

ORDINANCE NO. 794

AN ORDINANCE AMENDING CHAPTER 13, SECTION 13.02, ENVIRONMENT, CODE OF ORDINANCES, DODGE COUNTY, WISCONSIN.

WHEREAS, Section 92.16 of the Wisconsin Statutes permits a county to enact an ordinance requiring manure storage facilities constructed after July 2, 1983, to meet the technical standards of the county and rules of the Department of Agriculture, Trade and Consumer Protection; and,

WHEREAS, the Dodge County Land Conservation Committee has studied the current Dodge County Animal Waste Storage and Nutrient Utilization Ordinance, and has determined that the ordinance should be amended to secure the protection of the County's water resources and public health and safety;

SO, NOW, THEREFORE,

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF DODGE DOES ORDAIN AS FOLLOWS:

Section 1. Section 13.02 of the Code of Ordinances, Dodge County, Wisconsin, is hereby repealed and recreated as follows:

(A) INTRODUCTION

- (1) Authority. This section is adopted under authority granted by §§59.70(1) and 92.16 of the Wis. Stats.
- (2) Title. This ordinance shall be known as, referred to and may be cited as the Dodge County ~~Animal Waste~~ **Manure** Storage and Nutrient Utilization Ordinance and is hereinafter referred to as the ordinance.
- (3) Findings and Declaration. The Dodge County Board of Supervisors finds that storage of ~~animal waste~~ **manure** in storage facilities not meeting technical design and construction standards may cause pollution of the surface and groundwaters of Dodge County, and may result in actual or potential harm to the health of county residents and transients, to livestock, aquatic life and other animals and plants, and to the property tax base of Dodge County. The Dodge County Board of

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Supervisors also finds that improper management of ~~animal waste~~ **Manure Storage Facilities**, including improper land application of stored ~~animal waste~~, **manure** may cause pollution of the ground and surface waters of Dodge County. **The Dodge County Board of Supervisors also finds that manure storage facilities left improperly closed over time may cause pollution of surface and ground waters, and may cause unsafe conditions to county residents and transients if not closed using appropriate technical standards and specifications.** The Dodge County Board of Supervisors further finds that the technical standards developed by the U.S.D.A. Natural Resources Conservation Service and adopted by the Dodge County Land Conservation Committee provide effective, practical and environmentally safe methods of storing and managing **manure** ~~animal wastes~~.

- (4) **Purpose.** The purpose of this ordinance is to regulate the location, design, construction, alteration, **closure** and use of all ~~animal waste~~ **manure** storage facilities; the transfer of ~~wastes~~ **manure** into storage facilities, and the **proper** utilization of ~~wastes~~ **manure** from storage facilities covered by this ordinance; in order to prevent water pollution, and thereby protect the health and safety of residents and transients, prevent the spread of disease, and promote the prosperity and general welfare of the citizens of Dodge County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.
- (5) **Applicability.** This ordinance applies to all the unincorporated areas of Dodge County. Facilities constructed prior to adoption of this ordinance shall be exempt, except as indicated in Subsection (C) (3) of this ordinance.
- (6) **Interpretation.** In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Dodge County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (7) **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.**

(B) DEFINITIONS

~~Animal waste storage facility. A concrete, wooden, steel or otherwise fabricated structure, or an excavated or earthen impoundment used for storage of animal waste. Installation of an animal waste reception tank, and/or discharge pipe will be considered a waste storage facility for purposes of this ordinance.~~

Applicant. Any person who applies for a permit under this ordinance.

Certificate of Use. The written authorization issued by the Dodge County Land Conservation Department that allows a permittee to begin using, and continue using, a new or substantially altered manure storage facility. A Certificate of Use issued under this ordinance remains in effect for as long as a manure storage facility is being used and operated, unless revoked due to noncompliance with the Certificate of Use conditions.

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DATCP. The Wisconsin Department of Agriculture, Trade & Consumer Protection.

Emergency Response Plan. **A written plan that identifies action steps to be taken, including names and phone numbers of key persons or organizations to contact, in the event of a manure spill, discharge or other runoff event.**

Land Conservation Committee. The committee made up of Dodge County Board members and others which, by authority of Chapter 92, Wisconsin Statutes, guide soil & water conservation activities of the Dodge County Land Conservation Department.

Land Conservation Department or LCD. The department of Dodge County government which is responsible for administering and enforcing this ordinance.

Livestock. Domestic animals, such as cattle, horses, sheep, hogs, poultry, etc.

~~Animal Waste.~~ **Manure.** **Livestock excreta.** **Manure includes livestock and other materials such as bedding, water rain, or other water, soil, hair, feathers and other debris that becomes intermingled with livestock excreta in normal manure handling operations.** ~~normally included in animal waste handling operations.~~

Manure Assessment Plan. **A written plan, prepared by a person qualified under ATCP 50.48 to prepare nutrient management plans, which evaluates and determines if the amount and type of manure that will be produced on the permit applicant's farm can be properly and safely applied to available cropland so as to not cause surface water and/or ground water pollution.**

Manure Storage Facility. **One or more manure storage structures.** **Manure Storage 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.** **A manure storage facility does not include equipment used to apply manure to land.**

Manure Storage Structure. **A manure storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure to contain manure and other animal or agricultural wastes.** **A manure storage structure does not include equipment used to apply manure to land.**

Manure Storage Facility Closure. **The removal and proper disposal of accumulated manure and proper abandonment of a manure storage facility in accordance with Technical Standard 360.**

NRCS. The Natural Resources Conservation Service, an agency of the United States Department of Agriculture.

Nutrient Management Plan. A written plan detailing the amount, form, placement and timing of

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application of plant nutrients, including ~~animal waste~~ **manure to optimize crop uptake of available nutrients and to minimize the movement of nutrients to surface and groundwater.**

Nutrients. Plant nutrients derived from commercial fertilizers, manure, organic wastes, soil reserves, legumes or other sources.

Permit. The signed, written statement issued by the Dodge County Land Conservation Department under this ordinance authorizing the applicant to construct **a new manure storage facility**, ~~install, reconstruct, enlarge or~~ substantially alter an **existing manure** ~~animal waste~~ storage facility, **or close an idled or abandoned manure storage facility.**

Permittee. Any person to whom a permit is issued under this ordinance.

Person. Any individual, corporation, partnership, **cooperative association**, joint venture, trust, limited liability corporation, agency, unincorporated association, municipal corporation, county or state agency within Wisconsin, the federal government, **or other legal organization or entity**, or any combination thereof that owns, rents, leases, or has other interest in land being regulated under this ordinance.

Substantially Alters. A change initiated by an owner or operator that results in a relocation of an existing manure storage facility or significant changes to the size, depth, or configuration of a manure storage facility including but not limited to:

(a) Replacement of a manure storage facility liner.

(b) Removal, relocation, and replacement of the nature and size of the retaining walls of the manure storage facility.

(c) An increase in the volumetric capacity or area of a manure storage facility by greater than 10%.

(d) A change in a structure or facility related to a change in livestock management from one species of livestock to another such as cattle to poultry.

Technical ~~g~~Guide. The current Wisconsin version of the United States Department of Agriculture (USDA) Natural Resources Conservation Service Technical Guide as adopted by the Dodge County Land Conservation Committee. **The Technical Guide can be accessed through the USDA-NRCS website.**

Technical Standard. A numbered section in the Technical Guide.

Water pollution. 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.

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Working Day. A calendar day, except Saturdays, Sundays and County, State and Federal recognized legal holidays.

(C) **ACTIVITIES SUBJECT TO REGULATION**

- (1) General Requirement Any person who ~~designs, or constructs a new animal waste~~ **manure storage facility or installs, reconstructs, enlarges or substantially alters an existing manure storage facility, including the installation of any manure storage facility associated with a solid/liquid waste separation system and/or a waste treatment system; possesses an idle manure storage facility or closes a manure** ~~an animal waste storage facility;~~ **and removes and land applies manure stored in a manure storage facility or any portion of a manure storage facility that was constructed after the effective date of this ordinance;** or who employs another person to do the same on land subject to this ordinance shall be subject to the provisions of this ordinance.
- (2) Manure Storage Facility Closure. **A manure storage facility must be closed if manure has not been added to the facility for a period of 24 months. The closure must comply with the requirements of Technical Standard 360. The Land Conservation Department may exempt a manure storage facility from the closure requirement if the owner or operator can produce engineering designs or construction data to prove that the facility meets current Technical Standards, appropriate safety devices are installed, the owner has demonstrated an anticipated future use for the facility, and the owner agrees that all waste and waste-saturated soils will be removed from the facility within 36 months following the last date on which any manure was added to the facility.**
- (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 Dodge County Land Conservation Department before beginning activities subject to regulation under this ordinance, ~~and complies with the requirements of the permit,~~ **receives a Certificate of Use prior to operating or using a new or substantially altered manure storage facility permitted under this ordinance, and complies with the requirements of the Certificate of Use.** For those ~~animal waste~~ **manure** storage facilities ~~where~~ **being designed, constructed, or substantially altered under a permit issued under the Dodge County Animal Waste Storage and Nutrient Utilization Ordinance as adopted on May 20, 1997** ~~construction was already in progress prior to the passage of this ordinance;~~ construction may proceed to completion without needing a **new** permit under this ordinance. ~~provided that construction is substantially completed within twelve (12) months of ordinance adoption.~~ **If construction is not substantially completed within the two (2) year time frame allowed under an existing permit, twelve (12) months, a new permit will be required under to comply with the provisions of** this ordinance to continue construction.

(D) **STANDARDS**

- (1) **Dodge County adopts the conservation practice technical standards promulgated by the United States Department of Agriculture, Natural Resources Conservation Service,**

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Wisconsin Field Office Technical Guide and by the Wisconsin Department of Natural Resources. ~~Animal Waste Storage Facilities. All~~ **Technical** standards and specifications for design, construction and management of ~~animal waste~~ **manure** storage facilities are those in ~~Technical Standard 425 (Waste Storage Pond), Standard 313 (Waste Storage Structures Facility), and Technical Standard 358~~ **634 (Waste Manure Transfer), Technical Standard 632 (Solid/Liquid Waste Separation Facility), Technical Standard 629 (Waste Treatment), and Technical Standard 382 (Fence)** of the Technical Guide. **Technical standards and specifications for design and construction for closure of manure storage facilities are those in Technical Standard 360 (Closure of Waste Impoundments) of the Technical Guide. Technical standards and specifications for the preparation and implementation of Nutrient Management Plans are those in Technical Standard 590 (Nutrient Management) of the Technical Guide.** Construction specifications referenced within the above listed standards shall also be adhered to.

~~(2) Nutrient Management. The standards for nutrient management of land applied animal wastes are those in Standard 590 of the Technical Guide.~~

(2) Future amendments to Standards 313, 360, 382, 590, 629, 632 and 634 of the Technical Guide are incorporated by reference as if fully set forth herein and made part of this ordinance, unless otherwise acted upon by the Dodge County Board of Supervisors.

(3) Variances. Variances from these standards can only be granted through an appeal by the applicant in accordance with Section **§ H** of this ordinance unless otherwise acted upon by the Land Conservation Committee.

(4) Human wastewater shall not be discharged into ~~animal waste~~ **manure** storage facilities.

(E) APPLICATION FOR AND ISSUANCE OF PERMITS

(1) **Permit Required.** Except as hereinafter provided, no person shall undertake an activity subject to this ordinance without first obtaining ~~an ANIMAL WASTE~~ **a MANURE STORAGE FACILITY PERMIT, a CERTIFICATE OF USE, or a MANURE STORAGE FACILITY CLOSURE PERMIT** from the Dodge County Land Conservation Department. The requirement of this Ordinance shall be in addition to any other ordinance or administrative rule regulating ~~animal waste~~ **manure** storage or applicable technical standards. In the case of conflict, the most restrictive provision shall apply.

(2) **Exception to Permit Requirements.** Emergency repairs for broken pipes or equipment, leaking dikes or removal of obstructions may be performed without ~~an Animal Waste~~ **a Manure** Storage Facility Permit. Emergency repairs shall not result in increased capacity to the ~~animal waste~~ **manure** storage facility. **If repairs will significantly alter the original design and construction of the storage facility, a report shall be made to the Land Conservation Department for determination as to whether a permit will be required for any additional alteration or repair to the facility.** The responsible person shall contact the Dodge County Land

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Conservation Department ~~on the first working day following~~ **within 3 days of the start of any** emergency repairs for a determination by the department on whether a permit will be required for any additional alteration or repair to the facility.

- (3) **Fees.** Two separate fees may be necessary. All applicants shall be required to pay a ~~\$25.00~~ non-refundable fee at the time of permit application. An additional ~~\$250.00~~ fee will be required if the applicant uses the technical services of staff from the Land Conservation Department for the purposes of preparing detailed construction plans and construction inspection. **The amount of these fees shall initially be set at \$200.00 for the non-refundable fee and \$500.00 for the technical services fee. These fees will be evaluated and be established on an annual basis by the Land Conservation Committee at the January meeting of the Land Conservation Committee commencing with the January Land Conservation Committee meeting following the first full calendar year after enactment of this ordinance.** The ~~latter~~ **technical services** fee will be assessed at the time ~~the applicant requests~~ **that the Land Conservation Department staff completes** a topographic survey of the project site for preparing detailed construction plans, and will be refunded to the applicant only upon completion of project construction ~~in accordance with permit conditions~~ **and certification**. If available, technical services of staff from the Land Conservation Department will be on a first come, first served basis. **The fees specified above are doubled if any excavation, construction, or any other activity that requires a permit under this ordinance is started before the permit is issued, and other penalties may be imposed for any excavation, construction, or other activity that takes place in violation of any provision of this ordinance. There is no fee for a permit to close a manure storage facility.**
- (4) **Permit Application.** An application for ~~an Animal Waste~~ **a Manure** Storage Facility Permit **and/or a Manure Storage Facility Closure Permit** shall be filed with the Land Conservation Department on forms supplied by the Land Conservation Department. A copy of the approved permit application~~(s)~~ shall be mailed to the appropriate Town Board by the Land Conservation Department. In addition the Land Conservation Department may mail a copy of the approved permit to other agencies or units of government that may have jurisdiction over the proposed activity.

Each application for a permit under this ordinance **to construct a new manure storage facility, or to substantially alter an existing manure storage facility, or to close a manure storage facility** shall include ~~an Animal Waste~~ **a Manure** Storage Facility **Construction** ~~Plan~~ **and/or a Manure Storage Facility Closure Plan.** ~~and a Nutrient Management plan.~~

- a. All ~~Animal Waste~~ **Manure** Storage Facility **Construction** Plans shall include the following:
1. A complete set of detailed construction plans, including but not limited to facility dimensions, cross-section views, profile views, storage pit liners, concrete thickness of floors and/or walls, steel reinforcement plans, water stops and expansion joints, material specifications, and fencing. **A Manure Storage Facility Construction Plan must be certified as meeting all applicable technical standards as specified in Section (D) (1)**

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by an agricultural or civil engineer registered in the state of Wisconsin, or by a DATCP, NRCS, or LCD engineering practitioner. ~~Preparation of detailed construction plans may likely require the applicant to~~ **This certification may be obtained by hire hiring** a registered professional engineer, or if available, obtaining the services of staff from the Dodge County Land Conservation Department. Services from Land Conservation Department staff will be on a first come, first served basis.

2. The number and kinds of animals for which storage is to be provided.
3. Planned duration of storage, expressed in days and/or months, and volume of storage, expressed in cubic feet **or gallons.**
4. **A manure assessment plan that demonstrates that suitable area is available for safe land application and reasonable crop uptake of land applied manure.**
- ~~4.~~ **5. A plan map showing location of the facility with regard to buildings, roads and homes within three hundred (300) feet of the proposed facility. The map shall be drawn to scale no smaller than one (1) inch equals one hundred (100) feet. The plan map shall include a north arrow.**
- ~~5.~~ **6. The location of any wells within three hundred (300) feet of the facility.**
- ~~6.~~ **7. The location and elevation of all soil tests pits investigated in accordance with Technical Standard 313.** ~~including a detailed soil description of each pit, to a depth of at least three (3) feet below the planned bottom elevation of the facility. Soil test pits which are acceptable to the Dodge County Land Conservation Department shall be dug within the outermost boundaries of planned waste storage facility bottom area at the rate of one pit for every 3,500 square feet of bottom area.~~
- ~~7.~~ **8. The elevation of seasonably high groundwater or bedrock if encountered in the soil profile and the date of any such determinations.**
- ~~8.~~ **9. Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater. The location of and distance to any navigable body of water within three hundred (300) feet of the proposed facility must be shown.**
- ~~9.~~ **10. A description of how manure will be removed from the facility.**
- ~~10.~~ **11. A proposed time schedule for construction of the facility.**
- ~~11.~~ **12. A construction site erosion control and stormwater management plan in compliance with Wisconsin Department of Natural Resources regulations under s.281.33 Wis. Stats. pertaining to construction site erosion control and stormwater management regulations, if the disturbed land area will exceed one (1) acre in surface area.**

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13. An emergency response plan that outlines the actions to be taken immediately in the event of a direct discharge of manure either from a manure storage facility, from land application activities, or while transporting manure to cropland or other destinations.

14. Any other additional information required by the Dodge County Land Conservation Department to determine compliance with this ordinance.

b. Each application for a permit to close a manure storage facility shall include a Manure Storage Facility Closure Plan that is certified as meeting all applicable technical standards as specified in Section (D) (1) by an agricultural or civil engineer registered in the state of Wisconsin, or by a DATCP, NRCS or LCD engineering practitioner. This certification may be obtained by hiring a registered professional engineer, or if available, obtaining the services of staff from the Dodge County Land Conservation Department. Services from Land Conservation Department staff will be on a first come, first served basis.

c. ~~Nutrient Management Plan~~s will be required only at the time of permit application. All nutrient management plans shall conform to the NRCS Standards and Specifications for nutrient management (590) specified in Subsection 4.02. As a condition of receiving a permit to construct a new manure storage facility or to substantially alter an existing manure storage facility, a permit applicant must develop a nutrient management plan that complies with Technical Standard 590. The nutrient management plan, along with the completed nutrient management plan check list, must be submitted to the Land Conservation Department within one year of the date of issuance of the manure storage facility Certificate of Use before any manure is removed from the permitted manure storage facility. The nutrient management plan, along with the nutrient management plan check list, must be updated and implemented annually for as long as the permitted manure storage facility continues to be used for storing manure. The permittee shall retain all updated plans, plan check lists, and appropriate implementation records for the four previous years and shall produce these records at the request of the Land Conservation Department. All nutrient management plans shall at a minimum include, but not be limited to the following items:

- (1) ~~The amount of land available for application of waste~~ Be prepared by a nutrient management planner qualified under ATCP 50.48, and comply with the Technical Standard 590.
- (2) ~~Identification of the areas~~ Identify every field where the nutrients, including manure, will be mechanically applied.
- (3) ~~The crops to be grown~~ Be based on field soil samples taken in accordance with Technical Standard 590, and with soil nutrient tests conducted at a laboratory certified under ATCP 50.50.

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(4) Follow recommendations for nutrient applications in the University of Wisconsin-Extension Soil Test Recommendations for Field, Vegetable, and Fruit Crops, UWEX publication A-2809 (1998), unless the nutrient management planner can show that circumstances justify more than the recommended application. ~~Soil types and any limitations on waste application due to soil limitations.~~

~~(5) Type and proximity of bedrock or ground water table.~~

~~(6) Slope of land and proximity to surface water.~~

(5) Review of Application. The Dodge County Land Conservation Department shall receive and review all permit applications including ~~the Animal Waste~~ **Manure Storage** Facility Construction Plans, ~~and the Nutrient Management Plan,~~ and **Manure Storage Facility Closure Plans, and** shall determine if the ~~proposed facility~~ **permit application** ~~will comply~~ **complies** with ordinance requirements. In making this determination, the department may require a site inspection and/or may consult with an outside agency. Prior to issuance of a permit, the NRCS or DATCP Engineer or designee, a registered professional engineer, or a Land Conservation Department staff person having the appropriate engineering certification, shall verify that plans meet the applicable standards. Within 30 days after receiving the completed application and fee, the Dodge County Land Conservation Department shall inform the applicant in writing whether the permit application is approved, disapproved or if more information is needed. If additional information is required, the Dodge County Land Conservation Department shall so notify the permit applicant. The Dodge County Land Conservation Department has 30 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 department requires comment from an outside agency, the department has 15 days from receipt of the comments from the referral agency in which to approve or disapprove the application. If the Land Conservation Department fails to approve or disapprove the permit application in writing within 30 days of the receipt of the permit application, within 30 days of receipt of additional applicant information, or within 15 days of receipt of referral agency comments, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.

(6) Permit Conditions. All permits issued under this ordinance shall be issued subject to the following conditions and requirements:

(a) ~~Animal waste~~ **Manure** storage facility ~~design and construction~~ **and alteration work** shall be carried out in accordance with the ~~Animal Waste~~ **Manure Storage** Facility **Construction** Plan and applicable standards specified in ~~Section 4~~ **Section (D) (1)** of this ordinance.

(b) Closure of a Manure Storage Facility shall be carried out in accordance with the Manure Storage Facility Closure Plan and applicable standards specified in Section (D) (1) of this ordinance.

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- ~~(b)~~ **(c)** Any person applying for a permit under this ordinance must develop a Nutrient Management Plan **that complies with the requirements of Technical Standard 590 and submit a management plan and plan checklist for review and approval by the Land Conservation Department within one year of the issuance of the Certificate of Use. This nutrient management plan and plan checklist must be updated and implemented annually for as long as the permitted Manure Storage Facility continues to be used for storing manure.** ~~as part of the application process in order to demonstrate their ability to utilize the animal waste in an environmentally safe manner. This condition may require the applicant to hire a crop consultant to prepare the Nutrient Management Plan.~~
- ~~(e)~~ **(d)** The permittee certifies in writing that all other Local, City, County State or Federally required permits shall be obtained from the appropriate authorities. The department may require proof of any permit known to be needed prior to issuing ~~an animal waste~~ **a Manure Storage Facility permit or a Manure Storage Facility closure permit.**
- ~~(d)~~ **(e)** Any modification to an approved ~~Animal Waste~~ **Manure Storage Facility Construction Plan or Manure Storage Facility Closure Plan** shall be **reviewed and** approved, **or denied** in writing by the Dodge County Land Conservation Department **within 15 working days of the request by the permittee for approval of the proposed modification.** Written approval by the Department shall occur only after the NRCS Area Engineer or designee, registered professional engineer or Land Conservation Department staff person having the appropriate engineering certification has reviewed and approved the proposed modifications.
- ~~(e)~~ **(f)** The permittee shall give no less than 3 working days notice to the Dodge County Land Conservation Department before starting any construction activity authorized by the permit.
- ~~(f)~~ **(g)** **Any construction** ~~Activities~~ authorized by permit shall be completed within 2 years from the date of issuance after which time ~~such~~ **the** permit shall expire.
- ~~(g)~~ **(h)** The permittee and, if applicable, the contractor **and/or project engineer** shall certify in writing that ~~the a Manure animal waste~~ **a Manure Storage Facility** was installed, **substantially altered, or closed** as planned. A copy of the signed certification sheet shall be given to the Land Conservation Department within 30 days of completion of installation. Land Conservation Department personnel may conduct site inspection during and following construction to determine that ~~the a Manure Storage~~ **Facility** was installed **or closed** as planned and designed. Any approved changes made to the ~~animal waste~~ **Manure Storage Facility construction plans or Manure Storage Facility closure plans** shall be specified in the certification sheet and approved by the Land Conservation Department.
- (7) **Permit Revocation.** The Dodge County Land Conservation Department may revoke any permit issued under this ordinance if the holder of the permit has misrepresented any information in the ~~Animal Waste~~ **Manure Storage Facility Construction Plan or Manure Storage Facility Closure Plan,** ~~or Nutrient Management plan,~~ or if the holder of the permit violates any of the conditions of the permit. A warning letter ~~should~~ **shall** be sent to the permittee about the potential for permit revocation prior to actually revoking the permit.

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(8) Certificate of Use.

(a) No person may operate or use a manure storage facility or any portion of a Manure Storage Facility that was constructed after the effective date of this ordinance unless the person has been issued a valid Certificate of Use for the Manure Storage Facility or portion of the Manure Storage Facility that is being operated or used. The Dodge County Land Conservation Department will issue a Certificate of Use upon receipt of the written certification required by section (E)(6)(h).

(b) Certificate of Use Conditions. All Certificates of Use under this ordinance shall be considered valid subject to the following conditions and requirements:

- 1. A nutrient management plan that complies with the requirements of Technical Standard 590 must be annually prepared and followed, and be provided to the Land Conservation Department upon request. Annual updated plans and plan checklists, and appropriate implementation records for the four previous years shall be retained and produced at the request of the Land Conservation Department.**
- 2. Manure Storage Facilities constructed or substantially altered under a permit issued after the effective date of this ordinance must be operated and maintained in compliance with the requirements of the technical standards and specifications in Section D.**

(c) Certificate of Use Revocation. The Dodge County Land Conservation Department may revoke any Certificate of Use issued under this ordinance if the holder of the permit has misrepresented any information in the Manure Storage Facility Construction Plan, has failed to comply with the nutrient management plan requirement, has failed to provide the Dodge County Land Conservation Department with a copy of the nutrient management plan and plan checklist upon request, has failed to operate and maintain Manure Storage Facilities in compliance with applicable technical standards in Section D, or for multiple or repeat violations of this ordinance. The Land Conservation Department will immediately provide written notice of the revocation and the reason for the revocation.

F. ADMINISTRATION

- (1) Delegation of Authority. Dodge County hereby designates the Dodge County Land Conservation Department to administer and enforce this ordinance.
- (2) Administrative Duties. In the administration and enforcement of this ordinance, the Dodge County Land Conservation Department shall:

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- (a) Keep an accurate record of all permit applications, ~~Animal Waste~~ **Manure** Storage Facility **Construction** Plans, **Manure Storage Facility Closure Plans**, Nutrient Management Plans, permits issued, **permits revoked, Certificates of Use issued and revoked**, inspections made and other official actions **permitted by law**.
- (b) Review permit applications and issue permits in accordance with **Section (E)** of this ordinance.
- (c) Periodically inspect ~~Animal waste~~ **Manure** sStorage fFacility **construction and Manure Storage Facility closure** construction to insure ~~the facility is being constructed~~ **that all construction and closure activities are being performed** according to plan specifications.
- (d) **Annually obtain written certification from permittees that they have updated and are following their nutrient management plans.**
- (e) **Periodically obtain and review copies of annually updated nutrient management plans and nutrient management plan check lists.**
- ~~(f)~~ **(f)** Investigate complaints relating to compliance with this ordinance.
- ~~(g)~~ **(g)** Perform other duties as specified in this ordinance.
- (3) **Inspection Authority.** The Dodge County Land Conservation Department is authorized by Section 92.07(14) Wisconsin Statutes to enter upon any lands affected by this ordinance to inspect the site prior to and after permit issuance to determine compliance with this ordinance. If permission cannot be received from the applicant or permittee, entry shall be according to Section ~~66.122 and 66.123~~ **66.0119**, Wisconsin Statutes **(as amended)**. Refusal to grant permission to enter lands affected by this ordinance for purposes of inspection may be grounds for denial of the permit **or Certificate of Use** or revocation thereof.
- (4) **Enforcement Authority.** The Dodge County Land Conservation Department is authorized to ~~post~~ **issue** an order stopping work upon land which has had a permit **or certificate of use** revoked or on **any** land **which the Land Conservation Department has reason to believe is** currently undergoing activity in violation of this ordinance. Notice is given by ~~both~~ **mailing the stop work order** ~~posting upon the land 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 must cease or be brought into compliance **within a specified time period.**

Any permit revocation, **certificate of use revocation** or order stopping work shall remain in effect until retracted by the Dodge County Land Conservation Department, or by a court of general jurisdiction. The Dodge County Land Conservation Department is authorized to refer any violation of this ordinance or of an order stopping work issued pursuant to this ordinance to the Dodge County Corporation Counsel for commencement of further legal proceedings.

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(G) VIOLATIONS

- (1) Penalties. Any person who violates, or fails, neglects or refuses to comply with any of the provisions of the ordinance shall upon conviction thereof, forfeit not less than Ten (\$10.00) Dollars nor more than Two Hundred (\$200.00) Dollars and costs of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, for a period not to exceed six (6) months. Each day a violation exists or continues to exist shall constitute a separate offense. An unlawful violation includes failure to comply with any standard of this ordinance or with any condition or qualification attached to the permit, or any failure to comply with notice of a permit revocation, **Certificate of Use revocation** or stop work order.
- (2) Enforcement by Injunction. As a substitute for, or an addition to forfeiture actions, Dodge County may seek enforcement of any part of this ordinance by court actions seeking injunctions or restraining orders.

(H) APPEALS

- (1) Authority. Under the authority of Chapter 68 Wisconsin Statutes, the Dodge County Land Conservation Committee, created under Section ~~59.878~~ **92.06** Wisconsin Statutes and acting as an appeal authority under Section 68.09 (2) Wisconsin Statutes, is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by the Dodge County Land Conservation Department in administering this ordinance.
- (2) Procedure. Any appeal shall be made by written request mailed or delivered to the Dodge County Land Conservation Department. The request shall state the grounds upon which it is contended that the order, requirement decision or determination should be modified or reversed, and/or the grounds upon which a variance is sought. The request shall be filed with 30 days of receiving the order, requirement, decision or determination. A hearing shall be scheduled by the Dodge County Land Conservation Committee within ~~15~~ **30** days of the filing of the appeal. The hearing shall be conducted in accordance with Chapter 68, Wisconsin Statutes. A copy of the hearing notice shall be sent to the applicant and the appropriate Town Board.

The final decision on an appeal shall be made within 20 days of completion of the hearing and shall be in the form of a written determination signed by the Chairperson or Secretary of the Committee. The determination shall state the specific facts, which are the basis for the Committee's decision and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, deny the appeal for lack of justification or grant or deny the application for a variance. The reasons or justifications for granting an appeal which were demonstrated by the applicant in the case of a variance, shall be clearly stated in the recorded minutes of the Committee meeting. If a final decision on an appeal is not made within 20 days, the appeal shall be deemed approved and the applicant may proceed with activities which were requested in the appeal.

Additions are indicated in **Bold Underline** and deletions in ~~double strikethrough~~.

- (3) Who May Appeal. Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirement, decision or determination made by the Dodge County Land Conservation Department.
- (4) Variances. The Land Conservation Committee may upon appeal authorize a variance from the requirements of this ordinance when, upon showing by the applicant, unnecessary hardship would result from a literal enforcement of this ordinance. The granting of a variance for unnecessary hardship shall:
- a. Be consistent with the spirit and purpose of this chapter as stated in Subsection (A) (3) and (A) (4).
 - b. Not permit an activity or practice that may fail structurally or otherwise and cause significant water pollution or other off site impacts.
 - c. Be due to unique circumstances and not to the general conditions of the area.
 - d. Not be granted for a self-created hardship.
 - e. Not be granted unless it is shown that the variance will not be contrary to the public interest and will not be damaging to the right of other persons.
 - f. Not be granted solely on the basis of economic gain or loss.
 - g. Not be granted solely on the fact that certain conditions existed prior to the effective date of the ordinance.

The Land Conservation Committee may authorize a variance from the requirements of this ordinance contingent on the applicant receiving a variance from the technical standards through the Natural Resource Conservation Service or other qualified engineering authority. If public funds are involved, this may be a program requirement.

Section 2. This ordinance shall be in full force and effect upon enactment and publication as provided by law.

Section 3. All ordinances or parts of ordinances inconsistent with or in contradiction of the provisions of this ordinance are hereby repealed.

Respectfully submitted this _____ day of _____, 2007.

Robert Krueger, Chair

William Nass

Howard Kriewald

Gerald Adelmeyer

Allen Behl

Robert Schwandt

Dennis Vander Werff

DODGE COUNTY LAND CONSERVATION
COMMITTEE

Enacted and approved this ____ day of _____, 2007.

Russell Kottke, Chairman
Dodge County Board of Supervisors

Karen J. Gibson, County Clerk

Additions are indicated in **Bold Underline** and deletions in ~~double strikethrough~~.