

LANGLADE COUNTY MANURE STORAGE ORDINANCE

24.01 AUTHORITY

This ordinance is adopted under authority granted by Section 59.02, 59.03, 92.15, and 92.16, Wisconsin Statutes (Stats.), and ss. ATCP 50.56 and NR 151.05, Wisconsin Administrative Code (Wis. Admin. Code).

24.02 TITLE

This ordinance shall be known as, referred to, and may be cited as the Langlade County Manure Storage Ordinance and is hereinafter referred to as this Ordinance.

24.03 FINDING AND DECLARATION OF POLICY

The Langlade County Board of Supervisors finds that the following conditions may threaten the county's natural and water resources, harm the health, safety and welfare of people within the county, and adversely impact the property tax base of the county:

- 1) New and substantially altered manure storage facilities that fail to meet performance and technical standards for proper design, construction, and operation.
- 2) Existing manure storage facilities that are not properly functioning and pose unreasonable risks related to structural failure and leakage.
- 3) Existing manure storage facilities that overtop or are operated in a manner that creates an unreasonable risk of discharge to waters of state.
- 4) Existing manure storage facilities where no manure has been added or removed for a period of 24 months, and are not slated for future use.

24.04 PURPOSE

The purpose of this Ordinance is to prevent water pollution and protect the water resources within Langlade County. In order to do this the Ordinance will regulate the location, design, construction, installation, alteration, operation, maintenance, closure, use, and management of manure storage facilities. It is also intended to provide for the administration and enforcement of the Ordinance and to provide penalties for its violation.

24.05 APPLICABILITY

This ordinance applies to the unincorporated areas within Langlade County.

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

24.07 ABROGATION, GREATER RESTRICTIONS, SEVERABILITY, AND REPEAL CLAUSE

Abrogation and Greater Restrictions. This Ordinance is not intended to repeal, annul, abrogate, impair or interfere with any existing covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes

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greater restrictions, the provisions of this Ordinance shall govern.

Severability. Each section, paragraph, sentence, clause, word, and provision of this Ordinance is severable and if any portion shall be deemed unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance nor any part thereof other than the portion affected by such decision.

Repeal. All other Ordinances or parts of Ordinances of Langlade County inconsistent or conflicting with this Ordinance to the extent of the inconsistency only, are hereby repealed.

24.08 EFFECTIVE DATE

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

24.09 DEFINITIONS

- 1) "Abandon or Abandonment manure storage facility" refers to closure of a manure storage facility and restoration of the site according to technical standards.
- 2) "Applicant" is defined as any person who applies for a permit under this ordinance.
- 3) "Existing manure storage facility" is defined as a storage facility which has been installed and placed in use at a livestock operation in Langlade County prior to the adoption of this Ordinance. If ownership changes, future owners agree to follow this ordinance when they purchase this piece of property.
- 4) "Idle manure storage facility" means a storage facility where manure has not been added or removed as determined by the Langlade County Land Conservation Department for a period of twenty-four (24) months.
- 5) "Nutrient Management Plan" is a document that is annually updated, outlining the requirements for managing the amount, form, placement, and timing of application of all sources of plant nutrients to cropland and pastures as identified in ATCP 50.04(3).
- 6) "Manure" means livestock excreta and the following when intermingled with excreta in normal farming operations: debris including bedding, water, soil, hair, and feathers; processing derivatives including separated sand, separated manure solids, precipitated manure sludges, supernatants, digested liquids, composted bio solids, and process water; and runoff collected from barnyards, animal lots, and feed storage areas.
- 7) "Manure storage facility" is defined as one or more impoundments made by constructing an embankment, excavating a pit or dugout, or fabricating a structure specifically for the purpose of temporarily storing manure and related wastes. A facility includes stationary equipment and piping used to load or unload a manure storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility, and specifically includes components to transfer waste from milking centers, runoff from barnyards, and leachate and contaminated runoff to feed storage.
- 8) "Permit" is defined as the signed, written statement issued by the Langlade County Land Conservation Department under this ordinance authorizing the applicant to construct, install, substantially alter, or abandon a manure storage facility.
- 9) "Permittee" is defined as any person to whom a permit is issued under this ordinance.

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- 10) "Person" is defined as any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.
- 11) "Shoreland setback" is defined as the setback limits as written in the Langlade County Zoning Ordinance.
- 12) "Substantial alteration of an existing structure" is defined under NR 151.015(20) Wis. Admin. Code.
- 13) "Technical guide" is defined as the document provided by NRCS which contains technical data, including the standards referenced within this Ordinance to properly and safely locate, construct, install, alter, design, operate and maintain a storage facility as adopted by the Langlade County in accordance with Chapter 92, Wis. Stats.
- 14) "Waste Transfer System" means components such as pumps, pipes, conduits, valves, and other mechanisms installed to convey manure, leachate and contaminated runoff, and milking center wastes from livestock structures to a storage structure, loading area, or treatment area.
- 15) "Water Pollution" is defined as 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 recreation use, or deleterious to fish, bird, animal, or plant life.
- 16) "Water Quality Management Area" is defined as the area within 1,000 feet from the ordinary high water mark of navigable waters that consist of a lake, pond, or flowage, except that, for a navigable water that is a glacial pothole lake, the term means the area within 1,000 feet from the high water mark of the lake; the area within 300 feet from the ordinary high water mark of navigable waters that consist of a river or stream; and a site that is susceptible to groundwater contamination, or that has the potential to be a direct conduit for contamination to reach groundwater.

24.10 GENERAL REQUIREMENT

This Ordinance does not require any person to install a manure storage facility. However, it does apply to any person who locates, installs, moves, reconstructs, extends, enlarges, converts, substantially alters, closes, abandons, or changes the use of a manure storage facility; or who employs another person to do the same, on land subject to this ordinance. Existing structures will come under the regulations of this Ordinance if they undergo substantial alterations or are abandoned.

24.11 COMPLIANCE WITH PERMIT REQUIREMENTS

A person is in compliance with this Ordinance if he or she follows the procedures of this Ordinance as determined by the Langlade County Land Conservation Department, receives a permit from the Langlade County Land Conservation Department before beginning activities subject to regulation under this section, and complies with the requirements of the permit.

24.12 ABANDONMENT REQUIREMENT

A manure storage facility must be closed and restored to a safe and sanitary condition in compliance with NRCS Technical Standard 360 and any amendments or revisions within two (2) years of the time the facility is declared to be an "idle storage facility." The owner or operator can maintain an idle storage facility for a longer period if all three of the following criteria are confirmed:

- 1) The facility does not pose significant risks related to water pollution and safety, and

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- 2) Retention of the facility is warranted based on anticipated future use. If the facility is actively being used at the time the farm is placed on the market for sale, the facility will be considered active for a period of five (5) years, with the option of review by the Land Conservation Committee and Department, and
- 3) The Land Conservation Committee approves the continuation of the idle storage facility.

24.13 STANDARDS

The standard for design and construction of manure storage facilities are those in standard 313 and 634 of the NRCS Technical Guide as stipulated in Department Guidance approved by the Land Conservation Committee.

The standard for nutrient management of land applied manures are those in standard 590 of the NRCS Technical Guide as stipulated in Department Guidance approved by the Land Conservation Committee.

The standard to abandon manure storage facilities are those in standard 360 of the NRCS Technical Guide as stipulated in Department Guidance approved by the Land Conservation Committee.

Human household wastewater shall not be discharged into animal storage facilities unless provided for through other permitting process outside of this Ordinance.

Any manure storage facility constructed after the effective date of this ordinance shall meet the shoreland setback standard in Chapter 17 of the Langlade County Zoning Ordinance. Any variance to the shoreland setback shall follow the procedures in Section 17.64 of said zoning chapter.

The following manure management prohibitions have been incorporated into this ordinance in accordance with NR 151.08. All livestock producers shall comply with this section:

- 1) A livestock operation shall have no unconfined manure pile in a water quality management area.
- 2) A livestock operation shall have no direct runoff from a feedlot or stored manure into the waters of the state.
- 3) A livestock operation may not allow unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod or self-sustaining vegetative cover.
 - a. This prohibition does not apply to properly designed, installed and maintained livestock or farm equipment crossings.

24.14 PERMIT REQUIRED

A permit shall be required for any activity subject to this Ordinance by obtaining a permit from the Langlade County Land Conservation Department or its designee. Construction of any facility or other activity covered by the Ordinance shall not start until a permit has been issued. Activities authorized by this permit must be completed within two (2) years of the date of issuance. If construction is not complete, a one (1) year extension may be requested in writing prior to the expiration of the permit.

24.15 EXCEPTION TO PERMIT REQUIREMENT

Emergency repairs such as repairing a broken pipe or equipment, leaking dike, or the removal of stoppages may be performed without a permit. Emergency repairs shall not result in increased capacity to the manure storage facility. The Langlade County Land Conservation Department shall determine

whether a permit will be required for any additional alteration or repair to the facility. The alteration or repairs may be subject to review by the Natural Resource Conservation Service (NRCS), Department of Natural Resources (DNR), or Department of Agricultural, Trade, and Consumer Protection (DATCP).

24.16 FEE

See Land Conservation Committee Fee schedule for current rates subject to approval and amendment by the Land Conservation Committee. Any structure intended for storage of manure erected, constructed, placed, moved, or structurally altered without obtaining all permits and approvals prior to commencing the above stated activities shall result in a triple fee.

24.17 MANURE STORAGE FACILITY PLAN AND NUTRIENT MANAGEMENT PLAN REQUIRED

Each application for a permit under this section shall be submitted on an approved form and include a manure storage facility plan and a nutrient management plan in addition to the criteria specified in NRCS Technical Standards 313 and 590. Plans may be provided on behalf of the landowner by a registered professional engineer or an agricultural engineering practitioner certified for the practice in accordance with Wis. Admin. Code ATCP 50. Plans developed by a registered professional engineer, shall bear the engineer's seal and be accompanied by a statement that the plans are in accordance with applicable standards. All plans shall be certified by a qualified person (e.g. professional engineer registered with the state of Wisconsin or a DATCP or NRCS Engineering Practitioner) as meeting the technical standards required by the ordinance.

To demonstrate compliance with the NRCS standards plans, specifications, and documentation shall include:

- 1) A narrative of the general criteria required within Technical Standard 313, and of other applicable Technical Standards including management and site assessments. The narrative should include, but is not limited to:
 - a. The number and type of animals for which storage is provided, the duration for which storage is to be provided, daily gallons and/or cubic feet of waste and manure produced, bedding type, and manure handling practices.
 - b. A description and construction plan of the method of transferring animal waste into and from the facility.
 - c. Soil test pit or boring logs and their locations with soil descriptions and test results. Soil test pit or boring criteria should follow Technical Standard 313V.A.2.b and characterize the subsurface (soils, saturation, and bedrock). This includes the elevation of redoximorphic features (mottling), gleyed soil and moisture condition.
- 2) A general location map drawing of the site which shall include:
 - a. The location of structures in relation to buildings, homes, property lines, roads, wells, karst features, public or private drainage ditches and creeks, flowages, rivers, streams, lakes, or wetlands within one thousand (1,000) feet of the proposed facility or system.
 - b. The location of any wells within 250 feet of the facility.
 - c. The scale of the drawing and the north arrow with the date the general location map was prepared.

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- d. The location of any floodplains.
- 3) Engineering design drawings of the manure storage facility or transfer system which shall include:
 - a. Specific design components that shall comply with Technical Standard 313, and additional applicable Technical Standards such as 634.
 - b. A recoverable benchmark(s) including elevation(s) expressed in feet and tenths.
 - c. The scale of the drawings and the north arrow. The engineering design drawing shall be drawn to a scale no smaller than one (1) inch equals one hundred (100) feet.
 - d. The date the engineering design drawings were prepared.
 - 4) The structural details, including but not limited to dimensions, cross-sections, concrete thickness, concrete joint design and placement, design loads, design computations, reinforcement schedules, thickness and placement of groundwater protection liners, and all material specifications.
 - 5) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater.
 - 6) A construction site erosion control plan.
 - 7) Estimated start of construction and construction schedule.
 - 8) A safety plan that identifies hazards to animals and people in the production area, and design features to minimize those hazards.
 - 9) An operation and maintenance plan for installed practices.
 - 10) A nutrient management plan prepared to meet the requirements defined in ATCP 50.04(3).
 - 11) Other additional information requested by the county to comply with this Ordinance.

24.18 ABANDONMENT PLAN REQUIRED

Each application for an abandonment permit under this section shall be submitted on an approved form and include an abandonment plan. Plans developed by a registered professional engineer, shall bear the engineer's seal and be accompanied by a statement that the plans are in accordance with applicable standards. All plans shall be certified by a qualified person (e.g. professional engineer registered with the state of Wisconsin or a DATCP or NRCS Engineering Practitioner) as meeting the technical standards required by the ordinance. The plan shall be in accordance with NRCS Technical Standard 360 and specify:

- 1) A general location map drawing of the manure storage facility which shall include:
 - a. The location of the manure storage facility in relation to buildings, homes, property lines, roads, wells, karst features, public or private drainage ditches and creeks, flowages, rivers, streams, lakes, or wetlands within one thousand (1,000) feet of the existing facility.
 - b. The scale of the drawing and the north arrow.
 - c. The date the general location map was prepared.
- 2) A description of the method and specifications in transferring manure into and from the manure storage facility to ensure proper closure of transfer systems.
- 3) Provisions to remove or permanently plug the manure transfer system serving the manure storage

facility.

- 4) Provisions to remove and properly dispose of all accumulated manure in the manure facility in compliance with applicable Technical Standards.
- 5) For all waste impoundments, plan requirements and provisions shall be in compliance and consistent with applicable Technical Standards.
- 6) Manure storage facility closures and conversions shall implement safety measures to ensure the protection of the public from hazardous conditions.
- 7) Any other additional information required by the County to protect water quality and achieve compliance with the requirements of this Ordinance.

24.19 REVIEW OF APPLICATION

The Langlade County Land Conservation Department shall review all permit applications and shall determine if the proposed facility meets required standards set forth in this ordinance. Within thirty (30) working days after receiving the completed application and fee, the Langlade County Land Conservation Department shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the Langlade County Land Conservation Department shall so notify the permit applicant. The Langlade County Land Conservation Department has thirty (30) working days from the receipt of the additional information in which to approve or disapprove the application. No construction may commence without final approval of the permit. Failure to comply with this Ordinance may result in forfeitures and administrative fees as approved by the Land Conservation Committee. If after thirty (30) working days of the receipt of the permit application or additional information, as appropriate, and the Land Conservation Department has not responded, the application shall be deemed approved and the applicant may proceed as if a permit had been issued. If the plan is to be reviewed by the NRCS, DNR, or DATCP, another thirty (30) working days is needed.

24.20 PERMIT CONDITIONS

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

- 1) Manure storage facility design, construction location, and maintenance shall be carried out in accordance with the manure facility plan and applicable standards specified in this ordinance.
- 2) The permittee shall give two (2) working days notice to the Langlade County Land Conservation Department before starting any construction activity authorized by the permit.
- 3) Approval in writing must be obtained from the Langlade County Land Conservation Department prior to any modifications to the approved manure facility plan. Modifications to the plan may need to be reviewed by the NRCS, DNR, or DATCP.
- 4) Within ten (10) days of completion, and prior to use of the facility to store manure, the permittee must provide written certification that the facility was installed according to approved plans, meets all standards, and complies with all permit conditions. The certification must be signed by a qualified person (e.g. professional engineer registered with the state of Wisconsin or a DATCP or NRCS Engineering Practitioner) and include a copy of the as-built plan documenting any design changes.
- 5) Activities authorized by permit must be completed within two (2) years from the date of issuance

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after which such permit shall be void. However, a one (1) year extension may be requested in writing prior to the expiration of the permit. After this, one must reapply for another permit.

24.21 PERMIT REVOCATION

The Langlade County Land Conservation Committee may revoke any permit issued under this ordinance if the holder of the permit has misrepresented any material fact in the permit application or manure facility plan or nutrient management plan or if the holder of the permit violates any of the conditions of the permit or provisions of this ordinance.

24.22 DELEGATION OF AUTHORITY

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

24.23 ADMINISTRATIVE DUTIES

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

- 1) Keep an accurate record of all permit applications, manure storage facility plans, nutrient management plans, permits issued, inspections made, and other official actions.
- 2) Review permit applications and issue permits in accordance with this Ordinance.
- 3) Inspect the site of any permitted activity to ensure those activities are being done according to plan specifications.
- 4) Investigate complaints relating to compliance with this Ordinance.
- 5) Maintain a list of existing manure storage facilities as of effective date of this Ordinance.
- 6) Register the usage status of all manure storage facilities and verify facilities are properly maintained and free from visible and serious damage, erosion, or deformities that would impair the facility's safety or function. This is to be done every four (4) years.
- 7) Perform other duties as specified in this Ordinance.

24.24 INSPECTION AUTHORITY

The Langlade County Land Conservation Committee or Department, or its designee, NRCS, DNR, or DATCP are 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 pursuant to the authority granted by Section 92.07(14), Wis. Stats. If permission cannot be received from the applicant or permittee, entry shall be according to Section 66.0119 and 66.0119(3) as amended, Wis. Stats. Refusal to grant permission to enter lands affected by this Ordinance for purposes of inspection may be grounds for a revocation of the permit as well as denial of the permit.

24.25 ENFORCEMENT AUTHORITY

The Langlade County Land Conservation Department or its designee, NRCS, DNR, or DATCP are 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

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order shall specify that the activity must cease or be brought into compliance within a specified time period.

The order stopping work may be subject to review by the NRCS, DNR, or DATCP.

Any permit revocation or order stopping work shall remain in effect unless withdrawn by the Langlade County Land Conservation Department, or until the activity is brought into compliance with the Ordinance. The Langlade County Land Conservation Department is authorized to refer any violation of this Ordinance or of an order stopping work issued pursuant to this Ordinance to Corporation Counsel for commencement of further legal proceedings.

24.26 PENALTIES

Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this ordinance may be subject to a forfeiture defined in Langlade County Code Chapter 25 and administrative fees as approved by the Land Conservation Committee. 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 constitute a separate offense.

24.27 ENFORCEMENT OF INJUNCTION

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

24.28 APPEALS

Under authority of Chapter 68, Wis. Stats., the Langlade County Land Conservation Committee is authorized to hear and decide appeals for those persons alleging that there is error in any order, requirement, decision, or determination in administering this Ordinance.

24.29 APPEAL PROCEDURE

The rules, procedures, duties, and powers of the Langlade County Land Conservation Committee and Chapter 68, Wis. Stats., shall apply to this Ordinance.

24.30 WHO MAY APPEAL

Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirements, decision or determination made by the Langlade County Land Conservation Committee or the Land Conservation Department.