

ARTICLE IV Waste Storage

§ 101-25. Authority.

The ordinance codified in this article is adopted under authority granted by §§ 59.02, 59.03, 59.69, 59.70, 92.15 and 92.16, Wis. Stats.

§ 101-26. Title.

This article shall be known as, referred to and may be cited as the "Pierce County Waste Storage Ordinance" and is hereinafter referred to as "this article."

§ 101-27. Findings and declaration of policy.

A. The Pierce County Board of Supervisors finds that storage of waste, which includes manure, milking center waste and other organic waste generated by a livestock facility, in storage facilities not meeting sufficient technical design and construction standards may cause pollution of the surface and ground waters of Pierce County and may result in harm to the health of county residents, to livestock, aquatic life and other animals and plants and to the property tax base of Pierce County.

B. The Pierce County Board of Supervisors also finds that improper management of waste storage facilities and utilization of stored waste may cause pollution of the ground and surface waters of Pierce County. The Pierce County Board of Supervisors further finds that the technical standards developed by the United States Department of Agriculture, Natural Resource Conservation Service and adopted by the Pierce County Land Conservation Committee provide effective, practical and environmentally safe methods of storing and utilizing waste.

§ 101-28. Purpose.

The purpose of this article is to regulate the location, design, construction, installation, alteration and use of waste storage facilities and the application of waste from these facilities in order to prevent water pollution and thereby protect the health and welfare of Pierce County residents, animals and plants and the economy. It is also intended to provide for the administration and enforcement of this article and to provide penalties for its violation.

§ 101-29. Applicability.

This article applies to the entire geographical area of Pierce County.

§ 101-30. Interpretation.

The provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of Pierce County and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

§ 101-31. Severability.

If any section, provision or portion of this article is ruled invalid by a court, the remainder of the article shall not be rendered ineffective by the court's ruling.

§ 101-32. When effective.

This article shall become effective upon its adoption and publication by the Pierce County Board of Supervisors.

§ 101-33. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ABANDONED STORAGE FACILITY — A facility, permitted under this article, where waste has not been added or removed for a period of 24 months.

APPLICANT — Any person who applies for a permit under this article.

BEDROCK — The top of the shallowest layer of a soil profile that consists of consolidated rock material or weathered-in-place material, more than 50% of the volume of which will be retained on a 2 mm soil sieve.

CLOSED WASTE STORAGE FACILITY — A waste storage facility that has been closed in compliance with this article and NRCS Technical Guide, Standard 360.

CERTIFIED AGRICULTURAL ENGINEERING PRACTITIONER -- An agricultural engineering practitioner who is certified under s. ATCP 50.46 with a rating under s. ATCP 50.46 (5) that authorizes the practitioner to certify every matter that the practitioner certifies under this chapter.

DEPARTMENT — The Pierce County Department of Land Conservation.

FINE SOIL PARTICLES -- Soil particles that pass through a #200 soil sieve.

KARST FEATURE -- An area or superficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater including caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

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

LIVESTOCK STRUCTURE -- A building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. Includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. Does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

MANURE — Excreta from livestock and other materials such as livestock bedding, water, soil, hair, feathers and other debris normally included in animal manure operations.

MINOR ALTERATION -- A repair or improvement in the construction of an existing livestock structure that does not result in a substantially altered livestock structure.

NEW WASTE STORAGE FACILITY -- A facility that will be used as a livestock facility for the first time, or for the first time in the last five years. Does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years.

PERMIT — The signed, written statement issued by the Pierce County Land Conservation Department under this article authorizing the applicant to construct, install, reconstruct, enlarge or substantially alter a waste storage facility and to use or dispose of waste from the facility.

PERMITTEE — Any person to whom a permit is issued under this article.

PERSON — Any individual, corporation, partnership, joint venture, agency unincorporated association, municipal corporation, county or state agency within Wisconsin, the federal government or any combination thereof.

REGISTERED PROFESSIONAL ENGINEER -- A professional engineer registered under ch. 443, Wis. Stats.

SUBSTANTIALLY ALTER — Waste storage structure that undergoes a material change in construction or use, including any of the following material changes:

1. An increase in the capacity of a waste storage facility.
2. The addition of a liner to a waste storage facility.

SUSCEPTIBLE TO GROUNDWATER CONTAMINATION — Any one of the following:

- A. An area within 250 feet of a private well.
- B. An area within 1,000 feet of a municipal well.
- C. An area within 300 feet up-slope or 100 feet down-slope of karst features.
- D. A channel with a cross-sectional area equal to or greater than three square feet that flows to a karst feature.
- E. An area where the soil depth to groundwater or bedrock is less than two feet.
- F. An area where the soil does not exhibit one of the following soil characteristics:
 - (1) At least a two-foot soil layer with forty-percent fines or greater above groundwater and bedrock.
 - (2) At least a three-foot soil layer with twenty-percent fines or greater above groundwater and bedrock.
 - (3) At least a five-foot soil layer with ten-percent fines, or greater above groundwater and bedrock. [See NR 151.015 (18)]

TECHNICAL GUIDE — The United States Department of Agriculture (USDA) Natural Resource Conservation Service Technical Guide for the State of Wisconsin, and amendments.

UNCONFINED MANURE PILE – A quantity of manure at least 175 cubic feet in volume that covers the ground surface to a depth of at least 2 inches, but does not include any of the following:

- A. Manure that is confined within a manure storage facility, livestock housing structure or barnyard runoff control facility.
- B. Manure that is covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater.

WASTE – Manure, milking center waste and other organic waste generated by a livestock facility.

WASTE STORAGE FACILITY – One or more waste storage structures including stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. Does not include equipment used to apply waste to land.

WASTE STORAGE STRUCTURE – A waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. Does not include any of the following:

1. Equipment used to apply waste to land.
2. A structure used to collect and store waste under a livestock housing facility.
3. A manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.

WATER POLLUTION — Contaminating or rendering unclean or impure the ground or surface waters of the state or making the same injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.

§ 101-34. General requirement.

Any person who designs, constructs, installs, reconstructs, enlarges, substantially alters, or closes a waste storage facility or who employs another person to do the same on land subject to this article shall be subject to the provisions of this article.

A. General design, construction and maintenance.

- (1) New or substantially altered waste storage facilities shall be designed, constructed and maintained to minimize the risk of structural failure, and to minimize the potential for waste discharge to surface water or groundwater. A waste storage facility may not lack structural integrity or have significant leakage. An unlined earthen waste storage facility may not be located on a site that is susceptible to groundwater contamination.
- (2) Storage capacity. The waste storage capacity shall be adequate for reasonably foreseeable storage needs based on the operator's waste and nutrient management strategy.
 - (a) An operator shall at all times maintain, in every open waste storage facility, unused storage capacity equal to the greater of the following volumes:
 1. One foot multiplied by the top area of the storage facility.
 2. The volume of rain that would accumulate in the waste storage facility from a 25-year 24-hour storm.

B. Existing facilities. An existing waste storage facility is presumed to comply with sub. A.(1) if a registered professional engineer or certified agricultural engineering practitioner certifies one of the following:

- (1) The facility is constructed of concrete or steel or both, was constructed within the last 10 years according to then-existing NRCS standards, and shows no apparent signs of structural failure or significant leakage.
- (2) The facility was constructed within the last 3 years according to then-existing NRCS standards, and shows no apparent signs of structural failure or significant leakage.
- (3) The facility was constructed according to NRCS standards that existed at the time of construction, is in good condition and repair, and shows no apparent signs of structural failure or significant leakage.
- (4) The facility is in good condition and repair, shows no apparent signs of structural failure or significant leakage, and is located on a site at which the soils and separation distances to groundwater comply with NRCS technical guide manure storage facility standard 313, table 1 (November, 2004).

- (5) The facility is in good condition and repair, shows no apparent signs of structural failure or significant leakage, is located entirely above ground, and is located on a site at which the soils comply with NRCS technical guide manure storage facility standard 313, table 5 (November, 2004).

C. Closure.

- (1) Closure of a waste storage facility permitted under this article shall occur when an operation where the facility is located ceases operation, or waste has not been added or removed from the facility for a period of 24 months. Waste facilities shall be closed in a manner that will prevent future contamination of groundwater and surface waters. Compliance with NRCS Technical Guide, Standard 360, Closure of Waste Impoundments, and this article, is required.
- (2) The owner or operator may retain the facility for a longer period of time by demonstrating to the Department that all of the following conditions are met:
 - (a) The facility is designed, constructed and maintained in accordance with Sub. (2) of NR 151.05;
 - (b) The facility is designed to store waste for a period of time longer than 24 months.
 - (c) Retention of the facility is warranted based on anticipated future use.

- D. Failing and leaking facilities. Waste storage facilities that may pose an imminent threat to public health or fish and aquatic life or are causing a violation of groundwater standards shall be upgraded, replaced or closed in accordance with this section.

§ 101-35. Compliance.

A person is in compliance with this article if he or she follows the procedures of this article, receives a permit from the Pierce County Land Conservation Department before beginning activities subject to regulation under this article and complies with the requirements of the permit.

§101-36. Standards.

- A. Standards for waste storage facilities. A registered professional engineer or certified agricultural engineer practitioner shall certify that the design specifications of waste storage facilities are the current standards found in the Technical Guide, Standards 313 (Waste Storage Facility) and Standards 634 (Manure Transfer Standard), as they existed on the date of the adoption of this article, and any amendments.
- B. Standards for nutrient management plan. The standards for a nutrient management plan shall be as provided in the Technical Guide, Standard 590.
- C. Subsequent modification of standards. The standards of the Technical Guide are adopted and by reference made a part of this article as if fully set forth herein. Any future amendment, revision or modification of the standards incorporated herein are made a part of this article, unless otherwise acted upon by the Land Conservation Committee.
- D. Additional conditions. The Pierce County Land Conservation Department staff may impose additional conditions before issuing a permit if in the officer's or staff member's judgment such conditions are necessary to protect the groundwater because of shallow soils, creviced rock or

other site conditions. Compliance with this article does not eliminate or change the applicant's duty to comply with any other restrictions, rules or regulations imposed by other entities, including but not limited to town, state, city and village requirements.

§ 101-37. Siting requirements.

- A. A waste storage structure may not be located within 350 feet of any property line, or within 350 feet of the nearest point of any public road right-of-way, unless one of the following applies.
 - (1) The waste storage structure existed prior to May 1, 2006. An existing waste storage structure located within three hundred fifty (350) feet from a lot line or public road right-of-way may expand, but shall not further encroach upon the setback.
 - (2) The waste storage structure is a single new waste storage structure constructed no closer to the relevant property line or public road than a waste storage structure that existed on the same tax parcel prior to May 1, 2006, provided that the new structure is no larger than the existing structure and is located within 50 feet of the existing structure.
- B. Exemption from siting requirement. The Land Conservation Committee may grant an exemption to, or modify, one or more siting requirements for a proposed waste storage facility if requested by the applicant or the Department, provided that:
 - (1) Unique property limitations exist and placement in adherence with siting requirements would not be reasonable and or possible; or
 - (2) Adherence to siting requirements would increase the likelihood of future nuisance complaints; or
 - (3) The request is for the protection of water quality.
- C. A waste storage structure must comply with all applicable zoning, floodplain and shoreland and wetland ordinances.
- D. Unconfined manure piles. A livestock facility may not have any unconfined manure piles within 1,000 feet of a navigable lake or 300 feet of a navigable stream.

§ 101-38. Permits required.

No person may undertake an activity subject to this article without obtaining a permit from the Department prior to beginning the proposed activity.

§ 101-39. Exceptions to permit requirement.

- A. Emergency repairs, such as repairing a broken pipe or equipment or leaking dikes or the removal of stoppages, may be performed without a permit. If repairs will alter the original design and construction of the facility, a report shall be made to the Department within two working days of the emergency for a determination by the Department on whether a permit will be required for any additional alteration or repair to the facility.
- B. Pre-existing waste storage facilities, except where a breach or overflow occurs, are not required to obtain a permit under this article.
- C. Closure of an existing waste storage facility, with a plan approved by the Department, does not require a permit under this article.

§ 101-40. Permit fee.

A fee shall be charged for a permit under this article. The permit fee can be established or changed by a majority vote of the Land Conservation Committee. The new fee schedule shall be submitted to the full County Board at its next regular meeting for information purposes. No approval action is necessary on the part of the full County Board.

§ 101-41. Waste storage facility plan required.

Each application for a permit under this article shall include a waste storage facility plan. The plan shall specify:

- A. Type(s) and numbers of livestock the facility is planned for, and maximum storage capacity.
- B. A sketch drawn at a scale of not less than one inch equals 100 feet of the facility location, including all buildings, navigable and intermittent streams, wetlands or water bodies within 500 feet of the impoundment, and the location of wells within 300 feet of the facility.
- C. Structural details, including but not limited to all grades, dimensions, cross-sections, concrete thickness, reinforcement schedules, and thickness and placement of groundwater protection liners.
- D. Soil test pits and soil depth boring locations and soil descriptions to a depth of at least five feet below the planned bottom of the facility or to bedrock if at a lesser depth.
- E. Elevations of groundwater or bedrock if encountered in the soil profile and the date of such determinations.
- F. Provisions for drainage and control of runoff to prevent pollution of surface water and groundwater and the locations and distance to water bodies.
- G. Drawing scale and the North arrow.
- H. Time schedules for construction and inspection by certifying engineer.
- I. Descriptions of the methods for transferring waste.
- J. Provisions for proper closure of facility.
- K. Provisions for complying with siting requirements, if applicable.
- L. Provisions required for safety of the facility, including but not limited to adequate signage, grating, and fencing.
- M. All companion documents from Technical Guide, Standard 313.

§ 101-42. Nutrient management plan.

- A. As part of an application for construction permit, a landowner must develop a nutrient management plan that complies with ATCP 50.04. The nutrient management plan shall include the following:

- (1). Identification of every field on which the landowner mechanically applies nutrients.
 - (2). Preparation by a nutrient management planner qualified under ATCP 50.48.
 - (3). Reliance on soil nutrient tests conducted at a laboratory certified under ATCP 50.50.
 - (4) Compliance with the Technical Guide nutrient management standard 590.
 - (5) Follow recommendations for nutrient applications in the University of Wisconsin-Extension in Soil Test Recommendations for Field, Vegetable and Fruit Crops, UWEX publication A-2809 (1998), unless the nutrient management planner can show that circumstances justify more than the recommended application.
- B. Updates. An operator may update nutrient management plans and practices as necessary, consistent with § 101-36 B.

§ 101-43. Reuse of abandoned waste storage facility.

Reuse of an abandoned facility may be allowed provided that the owner or operator meets the requirements of § 101-34C(2) of this article.

§ 101-44. Review of application and plans.

The Department shall receive and review all permit applications. The Department shall determine if the proposed facility meets required standards set forth in §§ 101-35 and 101-36 of this article. Within 45 days after the Department receives an application, the Department shall notify the applicant if the application is complete. If additional information is required, the notice shall specifically describe what else is needed. Within 14 days after the applicant has provided the additional information, the Department shall notify the applicant that the application is complete. Within 90 days after giving notice that the application is complete, the Department shall inform the applicant in writing whether the permit application is approved or disapproved. If the Department fails to approve or disapprove the permit application in writing within 90 days of the receipt of the permit application, as appropriate, the application shall be deemed approved and the applicant may proceed as if the permit had been issued.

§ 101-45. Permit conditions.

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

- A. Waste storage facility design, construction, management and utilization activities shall be carried out in accordance with the approved application and plans and applicable standards specified in this article.
- B. The permittee shall give no less than five working days' notice to the Department before starting any construction activity authorized by the permit.
- C. Approval in writing must be obtained from the Department prior to any modifications to the approved facility if the permit has been issued.
- D. The permittee and registered engineer or certified agricultural engineering practitioner shall certify in writing that the facility was installed as planned, or as-built plans shall be stamped by the

registered engineer or certified agricultural engineering practitioner and submitted before use of the facility begins.

E. Activities authorized by permit must be completed within two years from the date of issuance, after which such permit shall be voided, unless an extension is approved by the Department.

§ 101-46. Permit revocation.

The Department may revoke any permit issued under this article if the holder of the permit has misrepresented any material fact in the permit application or facility plans or if the holder of the permit violates any of the conditions of the permit.

§ 101-47. Administration.

In the administration and enforcement of this article, the Department shall:

- A. Keep an accurate record of all permit applications, waste storage facility plans, permits issued, inspections made and other official actions.
- B. Review permit applications and issue permits in accordance with § 101-38 to § 101-46 of this article.
- C. Inspect waste storage facility construction to ensure that the facility is being constructed according to plan specifications.
- D. Investigate complaints relating to compliance with this article.
- E. Perform other duties as specified in this article.

§ 101-48. Inspections.

The Pierce County Land Conservation Supervisor or designee of the Pierce County Land Conservation Committee is authorized to enter upon any lands affected by this article to inspect the land prior to or after permit issuance to determine compliance with this article. If permission cannot be received from the applicant or permittee, entry by the Land Conservation Supervisor or designee shall be according to § 66.0119, Wis. Stats.

§ 101-49. Enforcement.

The Department is authorized to post an order stopping work upon land which has had a permit revoked or on land currently undergoing activity in violation of this article. Notice is given by mailing a copy of the order by certified mail to the owner of the land where the violation exists. The order shall specify that the activity must cease and be brought into compliance within 10 days. Any permit revocation or order stopping work shall remain in effect unless retracted by the Board of Adjustment, the Department or by a court of appropriate jurisdiction. The Department is authorized to refer any violation of this article to the Corporation Counsel for commencement of further legal proceedings.

§ 101-50. Violations and penalties.

Any person who violates, neglects or refuses to comply with or resists the enforcement of any of the provisions of this article shall be subject to a forfeiture of \$200 plus costs of prosecution for

each violation. Any unlawful violation includes failure to comply with any standard of this article or with any condition or qualification attached to the permit. Penalties shall also be assessed if a person undertakes an activity, including but not limited to construction activities, subject to this article without obtaining a permit from the Department prior to beginning the proposed activity. Each day that a violation exists shall be a separate offense.

§ 101-51. Injunctions or restraining orders.

As substitute for or an addition to forfeiture actions, Pierce County may seek enforcement of any part of this article by court actions seeking injunctions or restraining orders.

§ 101-52. Appeals.

A. Authority. Under authority of Chapter 68, Wis. Stats., the Pierce County Board of Adjustment, created under § 59.594, Wis. Stats., and under Chapter 240, Zoning § 240-70, and acting as an appeal authority under § 59.69(7)(a), Wis. Stats., is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by the Department in administering this article.

B. Procedure. The rules, procedures, duties and powers of the Pierce County Board of Adjustment and Chapter 68, Wis. Stats. shall apply to this article.

C. Who may appeal. Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirement, decision or determination made by the Department.