

CHAPTER 22

ANIMAL WASTE MANAGEMENT

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SUBCHAPTER I – INTRODUCTION

22.01 Authority.

This ordinance is adopted by the County Board under the authority granted by Sections 59.70(1) and 92.16, Wisconsin Statutes.

22.02 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.

22.03 Findings and Declaration of Policy.

- (1) 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;
- (2) 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.
- (3) The Trempealeau County Board of Supervisors further finds that the technical standards developed by the U.S.D.A. Natural Resources Conservation Service and adopted by the Trempealeau County Environment and Land Use Committee provide effective, practical, and environmentally safe methods of storing and utilizing animal waste.

22.04 Purpose.

The purpose of this ordinance is to regulate the location, design, construction, installation, alteration, closure, transfer of ownership 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.

22.05 Applicability.

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

22.06 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.

22.07 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.

22.08 Effective Date.

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

SUBCHAPTER II – DEFINITIONS

22.09 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) "Closure" means when a manure storage facility ceases operation or manure has not been added or removed from the facility for a period of 24 months.
- (5) "Earthen Animal Waste Storage Facility" means a facility constructed of earth dikes, pits or ponds used for temporary storage of animal waste.
- (6) "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.
- (7) "Permit Holder" means any person to whom a permit is issued under this ordinance.

- (8) "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.
- (9) "Substantially Alter" means a change initiated by the permit holder that results in a relocation of a structure or facility or significant changes to the size, depth or configuration of a structure or facility including replacement of a liner in a manure storage structure, and an increase in the volumetric capacity or area of a structure or facility by greater than 20% or a change in a structure or facility related to a change in livestock management from one species of livestock to another, such as cattle to poultry.
- (10) "Technical Guide" means the United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service Field Office Technical Guide as adopted by the Trempealeau County Environment and Land Use Committee.
- (11) "Transfer of Ownership" means the purchase, re-organization, re-titling, donation or other change in property ownership requiring filing of a deed at the County Register of Deeds Office.
- (12) "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.

SUBCHAPTER III – ACTIVITIES SUBJECT TO REGULATION

22.10 General Requirement.

Any person who constructs, installs, reconstructs, enlarges, substantially alters, closes or transfers ownership of 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.

22.11 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 Department of Land Management before beginning activities subject to regulation under this section, and complies with the requirements of the permit.

SUBCHAPTER IV – STANDARDS

22.12 Standards for Animal Waste Storage Facilities.

The standards for design and construction of animal waste storage facilities are those in standards 313, 367, and 634 of the field office technical guide.

22.13 Standard for Animal Waste Management and Utilization.

The standards for management of animal waste facilities and utilization of animal waste are those within standard 590 of the field office technical guide.

22.14 Standard for Closure of Waste Impoundments.

- (1) The standards for design and construction of an animal waste storage facility closure are those within standard 360 of the field office technical guide.
- (2) Closure shall take place when operation ceases use for 24 months or an alternative use has been pre-approved by the Department of Land Management.

22.15 Temporary, Unconfined Stacks of Manure and Derivatives outside the Animal Production Area.

The specific criteria for temporary, unconfined stacks of manure and derivatives outside the animal production area are those within the 313 standard – table 10.

SUBCHAPTER V – APPLICATION FOR AND ISSUANCE OF PERMITS

22.16 Permit Required.

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

22.17 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 substantially alter the original design and construction of the facility, a report shall be made to the Department of Land Management within (1) day of the emergency for a determination by the Department of Land Management on whether a permit will be required for any additional alteration or repair to the facility. The Department of Land Management's determination shall be rendered within (3) days of the reporting.

22.18 Fee.

Permit fees which apply to this ordinance are established by the Trempealeau County Environment and Land Use Committee and are listed in the Trempealeau County Department of Land Management fee schedule. Copies of the current fee schedule shall be kept on file at the Trempealeau County Department of Land Management.

22.19 Animal Waste Storage Facility Plan Required.

- (1) 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. The setback for a waste storage structure from a well must meet the 313 Standard.
 - (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 setback for a waste storage structure - 350 feet from any property line, or within 350 feet of the nearest point of any public right-of-way, per ATCP 51.12 (2).
 - (g) The elevation of groundwater or bedrock if encountered in the soil profile and the date of any such determinations.
 - (h) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater. If a navigable body of water lies within 300 feet of the facility, the location and distance to the body of water shall be shown.
 - (i) The scale of the drawing and the north arrow.
 - (j) A time schedule for construction of the facility.
 - (k) A description of the method in transferring animal waste into and from the facility.
 - (L) An emergency response plan identifying the names and phone numbers of individuals or others to be notified in the event of any leaks, spills or other system failures that could discharge manure.
 - (m) 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.

22.20 Application for Manure Storage Facility Closure – Requirements.

- (1) Any application for the closure of a manure storage facility shall include the following:
 - (a) Provisions to remove and properly dispose of all accumulated wastes in the manure facility.
 - (b) Provisions to remove any concrete or synthetic liner or properly use pieces of the concrete or synthetic liner as clean fill at the site.
 - (c) Provisions to remove and properly dispose of any soil saturated with waste from the manure storage facility.
 - (d) Provisions to remove any soils, to the depth of significant manure saturation or two (2) feet, whichever is less, from the bottom and sides of a facility without a constructed liner.

22.21 Application for a Transfer of Ownership Permit – Requirements.

- (1) Any application for the transfer of ownership of a permit shall include the following:
 - (a) Any available designs, plans or construction documents from the original installation.
 - (b) Proposed livestock operation details.
 - (c) An inspection and determination of adequacy performed by the Department of Land Management Staff or by a private engineer that includes an inspection of all transfer and storage components of the system. This inspection may require the emptying and cleaning of the storage facility and the possible testing of lining materials to determine plasticity and strength. All joints and seams shall be watertight. Costs incurred to prove the adequacy of an existing facility will be the responsibility of the present owner. Existing facilities determined not to provide adequate resource protection will be required to be brought into compliance with the current 313 or 634 standard or closed.

22.22 Review of Application.

The Department of Land Management shall receive and review all permit applications. The Department of Land Management shall determine if the proposed facility meets required standards set forth in Subchapter IV of this ordinance. Within 30 days after receiving the completed application and fee, the Department of Land Management shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the Department of Land Management shall so notify the permit applicant. The Department of Land Management has 30 days from the receipt of the additional information in which to approve or disapprove the application.

22.23 Permit Conditions.

- (1) 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 Subchapter IV of this ordinance.
 - (b) The permit holder shall give 2 working days' notice to the Department of Land Management before starting any construction activity authorized by the permit.
 - (c) Approval in writing must be obtained from the Department of Land Management prior to any modifications to the approved animal waste facility plan.
 - (d) The permit holder and, if applicable, the contractor, shall certify in writing that the facility was installed or that the closure was completed as planned.
- (2) Activities authorized by permit must be completed within 2 years from the date of issuance after which such permit shall be void.

22.24 Permit Revocation.

The Department of Land Management may revoke any permit issued under this ordinance if the permit holder has misrepresented any material fact in the permit application or animal waste facility plan, or if the permit holder violates any of the conditions of the permit.

SUBCHAPTER VI – ADMINISTRATION

22.25 Delegation of Authority.

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

22.26 Administrative Duties.

- (1) In the administration and enforcement of this ordinance, the Department of Land Management 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.
 - (d) Investigate complaints relating to compliance with the ordinance.
 - (e) Perform other duties as specified in this ordinance.

22.27 Inspection Authority.

The Department of Land Management 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 permit holder, entry by the Department of Land Management shall be according to Section 66.0119, Wis. Stats.

22.28 Enforcement Authority.

The Department of Land Management 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 Department of Land Management is authorized to refer any violation of this ordinance or of any order stopping work issued pursuant to this ordinance to the corporation counsel office for commencement of further legal proceedings.

SUBCHAPTER VII – VIOLATIONS

22.29 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.

22.30 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.

SUBCHAPTER VIII – APPEALS

22.31 Authority.

The Trempealeau County Board of Adjustment, created under Section 59.694, Wis. Stats., and under Section 9.02 of the County Comprehensive Zoning Ordinance, and acting as an appeal authority under Section 59.694(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 Department of Land Management in administering this ordinance.

22.32 Procedure.

The rules, procedures, duties, and powers of the Board of Adjustment pursuant to Section 59.694, Wisconsin Statutes, shall apply to this ordinance.

22.33 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 Department of Land Management.

(History: Res. 10/21/1986; Res. 2014-04-03; Res. 2016-06-04)