

CHAPTER 23

ANIMAL MANURE MANAGEMENT

23.01	Authority
23.02	Title
23.03	Declaration of Policy
23.04	Applicability
23.05	Interpretation
23.06	Severability
23.07	Definitions
23.08	Activities Subject to Regulation
23.09	Standards
23.10	Application for the Issuance of Permits
23.11	Permit Fees
23.12	Design Plan Requirements
23.13	Administration
23.14	Violations
23.15	Appeals

23.01 AUTHORITY. This Chapter is adopted under Wisconsin Statutes, ss. 59.02, 59.03, 59.70(20), and 92.16 and Wisconsin Administrative Code ATCP 50.56.

23.02 TITLE. This Chapter shall be known as the La Crosse County Animal Manure Management Ordinance, and is hereinafter referred to as the Chapter.

23.03 DECLARATION OF POLICY.

(1) Findings. The La Crosse County Board of Supervisors finds that improper management of animal manure and commercial fertilizers cause pollution of ground and surface waters and may result in actual or potential harm to public health, other animals, aquatic life, and the property tax base of La Crosse County.

(2) Purpose. To enhance public health, prosperity and welfare by protecting surface and ground water resources from pollution caused by the mismanagement of animal manure and commercial fertilizers.

23.04 APPLICABILITY. This section applies only in unincorporated areas of La Crosse County.

23.05 INTERPRETATION. In its interpretation and application, the provisions of this Chapter shall be minimum requirements, and shall be liberally construed in favor of La Crosse County, and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statute.

23.06 SEVERABILITY. If any section, provision, or portion of the Chapter is ruled invalid by a court of competent jurisdiction, the remainder of the Chapter shall not be rendered ineffective.

23.07 DEFINITIONS.

(1) "Abandonment" an operation where a livestock facility is located ceases operations, or manure has not been added or removed from the facility for a period of 24 months.

(2) "Adequate Sod or Self-Sustaining Vegetative Cover" means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

(3) "Animal Feedlot" means a barnyard, exercise area, or other outdoor area where livestock are concentrated for feeding or other purposes and self-sustaining vegetative cover is not maintained. "Animal Feedlot" does not include a winter grazing area or a bare soil area such as a cattle lane or a supplemental feeding area located within a pasture, provided that the bare soil is not a significant source of pollution to waters of the state.

(4) "Applicant" means any person who applies for a permit under this Chapter.

(5) "Barnyard Runoff Control System" means a system of facilities or practices used to contain, divert, retard, treat, or otherwise control the discharge of runoff from outdoor areas of concentrated livestock activity, which may include those components listed in Wisconsin Administrative Code, ATCP 50.64(1), or any amendments thereto.

(6) "Department of Land Conservation" also referred to as "Department" means the enforcing authority of this Chapter.

(7) "Direct Runoff" includes any of the following:

(a) Runoff from a feedlot that can be predicted to discharge a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water.

(b) Runoff of stored manure, including manure leachate, that discharges a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water.

(c) Construction of a manure storage facility in permeable soils or over fractured bedrock without a liner designed in accordance with Wisconsin Administrative Code., NR 154.04 (3).

(d) Discharge of a significant amount of leachate from stored manure to waters of the state.

(8) "Livestock Operation" means a feedlot or other facility or pasture where animals are fed, confined, maintained or stabled.

(9) "Livestock Structure" means a building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock.

(10) "Manure" means livestock excreta and includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.

(11) "Manure Storage Facility" means a facility as defined in Wisconsin Administrative Code, ATCP 50.62(1)(c), or any amendments thereto.

(12) "Manure Storage Structure" means a structure as defined in Wisconsin Administrative Code, ATCP 50.62(1)(d), or any amendments thereto.

(13) "New Manure Storage Facility, Livestock Operation or Animal Feedlot" means a facility, operation or feedlot constructed or substantially altered after October 1, 2002.

(14) "Nutrient Management Plan" means any of the following:

(a) A plan required under Wisconsin Administrative Code, ATCP 50.04 (3) or 50.62 (5)(f).

(b) A farm nutrient plan prepared or approved, for a landowner, by a qualified nutrient management planner.

(15) "Operator" means a person responsible for the oversight or management of equipment, facilities or livestock at a livestock operation, or is responsible for land management in the production of crops.

(16) "Pasture" means land on which livestock graze or otherwise seek feed in a manner that maintains the vegetative cover over the grazing area. Pasture may include limited areas of bare soil such as cattle lanes and supplemental feeding areas provided the bare soil areas are not significant sources of pollution to waters of the state.

(17) "Substantially Altered" means a material change in construction or use of a livestock structure or manure storage structure, including any of the following material changes:

(a) An increase in the capacity of a manure storage facility.

(b) The addition or modification of a liner to a manure storage facility.

(c) Any change to an existing manure transfer system that discharges to a manure storage facility.

(d) An increase of more than 20% in the area or capacity of a livestock structure used to house, feed or confine livestock, or to store livestock feed.

(e) Any change in type or increase in source volume that is discharged to a manure storage facility. This includes a change in type due to a change of livestock management from one species of livestock to another.

(18) "Unconfined Manure Pile" means a quantity of manure at least 175 cubic feet in volume that covers the ground surface to a depth of at least 2 inches, but does not include any of the following:

(a) Manure that is confined within a manure storage facility, livestock housing structure or barnyard runoff control facility.

(b) Manure that is covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater.

(19) "Water Quality Management Area" or "WQMA" means:

(a) The area within 1,000 feet from the ordinary high water mark of navigable waters that consist of a lake, pond or flowage, except that, for a navigable water that is a glacial pothole lake, the term means the area within 1,000 feet from the high water mark of the lake;

(b) The area within 300 feet from the ordinary high water mark of navigable waters that consist of a river or stream;

(c) A site that is susceptible to groundwater contamination; or

(d) A site that has the potential to be a direct conduit for contamination to reach groundwater.

(20) "Waters of the State" has the meaning given in s. 283.01 (20), Wis. Stats.

23.08 ACTIVITIES SUBJECT TO REGULATION

(1) Activities Requiring a Permit

(a) Any person who locates, installs, or substantially alters a manure storage structure or parts thereof, or who employs another to do the same, on land subject to this Chapter, shall be subject to the provisions of this section.

(b) Any person who locates, installs, or substantially alters a new livestock operation, or employs another to do the same, on land subject to this section, shall be subject to the provisions of this Chapter.

(2) Activities Regulated But Not Requiring a Permit

(a) Manure Management Prohibitions

1. A livestock operation shall have no overflow of manure storage facilities.

2. A livestock operation shall have no unconfined manure pile in a Water Quality Management Area.

3. A livestock operation shall have no direct runoff from an animal feedlot or stored manure into the waters of the state.

4. A livestock operation may not allow unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod or self-sustaining vegetative cover.

(b) Any person who applies animal manure or other nutrients to agricultural fields shall do so in accordance with a certified, annual nutrient management plan.

(3) Failing and Abandoned Existing Facilities

(a) Any existing manure storage facility that poses an immediate or imminent threat to public health, surface water quality, fish and aquatic life or groundwater quality due to structural failure or leakage, on land subject to this ordinance, shall be properly closed or reconstructed in accordance with the provisions of this Chapter.

(b) Closure of a manure storage facility shall occur when an operation where the facility is located ceases operations, or manure has not been added or removed from the facility for a period of 24 months. Manure facilities shall be closed in a manner that will prevent future contamination of groundwater and surface waters.

23.09 STANDARDS

(1) The standards for design and construction of manure storage facilities and transfer systems, storage facility closure, animal barnyard runoff control, nutrient management, streambank protection and stabilization and soil and water conservation shall be the current standards found in the USDA Natural Resources Conservation Service Field Office Technical Guide. All adopted policies of the Planning, Resources and Development Committee that refer to this section and incorporate these standards are located in the Department of Land Conservation office.

(2) The Standards of the USDA Natural Resources Conservation Service Field Office Technical Guide are adopted and by reference, made a part of this section as if fully set forth herein. Any future amendment, revision, or modification of the standards incorporated herein is made a part of this section, unless otherwise acted upon by the Planning, Resources and Development Committee.

23.10 APPLICATION FOR THE ISSUANCE OF PERMITS

(1) No person shall undertake an activity subject to this Chapter without obtaining a permit from the Department of Land Conservation prior to beginning the proposed activity. Applications for permits for the substantial alteration, modification, closure or construction of a new manure storage facility, livestock operation or animal feedlot is available from the office of the Department of Land Conservation.

(2) All permits issued under this Chapter shall be issued subject to the following conditions;

(a) All activities authorized by permit shall be carried out in accordance with a design and construction plan(s) signed by a Wisconsin licensed professional engineer or a person with the appropriate Department of Agriculture, Trade and Consumer Protection – Agricultural Practitioner Certification and in compliance with applicable standards as approved by the Department of Land Conservation.

(b) Permit fees are to be submitted with the permit application.

(c) A Construction Certificate shall be issued to the permit applicant after the Department has completed and approved a review of the design plan of the proposed activity. No construction may be started until the Construction Certificate has been issued by the Department.

(d) The permittee agrees to submit to the Department an annual nutrient management plan for all lands where animal manure is applied that is generated from the permitted livestock operation.

(e) A permittee shall notify the Department at least three (3) days before starting any construction activity authorized by the permit.

(f) Any modifications to a design or construction plan must first be approved by the Department.

(g) Prior to use, a permit applicant must submit documentation that clearly shows that construction, alteration or closure of a manure storage facility or livestock operation was done so in compliance with the approved plans.

(3) Emergency repairs to an animal manure storage facility may be performed without a manure storage facility permit. The Department shall be notified immediately of any emergency repair work being conducted on any manure storage facility.

(4) The Department may revoke any permit issued under this Chapter if the holder of the permit has misrepresented any material fact in the permit application or the design plan, or if the holder of the permit violates any of the conditions of the permit.

23.11 PERMIT FEES. Fees charged by the Department of Land Conservation shall be set annually by the La Crosse County Board of Supervisors during the annual County budget process in November of each year and are subject to change.

23.12 DESIGN PLAN REQUIREMENTS. Each application for an Animal Manure permit under this section must include the required design and construction plan components. The required design plan components are listed on the appropriate application form.

23.13 ADMINISTRATION

(1) La Crosse County hereby designates the Department of Land Conservation as the agency to administer and enforce this Chapter. As part of this designation, the Department shall;

(a) Keep an accurate record of all permit applications, animal manure facility plans, animal feedlot plans, animal manure storage facility abandonment plans permits issued, inspections made and other official actions.

(b) Review permit applications in accordance with Section 23.10(b) of this Chapter.

(c) Inspect manure storage facility, animal feedlot construction, and manure storage facility abandonment to insure the facility is being constructed or abandoned according to an approved plan.

(d) Investigate complaints relating to compliance with this Chapter.

(e) Monitor the adequacy of manure storage facilities, including compliance with nutrient management plans.

(f) Perform other duties as specified in this Chapter.

(2) Inspection Authority. Pursuant to section 92.07(4), Wis. Stats., the Department is authorized to enter upon lands affected by this Chapter to insure compliance. Persons refusing Department access to any site may be grounds for permit denial or revocation.

(3) Landowner Documentation. The Department is authorized to require all landowners in districts zoned for agricultural use as defined in Chapter 17 La Crosse County Zoning Code, to provide agricultural performance standard information to the Department upon request. The agricultural performance standard information may include the number and type of animal units housed on a livestock operation as well as other documentation that may assist the Department in determining an operation's compliance with the State's Agricultural Performance Standards and Prohibitions as described in Wisconsin Administrative Code, NR 151.

23.14 VIOLATIONS

(1) Penalty. Any person who violates, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this Chapter, shall be subject to a forfeiture of not less than \$250 plus costs of prosecution of each offense. Each day that a violation occurs shall constitute a separate offense.

(2) The Department is authorized to issue notices of noncompliance, stop work orders, revoke permits and seek penalties or injunctions against any person who violates this Chapter.

23.15 APPEALS

(1) Authority. Under the authority of Chapter 68, Wisconsin Statutes, the La Crosse County Planning, Resources and Development Committee shall hear and decide all appeals where it is alleged that there is error in any order, requirement, decision, or determination by the County Department of Land Conservation in administering this Chapter.

(2) Procedure. The rules, procedures duties and powers of the Planning Resources and Development Committee and Chapter 68, Wisconsin State Statutes, shall apply to this Chapter.

(3) Who May Appeal. Appeals may be taken by any person having a substantial interest which is adversely affected by this order, requirement, decision, or determinations made by the Department of Land Conservation.