

11.01 ANIMAL WASTE MANAGEMENT

(1) INTRODUCTION.

- (a) Authority. This section is adopted under authority granted by §92.16, Wis. Stats.
- (b) Title. This section shall be known as, referred to and may be cited as the Crawford County Animal Waste Management Ordinance.
- (c) Findings and Declaration of Policy.
1. The County Board finds that storage of animal waste in storage facilities not meeting technical design and construction standards may cause pollution of the surface and groundwater of the 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 the County.
 2. Improper management of animal waste facilities and utilization, including land application, of stored animal waste, may cause pollution of the surface and groundwater of the County.
 3. The County Board further finds that the technical standards developed by Wisconsin's Standards Oversight Council and adopted by the County Land Conservation Committee provide effective, practical and environmentally safe methods of storing and utilizing animal wastes.
- (d) Purpose. The purpose of this section is to regulate the location, design, construction, installation, alteration, closure, and use of animal waste storage facilities and the application of waste from these facilities; to prevent water pollution and thereby protect the health of County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of the County. It is also intended to provide for the administration and enforcement of this section and to provide penalties for its violation.
- (e) Applicability. This section applies to the entire geographical area of Crawford County.
- (f) Interpretation. In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

(2) DEFINITIONS.

Animal Waste - Livestock excreta and other materials such as bedding, rain, other water, soil, hair, feathers, and other debris normally included in animal waste handling operations.

Applicant - Any person who applies for a permit under this section.

Land Conservation Department (LCD) - The county staff assigned the responsibility of providing technical assistance for this ordinance.

Land Conservation Committee (LCC) - The committee created by county board under s. 92.06, Stats. Department of Ag Trade and Consumer Protection (DATCP) – the Wisconsin agency established by Wisconsin Statute to promulgate rules for safety and protection of citizens and natural resources

Animal Waste Storage Facility - A concrete, steel, or otherwise fabricated structure, or an earthen facility constructed of dikes, excavated pits, or ponds, or a combination of these, used for temporary storage of animal waste. This ordinance applies to all facilities on one operation that stores a cumulative volume greater than 7,000 cubic feet, or for a period of 30 days or longer. Methane digesters and animal manure stacking areas do not require a permit under this section. Further defined in Wisconsin Administrative Code ATCP 50.62(1).

Permit - The signed, written statement issued by the County Land Conservation Committee under this section authorizing the applicant to construct, install, reconstruct, close, enlarge or substantially alter an animal waste storage facility and to use or dispose of waste from the facility.

Technical Guide - The United States Department of Agriculture Natural Resources Conservation Service Field Office Technical Guide.

Nutrient Management Plan – A written plan conforming to Technical Guide Standard 590

Substantially Alter – A relocation of a facility or significant change to its size, depth, or configuration

Field Manure Stack – An unconfined manure stack outside the Animal Production Area for a period of 8 months or more

Animal Production Area – The area where animals are fed, housed, and kept for production purposes, typically but not limited to, barnyards, feedlots, and night pastures

(3) ACTIVITIES SUBJECT TO REGULATION.

(a) General Requirement. Any person who designs, constructs, enlarges or substantially alters an animal waste storage facility; or who employs another person to do the same, on land subject to this section, shall be subject to the provisions of this section, including the animal waste management and utilization provisions of this section. The waste management and utilization provisions of this section are applicable only to persons who build and operate storage facilities approved under this section.

(b) Compliance With Permit Requirement. A person is in compliance with this section if he follows the procedures of this section, applies for and receives a permit from the LCD before beginning activities subject to regulation under this section, and complies with the requirements for the permit.

(4) STANDARDS.

(a) 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 and are adopted by reference by the LCC, and as may be amended from time to time. No Manure Stacks other than Field Manure Stacks are subject to this ordinance.

(b) Standards for Animal Waste Management and Utilization. The technical standards for management of animal waste facilities and utilization of animal waste shall be those set in standard 590 of the Technical Guide and are adopted by reference by the LCC, and as may be amended from time to time.

(c) Standards for Closing an Idle Animal Waste Storage Facility. The technical standards for closure of waste impoundments are those in standard 360 of the Technical Guide.

(5) APPLICATION FOR AND ISSUANCE OF PERMITS.

(a) Permit Required. No person may undertake an activity subject to this section without obtaining a permit from the LCD prior to beginning the proposed activity.

(b) Exception to Permit Requirements. Emergency repairs such as repairing a broken pipe or equipment, leaking dikes or the removal of stoppages may be performed without a permit. If repairs will significantly alter the original design and construction of the facility, a report shall be made to the LCD within one day of the emergency for a determination by the LCD on whether a permit will be required for any additional alteration or repair to the facility. The LCD's determination shall be rendered within one day of the reporting. The LCD shall consult with the Land Conservation Committee prior to rendering a determination.

(c) Fee. The application fee for a permit under this section shall be \$300. The permit fee will be payable upon submission of application for the permit. Permit fees will double if facility is constructed or closed prior to permit issuance. Permit fee for closure of an animal waste storage facility will be waived if receiving cost-share assistance to complete the practice.

(d) Animal Waste Storage Facility Plan Required. Each application for a permit under this section shall include an animal waste storage facility plan. Technical assistance for plan development may be made available to applicants upon request through the Land Conservation Committee and its staff. The plan shall specify:

1. The number and kinds of animals for which storage is provided.
2. A sketch of the facility and its location in relation to buildings within 250' and homes within 500' of the proposed facility. The sketch shall be drawn to a scale no smaller than 1" equals 50'.
3. The structural details, including dimensions, cross sections and concrete thickness.
4. The location of any wells within 300' of the facility.
5. The soil test pit locations and soil descriptions to a depth of at least 3' below the planned bottom of the facility or 5' if conditions warrant.
6. The elevation of groundwater 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 groundwater. If a navigable body of water lies within 500' of the facility, the location and distance to the body of water shall be shown.
8. The scale of the drawing and the north arrow.
9. A time schedule for construction of the facility.
10. A construction inspection plan detailing how the construction will be monitored.
11. Plans for the utilization of the animal waste, including the amount of land available for the application of waste, identification of areas where the waste will be used, soil types and any limitations on waste application due to soil limitations, type and proximity of bedrock or groundwater, slope of land, a proximity to surface water bodies, all in accordance with standard 590 of the Technical Guide. Initial Nutrient Management Plan databases and maps must be submitted at time of permit application. Once permitted, operators are required to annually submit NMP checklists, and any additional information the LCD may require to adequately monitor compliance. Checklists are due by May 1st of each year, for as long as the operation is active.
12. Certification by a registered Profession Engineer or DATCP, LCD, or NRCS Engineering Practitioner that the plan meets the requirements of this Ordinance.

(e) Nutrient Management Plan Required. Each application for a permit under this section shall include a Nutrient Management Plan that complies with the Technical Guide Standard 590. The plan shall:

1. Be prepared by a nutrient management planner qualified under s. ATCP 50.48, Wis. Admin. Code.
2. Be based on field soil samples taken in accordance with the 590 Standard and with soil samples analyzed at a laboratory certified under s. ATCP 50.50, Wis. Admin. Code.
3. Identify every field where nutrients, including manure, will be mechanically applied.
4. Follow recommendations for nutrient applications found in the UW-Extension publication A-2809, Nutrient Application Guidelines for Field, Vegetable, and Fruit Crops in Wisconsin, unless the nutrient management planner can show that circumstances justify more than the recommended application.
5. Be updated annually, with NMP checklists, along with any additional information the LCD may require to adequately monitor compliance, due by May 1st of each year. Annual updates are required for as long as the facility is operational.

- (f) Animal waste storage facility closure plan required
1. A sketch of the facility and its location in relation to buildings within 250' and homes within 500' of the facility. The sketch shall be drawn to a scale no smaller than 1" equals 50'.
 2. The amount and type of waste remaining (if any) and a plan for its application and soil saturated manure if present and its management.
 3. The type of facility and construction materials.
 4. A plan view of the final grade, reseeding, and runoff diversion from the area.
 5. Certification by a registered Profession Engineer or DATCP, LCD, or NRCS Engineering Practitioner that the plan meets the requirements of this Ordinance.

(f) Review of Application. The LCD shall receive and review all permit applications. The LCD shall determine if the proposed facility plan meets the requirements of this section. In making this determination, the LCD shall consult with the Land Conservation Committee. Within 30 working days after receiving the completed application and fee, the LCD shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the LCD shall so notify the permit applicant. The LCD has 30 working days from the receipt of the additional information in which to approve or disapprove the application. If the LCD fails to approve or disapprove the permit application in writing within 30 working days of the receipt of the application or additional information, as appropriate, the application is deemed approved and the applicant may proceed as if a permit had been issued.

(g) Permit Conditions. All permits issued under this section shall be issued subject to the following conditions and requirements for animal waste storage facilities:

1. Design and construction shall be carried out in accordance with the animal waste facility plan and applicable standards specified in sub. (4).
2. The permittee shall give 5 working days notice to the LCD before starting any construction activity authorized by the permit.
3. Approval in writing must be obtained from the LCD prior to any modifications to the approved animal waste facility plan.
4. The permittee, and, a registered Professional Engineer or DATCP, LCD, or NRCS Engineering Practitioner shall certify in writing that the facility was installed or closed as planned.

(h) Permit Revocation. The LCD may revoke any permit issued under this section if the holder of the permit has misrepresented any material fact in the permit application or animal waste facility plan or if the holder of the permit violates any of the conditions of the permit. The LCD may reinstate the permit upon showing that compliance has been achieved.

(6) ADMINISTRATION.

(a) Administrative Duties. In the administration and enforcement of this section, the LCD shall:

1. Keep an accurate record of all permit applications, animal waste facility plans, permits issued, inspections made and other official actions.
2. Review permit applications and issue permits in accordance with sub. (5).
3. Inspect animal waste facility construction to insure the facility is being constructed according to plan specifications.
4. Investigate complaints relating to compliance with this section.
5. Perform other duties as specified in this section.

(b) Inspection Authority. The Coordinator is authorized to enter upon any lands affected by this section to inspect the land prior to or after permit issuance to determine compliance with this section. If permission cannot be received from the applicant, entry by the Coordinator shall be according to Sec. 92.07(14), Wis. Stats.

(c) Enforcement Authority.

1. The LCD is authorized to post an order stopping work upon land which has a permit revoked or on land currently undergoing activity in violation of this section. Notice is given by both posting upon the land where there is violation, 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 section. The order shall specify that the activity must cease or be brought into compliance within one day.

2. Any permit revocation or order stopping work shall remain in effect unless retracted by the Land Conservation Committee, the LCD or by a court of general jurisdiction; or until the activity is brought into compliance with this section. The Coordinator is authorized to refer any violation of this section or of an order stopping work issued pursuant to this section to the Corporation Counsel for commencement of further legal proceedings.

(7) VIOLATIONS.

(a) Penalties. Any person who violates, neglects or refuses to comply with or resists the enforcement of any of the provisions of this section, shall be subject to the penalty provisions Chapter 25.04 Crawford County Code of Ordinances: Construction and Effect of Ordinances, Penalty Provisions. In addition to any other penalty imposed by this ordinance, the cost of abatement of any public nuisance on the licensed premises by the county may be collected under this ordinance or Sec. 823.06 of Wis. Statutes against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Sec. 66.0627 of Wis. Statutes unless paid earlier.

(b) Enforcement of Injunction. As a substitute for or in addition to forfeiture actions, the County may seek enforcement of any part of this section by court actions seeking injunctions or restraining orders.

(8) APPEALS.

(a) Authority. Under authority of Ch. 68, Wis. Stats., the County Land Conservation Committee, created under §59.878, Wis. Stats., and acting as an appeal authority under §68.09(2), Wis. Stats., is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by the LCD in administering this section.

(b) Procedure. The rules, procedures, duties and powers of the Land Conservation Committee and Ch. 68, Wis. Stats., shall apply to this section.

(c) Who May Appeal. Appeals may be taken by any person having substantial interest which is adversely affected by the order, requirement, decision or determination made in the administering of this section.