

SUBSTITUTE AMENDMENT TO ORDINANCE NO. 08-14

An Ordinance Establishing Construction Standards for Animal Waste Storage Facilities.

The Richland County Board of Supervisors does hereby ordain as follows:

Section 1: INTRODUCTION

1.01 Repeal

Ordinance #99-8 is repealed.

1.02 Authority

This Ordinance is adopted under the authority granted by section 59.02 and 92.16, Wisconsin Statutes.

1.03 Title

This Ordinance shall be known as the Richland County Manure Storage Facilities Ordinance.

1.04 Findings and declaration of policy

The Richland County Board of Supervisors finds that the storage of manure in storage facilities not meeting technical design and construction standards is a threat to cause pollution of the surface and ground waters of Richland County and may result in 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 Richland County. The Board also realizes that a properly constructed and maintained manure storage system minimizes the risk of pollution to surface and ground water.

1.05 Purpose

The purpose of the Ordinance is to regulate the location, design, construction, installation, alteration, closure and application of waste from all storage facilities covered by this Ordinance, in order to prevent water pollution and thereby protect the health of Richland County residents; and promote the prosperity and general welfare of the citizens of Richland County. This Ordinance is adopted to help realize the value that manure adds to the soils of Richland County. Maintaining positive economic impact in itself is a natural resource for the County.

1.06 Applicability

This Ordinance applies to the unincorporated areas of Richland County. Existing structures will come under the regulation if they are substantially altered beyond their original design and construction.

1.07 Interpretation

In their interpretation and application, the provisions of the Ordinance shall be held to the minimum requirements and shall be liberally construed in the favor of Richland County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.08 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.

Section 2: DEFINITIONS

(1) “Animal waste” also referred to as “Manure” means livestock excreta and other materials such as bedding, rain or other water, soil, hair, and other debris normally included in animal waste handling operations.

(2) “Animal waste storage facility” or “Manure storage facility” means a concrete, steel, or otherwise fabricated structure, or an excavated or earthen impoundment used for storage of animal or other organic waste excluding domestic waste (i.e. human household waste), industrial wastewater generated offsite, or sludge. Falling under this Ordinance are facilities that store manure greater than thirty (30) consecutive days or a volume of 3500 cubic feet of manure, whichever is smaller. An animal manure stacking area for the purpose of this Ordinance is not considered an animal manure storage facility.

(3) “Agricultural Engineering Practitioner” means an individual who meets the qualifications described in s. ATCP 50.46, Wis. Admin. Code.

(4) “Applicant” means any person who applies for a permit under this ordinance.

(5) “DATCP” means the Wisconsin Department of Agriculture, Trade and Consumer Protection.

(6) “DNR” means the Wisconsin Department of Natural Resources.

(7) “Earthen animal water storage facility” means a facility constructed of earth dike, ponds, and pits used for storage of manure.

(8) “Farmer” means a person who cultivates, operates, or manages a farm for profit, either as an owner or tenant. A farm includes stock, dairy, poultry, fish, fruit, and truck farms. It also includes plantations, ranches, ranges, and orchards.

(9) “Idle storage facility” means a manure storage facility where the operations cease or manure has not been added or removed for 24 months. (See NR151.05 (b) for exceptions.)

(10) “Land Conservation Committee”, referred to as the “LCC”, means the committee of the Richland County Board assigned the responsibility of supervising the functions and activities of the Richland County Land Conservation Department.

(11) “Land Conservation Department”, referred to as the “LCD”, means the county staff assigned the responsibility of enforcing and providing technical assistance for this Ordinance.

(12) “Manure storage stack” means deposit of manure that is not contained. The manure is stacked in an area for less than 90 days and the soil surface has not been disturbed prior to the stacking operation.

(13) “NRCS” means the United States Department of Agriculture- Natural Resources Conservation Service.

(14) “Permit” means the signed, written statement issued by the Richland County Land Conservation Department under this ordinance authorizing the applicant to construct, install, reconstruct, enlarge, substantially alter an existing animal waste storage facility, or close a manure storage facility and to use or dispose of waste from the facility.

(15) “Permittee” means any person to whom a permit is issued to under this ordinance.

(16) “Person” means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, state agency within Wisconsin, or federal government, or any combination thereof.

(17) “Qualified Nutrient Management Planner” means an individual with qualifications described in s. ATCP 50.04 (3) and 50.48, Wis. Admin. Code.

(18) “Substantially altered” means a change initiated by an owner or operator that results in a relocation of a facility or significant changes to the size, depth or configurations of a facility including:

(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 areas of a structure.

(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.

(19) “Technical Guide” means the United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service Field Office Technical Guide (FOTG) as adapted by the Richland County Land Conservation Committee. The said guide can be seen at the Richland County Land Conservation Department and is also available on-line at www.wi.nrcs.usda.gov.

(a) Standard “313 – Waste Storage Facility” means a structure for temporary storage of animal waste or other organic agricultural waste. It does apply to waste storage ponds. Storage tanks are used for liquid and slurry wastes and may be opened or covered, within or outside an enclosed housing or beneath slotted floors.

(b) Standard “590 – Nutrient Management” means managing the amount, form, placement and timing of applications of plant nutrients. This standard establishes the minimum acceptable requirements for the application of plant nutrients associated with organic wastes (manure and organic byproducts), commercial fertilizer, legume crops and crop residue. This plan shall be done by a qualified nutrient management planner to meet the 590 requirements.

(c) Standard “634 – Manure Transfer” means a manure conveyance system using structures, conduits or equipment.

(d) Standard “360 – Closure of Waste Impoundments” means closing of manure storage facilities that are no longer used for their intended purpose, in an environmentally safe manner.

(20) “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 and/or recreational use, or detrimental to fish, bird, animal or plant life.

(21) “Water Quality Management Area” means any of the following:

(a) The area within 1,000 feet of the ordinary high water mark of a navigable lake, pond, or flowage other than a glacial pothole lake.

(b) The area within 1,000 feet of the high water mark of a glacial pothole lake.

(c) The area within 300 feet of the ordinary high water mark of a navigable river or stream.

(d) An area that is susceptible to groundwater contamination or that has the potential to be direct conduit for contamination to reach groundwater.

(22) “Work day” means Monday through Friday except County holidays.

Section 3: ACTIVITIES SUBJECT TO REGULATION

3.01 General Permit Requirements

Any person who locates, installs, moves, reconstructs, extends, enlarges, converts, substantially alters or changes the use of an animal waste storage facility or parts thereof, closes an idle storage facility or possesses an idle storage facility, or who employs another to do the same on land subject to this Ordinance shall be subject to the provisions of this Ordinance. The requirements of this Ordinance shall be in addition to any other ordinance or administrative rule regulating animal waste storage or applicable technical standards. In case of conflict, the most stringent provisions shall apply. Existing structures will come under the regulation of the Ordinance if they are altered beyond their original design and construction. The permittee should check with the County Zoning Department to see if a building permit is required. The permittee also needs to inquire if the proposed storage site is in the floodplain or is covered by the Shoreland Ordinance.

3.02 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 Richland County LCD before beginning activities subject to regulation under this Ordinance, and complies with the requirements of this permit.

3.03 Manure Management Prohibitions

All livestock operations constructing or altering an animal waste storage facility shall comply with the following:

1. A livestock facility shall have no overflow of manure storage facilities.
2. A livestock operation shall have no unconfined manure piles in a water quality management area.
3. A livestock operation shall have no direct runoff from a feedlot or stored manure into the waters of the state.
4. 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. This prohibition does not apply to properly designed, installed and maintained livestock or farm equipment crossings.

Pursuant to Section 281.16 (3) of the Wisconsin Statutes, a livestock operation that is in existence prior to October 1, 2002 shall not be required to comply with the manure management prohibitions unless cost-sharing is made available.

Section 4: STANDARDS

4.01 Standards for manure storage facilities

The standards for the design and construction of animal waste storage facilities are those in standards and specifications number 313 of the Technical Guide.

4.02 Standards for manure management and utilization

The standards for management of animal waste facilities and utilization of animal waste are those in standard 590 of the Technical Guide.

4.03 Standards for manure transfer

The standards for conveyance of manure to and from a manure storage facility are those in standard 634 of the Technical Guide.

4.04 Standards for closing an idle manure storage facility

The standards for closure of waste impoundments are those in standard 360 of the Technical Guide.

4.05 Human household waste

Human household wastewater shall not be discharged into manure storage facilities unless provided for through other permitting process outside of this Ordinance.

4.06 Subsequent modification of standards

If approved by the DATCP or DNR, future amendments to Standards 313, 590, 634 and 360 or the current standards for waste management systems, waste storage facilities, nutrient management, waste transfer systems and closure of waste impoundments of Technical Guide are incorporated by reference in this Ordinance and made part of this Ordinance, unless otherwise acted upon by the Richland County Board of Supervisors.

Section 5: APPLICATION FOR AND ISSUANCE OF PERMITS

5.01 Permit required

The Richland County LCD shall review all permit applications. Construction of any facility or activity covered by this Ordinance shall not start until a permit has been obtained.

5.02 Exemption to Permit Requirements

Emergency repairs such as repairing broken pipe or equipment, leaking dikes, the removal of stoppages, or ordinary and required maintenance, 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 Richland County LCD within one (1) work day of the emergency for a determination by the Richland County LCD on whether a permit will be required for any additional alteration or repair of the facility.

5.03 Fee

A non-refundable fee based on size of the operation is required for new, expanded or substantially altered facilities.

<301 animal units \$150.00

301-700 animal units \$300.00

701-1000 animal units \$400.00

>1000 animal units \$500.00

A non-refundable fee of \$50.00 for closure of an idle storage facility is required.

Activities authorized by this permit must be completed within one (1) year from the date of issuance after which such permit will be void. However, a one (1) year extension may be granted by the LCD. After this, one must reapply for another permit.

5.04 Manure storage facility and nutrient management plan required

Each application for a permit under this Ordinance shall include a manure waste storage facility plan. Technical assistance for plan development shall be made available to applicants upon request through the LCD in cooperation with the Natural Resources Conservation Service, or the services of a qualified, licensed engineering consultant may be employed at the applicant's expense. Plans developed by a qualified, licensed, engineering consultant must bear the consultant's seal and be accompanied by verification that the plan is in accordance with applicable standards. The plan should specify:

(a) The number and kinds of animals for which storage is provided and the duration for which storage is provided.

(b) A plan view of the facility and its location in relation to buildings within 250 feet and homes within 500 feet of the proposed facility. The plan view shall be drawn to scale, with a scale no smaller than 1" equals 20 feet. The plan view shall set forth the scale to which it is drawn and shall include a North arrow.

(c) The structural details, including dimensions, cross sections, concrete thickness and reinforcement.

(d) The location of any wells within 300 feet of the proposed facility.

(e) The soil test pit locations and soil descriptions to a depth of at least five (5) feet below the planned bottom of the proposed facility.

(f) The elevation of seasonally high 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. Location of any springs, streams, or lakes within 500 feet of proposed facility.

(h) A time schedule for construction of the facility.

(i) A description of the method in transferring animal waste into and from the facility.

(j) Certification by a registered Professional Engineer (PE) or an Agricultural Engineering Practitioner, as defined in Section 2, that the plans meet the requirements of this Ordinance.

5.05 Nutrient management plan required

As part of the application for a permit to construct a new manure storage facility, to substantially alter an existing manure storage facility or to close an idle storage facility, a permittee must develop or have another party develop a nutrient management plan that complies with Technical Guide Standard 590. The nutrient management plan, along with the completed nutrient management check list, must be submitted to the Land Conservation Department with the manure storage facility plan.

The nutrient management plan shall include the following:

1. Identification of every field where nutrients, including manure, will be mechanically applied.
2. Be prepared by a nutrient management planner qualified under s. ATCP 50.48, Wis. Admin. Code.
3. Be based on field soil samples taken in accordance with Technical Guide Standard 590 and with soil nutrient tests conducted at a laboratory certified under s. ATCP 50.50, Wis. Admin. Code.
4. Comply with NRCS Technical Guide Standard 590.
5. Follow recommendations for nutrient applications found in the University of Wisconsin Extension Soil Test Recommendation 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. The permittee shall certify by May 1st every year that they are following a nutrient management plan.

5.06 Animal waste storage facility closure requirement

Each application for a closure permit under this Ordinance shall include a closure plan prepared in accordance with Technical Standard 360. The plan shall specify:

(a) A sketch of the facility and its location to buildings within 250 feet. The sketch shall be drawn to scale, with a scale no smaller than 1 inch equals 20 feet. Include a north arrow.

(b) The amount and type of waste (if any).

(c) The type of facility and construction materials, i.e. concrete, earthen, synthetic liner.

(d) The type of transfer system present and how it will be removed or permanently plugged.

(e) A plan for the application of manure that is present in the facility (if any) and the soil saturated with manure that complies with Standard 590-nutrient management.

(f) A plan view showing the final grade, the area to be reseeded, and how runoff will be diverted away from the site.

(g) Certification by a registered Professional Engineer (PE) or an Agricultural Engineering Practitioner, as defined in Section 2, that the plans meet the requirements of this Ordinance.

5.07 Review of application

The LCD shall determine if the proposed facility meets the requirements of the standards set forth in Section 4 of the Ordinance. Within thirty (30) work days after receiving the completed application and permit 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 fifteen (15) work 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 LCD requires comments or review from an outside agency, the LCD has fifteen (15) work days from receipt of the comments or review from the referral agency to approve or disapprove the application. If the LCD fails to approve or disapprove the permit application in writing within fifteen (15) work 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 has been issued.

5.08 Permit conditions

All permits issued under this Ordinance shall be issued subject to the following conditions and requirements.

(a) Animal waste storage facilities – design, construction, management, and utilization activities as required under terms of this Ordinance.

(b) The permittee shall give at least two (2) work days notice to the LCD before starting any construction activities authorized by this permit.

(c) Approval in writing must be obtained from the LCD prior to any modifications to the approved animal waste storage facility plan.

(d) The professional engineer or agricultural engineering practitioner shall certify in writing that the facility was installed as planned.

(e) Activities authorized by this permit must be completed within one (1) year from the date of issuance after which such permit will be void. However, a one (1) year extension may be granted by the LCD. After this, one must reapply for another permit.

(f) The LCD staff may conduct on site inspections during and after construction.

(g) Prior to use, the facility must be certified as meeting standards. The construction certification form must be signed by a registered professional engineer (PE) or an agricultural engineering practitioner, as defined in Section 2. This certification must include as-built plans and changes or modifications. This form must also be signed by the permittee and the LCD before the facility is used.

5.09 Permit Revocation

The Richland County LCD may revoke any permit issued under this Ordinance if the holder of the permit has misrepresented any material fact in the permit application, animal waste facility plan or nutrient management plan or if the holder of the permit violates any of the conditions of the permit. The County will comply with Chapter 68, Wisconsin Statutes in taking any action under this section.

Section 6: ADMINISTRATION

6.01 Delegation of Authority

Richland County hereby designates the Richland County LCD to administer and enforce this Ordinance in consultation with the Land Conservation Committee. The County Conservationist is hereby designated to sign the permit and any stop work orders required. The Corporation Counsel shall prosecute violations of this Ordinance at the direction of the Richland County Land Conservation Committee.

6.02 Administrative Duties

In the administration and enforcement of this Ordinance, the Richland County LCD will:

(a) Keep an accurate record of all permit applications, manure storage facility plans, nutrient management plans, permits issued, inspections made and other official action.

(b) Review permit applications and issue permits in accordance with Section 5 of this Ordinance.

(c) Monitor permitted activities for compliance with this Ordinance. *Note: If the manure storage facility is designed by a registered Professional Engineer or an Agriculture Engineering Practitioner, that individual or engineering firm is responsible for the inspections.*

(d) Investigate complaints relating to compliance with the Ordinance. All complaints must be in writing, signed and kept on file.

(e) Provide technical services to the extent resources are available.

(f) Perform other duties as specified in this Ordinance.

6.03 Inspection Authority

The Richland County LCD is authorized to enter upon any lands affected by this Ordinance to inspect the land prior to or after issuance to determine compliance with this Ordinance. If permission cannot be received from the applicant or permittee, entry by the Richland County LCD shall be according to Sections 66.0119 and 92.07 (14), Wisconsin Statutes. Refusal to grant inspection may be grounds for denial of the permit.

6.04 Enforcement authority

The Richland County LCD is authorized to post a stop work order upon the manure storage facility which has had a permit revoked or a manure storage facility where construction is taking place in violation of this Ordinance. Notice is given by posting upon the manure storage facility where the violation occurs one or more copies of a poster stating the violation , by mailing a copy of the order by certified mail to the person whose activity is in violation of this Ordinance, or by personally serving said person. The order shall specify that the activity must cease or be brought into compliance.

Any permit revocation or stop work order shall remain in effect unless retracted by the Richland County LCC or LCD or by a court of general jurisdiction. The Richland County LCC or LCD is authorized to refer any violation of the Ordinance or of a stop work order issued pursuant to this Ordinance to the Corporation Counsel for commencement of further legal proceedings.

Section 7: VIOLATIONS

7.01 Penalties

Any person convicted of violating this Ordinance shall pay a forfeiture of \$25.00 plus Court costs for each violation. Each day that a violation continues shall be a separate offense.

7.02 Enforcement of Injunction

As a substitution for or in addition to forfeiture actions, Richland County may seek enforcement of any part of this Ordinance by the Circuit Court of Richland County seeking an injunction or restraining order.

Section 8: APPEALS

8.01 Authority

Under the authority of Chapter 68, Wisconsin State Statutes, the Richland County Board of Adjustments created under Section 59.694 Wisconsin Statutes and under Richland County Zoning Ordinance #5 in Section VI, is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by the Richland County LCD or LCC in administering this Ordinance.

8.02 Procedure

The rules, procedures, duties and powers of the Board of Adjustment and Chapter 68, Wisconsin Statutes shall apply to this Ordinance.

8.03 Who may appeal

For the purposes of this section, "Person" shall be defined in accord with Section 68.06, Wisconsin Statutes, and only those who qualify under Section 68.01, Wisconsin Statutes, may seek review of a determination. Appeals may be taken by any "Person" adversely affected by the order, requirement, decision or determination made by the Richland County Land Conservation Department.

Section 9:

EFFECTIVE DATE

This Ordinance shall be in full force and effect upon its passage and publication.

Dated: June 17, 2008

Passed: June 17, 2008

Published: June 26, 2008

ORDINANCE OFFERED BY THE LAND
CONSERVATION COMMITTEE

Ann M. Greenheck, Chairman
Richland County Board of Supervisors

	FOR	AGAINST
Paul Kinney	X	
James Lewis	X	
Richard Rasmussen	X	

ATTEST:
Victor V. Vlasak
Richland County Clerk