

ORDINANCE NO. 99- 8

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 Authority

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

1.02 Title

This Ordinance shall be known as the Richland County Manure Storage Facility and is hereinafter referred to as "this Ordinance."

1.03 Findings and declaration of policy

The Richland County Board of Supervisors by accepting grants from the State of Wisconsin for priority watersheds is compelled to pass an ordinance that deals with the designing and constructing of manure storage facilities. The Board of Supervisors also realizes that a properly constructed and maintained system minimizes the risk of pollution to surface and ground water.

1.04 Purpose

The purpose of this Ordinance is to regulate the location, design, construction, installation and alteration 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. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.

1.05 Applicability

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

1.06 Interpretation

In their interpretation and application, the provisions of this 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.

1.07 Severability clause

In 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" 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. 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 of this Ordinance is not considered an animal manure storage facility.

(3) "Applicant" means any person who applies for a permit under this ordinance.

(4) "Designee" means an employee of the Richland County Land Conservation Department.

(5) "Earthen animal waste storage facility" means a facility constructed of earth dikes, ponds, and pits used for storage of manure.

(6) "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.

(7) "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.

(8) "Permit" means the signed, written statement issued by the Richland County Land Conservation Committee or its designee under this ordinance authorizing the applicant to construct, install, reconstruct, enlarge, or substantially alter an existing animal waste storage facility and to use or dispose of waste from the facility. This permit is a construction permit and to be in effect until the Land Conservation Committee designee determines that all of the permit requirements have been met and the constructed storage facilities has met all of the Technical Guide requirements.

(9) "Permittee" means any person to whom a permit is issued to under this ordinance.

(10) "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.

(11) "Technical guide" means the United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service Technical Guide as adapted by the Richland County Land Conservation Committee. The said guide is on file at the Richland County Land Conservation Department.

(a) Standard "313- Waste Storage Facility" means a structure for temporary storage of animal wastes or other organic agricultural wastes. It does apply to waste storage ponds. Storage tanks are used for liquid and slurry wastes and may be: open 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 can be done by a certified crop consultant or by the landowner/noncertified crop consultant with assistance of the Land Conservation Committee or its designee to meet the 590 requirements.

(12) "Work Day" shall mean Monday through Friday except for County holidays.

(13) "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.

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; 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 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 Land Conservation Committee or its designee before beginning activities subject to regulation under this Ordinance, and complies with the requirements of the permit.

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.

Section 5: APPLICATION FOR AND ISSUANCE OF PERMITS

5.01 Permit Required

The Richland County Land Conservation Committee or its designee 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 Land Conservation Committee or its designee within one (1) work day of the emergency for a determination by the Richland County Land Conservation Committee or its designee on whether a permit will be required for any additional alteration or repair of the facility. The Richland County Land Conservation Committee or its designee determination shall be made within two (2) work days of receiving the report.

5.03 Fee

A non-refundable fee is not required. Activities authorized by this permit must be completed within one (1) year from the date of issuance after which such a permit will be void. However, a one (1) year extension may be granted by the Land Conservation Committee of its designee. 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 Land Conservation Committee or its designee in cooperation with the Natural Resources Conservation Service, or the services of a qualified, licensed engineering consultant may be employed at the applicants 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 nutrient management plan for utilization of the animal waste, including the amount of the 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 crop rotation, soil limitations, type and proximity of bedrock or groundwater, slope of land, a proximity of surface water bodies, all in accordance with Standard 590 of the Technical Guide. A nutrient management plan is required to ensure that a suitable area is available for land application and crop uptake of waste nutrients.

(j) a description of the method in transferring animal waste into and from the facility.

5.05

Review of Application

The Land Conservation Committee or its designee shall determine if the proposed facility meets the requirements of the standards set forth in Section 4 of the Ordinance. Within fifteen (15) work days after receiving the completed application and permit fee, the Land Conservation Committee or its designee shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the Land Conservation Committee or its designee shall so notify the permit applicant. The Land Conservation Committee or its designee has fifteen (15) 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 Land Conservation Committee of its designee requires comments or review from an outside agency, the Land Conservation Committee or its designee has fifteen (15) work days from receipt of the comments or review from the referral agency to approve or disapprove the application. If the Land Conservation Committee or its designee 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.

5.06

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 Land Conservation Committee or its designee before starting any construction activities authorized by this permit.

(c) Approval in writing must be obtained from the Land Conservation Committee or its designee prior to any modifications to the approved animal waste storage facility plan.

(d) The permittee, and if applicable, the contractor 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 Land Conservation Committee or its designee. After this, one must reapply for another permit.

5.07 Permit Revocation

The Richland County Land Conservation Committee or its designee 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 Land Conservation Committee or its designee to administer and enforce this Ordinance. 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 Land Conservation Committee or its designee will:

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

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

(c) Inspect any animal waste facility which is constructed to insure the facility is being constructed according to the construction plan specifications and complete a final inspection.

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

(e) Review the ordinance at a minimum of every five (5) years.

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

6.03 Inspection Authority

The Richland County Land Conservation Committee or its designee 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 Land Conservation Committee or its designee shall be according to Sections 66.122, 66.123 and 92.07 (14), Wisconsin Statutes. Refusal to grant permission to enter lands affected by this ordinance for purposes of inspection may be grounds for denial of the permit.

6.04 Enforcement Authority

The Richland County Land Conservation Committee or its designee is authorized to post an 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 Land Conservation Committee or its designee or by a court of general jurisdiction. The Richland County Land Conservation Committee or its designee is authorized to refer any violation of this Ordinance or of a stop work order issued pursuant to this Ordinance to the Corporate Counsel for commencement of further legal proceedings.

6.05 Manure Storage Ordinance Board of Appeals

(a) Composition

There shall be a Manure Storage Board of Appeals (herein known as Board of Appeals) consisting of three (3) members to be appointed by the chair of the county board with the approval of the county board for terms of three years. However, the terms of the first members so appointed shall be for 1, 2 and 3 years, with one member serving for one year, one member serving for two years and one member serving for three years. Successors shall be appointed in like manner at the expirations of each term and their terms of office shall be three years in all cases, beginning July 1 in the year in which they are appointed and until their successors are appointed. The members of the Board of Appeals shall all reside within the county and must be farmers. The Board of Appeals shall choose its own chair. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as the original appointment.

(b) Rules

(1) Call for Meetings: The Board of Appeals shall meet at the call of the chair, and at such other time as the Board of Appeals may determine, at a fixed time and place.

(2) Open Meetings: All meetings of the Board of Appeals shall be open to the public.

(3) Minutes: The Board of Appeals Shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record.

(4) Performance of Duties: The Board of Appeals shall have power to call on any county departments for assistance in the performance of its duties and it shall be the duty of such other departments to render all such assistance as may be

reasonably required.

(5) Effectuation: The Board of Appeals may adopt such rules as are necessary to carry into effect the regulations of the county board.

(6) Certiorari: In the case of all appeals, the Board of Appeals shall call upon the County Land Conservation Committee for all information pertinent to the decision appealed from.

(c) Appeals to the Board

(1) General Provisions: Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of Richland County, affected by any decision of the County Land Conservation Committee. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Appeals, by filing with the County Land Conservation Committee and with the Board of Appeals a notice of appeal specifying the grounds thereof. The County Land Conservation Committee shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

(2) Stays: An appeal shall stay all proceedings in furtherance of the action appealed from unless the County Land Conservation Committee shall certify to the Board of Appeals after notice of appeal shall have been filed that by reason of facts state in the certificate a stay would cause imminent peril to life of property. In such case, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or by a court of record on application or notice to the County Land Conservation Committee.

(3) Hearing Appeals: The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice hereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearings, any party may appear in person or by the agent or by attorney.

(d) Powers and Duties

(1) To Hear and Decide Appeals: Where it is alleged that there is error in any order, requirement, decision, or determination made by the County Land Conservation Committee, the Board of Appeals shall hear appeals and render decisions therefrom.

(2) Variance to Ordinance: Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, the Board of Appeals shall have the power, in passing upon appeals, to authorize such variance from the terms of this Ordinance as will not be contrary to the public interest and so that the purpose of the Ordinance shall be observed and substantial justice done.

(3) Special Exceptions: The Board of Appeals shall hear and decide special exceptions to the terms of the Ordinance upon which such board is required to pass under the terms of this Ordinance.

Section 7: VIOLATIONS

7.01 Penalties

Any person convicted of violating this Ordinance shall pay a forfeiture ranging from \$5.00 to \$100.00, plus Court costs, for each violation. Each day that a violation continues shall be a separate offense. The Circuit Court of Richland County is authorized to adopt the following bond schedule for these violations:

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 an in the Circuit Court of Richland County seeking an injunction. ?

Section 8: APPEALS

8.01 Authority

Under Chapter 68, Wisconsin Statutes, the Richland County Land Conservation Committee or its designee is designated to act in accord with Section 68.09(2), Wisconsin Statutes, to review initial determinations as to the grant or denial, revocation or conditions imposed as regarding any permits under this Ordinance which deemed to be reviewable in accord with Section 68.02, Wisconsin Statutes.

8.02 Procedure

Persons alleged to have been aggrieved by an initial determination made under this Ordinance shall follow the procedure, both as in time and other requirements, of Chapter 68, Wisconsin Statutes. The Richland County Land Conservation Manure Storage Board of Appeals is designated as the body under Section 68.11(2), Wisconsin Statutes, to handle the appeal of an initial determination under this Ordinance.

8.03 Who May Appeal

For the purposes of this section, "Persons" 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.

Section 9: EFFECTIVE DATE

This Ordinance shall be in full force and effect on October 1, 1999.

ORDINANCE OFFERED BY THE
LAND CONSERVATION COMMITTEE:

FOR AGAINST

<u>Clelland Durabum</u>	<u>✓</u>	_____
<u>Bill Beckert</u>	<u>✓</u>	_____
<u>Donna Kellough</u>	<u>✓</u>	_____
<u>James ...</u>	<u>✓</u>	_____

Dated: March 16, 1999
Passed: March 16, 1999
Published: _____

Ann M. Greenheck
Ann M. Greenheck, Chairman
Richland County Board of Supervisors

ATTEST:

Victor V. Vlasak
Victor V. Vlasak
Richland County Clerk

