

CHAPTER 28
ONEIDA COUNTY, WISCONSIN
MANURE STORAGE AND MANAGEMENT ORDINANCE

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28.01 GENERAL PROVISIONS

- (1) Authority. This Ordinance is adopted under authority granted by Sections 59.01, 59.02, 59.03, 59.04, 59.64, 59.69, 59.70, 92.07, 92.09, 66.0113, 92.15, and 92.16, Wisconsin Statutes (Stats.), and § ATCP 50.56, 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 Oneida County, Wisconsin Manure Storage and Management Ordinance and is hereinafter known as the Ordinance.
- (3) Findings and Declaration of Policy. The Oneida County, Wisconsin Board of Supervisors finds that the following conditions may threaten the County’s natural resources, may pollute groundwater and surface water within the County, may cause harm to the health, safety and welfare of people within the County, and may 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.

The Oneida County, Wisconsin Board of Supervisors further finds that the Northern Highlands area of Wisconsin, within which most of Oneida County, Wisconsin lies, is widely known for its forests, lakes, and wetlands. Moreover, the Board finds that the majority of the wetlands found in this region are considered to be of exceptional or excellent quality and that these wetlands are interconnected and crucial to groundwater and surface water quality.

The Oneida County, Wisconsin 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 Oneida County, provide effective, practical, and environmentally protective methods for storing and managing manure.

Oneida County, Wisconsin 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 the County.

- (4) Purpose. The purpose of this Ordinance is to control the direct runoff from livestock feeding areas or manure management facilities into the waters of the County, to protect the health and safety of residents and transients, to prevent the spread of disease, to regulate the location, design, construction, installation, alteration, operation, maintenance, closure, and use of manure storage facilities and to ensure the proper application of waste and manure from all storage facilities covered under this Ordinance, by prescribing 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 Oneida County, Wisconsin.
- (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 Oneida 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 Chap. 92 and 281.16, Stats. and Chap. 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 Oneida County, Wisconsin Board of Supervisors and publication.

28.02 DEFINITIONS

- (1) "Adequate sod or self-sustaining vegetative cover" means the installation and maintenance of vegetation types and densities as measured by 70% cover (primarily leaf and stem area) in a 1.0 meter square area (quadrat). No less than 5 quadrats shall be sampled. Self-sustaining vegetative cover includes grasses, forbs, sedges, and duff layers.

- (2) “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.
- (3) “Applicant” means any person who applies for a permit under this Ordinance.
- (4) “Conservation and UW-Extension Education Committee (CUW)” is a committee made up of members of the Oneida County, Wisconsin 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 and Water Conservation Department.
- (5) “Compost” means a material that has been decomposed by composting to the extent that all the material will not significantly reheat due to action of microorganisms subjected to optimum oxygen, moisture, nutrients, and thermal conditions.
- (6) “Covered Temporary Manure Stack” means manure stacks of any size covered in a manner that prevents storm water access, direct runoff to surface water, or leaching of pollutants to groundwater. Stacks should be field spread and incorporated during the next field season following placement and under no circumstances shall a covered temporary manure stack, including composted manure, remain longer than 180 days.
- (7) “DATCP” means Wisconsin Department of Agriculture, Trade and Consumer Protection.
- (8) “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.
- (9) “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 § NR 154.04(3), Wis. Admin. Code.
 - (d) The criteria in § NR 151.055(3), Wis. Admin. Code, will be used to predict or determine if a discharge is significant.
- (10) “Intermittent Stream or River”. An intermittent stream or river is a stream or river that is at or near the water table and may only flow openly during wet periods or seasonally. It obtains its water from both the water table and runoff. During drier periods, an intermittent stream may not show visible flow, or it may flow openly but only intermittently along its channel. Often these streambeds may be surrounded by low wetland areas and small, open, shallow ponds.
- (11) “Land and Water Conservation (LWC)” is a department of Oneida County, Wisconsin government, which is responsible for soil and water conservation activities in Oneida County, Wisconsin.
- (12) “Livestock” means domestic animals such as cattle, horses, sheep, pigs, goats, poultry, fish, etc., or exotic animals such as llamas, ostriches, etc.
- (13) “Livestock operation” means a feedlot or other facility or pasture where animals are fed, confined, maintained, or stabled.
- (14) “Manure” means livestock excreta and the following when intermingled with excreta in normal farming operations: debris including bedding, litter, spilled feed, 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.
- (15) “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.

- (16) "Margin of Safety Level" has the meaning given in § 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.
- (17) "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.
- (18) "Navigable Water" has the meaning given in § 30.01(4m) Stats, which means any body of water, which is navigable under the laws of this state.
- (19) "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. 28.05(6)(c).
- (20) "Overflow" has the meaning given in § 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.
- (21) "Percent fines" means the percentage of a given sample of soil which passes through a #200 (0.075mm) sieve.
- (22) "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.
- (23) "Permitting Authority" means the Oneida County Land and Water Conservation Department or Oneida County Planning & Zoning who shall act in collaboration. The term "County" refers to Oneida County, Wisconsin.
- (24) "Permittee" means any person to whom a permit is issued under this Ordinance.

- (25) "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.
- (26) "Planning & Zoning (P&Z)" is a department of Oneida County government, which administers laws designed to promote public health, safety and welfare and provide for orderly land use development and future growth in Oneida County, Wisconsin.
- (27) "Safety Devices" means devices, which are designed to protect humans and livestock from the hazards associated with a storage facility.
- (28) "Significant discharge" means a discharge of process waste that is determined as "significant" in accordance with the criteria in § NR 151.055(3), Wis. Admin. Code.
- (29) "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.

- (30) “Stop Work Order” means an order to cease any activity in the operation or construction of an activity subject to regulation.
- (31) “Substantially altered” has the meaning in § 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.
- (32) “Technical Guide” means the United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) Technical Guide. It 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.
- (33) “Technical Standard 313” is a NRCS Conservation Practice Standard titled Waste Storage Facility Code 313 within the Technical Guide that covers the proper location, design, construction, installation, alteration, operation and maintenance of a waste storage facility.
- (34) “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.
- (35) “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.
- (36) “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.

(37) “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 not covered nor contained in a manner that prevents storm water access and direct runoff to surface water or leaching pollutants to groundwater.

(38) “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.

(39) “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.

(40) “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.

(41) “Water Quality Management Area” or “WQMA” has the meaning in § 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, such as a wetland.

- (42) "Waters of the State" is the meaning specified under § 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.

28.03 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 28.05.
- (2) 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.

28.04 MANURE STORAGE FACILITIES PROHIBITIONS AND RESTRICTIONS

- (1) 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.
- (2) Well, Road, and Property Line Setbacks. Manure storage facilities or manure stacks of any size, may not be located within 100 feet of any property line, within 100 feet of the nearest point of any public road right-of-way, or within 250 feet of

a well. The setback measurement shall be taken from the nearest point of the structure, 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. Manure storage facilities may be exempt from these conditions if 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.
- (3) Navigable Water, Wetlands, and Other Setbacks.
- (a) A manure storage facility may not be located within 1000 feet of the OHWM of a navigable inland lake, flowage or a wetland that is adjoining and in contact with the inland lake as part of the lake's basin or direct watershed. A facility may not be located within 300 feet from a navigable stream or river. A facility may not be located within 300 feet of a wetland that is independent of, or not in contact with, a navigable inland lake or flowage. A manure storage facility may not be located within 300 feet of an intermittent stream, or the wetlands that are a part of the intermittent stream's course.
 - (b) Manure stacks of any size may not be located within 250 feet from a navigable inland lake, flowage, or navigable stream, or within 100 feet of a wetland.

28.05 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.
 - 3. Close an existing manure storage facility, including conversion of its use.
- (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 § 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) Manure Stacks Located Outside of a Water Quality Management Area. The temporary stacking of manure on the ground surface located outside of a water quality management area does not require a permit; however, setbacks per 28.04(2) and 28.04(3) still apply. Stacks should be field spread and incorporated during the next field season following placement and under no circumstances shall an unconfined manure stack, or covered

temporary manure stack remain longer than 180 days. Stacks of any size in violation of this subsection shall be removed upon order of the Department, which shall include cleanup or other remediation as determined by the Department.

- (b) Covered Temporary Manure Stacks. Covered temporary manure stacks do not need a permit; however, setbacks per 28.04(2) and 28.04(3) still apply. Stacks should be field spread and incorporated during the next field season following placement and under no circumstances shall a covered temporary manure stack remain longer than 180 days. Stacks of any size in violation of this subsection shall be removed upon order of the Department, which shall include cleanup or other remediation as determined by the Department.
 - (c) Compost. Compost piles do not require a permit.
 - (d) Manure Stacks Less Than 175 cu. ft. Manure stacks less than 175 cu. ft. do not need a permit, however setbacks per 28.04(2) and 28.04(3) still apply.
 - (e) Routine maintenance of a manure storage facility, not including activities listed under section 28.05(1)(a) of this Ordinance.
 - (f) 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. Any structure intended for storage of manure erected, constructed, placed, moved, or structurally altered without obtaining all permits and approvals prior to commencing the above stated activities, shall result in a triple fee.

(4) Manure Storage Facility Construction Plan and Nutrient Management Plan Required. Each application for a permit under par. 28.05(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, and manure handling practices.
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) An adequate sod or self-sustaining vegetative cover plan to mitigate runoff from the facility once the work at the site is completed.
 - (l) 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 28.05(1)(a)3 shall be on a 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.
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- (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) An adequate sod or self-sustaining vegetative cover plan to mitigate runoff from the facility once the work at the site is completed.
 - (i) Any other additional information required by the County to protect water quality and achieve compliance with the requirements of this Ordinance.
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- (6) Permit Standards
 - (a) Manure Storage Construction. Permit applications under sub 28.05(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.
 - (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, § ATCP 50.04 (3), Wis. Admin. Code, and § NR 151.07, Wis. Admin. Code.
 - (d) Other Standards. Other Technical Guides such as AWMFH 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 Oneida County Land and Water Conservation Department or on Oneida County's website at <https://www.oclw.org/manure-storage.html>.
 - (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. 28.09 of this Ordinance.
- (7) Review of Application. All applications are to be submitted to the Planning & Zoning Department (P&Z). LWCD will review and determine the completeness of the applications. Within 45 calendar days after deeming the application complete, P&Z shall inform the applicant in writing whether the permit application is approved or denied. If additional information is required, P&Z shall so notify the permit applicant. P&Z has thirty (30) calendar days from the receipt of the additional information in which to approve or deny the application. No

construction may commence without the approval permit issued by P&Z.

- (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 Oneida County Office of Planning and Zoning before starting any construction activity authorized by the permit.
 - (d) Approval in writing must be obtained from the Office of Planning and Zoning 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 and changes or modifications as authorized per par. (8)(d) made during construction.
 - (f) 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.
 - (g) 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.

28.06 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 28.05(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 and Water 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 and Water

Conservation Department or the DATCP website.

- (c) Properly operates the storage facility in accordance with prohibitions and restrictions in sec. 28.04 and consistent with the recommended operating methods as defined by the Technical Guide, and AWMFH.
 - (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, and the AWMFH.
 - (e) Properly maintains the safety devices.
 - (f) Provides the Land and Water Conservation Department proof of compliance with the requirements in 28.06(4)(c) and 28.06(4)(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 and Water 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 shall be added or removed from a manure storage facility whose certificate has been revoked.

28.07 ADMINISTRATION AND ENFORCEMENT

- (1) Delegation of Authority. The Oneida County, Wisconsin Board of Supervisors hereby designates the Land and Water Conservation and Planning & Zoning Departments 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 28.05 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 and Technical Standard 313 including the Margin of Safety defined in § NR 243.03(37), Wis. Admin. Code.
 - (d) Conducting, or cause to conduct, reviews of the nutrient management plans.
 - (e) Implementing the prohibitions and restrictions in accordance with 28.04 of this Ordinance.
 - (f) Reviewing certificate applications and issuing Certificates of Use in accordance with 28.06 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 § 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 § 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, Conservation and UW- Extension Education 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 Oneida 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.

28.08 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) A person, firm or corporation who fails to comply with this code shall be subject to the penalty provisions contained in 25.04, Oneida County, Wisconsin General Code. Each day a violation exists shall constitute a separate offense. A forfeiture of not less than \$25 nor more than \$250, plus costs, shall be imposed for each violation of this Ordinance.

28.09 APPEALS AND VARIANCES

- (1) Appeals
 - (a) An appeal may be made to the Oneida County, Wisconsin 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 Chapter 17 of the Oneida County, Wisconsin General Code.
- (2) Variances
 - (a) The Board of Adjustment, pursuant to Wis. Stat 59.694, may grant an area variance from any dimensional standards if the applicant can prove the following:

1. Literal enforcement of this Ordinance will result in an unnecessary hardship; such hardship is based on conditions unique to the property, not the property owner.
2. Strict compliance with this Ordinance would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with the Ordinance unnecessarily burdensome.

(b) A variance shall not be granted if any of the following situations apply:

1. To extend or increase any use of the property prohibited in the Ordinance.
2. Hardship exists based solely on an economic gain or loss or is self-created.
3. Variance would damage the rights of property values of other persons in the area.
4. Variance from a Technical Standard.
5. Variance from performance standard and prohibition in Wis. Admin. Code NR 151.

DNR has authority to grant variances as set forth in Wis. Admin. Code NR 151.097.