

400.09

**IOWA COUNTY ANIMAL WASTE
STORAGE
AND NUTRIENT UTILIZATION
ORDINANCE**

DRAFT FIVE

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FACT SHEET

IOWA COUNTY, WISCONSIN ANIMAL WASTE STORAGE AND NUTRIENT UTILIZATION ORDINANCE

PURPOSE

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 in order to prevent water pollution, protect the water resources of Iowa County, and protect the general welfare and health of the public.

WHERE DOES THIS APPLY?

After the effective date of this Ordinance, it shall apply to all of the unincorporated areas within Iowa County.

WHO DOES THIS APPLY TO?

Any person who constructs, installs, reconstructs, enlarges, closes or substantially alters an animal waste storage facility; or who employs another person to do the same on land subject to this Ordinance.

WHAT THIS APPLIES TO

1. The location, design and construction of **NEW** animal waste storage structures, waste storage ponds and waste transfer systems.
2. The alteration of an existing structure: i.e. enlargement, closure, left idle/abandoned or altered in some way.

WHAT THIS DOES NOT APPLY TO

1. Existing animal waste storage facilities **WILL NOT** be subject to regulation under this Ordinance, unless the storage facility is reconstructed, enlarged, closed, left idle/abandoned or altered in some way.
2. This Ordinance **WILL NOT** require landowners to build waste storage structures on their farms.

STANDARDS USED (NRCS)

313 - Waste Storage Facility – engineering criteria and standards used in the design, construction, installation and utilization of manure storage units. Refer to *Manure Storage* publication (GWQ021) or *313 Waste Storage Facility Summary Sheet*

590 - Nutrient Management – please refer to *590 Nutrient Management Plan Summary*

PERMITS

A permit is required before any construction activity takes place. Each application for a permit under the Ordinance shall include a complete set of detailed construction plans, and also a Nutrient Management Plan. A certified crop consultant must develop the Nutrient Management Plan.

PERMIT FEE

All applicants shall be required to pay a non-refundable fee of \$100 at the time of application, as set by resolution.

ORDINANCE NO. _____

An Ordinance Establishing Construction Standards For Animal Waste Storage Facilities.

The Iowa County Board of Supervisors does hereby ordain as follows:

Section 1: INTRODUCTION

1.01 Authority

This Ordinance is adopted under the authority granted by sections 59.02 and 92.16, Wisconsin Statutes.

1.02 This Ordinance shall be known as the Iowa County Manure Storage Facility Ordinance and is hereinafter referred to as "**this Ordinance.**"

1.03 Findings and Declaration of Policy

The Board of Supervisors also realizes that a properly constructed and maintained system minimizes the risk of pollution to surface and ground water and therefore is in the interest of the public.

1.04 Purpose

The purpose of this Ordinance is to prevent water pollution and protect the water resources of Iowa County. In order to do this, this Ordinance will regulate the location, design, construction, installation, alteration, and abandonment of all animal waste storage facilities as well as the land application of said waste. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.

1.05 Applicability

After the effective date of this Ordinance, this Ordinance shall apply to the unincorporated areas of Iowa County. Structures that exist at the adoption date of this Ordinance will come under the regulation only if they are altered beyond their original design and construction (excluding changes in transfer system) or abandoned/left idle.

1.06 Interpretation

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

1.07 Severability Clause

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

Section 2: DEFINITIONS

- (1) "**Animal Waste**" means livestock excreta and other materials such as bedding, rain or other water, soil, hair, and other debris normally included in animal waste handling operations.
- (2) "**Animal Waste Storage Facility**" or "**Manure Storage Facility**" means a concrete, steel, or otherwise fabricated structure, or an excavated or earthen impoundment used for storage of animal or other organic waste. Falling under this Ordinance are facilities that are capable of storing a thirty consecutive day accumulation of manure, or a volume of 3500 cubic feet of manure, whichever is smaller. An animal manure stacking area for the purpose of this Ordinance is not considered an animal manure storage facility.
- (3) "**Manure Storage Stack**" means deposit of manure that is not contained. The manure is stacked in an area for less than 90 days and the soil surface has not been disturbed prior to the stacking operation.
- (4) "**Applicant**" means any person who applies for a permit under this ordinance.
- (5) "**Designee**" means an employee of the Iowa County Land Conservation Department or Iowa County Zoning Office.
- (6) "**Earthen Animal Waste Storage Facility**" means a facility constructed of earth dikes, ponds, and pits used for storage of manure.
- (7) "**Farmer**" means a person who cultivates, operates, or manages a farm for profit, either as an owner or tenant. A farm includes stock, dairy, poultry, fish, fruit, and truck farms. It also includes plantations, ranches, ranges, and orchards.
- (8) "**Idle or Abandoned Animal Waste Storage Facility**" means an animal waste storage facility which is no longer being used for its intended purpose and no longer having any additional animal waste placed into it for a period of eighteen (18) months.
- (9) "**LCD**" means the Iowa County Land Conservation Department.
- (10) "**NRCS**" means the Natural Resources Conservation Service.
- (11) "**Permit**" means the signed, written statement issued by the Iowa County Zoning Office, or its designee, under this ordinance authorizing the applicant to construct, install, reconstruct, enlarge, or substantially alter an existing animal waste storage facility and to use or dispose of waste from the facility. This permit is a construction and utilization permit to be in effect until the Iowa County Zoning Office, or its designee, determines that all of the permit requirements have been met and the constructed storage facility has met all of the Technical Guide requirements.
- (12) "**Permittee**" means any person to whom a permit is issued under this ordinance.
- (13) "**Person**" means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, state agency within Wisconsin, or federal government, or any combination thereof.

- (14) **"Saturation"** The following criteria apply:
- a. Regional High Water Table - The seasonal high free water surface of a large body of groundwater covering a region. All soil below the regional water table is saturated. Soil mottling (redoximorphic features) is not necessarily an indicator of the regional high water table, but is an indication of soil saturation.
 - b. Confined Lenses and Perched Water - Water bearing deposits of stratified lacustrine material or material laid down by glaciers between deposits of less permeable separated from the regional high water table.

(15) **"Technical Guide"** means the United States Department of Agriculture (USDA) Natural Resources Conservation Service Technical Guide as adapted by the Iowa County Land Conservation Committee. The said guide is on file at the Iowa County Land Conservation Department.

- a. **Standard 313 "Waste Storage Facility"** means a structure for temporary storage of animal wastes or other organic agricultural wastes. It does apply to waste storage ponds. Storage tanks are used for liquid and slurry wastes and may be open or covered, within or outside an enclosed housing, or beneath slotted floors.
- b. **Standard 590 "Nutrient Management"** means managing the amount, form, placement and timing of applications of plant nutrients. This standard establishes the minimum acceptable requirements for the application of plant nutrients associated with organic wastes (manure and organic by-products), commercial fertilizer, legume crops and crop residue. This plan can be done by a certified crop consultant to meet the Standard 590 requirements.

(16) **"Work Day"** shall mean Monday through Friday except for County holidays.

(17) **"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 and/or recreational use, or detrimental to fish, bird, animal, or plant life.

Section 3: ACTIVITIES SUBJECT TO REGULATION

3.01 Permit Required:

(1) Any person who locates, installs, moves, reconstructs, extends, enlarges, converts, substantially alters, or changes the use of an animal waste storage facility or parts thereof; or who employs another to do the same on land subject to this Ordinance shall be subject to the provisions of this Ordinance. The requirements of this Ordinance shall be in addition to any other ordinance or administrative rule regulating animal waste storage or applicable technical standards. In case of conflict, the most stringent provisions shall apply. Existing structures will come under the regulation of the Ordinance if they are altered beyond their original design and construction.

(2) **Idle and/or Abandoned Animal Waste Storage Facility:** Any person who owns an animal waste storage facility that has been determined by the county to be idle and/or abandoned must develop a nutrient management plan and 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 and/or abandoned. Abandonment shall be done per NRCS standards and recommendations.

(3) Re-use of an Idle and/or Abandoned Animal Waste Storage Facility: Any person wanting to re-use an animal waste storage facility after it has been determined to be idle and/or abandoned for a period of twelve (12) consecutive months shall notify the Iowa County Zoning Office to inform them of their intent. Before re-use is authorized the following procedure shall be used:

For Concrete Facilities:

- a. A visual inspection will be conducted by the LCD.
- b. If found to be structurally sound, re-use will be approved.
- c. If found to be structurally unsound, re-use will be denied.

For Earthen Facilities:

- a. Proof of facility meeting NRCS standards and specifications applicable to this ordinance must be provided to the LCD.
- b. If proof is provided that facility meets NRCS standards and specifications, re-use will be allowed.
- c. If proof cannot be provided that facility meets NRCS standards and specifications, re-use will not be allowed.

(4) Within 45 days after receiving notice of intent to re-use a facility the LCD will notify the person in writing as to the approval or denial of re-use.

3.02 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 Iowa County Zoning Office, or its designee, before beginning activities subject to regulation under this Ordinance, and complies with the requirements of the permit.

Section 4: STANDARDS

4.01 Standards for animal waste storage facilities. The standards for design and construction of animal waste storage facilities are those in Standards 313 and 634 of the Technical Guide as it existed on the date of adoption of this ordinance.

4.02 Standards for animal waste management and utilization. The standards for nutrient management of land applied animal wastes are those in Standard 590 of the Technical Guide as it existed on the date of adoption of this Ordinance.

4.03 Human household wastewater prohibited. Human household wastewater shall not be discharged into animal waste storage facilities unless provided for through other permitting processes outside of this ordinance.

4.04 Standards: Any or all standards contained or referenced in this ordinance shall be maintained and available through the Iowa County Land Conservation Department.

4.05 The LCD shall, at least once every two years, monitor the maintenance of the animal waste storage facilities and the nutrient management plans for compliance with the provisions of this Ordinance.

Section 5: APPLICATION FOR AND ISSUANCE OF PERMITS

5.01 Permit Required

A permit shall be required for any activity as described under Section 3.01 of this Ordinance. The Iowa County Zoning Office, or its designee, shall review all permit applications. Construction of any facility or activity covered by this 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 after which such a permit will be void. However, a one (1) year extension may be granted by the Iowa County Zoning Office or its designee. After this, one must reapply for another permit. Before any permitted facility can be used, a Certificate of Compliance must be issued by the Iowa County Zoning Office. See Section 5.06(d) for the Certificate of Compliance application process.

5.02 Exemption to Permit Requirements

Emergency repairs such as repairing broken pipes or equipment, leaking dikes, the removal of stoppages, or ordinary and required maintenance, may be performed without a permit at the discretion of the Iowa County Zoning Office, or its designee. If repairs will significantly alter the original design and construction of the facility, a report shall be made to the Iowa County Zoning Office, or its designee, within one (1) work day of the emergency for a determination by the Iowa County Zoning Office, or its designee on whether a permit will be required for any additional alteration or repair of the facility. The Iowa County Zoning Office or its designee's determination shall be made within five (5) work days of receiving the report.

5.03 Fees

A non-refundable permit fee, set by resolution, shall be required. Before any permit is issued, a surety bond or other means of security acceptable by the county shall be required in the **minimum** amount designated by resolution for the purposes of financing the remediation of contaminated or failed facilities.

5.04 Manure Storage Facility and Nutrient Management Plan Required

Each application for a permit under this section shall include an animal waste storage facility and nutrient management plan. Plans must be in accordance with applicable standards. Plans may be provided on behalf of the landowner by a registered professional engineer. 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:

- (1) A plan view of the facility and its location in relation to buildings within 500 feet and homes within 1000 feet of the proposed facility. The sketch shall be drawn to scale, with a scale no smaller than 1 inch = 100 feet.
- (2) The north arrow, scale of the drawing, legal description of location of the proposed facility, description and elevation of a temporary benchmark.
- (3) 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.
- (4) The location of any wells within 1000 feet of the facility.

- (5) 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 and submit a written report on the findings.
- (6) The elevation of saturation 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 saturation areas. If a body of water lies within 1000 feet of the facility, the location and distance to the body of water shall be shown for purposes of determining shoreland zoning jurisdiction.
- (8) A time schedule for construction of the facility.
- (9) Plans for nutrient management/waste utilization that conforms with USDA, NRCS's Nutrient Management (590) specification. The landowner shall sign a statement confirming that they have a thorough understanding of the plan, of the benefits of following the plan and that they will follow the plan to the best of their abilities.

(If an NRCS Soil Scientist is to be used for soil test pits, at least two weeks' notice is to be given to the LCD for scheduling purposes.)

- (10) Failure to submit any of the above plans with a permit application under this ordinance may result in rejection of the permit. Any plan submitted must also evidence that the applicant will be in compliance with all of the standards of this Ordinance in order to be approved.
- (11) If the applicant wishes to close an animal waste storage facility, the applicant must obtain a closure permit, which involves submitting a closure plan for approval by the LCD. The applicant seeking to close an animal waste storage facility must comply with all of the applicable standards of this Ordinance.

5.05 Review of Application

The Iowa County Zoning Office or its designee shall determine if the proposed facility meets the requirements of the standards set forth in Section 4 of the Ordinance. Within thirty (30) work days after receiving the completed application and permit fee, the Iowa County Zoning Office or its designee shall inform the applicant in writing whether the permit application is approved or disapproved, unless additional information or comments and/or review by an outside agency is required.

If additional information is required, the Iowa County Zoning Office or its designee shall so notify the permit applicant. The Iowa County Zoning Office or its designee has fifteen (15) work days from the receipt of the additional information in which to approve or disapprove the application.

If, in addition to the applicant's information, the Iowa County Zoning Office or its designee requires comments or review from an outside agency, the Iowa County Zoning Office or its designee has fifteen (15) work days from receipt of the comments or review from the referral agency to approve or disapprove the application.

If the Iowa County Zoning Office or its designee fails to approve or disapprove the permit application in writing within thirty (30) work days of the receipt of the permit application or additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit has been issued.

5.06 Permit Conditions

All permits issued under this Ordinance shall be issued subject to the following conditions and requirements.

- (a) Animal waste storage facilities - design, construction, management, and utilization activities as required under terms of this Ordinance.
- (b) The permittee shall give at least five (5) work days notice to the Iowa County Zoning Office or its designee before starting any construction activities authorized by this permit.
- (c) Approval in writing must be obtained from the Iowa County Zoning Office or its designee prior to any modifications to the approved animal waste storage facility plan.
- (d) After completion of the project, the applicant's engineer must submit to the Iowa County Zoning Office a certificate of completion and an as built plan that states all standards and specifications are met for the purpose of applying for a certificate of compliance. Approval or denial of the Certificate of Compliance shall be made in writing and sent to the permittee with all reasons for denial stated.
- (e) Activities authorized by this permit must be completed within one (1) year from the date of issuance after which such permit will be void. However, a one (1) year extension may be granted by the Iowa County Zoning Office or its designee. After this, one must reapply for another permit.

5.07 Permit Revocation

The Iowa County Zoning Office or its designee may revoke any permit issued under this Ordinance if the holder of the permit has misrepresented any material fact in the permit application, animal waste facility plan or nutrient management plan, or if the holder of the permit violates any of the conditions of the permit. The County will comply with Chapter 68, Wisconsin Statutes in taking any action under this section.

Section 6: ADMINISTRATION

6.01 Delegation of Authority

Iowa County hereby designates the Iowa County Zoning Office or its designee to administer and enforce this Ordinance. Violations may be enforced by issuance of a citation and/or referral to the Iowa County Corporation Counsel.

6.02 Administrative Duties

In the administration and enforcement of this Ordinance, the Iowa County Zoning Office or its designee will:

- (a) Keep an accurate record of all permit applications, manure storage facility plans, nutrient management plans, permits issued, inspections made, and other official actions.
- (b) Review permit applications and issue permits in accordance with Section 5 of this Ordinance.

- (c) Investigate complaints relating to compliance with the Ordinance. All complaints must be in writing, signed and kept on file.
- (d) Perform other duties as specified in this Ordinance.

6.03 Inspection Authority

The Iowa County Zoning Office or its designee is authorized to enter upon any land affected by this ordinance to inspect the land prior to or after issuance to determine compliance with this Ordinance. If permission cannot be received from the applicant or permittee, entry by the Iowa County Zoning Office or its designee shall be according to Sections 66.122, 66.123 and 92.07(14), Wisconsin Statutes. Refusal to grant permission to enter lands affected by this ordinance for purposes of inspection may be grounds for denial of the permit.

6.04 Enforcement Authority

The Iowa County Zoning Office or its designee is authorized to post a stop work order upon the manure storage facility that has had a permit revoked or a manure storage facility where construction is in place in violation of this Ordinance. Notice is given by posting upon the manure storage facility where the violation occurs one or more copies of a poster stating the violation, by mailing a copy of the order by certified mail to the person whose activity is in violation of this Ordinance, or by personally serving said person. The order shall specify that the activity must cease or be brought into compliance.

Any permit revocation or stop work order shall remain in effect unless retracted by the Iowa County Zoning Office or its designee or by a court of general jurisdiction. The Iowa County Zoning Office or its designee 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 and/or issue citations for any violation of this Ordinance.

The Iowa County Zoning Office or its designee is authorized to investigate any complaint against an existing permitted facility to be in violation of this ordinance. If a violation or violations are determined to exist, this property owner may be subject to a citation and/or will be referred to Corporation Counsel for future legal proceedings.

6.05 Appeals From Administrative Decisions.

(1) Authority: The Iowa County Land and Water Conservation Committee shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the LCD in administering this ordinance.

(2) Procedure: Any appeal shall be made by written request, mailed or delivered to the Iowa County Land and Water Conservation Committee. The request shall state the ground or grounds upon which it is contended that the decision should be modified or reversed. The Committee shall, as soon as possible, but within 45 days, review the determination under appeal.

(3) Statutory Administrative Review and Certiorari: The decision of the Iowa County Land and Water Conservation Committee shall be subject to further administrative review by the Iowa 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 10.0 of the Iowa County Code of Ordinances and Section 59.99 of the Wisconsin Statutes.

(4) Who May Appeal. Appeals may be taken 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 LCD in administering this Ordinance.

Section 7: VIOLATIONS

7.01 Penalties

Any person convicted of violating this Ordinance shall pay forfeiture ranging from \$10.00 to \$200.00, plus Court costs, for each violation or be subject for a citation for each violation. Each day that a violation continues shall be a separate offense.

Section 8: EFFECTIVE DATE

This Ordinance shall be in full force and effect upon adoption and posting.

RESPECTFULLY SUBMITTED BY THE COMMITTEE ON AGRICULTURE, SOIL & WATER CONSERVATION AND COMMITTEE ON ZONING, PLANNING, SANITATION AND RURAL PLANNING COMMISSION:

Chairman Vincent Limmex

Chairman Richard Scullion

LaVerne Clifton

Stephen Foye

Kenneth Wunderlin

Jacob Ehr

Diane McGuire

Dale Theobald

Robert Murphy

Glenn Thronson

**COMMITTEE ON ZONING, PLANNING,
SANITATION AND RURAL PLANNING
COMMISSION**

Evan Larsen

**THE COMMITTEE ON AGRICULTURE,
SOIL & WATER CONSERVATION**

Passed: _____, 2000

Resolution Number: _____

Whereas, authority is granted to establish construction standards for animal waste storage facilities by Sections 59.02 and 92.16, Wisconsin Statutes;

Whereas, the Iowa County Board of Supervisors did adopt the Iowa County Animal Waste Storage and Nutrient Utilization Ordinance;

Whereas, the administration and enforcement of said ordinance comes at a cost;

Whereas, this cost should be borne primarily by those in need of the service versus the general tax payer;

Whereas, it has been determined, based upon the relative expense to the administrative authority, that a permit fee of \$100.00 should offset most of the costs;

Now Therefore Be It Resolved that the Iowa County Board of Supervisors do hereby adopt this resolution setting a \$100.00 permit fee associated with the administration and enforcement of the Iowa County Animal Waste Storage and Nutrient Utilization Ordinance.

Adopted this 15 day of February, 2000


Richard Scullion
Iowa County Chairman

ATTEST:


Gregory T. Klusendorf
Iowa County Clerk

CERTIFICATION OF ADOPTION

This is to certify that the above ordinance was duly adopted by the County Board of Iowa County on the 15 day of February, 2000.


Gregory T. Klusendorf
Iowa County Clerk
Iowa County, Wisconsin