

Chapter 18

Kewaunee County Animal Waste Storage Facility Ordinance

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- 18.01 Authority. This ordinance is adopted under authority granted under Section 59.07(51) and 92.16 of the Wisconsin Statutes. The title of this ordinance is "Kewaunee County Animal Waste Storage Facility Ordinance" and it regulates design and construction of animal waste storage facilities.
- 18.02 Purpose. The purpose of this ordinance is to protect and promote the public health, safety, prosperity, aesthetic conditions and general welfare of the people and communities within Kewaunee County.
- 18.03 Intent. The intent of this ordinance is to regulate the location, construction, installation, alteration, design, use of animal waste storage facilities to 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 Kewaunee County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation. It is also intended to protect the groundwater and surface water resources of Kewaunee County.
- 18.04 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 Kewaunee County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

18.05 Severability. If any section, provision or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not be rendered ineffective.

18.06 Definitions. Definitions herein are to conform to the provisions set forth in Ag 165 of the Wisconsin Administrative Code.

- (1) "Animal Waste" means livestock excreta and other materials such as bedding, rain or other water, soil, hair, feathers and other debris normally included in animal waste handling operations.
- (2) "Animal waste storage facility" means a concrete, steel or otherwise fabricated structure and earthen animal waste storage facility used for temporary storage of animal waste or other organic waste. This does not include barnyards.
- (3) "Applicant" means any person who applies for a permit under this ordinance.
- (4) "Earthen animal waste storage facility" means a facility constructed of earth dikes, pits or ponds used for temporary storage of animal waste.
- (5) "Land Conservation Committee" means an operating committee of the Kewaunee County Board of Supervisors.
- (6) "Land Conservation Department" means the enforcing authority of this ordinance.
- (7) "Technical Guide" means the United States Department of Agriculture (USDA) Soil Conservation Service Technical Guide as adopted by the Kewaunee County Land Conservation Committee.
- (8) "Technical Standards" means the latest revision of written requirements for animal waste facilities as specified in the Technical Guide and adopted by the Kewaunee County Land Conservation Committee.
- (9) "Permit" means the signed, written statement issued by the Kewaunee County Land Conservation Department under this ordinance authorizing the applicant to construct, install, enlarge or substantially alter an animal waste storage facility.
- (10) "Permittee" means any person to whom a permit is issued under this ordinance.
- (11) "Person" means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the Federal Government, or any combination thereof.
- (12) "Water Pollution" means contaminating or rendering unclean or impure the ground or surface waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life.

18.07 Jurisdiction. This ordinance shall apply to all land and waters within the boundaries of Kewaunee County.

18.08 Authority and Duties.

- (1) Delegation of Authority. Kewaunee County hereby designates the Kewaunee County Land Conservation Department to administer this ordinance. The Kewaunee County Land Conservation Department shall seek the guidance of the Kewaunee County Land Conservation Committee in the administration of this ordinance.
- (2) Administrative Duties. In the administration and enforcement of this ordinance, the County Land Conservation Department shall:
 - (a) Keep an accurate record of all permit applications, animal waste facility plans, permits issued, inspections made, and other official actions.
 - (b) Review permit applications and issue permits in accordance with section 8 of this ordinance.
 - (c) Inspect animal waste facility construction to ensure the facility is being constructed according to plan specifications.
 - (d) Investigate complaints relating to compliance with the ordinance.
 - (e) Perform other duties as specified in this ordinance.
- (3) Inspection Authority. The Kewaunee County Land Conservation Department is authorized to enter upon any lands affected by this ordinance to inspect the land prior to or after permit issuance to determine compliance with this ordinance. If permission cannot be received from the applicant or permittee, entry by the Kewaunee County Land Conservation Department shall be according to Sections 66.122 and 66.123, Wisconsin Statutes.

18.09 Application for and Issuance of Permits.

- (1) Permit Requirements. No animal waste storage facility or parts thereof may be located, installed, moved, extended, enlarged, converted, substantially altered or its use changed without an animal waste permit as provided in Section 9 of this ordinance, and without compliance with the provisions of ordinance, and without compliance with Soil Conservation Service Technical Standards as adopted by the Kewaunee Land Conservation Committee. The requirements of this ordinance shall be in addition to any other ordinance regulating animal waste storage. In the case of conflict, the most stringent provisions shall apply.
- (2) Emergency Repairs. Emergency repairs such as repairing broken pipe or equipment, leaking dikes or the removal of stoppages may be performed without an animal waste storage facility permit. Such work will be reported to the Land Conservation Department as soon as possible for a determination as to whether an animal waste storage facility permit will be

required for an additional alteration or repair to the facility. The County Land Conservation Department shall consult with the Land Conservation Committee prior to making this determination.

- (3) Fee. The fee schedule for permits applied for through this ordinance shall be set and reviewed annually by the Kewaunee County Land & Water Conservation Committee.
- (4) Animal Waste Storage Facility Plan Required. Each application for a permit under this section shall include an animal waste storage facility plan. The plan shall specify:
 - (a) The number of kinds of animals for which storage is provided.
 - (b) A sketch of the facility and its location in relation to buildings within two hundred fifty (250) feet and homes within five-hundred (500) feet of the proposed facility. The sketch shall be drawn to scale, with a scale no smaller than one inch equals one hundred (100) feet.
 - (c) The structural details, including dimensions, cross sections, and concrete thickness.
 - (d) The locations of any wells within three hundred (300) feet of the facility.
 - (e) The soil test pit locations and soil descriptions to a depth of at least three feet below the planned bottom of the facility.
 - (f) The elevation of groundwater or bedrock if encountered in the soil profile and the date of any such determinations.
 - (g) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater such as exposed bedrock or sinkholes. If a navigable body of water lies within five hundred (500) feet of the facility, the location and distance to the body of water shall be shown.
 - (h) The scale of the drawing, the North arrow, the Benchmark location, and its elevation.
 - (i) A time schedule for construction of the facility.
 - (j) A description of the method used in transferring animal waste into the facility.
 - (k) Waste Utilization and a Waste Spreading plan.
- (5) Nutrient Management. Facilities for which permits are issued under section 9 of this Ordinance shall be operated and managed in accordance with USDA Natural Resources Conservation Service (NRCS) technical standards specified in standard 590 (9/05) of the NRCS technical guide.
- (6) Review of Application. The County Land Conservation Department shall receive and review all permit applications. The County Land Conservation Department shall determine if the proposed facility meets the required

standards set forth in section 10 of this ordinance. Within thirty days after receiving the completed application and fee, the County Land Conservation Department shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the County Land Conservation Department has thirty days from the receipt of the additional information in which to approve or disapprove the application. If the County Land Conservation Department fails to approve or disapprove the permit application in writing within thirty days of the receipt of the permit application or additional information as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.

- (7) Permit Conditions. All permits issued under this ordinance shall be issued subject to the following conditions and requirements:
- (a) Design, construction and management shall be carried out in accordance with the animal waste facility plan and applicable standards specified in Section 10 of this ordinance.
 - (b) The permittee shall give two (2) working days notice to the County Land Conservation Department before starting any construction activity authorized by the permit.
 - (c) Approval in writing must be obtained from the County Land Conservation Department prior to any modifications to the approved animal waste facility plan.
 - (d) The permittee and, if applicable, the contractor, shall certify in writing by signing the certification sheet that the facility was installed as planned and designed. A copy of the signed certification sheet shall be mailed to the County Land Conservation Department within thirty days of completion of installation.
 - (e) Activities authorized by permit must be completed within two years from the date of issuance after which such permit shall be void.
- (8) Permit Revocation. The County Land Conservation Department may revoke any permit issued under this ordinance 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.

18.10 Standards.

- (1) Standards for Animal Waste Storage Facilities. The standards for design and construction of animal waste storage facilities are those in Standards 313 (Waste Storage Facility) and 634 (Waste Transfer), and applicable Construction Specifications found in the USDA Natural Resources Conservation Service (NRCS) Technical Guide. Where there is a

groundwater quality concern regarding depth to bedrock additional policies may need to be adhered to in the design phase of the storage facility project.

18.11 Violations.

- (1) Penalties. Any person who violates, neglects, or refuses to comply with or resists the enforcement of any provision of this ordinance shall be subject to a forfeiture of not less than \$50 plus costs of prosecution of each violation. An unlawful violation includes failure to comply with any standard of this ordinance or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense. Failure to obtain proper permit is considered a violation.
- (2) Enforcement Actions, Temporary Restraining and/or Other Necessary Remedial Action. As a substitute for or an addition to forfeiture actions, Kewaunee County may seek enforcement of any part of this ordinance by Court Actions seeking injunctions or restraining orders.

18.12 Appeals.

- (1) Authority. Under authority of Chapter 68, Wisconsin Statutes, the Kewaunee County Land Conservation Committee, created under Sections 59.878 Wisconsin Statutes and by the Kewaunee County Board of Supervisors, acting as an appeal authority under Section 68.09(2) Wisconsin Statutes, is authorized to hear and decide all appeals where it is alleged that there is error in any order, requirements, decision, or determination by the County Land Conservation Department in administering this ordinance.
- (2) Procedure. The rules, procedures, duties and powers of Land Conservation Committee and Chapter 68 Wisconsin Statutes, shall apply to this ordinance.
- (3) Who may appeal. Appeals may be taken by any person having a substantial interest which is adversely affected by this order, requirements, decision, or determination made by the County Land Conservation Department.