

8.2 Variance Procedure and Appeals of Planning, Development and Zoning Committee Decisions.

A. The County does not have authority to grant variances to state standards.

B. In addition to other appeal rights provided by law, Sec 93.90 (5) Stats, provides that any “aggrieved person” may request review by the livestock Facility Siting Review board of any decision by the (political subdivision) in connection with a permit application. An “aggrieved person” may challenge the decision on the grounds that the (political subdivision) incorrectly applied the standards under this ordinance or violated sec. 93.30, Stats. An “aggrieved person” under this section as defined in Sec. 93.90 (5) of Wis. Statutes means a person who applied to a political subdivision for approval of a livestock siting or expansion, a person who lives within 2 miles of the livestock facility that is proposed to be sited or expanded, or a person who owns land within 2 miles of a livestock facility that is proposed to be sited or expanded. Any appeal brought under this section must be requested within 30 days of the town/county approval or disapproval or within 30 days after the decision on appeal before the town board/county committee.

9.0 Penalty Any person who violates any provision of this ordinance shall be subject to a fine up to \$200.00 plus costs of prosecution, for each day of violation. Default of payment shall result in imprisonment in the Shawano County Jail for a period not to exceed six months. Shawano County may institute appropriate action or proceedings to enjoin violations of this Ordinance, any other Shawano County Ordinance or violations of the applicable Wisconsin Statutes.

10 Severability

It is the legislative intent that should any provision of this ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the ordinance in its entirety or any part thereof, other than that so declared to be invalid.

11.0 Definitions:

Definitions are not provided for every use and only explain key agricultural uses. Sample provisions contain terms such as Utility, Major and Utility, Minor, which have generally accepted zoning definitions.

Adjacent: located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.

Agriculture Crop: means the use of land for the production of row crops, field crops, tree crops, timber, bees, apiary productions, and fur bearing mammals.

Agricultural Use: Beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plan greenhouses and nurseries; poultry raising; raising of grain, grass, mint and see crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk production termination program under 7 USC 1446 (d); and vegetable raising. “Agriculturally Related Residence” means a residence which are occupied by (1) a person who, or a family at least one member of which, earns a substantial part of his or her livelihood from farm operations on the land, or (2) a parent or child of the owner of the farm.

Animal Feed Lot: An area that stables, confines, feeds, or maintains animals for a total of 45 days or more in any 12 – month period, and that area does not sustain crops, vegetation, forage growth, or post-harvested residues in the normal growing seasons. For the purposes of this ordinance: all buildings that stable, confine, feed or maintain animals, feed storage areas and animal waste storage facilities associated with the operation are considered to be part of the Animal Feed Lot.

For the purpose of developing a nutrient management plan, two or more animal feeding operations whether under common ownership or not, are deemed to be a single animal feedlot if they utilize a common area or storage and/or treatment system for disposal of wastes.

For the purpose of determining setbacks, two or more animal feeding operations under common ownership, farmed and/or managed by a common operator and within 500 feet of one another shall be considered as a single animal feedlot.

Animal Unit: has the meaning that was given in s. NR243.03(3) as of April 27, 2004. Animal units are not the same things as the number of animals on a farm. A conversion factor is used for each different animal type (beef, dairy, swine) and size (mature or immature) to determine animal units. Example: a mature dairy cow is equal to 1.4 animal units.

Animal Waste: Livestock excreta and other materials such as bedding, rain or other water, soil, hair, feathers and other debris normally included in animal waste handling operations.

Animal Waste Management Permit: Written permission issued by the Shawano County Planning and Development Department enabling the applicant(s) to construct and maintain an animal feedlot and/or an animal waste storage facility according to the criteria set forth in this ordinance. There are three categories of an Animal Waste Management Permit under this ordinance: Category I – 1 to 249 animal units; Category II - 250 to 499 animal units; Category III – 500 and greater animal units.

Animal Waste Storage Facility: A facility constructed of earth dikes, pits or ponds, or of structural material such as wood, concrete, plastic or steel or a combination of structural materials for temporary storage and/or treatment of animal waste. For the purposes of this ordinance, the term temporary shall mean not to exceed thirteen (13) months.

Applicable Shawano County Planning and Zoning Authority: Includes the Shawano County Planning and Development Department, the Shawano County Planning, Development and Zoning Committee and the Shawano County Zoning Administrator or his/her designees.

Best Management Practices (BMP): The most effective, practical measures to control non-point sources of pollutants that runoff from land surfaces.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Conditional Use Permit: Authorization from the Shawano County Planning, Development and Zoning Committee enabling the applicant(s) to construct and maintain an animal feedlot, animal waste storage facility and/or rural non-farm dwelling within the required setback area permitted of an animal feedlot under this ordinance according to conditions set forth by the committee.

The process for acquiring a conditional use permit may be obtained from the Shawano County Planning and Development Department.

Existing Feedlot: A feedlot that was in operation at the time of adoption of the Shawano County Animal Waste Management Ordinance 3-06 adopted on October 25, 2006.

Expansion or Expanding: When the number of animal units of an Animal Feedlot increases 20% or more.

Feed Storage Area: A location or facility used to temporary house feed in conjunction with a permitted animal feedlot. For the purposes of this ordinance, this definition shall include, but is not limited to: silos, bunker silos, pads, bags, bins, and locations or facilities used to prepare (TMR) total mix rations.

Grade, Finished: The final elevation of the ground level after development.

Grade, Original: The elevation of the ground level in its natural state, before construction, filling or excavation.

Immediate Family: For the purposes of this ordinance, immediate family members are defined as the parents or children of the property owner and are related by either blood, marriage, adoption or guardianship.

Land Use Permit: A document issued by the zoning enforcement officer or his/her authorized designee authorizing building or structures or uses consistent with the terms of this ordinance for the purpose of carrying out and enforcing its provisions.

Legal Non-conforming: Any pre-existing animal feedlot and/or animal waste storage facility that was in existence prior to the adoption of this ordinance and that has not been issued a conditional use permit.

Livestock: Domestic animals traditionally used in this state in the production of food, fiber or other animal products. "Livestock" includes cattle, swine, poultry, sheep and goats. "Livestock" does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids or mink.

Long Range Plan: A plan proposed for future animal feedlot construction activities of up to five years.

Monitoring: Owner/operator will annually review with Shawano County Planning & Development Department staff the Operations and maintenance plan for each BMP installed under The Animal Waste Management Permit and document that all requirements have been performed. In a document booklet, provided by the Planning & Development Department, the owner/operator must keep an annual log of manure applied, commercial fertilizer applied and credit taken for legume plow down. These completed documents must be submitted to the Department annually as stated on the permit.

Navigable Stream or Lake: As designated by Shawano County Hydrographic Mapping or determined by the Wisconsin Department of Natural Resources (WDNR).

Non-point Source Pollution (NPS): Pollution whose sources cannot be traced to a single point such as a municipal or industrial wastewater treatment plant discharge pipe. Non-point sources include eroding farmland and construction sites, urban streets, and barnyards. Pollutants from these sources reach water bodies in runoff, which can best be controlled by proper land management.

Operator: An individual, firm, association, syndicate, partnership, or corporation responsible for controlling the functioning of an animal feedlot and/or an animal waste storage facility.

Owner: An individual, firm, association, syndicate, partnership, or corporation having proprietary interest in an animal feedlot and/or an animal waste storage facility.

Parcel: A separately designated area of land, delineated by identifiable legally recordable boundary lines.

Pasture: Land with a permanent, uniform cover of grasses or legumes used as forage for livestock. Pastures do not include areas where supplemental forage feeding is provided on a regular basis.

Person: means an individual, corporation, partnership, cooperative, limited liability company, trust or legal entity.

Property Line: the exterior boundary of an owners' land holding. For the purposes of this ordinance, the roadside of property is not considered a property line.

Related livestock facilities: Livestock facilities that are owned or managed by the same person, and related to each other in at least one of the following ways:

- a. They are located on the same tax parcel or adjacent tax parcel of land.

NOTE: a mere acquisition of a neighboring livestock facility does not constitute an "expansion" unless more animal units are added to the combined facilities.

- b. They use one or more of the same livestock structures to collect or store manure
- c. At least a portion of their manure is applied to the same land-spreading acreage.

NOTE: Compare definition of "animal feeding operation" under a NR 243.03(2). "Related livestock facilities" are treated as a single livestock facility for purposes of local approval, except that a "separate species facility" may be treated as a separate livestock facility.

"Separate species facility" means a livestock facility that meets all of the following criteria:

- a. It has only one of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related (see definition of a "related livestock facility"):

1. Cattle
2. Swine
3. Poultry
4. Sheep
5. Goats

- b. It has no more than 500 animal units

- c. Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related.

- d. It meets one of the following criteria:

1. Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
2. It and other livestock facilities to which it is related have a combined total of fewer than 1,000 animal units.

Shoreland Zone: Lands within the following distances from the ordinary high water mark of navigable water: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the land ward side of the floodplain, whichever distance is greater.

Structure: Anything erected, constructed or installed that is supported by the ground.

Technical Standards: Natural Resource Conservation Service (NRCS) conservation practice standards provide guidance for applying technology on the land and set the minimum level for acceptable application of the technology. They are contained in Section IV of the Field Office Technical Guide available at the local USDA-NRCS office and the Shawano County Planning and Development Department - Land Conservation Division office. The following are the most common standards that apply to this ordinance; others may be applicable:

Standard 313 – Waste Storage Facility – A waste storage impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure to temporarily store manure, waste water and contaminated runoff in an environmentally safe manner.

Standard 350 – Sediment Basin – A basin constructed to collect and store animal waste or sediment from an animal feedlot.

Standard 360 – Closure of Waste Impoundments - The closure of waste impoundments, that are no longer used for their intended purpose, in an environmentally safe manner.

Standard 590 – Nutrient Management – Managing the amount, form, placement, and timing of applications of plant nutrients (manure and organic byproducts, commercial fertilizer, legume crops, and crop residues) to ensure normal crop production and minimize entry of nutrients to surface and ground water.

Standard 634 – Waste Transfer System - The standard and specification for design, construction, operation, and maintenance of animal waste transfer systems are those identified in Standard 634, USDA-NRCS Technical Guide.

Water Pollution: Any physical, chemical, or biological alteration of water that is harmful or unfit to living organisms or commercial or recreational use.

12.0 Effective Date (original)

Effective Date: The provisions of this ordinance shall take effect 05/11/2005

Passed on 05/11/2005
 Vote: for 3 Against 0

Arl Rudie, Town Chairperson

Posted in the following public places
within 30 days after board passage:

on 05/11/2005

Post Office in Green Valley

Fire Station in Pulcifer

Town Hall in Advance

Attested By:

Janalee Jenerou, Clerk

Gary Uelmen, Supervisor

Terry Tipton, Supervisor

12 - A : Effective Date - Ordinance Amendment

Effective Date: The provisions of this ordinance shall take effect 11-1-06

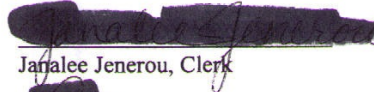
Passed on 11-1-06

Vote: for 3 Against 0

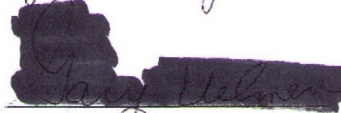


Arl Rudie, Town Chairperson

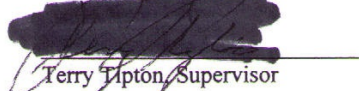
Attested By:



Janalee Jenerou, Clerk



Gary Uelmen, Supervisor



Terry Tipton, Supervisor

Posted in the following public places
within 30 days after board passage:

on 11-5-06

Cluster Boxes in Green Valley

Fire Station in Pulcifer

Community center in Advance