

AMENDING CHAPTER 2 and 14 OF THE DANE COUNTY CODE OF ORDINANCES,
REGARDING MANURE STORAGE AND UTILIZATION

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Subsection 2.06(3) is amended to read as follows:

2.06 SCHEDULE OF DEPOSITS.

Sub. No.	Ordinance Number	Offense	Deposit
(1)	Ch. 10	Various zoning violations	\$150.00
(2)	Ch. 11	Various violations of shoreland and flood plain regulations	400.00
(3)	Ch. 14, Subch. 1,	Various manure storage and utilization violations except 14.18, 14.19, and 14.20.	150.00
(3a)	14.18	Stored pumpable liquid manure winter permit violations, first offense	150.00
(3b)	14.18	Stored pumpable liquid manure winter permit violations, second offense	300.00
(3c)	14.18	Stored pumpable liquid manure winter permit violations, third offense	600.00
(3d)	14.19	Record keeping requirement violations, first offense	150.00
(3e)	14.19	Record keeping requirement violations, second offense	300.00
(3f)	14.19	Record keeping requirement violations, third offense	600.00
(3g)	14.20	Unlawful application of stored pumpable liquid manure, first offense	150.00
(3h)	14.20	Unlawful application of stored pumpable liquid manure second offense	300.00
(3i)	14.20	Unlawful application of stored pumpable liquid manure third offense	600.00

ARTICLE 3. Subsection 14.06(3m) is created to read as follows:

14.06 DEFINITIONS. As used in this subchapter, the following words and phrases have the meanings indicated:

(3m) *Channelized flow* means channels or depressions that concentrate flow and are either:

(a) Man-made by a means other than typical field cultivation practices.

(b) A natural channel or depression that cannot be removed or rerouted using typical field cultivation practices or that form on a recurring basis in the same area.

ARTICLE 4. Subsection 14.06(4) is amended to read as follows:

(4) *Conservation plan* means the written agreement between the department and a landowner that records the decisions made by the landowner and/or operator and approved by the department, and the supporting information provided by the landowner and/or operator, regarding the conservation practices the landowner and/or operator will employ to protect the natural resources located on an identified parcel of land.

ARTICLE 5. Subsection 14.06(6m) is amended to read as follows:

(6m) *Landowner* means a person who owns a parcel of land.

ARTICLE 6. Subsection 14.06(8n) is created to read as follows:

(8n) *Operator* means a person who rents, controls or uses a parcel of land for agricultural purposes.

ARTICLE 7. Subsection 14.06(11) is amended to read as follows:

(11) *Person* means any individual, landowner, operator, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.

ARTICLE 8. Subsection 14.11 is amended and renumbered to read as follows:

14.11 FEES.

(1) The permit fee for a manure storage facility shall be \$750.

(2) Effective November 1, 2014, the fee for a stored pumpable liquid manure winter application permit is \$50.

(3) Waiver of permit fee. The permit fee in sub. (1) may be waived at the discretion of the director if the permittee has completed an educational training program within one year prior to the date of application.

(a) The training shall include, but not be limited to, proper facility planning and siting per sec. 14.12(1) and (2), and manure management. Manure management training shall be consistent with sec. 14.12(4) and may result in the permit applicant becoming certified to produce and implement the manure management plan accordingly.

(b) If the director deems appropriate, a site visit by either LCD or UWEX staff will be a condition of the waiver.

(c) Only certified training programs will satisfy the waiver of such permit fee.

ARTICLE 9. Subsection 14.12(4) is amended to read as follows:

14.12 MANURE STORAGE FACILITY PLAN REQUIRED. Each application for a permit under this section shall at a minimum include:

(4) A nutrient management plan that conforms to Standard 590. The plan shall be developed by individuals with qualifications described in s. ATCP 50.04(3), Wis. Admin. Code. The plan shall be updated and implemented on an annual basis. The permittee shall retain all updated plans and appropriate implementation records for the four previous years and shall produce these records at the request of the authorized designee under s. 14.18. Nutrient management planning obligations do not cease upon completion of construction of the facility. The nutrient management plan shall:

(a) include all land on which the landowner and/or operator mechanically applies manure;

(b) rely on soil nutrient tests conducted at a laboratory certified under s. ATCP 50.50, Wis. Admin. Code;

(c) comply with Standard 590; and

(d) follow recommendations for nutrient management applications in the University of Wisconsin Extension Soil Test Recommendations for Field, Vegetable, and Fruit Crops, UWEX Publication A-2809 (1998), unless it is established that the circumstance of the particular land requires nutrients in excess of the recommended application.

ARTICLE 10. Subsection 14.17 is amended to read as follows:

14.17 CONSERVATION PLAN.

(1) Prior to the issuance of a permit under this subchapter, the landowner and/or operator shall work with the department to develop a conservation plan which shall include, at a minimum:

(a) an inventory of the natural resources located on the land;

(b) land use, soil and topographic maps;

(c) a description and schedule of conservation practices to be employed by the landowner and/or operator; and

(d) a plan for the winter application of stored, pumpable liquid manure.

(2) The landowner and/or operator shall update and amend the plan, and submit it to the department for approval, when necessary to show changes in land unit boundaries or uses, resource management systems, or any other changes that would impact the recommended conservation practices to be employed by the landowner and/or operator.

ARTICLE 11. Subsection 14.18 is amended to read as follows:

14.18 STORED PUMPABLE LIQUID MANURE WINTER APPLICATION PERMIT. **(1)** No person may apply stored, pumpable liquid manure on either frozen or on snow-covered or on ice-covered cropland, unless the liquid manure is effectively incorporated, without first obtaining a winter application permit issued under this subchapter. Said permit shall be issued after the receipt and approval, by the department, of a conservation

plan as described in section 14.17 of this subchapter. The permit shall remain in effect for three (3) years or until the permit is revoked by the department pursuant to section 14.20 of this subchapter.

(2) Liquid Manure Winter Application Plan. At a minimum, a stored, pumpable liquid manure winter application plan must meet the following conditions and requirements:

(a) The plan must be in writing in a format approved by the department and submitted to the department for review and approval by no later than November 1st prior to the winter during which the permittee intends to apply liquid manure.

(b) The plan must include a description, in a format approved by the department, of the emergency response procedures that will be engaged immediately in the event of direct runoff of liquid manure.

(c) The permittee shall follow one or more of the following conservation practices in the area where liquid manure will be applied:

1. Install a grassed buffer, at least 30 feet wide, along a stream, drainage ditch or lake.
2. Install a grassed buffer in a field.
3. Install a contour strip.
4. Employ contour farming practices and leave all residues on the surface.
5. Employ no-till practices with all crop residues remaining from the previous crop year.
6. Create and maintain terraces or diversions to reduce slope length.
7. Chisel plow the field prior to ground freeze.
8. Other conservation practices such as, but not limited to, intermittent strip spreading, as approved by department staff.

(d) The maximum liquid manure application rates on either frozen, on snow-covered or on ice-covered cropland shall be determined by the slope of the land upon which the permittee intends to spread the manure, as follows:

Slope	0-2%	3-6%	7-12%	>12%
Maximum Application Rate	7,000 gal/ acre	6,000 gal/ acre	5,000 gal/ acre	Prohibited

(3) The stored, pumpable liquid manure winter application plan shall be reviewed by the department and amended as necessary, whenever the landowner's and/or operator's conservation plan is updated or permit is renewed.

ARTICLE 12. Subsection 14.185 is deleted in its entirety:

ARTICLE 13. Subsection 14.19 is amended to read as follows:

14.19 RECORD KEEPING REQUIREMENT. The landowner and/or operator shall maintain an accurate record of the date, location and rate of application (gallons per acre) for every application of stored, pumpable liquid manure on the land that is subject to the winter application permit. The record shall be made available to the department upon request and shall be retained by the landowner and/or operator for one year following the date of application.

ARTICLE 14. Subsection 14.20 is amended to read as follows:

14.20 APPLICATION OF STORED, PUMPABLE LIQUID MANURE PROHIBITED. **(1)** Stored, pumpable liquid manure may not be applied on either frozen, on snow-covered or on ice-covered cropland located in any of the following areas:

- (a)** on a waterway or other channelized flow;
- (b)** on non-harvested vegetation;
- (c)** within 30 feet on either side of a waterway or channelized flow;
- (d)** within 200 feet upslope of a well, tile inlet, sinkhole, gravel pit or fractured bedrock at the surface;
- (e)** within 300 feet of a stream or drainage ditch;
- (f)** within 1,000 feet of a lake; or
- (g)** on slopes of greater than 12%.

(2) Stored, pumpable liquid manure may not be applied on either frozen, on snow-covered or on ice-covered cropland, unless it is effectively incorporated, except in the manner and location or locations described in the permittee's approved liquid manure winter application plan.

ARTICLE 15. Subsection 14.25 is amended to read as follows:

14.25 ENFORCEMENT AUTHORITY. (1) Stop work order. (a) Whenever the department finds any noncompliance with the provisions of this ordinance, the department shall attempt to communicate with the landowner, operator or other person performing the work to obtain immediate and voluntary compliance if such person is readily available. If the landowner, operator or other person performing the work is not readily available, that person refuses to voluntarily comply immediately or the noncompliance presents an immediate danger or will cause or threatens to cause bodily injury or damage to off-site property including, but not limited to, off-site runoff, the department shall post in a conspicuous place on the premises, a stop work order which shall cause all activity not necessary to correct the noncompliance to cease until noncompliance is corrected.

(b) The stop work order shall provide the following information:

1. date of issuance;
2. town and section number or equivalent information within a municipality;
3. reason for posting; and
4. signature of inspector posting the order.

(c) Unauthorized removal of a stop work order from the premises shall be a violation of this ordinance.

(2) In addition to posting a stop work order, the department shall provide notification to the landowner, operator, contractor or other person by personal service, written notice by certified mail, electronic mail, or facsimile transmission.

(a) The permittee, landowner, operator, contractor or other person shall have 24 hours from time of notification by the department to correct any noncompliance with the plan when notification is by either personal communication of noncompliance to the landowner, operator, contractor, person or their respective agents, or written notice sent by certified mail to the landowner or operator.

(b) If notice is not provided under sub. (2)(a), the permittee and landowner, operator or other person shall have 72 hours to correct any noncompliance with the plan when notification is by posting notice in a conspicuous place on the site or sending notice by facsimile transmission to the landowner, operator, contractor or other person.

(3) If the noncompliance is not corrected within the time periods specified in sub. (2)(a) or (b), the permittee, landowner, operator or other person authorize the department to take any action, to perform any work, or commence any operations necessary to correct noncompliance on the subject property where notice of noncompliance has been issued to bring the property into conformance with plan requirements. The permittee, landowner, operator or other person further consent to reimburse the authority for the total costs and expenses of the corrective actions. Reimbursement may be collected as a special charge upon the property for current services rendered as provided by law.

(4) If the permittee has filed an appeal under s. 14.26(1) prior to the expiration of the time for compliance under sub. (2)(a), the department may take action, perform work or correct conditions only to the extent necessary to protect against an imminent hazard or condition that will cause or threatens to cause personal injury or damage to off-site property.

ARTICLE 16. Subsection 14.27 is amended to read as follows:

14.27 PENALTIES. (1) Any person violating any provision of this subchapter, other than sections 14.18, 14.19 and 14.20 shall, upon conviction, forfeit not less than \$10 nor more than \$200, together with the costs of such action.

(2) Any person who violates sections 14.18, 14.19 and 14.20 of this subchapter shall be subject to a forfeiture of \$150 for the first violation within a three (3) year period, \$300 for a second violation within a three (3) year period and \$600 for a third violation within a three (3) year period.

(3) Each day of violation shall constitute a separate offense. Any violation of this ordinance may be enforced by court action seeking injunctive relief. The corporation counsel is authorized to commence all legal proceedings in aid of enforcement of this subchapter when requested by the department.