Codes and at a minimum include the following:

- (a) A plan map with a scale and north arrow showing location and dimensions of the facility, including buildings, homes, wells and soil types within 1000

feet of the proposed site.

- (b) Ground contours (2-foot maximum intervals) with spot elevations, indicating land slope at and around the site for a minimum distance of 100 feet
- (c) Description of how waste was transferred into and will be removed from the facility and applied to cropland in accordance with NRCS Standard 590.
- (d) Description of bench mark(s) including elevation(s) expressed in feet and hundredths.
- (e) A time schedule for the abandonment/closure project.

(8) REVIEW OF APPLICATION. The Department shall receive and review all permit applications to determine if the proposed project will comply with ordinance requirements. The procedure will generally be as follows:

- (a) Prior to issuance of a permit for a livestock waste storage facility, or transfer system, or livestock facility, or an abandonment/closure, plans shall be approved where applicable either by the NRCS Area Engineer, by a DATCP representative, by a registered professional civil engineer, or by a Department staff person having the appropriate Engineering Job Approval or authority.
- (b) Within thirty days after a complete application has been submitted to the Department, the applicant shall be notified whether the application has been approved or disapproved. Approval of such plans may be conditional based upon on-site specific requirements determined by the Department, NRCS or DATCP.

(9) PERMIT CONDITIONS. All permits issued under this chapter of the Code shall be issued subject to the following conditions and requirements:

- (a) The livestock waste storage facility or transfer system, livestock facility, or abandonment/closure design, construction, operation, and maintenance shall be carried out in accordance with the project plan and standards specified in Section 13.09 of this chapter of the Code.
- (b) Any modifications to an approved facility plan must be approved in writing by an authorized representative of the Department. When applicable, written approval by the Department shall occur only after the NRCS or DATCP Area Engineer has reviewed and approved the proposed modifications.
- (c) All activities authorized by a permit must be completed within two years from the date of issuance after which time the permit shall be void unless extended prior to expiration.

(10) PERMIT EXTENSIONS. A permit may be extended once. The landowner or his

contractor responsible for installation of a livestock waste storage facility or transfer system, livestock facility or **abandonment/closure** may extend a permit prior to the expiration date by submitting an extension request form and the appropriate fee to the Department. Prior to any permit **extension** a complete review of the project site conditions and design parameters shall be made by the Department to determine if any changes have occurred that would alter the permit criteria. The permit shall expire two years from the date of **extension**. No additional **extensions** shall be granted.

13.11 PERMIT FEE

- (1) Fees for permits shall be as established by the Land Conservation Committee and subsequent County Board approval and may from time to time be modified by resolution. Upon adoption by the County Board, the approved fees shall be maintained on a current fee schedule in the Department office.
- (2) Fees for all after the fact permit applications shall be doubled.
- (3) The renewal fee for a permit under this chapter shall be in accordance with the current fee schedule.

13.12 PERMIT REVOCATION

The Department may revoke any permit issued under this chapter if the person issued the permit has misrepresented any information in the permit application, or if the person violates any of the conditions of the permit.

13.13 ADMINISTRATION

- (1) **ADMINISTRATIVE AUTHORITY.** The Department shall administer and enforce this chapter **in accordance with sec. 92.07 Wis. Stats.** and based upon technical review and advice from NRCS-DATCP Area Engineering staff.
- (2) **ADMINISTRATIVE PROCEDURES.** The administration and enforcement of this chapter by the Department shall be carried out pursuant to established County and Department procedures and policies.
- (3) **INSPECTION AUTHORITY.** Staff or representatives of the Department shall be authorized to enter upon any lands affected by this chapter to inspect the site prior to, during and after permit issuance to determine compliance with the ordinance.
- (4) **ENFORCEMENT AUTHORITY.** The Department shall be authorized to issue a stop work order on livestock waste storage facilities, or **transfer systems**, or livestock facility sites that have had permits revoked or where activity is in violation of this chapter. Issuance and retraction of stop work orders shall be carried out pursuant to established procedures and policies of the Department.
- (5) **REFERRAL AUTHORITY.** The Department may refer a violation of this ordinance to Corporation Counsel to pursue legal action including but not limited to the enforcement of any part of this chapter through injunctions or restraining orders.

- (6) PENALTIES. Any person who violates any of the provisions of this chapter, upon conviction of such violation, shall be subject to a penalty as provided in Sec. 25.04 of the Code. Each day that a violation exists shall constitute a separate offense. The following schedule of cash deposits as provided in Sec. 25.04(4)(a)(7) of the code is hereby established.
- (a) Failure to obtain a permit - \$500.00.
 - (b) All other violations of this chapter - \$250.00.

13.14 APPEALS

Any person aggrieved by a decision of the Department, concerning the enforcement of this chapter, may file a written appeal of the decision with the Winnebago County Land Conservation Committee within 30 days of the Departments decision. A hearing upon the appeal shall be commenced within 60 days of the date of the appeal. The hearing decision may be appealed to the Circuit Court pursuant to Chapter 68, Wisc. Stats.