

SECTION 1: INTRODUCTION

1.1 Title. This Ordinance shall be referred to as the Manure Storage Ordinance.

1.2 Authority. This Ordinance is adopted pursuant to the authority granted in Wis. Stat. §§ 60.10, 60.22, 61.34, 92.16, and Wis. Admin. Code § ATCP 50.56 and ch. NR 151.

1.3 Findings and Declaration of Policy. The storage of animal waste and manure in storage facilities not meeting technical design and construction standards may cause pollution of the surface and groundwater of the Town and may have the potential to result in harm to Town residents, livestock, aquatic life, and other animals and plants, and to property values in the Town. The Town finds that the performance standards, prohibitions, conservation practices, and technical standards developed under Wis. Admin. Code chs. NR 151 and ATCP 50, and the technical standards developed by the United States Department of Agriculture Natural Resources Conservation Service (NRCS), provide effective, practical, and environmentally safe methods of storing animal waste.

1.4 Purpose. The purpose of this Ordinance is to regulate the location, design, construction, installation, alteration, closure, and use of manure storage facilities in order to protect public health and safety in the Town, minimize or prevent adverse aesthetic and environmental conditions, prevent groundwater and surface water pollution, and promote the conservation of land and water resources and the general welfare of the people and communities in the Town.

1.5 Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town of Saratoga, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.6 Severability.

(1) Should any section, clause, provision, or portion of this Ordinance be adjudged to be unconstitutional or invalid, unlawful, or unenforceable by a final order of a court of competent jurisdiction, the remainder of the Ordinance shall remain in full force and effect.

(2) If any application of this Ordinance to a particular parcel of land is adjudged unconstitutional or invalid by a final order of a court of competent jurisdiction, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment.

1.7 Effective Date. This Ordinance shall become effective the day after publication or posting as provided by Wis. Stat. § 60.80.

1.8 Definitions. The definitions in Wis. Stat. chs. 92 and 281, and Wis. Admin. Code chs. ATCP 50, 51, and NR 151 are incorporated by reference.

SECTION 2: ADMINISTRATION

2.1 Delegation of Authority. The Town hereby designates the Town Chair or his or her designee to administer and enforce this Ordinance.

2.2 Administrative Duties. In the administration and enforcement of this Ordinance, the Town shall:

- (1) Keep an accurate record of all permit applications, manure storage facility plans, nutrient management plans, permits issued, inspections made, and other official actions.
- (2) Review permit applications and issue permits in accordance with this Ordinance.
- (3) Inspect manure storage facility construction to insure the facility is being constructed according to plan specifications.
- (4) Investigate complaints relating to compliance with this Ordinance.
- (5) Perform other duties as specified in this Ordinance.

2.3 Inspection Authority. The Town may make any inspections necessary under this Ordinance to protect public health and safety. Where the Town does not have permission to enter lands subject to this Ordinance for inspection purposes, entry shall be according to Wis. Stat. § 66.0119. Refusal to grant permission to enter lands affected by this Ordinance for inspection purposes pursuant to the requirements of § 66.0119 shall be grounds for permit denial or revocation.

2.4 Stop Work Order Authority. The Town is authorized to post an order stopping work upon any land whenever the Town has reason to believe that such work violates this Ordinance or whenever a permit authorizing such work has been revoked. Notice will be given pursuant to Section 5.2(4) of this Ordinance.

2.5 Abatement Order Authority. The Town may issue an order to abate any violation of this Ordinance.

2.6 Citation Authority. The Town may issue a citation for any violation of this Ordinance.

2.7 Referral Authority. The Town may refer a violation of this Ordinance to counsel for legal action.

2.8 Nothing in this section may be construed to prevent the Town from using any other lawful means to enforce this Ordinance.

SECTION 3: MANURE STORAGE REQUIREMENTS

3.1 General Requirement. Any person who locates, installs, moves, reconstructs, extends, enlarges, converts, substantially alters, closes, or changes use of a waste storage facility or parts thereof; or who employs another to do the same, on land subject to this section, shall be subject to the provisions of this Ordinance.

3.2 Malfunctioning and Mismanaged Storage Facility. Malfunctioning or mismanaged storage facilities are a menace to the health and general welfare of the citizens of the Town, are declared to be nuisances, and shall be subject to the forfeiture, injunctive, and other enforcement provisions of this Ordinance. A storage facility found to be malfunctioning shall be repaired to a condition and maintained in such condition meeting the applicable Technical Standards within one (1) year of the date that the storage facility is determined to be malfunctioning. The Town may grant an extension of up to one (1) year if a written request is made within the first year and the Town determines that the request is reasonable under the circumstances. A storage facility found to be mismanaged shall be brought into compliance with the Ordinance within a time frame as determined by the Town depending on the potential severity of the problem but not to exceed one (1) year. Compliance may include clean up of the waste as determined by the Town.

3.3 Idle Waste Storage Facilities. Removal of waste and manure and restoration of an idle manure storage facility to a safe and sanitary condition, as determined by the Town, is required within one (1) year of the time the storage facility becomes idle. The Town may extend the Idle Storage Facility declaration for good cause, with such extension not to exceed one (1) year increments. After a storage facility has been idle for two (2) years, an inspection and report must be made on it by a certified agricultural engineering practitioner or registered professional engineer, reviewed and approved by the Town, and all deficiencies corrected to current standards, before the storage facility can be put back into use.

3.4 Existing Manure Storage Facilities. Any changes to an existing manure storage facility such as closing, moving, reconstructing, extending, enlarging, converting, or substantially altering the use of the facility must meet the current requirements of Technical Standards 313, 360, and 364 as currently in effect, and as amended from time to time or be brought up to those standards.

3.5 Direct Runoff of Animal Waste. Direct runoff of animal waste is a menace to the health and general welfare of the citizens of the Town, and shall be subject to the forfeiture and injunction provisions of this Ordinance. Direct runoff that poses a threat to public health and safety, or surface and/or groundwater resources because of any alteration or mismanagement of manure storage facility shall be cleaned up in a reasonable time frame as determined by the Town.

3.6 Unconfined Manure Stacks. No unconfined manure stacks shall be placed in a Water Quality Management Area (WQMA) or adjacent to grassed waterways, drainage ways, ditches, undrained areas, areas of concentrated flow, wells or abandoned wells. All unconfined manure stacks must comply with applicable Technical Standards and the standards in Section 3.9 of this Ordinance. Upon written notice from the Town requiring removal, stacks will be relocated to an approved site within two (2) weeks.

3.7 Safety Devices. Safety devices shall be designed and installed as required by Technical Standard 313.

3.8 Compliance with Permit Requirements. A person is in compliance with this Ordinance if he or she follows the procedures and other requirements of this Ordinance, receives a permit from the Town before beginning activities subject to regulation under this Ordinance, and complies with the requirements of the permit. No permit or approval pursuant to this Ordinance shall be issued where the applicant is in violation of this or any code administered by DATCP or DNR or for any parcel(s) of land which has an outstanding violation until the violation has been corrected. Where issuance of an after-the-fact permit or approval would have the effect of correcting a violation, it may be granted if all conditions required for issuance can be complied with.

3.9 Standards.

(1) The standards of the Technical Guide are adopted and by reference made a part of this Ordinance as if fully set forth therein. Any future amendment, revision, or modification of the standards incorporated herein are made a part of this article, unless otherwise acted upon by the Town. The following components of the Technical Guide will be used when manure storage facility is to be constructed, installed, abandoned, moved, reconstructed, extended, enlarged, converted, substantially altered, closed or emptied for nutrient application: 313-Manure Waste Storage Facility; 634-Waste Transfer System; 360-Closure of Waste Impoundment; and 590-Nutrient Management.

(2) The standards set forth in Wis. Admin. Code chs. ATCP 50 and NR 151 are also adopted and by reference made part of this Ordinance as if fully set forth therein.

SECTION 4: PERMIT REQUIREMENTS

4.1 Permit Required. No person may undertake an activity subject to this Ordinance without obtaining a permit from the Town. Permits are required for any new storage facilities, existing storage facilities that are closed, substantially altered, malfunctioning, or mismanaged and idle storage facilities that are put into use after two (2) years. Requirements of this Ordinance shall be in addition to any other rules, provisions, or ordinances regulating animal waste. In the case of conflict, the most stringent provisions shall apply.

4.2 Exception to Permit Requirement. The following constitute exceptions to the requirement under Section 4.1 to obtain a permit:

(2) Routine maintenance on a storage facility.

(3) Emergency equipment repairs on a storage facility.

(4) Emergency repairs such as repairing a broken pipe, or equipment, leaking dikes, or the removal of stoppage may be performed without a manure storage facility permit. If repairs will

significantly alter the original design and construction of the facility, a report shall be made to the Town within one (1) working day of the emergency for a determination by the Town on whether a permit will be required for any additional alteration or repair to the facility.

4.3 Permit Fee. Any person who by this Ordinance is required to obtain a permit, shall pay a fee for such permit to help defray the cost of administration, inspection, and processing of permits. The amount of the fee shall be established from time to time by the Town.

SECTION 5: APPLICATION FOR AND ISSUANCE OF PERMITS

5.1 Application. The applicant shall submit two (2) copies of an application containing all of the required documentation to the Town accompanied by payment of the appropriate fees set forth herein. The application shall be signed by the operator and landowner, if they are different persons.

5.2 Manure Storage Facility Plan Requirements. Each application for a permit under this Ordinance shall include manure storage facility plan certified by a certified agricultural engineering practitioner or registered professional engineer. The plan shall be in conformance with the current Technical Standards 313 and 634 and shall specify:

- (1) A management assessment, which demonstrates that a suitable land base is available for utilization of wastes. This shall include a plan documenting the availability of cropland per animal unit for all future expansions of a Livestock Operation. The plan must use either the Phosphorus Index (PI) or Soil Test Phosphorus Management Strategy found in the most current Technical Guide 590.
- (2) The number and kinds of animals for which storage is provided, the duration for which storage is to be provided, or daily gallons and/or cubic feet of waste and manure produced.
- (3) A plan view of the facility and its location in relation to waste transfer inlet, all buildings, roads, wells, lot lines, and other features within three hundred (300) feet of the proposed facility. The plan view shall be drawn to scale, with a scale no smaller than 1 inch = 100 feet.
- (4) The structural details, including but not limited to dimensions, cross-sections, and concrete thickness, concrete joint design and placement, design loads, design computations, reinforcement schedules, thickness and placement of groundwater protection liners, and all material specifications.
- (5) The soil test pit locations and soil descriptions to a depth of at least five feet below the planned bottom of the facility.
- (6) The elevation of seasonally high groundwater or bedrock if encountered in the soil profile and date of any such determination.
- (7) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater. If a navigable body of water lies within 500' of the facility, the location

and distance to the body of water shall be shown. Any flood plains and/or wetlands shall also be located.

- (8) The scale of the drawing and a north arrow.
- (9) A time schedule for construction of the facility.
- (10) A description and construction plan of the method to be used in transferring manure into and from the facility.
- (11) An approved Nutrient Management Plan, which shall:
 - (a) Comply with the requirements of Wis. Admin. Code § ATCP 50.04(3).
 - (b) Specify the utilization of animal waste, including the amount of land available for application of waste, identification of the areas where the waste will be used, crops, crop rotation, pastures, application rates, soil types, and any limitation on waste application due to soil limitations, type and proximity of bedrock or water table, slope of land, and proximity of surface water or groundwater.
 - (c) Include a plan agreement completed by the landowner. The agreement shall state that the plan shall be submitted to the Town no later than March 15th of the year following installation of the animal waste storage facility and that the plan shall be updated annually for the life of the waste storage or as long as the cropland and/or pasture are receiving sources of nutrients.
- (12) Any other additional information required by Technical Standard 313 or any other standard necessary to comply with this Ordinance.

5.3 Closure Plan Required. A permit is required for closure of a manure storage facility. Each application for a closure permit under this section shall include a closure plan. The plan shall be in accordance with the current Technical Standard 360: Closure of Waste Impoundments. The plan must specify:

- (1) A description of the type and size of the manure storage facility and an estimate of the amount of manure in the facility.
- (2) A description of how and where the manure and soil saturated with manure will be land applied in accordance with the current Technical Standard 590.
- (3) A description of how the liner, if any, will be disposed of.
- (4) A description of how the waste transfer system will be removed or permanently plugged.
- (5) A plan for removal of any soils, to the depth of significant manure saturation or 2 feet, whichever is less, from the bottom and sides of the facility without a constructed liner.

(6) A description of how the excavated area will be filled in and where the clean fill will come from.

(7) A plan view showing the final grade, the area to be covered and reseeded, and how rain and runoff will be diverted away from the site.

(8) Other additional information required by Technical Standard 360 or any other standards necessary to comply with this Ordinance.

5.4 Review of Application. The Town shall receive and review all permit applications and shall determine if the proposed facility meets required standards set forth in Section 3.9 of this Ordinance. Within sixty (60) days after receiving the completed application and fee, the Town shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the Town has thirty (30) days from the receipt of the additional information in which to approve or disapprove the application. If the Town fails to approve or disapprove the permit application in writing within sixty (60) days of the receipt of the permit application or within thirty (30) days of the receipt of additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.

5.5 Permit Conditions. All permits issued under this Ordinance shall be issued subject to the following conditions and requirements:

(1) Design, construction, and management shall be carried out in accordance with the manure storage facility plan and applicable standards specified in Section 3.9 of this Ordinance. The plan shall be certified as meeting the requirements of this Ordinance by a certified agricultural engineering practitioner or registered professional engineer.

(2) Manure storage facility removal or closure shall be carried out in accordance with the manure storage facility closure plan and applicable standards specified in Section 3.9 of this Ordinance.

(3) The permittee shall give five (5) working days' notice to the Town before starting any construction activity authorized by the permit.

(4) Approval in writing must be obtained from the Town prior to any modifications to the approved manure storage facility plan.

(5) Activities authorized by permit must be completed within two (2) years from the date of issuance after which such permit shall be void.

(6) Prior to use, a certified agricultural engineering practitioner or registered professional engineer and the permittee and, if applicable, the contractor, shall certify in writing on forms provided by the Town that the storage facility was installed as planned, including as-built

dimensions and changes or modifications as authorized per subsection (5) made during construction.

(7) The Town shall provide on-site inspection. Final approval signature for all projects under this Ordinance shall be provided by the Town.

5.6 Certificate of Use. No person may operate or use a manure storage facility or any portion of a manure storage facility that was constructed after the effective date of this Ordinance unless the person has a valid certificate of use for the storage facility or portion of the facility that is being operated or used.

(1) The Town will issue a certificate of use upon receipt of the written certification required by Section 5.5(6).

(2) The Town may revoke a certificate of use if there is a misrepresentation of any material fact in the permit application, a misrepresentation of any material fact in the storage facility plan, a misrepresentation of any material fact in the nutrient management plan, a failure to comply with the nutrient management plan requirement, a failure to provide the Town with a copy of the nutrient management plan upon request, or for multiple or repeat violations of this ordinance. The Town will immediately provide written notice of the revocation and the reason for the revocation.

SECTION 6: VIOLATIONS, PENALTIES, AND APPEALS

6.1 Violations. The following are violations of this Ordinance:

(1) Failure to obtain a permit as required under this Ordinance.

(2) Failure to comply with the applicable standards in Section 3.9 or any other terms of this Ordinance.

(3) Knowingly making a material false statement or knowing omission in any document required to be submitted under the provisions hereof or during an inspection conducted by the Town.

(4) Failure to timely file any documents required under this Ordinance.

(5) Failure to take appropriate action in response to a citation or decision issued by the Town.

(6) Each day of violation constitutes a separate offense.

6.2 Penalties. Any person found to be in violation of this Ordinance may be subject to the following penalties:

(1) A forfeiture up to \$1000.00 plus cost of prosecution for each violation.

(2) As a substitute for, or in addition to, forfeiture actions, the Town may seek enforcement of any part of this Ordinance by court actions seeking injunctions or restraining orders.

(3) The Town may suspend or revoke the approval of a permit under this Ordinance after due notice to the livestock operator or owner and a hearing before the Town Board of Adjustment to determine whether the permit or license should be suspended or revoked.

(4) The Town is authorized to post an order stopping work upon land which has had a permit revoked or is currently undergoing activity in violation of this Ordinance. Notice shall be given by both: posting, upon the land where the violation occurs, one or more copies of a poster stating the violation; and by mailing a copy of the order by certified mail to the person whose activity is in violation of this Ordinance. The order shall specify that the activity shall cease or be brought into compliance within a specified time period.

(5) Any permit revocation or order stopping work shall remain in effect unless retracted by the Town, by a court of general jurisdiction, or until the activity is brought into compliance with this Ordinance as determined by the Town. The Town is authorized to refer any violation of this Ordinance or of an order stopping work issued pursuant to this Order to the Town's legal counsel for commencement of further legal proceedings.

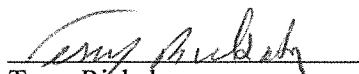
(6) In addition to any other penalty imposed by this Ordinance, the cost of abatement of any public nuisance on the licensed premises by the Town may be collected under this Ordinance or Wis. Stat. § 823.06 against the owner of the real estate upon which the public nuisance exists.

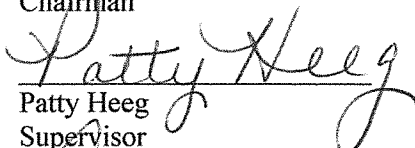
6.3 Hearings and Appeals. Any person aggrieved, by a decision of the Town may seek review to the Town Board of Adjustment.

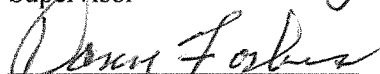
SECTION 7: EFFECTIVE DATE

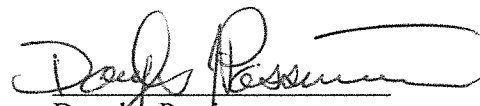
7.1 The Ordinance shall take upon passage by the Town Board of the Town of Saratoga and upon publication provided by law.


Adopted this 18th day of January, 2017

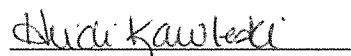

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