

CHAPTER 23

ANIMAL WASTE MANAGEMENT

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23.01 AUTHORITY. This Chapter is adopted under Wis. Stats., ss. 59.02, 59.03, 59.70(20), 92.10, 92.15 and 281.16.

23.02 TITLE. This Chapter shall be referred to as the La Crosse County Animal Waste 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 waste causes pollution of ground and surface waters, and may result in actual or potential harm to public health, other animals, aquatic life, and consequently to the property tax base of La Crosse County.

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

23.04 APPLICABILITY. This chapter applies to the unincorporated areas of La Crosse County for impoundments, and to Water Quality Management Areas within the unincorporated areas for feedlots, mismanaged pastures and unconfined stacks. Feedlots existing prior to the effective date of this chapter shall be construed as being in compliance with this chapter until a site evaluation is made.

(1) 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.

(2) Severability Clause. If any section, provision, or portion of the chapter is ruled invalid by a court, the remainder of the chapter shall not be rendered ineffective.

23.05 DEFINITIONS.

(1) "Abandoned Impoundment" means an animal waste impoundment not used for three consecutive years.

(2) "Animal Unit" means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in Wisconsin Administrative Code, NR 243, or any amendments thereto, which deal with animal waste management, animal types or equivalency factors. Using a 1,000 lb. steer as a standard, the United States Environmental Protection Agency has calculated the number of animals which produce an equivalent amount of animal waste, which is one animal unit.

(3) "Animal Waste" means livestock manure or other materials such as bedding, milk house waste or other water, soil, hair, feathers or debris normally included in animal waste handling operations.

- (4) “Animal Waste Storage” consists of either;
- (a) “Impoundment” means any earthen, concrete, wooden, steel or otherwise fabricated structure intended to hold an accumulation of animal waste, or
 - (b) “Stack” means a stored accumulation of mechanically placed animal waste.
- (5) “Applicant” means any person who applies for a permit under this Chapter.
- (6) “Department of Land Conservation”, referred to as the “department”, means the staff for enforcing and providing technical and administrative support for this Chapter.
- (7) “Direct Runoff” means surface water flow from a feedlot that exceeds five pounds of total phosphorus per year as determined by a Land Conservation Committee approved model.
- (8) “Feedlot” means a lot or building, or combination of contiguous lots and buildings, intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which animal waste may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy facilities, swine facilities, beef lots and barns, horse stalls, mink ranches and domesticated animal zoos, shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.
- (9) “Impoundment”, see Animal Waste Storage.
- (10) “Land Conservation Committee”, referred to as the “LCC” means the Committee of the La Crosse County Board which oversees the Department of Land Conservation.
- (11) “Land Conservation Director” means the Director for the Department of Land Conversation.
- (12) “Navigable Waters” means all natural inland lakes, streams, ponds, flowages, and the Wisconsin portion of the Mississippi River and other waters within the corporate limits of La Crosse County which are navigable under the laws of the State of Wisconsin. The definition of “Navigable Waters” or “Navigable Waterway” used by the Wisconsin Department of Natural Resources shall be applicable.
- (13) “Manure Management Plan” means a written plan and map, approved by the department detailing the amount, form, placement, and timing of applied animal waste.
- (14) “New Impoundment or Feedlot” means any impoundment or feedlot constructed or operated after the effective date of this ordinance.

(15) “Notice of Noncompliance” means an order under which an activity subject to regulation may continue to operate subject to a timeframe for compliance.

(16) “Mismanaged Pastures” mean those pastures within 1000 feet of the ordinary high-water mark of a lake, pond or flowage, or within 300 feet from the ordinary high-water mark of navigable waters of a river or stream, where confinement of livestock for the purpose of feeding, browsing or loafing prevents the maintenance of adequate sod cover causing bank erosion.

(17) “Ordinary High Water Mark” means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristics.

(18) “Permittee” means a person to whom a permit is issued under this Chapter.

(19) “Person” means any individual, corporation, firm, partnership, joint venture, agency, unincorporated association, or unit of government.

(20) “Pre-Existing Impoundment or Feedlot” means any impoundment or feedlot existing prior to and after the effective date of this ordinance.

(21) “Stack”, see Animal Waste Storage.

(22) “Stop Work Order” means an order to cease any activity in the operation of, or construction of an activity subject to regulation.

(23) “Substantial Alteration” means any modification to an impoundment that alters the integrity of the liner or structure; or the integrity, capacity, or design requirements of a feedlot.

(24) “Unconfined Stack” means a stack from which runoff leaves its perimeter, or is not confined to its immediate area.

(25) “Water Pollution” according to s. 11.29 of the La Crosse County Health Code, means contaminating or rendering unclean or impure ground or surface waters or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life.

(26) “Water Quality Management Area” means:

(a) Area within 1,000 feet of the ordinary high water mark of navigable waters that consist of a lake, pond or flowage.

(b) Area within 300 feet of the ordinary high water mark of the navigable waters of a river or stream.

(c) Area with potential to be direct conduits for groundwater contamination.

(d) Area of direct runoff from animal waste to surface water.

23.06 ACTIVITIES SUBJECT TO REGULATION.

(1) Animal Waste Storage

(a) Unconfined Stacks. Such stacks are prohibited within Water Quality Management Areas, or in areas of concentrated flow where the drainage area is one acre or greater, unless a stack location dimension and runoff plan within a Water Quality Management Area has been approved and is on file with the department.

(b) Impoundments

1. Siting, design and construction.
2. Substantial alterations.
3. Breeches or overflows from pre-existing impoundments.
4. Re-use of abandoned pre-existing impoundments after the effective date of this chapter.

(2) Feedlots. No direct runoff is allowed within Water Quality Management Areas.

(3) Mismanaged Pastures. Such pastures are prohibited within Water Quality Management Areas defined in Section 23.05(25)(a) or (b).

23.07 STANDARDS, SPECIFICATIONS AND POLICIES. Compliance with this Chapter shall be through LCC approved standards, specifications and policies. Standards and specifications are minimums. Additional standards and specifications may be required in Water Quality Management Areas where shallow soil to bedrock, highly fractured bedrock, drainage to sinkholes or similar conditions exist. The standards or specifications for this chapter are listed in the Appendix, which shall be kept on file with the department.

23.08 PERMITS. The department accepts applications for feedlot and impoundment permits. Permits are required for new impoundments and feedlots within Water Quality Management Areas. No permit is required for a pre-existing feedlot until after a site evaluation and determination of compliance is made. Requirements of this Chapter shall be in addition to any other rules or provisions regulating animal waste. In the case of conflict, the most stringent provisions shall apply.

(1) Permit Applications.

(a) Feedlots

1. Pre-existing. Any person or the department may initiate an application.

2. New.

a. An application is required.

b. A permit application shall include a fee and plan.

c. Within (45) days of receiving an application, fee, and site plan, the department shall inform the applicant in writing whether the application is approved or denied. If additional information is required, the department, within thirty (30) days from the receipt of the additional information, must approve or reject the application.

(b) Impoundments.

1. An application for a permit is required.

2. The application shall include a fee and a plan.

3. The plan shall be certified as meeting the requirements of this chapter by an agricultural or civil engineer registered in the State of Wisconsin, or by a Wisconsin Department of Agriculture, Trade and Consumer Protection or Natural Resource Conservation Service engineering practitioner.

4. Within (45) days of receiving an application, plan and fee, the department shall inform the applicant in writing whether the application is approved or denied. If additional information is required, the department, within (45) days from the receipt of the additional information, must approve or reject the application.

(2) Permits Granted.

(a) Feedlots. Permit conditions:

1. Pre-existing.

a. An application is on file with the department.

b. The site has been evaluated by the department.

c. The feedlot complies with this chapter.

d. A notice of noncompliance issued, and compliance achieved.

2. New.

- a. An approved application is on file with the department.
- b. The site has been evaluated by the department.
- c. No construction has begun prior to the issuance of a permit.
- d. No operation has begun prior to the issuance of a Notice of Noncompliance when warranted, and where new ownership occurs.
- e. The feedlot complies with the chapter.

(b) Impoundments. Permit conditions:

- 1. An approved application is on file with the department.
- 2. No construction has begun prior to the issuance of a permit.
- 3. No operation has begun prior to the issuance of a notice of noncompliance where new ownership occurs.
- 4. 5 days notice is given to the department prior to any construction activity.
- 5. Permits are void if construction is not completed within 18 months of the permit issue date.
- 6. Extensions of up to one year may be granted by the department upon written request from the permittee.
- 7. Prior to use, an agricultural or civil engineer registered with the State of Wisconsin, or an engineering practitioner certified by the State Department of Agriculture, Trade and Consumer Protection, or Natural Resource Conservation Service shall certify on forms provided by the department that the impoundment was installed as planned, including as-built dimensions and design changes made during construction.

(3) Permit Exceptions.

- a. Pre-existing impoundments, except where a breach or overflow occurs.
- b. Routine maintenance.
- c. Emergency equipment repairs.

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(4) Permit Fees. Fees shall be required for new or breached impoundments and new feedlots and shall be non-refundable. Permit fees for new or breached impoundments shall be \$50.00. Permit fees are required for new feedlots for survey, design or other technical assistance provided by the department. Fees for such new feedlots are as follows:

Animal Units	300-999	\$150.00
Animal Units	1,000 or greater	\$200.00

23.09 IMPOUNDMENT PLAN CONTENTS. Plan contents shall include:

- (1) Existing and anticipated numbers, and types of animals and animal units.
- (2) Site maps drawn at a scale of not less than (1) inch equals (100) feet of the impoundment location including identification of all buildings, navigable and intermittent streams, and wetlands or water bodies within one thousand (1000) feet of the proposed impoundment.
- (3) Structural details, including but not limited to dimensions, cross sections, concrete thickness, reinforcement schedules, and thickness and placement of groundwater protection liners.
- (4) Well locations within three hundred (300) feet of the impoundment.
- (5) Soil test pits, soil depth boring locations, and soil descriptions to a depth of at least five (5) feet below the planned bottom of the impoundment, or to bedrock if at a lesser depth.
- (6) Groundwater or bedrock elevations if encountered in the soil profile, and the date of such determinations.
- (7) Provisions for drainage and control of runoff to prevent pollution of surface and ground water and the location and distance to water bodies.
- (8) Drawing scale and associated keys.
- (9) Timetables for construction.
- (10) Description of methods for transferring animal waste.
- (11) Plans for abandonment.
- (12) A LCC approved Manure Management Plan.
- (13) Other additional information necessary to comply with this Chapter.

23.10 ADMINISTRATION. The Land Conservation Director shall administer and enforce this chapter.

(1) Administration Duties. The department shall:

- (a) Keep accurate records of all official actions.
- (b) Review plans and insure compliance with this Chapter.
- (c) Investigate complaints relating to compliance with this Chapter.
- (d) Provide technical and financial assistance to the extent available.
- (e) Monitor permitted activities for compliance with this Chapter.

(2) Inspection Authority. Pursuant to Wis. Stats., s. 92.07(14), 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 areas zoned Agricultural "A", Exclusive Agricultural, Transitional Agricultural, and Agricultural "B" zoning districts to provide agricultural performance standard information to the department, which information shall include documentation regarding the number of animal units at livestock facilities as of May 1, 2006, as referenced in s. 17.36(11a) of this Code, and any other documentation to facilitate administration of the department's duties in these agricultural areas.

23.11 ENFORCEMENT.

(1) Enforcement Authority.

(a) 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. The department shall provide written notification of the reasons for the revocation.

(b) A permit revocation or stop work order shall remain in effect until retracted by the department, LCC, or court of general jurisdiction.

(c) The department director is authorized to refer violations or enforcement actions to the District Attorney. The department may request the District Attorney to obtain a cease and desist order, or any other form of injunctive relief as needed.

(d) The department shall retract a stop work order, a notice of noncompliance, or the revocation of a permit upon compliance with this chapter.

(2) Notices of Noncompliance.

- (a) Issued after a site evaluation by the department.
- (b) Issued after a determination that a violation of this chapter exists.

(c) Notices allow activities subject to regulation to exist or continue, but subject to compliance prior to timeframes specified in the notice.

(d) Notices specify portions of this chapter under which the violation occurs.

(e) Notices may be extended to allow for compliance with this chapter.

(3) Stop Work Orders.

(a) A notice of noncompliance has expired.

(b) Only actions related to an activity subject to regulation under this ordinance shall be ceased.

(c) Activities subject to regulation are being carried out without a permit.

(d) The severity of the runoff from the activity subject to regulation is such that a stop work is warranted.

(e) 48 hours after posting a stop work order where conditions threaten public health, safety or welfare, or where the potential for severe offsite damage warrants immediate attention, the department may notify the violator of the county's intent to perform work necessary to comply with this chapter.

(4) Citations. Any person who violates any provision of this chapter is subject to a citation for forfeiture of not less than \$50.00 nor more than \$500.00, plus costs of prosecution for each violation. Each day that a violation exists shall be a separate offense.

(5) Injunctions. As a substitute for, or in addition to forfeiture actions, La Crosse County may seek enforcement of any part of this Chapter by court actions seeking injunctions or restraining orders.

23.12 APPEALS.

(1) Procedures.

(a) The procedures under Chapter 68 of the Wisconsin Statutes shall apply. The department director shall act as the initial appeal authority pursuant to Wis. Stats., s. 68.09(2). Any person having a substantial interest, which is adversely affected by the order, requirement, decision or determination made by the department may appeal to the department director. A written appeal shall be submitted to the department director on forms provided within 30 days of the determination appealed from. The request shall specify written evidence and the reasons for the request, including which requirements from this chapter are involved. A written decision shall be mailed to the appellant within 30 days of the appeal. The decision will affirm, deny, or modify the initial determination.

(b) If a person wishes to appeal the decision of the department director, a written appeal must be made within 30 days of the date of the decision. Any such appeal will be heard by the LCC. The provisions of the Wis. Stats., ss. 68.11 and 68.12 shall govern any hearing and decision to occur under this subsection.

- (c) The granting of an appeal shall:
1. Be consistent with the spirit and purpose of this chapter.
 2. Not consider a request that may lead to failure of an impoundment or feedlot, or cause significant water pollution or offsite impacts.
 3. Be due to unique circumstances, not to the general conditions of the area.
 4. Not be granted for a self-created hardship.
 5. Not be granted solely on economic gain or loss.
 6. Not be granted solely because conditions existed prior to the effective date of this Chapter.