

CHAPTER 90
OF THE GRANT COUNTY CODE OF ORDINANCES

GRANT COUNTY
ANIMAL WASTE STORAGE AND NUTRIENT UTILIZATION ORDINANCE
6/17/19

90.01 AUTHORITY

This Ordinance is adopted under authority granted by Section 92.16, Wis. Stats.

90.02 TITLE

This Ordinance may be cited as the Grant County Animal Waste Storage and Nutrient Utilization Ordinance and is herein referred to as the Ordinance.

90.03 FINDINGS and DECLARATION of POLICY

The Grant County Board of Supervisors finds that animal waste storage facilities that do not meet technical design and construction standards, as well as improper management and utilization of the animal waste from these storage facilities, may cause pollution of the surface and ground waters of Grant County, and result in potential harm to the health of county residents and transients and to livestock, aquatic life and other animals and plants, thereby damaging the tax base of Grant County.

The Grant County Board of Supervisors further finds that the technical standards developed by the USDA, Natural Resources Conservation Service and adopted by the Grant County Conservation, Sanitation, & Zoning Committee provides are effective and environmentally safe methods of storing and utilizing animal waste.

90.04 PURPOSE

The purpose of this Ordinance is to regulate the location, design, construction, installation, alteration, closure and the use of animal waste storage facilities, including the transfer of wastes into storage facilities and the utilization of animal waste from these facilities covered by this Ordinance, in order to prevent water pollution, protect the water resources and provide for safety of people and animals of Grant County. It is also intended to provide for the administration and enforcement of the Ordinance and to provide reasonable penalties for its violation.

90.05 APPLICABILITY

This Ordinance shall apply to the unincorporated areas of Grant County.

90.06 INTERPRETATION

In the interpretation and application, provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Grant County and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes or County Ordinances.

90.07 SEVERABILITY CLAUSE

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

90.08 EFFECTIVE DATE

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

90.09 DEFINITIONS

For the purposes of this Ordinance the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; the plural number includes the singular number; the word "shall" is mandatory and not discretionary. Words and phrases not defined herein shall be construed according to common and approved usage, but technical words and phrases and others that have a peculiar meaning shall be construed according to such meaning unless such construction would produce a result inconsistent with the manifest intent of this Ordinance.

- 1.) *Animal Waste* - Livestock excreta and other materials that may be included in the stored waste, such as bedding, rain or other water, soil, hair, feathers, and other debris, including milkhouse waste normally included in animal waste handling operations.
- 2.) *Animal Waste Storage Facility* - A concrete, steel, or otherwise fabricated structure, or an earthen facility of constructed earth dikes, excavated pits or ponds, or a combination of these, used for storage of animal waste. This Ordinance applies to all facilities on one operation that stores a cumulative amount of animal waste volume totaling 7000 cubic feet or more (approximately 24' x 24' x 12').
- 3.) *Applicant* - Any person who applies for a permit under this Ordinance.
- 4.) *Bedrock* - The solid or consolidated rock formation typically underlying loose surficial material such as soil, alluvium or glacial drift. Bedrock includes but is not limited to limestone, dolomite, sandstone, shale and igneous and metamorphic rock.
- 5.) *Corporation Counsel* - The legal authority for Grant County.
- 6.) *Idle Animal Waste Storage Facility* - An animal waste storage facility which is no longer being used for its intended purpose and/or no longer having any additional animal waste placed into it for a period of twenty four (24) months.
- 7.) *Conservation, Sanitation, & Zoning Committee (CSZC)* - Any and all members appointed to the CSZC, personnel employed by the Grant County Conservation, Sanitation, & Zoning Department (CSZD) and those personnel employed by support agencies.
- 8.) *Nutrient Management Plan* - A written plan detailing amount, form, placement, and timing of the application of plant nutrients. This includes nutrients from the animal waste storage facilities, commercial fertilizers, legume crops and crop residues.
- 9.) *Permit* - The signed, written statement issued by the Grant County CSZC under this Ordinance authorizing the applicant to construct, install, reconstruct, enlarge, substantially alter or close an animal waste storage facility, and to use or dispose of waste from the facility.

- 10.) *Permittee* - Any person to whom a permit is issued under this Ordinance.
- 11.) *Person* - Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency, the federal government, or any combination thereof.
- 12.) *Plan Developer* - A private engineer or government entity that is retained by the applicant to provide an Animal Waste Storage Plan that meets all aspects of this Ordinance.
- 13.) *Subsurface Saturation* - The following criteria apply:
- a.) Free water or wet soil identified by glistening, due to the slow release of water.
 - b.) Gleyed soil, that may extend uninterrupted from an observed free water surface.
 - c.) The presence of distinct gray redoximorphic features with a chroma of 2 or less based on Munsell color charts.
 - d.) Depleted matrices having a value of 4 or more and chroma 2 or less based on Munsell color charts. In some cases soil parent materials have a natural color of 2 chroma or less or gleyed color that is not due to saturation. In these cases other indicators may be used: landscape position, elevation or soils in relation to nearby water features.
- 14.) *Wisconsin Field office Technical Guide* - The Wisconsin Field Office Technical Guide (WI-FOTG) is the primary technical reference tool used in accomplishing the Natural Resources Conservation Service (NRCS) mission. WI-FOTG contains technical reference material to be used when planning, designing, applying, and maintaining conservation practices as adopted by the Grant County LWCC
- 15.) *United States Department of Agriculture, -Natural Resources Conservation Service (USDA-NRCS)* - Any and all personnel employed by the USDA-NRCS and those personnel employed by support agencies.
- 16.) *Water Pollution* - Any act or condition 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.

90.10 ACTIVITIES TO BE SUBJECT TO REGULATION

- 1.) General Requirement A permit is required for any person who constructs, installs, reconstructs, enlarges, substantially alters or closes an animal waste storage facility; or who employs another person to do the same, on land subject to this Ordinance and shall be subject to the provisions of this Ordinance.
- 2.) Idle Animal Waste Storage Facility Any person who owns an animal waste storage facility that has been determined to be idle must lower the level of the animal waste in the facility to an elevation of one (1) foot above the floor of the facility within a period of six (6) months from the date the facility was determined to be idle. The animal waste shall be uniformly spread on cropland or pasture in a manner that is safe for the environment.
- 3.) Compliance With Permit Requirements A person is in compliance with this Ordinance if he or she follows the procedures of this Ordinance, receives a permit from the CSZC before

beginning activities' subject to regulation under this section, and complies with the requirements of the permit.

90.11 STANDARDS

- 1.) The most current version of NRCS Technical Standards and Wisconsin Conservation Technical Notes shall be used to meet all requirements in this Ordinance that refer to technical standards and notes. Future amendments to the NRCS Technical Standards and Wisconsin Conservation Technical Notes are incorporated into and made part of this Ordinance effective the date of adoption by USDA-NRCS, unless otherwise acted upon by the County Board of Supervisors. Copies of current standards cited in this chapter are available from the CSZD or online at <http://www.wi.nrcs.gov/technical/>
- 2.) Standard for Nutrient Management. Nutrient management of all animal waste from permitted storage facilities shall be handled and comply with all of the provisions of the Wisconsin Field Office Technical Guide 590, issued by the USDA, NRCS, ATCP 50.04(3) and 90.14 (9) of this ordinance.

90.12 APPLICATION FOR AND ISSUANCE OF PERMITS

- 1.) Permit Required. No person shall undertake an activity subject to this Ordinance without first obtaining a permit from the CSZC prior to beginning the proposed activity.
- 2.) Exception to Permit Requirement. Normal maintenance, such as bolt replacement or pump repair, and emergency repairs such as repairing a broken pipe or equipment, or the removal of stoppages may be performed without a permit. Any repairs significantly altering the original design or construction of a facility shall be reported to the CSZC office within three (3) working days of the emergency for a determination by the CSZC whether the repairs made were reasonably necessary to respond to the existing emergency. The CSZC determination shall be rendered within one (1) business day of the reporting, whether a permit shall be required for any work deemed to constitute additional alteration or repair to the facility in excess of that reasonably necessary to respond to the emergency.

90.13 FEE

The fee for a permit under this Ordinance shall be:

\$200.00 to construct/alter an Animal Waste Storage Facility
\$50.00 to close an Animal Waste Storage Facility

The permit fee will be payable upon submission of application of the permit. Permit fees will double if facility is constructed or closed prior to issuance of a permit.

90.14. ANIMAL WASTE STORAGE FACILITY AND NUTRIENT MANAGEMENT PLAN REQUIREMENTS

Each application for a permit under this section shall include an animal waste storage facility plan and a nutrient management plan. Plans must be in accordance with applicable standards.

1.) Animal Waste Storage Facility Plan

Construction plans may be developed through the Grant County CSZC, state or federal governmental agencies or civil, agricultural, structural or sanitary professional engineer registered in the State of Wisconsin. Plans developed by a registered professional engineer must bear the engineer's seal and be accompanied by verification that the plan is in accordance with applicable standards. In addition to the management and site assessment documentation noted in NRCS standard 313, the plan shall specify:

- (a) A plan view 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.
- (b) The north arrow, scale of the drawing, legal description of location of the proposed facility, description and elevation of a temporary benchmark.
- (c) The structural details, including, but not limited to dimensions, cross sections, concrete thickness, reinforcing steel location, design loading details and all computations necessary for the design.
- (d) The location of any wells within 500 feet of the facility.
- (e) The soil test pit locations, including test from borrow area, elevations and soil descriptions to a depth of at least five feet below the planned bottom of the facility. A professional Soil Scientist or a registered professional engineer or their representative, must be present for soil test pit excavation.
- (f) The elevation of subsurface saturation or bedrock if encountered in the soil profile and the date of any such determinations.
- (g) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and subsurface saturation areas. If a body of water lies within 500 feet of the facility, the location and distance to the body of water shall be shown.
- (h) A time schedule for construction of the facility.

2.) A Nutrient Management Plan

Plans shall be developed by a qualified person as defined in ATCP 50 and that conforms with USDA- NRCS Nutrient Management (590) standard. The plan must show that the landowner has control of enough acres to spread all the animal waste stored in the facility.

3.) Closure of Animal Waste Storage Facility

If the applicant wishes to close an animal waste storage facility, the applicant must submit a closure plan for approval by Grant County CSZC and obtain a permit for the closure. The applicant seeking to close an animal waste storage facility must comply with all of the applicable standards of this Ordinance

90.15 REVIEW OF APPLICATION

- 1.) The CSZC shall review all permit applications and plans and determine if the proposed facility meets required standards set forth in Section 90.11 of this Ordinance.
- 2.) Within 45 days after receiving the completed application, plans and fee, the CSZC shall inform the applicant in writing whether the permit application and plans are approved and whether they will issue the permit.
- 3.) If additional information is required, the CSZC shall so notify the permit applicant. The LWCC has 15 days from receipt of the additional information in which to approve or disapprove the application and plans.
- 4.) If the CSZC fails to approve or disapprove the permit application and plans in writing within 15 days of receipt of the additional information, the application and plans shall be deemed approved and the applicant may proceed as if a permit had been issued.
- 5.) In the case of disapproval, the CSZC shall inform the applicant in writing of the reasons for disapproval.

90.16 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, management, and nutrient management activities shall be carried out in accordance with the animal waste storage plan and nutrient management plan specified in Section 00.14 of this Ordinance and applicable standards specified in Section 00.11 of this Ordinance.
- 2.) The permittee shall give five (5) working days notice to the CSZC before starting any construction activity authorized by the permit.
- 3.) Approval in writing must be obtained from the CSZC prior to any modifications to the animal waste storage facility plan after a permit has been issued.
- 4.) Within 30 days after the completion of the construction of the Animal Waste Storage Facility and prior to the entrance of any animal waste into the facility, the plan developer, shall certify in writing "To the best of my professional knowledge, judgment and belief, the installed practice meets NRCS standards (list standard numbers and titles)." Entrance of animal waste into the Animal Waste Storage structure prior to developer certification shall be a violation of the permit & of this ordinance.
- 5.) Activities authorized by permit must be completed within one (1) year from the date of issuance after which such permit shall be void, unless an extension is granted through the CSZC.

90.17 PERMIT REVOCATION

The CSZC may revoke any permit issued under this Ordinance if the holder of the permit has misrepresented any material fact in the permit application, if the holder of the permit violates any of the conditions of the permit, Ordinance or any of the standards referred to in this Ordinance.

90.18 ADMINISTRATION

- 1.) Delegation of Authority- The agencies designated to administer and enforce this Ordinance are the CSZC and the Corporate Counsel for Grant County.
- 2.) Administrative Duties- In the administration and enforcement of this Ordinance, CSZC shall:
 - a.) Receive and review all permit applications and plans. Keep an accurate record of all permit applications, animal waste storage facility and nutrient management plans, permits issued, inspections made, and other official actions.
 - b.) Provide construction inspection as needed to those facilities whose plan developer was a County, State or Federal governmental agency.
 - c.) Investigate complaints relating to compliance with the Ordinance.
 - d.) Approve or deny permits.
 - e.) The CSZC may monitor the maintenance of the animal waste storage facilities and the nutrient management plans.
 - f.) Perform other duties as specified in this Ordinance.
- 3.) Inspection Authority- The CSZC and its supporting agencies 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. If permission cannot be received from the applicant or permittee, entry by the LWCC shall be according to Sections 92.07 (14), WI. Stats.
- 4.) Enforcement Authority- The CSZC is authorized to post an order stopping work upon the construction site that has had a permit revoked or on the construction site currently undergoing activity in violation of this Ordinance. Notice is given by both posting upon the site 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 shall cease immediately. Failure to comply with such an order shall constitute a separate and independent violation of the Ordinance.

Any permit revocation or order stopping work shall remain in effect until retracted by the CSZC, or by a court of competent jurisdiction; or, until the activity is brought into compliance with the Ordinance, as determined by the CSZC.

The CSZC is authorized to refer any violation of this Ordinance or of a stop work order issued pursuant to this Ordinance to the Corporation Counsel for commencement of further legal proceedings seeking penalties and other appropriate relief in enforcement of the Ordinance, as set forth in section 00.19.

90.19 VIOLATIONS

A violation includes any failure to comply with any standard of this Ordinance or with any condition or qualification attached to any permit or any failure to comply with notice of a permit revocation or stop work order. Each day that a violation exists shall be a separate offense.

- 1.) Penalties- Any person who violates, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this Ordinance shall be subject to a forfeiture of not less than \$25.00 nor more than \$500.00, plus costs of prosecution for each violation. Each day that a violation exists shall be a separate offense.
- 2.) Enforcement by Injunction- As a substitute for, or in addition to forfeiture actions, Grant County may seek enforcement of any part of this Ordinance by court actions seeking injunctions or restraining orders.

90.20 APPEALS FROM ADMINISTRATIVE DECISIONS

- 1.) Authority- The Grant County CSZC shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the LWCC in administering this Ordinance.
- 2.) Procedure- Any appeal shall be made by written request, mailed or delivered to the Grant County Conservation, Sanitation, & Zoning Department, 150 W. Alona Lane, Lancaster, WI 53813. The request shall state the ground or grounds upon which it is contended that the decision should be modified or reversed. The CSZC shall, as soon as possible, but within 45 days, review the determination under appeal.
- 3.) Statutory Administrative Review and Certiorari- The decision of the Grant County CSZC shall be subject to further administrative review by the Grant County Board of Adjustment if a written appeal seeking such review is filed within thirty (30) days after the decision of the Committee. The decision of the Board of Adjustment shall be subject to judicial review if, within thirty (30) days after the decision of the Board of Adjustment an action seeking the remedy available by certiorari is commenced, as authorized by section of the Grant County Code of Ordinances and section 59.99 of the Wisconsin Statutes.
- 4.) Who May Appeal- Appeals may be initiated by any person having a substantial interest that is adversely affected by the order, requirement, decision, or determination for which review is sought within thirty (30) days from the order, requirement, decision, or determination made by the CSZC in administering this Ordinance.

(end)

Initial Ordinance approved by Grant County Board 05/19/1999
Updated Ordinance approved by Land & Water Conservation Committee 3/5/2013
Revisions approved by Grant County Board of Supervisors 3/19/2013
Amended Definitions 12/20/2016
Amended when NRCS Standard Updates take effect 4/3/18
Amended to address department name change 6/17/19