

ANIMAL WASTE STORAGE ORDINANCE

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LANGLADE COUNTY ANIMAL WASTE STORAGE ORDINANCE

ORDINANCE # 2-2001

The Langlade County Board of Supervisors pursuant to Wis. Statutes 59.02 and 92.16 does hereby ordain as follows:

Section 1: Create Chapter 24 as follows:

24.01 AUTHORITY

This ordinance is adopted under authority granted by Section 59.02 and 92.16, Wis. Stats.

24.02 TITLE

This ordinance shall be know as, referred to, and may be cited as the Langlade County Animal Waste 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 a properly constructed and maintained animal waste storage facility minimizes the risk of pollution to the surface and ground waters in the area within Langlade County, reduces health and safety hazards and therefore is in the interest of the public.

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, and management of animal waste 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 SEVERABILITY CLAUSE

If any section, or portion of this ordinance is ruled invalid by a court, the remainder of this ordinance shall not for that reason be rendered ineffective.

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 animal waste storage facility" refers to closure of an animal waste storage facility and restoration of the site according to technical standards.
2. "Animal waste" is defined as livestock excrete and other materials such as bedding, rain or other water, soil, hair, feathers, and other debris normally included in animal waste handling operations.

3. "Animal waste storage facility" is defined as a concrete, steel or otherwise fabricated structure, or an excavated or earthen impoundment used for storage of animal waste or other organic waste, that will be located, installed and operated within Langlade County.
4. "Applicant" is defined as any person who applies for a permit under this ordinance.
5. "Existing animal waste 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.
6. "Idle animal waste storage facility" means a storage facility where animal waste has not been added or removed as determined by the Langlade County Land Conservation Department for a period of twenty-four (24) months.
7. "Nutrient Management Plan" is defined as a written plan detailing the amount, form, placement, and timing of application of plant nutrients, including animal waste.
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 an animal waste storage facility.
9. "Permittee" is defined as any person to whom a permit is issued under this ordinance.
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 as any modifications to a storage facility that alters the integrity, capacity or design requirement of the facility as determined by the Langlade County Land Conservation Department.
13. "Technical guide" is defined as the USDA - NRCS Technical Guide.
14. "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.

24.10 GENERAL REQUIREMENT

This Ordinance does not require any person to install an animal waste storage facility. However, it does apply to any person who locates, installs, moves, reconstructs, extends, enlarges, converts, substantially alters, close, abandon or changes the use of an animal waste 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

An animal waste storage facility must be closed and restored to a safe and sanitary condition in compliance with NRCS Technical Standard 313 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 by completing all three of the following criteria.

1. The facility does not pose significant risks related to water pollution and safety; and
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 5 years, with the option of review by the Land Conservation Committee and Department, and
3. That the Land Conservation Committee approved the continuation of the idle storage facility.

24.13 STANDARDS

The standard for design and construction of animal waste storage facilities are those in standard 313 and 634 of the NRCS Technical Guide as it exists on the date of adoption of this Ordinance.

The standard for nutrient management of land applied animal wastes are those in standard 590 of the NRCS Technical Guide as it exists on the date of adoption of this Ordinance.

The standard to abandon an animal waste storage facilities are those in standard 313 of the NRCS Technical Guide as it exists on the date of adoption of this Ordinance.

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

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

24.14 PERMIT REQUIRED

A permit shall be required for any activity subject to this Ordinance by obtaining a permit from the Lantlode 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 one (1) year from the date of issuance. If construction is not complete, then a one (1) year extension may be granted by the Lantlode County Land Conservation Committee.

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 animal waste storage facility. The Lantlode 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

The non-refundable fee for a permit under this ordinance shall be \$100.00. There will be no fee if the facility is to be abandoned.

24.17 ANIMAL WASTE 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 an animal waste 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 Engineer practitioner certified for the practice in accordance with Wis Adm 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) as meeting the technical standards required by the ordinance. In addition to the management and site assessment documentation noted in NRCS Technical Standard 313, the plan shall specify:

1. The number and kinds of animals for which storage is provided.

2. 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.
3. The structural details, including dimensions, cross sections, and concrete thickness and reinforcing.
4. The location of any well, to that of the facility must meet NRCS standards.
5. The soil test pit location and soil descriptions to a depth of at least three feet below the planned bottom of the facility.
6. The elevation of seasonally high groundwater or bedrock if encountered in the soil profile and the date of any such determinations.
7. 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.
8. The scale of the drawing and the north orientation arrow.
9. A time schedule for construction of the facility.
10. A description of the method in transferring animal waste into and from the facility.
11. A nutrient management plan 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, crop rotations, type and proximity of bedrock or water table, slope of land, and proximity to surface water. The nutrient management plan is required to ensure that suitable area is available for land application and crop uptake of waste nutrients.
12. Nutrient management plan developed by a qualified person as defined in ATCP 50 and be accompanied by verification that plans are in accordance with applicable standards.

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. The plan shall in accordance with NRCS Technical Standard 313 and specify:

1. A description of the type and size of the animal waste storage facility and an estimate of the amount of animal waste in the facility.
2. A description of how and where the animal waste and soil saturated with animal waste will be land applied in accordance with NRCS Technical Standard 590.
3. A description of how the liner, if any, will be disposed of.
4. A description of how the animal waste transfer system will be removed or permanently plugged.
5. A description of how the excavated area will be filled in and where the clean fill will come from.
6. A plan view showing the final grade, the area to be reseeded, and how rain and runoff will be diverted away from the site.
7. Other additional information necessary to comply with 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 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 Natural Resource Conservation Service (NRCS), Department of Natural Resources (DNR), or Department of Agriculture, Trade and Consumer Protection (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. Animal waste storage facility design, construction location and maintenance shall be carried out in accordance with the animal waste 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 animal waste facility plan. Modifications to the plan may need to be reviewed by the Natural Resource Conservation Service (NRCS), Department of Natural Resources (DNR), or Department of Agriculture, Trade and Consumer Protection (DATCP).
4. Within ten (10) days of completion, the facility must be certified as meeting standards, including as builds plans and design changes. The permittee, and plan developer, and, if applicable, the contractor shall certify in writing that the facility was installed as planned prior to facility use to store animal waste.
5. Activities authorized by permit must be completed within one (1) year from the date of issuance after which such permit shall be void. However, a one (1) year extension may be granted by the Langlade County Land Conservation Committee. 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 animal waste 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, animal waste 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 animal waste facility construction to insure the facility is being constructed according to plan specifications.
4. Investigate complaints relating to compliance with this Ordinance.
5. Develop a list of existing animal waste storage facilities as of effective date of this Ordinance.

6. Register the usage of all animal waste manure storage facilities and maintain record of existing facilities. This is to be done every three (3) 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, Natural Resource Conservation Service (NRCS), Department of Natural Resources (DNR), or Department of Agriculture, Trade and Consumer Protection (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, Natural Resource Conservation Service (NRCS), Department of Natural Resources (DNR), or Department of Agriculture, Trade and Consumer Protection (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 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 Natural Resource Conservation Service (NRCS), Department of Natural Resources (DNR), or Department of Agriculture, Trade and Consumer Protection (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. 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

Authority to Hear and Decide 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 an error in any order, requirement, decision or determination in administering this Ordinance. The Committee shall follow the Administrative Appeal Procedure set forth in Chapter 23 of the Code of Ordinances.

LANGLADE COUNTY ANIMAL WASTE STORAGE ORDINANCE FACT SHEET

PURPOSE

To protect the water resources of the county by ensuring that manure storage facilities are located, designed, constructed and managed in accordance with applicable standards and practices.

WHO DOES THIS APPLY TO

This ordinance does not require any person to install an animal waste storage facility. However, any person who choose to constructs, repairs, closes or substantially alters a manure storage facility, or who employs another person to do the same, is subject to the ordinance.

WHERE DOES THIS APPLY

To all of the unincorporated areas of Langlade County.

WHAT THIS DOES APPLY TO

1. The location, design and construction of new animal waste storage facilities.
2. The alteration or abandonment of an existing manure storage facility.

WHAT THIS DOES NOT APPLY TO

1. Existing manure storage facility are not subject to the ordinance unless the facility is substantially altered or repaired. Existing manure storage facility must be registered.
2. This ordinances does not require producers to install manure storage facilities.

TECHNICAL STANDARDS CITED

1. For installing and altering storage facilities:
 - NRCS Technical Standard 313 Waste Storage Facility
 - NRCS Technical Standard 634 Waste Transfer
2. For land application of the stored manure:
 - NRCS Technical Standard 590 Nutrient Management
3. Shoreland Setbacks:
 - Langlade County Code of Ordinance Chapter 17

PERMITS

A permit is required before installation, alteration or abandonment takes place. Application shall include a detailed construction plan developed by a certified technician or professional engineer, and a nutrient management plan developed through a certified crop consultant. A fee may be charged for the permit and penalties may be levied for noncompliance.