

ANIMAL WASTE ORDINANCE # 2005-02

ADOPTED 05/11/2005
AMENDED 11/01/2006

1.0 Purpose and Intent:

The Town of Green Valley hereby adopts the Shawano County Animal Waste Ordinance in its entirety.

The purpose and intent of the Town of Green Valley Animal Waste Management Ordinance is to achieve the following objectives by the authority outlined in Wisconsin State Statutes, Sections 59.70, 92.15 and 92.16, consistent with requirements of the Livestock Facility Siting Law sec. 93.90, Stats. and ATCP 51, Wisconsin Administrative Code.

- 1.1 Protect and promote the safety, community welfare and esthetic quality of Town of Green Valley.
- 1.2 Further the appropriate use and conservation of lands and water resources.
- 1.3 Regulate the location, construction, installation, alteration, design and use of animal feedlots and animal waste storage facilities.
- 1.4 Establish a procedure for the permitting of animal feedlots and waste storage facilities.
- 1.5 Minimize conflicts between municipalities, rural non-farm dwellings and agricultural operations.
- 1.6 Protect agriculture's ability to grow and change.

2.0 Authority

The Shawano County Zoning Administrator or his/her designees has permit issuance authority. Permit issuance authority includes issuance of land use permits, animal waste management permits and long range plan amendments under this ordinance. Failure to obtain the proper permits shall be considered a violation of this ordinance and may subject the violator to any appropriate penalties.

3.0 Ordinance Requirements

Owners/operators of an Animal Feedlot and/or an Animal Waste Storage Facility are required under this ordinance to obtain the appropriate permit. Animal feedlots and/or animal waste storage facilities will be designated permitted, conditional or legal non-conforming uses. Dependent on the size classification of the proposed operation and/or the zoning district in which the operation is located, permits issued under this ordinance will be one or more of the following: land use permit, animal waste management permit or conditional use permit. Owners/operators may also obtain a Long Range Plan Approval from the Planning, Development and Zoning Committee. All new or expanding

facilities are required to obtain a permit where the number of animal units corresponds to the categories as listed below, (See also Section 6.1, Table I and Figure I of this ordinance). Owners and operators of existing facilities may seek applicable permits if desired.

3.1 Land Use Permits Required

- A. Under the following circumstances a Land Use Permit is required under this ordinance:
 - 1. Category I
An animal feedlot with 1 to 249 animal units shall be considered a permitted use. All new structures, as defined by this ordinance, placed on Category I operations, require a land use permit. Owners and operators are required to adhere to section 5.0, Performance Standards and section 6.2, Animal Waste Application Setback Requirements of this ordinance.
- B. A land use permit issued under this ordinance shall expire twelve (12) after issuance if permit holder fails to begin populating the facility and constructing all of the facilities proposed in the permit.

3.2 Animal Waste Management Permit Required

- A. Under the following circumstances an animal waste management permit is required under this ordinance:
 - 1. Category I
An animal waste storage facility for 1 to 249 animal units shall require an Animal Waste Management Permit Category I when constructing new or modifying existing waste storage facilities. Owners and operators are required to adhere to section 5.0, Performance Standards and section 6.2, Animal Waste Application Setback Requirements of this ordinance.
 - 2. Category II
A new or expanding animal feedlot expanding greater than 20% in animal unit numbers with 250 to 499 animal units shall be considered a permitted use and shall require an Animal Waste Management Permit Category II.
 - 3. An existing permitted or legal non-conforming animal feedlot between 250 and 499 animal units is to be restocked after being abandoned, or unused for twelve (12) or more consecutive months.
 - 4. Any time an animal waste storage facility or parts thereof for operations between 1 and 499 animal units may be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or its use changed, including closure.
 - 5. Any time there is a change in ownership status for operations between 1 and 499 animal units, the Animal Waste Management permit allowing the facility is transferred. There will be no permit fee required for a transfer of ownership. However, if significant changes in the operation are proposed, a new permit may be required. The Shawano County

Zoning Administrator or his/her designees shall determine the requirement of a new permit.

- B. The Shawano County Planning and Development Department shall notify the local municipality of any Animal Waste Management permit applications. Monitoring shall be performed by the owner/operator of the facility or their agent and reported to the Planning and Development Department as required by the Animal Waste Management permit.
- C. Submittal requirements for animal waste management permits under this section shall be a completed Shawano County application form, an approved construction plan and a site map showing wells within 300 feet of the operation's structures.

3.3 Long Range Plan Approval

- A. Owners and Operators are encouraged to seek long-range plan approval of up to 5 years from the Shawano County Planning, Development and Zoning Committee. No Public Hearing is required for a Long Range Plan Approval unless the permitting of the facility in question would otherwise require a public hearing action. A request for an extension of time not to exceed two (2) years may be granted by the Planning, Development and Zoning Committee. There is no additional fee required for a Long Range Plan extension.
- B. Submittal requirements for long range plans shall be the requirements listed in section 3.5(B)(3) and (4) of this ordinance.

3.4 Conditional Use Permit Required for animal feedlots and animal waste storage facilities.

- A. Under the following circumstances a conditional use permit approval and an animal waste management permit must be obtained under this ordinance:
 - 1. A new or existing animal feedlot expanding greater than 20% in animal unit numbers with greater than 499 animal units shall require a Conditional Use Permit and an Animal Waste Management Permit Category III. Operations with more than 1000 animal units shall also require a Wisconsin Pollution Discharge Elimination System (WPDES) permit from the Wisconsin Department of Natural Resources. This requirement shall be a condition of approval (i.e. it will not be necessary to obtain an approval from the WDNR before applying for a conditional use permit from Shawano County, however, WDNR approval will be a conditional of Shawano County approval)
 - 2. Expansion of an existing animal waste storage facility is currently less than 250 feet from a property line or 200 feet from a road centerline.
 - 3. An existing permitted or legal non-conforming animal feedlot or animal waste storage facility exceeding 499 animal units is to be restocked after being abandoned, or unused for twelve (12) or more consecutive months.
 - 4. Any time there is a change in ownership status for operations exceeding 499 animal units, the Animal Waste Management permit allowing the operation will be transferred. There will be no permit fee required for a transfer of ownership. However,

if significant changes in the operation are proposed, a new permit may be required. The requirement of a new permit and conditional use permit shall be determined by the Shawano County Zoning Administrator or his/her designees.

5. An animal feedlot or an animal waste storage facility that is proposed to be built or expanded within a zoning district other than an Agriculture zone will require a conditional use permit.

- B. Submittal requirements for conditional use permits shall be the requirements listed in section 3.6 of this ordinance.

3.5 Conditional Use Permit Required for Residential Dwellings.

- A. A residential dwelling, other than that of the owner or a family member of the animal feedlot or animal waste storage facility, which is proposed to be located within the required setback area of a permitted Category II, or III animal feedlot under this ordinance, shall require a conditional use permit. Conditional use permits granted for a residential dwelling to be located within the required setback area of a permitted animal feedlot shall not preclude the permitted animal feedlot or animal waste storage facility from future expansion, provided that all of the requirements of this ordinance are satisfied. If granted, a conditional use permit for a residential dwelling in the setback area shall include as one condition that the applicant and his/her successors in interest shall be limited by Sec. 823.08, Wisconsin Statutes., in their pursuit of nuisance actions against the owner or operator of the animal feedlot.

- B. To obtain a conditional use permit under this section, the following information must be submitted to the Shawano County Planning and Development Department:

1. Conditional use permit application and fee.
2. Written recommendation by local municipality.
3. Location of all animal feedlots and animal waste storage facilities within ½ mile of the proposed structure.
4. A site plan depicting the following:
 - a) Structure location
 - b) Parcel boundaries
 - c) Location of well for proposed structure
 - d) Temporary benchmark
 - e) Land elevation contours [maximum five (5) foot interval]
 - f) Location of private sewage system
 - g) Any additional information, which may be deemed necessary by the Applicable Shawano County Zoning Authority.

3.6 Submittal Requirements for Animal Waste Management Permits and Conditional Use Permit

- A. Applicable application fee: See Section 3.7 of this ordinance.

B. Completed Chapter ATCP 51 APPENDIX A APPLICATION FORM AND WORKSHEETS – Application for Local New or Expanded Livestock Facility. The operator must file 4 duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.

C. Application Review Procedure

1. Within 45 days after the County receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the county shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
2. Within 14 days after the County notifies an applicant that the application is complete, the County shall notify adjacent landowners of the application. The County shall use the approved notice form in ATCP 51, and mail a written notice to each adjacent landowner.
3. The County shall grant or deny an application within 90 days after the notice of a complete application is provided as required by 2 above. The County may extend this time limit for good cause, including any of the following:
 - a. The County needs additional information to act on the application.
 - b. The applicant materially modifies the application or agrees to an extension. The County give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the County will act on the application.

D. Public Hearing

The County may schedule a public hearing on the application within 90 days after issuing notice of a complete application.

E. Criteria for Issuance of a Permit

1. A permit shall issue if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this ordinance.
2. A permit may be denied if any of the following apply:
 - a. The application, on its face, fails to meet the standard for approval.
 - b. The County finds, based on other clear and convincing information in the record, that the proposed livestock facility does not comply with applicable standards in this ordinance.
 - c. Other grounds authorized by s. 93.90 Stats., that warrant disapproving the proposed livestock facility.
3. No conditions may be imposed on permit other than standards provided in ordinance

4. All requirements of the Livestock Facility Siting Law sec. 93.90, Stats and ATCP 51, Wis Adm. Code are incorporated in this ordinance by reference.

F. Record of Decision

1. The County shall issue its decision in writing. Its decision shall be based on written findings of fact supported by evidence in the record.
2. In the event that a permit is approved, the applicant shall receive a duplicate copy of the approved application, marked "approved". The duplicate copy must include worksheets, maps, and other documents (other than engineering specifications) included in the application.

G. Notice to the Department of Agriculture, Trade and Consumer Protection

The County as required by ATCP 51.36 within 30 days of the County decision on the application shall do all of the following:

1. Give the Department of Agriculture, Trade and Consumer Protection written notice of the County decision
2. File with the Department of Agriculture, Trade and Consumer Protection a copy of the final application granted under this ordinance. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.)
3. If the County has withdrawn a local approval under this ordinance, file with the department a copy of the County final notice or order withdrawing the local approval.

3.7 Fees

All fees under this ordinance are established pursuant to the Shawano County Planning and Development Department, Ordinances and Service Fee Schedule created by Shawano County Ordinance No. 11-01 adopted December 19, 2001 and as may be amended from time to time.

4.0 Closure Plan for Animal Waste Storage Facility

1. Each application for a permit which includes construction of an Animal Waste Storage Facility under this ordinance shall include a closure plan. The closure plan will include provisions for future operation of the animal waste storage facility. The plan shall specify:
 - A. Provisions to remove and properly dispose of all accumulated wastes in the animal waste storage facility.
 - B. Preliminary Nutrient Management Plan, verifying the ability of the owner/operator to comply with Standard 590. Shawano County will complete a Nutrient Management Plan checklist for this purpose.
 - C. Provisions to remove any concrete or synthetic liner or properly use pieces of the concrete or synthetic liner as clean fill at this site.

- D. Provisions to remove and properly dispose of any soil saturated with waste from the animal waste storage facility.
 - E. Provision to remove or permanently plug the waste transfer system serving the animal waste storage facility.
 - F. Provisions to fill and shape the area so as to not retain water, covering all disturbed area with topsoil, seeding the areas with a grass mixture, and mulching the seeded area. This section does not apply if alternative uses and application of new technology on the site is authorized under a closure plan approved by Shawano County.
2. Within 60 days the recipient of an Animal Waste Management Permit under this ordinance shall notify the Shawano County Planning and Development Department when the facility is no longer in operation. Animal wastes must be removed from the storage facility within thirteen (13) months after livestock are removed from the animal feed lot. The owner of the facility shall provide a statement of current and future uses of the facilities and date of closure if appropriate. If the facility is not closed properly, it may be deemed a nuisance under Wisconsin Statutes or applicable Shawano County Ordinance. In the event a facility is determined to be a nuisance, Shawano County may act to abate such a nuisance and require the cleanup of the facility at the property owner's expense.

5.0 Performance Standards.

- 5.1 Animal Feedlots.** The standards and specifications for design, construction, operation and maintenance of animal feedlots shall conform to Standard 635 USDA-NRCS Technical Guide.
- 5.2 Animal Waste Storage Facilities.** The standard and specification for design, construction, operation, maintenance and closure of animal waste storage facilities and animal waste transfer system standards are those identified in Standard 313, Standard 360 and Standard 634, USDA-NRCS Technical Guide.
- 5.3 Animal Waste Management and Utilization.** Animal wastes shall be managed and utilized in accordance with Standard 590, USDA-NRCS Technical Guide. A Nutrient Management Plan must be updated annually and submitted to the Shawano County Planning and Development Department until the animal waste storage facility is no longer in use and has been properly abandoned.
- A. Animal waste shall not be stored for more than thirteen (13) months.
 - B. A minimum vegetative buffer strip shall be maintained adjacent to perennial streams, intermittent streams, rivers and lakes according to NRCS Standard 393 Filter Strip for sediment trapping.
- 5.4 Animal Waste Prohibitions.** The following four prohibitions are incorporated into this ordinance:
- A. No overflow of animal waste storage structures.
 - B. No unconfined animal waste stacking (piling) within shore land zone.
 - C. No direct runoff from animal feedlots or stored animal waste to waters of the state.

- D. No unlimited livestock access to waters of the state where high concentration of animals prevent adequate sod cover maintenance. Designed cattle crossings and cattle ramps are permitted according to NRCS and County guidelines.

6.0 Setback Requirements

6.1 Animal Feedlots/Animal Waste Storage Facilities

Table 1 Feedlots

| Category | Setback Required |
|-----------------------------------|----------------------------|
| Road Right of Ways/Property Lines | 100 feet |
| Water Wells | According to DNR Well Code |
| 100 Year Flood Plain | Not Permitted |

Table 2 Manure Storage

| Category | Setback Required |
|---|---|
| New Facilities Road Right of Ways Property Lines Existing Facilities not meeting setbacks require a Conditional Use Permit and may only expand away from the Road Right of Ways and Property Lines | 200 feet 250 feet |
| Water Wells | According to NRCS Standard 313 and the DNR Well Code. |
| Liquid Tight, Fabricated Facilities Earthen Facilities Feedlots | 100 feet 250 feet 50 feet |
| 100 Year Flood Plain | Not Permitted |
| Surface Water | Wetland Shore land Ordinance Requirements |

6.2 Animal Waste Application

Application of animal waste and al nutrients must follow NRCS Standard 590.

7.0 Permit Revocation

- 7.1 Grounds for revocation of an Animal Waste Management Permit shall be limited to one of the following findings as determined by the Shawano County Planning, Development and Zoning Committee.

- A. The owner or operator of the facility fails to comply with the requirements of this ordinance at the time of issuance of the applicable permit;
- B. The owner/operator has failed to comply with the conditions of approval imposed;
- C. The facility has not been maintained in accordance with the standards listed in Section 5.

7.2 Revocation Process.

- A. The owner of an operation shall be notified, by certified mail with return receipt requested, of noncompliance by the Applicable Shawano County Planning and Zoning Authority.
- B. The owner shall comply within 30 days to the satisfaction of the Applicable Shawano County Planning and Zoning Authority.
- C. If compliance is not obtained within 30 days, the Shawano County Planning and Development Department shall notify the Shawano County Planning, Development and Zoning Committee of the noncompliance and request permission to proceed with the revocation process. This time period may be extended by staff to adjust for seasonal limitations.
- D. A representative of the Shawano County Planning and Development Department shall appear at the hearing before the Shawano County Planning, Development and Zoning Committee to present the evidence of noncompliance. All other interested parties may also give testimony to the Committee.
- E. A written decision of the Shawano County Planning, Development and Zoning Committee will be made. In instances where compliance with this ordinance cannot be established, the matter may be forwarded to the Shawano County Corporation Counsel for appropriate legal action.

8.0 Appeals Procedures

8.1 Administrative Decisions and Ordinance Interpretations

- A. Appeals to the Planning, Development and Zoning Committee may be taken by any person aggrieved or affected by any decision of the Zoning Enforcement Officer or his/her designees.
- B. Appeals shall be taken within ten (10) calendar days of the date of the decision in which the party is aggrieved, by filing with the Planning, Development & Zoning Committee a notice of appeal specifying the grounds thereof. The Zoning Enforcement Officer or his/her designees shall forthwith transmit to the Committee all the papers constituting the record upon which the action appealed from was taken. The Planning, Development & Zoning Committee is empowered to hear and decide appeals to:
 - 1. Grant or deny appeals of administrative decisions of the Planning and Development Department.
 - 2. Grant or deny appeals of administrative interpretation of the ordinance by the Planning and Development Department.