Manure Storage and Management

Manure Storage and Management

1-1 General Provisions
1-2 Definitions
1-3 Activities Subject to Regulation
1-4 Performance Standards and Prohibitions
1-5 Manure Storage Permits
1-6 Certificates of use
1-7 Administration
1-8 Violations
1-9 Appeals and Variances

Sec. 1-1 General Provisions.

(1) **Authority**. This Ordinance is adopted under authority granted by sections 59.70, 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")

(2) **Title.** This Ordinance shall be known as, referred to, and may be cited as the (County_Name) County Manure Storage and Management Ordinance and is hereinafter known as the Ordinance.

(3) **Findings and Declaration of Policy**. The (County_Name) County Board of Supervisors finds that the following conditions may threaten the county's natural and water resources, harm to the health, safety and welfare of people within the county, and adversely impact the property tax base of the county:

(a) New and substantially altered manure storage facilities that fail to meet performance and technical standards for proper design, construction and operation.
(b) Existing manure storage facilities that are not properly functioning and pose unreasonable risks related to structural failure and leakage.
(c) Existing manure storage facilities that overtop or are operated in a manner that creates an unreasonable risk of discharge to waters of state.
(d) 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.
(e) Management of manure including land application that fails to meet performance and technical standards for proper handling and land application of manure.
(f) Additional findings may be added.

The (County_Name) County Board of Supervisors further finds that the technical standards developed by the USDA Natural Resources Conservation Service ("NRCS"), and performance standards, prohibitions and conservation practices codified by Wisconsin Department of Agriculture, Trade, and Consumer Protection ("DATCP") and Department of Natural Resources ("DNR"), if adopted by the (County_Name) County, provide effective, practical, and environmentally protective methods for storing and managing manure.

(County_Name) County Board of Supervisors further finds the regulation of activities identified in this chapter will protect and promote the county's agricultural industry; prevent pollution of surface and ground water; protect the health, safety, and general welfare of the people and communities within the county; preserve the health of livestock, aquatic life and other animals and plants; advance the appropriate use of land and water conservation resources within the community; and protect the property tax base of county.

(4) **Purpose**. The purpose of this Ordinance is to regulate the location, design, construction, installation, alteration, operation, maintenance, closure, and use of manure storage facilities; ensure the proper application of waste and manure from all storage facilities covered by this Ordinance, and prescribe performance standards and prohibitions related to manure and other agricultural management. It is also intended to provide for the administration and enforcement of the Ordinance and to provide penalties for its violation.

(5) **Applicability.** The permit and other requirements in this Ordinance apply to all of the unincorporated areas of (County_Name) County.

(6) **Interpretation.** In its interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of (County_Name) County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes (Stats.). Unless a specific provision in this Ordinance seeks to apply requirements that are more stringent than state law, this Ordinance shall be interpreted to be consistent with chs. 92 and 281.6, Stats. and chs. ATCP 50 and NR 151, Wis. Admin. Code.

(7) **Abrogation, Greater Restrictions, Severability and Repeal Clause**.

(a) **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 greater restrictions, the provisions of this Ordinance shall govern.

(b) **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 there of other than the portion affected by such decision.

(c) **Repeal.** All other Ordinances or parts of Ordinances of (County_Name) County inconsistent or conflicting with this Ordinance to the extent of the inconsistency only, are hereby repealed.

(8) **Effective Date**. This Ordinance shall become effective upon its adoption by the (County_Name) County Board of Supervisors, and publication.

Sec. 1-2 Definitions.

(1) **"Agricultural Waste Management Field Handbook (AWMFH)"** is a manual that provides specific guidance for planning, designing, and managing systems where agricultural wastes are involved as published by the United States Department of Agriculture (USDA) Natural Resources Conservation Service.

(2) **"Applicant"** means any person who applies for a permit under this Ordinance

(3) **"DATCP"** means Wisconsin Department of Agriculture, Trade and Consumer Protection.

(4) **"DNR"** means the Wisconsin Department of Natural Resources.

(5) **"Direct Runoff"** has the meaning in NR 151.015(7), Wis. Admin. Code. The criteria in s. NR 151.055(3), Wis. Admin. Code, will be used to predict or determine if a discharge is significant.

(6) **"Earthen Manure Storage Facility"** means a facility constructed of earth dikes, pits or ponds used for temporary storage of manure including other allowed wastes.

(7) **"Engineering Field Handbook (EFH)"** is a manual of engineering technical data published by the USDA Natural Resources Conservation Service.

(8) **"Land Conservation Committee (LCC)"** is a committee made up of members of the (County_Name) County Board of Supervisors and others who, by authority from Chap. 92, Wis. Stats., determine policy and give direction for soil and water conservation activities, and provides direction for the Land Conservation Department (LCD).

(9) **"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.

(10) **"Manure Storage Facility"** means 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.

(11) **"Natural Resources Conservation Service (NRCS)"** is an agency of the United States Department of Agriculture which, for purposes of this Ordinances , develops and maintains a technical guide with conservation practice standards and specifications, engineering manuals and handbooks, and other technical documentation related to manure storage facilities, nutrient management plans, and other technical matters covered by this Ordinance.

(12) **"Nutrient Management Plan"** means an annual written plan developed and implemented by a landowner to ensure the proper application of manure and other nutrients to any field, including pastures. A nutrient management plan shall the requirements in sec. 1-5(6).

(13) **"Overflow"** has the meaning has the meaning given in s. NR 151.015 (15e).

(14) **"Permit"** means the signed, written statement issued under this Ordinance authorizing the applicant to construct, install, reconstruct, extend, enlarge, substantially alter or close a manure storage facility, facility, and to use or dispose of waste from the facility.

(15) **"Permitting Authority"** means the entity within the county government legally responsible for administering and enforcing this Ordinance. The LCC shall have full authority for carrying out the duties under Ordinance, including the decision making authority, unless the authority is delegated to the LCD and its employees under s. 92.09, Stats.

(16) **"Permittee"** means any person to whom a permit is issued under this Ordinance.

(17) **"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.

(18) **"Safety Devices"** means devices, which are designed to protect humans and livestock from the hazards associated with a storage facility.

(19) **"Significant discharge"** means a discharge of process waste that is determined as "significant" in accordance with the criteria in s. NR 151.055(3), Wis. Admin. Code.

(20) **Site that is susceptible to groundwater contamination"** has the meaning under NR 151.015(18) Wis. Admin. Code.

(21) **"Stop Work Order"** means an order to cease any activity in the operation of, or construction of an activity subject to regulation.

(22) **"Substantially altered"** has the meaning in s. NR 151.015(20), Wis. Admin. Code.

(23) **"Technical Guide"** means 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 (County_Name) County in accordance with Chapter 92, Wis. Stats.

(24) **"Technical Standard 313"** is a practice standard within the Technical Guide that covers the proper location, design, construction, installation, alteration, operation and maintenance of a manure storage facility.

(25) "**Technical Standard 360"** is a practice standard within the Technical Guide that covers decommissioning of facilities, and/or the rehabilitation of contaminated soil, in an environmentally safe manner, where agricultural waste has been handled, treated, and/or stored and is no longer used for the intended purpose.

(26) **"Technical Standard 634"** is a practice standard within the Technical Guide that covers the design, material types and quality, and installation of components such as conduits, pumps, valves, and other structures or devices to transfer manure and waste from buildings and yards and other sources to storage, loading areas, crop fields and other destinations. The standard establishes the minimum acceptable requirements for design, construction, and operation of waste transfer system components.

(27) **"Technical Standard 590"** is a practice standard within the Technical Guide that covers managing the amount, form, placement and timing of plant nutrients associated with organic wastes (manure and organic by-products), commercial fertilizers, legume crops and crop residues.

(28) **"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. "**Unpermitted manure storage facility"** means a manure storage facility constructed, modified, or placed in use without first obtaining permit, including facilities constructed before (the first date of the adoption this ordinance), and may include an earthen structure or impoundment made a concrete liner which fully or partially covers the bottom and/or the sidewalls of the impoundment.

(29) **"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.

(30) **"Water Quality Management Area" or "WQMA"** has the meaning in s. NR 151.015(24), Wis. Admin. Code.

(31) **"Waters of the State"** is the meaning specified under s. 281.01(18), Stats.

Sec. 1-3 Activities Subject to Regulation.

(1) **Permit Requirements**. Any person who constructs, substantially alters, changes use of or closes a manure storage facility and related transfer systems, or who employs another person to do the same, shall be subject to the permit requirements of this Ordinance in Sec. 1-5A.

(2) **Performance Standards and Prohibitions.** Any person who owns or operates cropland or livestock facilities in this county is subject to the performance standards and prohibitions in Section 1-4, regardless of whether they received a permit under this Ordinance. This Ordinance incorporates by reference the definitions in chapters ATCP 50 and NR 151, Wisconsin Admin. Code, to the extent that they are not explicitly referenced herein.

(3) **Safety Devices** All manure storage facilities shall be equipped with safety devices including fences and warning signs intended to protect humans and livestock from the hazards associated with a such facilities. Safety devices shall be designed and installed as required by Technical Standard 313.

(4) **Well, Road and Property line setbacks-*Reserved***

Sec. 1-4 Performance Standards and Prohibitions.

(1) **Purpose** The purpose of this section is to identify the agricultural performance standards and prohibitions that apply to manure storage facilities built or operated in the county, whether or not the owners or operators have received a permit under this ordinance. This section outlines the procedures the county will follow in implementing and enforcing these standards and prohibitions consistent with state requirements, and the circumstances under which an owner or operator of a livestock facility is required to comply with these standards and prohibitions.

(2) **Activities Subject To Agricultural Performance Standards And Prohibitions**

(a) Livestock Manure Storage. All owners and operators of livestock facilities shall store manure in accordance with sub. (3), whether or not a permit has been issued under Sec. 1-5

(b) **Livestock Management and Cropland Performance standards -*Reserved***

(3) **Manure Storage Facilities Performance Standards (See NR 151.05 and NR 151.08)**

(a) Manure storage facilities constructed or substantially altered after October 1, 2002 shall be designed, constructed and maintained to minimize the risk of structural failure of the facility and minimize leakage of the facility in order to comply with groundwater standards.

1. Storage facilities that are constructed or significantly altered shall be designed and operated to contain the additional volume of runoff and direct precipitation entering the facility as a result of a 25-year, 24-hour storm.
2. A manure storage facility located in permeable soils or over fractured bedrock must be constructed with a liner designed in accordance with Technical Standard 313.

(b) Closure of a manure storage facility shall occur when the farm where the storage facility is located ceases operation, or manure has not been added or removed from the storage facility for a period of 24 months. Manure storage facilities shall be closed in a manner that prevents future contamination of groundwater and surface waters, and shall conform to the permit and other requirements in this Ordinance.

(c) The owner or operator may avoid closure of a facility as required under par. (b) by demonstrating to the county that all of the following conditions are met:

1. The facility is designed, constructed and maintained in accordance with pars. (a).
2. The facility is designed to store manure for a period of time longer than 24 months.
3. Retention of the facility is warranted based on anticipated future use.

(d) Manure storage facilities that pose an imminent threat to public health, fish and aquatic life, or groundwater shall be upgraded, replaced, or closed in accordance with this Ordinance.

(e) Manure storage facilities constructed or substantially altered after October 1, 2002

may be required to comply with sub (b) and (d) without cost-sharing.

(f) Levels of materials in manure storage facilities may not exceed the margin of safety level as defined in s. NR 151.015(13g), Wis. Admin. Code.

(g) No livestock facility in the county shall have:
1. Overflow of manure from storage facilities.
2. Direct runoff from stored manure into the waters of the state.

(h) All owners and operators of manure storage facilities shall apply manure and nutrients to cropland according to a nutrient management plan prepared in compliance with ATCP 50.04(3), Wis. Admin. Code.

(4) **Livestock Management Performance Standards-reserved.**
See Appendix A for optional provisions

(5) **Cropland Performance Standards-Reserved.**
See Appendix A for optional provisions

(6) **More stringent local standards- Reserved**

(7) **Implementation and Enforcement Procedures For Performance Standards and Prohibitions**

(a) **Procedures**. The county may do all of the following:
1. Provide voluntary cost-sharing to secure compliance.
2. Follow the procedures in s. NR 151.09, Wis. Admin. Code, to implement and enforce the performance standards in sub (5) and the pastures standards in sub. (d), and the procedures in s. NR 151.095, Wis. Admin. Code, to implement and enforce the performance standards in subs. (3) and (4).
3. Pursue any other action or remedies authorized under this Ordinance. See Sections 1-6 and 1-7.

(b) **Cost-Sharing Required**. The county shall follow the requirements of chapters ATCP 50 and NR 151, Wis. Admin. Code, to determine if a landowner of existing cropland or livestock facilities must receive a bona fide offer of cost-sharing to achieve compliance with a performance standard or prohibitions. The county shall do all of the following, notifying the landowner regarding its determinations:
1. Identify the specific areas where the landowner has failed to comply with the performance standards and prohibitions and the corrective actions the landowner must pursue to achieve compliance.
2. Determine whether that farmland that is out of compliance is “existing cropland” or an “existing livestock facility.” If cropland or a livestock facility has been determined to be in compliance with a performance standard or prohibition, it no longer qualifies as an "existing" cropland or facility for cost-share purposes under that performance standard. If the cropland or facility later falls out of compliance with the performance standard, the landowner must restore compliance regardless of the availability of cost-sharing
3. Determine whether cost-sharing is available following the requirements of ss.

NR 151.09(4)(d) or NR151.095(5)(d), Wis. Admin. Code, when funding is provided under s. 281.65, Stats., and use ch. ATCP 50, Wis. Admin. Code, to make this determination when funds are from any other source.

Sec. 1-5 Manure Storage Permits.

(1) **Permit Required**.

(a) No person may do any of the following without obtaining a permit in accordance with this section:

1. Construct a new manure storage facility or substantially alter an existing manure storage facility, including the construction or substantial alteration of waste transfer systems connected to a manure storage facility.
2. Upgrade, repair or replace a manure storage facility that has been identified as posing an imminent threat to public health, fish and aquatic life, or groundwater under Sec. 1-4.
3. Close an existing manure storage facility, including conversion of its use, regardless of whether the facility must be closed in accordance with Sec. 1-4.
4. Optional permitted activities: Stacking Requirements

(a) For the purposes of this section**,** a manure storage facility is subject to the permit requirements if :

1. It is intended to hold an accumulation of manure within an impoundment or enclosure that is excavating or fabricated, no matter how small that accumulation may be or how long the manure is to be stored there, shall be considered a manure storage facility.
2. It is an enclosed area for holding manure within or below a feedlot or structure for confinement of livestock.

(b) Requirements of this Ordinance shall be in addition to any other legal requirements regulating animal waste. Specific exemptions to cost-share requirements apply to the issuance of permits. See ss. NR 151.095 (5) (b) 2. and ATCP 50.54(2)(b), Wis. Admin. Code. In the case of conflict, the most stringent provisions shall apply.

(c) A person is in compliance with this section if he or she follows the application and other procedures specified in this section, receives a permit and approval from the (Permitting_Authority) before beginning activities subject to regulation under this section, complies with the requirements of the permit and receives any required approvals or certifications from the county. The (Permitting_Authority) may establish a timetable for the applicant to complete required activities to ensure compliance with requirements of this ordinance.

(2) **Exception to Permit Requirement**. A permit is not required for:

(a) Preexisting manure storage facilities, except where the facility is substantially altered.

(b) Routine maintenance of a manure storage facility.

(c) Emergency equipment repairs of a manure storage facility, if the following conditions are met:

1. All emergency repairs on a manure storage facility or transfer system which cause any disruption of the original construction of the storage facility shall be done so as to restore the storage facility to the original state, as determined by the technical standards set forth in sub. (6).

2. Such repairs shall be further reported to the (Permitting_Authority) within one (1) working day of the emergency for a determination on whether a permit will be required for any additional alteration or repair to the facility.
3. The (Permitting_Authority) determination shall be rendered within three (3) working days of reporting.

(3) **Fee.** All fees under this ordinance are established pursuant to a Fee Schedule duly adopted by the County Board/LCC. Copies of the current fee schedule are kept on file at the (Permitting_Authority) or are available from the county website, xxx. Any permit fee is payable upon submission of a permit application. Permit fees will double if a facility is constructed or closed prior to issuance of a permit. Separate fees may apply for engineering assistance provided by the county to design a manure storage facility.

(4) **Manure Storage Facility Construction Plan and Nutrient Management Plan Required**. Each application for a permit under subsections (1)(a) 1. and 2. shall be on a form provided by the county and include plans for the storage facility (including transfer system) and the management of manure prepared in accordance with following requirements:

(a) 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:
1. 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.
2. A description and construction plan of the method of transferring animal waste into and from the facility.
3. 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.

(b) A general location map drawing of the site which shall include:
1. 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 (1000) feet of the proposed facility or system.
2. The location of any wells within 250 feet of the facility.
3. The scale of the drawing and the north arrow with the date the general location map was prepared.
4. The location of any floodplains.

(c) Engineering design drawings of the manure storage facility or transfer system which shall include:
1. Specific design components that shall comply with Technical Standard 313, and additional applicable Technical Standards such as 634.
2. A recoverable benchmark(s) including elevation(s) expressed in feet and tenths.
3. 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.
4. The date the engineering design drawings were prepared.

(d) 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.

(e) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater.

(f) A construction site erosion control plan.

(g) Estimated start of construction and construction schedule.

(h) A safety plan that identifies hazards to animals and people in the production area, and design features to minimize those hazards.

(i) An operation and maintenance plan for installed practices.

(j) A nutrient management plan prepared in compliance requirements of this Ordinance, including sub. (6).

(k) Other additional information requested by the county to comply with this Ordinance.

(5) **Manure Storage Closure Plan Required.** Each application for a closure permit under subsections (a)(1)c. shall be on form provided by the county and include a closure plan. See Addendum C. The plan shall include:

(a) A general location map drawing of the manure storage facility which shall include:
1. 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 (1000) feet of the existing facility.
2. The scale of the drawing and the north arrow.
3. The date the general location map was prepared.

(b) A description of the method and specifications in transferring manure into and from the manure storage facility to ensure proper closure of transfer systems.

(c) Provisions to remove or permanently plug the manure transfer system serving the manure storage facility.

(d) Provisions to remove and properly dispose of all accumulated manure in the manure facility in compliance with applicable Technical Standards.

(e) For all waste impoundments, plan requirements and provisions shall be in compliance and consistent with applicable Technical Standards.

(f) *Use conversion option.* The manure storage facility may be converted to other uses, where as it is demonstrated the conversion will not result in a degradation of ground and/or surface waters or be a threat to public health, safety or general welfare. A detailed

description of intended alternative use must be described for all manure storage facility conversions for determination if conversions will be allowed.

(g) Manure storage facility closures and conversions shall implement safety measures to ensure the protection of the public from hazardous conditions.

(h) Any other additional information required by the County to protect water quality and achieve compliance with the requirements of this Ordinance.

(6) **Permit Standards**

(a) **Manure Storage Construction**. Permit applications under sub (4) shall provide sufficient documentation to demonstrate that a new or substantially altered storage facility:

1. Is designed in accordance with the following technical standards:
    a. Technical Standard 313.
    b. Technical Standard 634.
2. Meets the performance standards in Sec. 1-4(3).

(b) **Manure Storage Closure**. Permit applications under sub. (5) shall provide sufficient documentation to demonstrate that the plan for manure storage facility closure meets Technical Standard 360.

(c) **Manure and Nutrient Management**. Nutrient management plans submitted under under sub. (4), and sub. (5) if needed, shall comply Technical Standard 590, s. ATCP 50.04 (3), Wis. Admin. Code, and s. NR 151.07, Wis. Admin. Code.

(d) **Other Standards.** Other technical guides such as AWMFH or EFH may be used to evaluate compliance with the requirements of this Ordinance.

(e) **Incorporation of Standards and Specifications**. All standards and specifications are incorporated by reference and made part of this Ordinance. Any future amendment, revision or modification of the standards or specifications incorporated herein are made a part of this ordinance, unless the LCC specifically affirmatively acts to a different version. Copies of all applicable standards and specifications may be obtained from the L (Permitting_Authority) or on county's website at this address, xxx.

(f) **Certification.** All permit applications must include a certification provided by a qualified person that designs and plans meet the technical standards and specifications in this subsection.

(g) **Variances.** Variances from these standards and specifications can only be granted in accordance with sec. 1-9 of this Ordinance

(7) **Review of Application**. The (Permitting_Authority)shall receive and review all permit applications and shall determine if the proposed facility meets required standards set forth in this section. Within 45 calendar days after receiving the completed application and fee, the (Permitting_Authority)shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the (Permitting_Authority) shall so notify the permit applicant. The (Permitting_Authority) has thirty (30) calendar 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 issued by the (Permitting_Authority).

(8) **Permit Approval Conditions**. All permits issued under this Ordinance shall be issued subject to the following conditions and requirements:

(a) Facility and system design, construction, and closure shall be carried out in accordance with the approved plans and applicable standards.

(b) Permittees must obtain all required permits and authorizations before commencing construction activities.

Note: DNR and other permits may be needed for construction site erosion control and stormwater management, floodplain and shoreland construction, and livestock facilities with 1,000 or more animal units.

(c) The permittee shall give five (5) working days written notice to the (Permitting_Authority) before starting any construction activity authorized by the permit.

(d) Approval in writing must be obtained from the (Permitting_Authority) prior to making any changes or modifications to the approved plans and specifications.

(e) Following completion of construction and prior to use, an agricultural or civil engineer registered in the State of Wisconsin or DATCP or NRCS or LCD engineering practitioner and the permittee and, if applicable, the contractor, shall certify in writing on forms provided by the (Permitting_Authority) that all facilities and systems were installed as planned, including as-built dimensions and changes or modifications as authorized per sub. (8)(d) made during construction.

(f) The (Permitting_Authority) shall provide onsite inspection and final approval for all construction projects conducted under a permit issued under this Ordinance. To receive final approval, a manure storage facility must be fully constructed as designed including the marking of the maximum operating level and implementation of all safety devices.

(g) No permitted manure storage facility may receive manure until the county provides its final approval. No manure may be emptied from permitted manure storage facility until the county approves the nutrient management plan submitted by the applicant.

(9) **Permit Expiration.** All activities authorized by a permit shall be completed within two (2) years from the date of issuance after which time such permit shall be void.

(10) **Permit Revocation**. In addition to any other actions authorized under this ordinance, the (Permitting_Authority) may revoke any permit issued under this Ordinance if the holder of the permit has misrepresented any material fact in the permit application, plan or specification, or if the holder of the permit violates any of the conditions of the permit. The decision of the (Permitting_Authority) may be appealed to the Board of Adjustment.

Sec. 1-6 Certificate of Use.

(1) **Certificate Purpose.** The purpose of a certificate of use is to monitor and regulate the operation of a manure storage facility and adequacy of related nutrient management practices.

(2) **Certificate Requirement**. No person may operate or use a manure storage facility

permitted under this Ordinance unless the person has a valid certificate of use for the storage facility or portion of the storage facility that is being operated or used.

(3) **Issuance.** The (Permitting_Authority) may issue a certificate of use upon the operator's compliance with conditions in Sec. 1-5(8) and the certificate shall remain in effect for as long as the manure storage facility is operated.

(4) **Operating Requirements**. The operator of a manure storage facility is in compliance with the certificate of use if the person does all of the following:

a. Updates and follows an annual nutrient management plan that complies with requirements in this Ordinance, and covers all manure land applied from the manure storage facility issued a certification of use.

b. Provides a nutrient management plan checklist annually to the (Permitting_Authority) by a specified date to document compliance with ordinance requirements. The (Permitting_Authority) may ask the operator to submit the documentation to substantiate the planner's answer to one or more questions on the nutrient management checklist. The (Permitting_Authority) may take appropriate action authorized by this Ordinance if the submitted documentation does not reasonably substantiate a checklist answer.

c. Properly operates the storage facility in accordance with performance standards and prohibitions in sec. 1-4 and consistent with the recommended operating methods as defined by the Technical Guide, AWMFH and EFH.

d. Properly maintains the storage facility free from visible and serious damage, erosion, or deformities that would impair the facility's safety or function as determined by the Technical Guide, AWMFH, and the EFH.

e. Properly maintains the safety devices for a manure storage facility.

f. Provides the (Permitting_Authority) proof of compliance with the requirements in (3)c. and d. upon request and submits to periodic inspections of the storage facility with advance notice from the (Permitting_Authority).

g. Develops and implements a plan for closure of the manure storage facility when the operator ceases use of the facility or closure is required based on conditions specified in this ordinance.

h. Other conditions: (1) Require an inspection before transfer of the certificate of use as part of the sale of farm; (2) May be charged a reasonable fee to recover inspection costs incurred by the county; (3) Exclusion of human waste from storage

(5) **Certificate Revocation**. In addition to any other actions specified under this ordinance, the (Permitting_Authority) may revoke a certificate of use if there is a misrepresentation of any material fact in the documents submitted in connection with the certificate use, a misrepresentation of any material fact in the management plan, a failure to submit required documentation or allow inspection, a condition that immediately threatens public health and safety, or for multiple or repeat violations of this ordinance. The operator will be immediately provided written notice of the revocation and the reasons for the revocation. No manure be added or removed from a manure storage facility whose certificate has been revoked.

Sec. 1-7 Administration and Enforcement

(1) **Delegation of Authority**. The (County_Name) County Board of Supervisors/LCC hereby designates the (County Conservationist, Department Director, Other) as the permitting authority, and delegates the authority to administer and enforce this Ordinance. This delegation may be modified.

(2) **Administrative Duties**. In the administration and enforcement of this Ordinance, the (Permitting_Authority) shall:

(a) Keep an accurate record of all permit applications, animal waste facility plans, nutrient management plans, permits issued, inspections made, and other official actions.

(b) Review permit applications and issue permits in accordance with Section 1-5 of this Ordinance.

(c) Conduct, or cause to conduct, inspections of manure storage facilities to determine if the facility construction, closure or operation meet the requirements of this Ordinance.

(d) Conduct, or cause to conduct, reviews of the nutrient management plans and their implementation.

(e) Implement the performance standards and prohibitions in accordance with Section 1-4 of this Ordinance.

(f) Review certificate applications and issue certificates of use in accordance with Section 1-6 of this Ordinance.

(g) Investigate complaints relating to compliance with the requirements of this Ordinance and act upon the findings in accordance with provisions of this Ordinance.

(h) Perform other duties as specified in this Ordinance.

(3) **Inspection Authority**. The (Permitting_Authority), or that person's representative, is authorized to enter upon any lands affected by this Ordinance to inspect the land, and request records to determine compliance with this Ordinance including inspection of sites prior to or after the issuance of a permit or certificate, and sites with unpermitted storage facilities. See s. 92.07(14), Stats. If permission cannot be received from the applicant or permittee, entry by the (Permitting_Authority), or that person's representative may proceed in accordance with Sec. 66.0119, Stats. Refusal to grant permission to enter lands affected by this Ordinance for purposes of inspection shall be grounds for permit denial or revocation. The county may take any action authorized by this Ordinance to enforce this right of inspection.

(4) **Enforcement Authority**. In addition to the authority to revoke permits and certificates specified in this Ordinance, the (Permitting_Authority) is authorized to issue Stop Work Orders. The (Permitting_Authority) is authorized to post an order stopping work upon land that 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 the order 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 or be brought into compliance within five (5) calendar days.

(5) Any permit revocation or order stopping work shall remain in effect unless retracted by the appropriate authority (e.g., Board of Adjustment, Land Conservation Committee, the County Conservationist, or by a court of general jurisdiction); or until the activity is brought into compliance with this Ordinance. The (Permitting_Authority) is authorized to refer any violation of this Ordinance or of any stop work order issued pursuant to this Ordinance to the Corporation counsel or district attorney for commencement of further legal proceedings.

(6) **Abatement Order Authority**. The (Permitting_Authority) may issue an order to abate any violation of this Ordinance with proper authorization. In the event an offense is not abated as ordered, the county may take such action as is necessary to abate the offense and the cost of such abatement will become a lien upon the person's property and may be collected in the same manner as other taxes.

(7) **Citation Authority**. Upon receipt of a verified report and request from the (Permitting_Authority), the Sheriff or other authorized person shall issue a citation to a violator pursuant to law for violations of this Ordinance.

(8) **NR 151 Procedures**: The (permitting authority) may follow the procedures in Wis. Admin. Code § NR 151.09 to implement and enforce the cropland performance standards and the procedures in Wis. Admin. Code § NR 151.095 to implement and enforce the livestock performance standards

(9) **Referral Authority**. The (Permitting_Authority) may refer a violation of this ordinance to Corporation Counsel to pursue legal action including but not limited to the enforcement of any part of this Ordinance through injunctions or restraining orders.

(10) **Other Lawful Remedies**. Nothing in this section may be construed to prevent the county from using any other lawful means to enforce this Ordinance.

Sec. 1-8 Violations and Penalties.

(1) It is unlawful for a person to violate any provision of this ordinance or any condition contained in a permit or certificate issued pursuant to this Ordinance.

(2) It is unlawful for any person to knowingly provide false information, make a false statement, or fail to provide or misrepresent any material fact to a county agent, board, commission, committee, department, employee, officer, or official acting in an official capacity under this ordinance

(3) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this Ordinance.

(4) A separate offense is deemed committed on each day that a violation occurs or continues.

(5) Except as provided in sub. (6), a person will, upon conviction for a violation of this ordinance, shall be subject to a forfeiture listed under County Code of Ordinance, for each violation.

(6) The minimum and maximum forfeitures specified in this section are doubled for a person who is convicted of the same violation of this Ordinance within a 24-month period.

Sec. 1-9 Appeals and Variances

(1) **Appeals**. (a) Under authority of Chapter 68, Stats., the (County_Name) County Board of Adjustment, created under Section 59.99, Stats., and under (County_Name) County Code of

Ordinances, 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 (Permitting_Authority) in administering this Ordinance.

(b) Any person having a substantial interest, which is adversely affected by the order, requirement, decision, or determination made under this ordinance may file an appeal.

(c) All appeals shall specify written evidence and the reason for the request, including which requirements from this Ordinance are involved, and shall be filed via certified mail.

(d) The Board of Adjustment shall set a meeting to hear the appeal within ten (10) calendar days of receipt of the appeal.

(e) A written decision shall be mailed to the appellant within thirty (30) days of the appeal. The decision will affirm, deny, or modify the initial determination.

(f) The rules, procedures, duties, and powers of the Board of Adjustment and Chapter 68, Wis. Stats., shall apply to appeals filed under this section.

(2) **Variances** (a) The (LCC or other authority) may upon appeal authorize a variance from the requirements of this ordinance when, upon showing by the applicant, unnecessary hardship would result from literal enforcement of this Ordinance.

(b) A variance shall:

1. Be consistent with the spirit and purpose of this ordinance.
2. Be based on unique circumstances and not to the general conditions of the area.
3. Not be granted for a self-created hardship.
4. Not permit an activity or practice that may fail structurally or otherwise and cause significant water pollution or other off-site impacts.
5. Not be granted if the variance will result in an outcome that is contrary to the public interest and be damaging to the rights of other persons.
6. Not be granted solely on the basis of economic gain or loss.
7. Not be granted solely on the fact that certain conditions existed prior to the effective date of the ordinance

(c) No variance from the standards in Technical Guide may be approved unless the county receives a variance or waiver from the technical standards through the NRCS or other qualified engineering authority. If public funds are involved, this may be a program requirement.

(d) No variance from the performance standards and prohibitions in sec. 1-4 may be granted unless the county complies with the variance requirements specified in s. NR 151.097, Wis. Admin. Code, and receives approval from the Department of Natural Resources. Requests for a variance shall be made in writing and shall provide information documenting the following:

1. Compliance with the performance standard or technical standard is not feasible due to site conditions.
2. The landowner or operator will implement best management practices or other corrective measures that ensure a level of pollution control that will achieve a level of water quality protection comparable to that afforded by the performance standards in ch. NR 151,
3. The landowner or operator or their agents or assigns did not create the conditions for which the variance is requested.

Appendix A

(1) **Livestock Management Standards.**

(a) All pastures shall be managed to achieve a soil erosion rate equal to, or less than,

the "tolerable" (T) rate established for that soil. (NR 151.02)

(b) All owners and operators of pastures shall have and follow a nutrient management plan prepared in accordance with ATCP 50.04(3) if the pastures are stocked at an average stocking rate of more than one animal unit per acre at all times during the grazing season, or the pasture receives mechanical applications of nutrients. (NR 151.07)

(c) Pastures and winter grazing areas covered by nutrient management plan shall average a phosphorus index of 6 or less over the accounting period and may not exceed a phosphorus index of 12 in any individual year within the accounting period. (NR 151.04)

(d) Livestock facilities may have no significant discharge of process wastewater to waters of the state. (NR 151.055)

(e) Livestock facilities shall divert runoff away from contacting feedlot, manure storage areas and barnyard areas within water quality management areas except that a diversion to protect a private well under s. NR 151.015 (18) (a) is required only when the feedlot, manure storage area or barnyard area is located upslope from the private well. (NR 151.06)

(f) No livestock facility shall

a. Have unconfined manure pile in a water quality management area.

b. Have direct runoff from a feedlot into the waters of the state.

c. 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. This prohibition does not apply to properly designed, installed and maintained livestock or farm equipment crossings. (NR 151.08)

(2) **Cropland Performance Standards.**

(a) All land where crops or feed are grown shall be managed to achieve a soil erosion rate equal to, or less than, the "tolerable" (T) rate established for that soil. (NR 151.02)

(b) No crop producer may conduct a tillage operation that negatively impacts stream bank integrity or deposits soil directly in surface waters. (NR 151.03)

(c) No tillage operations may be conducted within 5 feet of the top of the channel of surface waters. Tillage setbacks greater than 5 feet but no more than 20 feet may be required under s. ATCP 50.04(4). (NR 151.03)

(d) Croplands and winter grazing areas shall average a phosphorus index of 6 or less over the accounting period and may not exceed a phosphorus index of 12 in any individual year within the accounting period. (NR 151.04)

(e) All owners and operators of cropland shall apply nutrients according to a nutrient management plan prepared in accordance with ATCP 50.04(3)