

# **Iowa County**

# **Manure Storage and Management**

# **Ordinance**

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## SECTION 1-1: GENERAL PROVISIONS

- (1) **Authority.** This Ordinance is adopted under authority granted by sections 59.70, 59.02, 59.03, 92.15, and 92.16, Wisconsin Statutes (Stats.), and ss. ATCP 50.56, ATCP 51.12, and NR 151.05, Wisconsin Administrative Code (“Wis. Admin. Code”)
- (2) **Title.** This Ordinance shall be known as, referred to, and may be cited as the Iowa County Manure Storage and Management Ordinance and is hereinafter known as the Ordinance.
- (3) **Findings and Declaration of Policy.** The Iowa County Board of Supervisors finds that the following conditions may threaten the county’s natural and water resources, harm to the health, safety and welfare of people within the county, and adversely impact the property tax base of the county:
  - (a) New and substantially altered manure storage facilities that fail to meet performance and technical standards for proper design, construction and operation.
  - (b) Existing manure storage facilities that are not properly functioning and pose unreasonable risks related to structural failure and leakage.
  - (c) Existing manure storage facilities that overtop or are operated in a manner that creates an unreasonable risk of discharge to waters of the state.
  - (d) Existing manure storage facilities where no manure has been added or removed for a period of 24 months, and are not slated for future use.
  - (e) Management of manure including land application that fails to meet performance and technical standards for proper handling and land application of manure.
  - (f) Additional findings may be added.

The Iowa County Board of Supervisors further finds that the technical standards developed by the USDA Natural Resources Conservation Service (“NRCS”), and performance standards, prohibitions and conservation practices codified by Wisconsin Department of Agriculture, Trade, and Consumer Protection (“DATCP”) and Department of Natural Resources (“DNR”), if adopted by the Iowa County, provide effective, practical, and environmentally protective methods for storing and managing manure.

Iowa County Board of Supervisors further finds the regulation of activities identified in this chapter will protect and promote the county's agricultural industry; prevent pollution of

surface and ground water; protect the health, safety, and general welfare of the people and communities within the county; preserve the health of livestock, aquatic life and other animals and plants; advance the appropriate use of land and water conservation resources within the community; and protect the property tax base of county.

- (4) **Purpose.** The purpose of this Ordinance is to regulate the location, design, construction, installation, alteration, operation, maintenance, closure, and use of manure storage facilities; ensure the proper application of waste and manure from all storage facilities covered by this Ordinance, and prescribe performance standards and prohibitions related to manure and other agricultural management. It is also intended to provide for the administration and enforcement of the Ordinance and to provide penalties for its violation.
- (5) **Applicability.** The permit and other requirements in this Ordinance apply to all of the unincorporated areas of Iowa County.
- (6) **Interpretation.** In its interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Iowa County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes (Stats.). Unless a specific provision in this Ordinance seeks to apply requirements that are more stringent than state law, this Ordinance shall be interpreted to be consistent with chs. 92 and 281.16, Stats. and chs. ATCP 50 and NR 151, Wis. Admin. Code.
- (7) **Abrogation, Greater Restrictions, Severability and Repeal Clause.**
  - (a) **Abrogation and Greater Restrictions.** This Ordinance is not intended to repeal, annul, abrogate, impair or interfere with any existing covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.
  - (b) **Severability.** Each section, paragraph, sentence, clause, word and provision of this Ordinance is severable and if any portion shall be deemed unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance nor any part thereof other than the portion affected by such decision.
- (8) **Effective Date.** This Ordinance shall become effective upon its adoption by the Iowa County Board of Supervisors and publication.

## SECTION 1-2: DEFINITIONS

- (1) **“Agricultural Waste Management Field Handbook (AWMFH)”** is a manual that provides specific guidance for planning, designing, and managing systems where agricultural wastes are involved, as published by the United States Department of Agriculture (USDA) Natural Resources Conservation Service.
- (2) **“Applicant”** means any person who applies for a permit under this Ordinance
- (3) **“DATCP”** means Wisconsin Department of Agriculture, Trade and Consumer Protection.
- (4) **“Direct Conduits to Groundwater”** means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.
- (5) **“Direct Runoff”** has the meaning in NR 151.015(7), Wis. Admin. Code, which includes any of the following:
  - (a) Runoff from a feedlot that can be predicted to discharge a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water.
  - (b) Runoff of stored manure, including manure leachate, that discharges a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water.
  - (c) Construction of a manure storage facility in permeable soils or over fractured bedrock without a liner designed in accordance with s. NR 154.04(3), Wis. Admin. Code.
  - (d) The criteria in s. NR 151.055(3), Wis. Admin. Code, will be used to predict or determine if a discharge is significant.
- (6) **“Land Conservation Committee (LCC)”** is a committee made up of members of the Iowa County Board of Supervisors and others who, by authority from Chap. 92, Wis. Stats., determine policy and give direction for soil and water conservation activities, and provides direction for the Land Conservation Department (LCD).
- (7) **“Manure”** means livestock excreta and the following when intermingled with excreta in normal farming operations: debris including bedding, water, soil, hair, and feathers; processing derivatives including separated sand, separated manure solids, precipitated manure sludges, supernatants, digested liquids, composted bio solids, and process water;

and runoff collected from barnyards, animal lots, and feed storage areas.

- (8) **“Manure Storage Facility”** means one or more impoundments made by constructing an embankment, excavating a pit or dugout, or fabricating a structure specifically for the purpose of temporarily storing manure and related wastes. Included in this definition is 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, and specifically includes components to transfer waste from milking centers, runoff from barnyards, and leachate and contaminated runoff from feed storage.
- (9) **“Margin of Safety Level”** has the meaning given in s. NR 243.03(37), Wis. Admin. Code, which means the level in a liquid storage or containment facility that is vertically one foot below the lowest point of the top of the facility or structure.
- (10) **“Natural Resources Conservation Service (NRCS)”** is an agency of the United States Department of Agriculture which, for purposes of this Ordinance, develops and maintains a technical guide with conservation practice standards and specifications, engineering manuals and handbooks, and other technical documentation related to manure storage facilities, nutrient management plans, and other technical matters covered by this Ordinance.
- (11) **“Navigable Water”** has the meaning given in s. 30.01(4m) Stats, which means any body of water which is navigable under the laws of this state.
- (12) **“Nutrient Management Plan”** means an annual written plan developed and to be implemented to ensure the proper application of manure and other nutrients to any field, including pastures. A nutrient management plan shall meet the requirements in sub. 1-5(6).
- (13) **“Overflow”** has the meaning given in s. NR 151.015 (15e), Wis. Admin. Code, which means discharge of manure to the environment resulting from flow over the brim of a facility or from flow directed onto the ground through man-made device including a pump or pipe.
- (14) **“Percent fines”** means the percentage of a given sample of soil which passes through a #200 (0.075mm) sieve.
- (15) **“Permit”** means the signed, written statement issued under this Ordinance authorizing the applicant to construct, install, reconstruct, extend, enlarge, substantially alter or close a manure storage facility, and to use or dispose of waste from the facility.

- (16) **“Permitting Authority”** means the Iowa County Land Conservation Department or Iowa County Office of Planning & Development who shall act in collaboration. The term “County” may be used in this Ordinance to represent the Permitting Authority.
- (17) **“Permittee”** means any person to whom a permit is issued under this Ordinance.
- (18) **“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.
- (19) **“Safety Devices”** means devices, which are designed to protect humans and livestock from the hazards associated with a storage facility.
- (20) **“Significant discharge”** means a discharge of process waste that is determined as “significant” in accordance with the criteria in s. NR 151.055(3), Wis. Admin. Code.
- (21) **“Site that is susceptible to groundwater contamination”** has the meaning under NR 151.015(18) Wis. Admin. Code, which means any of the following:
- (a) An area within 250 feet of a private well.
  - (b) An area within 1000 feet of a municipal well.
  - (c) An area within 300 feet upslope or 100 feet downslope of a direct conduit to groundwater.
  - (d) A channel that flows to a direct conduit to groundwater.
  - (e) An area where the soil depth to groundwater or bedrock is less than 2 feet.
  - (f) An area where the soil does not exhibit one of the following characteristics:
    - 1. At least a 2-foot soil layer with 40% fines or greater above groundwater and bedrock.
    - 2. At least a 3-foot soil layer with 20% fines or greater above groundwater and bedrock.
    - 3. At least a 5-foot soil layer with 10% fines or greater above groundwater and bedrock.

- (22) **“Stop Work Order”** means an order to cease any activity in the operation or construction of an activity subject to regulation.
- (23) **“Substantially altered”** has the meaning in s. NR 151.015(20), Wis. Admin. Code, which means a change initiated by an owner or operator that results in a relocation of a structure or facility or significant changes to the size, depth or configuration of a structure or facility including:
- (a) Replacement of a liner in a manure storage structure.
  - (b) An increase in the volumetric capacity or area of a structure or facility by greater than 20%.
  - (c) 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.
- (24) **“Technical Guide”** means the document provided by NRCS at the time of application which contains technical data, including the standards referenced within this Ordinance to properly and safely locate, construct, install, alter, design, operate and maintain a storage facility.
- (25) **“Technical Standard 313”** is a practice standard within the Technical Guide that covers the proper location, design, construction, installation, alteration, operation and maintenance of a manure storage facility.
- (26) **“Technical Standard 360”** is a practice standard within the Technical Guide that covers decommissioning of facilities, and/or the rehabilitation of contaminated soil, in an environmentally safe manner, where agricultural waste has been handled, treated, and/or stored and is no longer used for the intended purpose.
- (27) **“Technical Standard 634”** is a practice standard within the Technical Guide that covers the design, material types and quality, and installation of components such as conduits, pumps, valves, and other structures or devices to transfer manure and waste from buildings and yards and other sources to storage, loading areas, crop fields and other destinations. The standard establishes the minimum acceptable requirements for design, construction, and operation of waste transfer system components.
- (28) **“Technical Standard 590”** is a practice standard within the Technical Guide that covers managing the amount, form, placement and timing of plant nutrients associated with organic wastes (manure and organic by-products), commercial fertilizers, legume crops and

crop residues.

- (29) **“Unconfined Manure Stack”** means a quantity of manure that is at least 175 cubic feet in volume and which covers the ground surface to a depth of at least 2 inches and is not confined within a manure storage facility, livestock housing facility or barnyard runoff control facility or covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater.
- (30) **“Unpermitted manure storage facility”** means a manure storage facility constructed, modified, or placed in use without first obtaining a permit, including facilities constructed before the first date of the adoption this ordinance, and may include an earthen structure or impoundment made with a concrete liner which fully or partially covers the bottom and/or the sidewalls of the impoundment.
- (31) **“Waste Transfer System”** means components such as pumps, pipes, conduits, valves, and other mechanisms installed to convey manure, leachate and contaminated runoff, and milking center wastes from livestock structures to a storage structure, loading area, or treatment area.
- (32) **“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.
- (33) **“Water Quality Management Area”** or “WQMA” has the meaning in s. NR 151.015(24), Wis. Admin. Code, which means the area within 1,000 feet from the ordinary high water mark of navigable waters that consist of a lake, pond or flowage, except that, for a navigable water that is a glacial pothole lake, the term means the area within 1,000 feet from the high water mark of the lake; the area within 300 feet from the ordinary high water mark of navigable waters that consist of a river or stream; and a site that is susceptible to groundwater contamination, or that has the potential to be a direct conduit for contamination to reach groundwater.
- (34) **“Waters of the State”** is the meaning specified under s. 281.01(18), Stats, which includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.



### SECTION 1-3: ACTIVITIES SUBJECT TO REGULATION

- (1) **Permit Requirements.** Any person who constructs, substantially alters, changes use of or closes a manure storage facility and related transfer systems, or who employs another person to do the same, shall be subject to the permit requirements of this Ordinance in Sec. 1-5.
- (2) **Performance Standards and Prohibitions.** Any person who owns or operates cropland or livestock facilities in this county is subject to the performance standards and prohibitions in Section 1-4, regardless of whether they received a permit under this Ordinance. This Ordinance incorporates by reference the definitions in chapters ATCP 50 and NR 151, Wis. Admin. Code, to the extent that they are not explicitly referenced herein.
- (3) **Safety Devices.** All manure storage facilities shall be equipped with safety devices including fences and warning signs intended to protect humans and livestock from the hazards associated with such facilities. Safety devices shall be designed and installed as required by Technical Standard 313.
- (4) **Well, Road, and Property Line Setbacks.** A manure storage facility may not be located within 100 feet of any property line, or within 100 feet of the nearest point of any public road right-of-way, or within 250 feet of a well unless one of the following applies:
  - (a) The manure storage facility lawfully existed prior to the adoption of this ordinance. This paragraph does not authorize an expansion, toward a property line, public road right-of-way, or well of a manure storage facility that is located within 100 feet of that property line or public road right-of-way or 250 feet of that well.
  - (b) The manure storage facility is a single new facility constructed no closer to the relevant property line, public road right-of-way or well than a manure storage facility that lawfully existed on the same lot or parcel prior to the adoption of this ordinance, provided the new facility is no larger than the existing facility and is located within 50 feet of the existing facility.

The setback measurement shall be taken from the nearest point of the facility, including any embankment, to the nearest point of a property line, public road right-of-way, or well. The setback to a property line may be reduced if the affected neighboring landowner is in agreement and signs an affidavit stating the agreement and reduced setback distance. The affidavit must be recorded with the Register of Deeds.

## **SECTION 1-4: MANURE STORAGE FACILITIES PERFORMANCE STANDARDS AND PROHIBITIONS**

- (1) Manure storage facilities constructed or substantially altered after October 1, 2002 shall be designed, constructed and maintained to minimize the risk of structural failure of the facility and minimize leakage of the facility in order to comply with groundwater standards.
  - (a) Storage facilities that are constructed or significantly altered shall be designed and operated to contain the additional volume of runoff and direct precipitation entering the facility as a result of a 25-year, 24-hour storm.
  - (b) A manure storage facility located in permeable soils or over fractured bedrock must be constructed with a liner designed in accordance with Technical Standard 313.
- (2) Closure of a manure storage facility shall occur when the farm where the storage facility is located ceases operation, or manure has not been added or removed from the storage facility for a period of 24 months. Manure storage facilities shall be closed in a manner that prevents future contamination of groundwater and surface waters, and shall conform to the permit and other requirements in this Ordinance.
- (3) The proposed repurposing of a manure storage facility shall require structural modifications to ensure it can no longer be used as a manure storage facility, unless converted to clean water storage according to Technical Standard 360. If there is evidence of soil contamination, contaminated soil must be removed according to Technical Standard 360, and full or partial closure standards shall be imposed. If not intended to store clean water, the facility shall be modified to be incapable of storing liquids. The County shall not be responsible to verify the structural integrity of a modified storage facility.
- (4) The owner or operator may avoid closure of a facility as required under this section by demonstrating to the county that all of the following conditions are met:
  - (a) The facility is designed, constructed and maintained in accordance with this section.
  - (b) The facility is designed to store manure for a period of time longer than 24 months.
  - (c) Retention of the facility is warranted based on anticipated future use.
- (5) Manure storage facilities that pose an imminent threat to public health, fish and aquatic life, or groundwater shall be upgraded, replaced, or closed in accordance with this Ordinance.

- (6) Manure storage facilities constructed or substantially altered after October 1, 2002 may be required to comply with subs. (2) and (4) without cost-sharing.
- (7) Levels of materials in manure storage facilities may not exceed the margin of safety level.
- (8) **Manure management prohibitions:**
  - (a) A livestock operation shall have no overflow of manure storage facilities.
  - (b) A livestock operation shall have no unconfined manure stack in a water quality management area.
  - (c) A livestock operation shall have no direct runoff from a feedlot or stored manure into the waters of the state.
  - (d) A livestock operation may not allow unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod or self-sustaining vegetative cover. Properly designed, installed and maintained livestock or farm equipment crossings are exempt.
- (9) All owners and operators of permitted manure storage facilities shall apply manure and nutrients to cropland according to a nutrient management plan prepared in compliance with ATCP 50.04(3), Wis. Admin. Code.
- (10) **Cost-Sharing Required:** The County shall follow the requirements of chapters ATCP 50 and NR 151, Wis. Admin. Code, to determine if a landowner of existing cropland or livestock facilities must receive a bona fide offer of cost-sharing to achieve compliance with a performance standard or prohibitions. The county shall do all of the following, notifying the landowner regarding its determinations:
  - (a) Identify the specific areas where the landowner has failed to comply with the performance standards and prohibitions and the corrective actions the landowner must pursue to achieve compliance.
  - (b) Determine whether that farmland that is out of compliance is “existing cropland” or an “existing livestock facility.” If cropland or a livestock facility has been determined to be in compliance with a performance standard or prohibition, it no longer qualifies as an "existing" cropland or facility for cost-share purposes under that performance standard. If the cropland or facility later falls out of compliance with the performance standard, the landowner must restore compliance regardless of the availability of cost-

sharing.

- (c) Determine whether cost-sharing is available following the requirements of ss. NR 151.09(4)(d) or NR151.095(5)(d), Wis. Admin. Code, when funding is provided under s. 281.65, Stats., and use ch. ATCP 50, Wis. Admin. Code, to make this determination when funds are from any other source.

## **SECTION 1-5: MANURE STORAGE PERMITS**

### **(1) Permit Required.**

- (a) No person may do any of the following without obtaining a permit in accordance with this section:
  - 1. Construct a new manure storage facility or substantially alter an existing manure storage facility, including the construction or substantial alteration of waste transfer systems connected to a manure storage facility.
  - 2. Upgrade, repair or replace a manure storage facility that has been identified as posing an imminent threat to public health, fish and aquatic life, or groundwater under Sec. 1-4.
  - 3. Close an existing manure storage facility, including conversion of its use, regardless of whether the facility must be closed in accordance with Sec. 1-4.
  - 4. Repurpose an existing manure storage facility.
- (b) Requirements of this Ordinance shall be in addition to any other legal requirements regulating animal waste. Specific exemptions to cost-share requirements apply to the issuance of permits. See ss. NR 151.095(5)(b)2. and ATCP 50.54(2)(b), Wis. Admin. Code. In the case of conflict, the most stringent provisions shall apply.
- (c) A person is in compliance with this section if he or she follows the application and other procedures specified in this section, receives a permit and approval from the County before beginning activities subject to regulation under this section, complies with the requirements of the permit and receives any required approvals or certifications from the county. The Permitting Authority may establish a timetable for the applicant to complete required activities to ensure compliance with requirements of this ordinance.

### **(2) Exception to Permit Requirement.** A permit is not required for:

- (a) Routine maintenance of a manure storage facility, not including activities listed under section 1-5(1)(a) of this ordinance
- (b) Emergency equipment repairs of a manure storage facility, if the following conditions are met:
  - 1. All emergency repairs on a manure storage facility or transfer system which cause any disruption of the original construction of the storage facility shall be done so as to restore the storage facility to the original state, as determined by the technical standards set forth in sub. (6).
  - 2. Such repairs shall be further reported to the Permitting Authority within one (1) working day of the emergency for a determination on whether a permit will be required for any additional alteration or repair to the facility.
  - 3. The Permitting Authority determination shall be rendered within three (3) working days of reporting.
- (3) **Fee.** All fees associated with this ordinance shall be established by County Board resolution.
- (4) **Manure Storage Facility Construction Plan and Nutrient Management Plan Required.** Each application for a permit under par. (1)(a) shall be on a form provided by the County and include plans for the storage facility (including transfer system) and the management of manure prepared in accordance with following requirements:
  - (a) A narrative of the general criteria required within Technical Standard 313, and of other applicable Technical Standards including management and site assessments. The narrative should include, but is not limited to:
    - 1. The number and type of animals for which storage is provided, the duration for which storage is to be provided, daily gallons and/or cubic feet of waste and manure produced, bedding type, manure handling practices, and availability of adequate land to meet Technical Standard 590 spreading requirements.
    - 2. A description and construction plan of the method of transferring animal waste into and from the facility.
    - 3. Soil test pit or boring logs and their locations with soil descriptions and test results. Soil test pit or boring criteria should follow Technical Standard 313 and characterize the subsurface (soils, saturation, and bedrock). This includes the elevation of redoximorphic features (mottling), gleyed soil and moisture condition.
  - (b) A general location map drawing of the site which shall include:
    - 1. The location of structures in relation to buildings, homes, property lines, roads, wells, karst features, public or private drainage ditches and creeks, flowages,

rivers, streams, lakes, or wetlands within one thousand (1000) feet of the proposed facility or system.

2. The scale of the drawing and the north arrow with the date the general location map was prepared.
3. The location of any floodplains.

(c) Engineering design drawings of the manure storage facility or transfer system which shall include:

1. Specific design components that shall comply with Technical Standard 313, and additional applicable Technical Standards such as 634.
2. A recoverable benchmark(s) including elevation(s) expressed in feet and tenths.
3. The scale of the drawings and the north arrow. The engineering design drawing shall be drawn to a scale no smaller than one (1) inch equals one hundred (100) feet.
4. The date the engineering design drawings were prepared.

(d) The structural details, including but not limited to dimensions, cross-sections, concrete thickness, concrete joint design and placement, design loads, design computations, reinforcement schedules, thickness and placement of groundwater protection liners, and all material specifications.

(e) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater.

(f) A construction site erosion control plan.

(g) Estimated start of construction and construction schedule.

(h) A safety plan that identifies hazards to animals and people in the production area, and design features to minimize those hazards.

(i) An operation and maintenance plan for installed practices.

(j) A nutrient management plan prepared in compliance requirements of this Ordinance, including sub. (6).

(k) Other additional information requested by the county to comply with this Ordinance.

(5) **Manure Storage Closure Plan Required.** Each application for a closure permit under subsections (1)(a)3. shall be on form provided by the county and include a closure plan.

The plan shall include:

- (a) A general location map drawing of the manure storage facility which shall include:
    - 1. The location of the manure storage facility in relation to buildings, homes, property lines, roads, wells, karst features, public or private drainage ditches and creeks, flowages, rivers, streams, lakes, or wetlands within one thousand (1000) feet of the existing facility.
    - 2. The scale of the drawing and an arrow indicating north.
    - 3. The date the general location map was prepared.
  - (b) A description of the method and specifications in transferring manure into and from the manure storage facility to ensure proper closure of transfer systems.
  - (c) Provisions to remove or permanently plug the manure transfer system serving the manure storage facility.
  - (d) Provisions to remove and properly dispose of all accumulated manure in the manure facility in compliance with applicable Technical Standards.
  - (e) For all waste impoundments, plan requirements and provisions shall be in compliance and consistent with applicable Technical Standards.
  - (f) The manure storage facility may be converted to other uses, where it is demonstrated the conversion will not result in a degradation of ground and/or surface waters or be a threat to public health, safety or general welfare. Approval of the proposed use may be required under general zoning regulations.
  - (g) Manure storage facility closures and conversions shall implement safety measures to ensure the protection of the public from hazardous conditions.
  - (h) Any other additional information required by the County to protect water quality and achieve compliance with the requirements of this Ordinance.
- (6) **Permit Standards**
- (a) Manure Storage Construction. Permit applications under sub (4) shall provide sufficient documentation to demonstrate that a new or substantially altered storage facility:
    - 1. Is designed in accordance with Technical Standard 313 and Technical Standard 634.
    - 2. Meets the performance standards in Sec. 1-4.

- (b) Manure Storage Closure. Permit applications under sub. (5) shall provide sufficient documentation to demonstrate that the plan for manure storage facility closure meets Technical Standard 360.
  - (c) Manure and Nutrient Management. Nutrient management plans submitted under sub. (4) and sub. (5) shall comply with Technical Standard 590, s. ATCP 50.04 (3), Wis. Admin. Code, and s. NR 151.07, Wis. Admin. Code.
  - (d) Other Standards. Other technical guides such as AWMFH or EFH may be used to evaluate compliance with the requirements of this Ordinance.
  - (e) Incorporation of Standards and Specifications. All standards and specifications are incorporated by reference and made part of this Ordinance. Any future amendment, revision or modification of the standards or specifications incorporated herein are made a part of this ordinance, unless the County specifically affirmatively acts to a different version. Copies of all applicable standards and specifications may be obtained from the Iowa County Land & Conservation Department or on Iowa County's website at [www.iowacounty.org](http://www.iowacounty.org).
  - (f) Certification. All permit applications must include a certification provided by a qualified person that the designs and plans meet the technical standards and specifications in this subsection. A qualified person is someone who is either a Wisconsin licensed engineer, certified crop advisor, or technical service provider with state job approval authority.
  - (g) Variances. Variances from these standards and specifications can only be granted in accordance with sec. 1-9 of this Ordinance.
  - (h) New Technology. A permit may be granted for a system or facility that employs new technology only if it can be demonstrated to meet any existing, applicable NRCS standards included in the Technical Guide and the intent of this Ordinance.
- (7) **Review of Application.** All applications are to be submitted to the Office of Planning and Development. Said Office will determine the completeness of the applications. Within 45 calendar days after deeming the application complete, the Office shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the Office shall so notify the permit applicant. The Office has thirty (30) calendar days from the receipt of the additional information in which to approve or disapprove the application. No construction may commence without the approval permit



issued by the Office.

- (8) **Permit Approval Conditions.** All permits issued under this Ordinance shall be issued subject to the following conditions and requirements:
- (a) Facility and system design, construction, and closure shall be carried out in accordance with the approved plans and applicable standards.
  - (b) Permittees must obtain all required permits and authorizations before commencing construction activities.
  - (c) The permittee shall give five (5) working days written notice to the Iowa County Office of Planning and Development before starting any construction activity authorized by the permit.
  - (d) Approval in writing must be obtained from the Office of Planning and Development prior to making any changes or modifications to the approved plans and specifications.
  - (e) Following completion of construction and prior to use, practitioner Wisconsin licensed engineer, certified crop advisor, or technical service provider with state job approval authority and the permittee and, if applicable, the contractor, shall certify in writing that all facilities and systems were installed as planned, including as-built dimensions, any notes or reports, and changes or modifications as authorized per par. (8)(d) made during construction.
  - (f) Permittee shall provide materials specifications for approval for any component covered by current, applicable NRCS Wisconsin construction specifications of the storage facility prior to installation.
  - (g) The County shall provide onsite inspection and final approval (via a Certificate of Use) for all construction projects conducted under a permit issued under this Ordinance. To receive approval Certificate of Use, a manure storage facility must be fully constructed as designed including the marking of the maximum operating level and implementation of all safety devices.
  - (h) No permitted manure storage facility may receive manure until the County provides a Certificate of Use. No manure may be emptied from permitted manure storage facility until the County approves the nutrient management plan submitted by the applicant.
- (9) **Permit Expiration.** All activities authorized by a permit shall be completed within two (2) years from the date of issuance after which time such permit shall be void. No work shall

commence or continue at a site where a permit has expired unless a new, subsequent permit has been applied for and issued.

- (10) **Permit Revocation.** In addition to any other actions authorized under this ordinance, the County may revoke any permit issued under this Ordinance if the holder of the permit has misrepresented any material fact in the permit application, plan or specification, or if the holder of the permit violates any of the conditions of the permit. The decision to revoke a permit may be appealed to the Board of Adjustment.

## **SECTION 1-6: CERTIFICATE OF USE**

- (1) **Certificate Purpose.** The purpose of a Certificate of Use is to monitor and regulate the operation of a manure storage facility and adequacy of related nutrient management practices.
- (2) **Certificate Requirement.** No person may operate or use a manure storage facility permitted under this Ordinance unless the person has a valid Certificate of Use for the storage facility or portion of the storage facility that is being operated or used.
- (3) **Issuance.** The County may issue a Certificate of Use upon the operator's compliance with conditions in Sec. 1-5(8) and the certificate shall remain in effect for as long as the manure storage facility is operated under the terms of the Certificate and this Ordinance.
- (4) **Operating Requirements.** The operator of a manure storage facility is in compliance with the Certificate of Use if the person does all of the following:
  - (a) Updates and follows an annual nutrient management plan that complies with requirements in this Ordinance and covers all manure from the manure storage facility subject to the Certificate of Use.
  - (b) Provides the most current DATCP 590 Nutrient Management Checklist by March 1st annually to the Land Conservation Department to document compliance with ordinance requirements. The Department may ask the operator to submit further documentation to substantiate an answer to one or more questions on the nutrient management checklist. The County may take appropriate action authorized by this Ordinance if the submitted documentation does not reasonably substantiate a checklist answer. Checklists may be obtained from the Land Conservation Department or the DATCP website.

- (c) Properly operates the storage facility in accordance with performance standards and prohibitions in sec. 1-4 and consistent with the recommended operating methods as defined by the Technical Guide, AWMFH and EFH.
  - (d) Properly maintains the storage facility free from visible and serious damage, erosion, or deformities that would impair the facility's safety or function as determined by the Technical Guide, AWMFH, and the EFH.
  - (e) Properly maintains the safety devices.
  - (f) Provides the Land Conservation Department proof of compliance with the requirements in (4)(c) and (d) upon request and submits to periodic inspections of the storage facility with advance notice from the Department.
  - (g) Develops and implements a plan for closure of the manure storage facility when the operator ceases use of the facility or closure is required based on conditions specified in this ordinance.
  - (h) The operating requirements shall remain with the facility regardless of property sale or transfer. In the event of a property sale or transfer, the new owner shall contact the Land Conservation Department to ensure compliance with the Certificate of Use.
- (5) **Certificate Revocation.** In addition to any other actions specified under this ordinance, the Permitting Authority may revoke a Certificate of Use if there is a misrepresentation of any material fact in the documents submitted in connection with the certificate use, a misrepresentation of any material fact in the nutrient management plan, a failure to submit required documentation or allow inspection, a condition that immediately threatens public health and safety, or for multiple or repeat violations of this ordinance. The operator will be immediately provided written notice of the revocation and the reasons for the revocation. No manure be added or removed from a manure storage facility whose certificate has been revoked.

## **SECTION 1-7: NONCONFORMING STRUCTURES AND FACILITIES**

A storage structure or facility that lawfully existed at the time this ordinance was enacted but does not currently meet the requirements of this ordinance shall be considered nonconforming. This would include:

- 1) Any storage structure or facility built prior to February 15, 2000; or

- 2) Any storage structure or facility with a capacity of 3500 cubic feet or greater constructed on or after February 15, 2000 for which a permit had been issued at the time of construction; or
- 3) Any storage structure or facility with a capacity under 3500 cubic feet constructed before October 15, 2019.

A nonconforming structure or facility may be closed or repurposed under the provisions of this ordinance. If the nonconforming structure or facility is being used for manure storage or intends to be used for manure storage, it must be determined to be designed, constructed and maintained to minimize the risk of structural failure and minimize leakage in order to comply with groundwater standards.

Any structure or facility that does not qualify as nonconforming shall be considered a violation of this ordinance and will be subject to Section 1-9 (4).

#### **SECTION 1-8: ADMINISTRATION AND ENFORCEMENT**

- (1) **Delegation of Authority.** The Iowa County Board of Supervisors hereby designates the Land Conservation Department and Office of Planning & Development with the authority to administer and enforce this Ordinance.
- (2) **Administrative Duties.** The administration and enforcement of this Ordinance, shall entail:
  - (a) Keeping an accurate record of all permit applications, animal waste facility plans, nutrient management plans, permits issued, inspections made, and other official actions.
  - (b) Reviewing permit applications and issue permits in accordance with Section 1-5 of this Ordinance.
  - (c) Conducting, or cause to conduct, inspections of manure storage facilities to determine if the facility construction, closure or operation meet the requirements of this Ordinance.
  - (d) Conducting, or cause to conduct, reviews of the nutrient management plans.
  - (e) Implementing the performance standards and prohibitions in accordance with Section 1-4 of this Ordinance.

- (f) Reviewing certificate applications and issuing Certificates of Use in accordance with Section 1-6 of this Ordinance.
  - (g) Investigating complaints relating to compliance with the requirements of this Ordinance and act upon the findings in accordance with provisions of this Ordinance.
  - (h) Performing other duties as specified in this Ordinance.
- (3) **Inspection Authority.** The Permitting Authority or its representative, is authorized to enter upon any lands affected by this Ordinance to inspect the land, and request records to determine compliance with this Ordinance including inspection of sites prior to or after the issuance of a permit or certificate, and sites with unpermitted manure storage facilities. See s. 92.07(14), Stats. If permission cannot be received from the applicant or permittee, entry by the Permitting Authority or its representative may proceed in accordance with s. 66.0119, Stats., to obtain a special inspection warrant. Refusal to grant permission to enter lands affected by this Ordinance for purposes of inspection shall be grounds for permit or Certificate of Use denial or revocation. The county may take any action authorized by this Ordinance to enforce this right of inspection.
- (4) **Enforcement Authority.** In addition to the authority to revoke permits and certificates specified in this Ordinance, the Permitting Authority is authorized to issue Stop Work Orders for development that has started without a required permit or approval. Notice is given by mailing a copy of the order or delivering it in person to the person whose activity is in violation of this Ordinance. The order shall specify that the activity must cease immediately or be brought into compliance within a period of time agreed upon by the Permitting Authority.

Any permit revocation or order stopping work shall remain in effect unless retracted by the appropriate authority (e.g., Board of Adjustment, Land Conservation Committee, or a court of general jurisdiction); or until the activity is brought into compliance with this Ordinance.

Where an after-the-fact permit is required in order to bring the activity into compliance, there may be an additional fee as established by County Board resolution.

- (5) **Abatement Order Authority.** The Permitting Authority may issue an order to abate any violation of this Ordinance with proper authorization. In the event an offense is not abated as ordered, the county may take such action as is necessary to abate the offense and the cost of such abatement will become a lien upon the person's property and may be collected in the same manner as other taxes.

- (6) Failure of the permit holder to resolve the issues for which a stop work order is issued, or to seek compliance in the case of a violation, may result in an enforcement action including, but not limited to, the issuance of a citation or referring the matter to the Iowa County Corporation Counsel.
- (7) **Other Lawful Remedies.** Nothing in this section may be construed to prevent the County from using any other lawful means to enforce this Ordinance.

## **SECTION 1-9: VIOLATIONS AND PENALTIES**

- (1) It is unlawful for a person to violate any provision of this Ordinance or any condition contained in a permit or certificate issued pursuant to this Ordinance.
- (2) It is unlawful for any person to knowingly provide false information, make a false statement, or misrepresent or fail to provide any material fact to a county agent, board, commission, committee, department, employee, officer, or official acting in an official capacity under this Ordinance.
- (3) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this Ordinance.
- (4) Any existing manure storage facility constructed since February 15, 2000 that does not meet the provisions of Section 1-7 for which there is no record of a permit having been issued at the time of construction will require a permit under this ordinance and verification of complying with the standards and provisions of this ordinance unless a variance is granted.
- (5) A separate offense is deemed committed on each day that a violation occurs or continues.

## **SECTION 1-10: APPEALS AND VARIANCES**

- (1) **Appeals**
  - (a) An appeal may be made to the Iowa County Board of Adjustment of any order, requirement, decision, or determination by the Permitting Authority in administering this Ordinance.
  - (b) Any person having a substantial interest, which is adversely affected by the order, requirement, decision, or determination made under this ordinance may file an appeal.

- (c) All appeals shall specify written evidence and the reason for the request, including which requirements from this Ordinance are involved.
- (d) The Board of Adjustment shall consider an appeal as outlined in Section 10.0 of the Iowa County Zoning Ordinance.

(2) **Variances**

- (a) The Land Conservation Committee may consider an appeal for a variance from the requirements of this ordinance.
- (b) A variance shall:
  - 1. Be consistent with the spirit and purpose of this ordinance.
  - 2. Be based on unique circumstances and not to the general conditions of the area.
  - 3. Not be granted for a self-created hardship.
  - 4. Not permit an activity or practice that may fail structurally or otherwise and cause significant water pollution or other off-site impacts.
  - 5. Not be granted if the variance will result in an outcome that is contrary to the public interest and be damaging to the rights of other persons.
  - 6. Not be granted solely on the basis of economic gain or loss.
  - 7. Not be granted solely on the fact that certain conditions existed prior to the effective date of the ordinance
- (c) No variance from the standards in Technical Guide may be approved unless the county receives a variance or waiver from the technical standards through the NRCS, DATCP, or other qualified engineering authority. If public funds are involved, this may be a program requirement.
- (d) No variance from the performance standards and prohibitions in sec. 1-4 may be granted unless the County complies with the variance requirements specified in s. NR 151.097, Wis. Admin. Code, and receives approval from the Department of Natural Resources. Requests for a variance shall be made in writing and shall provide information documenting the following:
  - 1. Compliance with the performance standard or technical standard is not feasible due to site conditions.
  - 2. The landowner or operator will implement best management practices or other corrective measures that ensure a level of pollution control that will achieve a level of water quality protection comparable to that afforded by the performance standards in ch. NR 151, Wis. Admin. Code.
  - 3. The landowner or operator or their agents or assigns did not create the conditions for which the variance is requested.