

General Code of Ordinances for Marathon County Chapter 11.02 Animal Waste Management Ordinance



Approved by Marathon County
Environmental Resources
Committee
June 2, 2020

Approved by Marathon County
Board of Supervisors
June 23, 2020

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The County Board of Supervisors of the County of Marathon does ordain as follows:
Section 11.02 of the General Code relating to Animal Waste is repealed and recreated as follows:

ANIMAL WASTE MANAGEMENT.
(Cr. #256)

(1) INTRODUCTION.

a) Statutory Authority. This ordinance is adopted under authority granted by sections 59.02, 59.03, 59.69, 59.70, 92.06, 92.07, 92.09, 92.11, 92.15 and 92.16, Wisconsin Statutes (Wis. Stats), and ss. ATCP 50.56 and NR 151.05 Wisconsin Administrative Code (Wis. Admin Code).

b) Title. This ordinance shall be known, referred to and cited as the, "County Animal Waste Management Ordinance."

c) Findings and Declaration of Policy.

1. The County Board finds that storage of animal waste in waste storage facilities and the utilization of livestock sourced nutrients not meeting state agricultural performance standards and prohibitions may cause pollution of the surface and ground waters of the County; and may result in actual or potential harm to the health of County residents and transients; terrestrial and aquatic plant and animal life; surface and groundwater quality; and to the property tax base of the County.
2. The County Board finds that the technical standards developed by the United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service and adopted by the Environmental Resources Committee provide effective, practical and environmentally safe methods of storing animal waste and utilizing nutrients.

d) Purpose. The purpose of this ordinance is to regulate the location, design, construction, installation, alteration, operation, maintenance, closure, use, and application of animal waste from all waste storage facilities covered by this ordinance so as to protect the health and safety of residents and transients; prevent the degradation of surface and groundwater thereby preventing the spread of disease and promoting the prosperity and general welfare of the citizens of Marathon County; and protect the groundwater and surface water resources of Marathon County. It is also intended to provide for the administration and enforcement of the ordinance and provide penalties for its violations.

e) Applicability. This ordinance, to be effective upon adoption by the County Board, shall apply to all areas of Marathon County including municipalities that have agreed to allow the Department to enforce this ordinance in their jurisdiction.

f) 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 the County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

g) Compliance.

1. Waste storage facilities shall be constructed, maintained, operated, and closed in compliance with all applicable Federal, State, and local laws, codes and ordinances. It is the owner's/operator's responsibility to obtain any required permits and/or approvals from other governmental units.
2. No approval pursuant to this ordinance shall be issued where the applicant is in violation of this or any code administered by the department, nor for any parcel(s) of land which have an outstanding violation until the violation has been corrected. A request for waiver of this provision may be made to the Department Director or designee.

h) Abrogation, Greater Restrictions, and Severability

1. Abrogation and Greater Restrictions. This ordinance is not intended to repeal, annul, abrogate, impair, or interfere with any existing covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.
2. Severability and Non-liability. Should any section, clause, provision or portion of this ordinance be adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in effect.

(2) DEFINITIONS

Animal Lot. A feedlot, barnyard, or other out facility where livestock are concentrated for feeding or other purposes. “Animal lot does not include a pasture or winter grazing area. Two or more animal lots at the same livestock facility constitute a single animal lot, for the purposes of this ordinance, if runoff from the animal lots drain to the same treatment area or if runoff from the animal lot treatment area converges or reaches the same surface water within 200 feet of any of those treatment areas.

Animal Waste Can be any of the following:

- 1) Manure: Animal excreta and includes the following when intermingled with excreta in normal farming operations: debris including bedding, water, soil, hair, and feathers; processing derivatives including separated sand, separated manure solids, precipitated manure sludges, supernatants, digested liquids, composted biosolids, and process water; and runoff collected from barnyards, animal lots, and feed storage areas.
- 2) Leachate: The concentrated liquid which has percolated through or drained from animal feed or waste storage areas.
- 3) Process Waste Water. Wastewater from the production area or indirectly used in the operation of animal feeding operations that results from any or all of the following:
 - a) Spillage or overflow from animal water systems.
 - b) Washing, cleaning or flushing pens, barns, manure pits or other animal feeding operation facilities.
 - c) Direct contact swimming, washing or spray cooling of animals or dust control.
 - d) Water that comes into contact with any raw materials or animal byproducts including manure, feed, milk, eggs, or bedding.

Applicant. Any person who applies for a permit under this ordinance.

BARNY Model. Means the NRCS “Evaluation System to Rate Feedlot Pollution Potential,” ARM-NC-17 (April 1982 version with modifications as of August 2005).

Note: The BARNY model is a commonly used computer model that predicts nutrient runoff from animal lots. Copies of the BARNY model are on file with the department, the secretary of state, and the legislative reference bureau. An Excel computer spreadsheet version is available at www.datcp.state.wi.us.

Committee. A committee made up of members of the Marathon County Board of Supervisors and others who, by authority from Wis. Stats. Chapter 92, determine policy and give direction for soil and water conservation activities. The Environmental Resources Committee (ERC) also provides direction for the Department. The Environmental Resources Committee shall be the decision making board for purposes of this ordinance.

Concentrated animal feeding operation (CAFO). An animal feeding operation to which any of the following apply:

- 1) The operation has 1,000 animal units or more at any time and stores manure or process wastewater in a below or at grade level storage structure or land applied manure or process wastewater.
- 2) The operation has 300 to 999 animals units and has a category I unacceptable practice under s. NR 243.24 (1) (a).
- 3) Under s. NR 243.26 (2) the operation is designated by the Wisconsin Department of Natural Resources as having a significant discharge of pollutants to navigable waters or has caused the fecal contamination of water in a well

Conservation Practice. Means a best management practice designed to reduce or prevent soil or sediment loss to the waters of the state.

Department. Marathon County Conservation, Planning and Zoning (CPZ) Department (responsible for soil and water conservation activities in Marathon County).

Direct Runoff. Includes any of the following:

- 1) Runoff of stored animal waste, including manure leachate, that discharges a significant amount of pollutants to surface waters of the state or to a direct conduit of groundwater.

- 2) Runoff from an animal lot that can be predicted to discharge a significant amount of pollutants to surface waters of the state or to a direct conduit to groundwater.

Director. The Director of the Marathon County Conservation, Planning and Zoning Department or their designee.

Failing and Leaking Waste Storage Facilities. Any waste storage facilities that fail to contain any component of the animal waste that it is intended to contain.

Idle Storage Facility. A waste storage facility which is:

- 1) No longer being used for its intended purpose and no longer having any additional animal waste placed into it.
- 2) Has not had any animal waste added or removed for a period of two (2) years.
- 3) Will, by all the evidence available, not again be used to store animal waste by an active livestock operation.

Livestock Facility: Means a structure or system constructed or establish on a livestock operation.

Maximum Operating Level (MOL). Means the level in the waste storage facility or containment facility, measured vertically from the lowest point of the top of the facility, that is the sum of the margin of safety and the level necessary to contain precipitation and runoff that will enter the facility as a result of a 25-year, 24 hour storm event.

Margin of Safety Level. Means the level in the waste storage facility or containment facility that is one foot vertically below the lowest point of the top of the facility or structure.

Natural Resources Conservation Service (NRCS). An agency of the United States Department of Agriculture which, for purposes of this ordinance, develops and maintains a technical guide with conservation practice standards and specifications, engineering manuals and handbooks, and other technical documentation related to waste storage facilities, nutrient management plans, and other technical matters covered in this ordinance

Nutrient Management Plan. A document that is annually updated outlining the requirements for managing the amount (rate), source, placement (method of application), and timing of all sources of plant nutrients and soil amendments to cropland and pastures as identified in ATCP 50.04(3).

Pasture. Land on which livestock graze or otherwise seek feed in a manner that maintains the vegetative cover over the grazing area. Pasture may include limited areas of bare soil such as cattle lanes and supplemental feeding areas provided the bare soil areas are not significant sources of pollution to waters of the state.

Permit. The signed, written statement issued by the Director or their designee under this ordinance that is required before an applicant can construct, install, move, reconstruct, extend, enlarge, convert, substantially alter or close a waste storage facility or its waste transfer system.

Permittee. Any person to whom a permit is issued under this ordinance.

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.

Safety Devices. Means devices, which are designed to protect humans and livestock from the hazards associated with a waste storage facility.

Stored Animal Waste. Means animal waste that is kept in a waste storage facility or unconfined animal waste pile.

Substantially altered. A change initiated by an owner or operator that results in a relocation of a waste storage facility or structure, or significant changes to all size, depth or configuration of a waste storage facility or structure including:

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

Technical Guide. The document provided by the Natural Resources Conservation Service which contains technical data, including the standards referenced within this ordinance to properly and safely locate, construct, install, alter, design, operate, maintain and close a waste storage facility and/or the associated manure transfer system.

Technical Standard 313. A section of the Technical Guide that contains technical data for the proper location, construction, installation, alteration, design, operation and maintenance of a waste storage facility made by construction of an embankment and/or excavating a pit or dugout, or by fabricating a structure.

Technical Standard 634. A section of the Technical Guide that contains technical data for installation of components such as conduits, pumps, valves, and other structures or devices to transfer animal waste from buildings and yards to a waste storage facility and/or loading area for final disposal and establishes the minimum acceptable requirements for design, construction, and operation of waste transfer system components. It includes mechanical pumping or elevation differential (gravity head) systems.

Technical Standard 360. A section of the Technical Guide that contains technical data for the closure of waste storage facilities that are no longer used for their intended purpose to a sanitary and environmentally safe condition.

Technical Standard 590. A section of the Technical Guide contains technical data for managing the amount (rate), source, placement (method of application), and timing of plant nutrients and soil amendments and establishes the minimum acceptable requirements for the application of plant nutrients associated with organic wastes (manure and organic byproducts), commercial fertilizer, legume crops and crop residues.

Technical Standard 520. A section of the Technical Guide that contains technical data for a liner of a waste storage facility constructed using compacted soil with or without soil amendments.

Technical Standard 521. A section of the Technical Guide that contains technical data for a liner of a waste storage facility constructed using a geomembrane or a geosynthetic clay material.

Technical Standard 522. A section of the Technical Guide that contains technical data for a liner of a waste storage facility constructed using reinforced or non-reinforced concrete.

Unconfined Animal Waste Pile. A quantity of animal waste that is at least 350 ft³ in volume and which covers the ground surface to a depth of at least 2 inches and is not confined within an animal waste storage facility, livestock housing facility, and 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.

Waste Storage Facility. Any site or area specifically designed and/or constructed for the purpose of storage or containment of animal waste and manure. This includes any waste storage facility previously designed and installed meeting the NRCS Technical Guidelines current at the time of installation, any commercial-prefabricated storage facility, concreted slabs, earthen dugouts, dikes or any other area intended for the storage of animal waste and manure. For the purposes of this ordinance, a storage area intended to contain an accumulation of manure within an area excavated, or diked using soil or any other material, for the purpose of storing the manure, no matter how small that accumulation may be or how long the manure is to be stored there, shall be considered a waste storage facility.

Waste Transfer System. A combination of hoppers, reception structures, tanks, pumps, pipes, channels, valves or conduits used to transfer animal waste and other fluids and residues associated with animal waste to a waste storage facility, a waste treatment strip, a loading area, cropland or satellite waste storage facility using permanent pipeline and conduits.

(3) ACTIVITIES SUBJECT TO REGULATION

- a) Permit Requirements. Any person who locates, installs, moves, reconstructs, extends, enlarges, converts, substantially alters, closes or changes use of a waste storage facility or parts thereof; or who employs another to do the same, on land subject to this section, shall be subject to the permit requirements of this ordinance.
 - b) Waste Storage Facilities:
 - 1) Failing and Leaking. Waste storage facilities that pose an imminent threat to public health, fish, and aquatic life, surface or ground water shall be upgraded, replaced, or closed in accordance with this ordinance.
 - 2) Idle Waste Storage Facilities. As specified in Technical Standard 360, removal of animal waste, contaminated soils, and closure of any permitted or unpermitted, idle waste storage facility to a safe and sanitary condition, as determined by the Department is required within two (2) years of the time the waste storage facility becomes idle. The owner or operator may retain the waste storage facility if they are able to verify all of the following conditions are met:
 - a) The waste storage facility has been designed, constructed and maintained in compliance with the NRCS Standard in effect at the time it was constructed and has functional safety devices in place. If it was not built to a NRCS standard it must meet the current NRCS standards.
 - b) Retention of the waste storage facility is warranted based on anticipated future use.
 - c) Landowner agrees to develop and follow an operation and maintenance agreement for the waste storage facility.
 - d) If the waste storage facility is utilized again for its intended purpose, the Department must be notified and any animal waste stored in it must be applied according to the 590 standard.
 - 3) A livestock facility shall not:
 - a) Have an overflow of animal waste from waste storage facilities.
 - b) Have direct runoff from stored animal waste leaving the property and/or be a threat to surface and/or ground water resources. .
 - c) Allow animal waste levels to exceed the maximum operating level (M.O.L.) of the waste storage facility.
 - 4) Safety Devices. All waste storage facilities shall be equipped with safety devices, including fences and warning signs intended to protect humans and livestock from the hazards associated with such facilities. Safety devices shall be designed and installed as required by Technical Standard 313.
 - 5) Road and Property Line Setbacks.
 - a) A new waste storage facility may not be located within 50 feet of a parcel line where the permittee does not own the adjacent parcel and/or within 50 feet of public road right-of-way line.
 - b) An existing waste storage facility seeking expansion must keep a minimum separation distance of 50 feet of a parcel line where the permittee does not own the adjacent parcel and/or 50 feet of a public road right-of-way line.
 - c) Setbacks described above do not supersede the Livestock Facilities Siting Ordinance setbacks or any other setbacks established by law.
- c) Land application of animal waste. Regardless of whether an operator has a nutrient management plan:
- 1) Animal waste shall not:
 - a) Runoff the application site during or after an application; and/or discharge through subsurface drains off the field site.
 - b) Be applied to land where vegetation is not removed mechanically or by grazing, except to provide nutrients for establishment and maintenance of a conservation practice, and application will not result in runoff of animal waste.

2) No over application of animal waste shall occur. In the event of a complaint/investigation, spreading logs and maps shall be provided to the department upon request to determine the rate and location of animal waste applied. Logs and maps shall include but not limited to: spreader/toolbar calibration, number of loads, animal waste volume or weight for the spreader, date, type of animal waste, nutrient analysis, and application method.

3) Owners, operators, contractors, custom applicators or any entity handling animal waste are responsible for animal waste applications that result in runoff, or spills that are caused by their acts, omissions, and/or decisions.

d) A livestock facility shall not:

- 1) Have direct runoff of animal waste from an animal lot into waters of the state or a direct conduit to ground water.
 - a) Fifteen pounds of phosphorus, if no part of the animal lot is located within 1000 feet of a navigable lake or 300 feet of a navigable stream.
 - b) Five pounds of phosphorus, if any part of the animal lot is located within 1000 feet of a navigable lake or 300 feet of a navigable stream.

Note: Phosphorus amounts and distances from navigable waters are consistent with Livestock Facilities Siting Ordinance. Concentration of phosphorus are determined using the BARNY model.

2) 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).

e) Nutrient Management Plans.

- 1) Nutrient management plans must be filed annually to the department by April 1st.
- 2) Nutrient management 590 standard requirements shall apply to any or all of the following:
 - a) All landowners with an animal waste storage facility permitted by this ordinance.
 - b) All landowners, regardless if they have applied animal waste, who have received a bona fide offer of cost share funding for nutrient management planning consistent with ATCP 50.08.

f) Compliance with Permit Requirements. A person is in compliance with this ordinance if he or she follows the procedures and requirements of this ordinance, receives a permit from the Director or their designee prior to beginning activities requiring a permit and they comply with the requirements of the permit.

Where issuance of an after-the-fact permit or approval would have the effect of correcting a violation it may be granted if all conditions required for issuance can be complied with.

g) Requirements of cost sharing.

Cost sharing for cropland and livestock facilities or operations will be consistent with ATCP 50.08.

Note: For determination of cost share eligibility, cropland (NR151.09 (4)(b) and livestock facilities (NR 151.095(5)(b) will be used to determine “new” or “existing” status.

(4) STANDARDS.

The Wisconsin Field Office Technical Guide of the United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service (NRCS) has been adopted by the Committee and the Department. These Technical Guides shall apply until amended or renumbered and then shall apply as amended or renumbered. The following components of the Technical Guide will be used when a waste storage facility is to be constructed, installed, abandoned, moved, reconstructed, extended, enlarged, converted, substantially altered, closed or emptied for nutrient application: 313- Waste Storage Facility; 520-Pond Sealing or Lining, Compacted Soil Treatment; 522-Pond Sealing or Lining, Concrete; 521-Pond Sealing or Lining, Geomembrane or Geosynthetic Clay Liner; 634-Waste Transfer System; 360-Waste Facility Closure; and 590-Nutrient Management.

(5) APPLICATION FOR AND ISSUANCE OF PERMITS

- a) Permit Required. No person may undertake an activity subject to this ordinance without obtaining a permit from the Department prior to beginning the proposed activity.
- b) Exception to Permit Requirement. All emergency repairs on any component of the waste storage facility or waste transfer system which cause any disruption of the original construction of the waste storage facility shall be done so as to restore the waste storage facility to the original state, as determined by the technical standards set forth in Section (4) above; and such repairs shall further be reported to the Department within two (2) calendar days. Nutrient management planning and implementation are also exempt from obtaining a permit.
- c) Fees. A non-refundable application fee and Waste Storage Construction Permit fee under this ordinance shall be calculated utilizing the fee schedule adopted by the ERC. The fee schedule may be amended as the ERC deems necessary. A double fee may be charged for all after-the-fact applications and/or permits.
- d) Waste Storage Facility and Waste Transfer System Plans and Specifications. Each application for a permit under this ordinance shall include plans and specifications prepared and approved by an agricultural or civil engineer registered with the State of Wisconsin or a DATCP or NRCS engineering practitioner, in accordance with the criteria of the appropriate standard. The plans, specifications, and documentation for construction shall include:
 - 1. Management assessment.
 - 2. Site assessment.
 - 3. Safety design.
 - 4. Operation and maintenance plan.
 - 5. Nutrient management plan.
 - 6. Construction plan, schedules, and staging.
 - 7. Construction inspection plan.
 - 8. Final construction plan (as-built) showing any plan changes and certifying that the facility meets all applicable NRCS Standards
- e) Review of Application. The Director or their designee shall receive and review all permit applications and shall:
 - 1. Determine if the proposed waste storage facility and its waste transfer system meets required standards set forth in sub. (4) of this ordinance. Within twenty (20) business days after receiving the completed application and fee, the department shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the department shall so notify the permit applicant in writing. The department has twenty (20) business days from the receipt of the additional information in which to approve or disapprove the application. If the department fails to approve or disapprove the permit application in writing within twenty (20) business days of the receipt of the permit application or if no written request for additional information is made by the department within twenty (20) business days, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.
 - 2. CAFO plans, specifications, and documentation for construction will not be reviewed and/or approved by the Department until they are reviewed and/or approved by the Wisconsin Department of Natural Resources.
- f) Permit Conditions. All permits issued under this ordinance shall be issued subject to the following conditions and requirements. Activities authorized by permit shall be completed within 2 years from the date of issuance after which time such permit shall be void.
 - 1) Waste storage facility and its waste transfer system design, construction, alteration or closure shall be according to Department approved standards and plans.
 - 2) Permittees must obtain all required permits and authorizations before commencing construction activities.

Note: DNR and other permits may be required for construction site erosion control, storm water management, floodplain, shore land construction, and livestock facilities with 500 or more animal units.

- 3) The permittee shall give five (5) business days' notice to the Department before starting any construction activity authorized by the permit.
- 4) Approval in writing shall be obtained from the Department prior to any modifications to the approved waste storage facility plan.
- 5) The agricultural or civil engineer registered with the State of Wisconsin or a DATCP or NRCS engineering practitioner shall certify in writing to the department that any activities permitted under this ordinance were installed as planned, meet the guidelines of the appropriate NRCS Standards, and provide an "as-built" set of plans to the Department. As-built documentation will be submitted to the department within 3 months of project completion.

Note: To be considered completed, a waste storage facility must be fully constructed as designed including a permanent mark/location for the maximum operating level and implementation/installation of all safety devices.

- g) Permit Revocation. The Director or designee may revoke any permit issued under this ordinance if the holder of the permit has misrepresented any material fact in the permit application or waste storage facility plan, or if the holder of the permit violates any of the conditions of the permit. The decision of the Director or designee may be appealed pursuant to section 8 below.

(6) ADMINISTRATION

- a) Delegation of Authority. The County hereby designates the Director, or designee for the administration and enforcement of this ordinance.
- b) Powers and Administrative Duties. In the administration and enforcement of this ordinance, the Director or designee shall have the following powers and duties:
 - 1) Advise applicants regarding the provisions of this ordinance and assist them in preparing permit applications.
 - 2) Receive, review, and investigate permit applications and fees, and make inspections to determine compliance with provisions of this ordinance.
 - 3) Issue permits in accordance with the terms and conditions of this ordinance.
 - 4) Inspect the site of any permitted activity to ensure those activities are being conducted according to plan specifications.
 - 5) Investigate complaints relating to compliance with this ordinance.
 - 6) Take actions as necessary to enforce the terms and conditions of this ordinance
 - 7) Perform other duties as specified in this ordinance.
- c) Inspection and monitoring authority. Inspection and monitoring authority is set forth in Wis. Stats., Section 92.07(14). The Director, or designee is 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. Application and/or permit issuance shall constitute permission to enter upon all land that is or will be subject to permit requirements.
- d) Maintenance of Records. The Director or designee shall maintain in the county records:
 - 1) Keep an accurate record of all permit applications, waste storage facility plans, closures, permits issued, inspections made, enforcement actions taken, and all other official actions.
 - 2) Track landowner compliance with state agricultural performance standards and prohibitions as specified by this ordinance.
- e) Recording on the Deed. In the case of idle waste storage facilities, if a landowner would like to do the minimum required to close the facility to a safe and sanitary condition, a landowner can sign an Affidavit of Closure that would be recorded on the deed to that parcel. The affidavit will identify that this was a waste storage facility at one time, that it has been returned to a safe and sanitary condition pursuant to NRCS 360, and if it is to be utilized as a waste storage facility in the future, it is the responsibility of the landowner to obtain a permit and provide documentation that it meets current NRCS Standards prior to utilization.

(7) ENFORCEMENT AND PENALTIES

- a) Enforcement and Penalties.
 - 1) Construction, alteration, or closure. With respect to waste storage facilities that are currently under construction, undergoing alteration, or actively decommissioning: which are determined to be in violation of this ordinance:
 - a) The Director and or designee shall cause a stop work order to be posted as follows:
 - 1) Posting, upon the land where the violation occurs.
 - 2) By mailing a copy of the order to the address of all parties identified in the permit.
 - 3) By mailing a copy of the order to the address of other persons whose activity is in violation of the ordinance
 - b) The order shall specify the activity which constitutes a violation and shall set forth a reasonable time frame for the property to be brought into compliance. Continued work which does not bring the property into compliance shall constitute a violation of this ordinance.

- 2) Operation and management. With respect to waste storage facilities which are under active use or idle.
 - a) Order for Abatement: The Director and or designee may issue an order to abate any violation of this ordinance.
 - b) Permit Suspension or Revocation: The Director or designee may determine that the severity of a violation or repeated violations warrant suspension or revocation of the permit. Continued operation after the permit is suspended or revoked shall constitute a violation of this ordinance.
- 3) Citation of not less than \$5 nor more than \$500 for each offense, plus the applicable surcharges, assessments and costs for each violation.
- 4) Pursue a long form summons and complaint through a court of law:
 - a) Each day a violation exists or continues shall be considered a separate offense under this ordinance.
 - b) Upon conviction by a court of law, pay a forfeiture of not less than \$500 nor more than \$5,000, plus the applicable surcharges, assessments and costs for each violation.
- 5) In addition, the Director may seek injunctive relief from a court of record to enjoin further violations.
- 6) Nothing in this ordinance shall prevent the Director or designee from pursuing any other remedies available at law for conduct that is violation of this ordinance including, but not limited to public nuisance procedures under Wis. Stats., Chapter 823 which provides among other things that the costs of abatement of a public nuisance by the County may be collected against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Wis. Stats., 66.027 unless paid earlier.

(8) APPEALS AND VARIANCES

a) Appeals.

1. Under authority of Wis. Stats., Chapter 68, the Marathon County Board of Adjustment, created under, Wis. Stats., 59.69 and under Marathon County Code of Ordinances, and acting as an appeal authority under Wis. Stats., Section 59.694(7)(a), is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by the Director or their designee in administering this ordinance.
2. Any person having a substantial interest, which is adversely affected by the order, requirement, decision, or determination made under this ordinance may file an appeal.
3. All appeals shall specify written evidence and the reason for the request, including which requirements from this ordinance are involved, and shall be filed via certified mail.
4. The Board of Adjustment shall set a meeting to hear the appeal within ten (10) calendar days of receipt of the appeal.
5. A written decision shall be mailed to the appellant within thirty (30) calendar days of the appeal. The decision will affirm, deny, or modify the initial determination.
6. The rules, procedures, duties, and powers of the Board of Adjustment and Wis. Stats., Chapter 68, shall apply to appeals filed under this section.

- b) Variances. The Board of Adjustment may upon appeal authorize a variance from the requirements of this ordinance when, upon showing by the applicant, unnecessary hardship would result from literal enforcement of this ordinance.

A variance shall:

1. Be consistent with the spirit and purpose of this ordinance.
2. Be based on unique circumstances and not to the general conditions of the area.
3. Not be granted for a self-created hardship.
4. Not permit an activity or practice that may fail structurally or otherwise and cause significant water pollution or other off-site impacts.

5. Not be granted if the variance will result in an outcome that is contrary to the public interest and 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
- a) No variance from the standards in Technical Guide may be approved unless the county receives a variance or waiver from the technical standards through the NRCS or other qualified engineering authority. If public funds are involved, this may be a program requirement.
 - b) No variance from the performance standards and prohibitions in 11.02 (3)(a) above may be granted unless the county complies with the variance requirements specified in NR 151.097, and receives approval from the Department of Natural Resources. Requests for a variance shall be made in writing and shall provide information documenting the following:
 1. Compliance with the performance standard or technical standard is not feasible due to site conditions.
 2. 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 NR 151.
 3. The landowner or operator or their agents or assigns did not create the conditions for which the variance is requested.