

17.03.030 Annual report. Each year, the commission will prepare a report on the status of administering this ordinance for the previous year. The report will include the number of participants complying with standards, the number of participants at various stages of schedules of compliance, the type and number of variances granted, and the number of notices of noncompliance issued. A copy of the report will be forwarded to DATCP and copies will be made available to participants on a request basis. (Ord.137-24, Sec.9, 1993; Ord. 130-10 Sec.1(part), 1986).

17.03.035 Amendments. This ordinance may be amended by the county board of supervisors following a public hearing held by the commission for which a class 2 notice shall be published. All amendments shall be consistent with the Wisconsin Land and Water Conservation Board Guidelines for Soil and Water Conservation Requirements in the Farmland Preservation Program. (Ord.141-11, Sec.6, 1997; Ord. 130-10 Sec.1(part), 1986).

Chapter 17.04

ANIMAL WASTE STORAGE

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17.04.001 Authority and name. This ordinance is adopted under authority granted by Wis. Stat. §§ 59.70(1), 59.69, 92.16.

This ordinance shall be known as, referred to, and may be cited as the Eau Claire County Animal Waste Storage ordinance and is hereinafter referred to as the "ordinance". (Ord.141-03, Sec.1, 1997; Ord. 133-88, 1990).

17.04.005 Findings and declaration of policy. The Eau Claire 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 Eau Claire 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 Eau Claire County.

The Eau Claire County Board of Supervisors also finds 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 Eau Claire County.

The Eau Claire County Board of Supervisors further finds that the technical standards developed by the U.S.D.A. Natural Resources Conservation Service provide effective, practical, and environmentally safe methods of storing and utilizing animal waste. (Ord.141-11, Sec.7, 1997; Ord. 133-88, 1990)

17.04.010 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 Eau Claire County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Eau Claire County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation. (Ord. 133-88, 1990)

17.04.020 Interpretation. In their interpretation and application, the provisions of this ordinance 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. (Ord. 133-88, 1990).

17.04.030 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. (Ord. 133-88, 1990).

17.04.040 Applicability. This ordinance applies to the entire geographical area of Eau Claire County and to all animal waste storage facilities constructed therein. Animal waste storage facilities shall comply with all federal, state, and local laws, rules and regulations. (Ord. 144-94, Sec. 1, 2001; Ord. 133-88, 1990).

17.04.045 Abandonment. Animal waste storage facilities left idle for three years are considered abandoned. Facilities once abandoned must fully comply with this chapter before they can be used again. (Ord. 144-94, Sec. 2, 2001).

17.04.050 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 a waste storage impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure.

- C. "Applicant" means any person who applies for a permit under this ordinance.
- D. "Bedrock" means the rocks that underlie soil material or at the earth's surface. Bedrock is encountered when the weathered-in-place consolidated material, larger than 2mm in size, is greater than 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, or otherwise fabricated structure used in storage of animal waste with one or more walls to contain waste and associated liquids.
- G. "High 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 shall be established by the presence of low chroma mottles.
- H. "Permit" means the signed, written statement issued by the Eau Claire County Land Conservation Division 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.
- I. "Permittee" means any person to whom a permit is issued under this ordinance.
- J. "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.
- K. "Technical Guide" means the United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service Technical Guide as adopted by the Eau Claire County Land Conservation Commission.
- L. "Temporary manure stack" means an uncontained deposit of animal waste, placed on an earthen, concrete, or other surface, necessary to facilitate daily or periodic land spreading.
- M. "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. (Ord.141-11, Sec.8, 1997; Ord. 133-88, 1990)

17.04.060 Activities subject to regulation.

- A. General requirement. Any person who designs, constructs, installs, reconstructs, enlarges, abandons, 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.
- B. 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 division before beginning activities subject to regulation under this ordinance, and complies with the requirements of the permit. (Ord. 144-94 Sec. 3, 2001; Ord. 133-88, 1990).

17.04.070 Standards.

A. Standards for animal waste storage facilities. The standards for design and construction of animal waste storage facilities are those in Standards 312 (Waste Management System) 313 (Waste Storage Facility) and 634 (Manure Transfer) of the Technical Guide.

B. Standards for animal waste management and utilization. The standards for management of animal waste facilities and utilization of animal waste are those in Standard 590 (Nutrient Management) of the Technical Guide.

C. 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.

D. Human household wastewater prohibited. Human household wastewater shall not be discharged into animal waste storage facilities. (Ord. 133-88, 1990)

17.04.080 Application for and issuance of permits.

A. Permit required. No person may undertake an activity subject to this ordinance without obtaining a permit from the land conservation division prior to beginning the proposed activity.

B. 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 land conservation division within 2 work days of the emergency for a determination by the land conservation division on whether a permit will be required for any additional alteration or repair to the facility.

C. Onsite investigation required. Each application for a permit under this section shall require an onsite inspection prior to issuance and include a summary report on site conditions. The site inspection shall be conducted by the land conservation division staff.

D. Fee. The nonrefundable fee for a permit under this ordinance shall be \$100.00.

E. Animal waste storage facility plan required. Each application for a permit under this section shall include an animal waste storage facility plan. Technical assistance for plan development shall be made available to applicants upon request through the land conservation division staff. Copies of the Technical Guide are available at the land conservation division office. The plan shall specify:

1. The number and kinds of animals for which storage is provided.
2. Quantity of milkhouse waste based on gallons per day if adding it into a waste storage facility.
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.
4. The structural details, including dimensions, cross sections, and concrete thickness.
5. The location of any wells within 300 feet of the facility.

6. A minimum of 3 soil test pits with their locations and soil descriptions to a depth of at least 3 feet below the planned bottom of the facility. Soil tests shall be done by a certified soil tester and evaluated by the health department or land conservation division.
7. The elevation of high groundwater level or bedrock if encountered in the soil profile and the date of any such determinations.
8. 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.
9. The scale of the drawing and the north arrow.
10. A time schedule for construction of the facility.
11. A description of the method in transferring animal waste into and from the facility.
12. Plans for utilization of the animal waste, will follow Standard 590 Nutrient Management of the Technical Guide. Preliminary plans will include the amount of land available for application of waste, identification of the areas where the waste will be used, soil types and any limitations on waste application due to soil limitations, type and proximity of bedrock or water table, slope of land, and proximity to surface water.

F. Review of application. The land conservation division shall receive and review all permit applications. The land conservation division shall determine if the proposed facility meets required standards set forth in 17.04.070. Within 30 working days after receiving the completed application and fee, the land conservation division shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the land conservation division shall so notify the permit applicant. The land conservation division has 14 working days from the receipt of the additional information in which to approve or disapprove the application. No construction may commence without the final approval form being executed by the land conservation division.

G. Permit conditions. All permits issued under this ordinance shall be issued subject to the following conditions and requirements.

1. All animal waste storage facility design and construction shall be carried out in accordance with the animal waste facility plans and applicable standards specified in 17.04.070 and 17.04.080.
2. The permittee shall give 2 working days notice to the land conservation division before starting any construction activity authorized by the permit.
3. Approval in writing must be obtained from the land conservation division 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 division staff shall conduct onsite inspections during and after construction.

Activities authorized by permit must be completed within 1 year from the date of issuance after which such permit shall be void.

H. Permit revocation. The land conservation division 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. (Ord.141-11, Sec.9, 1997; Ord. 133-88, 1990).

17.04.090 Administration.

A. Delegation of authority. Eau Claire County hereby designates the Eau Claire County Land Conservation Division to administer and enforce this ordinance.

B. Administrative duties. In the administration of this ordinance, the land conservation division 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 17.04.080.
3. Inspect animal waste facility construction to insure the facility is being constructed according to plan standards and specifications.
4. Investigate complaints relating to compliance with the ordinance.
5. Perform other duties as specified in this ordinance.

C. Inspection authority. The land conservation division 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 division shall be according to Wis. Stat. §§ 66.122 and 66.123.

D. Enforcement authority. The land conservation division is authorized to post an order stopping work upon land which has had a permit revoked or on land currently undergoing activity 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 5 working days.

Any permit revocation or order stopping work shall remain in effect unless retracted by the board of land use appeals, the land conservation division, or by a court of general jurisdiction; or until the activity is brought into compliance with the ordinance. The land conservation division is authorized to refer any violation of this ordinance or of an order stopping work issued pursuant to this ordinance to the corporation counsel for commencement of further legal proceedings. (Ord. 146-75, 2003; Ord. 133-88, 1990)

17.04.100 Violations.

A. 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 standard of this ordinance or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense.

B. Enforcement of injunction. As a substitute for or as an addition to forfeiture actions, Eau Claire County may seek enforcement of any part of this ordinance by court actions seeking injunctions or restraining orders. (Ord. 133-88, 1990)

17.04.110 Appeals.

A. Authority. Under authority of Wis. Stat. ch. 68, the Eau Claire County Board of Land Use Appeals, created under Wis. Stat. § 59.694, and under 18.31.020 and acting as an appeal authority under Wis. Stat. § 59.694, is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by the land conservation division in administering this ordinance.

B. Procedure. The rules, procedures, duties and powers of the board of land use appeals and Wis. Stat. ch. 68, shall apply to this ordinance.

C. Who may appeal. Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirement, decision or determination made by the land conservation division. (Ord.141-03, Sec. 1, 1997; Ord. 133-88, 1990)