

CHAPTER 77
ANIMAL WASTE STORAGE

- 77.01 AUTHORITY, FINDINGS, AND DECLARATION OF POLICY
- 77.02 PURPOSE
- 77.03 GEOGRAPHIC APPLICABILITY
- 77.04 INTERPRETATION
- 77.05 SEVERABILITY
- 77.06 DEFINITIONS
- 77.07 APPLICABILITY
- 77.08 COMPLIANCE WITH PERMIT REQUIREMENTS
- 77.09 EXCEPTION TO PERMIT REQUIREMENTS
- 77.10 FEE
- 77.11 REVIEW OF APPLICATION
- 77.12 PERMIT CONDITIONS
- 77.13 STANDARDS AND SPECIFICATIONS
 - (a) Manure Storage Facility Requirements
 - (b) Management and Utilization
 - (c) Animal Feeding Operations
 - (d) Animal Feeding Operation Setback Requirements
- 77.14 OTHER PLAN REQUIREMENTS
 - (a) Manure Storage Facility Plan Requirements
 - (b) Animal Feeding Operation Facility Plan Requirements
 - (c) Manure Storage Facility Closure Requirements
- 77.15 PROHIBITED PRACTICES
- 77.16 PERMIT REVOCATION
- 77.17 DELEGATION OF AUTHORITY
- 77.18 ADMINISTRATIVE DUTIES
- 77.19 INSPECTION AUTHORITY
- 77.20 ENFORCEMENT AUTHORITY
- 77.21 PENALTIES
- 77.22 ENFORCEMENT OF INJUNCTION
- 77.23 COST-SHARING
- 77.24 ALTERNATE ENFORCEMENT OPTION
- 77.25 AUTHORITY
- 77.26 PROCEDURES
- 77.27 WHO MAY APPEAL

77.01 AUTHORITY, FINDINGS, AND DECLARATION OF POLICY. This Ordinance is adopted under authority granted by Wis. Stat. ch. 59 and Wis. Stat. §§ 92.15 and 92.16.

The Board of Supervisors finds that storage of livestock wastes in facilities and animal feedlots and the land application of livestock waste may cause pollution of the surface waters and ground waters of Sheboygan County and may result in actual or potential harm to the health and safety of County residents and transients, to livestock, aquatic life, and other animals and plants, and to the property tax base of Sheboygan County.

The Board of Supervisors finds this Ordinance is designed to protect and promote the agricultural industry and also to promote and enhance the water quality, aesthetic conditions, and general welfare of the people and communities within Sheboygan County.

The Board of Supervisors further finds that the technical standards developed by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) and adopted by the Sheboygan County Agriculture & Land Conservation Committee provide effective, practical, and environmentally safe methods of construction, operation, and maintenance of manure storage facilities and animal feeding operations.

The County of Sheboygan permits operation of properly-conducted agricultural operations within the County. If property is located near agricultural lands of operation or included within an area zoned for agricultural purposes, it may be subject to conditions arising from such operations. These conditions may include, but are not limited to: noises, odors, lights, fumes, dust, operation of machinery, and the storage and

disposal of manure. One or more of these conditions described may occur as a result of any agricultural operation which is in conformance with existing laws and regulations and accepted customs and standards. Those residing near an agricultural area should be prepared to accept such outcomes as a normal and necessary aspect of living in a county with strong rural character and an active agricultural sector. Sheboygan County has established the Agriculture & Land Conservation Committee to assist in the resolution of any animal waste management disputes which might arise between residents of the County regarding agricultural operations.

77.02 PURPOSE. The purpose of this Ordinance is to assure the safe handling and spreading of animal waste as well as to regulate the location, design, construction, alteration, operations, and maintenance of all animal feeding operations and livestock waste storage facilities; to regulate the abandonment of livestock waste storage facilities in order to prevent water pollution, protect the health and safety of residents and transients, prevent the spread of disease, and to promote the prosperity and general welfare of the citizens of Sheboygan County.

77.03 GEOGRAPHIC APPLICABILITY. This Ordinance applies to the unincorporated areas of Sheboygan County.

77.04 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 Sheboygan County and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Notwithstanding the foregoing, no interpretations or application should be construed to require nutrient management or other conservation practices for livestock operations that exceed the practices required under Wis. Admin. Code §§ NR151.05 to 151.08 or the related conservation practices or technical standards in Ch. ATCP 50 or Wis. Stat. § 92.15.

77.05 SEVERABILITY. If any section, provision, or portion of this Ordinance is ruled invalid by a Court, the remainder shall not for that reason be rendered ineffective.

77.06 DEFINITIONS.

(a) Adequate Sod or Self-Sustaining Vegetative Cover: Maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges, and duff layers of fallen leaves and woody debris.

(b) Agriculture & Land Conservation Committee: The standing Committee of the Sheboygan County Board of Supervisors organized as required by Wis. Stat. § 59.70(19) and acting as liaison to the Sheboygan County Land & Water Conservation Department.

(c) Animal Feeding Operation: A feedlot or facility, other than a pasture, where animals have been, are, or will be fed, confined, maintained, or stabled for a total of forty-five (45) days or more in any twelve- (12-) month period. Two (2) or more animal feeding operations under common ownership or common management are a single operation if at least one (1) of the following is true:

(1) The operations are adjacent;

(2) The operations utilize common systems for the landspreading of manure or other wastes, including a manure management plan or landspreading acreage;

(3) Manure, barnyard runoff, or other wastes are commingled in a common storage facility prior to landspreading.

(d) Animal Unit: A unit of measure used to determine the total number of single animal types or combination of animal types, as specified in Wis. Admin. Code § NR 243.11, which are fed, confined, maintained, or stabled in an animal feeding operation.

(e) Applicant: Any person who applies for a permit under this Ordinance.

(f) Bedrock: Any naturally formed consolidated rock material and weathered in-place material with less than fifty percent (50%), by volume, larger than two (2) millimeters in size. Bedrock includes but is not limited to limestone (dolomite), sandstone, shale, and igneous and metamorphic

crystalline rock, including granite, rhyolite, quartzite, gabbro, basalt, gneiss, schist, diorite, and greenstone.

(g) Direct Runoff: A discharge of a significant amount of pollutants to waters of the state resulting from any of the following practices:

- (1) Runoff from a manure storage facility;
- (2) Runoff from an animal lot that can be predicted to reach surface waters of the state through a defined or channelized flow path or man-made conveyance;
- (3) Discharge of leachate from a manure pile;
- (4) Seepage from a manure storage facility;
- (5) Construction of a manure storage facility in permeable soils or over fractured bedrock without a liner designed in accordance with Wis. Admin. Code § NR154.04(3).

(h) Groundwater: The water filling all the unblocked pores of underlying material below the water table.

(i) Incorporation: To blend, mix, or combine into the soil which may include injection, discing, plowing, chisel plowing, roto-tilling, or other tillage methods.

(j) Land & Water Conservation Department (Lwcd): The enforcing authority of Sheboygan County for this Ordinance.

(k) Manure: Livestock excreta, which includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.

(l) Manure Storage Facility: A concrete, steel, earthen, or otherwise fabricated containment structure used for temporary storage of animal manure or other organic waste. This definition covers facilities relating to components of a planned agricultural waste management system. It also refers to all components of a system to transfer material from the source to a storage facility, treatment facility, or loading area. However, it does not apply to conveyance systems using equipment such as barn cleaners, alley scrappers, or belts for moving manure in the housing facility to the reception pit, pump, channel, or conduit.

(m) Natural Resource Conservation Service (Nracs): An agency of the United States Department of Agriculture.

(n) Navigable Body Of Water: Any lake, pond, or other body of water determined to be navigable by the Wisconsin Department of Natural Resources (DNR) and the Sheboygan County Planning and Resources Department as reflected on the shoreland district maps as referred to in Section 72.24 of the Sheboygan County Code of Ordinances.

(o) Nutrient Management Plan: Means any of the following:

- (1) A plan required under Wis. Admin. Code §§ ATCP 50.04(3) or 50.62(5)(f);
- (2) A farm nutrient plan prepared or approved for a landowner, by a qualified nutrient management planner.

(p) Pasture: An area of land where animals graze or otherwise seek feed in a manner that maintains the vegetative cover over all of the grazing area and where the vegetative cover is the primary food source for the animals.

(q) Permit: The signed, written statement issued by the LWCD under this Ordinance authorizing the applicant to construct or substantially alter or abandon a manure storage facility or animal feeding operation or to abandon a manure storage facility.

(r) Permittee: Any person to whom a permit is issued under this Ordinance.

(s) 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.

(t) Sinkhole: A depression or opening on the land surface, usually funnel-shaped, generally formed by solution or collapse of limestone, dolomite, or to a lesser extent sandstone bedrock occurring at or near the surface. Sinkholes may be partially or completely filled with unconsolidated material and solution enlargement of vertical passages often extend to the water table. Collapse of mine workings in other consolidated formations are also considered sinkholes.

(u) Site Susceptible to Groundwater Contamination: Means any of the following:

- (1) An area within two hundred fifty (250) feet of a private well;
- (2) An area within one thousand feet (1,000) feet of a municipal well;
- (3) An area within three hundred (300) feet upslope or one hundred (100) feet downslope of karst features;
- (4) A channel with a cross-sectional area equal to or greater than three (3) square feet that flows to a karst feature;
- (5) An area where the soil depth to groundwater or bedrock is less than two (2) feet;
- (6) An area where the soil does not exhibit one of the following soil characteristics:
 - A. At least a two- (2-) foot soil layer with forty percent (40%) fines or greater above groundwater and bedrock.
 - B. At least a three- (3-) foot soil layer with twenty percent (20%) fines or greater above groundwater and bedrock;
 - C. At least a five- (5-) foot soil layer with ten percent (10%) fines or greater above groundwater and bedrock.

(v) Substantially Alter: To initiate a change that results in a relocation of a structure or facility or significant changes to the size, depth, or configuration of a structure or facility, including:

- (1) Replacement of a liner in a manure storage structure;
- (2) An increase in the volumetric capacity or area of a structure or facility by greater than twenty percent (20%);
- (3) A change in a structure or facility related to a change in livestock management from one species of livestock to another such as cattle to poultry.

(w) Technical Guide: The United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Technical Guide as updated from time to time with the updates as incorporated by Wis. Admin. Code §§ 50.56 and 50.04(3).

(x) Technical Standards: The written standards and specifications for animal lots and livestock waste storage facilities contained in the USDA-NRCS Technical Guide.

(y) Unconfined Manure Pile: A quantity of manure that is at least one hundred seventy-five (175) feet cubed (³) in volume and which covers the ground surface to a depth of at least two (2) inches and is not confined within a manure storage facility, livestock housing facility, or barnyard runoff control facility or covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater

(z) Waters of the State: Those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems, and other surface water and groundwater, natural or artificial, public or private, within the state or its jurisdiction as defined in Wis. Stat. § 147.015(20).

(aa) Water Quality Management Area: The area within one thousand (1,000) feet from the ordinary high-water mark of navigable waters mark that consists of a lake, pond, or flowage, except that, for navigable water that is a glacial pothole lake, the term means the area within one thousand (1,000) feet from the high-water mark of the lake; the area within three hundred (300) feet from the ordinary high-water mark of navigable waters that consist of a river or stream and a site, such as a sinkhole, that is susceptible to groundwater contamination or that has the potential to be a direct conduit for contamination to reach groundwater.

(bb) Wetland: An area that has a predominance of hydric soils and that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated-soil conditions.

77.07 **APPLICABILITY**. Except as hereinafter provided, any person who acquires ownership of, leases or constructs, abandons or substantially alters any manure storage facility or animal feeding operation is required to obtain a permit and adhere to the provisions of this Chapter of the Code. Construction or substantial alteration of a manure storage facility or an animal feeding operation requires a Construction Permit. Closure of a manure storage facility requires a Closure Permit. Any person who applies livestock waste on land for which a Nutrient Management Plan as part of the permitting process is required shall be subject to the provisions of this Chapter of the Code.

77.08 **COMPLIANCE WITH PERMIT REQUIREMENTS**. A person is in compliance with this Ordinance if that person follows the procedures of this Ordinance, receives a permit from the LWCD before beginning activities subject to regulation under this Section, and complies with the requirements of the permit.

77.09 **EXCEPTION TO PERMIT REQUIREMENTS** Emergency repairs for broken pipes or equipment, leaking dikes, or the removal of obstructions may be performed without a Construction Permit from the LWCD as long as it is performed within two (2) business days of the emergency. The determination as to need for additional work and a permit shall be rendered by the LWCD within two (2) business days of the aforementioned report. No Construction Permit or requirement for a Plan provision under a Construction Permit application shall be required if the Permit or provision conflicts with or is more restrictive than allowed by Wis. Stat. § 93.90 or any Administrative Code provision adopted thereunder.

77.10 **FEE**. The fee for permits and any annual compliance reviews if undertaken under this Ordinance shall be as established from time to time by the Agriculture & Land Conservation Committee.

77.11 **REVIEW OF APPLICATION**. The LWCD shall receive and review all permit applications. The LWCD shall determine if the proposed facility or closure and plans meet required standards set forth in Sections 77.13 and 77.14 of this Ordinance. The applicant shall inform the LWCD no later than two (2) working days prior to digging any soil test pit. Within thirty (30) days after receiving the completed application and fee, the LWCD shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the LWCD shall so notify the applicant. The LWCD has thirty (30) days from the receipt of the additional information in which to approve or disapprove the application. If the LWCD fails to approve or disapprove the permit application in writing within thirty (30) days of the receipt of the permit application or additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.

77.12 **PERMIT CONDITIONS**. All permits issued under this Ordinance shall be issued subject to the following conditions and requirements:

(a) Design, construction, and management shall be carried out and maintained in accordance with the Plan and applicable standards specified in Sections 77.13 and 77.14 of this Ordinance. Notwithstanding the foregoing, no applicant for a construction permit for an animal feeding operation shall be denied a permit if the standards specified in Sections 77.13 and 77.14 are

more restrictive than state requirements promulgated under Wis. Stat. Sec. 93.90 or if the denial of a permit would exceed the LWCD's authority under Wis. Stat. Sec. 93.90.

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

(c) Approval in writing must be obtained from the LWCD prior to implementation of any modifications to the approved Construction Plan.

(d) The permittee or civil engineer registered in the State of Wisconsin or a DATCP or NRCS engineering practitioner, and, if applicable, the contractor, shall certify in writing by signing a certification sheet that the facility was constructed as planned and designed. A copy of the signed certification sheet shall be mailed to the LWCD within thirty (30) calendar days of completion of installation. Until such certification sheet is received and accepted by LWCD, the facility may not be put into operation.

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

(f) The permittee has paid all fees.

(g) The permittee has obtained all other required permits and approvals, including conditional approvals.

(h) The permittee shall submit, by each June 1 to the LWCD a current (590) Nutrient Management Plan annually for as long as the permittee operates a livestock waste storage facility until such facility is no longer in use and properly abandoned.

(i) The permittee shall allow the LWCD to enter upon land to inspect pursuant to Section 77.19 of this Code.

77.13 STANDARDS AND SPECIFICATIONS.

(a) Manure Storage Facility Requirements: Every application for a Manure Storage Facility Construction Permit shall include Construction Plans. The Plan standards and specifications for design, setbacks, construction, operation, and maintenance of manure storage facilities are those identified in Standards 313 and 634, USDA-NRCS Technical Guide and Wis. Admin. Code Ch. NR 812.

(b) Management and Utilization: Every application for a Manure Storage Facility Construction Permit shall include a Nutrient Management Plan that complies with Wis. Admin Code Sec. ATCP 50.04(3) and shall include the following:

(1) The Plan shall include every field on which the landowner mechanically applies nutrients.

(2) A nutrient management planner qualified under Wis. Admin. Code § ATCP 50.48 shall prepare or approve the Plan.

(3) The plan shall be based on soil nutrient tests conducted at a laboratory certified under Wis. Admin. Code Ch. § ATCP 50.50.

(4) The Plan shall comply with the NRCS Technical Guide Nutrient Management Standard 590 dated March 1999 or any phosphorus-based standard that NRCS may adopt which is adopted by the Department of Agriculture Trade & Consumer Protection.

(5) The Plan may not recommend nutrient applications that exceed the amounts required to achieve applicable crop fertility levels recommended by 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 one or more of the following circumstances justifies the recommended application:

- A. A soil or tissue test reveals a specific nutrient deficiency.
- B. Excess nutrients are the result of an unforeseen change in the type of crop planted.
- C. Excess nutrients are the result of prior manure applications.
- D. Organic nutrients are the only nutrients applied to the field.
- E. Excess nutrients from organic nutrient applications will be used later in the planned crop rotation.
- F. Corn after corn is conservation tilled with greater than fifty percent (50%) residue after planting.
- G. Starter fertilizer is properly applied to row crops.
- H. The crop is irrigated.
- I. Other special agronomic conditions documented by the planner.

(c) Animal Feeding Operations: Every application for an Animal Feeding Operation Construction Permit shall include Construction Plans. The standards and specifications for design, construction, operation, and maintenance of animal feeding operations are those identified in Standards 350 and 635, USDA-NRCS Technical Guide and Wis. Admin. Code Ch. NR 812.

(d) Animal Feeding Operation Setback Requirements: Every application for an Animal Feeding Operation Construction Permit for a new operation shall comply with setback requirements of a minimum of fifty (50) feet from wells and three hundred (300) feet from any waters of the State. An animal feeding operation may be sited between three hundred (300) feet and seventy-five (75) feet from waters of the State with an approved variance from the LWCD.

77.14 OTHER PLAN REQUIREMENTS.

(a) Manure Storage Facility Plan Requirements. Each application for a Construction Permit for a Manure Storage Facility under this Chapter of the Code shall include an Manure Storage Facility Plan. In addition to the requirements of Section 77.13 of this Code, such Plan shall include the following:

- (1) A Plan map showing location of the facility, including buildings and homes within three hundred (300) feet of the proposed site. The sketch shall be drawn to scale, with a scale no smaller than one (1) inch = one hundred (100) feet.
- (2) The location of any wells within three hundred (300) feet of the facility.
- (3) The location of all soil test pits, including a detailed log of each pit to a depth of at least five (5) feet below the planned bottom elevation of the facility. The soil test pit log shall include the location and surface elevation, depth of the pit, description of the soil profile, and the USDA Uniform Soil Classification. The location of each test pit, prior to digging, and the log descriptions of each pit as it is excavated, shall be determined and recorded by the LWCD or NRCS staff.
- (4) Depth of high ground water, estimated or observed, in the soil profile and date determined.
- (5) Depth to bedrock, estimated or observed.
- (6) Ground contours [two- (2-) foot maximum intervals], with spot elevations indicating land slope at and around the site for a minimum distance of one hundred (100) feet.

(7) Provisions for adequate drainage and control of runoff to prevent pollution of surface and groundwater, such as exposed bedrock or sinkholes. The location of any navigable body of water within five hundred (500) feet of the proposed site must be shown.

(8) The number(s) and type(s) of animals for which storage is to be provided.

(9) Planned duration of storage, expressed in days or months, and volume of storage, expressed in cubic feet.

(10) Description of the type(s) of materials the facility is to consist of; size, dimensions, and cross-sections of the facility; and any other specific details including but not limited to concrete, concrete thickness in floors and walls, steel schedules, and fencing.

(11) A time schedule for construction of the facility.

(12) Description of how waste will be transferred into and removed from the facility.

(13) A Nutrient Management Plan, as set forth in Section 77.13(d) of this Code.

(14) Scale of the Plan drawing(s) and north arrow.

(15) Description of bench mark(s) including elevation(s) expressed in feet and hundredths.

(16) Provisions for drainage and control of runoff to prevent erosion of pollution of surface water and groundwater.

(b) Animal Feeding Operation Facility Plan Requirements. Each application for a Construction Permit for a feeding operation under this Chapter of the Code shall include an Animal Feeding Operation Plan. In addition to the requirements of Section 77.13 of this Code, such Plan shall include the following:

(1) A Plan map showing location of the facility, including buildings, homes, and wells within three hundred (300) feet of the proposed site. The sketch shall be drawn to scale, with a scale no smaller than one (1) inch = one hundred (100) feet.

(2) The location of any wells within three hundred (300) feet of the facility.

(3) Depth of high ground water, estimated or observed.

(4) Depth to bedrock, estimated or observed.

(5) Ground contours [two- (2-) maximum intervals], with spot elevations, indicating land slope at and around the site for a minimum distance of one hundred (100) feet.

(6) Provisions for adequate drainage and control of runoff to prevent pollution of surface and ground water such as exposed bedrock or sinkholes. The location of any navigable body of water within five hundred (500) feet of the proposed site must be shown.

(7) Description of the type(s) of materials the facility is to consist of; size, dimensions, and cross-sections of the facility, and any other specific details including but not limited to concrete, concrete thickness in floors and walls, steel schedules, and fencing.

(8) A time schedule for construction of the facility.

(9) Scale of the Plan drawing(s) and north arrow.

(10) Description of bench mark(s) including elevation(s) expressed in feet and hundredths.

(c) Manure Storage Facility Closure Requirements. Any person who seeks to discontinue operating a manure storage facility and any person who abandons the operation of a manure storage facility must obtain a Closure Permit and the facility must be permanently disabled and sealed pursuant to the terms of the Closure Permit. The Closure Permit requirements shall include a plan with drawings and descriptions showing how the closure will comply with NRCS Closure of Waste Impoundments Standard 360 (June 2001).

Any manure storage facility shall be deemed abandoned when an operation where the facility is located ceases operations or manure has not been added or removed from the facility for a period of twenty-four (24) months. Manure storage facilities shall be closed in a manner that will prevent future contamination of groundwater and surface waters. The owner or operator may retain the facility for a longer period of time by demonstrating to the LWCD that all of the following conditions are met:

(1) The facility is designed, constructed, and maintained to minimize the risk of structural failure of the facility, minimize leakage of the facility in order to comply with groundwater standards, and maintain one (1) foot of freeboard storage or adequate freeboard storage to the equivalent volume of a twenty-five- (25-) year , twenty-four- (24-) hour storm whichever is greater or if the facility was either constructed after October 1, 2002, or substantially altered after October 1, 2002;

(2) The facility is designed to store manure for a period of time longer than twenty-four (24) months;

(3) Retention of the facility is warranted based on anticipated future use. Each application for a permit under this Section shall include a closure plan.

77.15 PROHIBITED PRACTICES. The following practices are prohibited at any facility which has received a Permit pursuant to this Ordinance:

(a) Overflow of livestock waste storage facilities;

(b) Existence of an unconfined manure pile within a water quality management area;

(c) Direct runoff from animal feeding operations or stored manure to waters of the state;

(d) Unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod or self-sustaining vegetative cover.

77.16 PERMIT REVOCATION. The LWCD may revoke any permit issued under this Ordinance if the holder of the permit has misrepresented any material fact in the permit application, the Manure Storage Facility Plan, the Nutrient Management Plan, the Animal Feeding Operation Plan, or if the holder of the permit violates any of the conditions of the permit.

77.17 DELEGATION OF AUTHORITY. The LWCD shall administer and enforce this Ordinance.

77.18 ADMINISTRATIVE DUTIES. In the administration and enforcement of this Ordinance, the LWCD shall:

(a) Keep an accurate record of all permit applications, Manure Storage Facility Plans, Nutrient Management Plans, Animal Feeding Operation Plan permits issued, inspections made, and other official actions.

(b) Review permit applications and issue permits in accordance with this Ordinance.

(c) Periodically observe the manure storage facility or animal feeding operation construction to assess conformance of the facility with construction plans and specifications.

(d) Investigate complaints relating to compliance with this Ordinance.

(e) Make available to applicants and members of the public the most current version of the Technical Guide and Technical Standards identified in this Ordinance.

(f) Perform other duties as specified in the Ordinance.

77.19 INSPECTION AUTHORITY. The LWCD shall be authorized to enter upon any land affected by this Ordinance to inspect the land prior to or after the permit issuance to determine compliance with this Ordinance pursuant to the authority granted by Wis. Stat. § 92.07(14). If permission cannot be received from the applicant or permittee, entry by the LWCD personnel shall be according to Wis. Stat. §§ 66.0119. Refusal to grant permission to enter lands affected by this Ordinance for purposes of inspection may be grounds for denial or revocation of the permit.

77.20 ENFORCEMENT AUTHORITY. The LWCD shall be 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 Ordinance. Notice is 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 must cease immediately or be brought into compliance within thirty (30) days. Any permit revocation or order stopping work shall remain in effect until retracted by the Agriculture & Land Conservation Committee, the LWCD, or by a court of competent jurisdiction; or until the activity is brought into compliance with the Ordinance.

The LWCD is authorized to refer any violation of this Ordinance or of a stop-work order issued pursuant to this Ordinance to the Corporation Counsel for commencement of legal proceedings.

77.21 PENALTIES. Any person who violates, neglects, or refuses to comply with or resists the enforcement of any provisions of this Ordinance shall be subject to a forfeiture of not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00) plus costs of prosecution for each violation. An unlawful violation includes failure to comply with any standard of this Ordinance or with any condition or qualification attached to the permit. Each day a violation exists shall be a separate offense. Should the local Health Officer determine that any manure storage facility constitutes a human health hazard pursuant to Wis. Stat. § 254.59, Sheboygan County reserves the right to abate said human health hazard and to assess costs pursuant to Wis. Stat. § 254.59.

77.22 ENFORCEMENT OF INJUNCTION. As a substitute for or an addition to forfeiture actions, Sheboygan County may seek enforcement of any part of this Ordinance by court actions seeking injunctions or restraining orders.

77.23 COST-SHARING. No person operating a manure storage facility or an animal feeding operation that is in existence before October 1, 2002, shall be required to comply with any permitting requirements, performance standards, prohibitions, conservation practices or technical standards under this ordinance or be subject to any enforcement actions except the alternate enforcement option set forth at Section 77.24 unless cost-sharing is available from any source, to the person. A determination that cost-sharing is available to meet the requirements of this Code will be determined in accordance with NR 151.09(4)(d) or NR 151.095(5)(d) when funding is provided under Wis Stat. Sec. 281.65, and will be determined in accordance with ATCP Ch. 50 when funds are from any other source. Cost-sharing under this Section is only required for the minimum practices necessary to meet the performance standards and prohibitions.

77.24 ALTERNATE ENFORCEMENT OPTION. The LWCD may elect, in lieu of or in addition to the other enforcement options provided in this Code to request of the Agriculture and Land Conservation Committee to take action under Wis. Admin. Code § ATCP 50.16(6) to suspend a landowner's eligibility for farmland preservation tax credit if the landowner's failure to comply with the conservation standards under Wis. Admin. Code § ATCP 50.16(1) also constitutes a violation of any provision of this Code.

77.25 AUTHORITY. Under authority of Wis. Stat. ch. 68, the Agriculture & Land Conservation Committee, created under Wis. Stat. § 59.878 and under Section 2.12(b)(5) of this Code, and acting as an appeal authority under Wis. Stat. § 68.09(2), is authorized to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination by the County Conservationist or designated authority in administering this Ordinance.

77.26 PROCEDURES. The rules, procedures, duties, and powers of the Agriculture & Land Conservation Committee and Wis. Stat. ch. 68 shall apply to this Ordinance.

77.27 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 LWCD or designated authority.

History: Ord. 3 (1996/97); Ord. 14 (2001/02); Ord. 22 (2004/05)