

CHAPTER 27

AGRICULTURAL SHORELAND MANAGEMENT ORDINANCE

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27.01 Introduction. (1) Title. This ordinance may be referred to as the Agricultural Shoreland Management Ordinance.

(2) Authority. This ordinance is adopted under authority granted by Wis. Stat. secs. 59.02 and 59.03.

(3) Purpose. The purpose of this ordinance is to promote the health and general welfare of the public by protecting the surface and groundwater of the County by regulating local land and water resource management practices.

(4) Applicability. This ordinance applies to all unincorporated areas of the County.

(5) Construction. This ordinance is to be interpreted liberally to effect the purposes of the ordinance. This ordinance does not abrogate, annul, impair, interfere with, limit, or repeal any existing ordinance or any other power granted by the Wisconsin Statutes.

(6) Severability. The provisions of this ordinance are severable. If any provision or its application to any person or circumstance is determined to be invalid, that invalidity will not affect any other provision or application that can be given effect without the invalid provision or application.

27.02 Definitions. In this ordinance:

“Agricultural shoreland corridor” means the land that is within 20 feet of the edge of a sinkhole, the centerline of an intermittent stream, the top of either bank of a perennial stream or river, or the ordinary high-water mark of any pond or lake, as shown on a United States Geological Survey 1:24,000 quadrangle map or the Chapter 19 Map.

“Agricultural shoreland management area” means any land that drains to and is within 1,000

feet of the ordinary high-water mark of a lake or pond and any land that is within 300 feet of the edge of a sinkhole, the centerline of an intermittent stream, or the top of either bank of a perennial stream or river, as shown on a United States Geological Survey 1:24,000 quadrangle map or the Chapter 19 Map. Agricultural shoreland management area does not include any land that is within a drainage district.

“Animal waste” means manure from livestock, poultry or other animals; manure processing derivatives; leachate from manure piles, manure storage, or feed storage; and runoff or wastewater that contains manure.

“Channel” means an area of concentrated surface water flow from a drainage area.

“Chapter 19 Map” means a map on file with the Soil and Water Conservation Department that identifies the land and water features subject to this ordinance that are not shown on a United States Geological Survey 1:24,000 quadrangle map.

“Director” means the Director of the Soil and Water Conservation Department or the Director’s designee.

“Intermittent stream” means a watercourse with a bed and bank where water does not flow continuously and that is identified as an intermittent stream on a United States Geological Survey 1:24,000 quadrangle map or the Chapter 19 Map.

“Land Conservation Committee” or “LCC” means the Land Conservation Committee created by sec. 2.04(7).

“Livestock” means all fenced-in animals on a property that have a combined weight of 1,000 pounds or more and all animals in an agricultural operation if the operation meets or exceeds one animal unit as calculated using the Wisconsin

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Department of Natural Resources Animal Units Worksheet.

“Manure” means excreta from livestock kept at a livestock facility and includes feathers, hair, livestock bedding, soil, water, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.

“Nutrient management plan” means a plan that balances the nutrient needs of a crop with the nutrients available from fertilizer, legume crops, manure, and other sources, and that minimizes the movement of nutrients to surface and groundwater.

“Perennial stream” means a channel where water flows continuously and that is identified as a perennial stream on a United States Geological Survey 1:24,000 quadrangle map or the Chapter 19 Map.

“Runoff” means any liquid containing animal waste that flows over land in a flat sheet and cannot be controlled, directed, or eliminated using normal field cultivation practices; that follows a channel or depression; that follows a man-made path other than a path created by normal cultivation practices; that forms in the same area on a recurring basis; or that flows through a drain tile.

“SWCD” means the Soil and Water Conservation Department.

“Technical Guide” means the United States Department of Agriculture (USDA), Natural Resources Conservation Service, Wisconsin Field Office Technical Guide that contains technical data and technical standards referenced in this chapter. The technical guide can be accessed through the USDA website.

“Technical Standard” means a numbered section in the Technical Guide.

“Unconfined manure pile” means a quantity of manure that is greater than 500 cubic feet in volume that is not confined within a barnyard runoff control facility, livestock housing facility, or manure storage facility; covered; or contained in a manner that prevents storm water access, direct runoff to surface water, or the leaching of pollutants to groundwater.

27.03 Standards. Manitowoc County adopts the conservation practice standards promulgated by

the United States Department of Agriculture, Natural Resources Conservation Service, Wisconsin Field Office Technical Guide and by the Wisconsin Department of Natural Resources. In the event that these conservation practice standards are revised, the LCC is authorized to adopt the revised standard, which will then be applied prospectively.

27.04 Regulation of Agricultural Shoreland Activities. (1) Agricultural Shoreland Corridor. (a) Barnyards. No dry lot, feedlot, livestock holding area, or other area where animals have been, are, or will be confined, fed, maintained, or stabled is permitted within the agricultural shoreland corridor unless a barnyard runoff control system is installed that complies with the Technical Standards.

(b) Runoff From Barnyards And Storage Structures. It is unlawful for any person to cause or permit runoff, visible flow, or discharge of animal waste from barnyards or manure storage structures to the agricultural shoreland corridor.

(c) Runoff Of Mechanically Applied Manure. It is unlawful for any person to permit runoff of mechanically applied manure to enter the agricultural shoreland corridor.

(2) Agricultural Shoreland Management Area. (a) Agricultural Activity. Any person who causes or conducts agricultural activity within the agricultural shoreland management area must do so in a manner that minimizes soil erosion and the movement of suspended solids into surface water.

(b) Cropland Areas. Erosion on a cropland that is within the agricultural shoreland management area and that contains a tilled annual crop must not exceed the tolerable rate specified in the Technical Standards for the predominant soil in the field.

(c) Pastures. A pasture or other land with a permanent uniform cover of grasses or legumes used as forage for livestock that is within the agricultural shoreland management area must comply with Technical Standard 512.

(d) Vegetative Buffer. A person who wishes to establish a vegetative buffer within the agricultural shoreland management area should follow the Technical Standards and maintain a minimum level of 70 percent ground cover, but a buffer that does not Meet Technical Standards will not be deemed a violation of this ordinance.

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(e) Application Of Animal Waste, Manure, And Other Nutrients. The mechanical application of animal waste, manure, and other nutrients to any land within the agricultural shoreland management area must comply with the requirements of this Chapter and be in accordance with a nutrient management plan that complies with Technical Standard 590. Application of animal waste or manure must stop whenever there is ponding or runoff. Immediate remedial action must be taken to contain any ponding or runoff that occurs during or following the application.

(3) Unconfined Piles And Stacks. Unconfined animal waste and manure piles are prohibited within the agricultural shoreland management area.

27.05 Land Conservation Committee Powers.

(1) The LCC is authorized to hear and decide appeals where it is alleged there is error in any decision, determination, or order issued by the Director, except that this authority does not include the authority to hear appeals from a citation or any decision, determination, or order that may be appealed to the circuit court or that is otherwise subject to judicial review. Appeals under this ordinance will be conducted in accordance with Wis. Stat. Ch. 68.

(2) The LCC is authorized to hear and decide special exceptions to the terms of this ordinance. Such a variance may be granted based on one or more of the following findings:

(a) Staff are not available to develop conservation plans or schedules of implementation.

(b) Severe weather or other catastrophic events beyond the control of the land owner or operator make implementation impractical.

(c) Implementation of all components of the conservation plan and schedule does not result in full compliance with this ordinance. A variance under this paragraph may be granted only if all components of the conservation plan and schedule are implemented.

27.06 Administration. (1) Department Responsibilities. This Ordinance will be administered by the Soil and Water Conservation Department and the Director shall:

(a) Keep an accurate record of all permit

applications, permits issued, plans, inspections, and other official actions.

(b) Investigate complaints relating to compliance with this ordinance.

(c) Assure that cost-share funds are made available as required by law.

(d) Perform any other duties specified in this ordinance.

(2) Inspection Authority. The Director is authorized pursuant to Wis. Stat. sec. 92.07(14) to enter upon any lands affected by this ordinance to determine compliance with this ordinance. If permission to enter lands is not given, entry may be gained pursuant to Wis. Stat. sec. 66.0119.

(3) Stop Work Order Authority. The Director is authorized to post an order stopping work upon any land whenever the Director has reason to believe that such work violates this ordinance. Notice will be given by posting one or more copies of an order describing the violation on the land where the violation occurs and by mailing a copy of the order by certified mail to the person whose activity is in violation of this ordinance. The order will specify that the activity must cease or be brought into compliance within a specified time period. Any order stopping work will remain in effect until withdrawn by the Director or vacated by a court of competent jurisdiction upon a showing that all violations have been or will be corrected and that any future activity will be in compliance with this ordinance.

(4) Abatement Order Authority. The Director may issue an order to abate any violation of this ordinance.

(5) Citation Authority. The Director may issue a citation for any violation of this ordinance.

(6) Referral Authority. The Director may refer a violation of this ordinance to Corporation Counsel for legal action.

(7) Other Enforcement Means. Nothing in this section may be construed to prevent the county from using any other lawful means to enforce this ordinance.

27.07 Violations. (1) It is unlawful for a person

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to violate any provision of this ordinance.

(2) It is unlawful for any person to knowingly provide false information, make a false statement, or fail to provide or misrepresent 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) A separate offense is deemed committed on each day that a violation occurs or continues.

(5) The failure of any agent, board, commission, committee, department, employee, officer, or official to perform any official duty imposed by this code will not subject the agent, board, commission, committee, department, employee, officer, or official to the penalty imposed for a violation of this code unless a penalty is specifically provided.

27.08 Penalties. (1) Except as provided in subs. (2) through (4), a person will, upon conviction for a violation of this ordinance, forfeit not less than \$500 nor more than \$1,000 for each offense, together with the costs of prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time.

(2) A person will, upon conviction for a violation of any of this ordinance involving the discharge of animal waste from a subsurface drain, such as field tile, that results in loss of fish and aquatic life, forfeit not less than \$1,000 nor more than \$5,000 for each offense, together with the costs of prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time.

(3) A person will, upon conviction for a violation of any provision of this ordinance involving the direct discharge of animal waste that results in the loss of fish or aquatic life, forfeit not less than \$1,000 nor more than \$10,000 for each offense, together with the costs of prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time.

(4) The minimum and maximum forfeitures specified in this section are doubled each time that a

person is convicted for the same violation of this ordinance within any 24 month period.

(5) A person who has the ability to pay a forfeiture entered pursuant to this ordinance, but who fails or refuses to do so may be confined in the county jail until the forfeiture and costs are paid, but the period of confinement may not exceed 30 days. In determining whether a person has the ability to pay, all items of income and all assets may be considered regardless of whether the income and assets are subject to garnishment, lien, or attachment by creditors.

(6) In the event an offense is not abated as ordered, Manitowoc 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.

HISTORY

1/16/07: Created by Ord. 2006/2007-112 effective May 1, 2007.