

Green Lake County Animal Waste Management Ordinance August 2015



Photo: Tom Eddy

Table of Contents

<u>Section</u>	<u>ARTICLE I – Introduction</u>	<u>Page</u>
336-1.	Authority.	1
336-2	Title.	1
336-3	Findings and Declaration of Policy.	1
336-4	Purpose.	1
336-5	Interpretation.	2
336-6	Severability Clause.	2
336-7	Applicability.	2
336-8	Effective Date.	2
	<u>ARTICLE II – Definitions</u>	
336-9	Definitions.	2-7
	<u>ARTICLE III – Activities Subject to Regulation</u>	
336-10	General Requirement.	7
336-11	Construction of New or Modifications of Existing Manure Storage Facilities.	7
336-12	Malfunctioning and Mismanaged Storage Facility.	7
336-13	Waste Facility Closure.	7
336-14	Failing and Leaking Existing Facilities.	8
336-15	Agriculture Performance Standards and Prohibitions.	8
	<u>ARTICLE IV – Technical Standards</u>	
336-16	Standards, Specifications and Policies.	8
336-17	Standards for Waste Storage Facilities.	9
336-18	Standards for Land Application of Manure.	9
336-19	Standards for Waste Facility Closure.	9
336-20	Standards for Construction Site Erosion Control.	9
336-21	Standards for Processed Wastewater.	9
	<u>ARTICLE V – Application For and Issuance of Permits</u>	
336-22	Animal Waste Storage Facility Permit Generally.	9
336-23	Exceptions to Permit Requirement.	9
336-24	Permit Fee.	10
336-25	Animal Waste Storage Facility Plan Required.	10
336-26	Closure Plan Required.	11
336-27	Review of Application.	11
336-28	Permit Conditions.	11
336-29	Permit Revocation.	12
	<u>ARTICLE VI – Administration and Enforcement</u>	
336-30	Administration.	12
336-31	Enforcement.	12-13
	<u>ARTICLE VII – Violations</u>	
336-32	Penalties.	13
336-33	Enforcement by Injunction.	13
	<u>ARTICLE VIII – Appeals and Variances</u>	
336-34	Appeals.	13-14
336-35	Variances.	14

CHAPTER 336: ANIMAL WASTE MANAGEMENT ORDINANCE

Article I Introduction

Section 336-1 Authority.

This ordinance is adopted under authority granted by Wisconsin Statutes Sections: **59.54 (6)** (*Public protection and safety.*); **59.70(20)** (*Environmental protection and land use.*); **92.07** (*Land conservation committee, powers.*); **92.09** (*Land conservation committee staff.*); **92.15** (*Local regulation of livestock operations.*); and **92.16** (*Manure storage facilities.*). This ordinance regulates design, construction, abandonment and maintenance of animal waste storage facilities, animal feeding operations including processed wastewater, and nutrient management.

Section 336-2 Title.

This chapter shall be known as, referred to and may be cited as the “Animal Waste Management Ordinance”, Green Lake County, Wisconsin and is hereinafter known as the Ordinance.

Section 336-3 Findings and Declaration of Policy.

1. The Green Lake County Board of Supervisors finds this ordinance is designed to protect and promote our agricultural industry and also to promote and enhance the aesthetic conditions and general health and welfare of the people and communities within Green Lake County.
2. The Green Lake County Board of Supervisors also finds that 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 Green Lake County, and may have the potential to result in harm to County residents and transients; to livestock, aquatic life and other animals and plants; and to the property tax base of Green Lake County.
3. The Green Lake County Board of Supervisors also finds that improper management of storage facilities and utilization for animal waste and manure, including land application of stored animal waste, may cause pollution of the ground and surface waters of Green Lake County.
4. The Green Lake County 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 Green Lake County Land Conservation Committee (LCC) provide effective, practical, and environmentally safe methods of storing and utilizing animal related waste and manure.

Section 336-4 Purpose.

The purpose of this ordinance is to protect the groundwater and surface water resources of Green Lake County by regulating the location, construction, installation, alteration, design and use of animal waste storage facilities and animal feeding operations so as to protect the health and safety of residents and transients; prevent the spread of disease and promote the prosperity and general welfare of the citizens of Green Lake County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.

Section 336-5 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 Green Lake County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

Section 336-6 Severability Clause.

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

Section 336-7 Applicability.

This ordinance applies only in unincorporated areas of Green Lake County.

Section 336-8 Effective Date.

This ordinance shall become effective upon adoption by the Green Lake County Board and publication as provided for in the Wisconsin Statutes.

Article II Definitions

Section 336-9 Definitions.

Definitions herein are to conform to the provisions set forth in ATCP 50 of the Wisconsin Administrative Code and this ordinance.

1. **"Abandonment"** – A livestock waste storage facility is no longer being used for its intended purpose, and is no longer receiving animal wastes, has not received any animal wastes for a period of two years and, based on available evidence, will not receive animal wastes from an active livestock operation within the immediate future.
2. **"Agricultural Waste Management Field Handbook (AWMFH)"** – A manual that provides specific guidance for planning, designing, and managing systems where agricultural wastes are involved as published by the USDA Natural Resources Conservation Service.
3. **"Animal"** – Domesticated and other types of animals together with fish and birds.
4. **"Animal Feeding Operation"** – A feedlot or facility, other than a pasture or grazing area, where animals have been, are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. New animal feeding operations are those that are established after the effective date of this ordinance. Two or more animal feeding operations under common ownership or common management are single operations if a least one of the following is true:
 - a) The operations are adjacent.
 - b) The operations utilize common systems for the land spreading of manure or other wastes, including a manure management plan or land spreading acreage.
 - c) Manure, barnyard runoff or other wastes are commingled in a common storage facility prior to land spreading.
5. **"Animal waste storage facility"** – Concrete, steel or otherwise fabricated structure and earthen animal waste storage facility used for temporary storage of animal waste or other organic waste.
6. **"Applicant"** – Any person who applies for a permit under this ordinance.

7. ***“County Conservationist”*** – The director of the Land Conservation Department.
8. ***“Department of Agriculture, Trade and Consumer Protection (DATCP)”*** – Wisconsin state agency responsible for food safety, animal and plant health, protecting water and soil and monitoring fair and safe business practices.
9. ***“Direct Runoff”*** – A discharge of a significant amount of pollutants to waters of the state resulting from any of the following practices:
 - a) Runoff from a manure storage facility.
 - b) 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.
 - c) Discharge of leachate from a manure pile.
 - d) Seepage from a manure storage facility.
 - e) Construction of a manure storage facility in permeable soils or over fractured bedrock without a liner designed in accordance with the Field Office Technical Guide (FOTG), Standard 313 (Waste Storage Facility).
 - f) Runoff from processed wastewater.
10. ***“Design Storage Volume”*** – The sum of the following:
 - a) Manure, bedding, waste-water, and other wastes.
 - b) 25-yr., 24-hr. precipitation on the surface of the facility.
 - c) Normal precipitation less evaporation on the surface of the facility.
 - d) Normal runoff volumes from the drainage area.
 - e) 25-yr., 24-hr. runoff volume from the drainage area.
11. ***“Earthen animal waste storage facility”*** – A facility constructed of earth dikes, pits or ponds used for temporary storage of animal waste.
12. ***“Engineering Field Handbook (EFH)”*** – A manual of engineering technical data published by the USDA Natural Resources Conservation Service.
13. ***“Existing Storage Facility”*** – A storage facility which has been installed and placed in use at a livestock operation in Green Lake County prior to the adoption of this ordinance or prior Animal Waste Management ordinance.
14. ***“Feedlot”*** – A lot or building, or combination of contiguous lots and buildings, intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which animal waste may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy facilities, swine facilities, beef lots and barns, horse stalls, mink ranches and domesticated animal zoos shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots unless the area is actually an exercise lot in which vegetation cover cannot be maintained.
15. ***“Field Office Technical Guide (FOTG)”*** – The United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Field Office Technical Guide that is currently in effect, and as amended from time to time.
16. ***“Land Conservation Committee (LCC)”*** – A committee made up of members of the Green Lake County Board of Supervisors and others who, by authority from Chap. **92.06** (*Land conservation committees.*), Wisconsin Statutes, determine policy and give direction for soil and water conservation activities. The LCC also provides direction for the LCD. The LCC shall be the decision making committee for purposes of this ordinance.

17. **"Land Conservation Department (LCD)"** –The department of Green Lake County government, which is responsible for enforcing, and providing technical and administrative support for this ordinance and soil and water conservation activities in Green Lake County.
18. **"Malfunctioning Storage Facility"** – An animal waste storage facility which is no longer functioning as originally intended, as determined by the FOTG, AWMFH, or the EFH (defined per Section 336-9), and poses a potential threat to any person, the groundwater, any stream, lake or river, or any other component of the environment.
A malfunctioning storage facility includes, but is not limited to the following:
 - a) A storage facility in which the sidewall(s) or side slope(s) have been damaged or eroded, which may weaken the structure of the storage facility.
 - b) A storage facility in which there has been damage, erosion, or deformities that may contribute to environmental or safety hazards.
 - c) A storage facility in which the waste and manure is significantly leaking.
 - d) A storage facility in which any other serious deformity or activity that is not consistent with the design and function of a storage facility as determined by the FOTG, AWMFH, or the EFH (defined per Section 336-9).
19. **"Manure"** – Material that consists primarily of livestock, poultry or other animals' secretion and other materials such as bedding, soil, hair, feathers, rain or other water, and other debris normally included in manure handling operations. Manure includes material mixed with runoff, bedding contaminated with litter or excreta, or processed wastewater.
20. **"Mismanaged Animal Waste Storage Facility"** – An animal waste storage facility which is not functioning properly due to neglect or carelessness and poses a potential threat to any person or the environment. A mismanaged storage facility includes, but is not limited to the following:
 - a) An animal waste storage facility that is being operated improperly and is inconsistent with the recommended operating methods as determined by the FOTG, AWMFH or the EFH (defined per Section 336-9).
 - b) An animal waste storage facility in which the safety devices are absent or are nonfunctional.
 - c) An animal waste storage facility that fails to comply with the operations and maintenance plan.
21. **"Natural Resources Conservation Service (NRCS)"** – An agency of the United States Department of Agriculture which, for purposes of this ordinance, provides Green Lake County, LCC, and LCD, and private landowners with technical assistance and information on the design criteria, size, shape, engineering strength and other necessary technical data for the proper and safe installation or closure of a storage facility.
22. **"NRCS Certified Engineering Job Approval"** – A complex process of review and certification by qualified NRCS or DATCP engineers to determine the capability and technical competence of subordinate personnel to design, review, provide construction supervision, and certify construction for various soil and water conservation practices to be constructed under the terms of this ordinance and which may be modified from time to time based upon work experience, educational training, employment status, and competence of those subordinates (see USDA-NRCS National Engineering Manual Title 210, Part 500).
23. **"Nutrient Management Plan (590)"** – A plan that outlines the management and crediting of nutrients from all sources, including legumes, manure, and soil reserves for the application of manure and commercial fertilizers. Management includes the rate, method, and timing of the application of all sources of nutrients to minimize the amount of nutrients entering surface and groundwater. This practice includes manure nutrient testing and routine soil testing.
24. **"Pasture"** – Land with a permanent, uniform cover of grasses or legumes used as forage for livestock. Pastures do not include areas where supplemental forage feeding is provided on a regular basis, but can allow limited areas of bare soil as long as they are not significant sources of pollution.

25. **"Permit"** – The signed, written statement issued by the Green Lake County Land Conservation Department under this ordinance authorizing the applicant to construct, install, reconstruct, enlarge or substantially alter an animal waste storage facility or animal feeding operation.
26. **"Permittee"** – Any person to whom a permit is issued under this ordinance.
27. **"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.
28. **"Processed Wastewater"** – means wastewater from the production area directly or indirectly used in the operation of animal feeding operations that results from any or all of the following:
- Spillage or overflow from animal or poultry watering systems.
 - Washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities.
 - Direct contact swimming, washing, or spray cooling of animals or dust control.
 - Water that comes into contact with any raw materials or animal byproducts including manure, feed, milk, eggs or bedding.
29. **"Repair"** – A structural replacement or alteration of a storage facility or structure that corrects or maintains the integrity of the approved manure storage facility or structure.
30. **"Safety Devices, Storage Facility"** – Devices which are designed to protect people and animals from the hazards associated with a waste storage facility. Safety devices shall be designed and installed as required by NRCS Technical Standard 313. At a minimum, safety devices shall include:
- Fences, gates, grates, or covers to restrict access of animals or people, and signs where access is possible.
 - Ventilation for covered waste-holding structures to prevent the inhalation of poisonous gases, asphyxiation, or explosion.
 - Safety stops, gates, or both installed at push-off ramps and load-out areas of vertical walled structures to prevent accidental entry of machinery.
 - Ramp slopes designed to be consistent with the equipment intended to be used, with curbs or safety bars installed on access ramps.
 - Other like devices deemed necessary by an agricultural or civil engineer registered in the State of Wisconsin, or DATCP or NRCS or LCD agricultural engineering practitioner, the FOTG, AWMFH or EFH (defined per Section 336-9).
31. **"Stop Work Order"** – An order to cease any activity in the operation of, or construction of an activity subject to regulation.
32. **"Substantially Altered"** – A change initiated by an owner or operator 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:
- Replacement of a liner in a manure storage structure, or
 - An increase in the volumetric capacity or area of a structure or facility by greater than 20%, or
 - 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.
33. **"Unconfined Manure Stack"** – A quantity of manure that is at least 175 cubic feet in volume and which covers the ground surface to a depth of at least 2 inches and is not confined within a manure storage facility or structure, 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.

34. **“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, except those waters which are entirely confined and retained completely upon the property of a person as defined by Wisconsin Statutes Section 283.01(20) pollution discharge elimination, definitions.
35. **“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.
36. **“Water Quality Management Area”** – Any of the following:
- a) The area within 1,000 feet from the ordinary high-water mark of navigable waters that consist of a lake, pond or flowage, except that, for a navigable water that is glacial pothole lake; the term means the area within 1,000 feet from the high-water mark of the lake.
 - b) The area within 300 feet from the ordinary high-water mark of navigable waters that consist of a river or stream.
 - c) A site that is susceptible to groundwater contamination; which means any one of the following:
 1. An area within 250 feet of a private well.
 2. An area within 1000 feet of a municipal well.
 3. An area within 300 feet upslope or 100 feet downslope of a direct conduit to groundwater.
 4. A channel that flows to a direct conduit to groundwater.
 5. An area where the soil depth to groundwater or bedrock is less than 2 feet.
 6. An area where the soil does not exhibit one of the following soil characteristics:
 - (a) At least a 2-foot soil layer with 40 % fines or greater above groundwater and bedrock.
 - (b) At least a 3-foot soil layer with 20 % fines or greater above groundwater and bedrock.
 - (c) At least a 5-foot soil layer with 10 % fines or greater above groundwater and bedrock.

[Percent (%) fines is the percentage of a given sample of soil which passes through a #200 sieve (generally consisting of clay and silt)].
 7. An area that has the potential to be a direct conduit for contamination to reach groundwater; which means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.
37. **“Waste Transfer (634)”** – A mechanism designed to transfer the animal waste and manure from a barn or feedlot where livestock are kept to the storage facility and/or the loading location. The transfer system generally consists of, but is not limited to, a pump or gravity flow collection basin and a pipe leading to the storage facility and/or a pump or gravity flow system used to empty the storage facility.
38. **“Working Day”** – A calendar day, except Saturdays, Sundays and state and federal recognized legal holidays, on which weather and other conditions not under the control of the contractor or the county will permit construction operation to proceed with normal work force.
39. **“Waste Facility Closure (360)”** – The decommissioning of facilities, and/or the rehabilitation of contaminated soil, in an environmentally safe manner, where agricultural waste has been handled, treated, and/or stored and is no longer used for the intended purpose.

40. **“Waste Storage Facility (313)”** – Also referred to as “Animal Waste Storage Facility” and “Manure Storage Facility” – a concrete, wooden, steel or otherwise fabricated structure, or an excavated or earthen impoundment, pit or pond used for temporary storage of manure. Installation of a manure reception tank, and/or discharge pipe will be considered a manure storage facility or structure for purposes of this ordinance. Other components used in the handling of manure, such as gutters, barn cleaners, manure spreaders and livestock housing are excluded from the definition of a manure storage facility or structure.

Article III Activities Subject to Regulation

Section 336-10 General Requirement.

Any person who removes, closes, locates, constructs, installs, moves, reconstructs, extends, enlarges, converts, or substantially alters or changes use of an animal waste storage facility or parts thereof, or who employs another person to do the same, on land subject to this ordinance, shall be subject to the provisions of this ordinance.

Section 336-11 Construction of New or Modifications of Existing Manure Storage Facilities.

New or substantially altered waste storage facilities shall be designed, constructed and maintained to minimize the risk of structural failure of the facility and to prevent leakage of the facility in order to comply with Wisconsin Department of Natural Resources groundwater protection standards and maintain a margin of safety of at least one foot of freeboard storage or adequate freeboard storage to the equivalent volume of a 25-year, 24-hour storm, whichever is greater.

Section 336-12 Malfunctioning and Mismanaged Storage Facility.

Malfunctioning or mismanaged storage facilities are a menace to the health and general welfare of the citizens of Green Lake County; are declared to be nuisances, and may be subject to forfeiture and any injunction provisions of this ordinance.

1. Malfunctioning Storage Facility

A waste storage facility found to be malfunctioning shall be replaced or repaired to a condition meeting the current Technical Standards of NRCS within a time frame established by the LCD. The time frame will not exceed one (1) year and compliance may include temporary emergency repairs prior to actual standard compliance as determined by the LCD. The decision of the LCD may be appealed to the LCC.

2. Mismanaged Storage Facility

A waste storage facility found to be mismanaged shall be brought into compliance with the ordinance within a time frame as determined by the LCD depending on the severity of mismanagement. The time frame will not exceed one (1) year and compliance may include clean-up of the waste as determined by the LCD. The decision of the LCD may be appealed to the LCC.

Section 336-13 Waste Facility Closure.

1. Closure of a waste storage facility shall occur in those cases where the facility ceases operation, or manure has not been added or removed from the facility for a period of 24 months. Waste storage facilities shall be closed in a manner that will prevent future contamination of groundwater and surface waters.
2. The owner or operator may retain a facility and consider it idle for a longer period of time by demonstrating to the LCD that all of the following conditions are met:
 - a) The facility is designed, constructed and maintained in accordance with Section 336-11 of this ordinance.

- b) The facility is capable of storing the manure and all accumulated precipitation for a period of time longer than 24 months.
 - c) Future retention of the facility is warranted based on anticipated future use.
3. Any person who owns an animal waste storage facility that has been determined to be idle shall:
- a) Lower the level of the animal waste in the facility to an elevation of one foot above the floor of the facility, as determined by the LCD, within a period of one (1) year from the date the facility was determined to be idle.
 - b) Spread removed waste in accordance to a 590 Nutrient Management Plan.
 - c) Require inspection and verification of adequacy by the LCD staff or a Professional Engineer licensed in the State of Wisconsin prior to reuse as a waste storage facility if no manure had been added or removed for a period of 24 months or longer.
4. Exception to closure provision – This provision may be granted to an individual if all the following conditions are met:
- a) The facility can be breached or modified so that it no longer can impound waste or water.
 - b) The facility is determined by the LCD not to be an environmental or health hazard.

Section 336-14 Failing and Leaking Existing Facilities.

Waste storage facilities that may pose an imminent threat to public health or fish and aquatic life or that are causing a violation of Wisconsin Department of Natural Resources groundwater protection standards shall be upgraded, replaced or closed in accordance with this ordinance.

Section 336-15 Agriculture Performance Standards and Prohibitions.

1. Manure Management Prohibitions

Any person owning or managing a livestock operation within Green Lake County shall manage their operations so as to prohibit any of the following:

- a) The overflow of manure storage structures.
- b) Any unconfined manure stacking (piling) within water quality management areas (adjacent to stream banks, lakeshores, and in drainage channels.)
- c) The direct runoff from feedlots or stored manure to waters of the state.
- d) The unlimited livestock access to waters of the state where high concentrations of animals prevent adequate sod cover maintenance.

2. Processed Wastewater Handling Performance Standard

- a) There may be no significant discharge of processed wastewater to waters of the state as determined by the LCD.

3. Human Waste Prohibition

Human waste and associated wastewater shall not be discharged into animal waste storage facilities unless permitted by applicable federal, state, or local regulations for the disposal of human waste and wastewater.

Article IV Technical Standards

Section 336-16 Standards, Specifications and Policies.

The standards of the Field Office Technical Guide are adopted and by reference made a part of this article as if fully set forth therein. Any future amendments, revisions or modifications of the standards incorporated herein are made a part of this article, unless otherwise acted upon by the LCC. A copy of these standards can be obtained from the LCD or viewed on line at www.wi.nrcs.usda.gov/technical/.

Section 336-17 Standards for Waste Storage Facilities.

The standards for design and construction of a manure storage structure or facility are those found in the most recent version of Standards: 313 (Waste Storage Facility) and 634 (Waste Transfer) of the Field Office Technical Guide, as amended or supplemented. Construction Specifications referenced within the above listed standards shall also be adhered to.

Section 336-18 Standards for Land Application of Manure.

The standards for management and utilization of manure through land application with regard to preventing water pollution is found in the most recent version of Standard 590 (Nutrient Management) of the Field Office Technical Guide.

Section 336-19 Standards for Waste Facility Closure.

The standards for closure of a manure storage facility is found in the most recent version of Standard 360 (Waste Facility Closure) of the Field Office Technical Guide, as amended or supplemented.

Section 336-20 Standards for Construction Site Erosion Control.

The standards for controlling soil erosion from construction sites are found in the most recent version Chapter 284 of the County Code, as amended or supplemented.

Section 336-21 Standards for Processed Wastewater.

The standards for design and construction of a processed wastewater system are found in the most recent version of Standards: 629 (Waste Treatment), 634 (Waste Transfer), and 635 (Vegetated Treatment Area) of the Field Office Technical Guide, as amended or supplemented.

Article V Application For and Issuance of Permits

Section 336-22 Animal Waste Storage Facility Permit Generally.

No animal waste storage facility, or parts thereof, may be constructed, substantially altered, or closed without:

1. An animal waste storage facility permit as provided in this article and,
2. Compliance with the provisions of this ordinance.

The requirements of this article shall be in addition to any other ordinance or administrative rule regulating manure storage or applicable technical standards. In the case of conflict, the most stringent provisions shall apply.

Section 336-23 Exceptions for Pre-existing Waste Storage Facilities.

The following constitute exceptions to the requirement under this ordinance to obtain a permit:

1. Pre-existing waste storage facility, except where substantially altered, or closed.
2. Operation and maintenance on a waste storage facility.
3. Emergency equipment repairs on a waste storage facility.
4. Emergency repairs such as repairing a broken pipe, or equipment, leaking dikes, or the removal of stoppages may be performed without an animal waste storage facility permit.

If repairs will substantially alter the original design and construction of the facility as determined by the LCD, a permit will be required.

5. An exception to closure provision is granted.
6. Other required corrective action is from feedlots, animal feeding operations, or processed waste facilities.

Section 336-24 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 LCC.

Section 336-25 Animal Waste Storage Facility Plan Required.

Each application for a permit under this ordinance shall include an animal waste storage facility plan. The plan shall be in accordance with the current Technical Standard 313 (Waste Storage Facility) and 634 (Waste Transfer). The plan shall specify:

1. A management assessment is required. As part of this assessment an initial determination will be conducted to demonstrate that suitable land base is available for utilization of waste.
2. The number and kinds of animals for which waste 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 waters of the state lie within 500' of the facility, the location and distance to the body of water shall be shown. Any flood plains and/or wetlands shall be located also.
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 animal waste into and from the facility.
11. A 590 Nutrient Management Plan: the plan shall specify the utilization of the 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.

A nutrient management plan agreement shall be completed by the landowner. The agreement states that the plan shall be submitted to the LCD 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. Other additional information required by Field Office Technical Standard 313 (Waste Storage Facility) or LCD staff to comply with this ordinance.

Section 336-26 Closure Plan Required.

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 (Waste Facility Closure), and 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 Field Office Technical Standard 590 (Nutrient Management).
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 description of how the excavated area will be filled in and where the clean fill will come from.
6. A plan view showing the final grade, the area to be reseeded, and how rain and runoff will be diverted away from the site.
7. Other additional information required by the Field Office Technical Standard 360 (Waste Facility Closure) or LCD staff to comply with this ordinance.

Section 336-27 Review of Application.

The LCD shall receive and review all permit applications and shall determine if the proposed facility meets required standards set forth in this ordinance or applicable regulations. Within thirty (30) working days after receiving the completed application and fee, the LCD shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the LCD shall notify the permit applicant. The LCD has thirty (30) working days from the receipt of the additional information in which to approve or disapprove the application. If the LCD fails to approve or disapprove the permit application in writing within thirty (30) working days of the receipt of the permit application or additional information, as appropriate, the application shall be deemed approved, and the permit issued for the project as described in the permit application.

Section 336-28 Permit Conditions.

All permits issued under this ordinance shall be issued subject to the following conditions and requirements, or as specified by the LCD:

1. Activities authorized by permit shall be completed within two (2) years from the date of issuance after which such permit shall be void.
2. Animal waste storage facility and its waste transfer system design, construction, management and utilization activities shall be carried out in accordance with the animal waste facility plan and applicable standards specified in this ordinance. The plan shall be certified as meeting the requirements of this ordinance by a Professional Engineer licensed in the State of Wisconsin, or DATCP or NRCS or LCD agricultural engineering practitioner (defined per Section 336-9).
3. Animal waste storage facility removal or closure shall be carried out in accordance with the animal waste storage facility closure plan and applicable standards specified in Section 336-26 of this ordinance. The plan shall be certified as meeting the requirements of this ordinance by a Professional Engineer licensed in the State of Wisconsin, or DATCP or NRCS or LCD agricultural engineering practitioner (defined per Section 336-9).
4. The permittee shall give five (5) working days written notice to the LCD before starting any construction activity authorized by the permit.
5. Approval in writing must be obtained from the LCD prior to any changes or modifications to the approved animal waste facility plan.
6. Prior to use, a Professional Engineer licensed in the State of Wisconsin, or DATCP or NRCS or LCD agricultural engineering practitioner (defined per Section 336-9) and the permittee and if applicable, the contractor, shall certify in writing on forms provided by the LCD that the storage facility was installed as planned, including as-built dimensions and changes or modifications as authorized during construction per Section 336-27 (5) of this ordinance.

7. The LCD and/or NRCS shall provide on-site inspection. Final approval signature for all projects under this ordinance shall be provided by the LCD.

Section 336-29 Permit Revocation.

The County Conservationist or that person's representative may revoke any permit issued under this ordinance if the holder of the permit has misrepresented any material fact in the permit application, animal waste facility plan or nutrient management plan, or if the holder of the permit violates any of the conditions of the permit.

Article VI Administration and Enforcement

Section 336-30 Administration.

1. **Delegation of Authority**

Green Lake County hereby designates the Green Lake County Land Conservation Department to administer and enforce this ordinance.

2. **Administrative Duties**

In the administration and enforcement of this ordinance, the LCD shall:

- a) Keep an accurate record of all permit applications, animal waste storage facility construction and abandonment plans, permits issued, inspections made, and other official actions.
- b) Review permit applications, construction plans, "as-built plans" and issue permits in accordance with this ordinance.
- c) Inspect manure storage facility construction to ensure the facility is being constructed according to plan specifications.
- d) Inspect manure storage facility closure to ensure the facility is being closed according to plans and specifications.
- e) Investigate complaints relating to compliance with this ordinance.
- f) Perform other duties as specified in this ordinance.
- g) Provide technical services to the applicant to the extent resources are available.
- h) Monitor and inspect a minimum of every three (3) years the adequacy of manure storage systems including compliance with nutrient management plans.

3. **Inspection Authority**

- a) The Green Lake County LCC and their agents being the LCD are authorized to enter upon any lands affected by this ordinance to inspect the land prior to or after permit issuance to determine compliance with this ordinance. If permission cannot be received from the landowner or their authorized representative, entry by the Green Lake County LCD shall be according to Wisconsin Statutes Section **92.07(14)** (*Land conservation committee, powers.*).
- b) Entry by the County Conservationist or a designated representative may also be according to Wisconsin Statutes Section **66.0119** (*Special inspection warrants.*). Refusal to grant permission to enter lands affected by this article for purposes of inspection may be grounds for denial of the permit or revocation thereof.

Section 336-31 Enforcement.

1. **Enforcement Authority**

- a) The County Conservationist, or that person's representative 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 landowner and/or their authorized representative whose activity is in violation of this ordinance.

The order shall specify that the activity shall cease and/or be brought into compliance within a specified time period.

- b) Any permit revocation or order stopping work shall remain in effect unless retracted by the LCC, the County Conservationist or a designated representative, or by a court of general jurisdiction; or until the activity is brought into compliance with this ordinance. The County Conservationist is authorized to refer any violation of this ordinance or of an order stopping work issued pursuant to this article to the Corporation Counsel for commencement of legal proceedings.

Article VII Violations

Section 336-32 Penalties.

Any person who intentionally 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 not less than \$100.00 nor more than \$1,000.00 plus the costs of prosecution for each violation. An unlawful violation includes failure to comply with any standard of this article or with any condition or qualification attached to the permit. Each day a violation exists shall be a separate offense.

Section 336-33 Enforcement by Injunction.

As a substitute for or in addition to forfeiture actions, the county may seek enforcement of any part of this ordinance by court actions seeking injunctions or restraining orders.

Article VIII Appeals and Variances

Section 336-34 Appeals.

1. Authority

Under authority of Wisconsin Statutes Chapter 68 (*Municipal administrative procedure.*), created under Wisconsin Statutes Section 59.70(19) (*Environmental protection and land use.*), and acting as an appeal authority under Wisconsin Statutes Section 68.09(2) (*Review of determination.*), LCC is authorized to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination by the LCD in administering this ordinance.

2. Who May Appeal

Appeals may be taken by any person having a substantial interest that is adversely affected by the order, requirement, decision or determination made by the LCD.

3. Procedure

The rules, procedures, duties and powers of the LCC and provisions of Wisconsin Statutes Chapter 68 (*Municipal administrative procedure.*), shall apply to appeals under this article.

- a) A request for an appeal shall be filed with the LCD within (thirty) 30 days of action or decision to be appealed. The appeal request shall specify whether an interpretation of this ordinance or a variance is sought and the grounds thereof.
- b) The appeal shall be heard by the LCC at a regularly scheduled meeting with public notice as required by Wisconsin Statutes Section 19.81(*Declaration of policy.*). The appeal shall be heard within sixty (60) days of the date the appeal is filed with the LCD. A copy of the meeting notice shall be sent to the applicant. The LCD shall transmit to the LCC all documents constituting the record from which the appeal was taken.
- c) A written decision regarding the appeal shall be made within forty-five (45) days of appeal hearing.

- d) The final decision on an appeal shall be in the form of a written determination signed by the chairperson or vice-chair of the LCC. The determination shall state the specific facts that are the basis for the LCC's decision and shall affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part; deny the appeal for lack of justification; or grant or deny the application for a variance. The reasons or justification for granting an appeal that was demonstrated by the applicant in the case of a variance shall be clearly stated in the recorded minutes of the LCC meeting.
- e) The decision of the LCC may be appealed to the circuit court as set forth in the Wisconsin Statutes Section **68.13** (*Judicial review*).

Section 336-35 Variances.

The LCC may upon appeal authorize a variance from the requirements of this article when, upon showing by the applicant, unnecessary hardship would result from literal enforcement of this ordinance. The granting of a variance for unnecessary hardship shall:

1. Be consistent with the spirit and purpose of this ordinance as stated in Section 336-4 of the ordinance.
2. Not permit an activity or practice that may fail structurally or otherwise and cause significant water pollution or other off-site impacts.
3. Be due to unique circumstances and not to the general conditions of the area.
4. Not be granted for a self-created hardship.
5. Not be granted unless it is shown that the variance will not be contrary to the public interest and will not be damaging to the rights of other persons.
6. Not be granted solely on the basis of economic gain or loss.
7. Not be granted solely on the fact that certain conditions existed prior to the effective date of the ordinance.

The LCC may authorize a variance from the requirements of this article contingent on the applicant's receiving a variance from the technical standards through the Natural Resource Conservation Service or other qualified engineering authority. The LCC may also authorize a variance from the requirements of this ordinance contingent on the LCC receiving a variance from the state performance standards through the Wisconsin Department of Natural Resources.