

**BARRON COUNTY
ANIMAL WASTE STORAGE ORDINANCE**

The County Board of Supervisors of the County of Barron does hereby ordain as follows:

11.02.100 INTRODUCTION

101 **Authority**

This ordinance is adopted under authority granted by Sections 59.02, 59.03, 59.04, 59.69, 59.70 and 92.16, of the Wisconsin Statutes.

102 **Title**

This ordinance shall be known as, referred to and may be cited as, the Barron County Animal Waste Storage Ordinance and is hereinafter referred to as the ordinance.

103 **Purpose**

The general intent of this Section is to regulate the location, construction, installation, alteration, design and closure and use of all animal waste storage facilities covered by this ordinance so as to protect the health of residents and transients; to secure safety from disease and pestilence; and to further the appropriate use and conservation of land and water resources for its communities. It is further intended to provide for the administration and enforcement of this Section and to provide penalties for its violation.

104 **Applicability**

This ordinance applies to all land and waters in the unincorporated areas of Barron County.

105 **Interpretation**

The interpretation and application of the provisions of this ordinance shall be minimum requirements, be liberally construed in favor of Barron County, and not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

106 **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.

107 **Effective Date**

This ordinance shall become effective after a public hearing, and upon its adoption and publication by the Barron County Board of Supervisors.

11.02.200 ACTIVITIES SUBJECT TO COMPLIANCE

201 **General Requirement**

Any person who possesses, constructs, installs, reconstructs, modifies, or closes an

animal waste storage facility, or possesses an idle storage facility; or who employs another person to do the same on land subject to this ordinance shall be subject to the provisions of this ordinance.

202 **No Permit for Earthen-lined Facility**

No animal manure storage facility shall, hereafter, be constructed, located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or have its use changed so as to use in any way an earthen liner; and no permit for such use shall be issued.

203 **Existing Earthen-lined Animal Waste Storage Facility**

Existing earthen-lined animal waste storage facilities installed prior to January 1, 1991, may continue to operate and store animal waste until such time that the storage facility may be subject to enforcement under 2.04, 2.05, 2.07, 2.08, 2.09 or 2.10.

204 **Conversion of Storage Facility**

For purposes of this section, conversion of a storage facility to another use other than the storage of animal waste is allowed only on storage facilities with an existing concrete or plastic liner and only under the following conditions:

1. The liner must be cleaned and exposed so an inspection can be completed.
2. An environmental review must be completed.

205 **Inspection**

Animal waste storage facilities in Barron County may be inspected at any time; however, when an animal waste storage facility reaches the ages of twenty (20) years and of thirty-five (35) years, it shall be inspected by the Soil & Water Conservation Department. If found to be malfunctioning, mismanaged, idle or temporarily idle, corrective measures under 2.07, 2.08, 2.09 or 2.10 shall be required. If the findings of the inspection cannot be addressed under 2.07, 2.08, 2.09 or 2.10, an environmental review shall be completed to determine if temporary management actions are needed and will be allowed. If permission to enter the land to inspect the manure storage facility cannot be received from the landowner or permit applicant/holder, entry by the inspector(s) shall be in accordance with st.66.0119. The decisions of the inspectors may be appealed to the Land Conservation Committee.

206 **Water Quality Management Area**

When a manure storage facility is proposed to be installed, reconstructed, enlarged or substantially altered within 300 feet of a navigable stream or lake, an environmental review will be completed before the permit is issued.

207 **Malfunctioning**

Malfunctioning animal waste storage facilities are a menace to the health and general welfare of the citizens of Barron County; are declared to be nuisances, and shall be subject to forfeiture and injunctive provisions of this section.

An animal waste storage facility found to be malfunctioning shall be repaired to a

condition meeting the Technical Standards of the Barron County Soil & Water Conservation Department within two (2) years of the date that the storage facility is found to be malfunctioning. The SWCD may extend this time for good cause, such extension not to exceed an additional one (1) year. The decision of the SWCD may be appealed to the Land Conservation Committee.

208 **Mismanaged Animal Manure Storage Facilities**

If an animal waste storage facility is deemed to be mismanaged, the owner will be required to correct the management activities that are causing the storage facility to be mismanaged. Corrections shall be required within two (2) years of the date when the storage facility was found to be mismanaged. The SWCD may extend the time for good cause, such extension not to exceed an additional one (1) year. The decision of the SWCD may be appealed to the Land Conservation Committee.

209 **Idle Manure Storage Facilities**

Removal of manure and restoration of an idle waste storage facility to a safe and sanitary condition, as determined by the Soil & Water Conservation Department, is required within two (2) years of the time the manure storage facility becomes idle. The SWCD may extend this period for good cause, such extension not to exceed an additional one (1) year. The decision of the SWCD may be appealed to the Land Conservation Committee.

210 **Temporarily Idle Storage Facilities**

If a waste storage facility is found to be temporarily idle, abandonment will not be required unless the status changes to meet the definition of idle. If a storage facility that is determined to be temporarily idle also meets the definition of malfunctioning or mismanaged, the temporarily idle determination does not exempt the storage facility from other enforcement. If a waste storage facility is temporarily idle for a period of five years or more, before the storage facility can be used again, it must be inspected and have an environmental review completed.

11.02.300 STANDARDS

301 **Animal Waste Storage Facilities**

Standards and specifications for design, construction and management of animal waste storage facilities are those in Standard 313 (Waste Storage Facility), Standard 358 (Waste Transfer), and Standard 312 (Waste Management System) of the Technical Guide. Construction specifications referenced within the above listed standards shall be included.

302 **Animal Waste Storage Facility Closure**

Standards for closure of an idle storage facility are those in Standard 360 of the Technical Guide.

303 **Amendments to Standards**
Future amendments to Standards 312, 313, 358, 360 and 590 or the current standards for waste management systems, waste storage facilities, waste transfer, waste storage closure and nutrient management of the Technical Guide are incorporated by reference in the ordinance and made part of this ordinance, unless otherwise acted upon by the Barron County Board of Supervisors.

304 **Variances**
Variances from these standards can only be granted through an appeal by the applicant in accordance with Section 7 of this ordinance unless otherwise acted upon by the Land Conservation Committee.

11.02.400 APPLICATION FOR AND ISSUANCE OF PERMITS

401 **Permit Required**
Except as hereinafter provided, no person shall undertake an activity subject to this ordinance without first obtaining an **ANIMAL WASTE STORAGE FACILITY PERMIT** or **ANIMAL WASTE STORAGE FACILITY CLOSURE PERMIT** from the Barron County Soil and Water Conservation Department. The requirement of this ordinance shall be in addition to any other ordinance or administrative rule regulating animal waste storage or applicable technical standards. In the case of conflict, the most restrictive provision shall apply.

402 **Exception to Permit Requirements**
Emergency repairs for broken pipes or equipment, leaking dikes or removal of obstructions may be performed without an Animal Waste Storage Facility Permit. Emergency repairs shall not result in increased capacity to the animal waste storage facility however a temporary berm or dike may be constructed to prevent an imminent overflow. The responsible person (owner or tenant) shall contact the Barron County Soil and Water Conservation Department on the first working day following emergency repairs for a determination by the Department on whether a permit will be required for any additional modification or repair to the facility.

403 **Fees**
Permit fees under this ordinance shall be:

Construction of new animal waste storage facility	\$250.00
Closure of an idle animal waste storage facility	\$100.00

If the application is submitted after the commencement of activities requiring a permit, then the fee may be doubled. All applicable federal, state, and local standards and ordinance provisions still apply. Applications received after the commencement of activities requiring a permit do not preclude the Soil and Water Conservation Department from taking action.

Permit Application

An application for an Animal Waste Storage Facility Construction Permit or Animal Waste Storage Facility Closure Permit shall be filed with the Soil and Water Conservation Department on forms supplied by the Soil and Water Conservation Department.

Each application for an Animal Waste Storage Facility Construction Permit under this ordinance shall include an Animal Waste Storage Facility Plan and a Nutrient Management Plan.

1. **All Animal Waste Storage Facility Plans shall include, but not be limited to the following:**

- (a) A plan map showing location of the facility with regard to buildings, roads, lot lines, and homes within five hundred (500) feet of the proposed facility.
- (b) A complete set of detailed construction plans, including all the specifications as described in Standard 313.
- (c) The number and kinds of animals for which waste storage is to be provided.
- (d) Planned duration of storage, expressed in days and/or months, and volume of storage, expressed in cubic feet.
- (e) The location of any wells within three hundred (300) feet of the facility.
- (f) The location and elevation of all soil tests pits, including a detailed soil description of each pit, to a depth of at least three (3) feet below the planned bottom elevation of the facility.
- (g) The elevation of seasonably high groundwater or bedrock if encountered in the soil profile and the date of any such determination.
- (h) The location of drain tiles, sink holes, and drainage ditches or any other buried or above ground structures or utilities that could interfere with the construction or closure of the Animal Waste Storage Facility.
- (i) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater during and after construction activities.
- (j) The location of and distance to any navigable body of water within three hundred (300) feet of the proposed facility must be shown.
- (k) A description of how waste will be delivered to and removed from the facility.
- (l) Any other additional information required by the Barron County Soil and

Water Conservation Department to determine compliance with this ordinance.

2. **Nutrient Management Plans will be required at the time of permit application for an Animal Waste Storage Facility Permit. All nutrient management plans shall conform to the NRCS standards and specifications for nutrient management (Technical Guide Section 590). All nutrient management plans shall include, but not be limited to the following items:**

- (a) The amount of land available for application of waste.
- (b) Identification of the areas where the waste will be applied.
- (c) The crops to be grown.
- (d) Soil types and any limitations on waste application due to soil limitations i.e., sink holes, course texture, high nutrient levels, etc.
- (e) Type and proximity of bedrock or groundwater table.
- (f) Slope of land and proximity to surface water.

3. **Animal Waste Storage Facility Closure Requirements**

- (a) Each application for an Animal Waste Storage Facility Closure Permit under this ordinance shall include a site-specific design for closure as specified in Standard 360 of the Technical Guide.

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Review of Application

The Barron County Soil and Water Conservation Department shall receive and review all permit applications; including the Animal Waste Storage Facility Construction Plans and the Nutrient Management Plan, or the Animal Waste Storage Facility Closure Design; and shall determine if the proposed facility or closure will comply with ordinance requirements. In making this determination, the department may require a site inspection or an environmental review and/or may consult with an outside agency. Prior to issuance of a permit, the NRCS or DATCP engineer or designee, or a registered professional engineer shall verify that plans meet the applicable standards. Within 30 working days after receiving the completed application and fee, the Barron County Soil and Water Conservation Department shall inform the applicant in writing whether the permit application is approved, disapproved, or if more information is needed.

406

Permit Conditions

All permits issued under this ordinance shall be issued subject to the following conditions and requirements:

- (a) Animal waste storage facility design, construction, modification, and application shall be carried out in accordance with the Animal Waste Storage Facility Plan and applicable standards specified in Section 3 of this ordinance.
- (b) Any person applying for an Animal Waste Storage Facility Construction Permit under this ordinance must develop a Nutrient Management Plan as part of the application process to demonstrate their ability to utilize the animal waste in an environmentally safe manner.
- (c) The permittee certifies in writing that all other local, city, County, State or Federally required permits shall be obtained from the appropriate authorities. The department may require proof of any permit known to be needed prior to issuing an Animal Waste Storage Facility Permit or Animal Waste Storage Facility Closure Permit.
- (d) The permittee shall give no less than 3 working days advance notice to the Barron County Soil and Water Conservation Department before starting any construction activity authorized by the permit.
- (e) Activities authorized by permit shall be completed within 2 years from the date of issuance after which time such permit shall expire. The SWCD may extend this period for good cause, such extension not to exceed one (1) year.

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Permit Revocation

The SWCD may revoke a permit issued under this section if the permit holder, their agent, employee or contractor violates any of the conditions of the permit.

11.02.500

ADMINISTRATION

501

Delegation of Authority

The Barron County Board hereby designates the Barron County Soil and Water Conservation Department to administer and enforce this ordinance.

502

Administrative Duties

In the administration and enforcement of this ordinance, the Barron County Soil and Water Conservation Department shall:

- (a) Keep an accurate record of all permit applications, Animal Waste Storage Facility Plans, Nutrient Management Plans, closure designs, permits issued, inspections made, closure extension requests, extensions issued, and other official actions.
- (b) Review permit applications and issue permits in accordance with Sections 3 and 4 of this ordinance.

- (c) Periodically inspect animal waste storage facility construction to insure the facility is being constructed or closed according to plan specifications.
- (d) Investigate complaints relating to compliance with this ordinance.
- (e) Perform other duties as specified in this ordinance.

11.02.600 VIOLATIONS

601 **Penalties**

Any person who violates, or fails, neglects, or refuses to comply with any of the provisions of the ordinance shall upon conviction thereof, forfeit up to Two Hundred (\$200.00) Dollars, and costs of prosecution for each violation. Each day a violation exists or continues to exist shall constitute a separate offense. An unlawful violation includes failure to comply with any standard of this ordinance or with any condition or qualification attached to the permit that will likely result in a significant engineering weakness of the storage facility or threaten the groundwater or surface water.

602 **Enforcement by Injunction**

As a substitute for, or in addition to forfeiture actions, Barron County may seek enforcement of any part of this ordinance by court actions seeking injunctions or restraining orders.

11.02.700 APPEALS AND VARIANCE

701 **Appeals**

Any decision by the Soil and Water Conservation Department that concerns any section of this ordinance, permits, plan review, approval or denial for animal waste storage construction or closure may be appealed to the Land Conservation Committee. The authority to hear and decide appeals is under 68.09(2) of the Wisconsin Statutes.

702 **Limitations of Appeal**

Only one appeal on a particular concern can be made.

703 **Procedure**

Any appeal shall be made by written request mailed or delivered to the Barron County Soil and Water Conservation Department. The request shall state the grounds upon which the appeal is made. The request shall be filed within 30 calendar days of the date when the order, requirement, decision, or determination was received. The Land Conservation Committee shall hear and consider the appeal at their next scheduled meeting, and not more than 45 days from when the appeal was received.

Variations

The Land Conservation Committee may upon appeal authorize a variance from the requirements of this ordinance.

1. The granting of a variance shall be consistent with the spirit and purpose of this chapter as stated in Subsection 1.03 and 1.05.
2. The Committee may not grant a variance solely on the basis of economic hardship or gain.
3. The committee shall not grant a variance that would permit an activity or practice that may fail structurally or otherwise cause significant water pollution or other off site impacts.
4. The variance shall be due to unique circumstances and not to the general conditions of the area.
5. The variance shall not be granted unless it is shown that the variance will not be contrary to the public interest and will not be damaging to the rights of other persons.
6. A variance shall not be granted solely on the fact that certain conditions existed prior to the effective date of the ordinance.
7. The Land Conservation Committee may authorize a variance from the requirements of this ordinance contingent on the applicant receiving a variance from the technical standards through the Natural Resources Conservation Service or other qualified engineering authority. If public funds are involved, this may be a program requirement.
8. The Committee may grant a variance only if all the following conditions are met:
 - (a) Compliance with the standard is not feasible due to site conditions.
 - (b) The landowner or operator will implement best management practices or other corrective measures that will achieve a level of water quality protection comparable to that offered by the performance standards located in Chapter NR 151 of the Wisconsin Administrative Code.
 - (c) The conditions for which the variance is requested are not created by the landowner or operator or their agents or assigns.

11.02.800 DEFINITIONS

- 801 Animal Waste: The fecal waste and excreta from domestic livestock, poultry or other animals kept for agricultural purposes. For the purposes of this Section substances found in the waste [for example, bedding materials (straw, wood shavings, etc.), water from precipitation, milkhouse water, etc.], will be considered a part of animal waste.
- 802 Animal Waste Storage Facility: A site, or area, existing or new, specifically intended for the purpose of storage of animal waste. Any excavation in the soil intended for the storage or holding of waste, where the A and B horizons are removed, shall be as waste storage.
- 803 Barron County Groundwater Map: A detailed map of the geology, bedrock, soils properties and groundwater of Barron County, as prepared by the Wisconsin Geological and Natural History Survey.
- 804 DATCP: Department of Agriculture, Trade and Consumer Protection.
- 805 Earthen Animal Waste Storage Facility: An animal waste storage facility which is constructed and lined totally or lined partially with soil materials, and in which the animal waste stored within the facility comes in direct contact with the earthen liner at any time.
- 806 Engineering Field Handbook (EFH): A manual of engineering technical data published by the USDA Natural Resources Conservation Service.
- 807 Environmental Review: A review of an existing or proposed waste storage facility and the surrounding area and resources to determine the impact that a storage facility can have on the surrounding area and resources. The review includes, but is not limited to, the integrity, adequacy, condition and apparent management of the storage facility, distance and drainage routes to surface water, location of groundwater table, soil permeability, endangered resources and historical and archeological resources. The environmental review, once completed, is submitted to the Land Conservation Committee for review before a permit is issued or enforcement action is taken.
- 808 Existing Earthen Animal Waste Storage Facility: An earthen animal waste storage facility which has been installed and placed in use at a livestock operation in Barron County prior to January 1, 1991.
- 809 Existing Concrete Liners in Animal Waste Storage Facility: A concrete liner found within an animal waste storage facility which fully or partially covers the bottom and/or sidewalls of a waste storage facility that has been installed and placed in use at a livestock operation in Barron County prior to January 1, 1991.

- 810 Idle Animal Waste Storage Facility: A waste storage facility, which is:
1. No longer being used for its intended purpose and no longer having any additional animal waste placed into it.
 2. Has not had any animal waste placed into it for a period of one year.
 3. Will, by all the evidence available, not again be used to store animal waste by an active livestock operation.
- 811 Inspectors: Inspector(s) of animal waste storage facilities shall include personnel from the Soil & Water Conservation Department, and may include personnel from other county and state agencies.
- 812 Land Conservation Committee: A committee made up of members of the Barron County Board of Supervisors and others who, by authority from Chap. 92, Wis. Stats., determine policy and give direction for soil and water conservation activities. The Land Conservation Committee, also, provides direction for the Soil & Water Conservation Department. The Land Conservation Committee shall be the decision making board for purposes of this ordinance.
- 813 Malfunctioning Animal Waste Storage Facility: An animal waste storage facility which is no longer functioning as intended, as defined by the Technical Guide, and EFH, or as determined by the inspector(s), and poses a real or potential threat to any person, the groundwater, any stream, lake, or river, or any other component of the environment. A malfunctioning animal waste storage facility is one in which the outside faces of the sidewall(s) have been damaged or eroded, which may weaken the structure of the storage facility. A malfunctioning animal waste storage facility is also a waste storage facility in which there are visible and serious deformities of the structure and shape of the inside sidewall(s). A malfunctioning animal waste storage facility is also one in which the waste is visibly leaking through the sidewalls or floor of the storage facility. Malfunctioning can also include any other serious deformity or activity that is not consistent with the design and function of an animal waste storage facility as defined in the Technical Guide and the EFH.
- 814 Mismanaged Animal Waste Storage Facility: An animal waste storage facility which is not functioning properly due to neglect or carelessness of the owner or operator, and poses a real or potential threat to any person, the groundwater, any stream, lake or river, or any other component of the environment. A mismanaged animal waste storage facility is one that is overflowing or is being operated improperly and inconsistent with the recommended operating methods as defined by the Technical Guide and the EFH.
- 815 Permit: A written and signed statement issued by the Barron County Soil & Water Conservation Department under this Section, which authorizes the holder to construct, install, move, reconstruct, extend, enlarge, convert, substantially alter or close an animal waste storage facility.

- 816 Natural Resources Conservation Service: (NRCS, formerly Soil Conservation Service-SCS) An agency of the United States Department of Agriculture which, for purposes of the Section, provides the Barron County Land Conservation Committee and the Soil & Water Conservation Department with technical assistance and the information on the design criteria, size, shape, engineering strength and other necessary technical data for the proper and safe installation of an animal waste storage facility.
- 817 Soil and Water Conservation Department (SWCD): The department of Barron County government which is responsible for soil and water conservation activities in Barron County. The Soil & Water Conservation Department is responsible for administering the animal waste storage ordinance.
- 818 Technical Guide: The document provided by the Natural Resources Conservation Service which contains the technical data used to properly and safely install an animal waste storage facility.
- 819 Temporarily Idle Storage Facilities: A waste storage facility that is no longer being used for its intended use. However, adequate livestock buildings, land and other facilities with the storage facility still exist and are in useable condition.
- 820 Temporary Management Action: Management actions that are temporary in nature under this section that are needed to prevent an overflow or other similar problem. If temporary management action(s) are allowed, a plan for a permanent solution must be initiated.
- 821 Topographical Map: A detailed map showing the surface topography, surface waters, intermittent streams, and drainage directions and patterns, as prepared by the Wisconsin Geological and Natural History Survey.
- 822 Transfer System: A mechanism designed to transfer the animal manure from a barn or feedlot where livestock are kept to the animal waste storage facility. The transfer system generally consists of, but is not limited to, a pump or gravity flow collection basin and a pipe leading to the manure storage facility.