

ORDINANCE NO. 2004-27

**JEFFERSON COUNTY
ANIMAL WASTE STORAGE AND
NUTRIENT MANAGEMENT ORDINANCE**

The County Board of Supervisors of the County of Jefferson does hereby ordain as follows:

SECTION 1: INTRODUCTION

- 1.01 **Authority**
This ordinance is adopted under authority granted by Sections 59.70(1), 92.15, and 92.16 of the Wisconsin Statutes.
- 1.02 **Title**
This ordinance shall be known as, referred to and may be cited as the Jefferson County Animal Waste Storage and Nutrient Management Ordinance and is hereinafter referred to as the ordinance.
- 1.03 **Findings and Declaration**
The Jefferson County Board of Supervisors finds that animal waste storage facilities may not meet current technical design and construction standards. Pollution of the surface and groundwater of Jefferson County may result in actual or potential harm to the health and safety of county residents and transients, livestock, aquatic life and other animals and plants, and to the property tax base of Jefferson County. The Jefferson County Board of Supervisors also finds that improper management of animal waste storage facilities, including improper land application of stored animal waste, may cause pollution of the groundwater and surface water of Jefferson County. The Jefferson County Board of Supervisors further finds that the technical standards developed by the U.S.D.A. Natural Resources Conservation Service and adopted by the Jefferson County Land and Water Conservation Committee provide effective, practical and environmentally safe standards and specifications of storing and managing animal wastes.
- 1.04 **Purpose**
The purpose of this ordinance is to regulate the (a) location, design, construction, and use of all new animal waste storage facilities, (b) modification or closure of all storage facilities, (c) transfer of wastes into storage facilities, and (d) utilization of wastes from storage facilities in order to prevent water pollution, and thereby 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 Jefferson County. It also is intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.

- 1.05 **Applicability**
This ordinance applies to the unincorporated areas of Jefferson County. Facilities constructed prior to the effective date of this ordinance shall be exempt, except as indicated in Subsection 3.02 of this ordinance.
- 1.06 **Interpretation**
The interpretation and application of the provisions of this ordinance shall be minimum requirements, be liberally construed in favor of Jefferson County, and not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- 1.07 **Severability Clause**
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.
- 1.08 **Effective Date**
This ordinance shall become effective after a public hearing, and upon its adoption and publication by the Jefferson County Board of Supervisors.

SECTION 2: DEFINITIONS

- 2.01 **Adequate sod, or self-sustaining vegetative cover** means 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.
- 2.02 **Animal waste** means livestock excreta. “Animal waste” includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal waste handling operations.
- 2.03 **Animal waste storage facility** means a manure storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. “Manure storage facility” includes stationary equipment and piping used to load or unload a manure storage facility if the equipment is specifically designed for that purpose and is an integral part of the facility. “Manure storage facility” does not include equipment used to apply manure to land.
- 2.04 **Applicant** means any person applying for a permit under this ordinance.
- 2.05 **Closure** means removal and proper disposal of accumulated wastes and proper abandonment of a storage facility as in NRCS Technical Standard 360.
- 2.06 **DATCP** means the Wisconsin Department of Agriculture, Trade, and Consumer Protection.

- 2.07 **Direct Runoff** means 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 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 s. NR 154.04 (3).
- 2.08 **DNR** means the Wisconsin Department of Natural Resources.
- 2.09 **Idle Storage Facility** means an animal waste storage facility where the operations cease or manure has not been added or removed for 24 months.
- 2.10 **Land and Water Conservation Committee** means the committee of Jefferson County Board members and others, who by authority of Chapter 92, Wisconsin Statutes, guides soil and water conservation activities of the Jefferson County Land and Water Conservation Department.
- 2.11 **Land and Water Conservation Department** means the department of Jefferson County government which is responsible for administering and enforcing this ordinance.
- 2.12 **Livestock** means domestic animals such as cattle, horses, sheep, hogs, poultry, fish, etc., or exotic animals such as llamas, ostriches, etc.
- 2.13 **Livestock Operation** means a feedlot or other facility or pasture where animals are fed, confined, maintained, or stabled.
- 2.14 **Milking Center Waste** means all wastewater, cleaning ingredients, and waste milk that is discharged from a milkhouse or milking parlor.
- 2.15 **Modification** means enlargement or reduction to the facility, change in the facility's configuration, addition to the facility (such as ramps, push-off walls, etc.), or repairs that change the facility's configuration or capacity.
- 2.16 **Nutrient Management Plan** Means any of the following:
(a) A plan required under s. ATCP 50.04 (3) or 50.62 (5) (f).
(b) A farm nutrient plan prepared or approved for a landowner by a qualified nutrient management planner.
Note: A nutrient management plan must comply with s. ATCP 50.04 (3).
- 2.17 **Permit** means the signed, written statement issued by the Jefferson County Land and Water Conservation Department under this ordinance authorizing the applicant to construct, install, reconstruct, modify, or close an animal waste storage facility.
- 2.18 **Permittee** means any person to whom a permit is issued under this ordinance.

- 2.19 **Person** means any individual, corporation, partnership, joint venture, trust, limited liability corporation, agency, unincorporated association, municipal corporation, county or state agency within Wisconsin, the federal government or any combination thereof that owns, rents, leases, or has other interest in land being regulated under this ordinance.
- 2.20 **Repair** means to restore to sound condition after damage or malfunction of storage facility.
- 2.21 **Standards** mean guidelines that have been adopted by the Natural Resources Conservation Service.
- 2.22 **Substantially altered** means a change initiated by an owner or operator that results in a relocation of a facility or significant changes to the size, depth or configuration of a facility including:
(a) Replacement of a liner in a manure storage facility.
(b) An increase in the volumetric capacity or area of a facility by greater than 20%.
(c) A change in a facility related to a change in livestock management from one species of livestock to another such as cattle to poultry.
- 2.23 **Technical Guide** means the current Wisconsin version of the United States Department of Agriculture Natural Resources Conservation Service Technical Guide as adopted by the Jefferson County Land and Water Conservation Committee.
- 2.24 **USDA - NRCS** means the Natural Resources Conservation Service, an agency of the United States Department of Agriculture.
- 2.25 **Water pollution** means contaminating or rendering unclean or impure the groundwater 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.
- 2.26 **Water Quality Management Area** means any of the following:
(a) The area within 1,000 feet from the ordinary high water mark of a navigable lake, pond, or flowage other than a glacial pothole.
(b) The area within 1,000 feet from the high water mark of a glacial pothole lake.
(c) The area within 300 feet from the ordinary high water mark of a navigable river or stream.
(d) An area that is susceptible to groundwater contamination, or that has the potential to be a direct conduit for contamination to reach groundwater.
- 2.27 **Working day** means a calendar day, except Saturdays, Sundays and County, State, and Federal recognized legal holidays.

SECTION 3: ACTIVITIES SUBJECT TO REGULATION

3.01 **General Requirement**
Any person who constructs, installs, substantially alters , or closes an animal waste storage facility, or possesses an idle storage facility; or who employs another person to do the same on land subject to this ordinance shall be subject to the provisions of this ordinance.

3.02 **Compliance with Permit Requirements**
A person is in compliance with this ordinance if he or she follows the procedures of this ordinance, receives a permit from the Jefferson County Land and Water Conservation Department before beginning activities subject to regulation under this ordinance, and complies with the requirements of the permit. Modification or closure of preexisting facilities requires a permit, subject to all terms of ordinance.

3.03 **Manure Management Prohibitions**

1. **All Livestock Operations shall comply with the following:**

- (a) A livestock operation shall have no overflow of manure storage facilities.
- (b) A livestock operation shall have no unconfined manure pile in a water quality management area.
- (c) A livestock operation shall have no direct runoff from a feedlot or stored manure into the waters of the state.
- (d) A livestock operation may not allow 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. This prohibition does not apply to properly designed, installed and maintained livestock or farm equipment crossings.

2. **Cost Sharing Requirement**

Pursuant to Section 281.16 (3) of the Wisconsin Statutes, a livestock operation that is in existence prior to October 1, 2002 shall not be required to comply with the manure management prohibitions unless cost-sharing is made available.

SECTION 4: STANDARDS

4.01 **Animal Waste Storage Facilities**
Standards and specifications for design, construction and management of animal waste storage facilities are those in Standard 313 (Waste Storage Facility), and Standard 634 (Waste Transfer) of the Technical Guide. Construction specifications referenced within the above listed standards shall be included.

4.02 **Nutrient Management**
The standards for nutrient management of land-applied animal wastes are those in Standard 590 of the Technical Guide.

- 4.03 **Amendments to Standards**
If approved by the DATCP or DNR, future amendments to Standards 313, 634, and 590 or the current standards for waste management systems, waste storage facilities, waste transfer, and nutrient management of the Technical Guide are incorporated by reference in the ordinance and made part of this ordinance, unless otherwise acted upon by the Jefferson County Board of Supervisors.
- 4.04 **Variances**
Variances from these standards can only be granted through an appeal by the applicant in accordance with Section 8 of this ordinance unless otherwise acted upon by the Land and Water Conservation Committee.
- 4.05 **Human Wastewater**
Human wastewater shall not be discharged into animal waste storage facilities unless permitted by applicable federal, state, or local regulations for the disposal of human wastewater.
- 4.06 **Animal Waste Storage Facility Closure**
Standards for closure of an idle storage facility are those in Standard 360 of the Technical Guide.

SECTION 5: APPLICATION FOR AND ISSUANCE OF PERMITS

- 5.01 **Permit Required**
Except as hereinafter provided, no person shall undertake an activity subject to this ordinance without first obtaining an **ANIMAL WASTE STORAGE FACILITY PERMIT** or **ANIMAL WASTE STORAGE FACILITY CLOSURE PERMIT** from the Jefferson County Land and Water Conservation Department. The requirement of this ordinance shall be in addition to any other ordinance or administrative rule regulating animal waste storage or applicable technical standards. In the case of conflict, the most restrictive provision shall apply.
- 5.02 **Exception to Permit Requirements**
Emergency repairs for broken pipes or equipment, leaking dikes or removal of obstructions may be performed without an Animal Waste Storage Facility Permit. Emergency repairs shall not result in increased capacity to the animal waste storage facility. The responsible person (owner or tenant) shall contact the Jefferson County Land and Water Conservation Department on the first working day following emergency repairs for a determination by the Department on whether a permit will be required for any additional modification or repair to the facility.
- 5.03 **Fee**
All applicants, except those applying for an Animal Waste Storage Facility Closure Permit, shall be required to pay a \$100.00 non-refundable fee at the time of permit

application. Application fees may be waived by the Land and Water Conservation Committee upon finding of economic hardship.

If the application is submitted after the commencement of activities requiring a permit, then the fee will be doubled. All applicable federal, state, and local standards and ordinance provisions still apply. Applications received after the commencement of activities requiring a permit do not preclude the Land and Water Conservation Department from taking enforcement action.

5.04

Permit Application

An application for an Animal Waste Storage Facility Permit or Animal Waste Storage Facility Closure Permit shall be filed with the Land and Water Conservation Department on forms supplied by the Land and Water Conservation Department. The Land and Water Conservation Department shall mail a copy of the approved permit application to the appropriate Town Board. In addition the Land and Water Conservation Department may mail a copy of the approved permit to other agencies or units of government that may have jurisdiction over the proposed activity.

Each application for an Animal Waste Storage Facility Permit under this ordinance shall include an Animal Waste Storage Facility Plan and a Nutrient Management Plan.

1. **All Animal Waste Storage Facility Plans shall include the following:**

- (a) A plan map showing location of the facility with regard to buildings, roads, lot lines, and homes within three hundred (300) feet of the proposed facility. The map shall be drawn to scale no smaller than one (1) inch equals one hundred (100) feet. The plan map shall include a north arrow.
- (b) A complete set of detailed construction plans, including but not limited to facility dimensions, cross-section views, profile views, storage facility liners, concrete thickness of floors and/or walls, steel reinforcement plans, water stops and expansion joints, material specifications, and fencing. Preparation of detailed construction plans may likely require the applicant to hire a registered professional engineer or be designed by federal, state, or local agency staff with appropriate NRCS job approval.
- (c) The number and kinds of animals for which waste storage is to be provided.
- (d) Planned duration of storage, expressed in days and/or months, and volume of storage, expressed in cubic feet.
- (e) The location of any wells within three hundred (300) feet of the facility.
- (f) The location and elevation of all soil tests pits, including a detailed soil description of each pit, to a depth of at least three (3) feet below the planned bottom elevation of the facility. Soil test pits, which are acceptable to the

Jefferson County Land and Water Conservation Department, shall be dug within the outermost boundaries of planned waste storage facility bottom area and shall consist of a minimum of 4 pits located in 4 different quadrants of the planned facility.

- (g) The location of drain tiles, sink holes, and drainage ditches.
- (h) The elevation of seasonably high groundwater or bedrock if encountered in the soil profile and the date of any such determination.
- (i) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater. This shall include plans for erosion control of disturbed areas and soil stockpiles if the site is in a water quality management area.
- (j) The location of and distance to any navigable body of water within three hundred (300) feet of the proposed facility must be shown.
- (k) A description of how waste will be delivered to and removed from the facility.
- (l) A proposed time schedule for construction of the facility.
- (m) Any other additional information required by the Jefferson County Land and Water Conservation Department to determine compliance with this ordinance.

2. **Nutrient Management Plans will be required at the time of permit application for an Animal Waste Storage Facility Permit. All nutrient management plans shall conform to the NRCS standards and specifications for nutrient management (590) specified in Subsection 4.02. All nutrient management plans shall comply with ATCP 50.04 (3) as amended from time to time and the following:**

When the livestock operation that is applying for a permit is proposing to spreading animal waste on another landowner's fields, and that other landowner also spreads animal waste from their own operation, then a nutrient management plan for both operations must be provided to the Land and Water Conservation Department.

3. **All applicants' land must be in compliance with the manure management prohibitions located in Section 3.03 of this ordinance.**

4. **Animal Waste Storage Facility Closure Requirements**

- (a) Closure of an animal waste storage facility shall occur 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 24 months. Manure facilities shall be closed in a manner that will prevent future contamination of groundwater and surface waters.

- (b) 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: 1. The facility is designed, constructed and maintained in accordance with the applicable standards. 2. The facility is designed to store manure for a period of time longer than 24 months. 3. Retention of the facility is warranted based on anticipated future use.
- (c) Each application for an Animal Waste Storage Facility Closure Permit under this ordinance shall include a site-specific design for closure as specified in Standard 360.

5.05

Review of Application

The Jefferson County Land and Water Conservation Department shall receive and review all permit applications; including the Animal Waste Storage Facility Construction Plans and the Nutrient Management Plan, or the Animal Waste Storage Facility Closure Design; and shall determine if the proposed facility or closure will comply with ordinance requirements. In making this determination, the department may require a site inspection and/or may consult with an outside agency. Prior to issuance of a permit, the NRCS or DATCP engineer or designee, or a registered professional engineer shall verify that plans meet the applicable standards. Within 30 working days after receiving the completed application and fee, the Jefferson County Land and Water Conservation Department shall inform the applicant in writing whether the permit application is approved, disapproved, or if more information is needed. If additional information is required, the Jefferson County Land and Water Conservation Department shall so notify the permit applicant. The Jefferson County Land and Water Conservation Department has 30 working days from the receipt of the additional information to approve or disapprove the application. If, in addition to the applicant's information, the department required comment from an outside agency, the department has 15 working days from receipt of the comments from the referral agency to approve or disapprove the application. If the Land and Water Conservation Department fails to approve or disapprove the permit application in writing within 30 working days of the receipt of the permit application, within 30 working days of receipt of additional applicant information, or within 15 working days of receipt of referral agency comments, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued. Nothing herein shall authorize construction, maintenance, or closure of a facility that does not meet ordinance and technical guide standards.

5.06

Permit Conditions

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

- (a) Animal waste storage facility design, construction, modification, closure, and application shall be carried out in accordance with the construction plan or closure plan and applicable standards specified in Section 4 of this ordinance.
- (b) Any person applying for an Animal Waste Storage Facility Permit under this ordinance must develop a Nutrient Management Plan as part of the application process to demonstrate their ability to utilize the animal waste in an environmentally safe manner. This condition may require the applicant to hire a crop consultant to prepare the Nutrient Management Plan. Although not required, all recipients of Animal Waste Storage Facility Permits are encouraged to provide annual updates of their Nutrient Management Plans to the Jefferson County Land and Water Conservation Department.
- (c) The permittee certifies in writing that all other local, city, County, State or Federally required permits shall be obtained from the appropriate authorities. The department may require proof of any permit known to be needed prior to issuing an Animal Waste Storage Facility Permit or Animal Waste Storage Facility Closure Permit.
- (d) Any change to an approved Animal Waste Storage Facility Plan or closure design shall be approved in writing by the Jefferson County Land and Water Conservation Department. Written approval by the Department shall occur only after the DATCP engineer or designee, registered professional engineer, or state, federal, or local agency staff person, having the appropriate engineering certification, has reviewed and approved the proposed modifications.
- (e) The permittee shall give no less than 3 working days advance notice to the Jefferson County Land and Water Conservation Department before starting any construction activity authorized by the permit.
- (f) Activities authorized by permit shall be completed within 2 years from the date of issuance after which time such permit shall expire.
- (g) The permittee shall certify in writing, by a professional engineer or a person with appropriate engineering job approval according to NRCS standards, that the animal waste storage was installed or closed as planned. A copy of the signed certification sheet shall be given to the Land and Water Conservation Department within 1 month of completion of installation or closure. Any approved changes made to the Animal Waste Storage Facility Plan or closure design shall be specified in the certification. Land and Water Conservation Department personnel may conduct site inspections during and following construction to determine that the facility was installed or closed as planned and designed.

5.07

Permit Revocation

The Jefferson County Land and Water Conservation Department may revoke any permit issued under this ordinance if the holder of the permit has misrepresented any

information in the Animal Waste Storage Facility Plan, closure design, or Nutrient Management Plan, or if the holder of the permit violates any of the conditions of the permit. A letter will be sent by the Land and Water Conservation Department to the permittee warning about the potential for permit revocation prior to actually revoking the permit. The permittee will have two weeks to comply with this ordinance before revocation. If the permit is revoked the landowner must start the permit process over. In addition, the permittee shall not use the facility until a new permit is issued.

SECTION 6: ADMINISTRATION

6.01 Delegation of Authority

The Jefferson County Board hereby designates the Jefferson County Land and Water Conservation Department to administer and enforce this ordinance.

6.02 Administrative Duties

In the administration and enforcement of this ordinance, the Jefferson County Land and Water Conservation Department shall:

- (a) Keep an accurate record of all permit applications, Animal Waste Storage Facility Plans, Nutrient Management Plans, closure designs, permits issued, inspections made, closure extension requests, extensions issued, and other official actions.
- (b) Review permit applications and issue permits in accordance with Section 5 of this ordinance.
- (c) Periodically inspect animal waste storage facility construction to insure the facility is being constructed or closed according to plan specifications.
- (d) Investigate complaints relating to compliance with this ordinance.
- (e) Perform other duties as specified in this ordinance.

6.03 Inspection Authority

The Jefferson County Land and Water Conservation Department is authorized by Section 92.07(14) Wisconsin Statutes to enter upon any lands affected by this ordinance to inspect the site prior to and after permit issuance to determine compliance with the ordinance. If permission cannot be received from the applicant or permittee, entry shall be according to Sections 66.0119 and 66.0119 (3) as amended, Wisconsin Statutes. Refusal to grant permission to enter lands affected by this ordinance for purposes of inspection may be grounds for denial of a permit or revocation thereof.

6.04 Enforcement Authority

The Jefferson County Land and Water Conservation 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 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 or be brought into compliance.

Any permit revocation or order stopping work shall remain in effect until retracted by the Jefferson County Land and Water Conservation Department, or by a court of general jurisdiction. The Jefferson County Land and Water Conservation Department is authorized to refer any violation of this ordinance or of an order stopping work issued pursuant to this ordinance to the Jefferson County Corporation Counsel for commencement of further legal proceedings.

SECTION 7: VIOLATIONS

7.01 Penalties

Any person who violates, or fails, neglects, or refuses to comply with any of the provisions of the ordinance shall upon conviction thereof, forfeit up to Two Hundred (\$200.00) Dollars, and costs of prosecution for each violation. Each day a violation exists or continues to exist shall constitute a separate offense. An unlawful violation includes failure to comply with any standard of this ordinance or with any condition or qualification attached to the permit, or any failure to comply with notice of a permit revocation or stop work order.

7.02 Enforcement by Injunction

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

SECTION 8: APPEALS

8.01 Authority

Under the authority of Chapter 68 Wisconsin Statutes, the Jefferson County Land and Water Conservation Committee, created under Section 59.878, Wisconsin Statutes and acting as an appeal authority under Section 68.09(2) Wisconsin Statutes, is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by the Jefferson County Land and Water Conservation Department in administering this ordinance.

8.02 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 Jefferson County Land and Water Conservation Department.

8.03 Limitations of Appeal

Only one appeal on a particular concern can be made of an order, requirement, decision, or determination made by the Jefferson County Land and Water Conservation Department.

8.04

Procedure

Any appeal shall be made by written request mailed or delivered to the Jefferson County Land and Water Conservation Department. The request shall state the grounds upon which it is contended that the order, requirement, decision, or determination should be modified or reversed, and/or the grounds upon which a variance is sought. The request shall be filed within 30 calendar days of the date when the order, requirement, decision, or determination was received. The Jefferson County Land and Water Conservation Committee shall schedule a hearing within 15 working days of the filing of the appeal. The hearing shall be conducted in accordance with Chapter 68, Wisconsin Statutes. A copy of the hearing notice shall be sent to the applicant and the appropriate Town Board.

The final decision on an appeal shall be made within 20 working days of completion of the hearing and shall be in the form of a written determination signed by the Chair or Secretary of the Land and Water Conservation Committee. The determination shall state the specific facts, which are the basis for the Committee'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 justifications for granting an appeal, which were demonstrated by the applicant in the case of a variance, shall be clearly stated in the recorded minutes of the Committee meeting. If a final decision on an appeal is not made within 20 working days, the appeal shall be deemed approved and the applicant may proceed with activities that were requested in the appeal.

8.05

Variations

The Land and Water Conservation Committee may upon appeal authorize a variance from the requirements of this ordinance.

1. The granting of a variance shall be consistent with the spirit and purpose of this chapter as stated in Subsection 1.03 and 1.04.
2. The Committee may not grant a variance solely on the basis of economic hardship or gain.
3. The variance shall not permit an activity or practice that may fail structurally or otherwise cause significant water pollution or other off site impacts.
4. The variance shall be due to unique circumstances and not to the general conditions of the area.
5. The variance shall 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. The variance shall not be granted solely on the fact that certain conditions existed prior to the effective date of the ordinance.

7. The Land and Water Conservation Committee may authorize a variance from the requirements of this ordinance contingent on the applicant receiving a variance from the technical standards through the Natural Resources Conservation Service or other qualified engineering authority. If public funds are involved, this may be a program requirement.
8. The Committee may grant a variance only if all of the following conditions are met:
 - (a) Compliance with the standard is not feasible due to site conditions. This condition does not apply to research activities conducted as part of a planned agricultural research and farming curriculum.
 - (b) The landowner or operator will implement best management practices or other corrective measures that ensure a level of pollution control that will achieve a level of water quality protection comparable to that afforded by the performance standards in located in Chapter NR 151 of the Wisconsin Administrative Code.
 - (c) The conditions for which the variance is requested are not created by the landowner or operator or their agents or assigns. This condition does not apply to research activities conducted as part of a planned agricultural research and farming curriculum.
9. The Committee shall use the following process when administering a variance request:
 - (a) The landowner or operator shall submit the variance request to the Committee or the Land and Water Conservation Department within 60 days of receiving notice that their operation is not in compliance with this ordinance.
 - (b) The Land and Water Conservation Department shall forward any variances that it receives to the Committee. The Committee may consider a recommendation from the governmental unit concerning acceptance of the variance request.
 - (c) The Committee shall make its determination based on the factors in subparagraph 8.
 - (d) The Committee shall notify the landowner or operator and the Land and Water Conservation Department of its determination. If the variance is granted, the Committee or Land and Water Conservation Department shall send a notice to the landowner or operator.
 - (e) The period of time required to make a ruling on a variance request does not extend the compliance periods allowed under Chapter NR 151.09 and 151.095 of the Wisconsin Administrative Code.

Note: The Committee may consider decisions made by the Land and Water Conservation Department, in accordance with local ordinance provisions, when making its determination whether to accept or deny the variance.

All ordinances in conflict with, or contrary to the terms of this Ordinance are hereby repealed.

This ordinance shall be in full force and effect upon passage and publication as provided by law.

Adopted by the Jefferson County Board of Supervisors this 14th day of December, 2004.

s/Sharon L. Schmeling

Sharon L. Schmeling

Chair

ATTEST:

s/Barbara A. Frank

Barbara A. Frank, County Clerk

Published the 21st day of December, 2004.