

TREMPEALEAU COUNTY ANIMAL WASTE MANAGEMENT ORDINANCE

SECTION 1

Introduction

1.01 Authority

This ordinance is adopted under authority granted by Sections 59.07(51) and 92.16, Wis. Stats.

1.02 Title

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

1.03 Findings and declaration of policy

The Trempealeau 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 Trempealeau 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 Trempealeau County;

The Trempealeau 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 Trempealeau County.

The Trempealeau County Board of Supervisors further finds that the technical standards developed by the U.S.D.A. Soil Conservation Service and adopted by the Trempealeau County 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 waste from these facilities in order to prevent water pollution and hereby protect the health of Trempealeau County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Trempealeau County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.

1.05 Applicability

This ordinance applies to the entire geographical area of Trempealeau County.

TREMPEALEAU COUNTY ANIMAL WASTE MANAGEMENT ORDINANCE

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

1.07 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.

1.08 Effective date

This ordinance shall become effective upon its adoption by the Trempealeau County Board of Supervisors and publication.

SECTION 2

Definitions

1. "Animal waste" means livestock excreta and other materials such as bedding, rain or other water, soil, hair, feathers, and other debris normally included in animal waste handling operations.
2. "Animal waste storage facility" means a concrete, steel, or otherwise fabricated structure, or an excavated or earthen impoundment used for temporary storage of animal waste or other organic waste.
3. "Applicant" means any person who applies for a permit under this ordinance.
4. "Earthen animal waste storage facility" means a facility constructed of earth dikes, pits or ponds used for temporary storage of animal waste.
5. "Permit" means the signed, written statement issued by the (administrative authority) 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.
6. "Permittee" means any person to whom a permit is issued under this ordinance.
7. "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.
8. "Technical guide" means the United States Department of Agriculture (U.S.D.A.) Soil Conservation Service Technical Guide as adopted by the Trempealeau County Land Conservation Committee.

TREMPEALEAU COUNTY ANIMAL WASTE MANAGEMENT ORDINANCE

9. "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 constructs, installs, reconstructs, enlarges, or substantially 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 section, 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 those in standards 313 and 425 of the technical guide.

4.02 Standard for animal waste management and utilization

The standards for management of animal waste facilities and utilization of animal waste are those in standard 633 of the technical guide.

SECTION 5

Application for & issuance of permits

5.01 Permit required

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

TREMPEALEAU COUNTY ANIMAL WASTE MANAGEMENT ORDINANCE

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 Land Conservation Department within (1) day of the emergency for a determination by the Land Conservation Department on whether a permit will be required for any additional alteration or repair to the facility. The Land Conservation Department's determination shall be rendered within (3) days of the reporting.

5.03 Fee

The fee for a permit under this ordinance shall be \$25.00.

5.04 Animal waste storage facility plan required

Each application for a permit under this section shall include an animal waste storage facility plan. The plan shall specify:

- A. The number and kinds of animals for which storage is provided.
- B. 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 = 50 feet.
- C. The structural details, including dimensions, cross sections, and concrete thickness.
- D. The location of any wells within 300 feet of the facility.
- E. The soil test pit locations and soil descriptions to a depth of at least three feet below the planned bottom of the facility.
- F. The elevation of groundwater or bedrock if encountered in the soil profile and the date of any such determinations.
- G. Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater. If a navigable body of water lies within 660 feet of the facility, the location and distance to the body of water shall be shown.
- H. The scale of the drawing and the north arrow.
- I. A time schedule for construction of the facility.
- J. A description of the method in transferring animal waste into and from the facility.
- K. Plans for utilization of the animal waste, including 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.

5.05 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 Section 4 of this ordinance. Within 30 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 days from the receipt of the additional

TREMPEALEAU COUNTY ANIMAL WASTE MANAGEMENT ORDINANCE

information in which to approve or disapprove the application. If the Land Conservation Department fails to approve or disapprove the permit application in writing within 30 days of the receipt of the permit application or additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.

5.06 Permit conditions

All permits issued under this ordinance shall be issued subject to the following conditions and requirements:

- A. Animal Waste Storage Facility design, construction, management, and utilization activities shall be carried out in accordance with the animal waste facility plan and applicable standards specified in Section 4 of this ordinance.
- B. The permittee shall give 2 working days notice to the Land Conservation Department before starting any construction activity authorized by the permit.
- C. Approval in writing must be obtained from the Land Conservation Department prior to any modifications to the approved animal waste facility plan.
- D. The permittee and, if applicable, the contractor, shall certify in writing that the facility was installed as planned.

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

5.07 Permit revocation

The Land Conservation Department may revoke any permit issued under this ordinance if the holder of the permit has misrepresented any material fact 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

Trempealeau County hereby designates the Land Conservation Department to administer and enforce this ordinance.

6.02 Administrative duties

In the administration and enforcement of this ordinance, the Land Conservation Department shall:

- A. Keep an accurate record of all permit applications, animal waste facility plans, permits issued, inspections made, and other official actions.
- B. Review permit applications and issue permits in accordance with Section 5 of this ordinance.
- C. Inspect animal waste facility construction to insure the facility is being constructed according to plan specifications.

TREMPEALEAU COUNTY ANIMAL WASTE MANAGEMENT ORDINANCE

- D. Investigate complaints relating to compliance with the ordinance.
- E. 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, 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 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 or be brought into compliance within 5 days.

Any permit revocation or order stopping work shall remain in effect unless retracted by the Board of Adjustment 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 or of any order stopping work issued pursuant to this ordinance to the district attorney for commencement of further legal proceedings.

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 not more than \$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.

7.02 Enforcement of injunction

As a substitute for or an addition to forfeiture actions, Trempealeau County may seek enforcement of any part of this ordinance by court actions seeking injunctions or restraining orders.

TREMPEALEAU COUNTY ANIMAL WASTE MANAGEMENT ORDINANCE

SECTION 8

Appeals

8.01 Authority

Under authority of Chapter 68, Wis. Stats., the Trempealeau County Board of Adjustment, created under Section 59.99, Wis. Stats., and under Section 11.5 of the County Comprehensive Zoning Ordinance, and acting as an appeal authority under Section 59.99(7)(a), Wis. Stats., 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 Department in administering this ordinance.

8.02 Procedure

The rules, procedures, duties, and powers of the Board of Adjustment and Chapter 68, Wisconsin Statutes, shall apply to this ordinance.

8.03 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 Department.