

Section 11

Agricultural Shoreland Management Ordinance

AGRICULTURAL SHORELAND MANAGEMENT ORDINANCE.

A. INTRODUCTION

1. Authority. This Ordinance is adopted under the authority granted by Section 92.17, Wisconsin Statutes.
2. Findings and Declaration of Policy. The Humboldt Town Board finds that agricultural activities conducted in close proximity to surface water can pollute the Town of Humboldt's water resources, and may result in actual or potential harm to the health of residents and transients; to livestock, aquatic life and other animals and plants; and to the property tax base of the Town of Humboldt.
3. Purpose. The purpose of the Ordinance is to complement the Town of Humboldt's Building and Construction Codes and Zoning Code in Chapter 8 and Chapter 11 of the Humboldt Municipal Code to regulate landowner activities within the approximately 63 miles of agricultural shoreland management area within the Town to prevent surface water pollution and thereby protect the health of Town of Humboldt residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of the Town of Humboldt.
4. Applicability. This Ordinance applies to all lands and surface water in the Town of Humboldt that are in the agricultural shoreland management area, as defined in this Ordinance. The Town of Humboldt shall use United States Geological Survey quadrangle maps, with a scale of 1:24,000, to identify rivers, perennial streams, intermittent streams, lakes and ponds included under the jurisdiction of this Ordinance.

Activities within a drainage district that serve to establish or maintain a district corridor are regulated by Chapter ATCP 48, Wis. Adm. Code, and are not eligible for cost-sharing under the Town of Humboldt's ordinance. Practices in a district corridor that either control livestock access to surface water or barnyard runoff are eligible for cost-sharing under the Town of Humboldt's ordinance.

5. Interpretation. In their interpretation and application, the provisions of the Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town of Humboldt and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

6. Conflicts with Brown County's Shoreland Zoning Ordinance. Any conflict or inconsistency between this Ordinance and Brown County's Shoreland Zoning Ordinance will be governed by the more restrictive provision.
7. Severability. 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.
8. Effective Date. This Ordinance shall become effective upon adoption and publication by the Town of Humboldt and upon approval by the Department of Agriculture, Trade and Consumer Protection.

11.002 - DEFINITIONS

A. GENERAL

1. Agricultural Lands. Lands in agricultural use. Agricultural use has the meaning provided under Section 91.01(1), Wisconsin Statutes. Uses under this definition include beekeeping; commercial feedlots; dairying; egg and or poultry production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; greenhouses and nurseries; grain, grass, mint and seed crops; raising fruits, nuts and berries; sod farming; land idled under federal payment-in-kind programs or the Conservation Reserve Program; participation in the dairy-herd buyout program; and vegetable raising.
2. Agricultural Shoreland Corridor. Land extending 20 feet from the top of the bank on each side of a perennial stream or river, the centerline of an intermittent stream, or the ordinary high-water mark of any lake or pond shown on a United States Geological Survey quadrangle map with a scale of 1:24,000.
3. Agricultural Shoreland Management Area. All land that is within 300 feet of the following features as designated on United States Geological Survey quadrangle maps with a 1:24,000 scale:
 - a) The top of the bank of perennial streams or rivers.
 - b) The ordinary high-water mark for ponds and lakes that are designated by name.
 - c) The centerline of an intermittent stream.
4. Barnyard. A feedlot, dry lot or any area, other than a pasture, where animals have been or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12 month period.

5. Best Management Practice. A practice included in the Technical Guide or an alternative best management practice that the Department of Agriculture, Trade and Consumer Protection determines to be the most effective, practicable means of preventing or reducing soil erosion or pollution from agricultural nonpoint sources to a level compatible with soil and water resource objectives.
6. District Corridor. The access corridor and buffer strip established and maintained around a district ditch under s. ATCP 48.24, Wis. Adm. Code.
7. District Ditch. A drainage ditch, located within a drainage district, that is constructed or operated by a county drainage board under Chapter 88, Stats. "District ditch" includes a main or lateral ditch.
8. Drainage District. A drainage district that is subject to Chapter 88, Stats., regardless of whether the drainage district was formed under Chapter 88, Stats., former Chapter 89, Stats., or any other law.
9. Intermittent Streams. A channel in which water does not flow continuously and that is identified as an intermittent stream on the United States Geological Survey quadrangle map with a scale of 1:24,000.
10. Notice of availability of funds. A first class letter, return receipt requested, mailed by the Town of Humboldt to the owner of the lands not meeting Ordinance standards, informing them of the availability of cost-share funds under Section 92.14, Wisconsin Statutes.
11. Notice of problem. A first class letter, return receipt requested, mailed by the Town of Humboldt to the owner of the lands not meeting the Ordinance standards, informing the owner of the nature of the problem and the necessary process to correct it.
12. Ordinary high-water mark. The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark. This may be erosion, absence of land plants, predominance of aquatic plants, or other easily recognized characteristics.
13. 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.
14. Perennial Stream. A channel where water flows continuously and that is identified as a perennial or permanent stream on the United States Geological Survey quadrangle map with a scale of 1:24,000.

15. Technical Guide. The United States Department of Agriculture Natural Resources Conservation Service Field Office Technical Guide that is currently in effect.

16. Vegetative Buffer. An area within the agricultural shoreland corridor that is maintained at a minimum level of 70 percent ground cover.

11.003 - ACTIVITIES SUBJECT TO REGULATION

A. GENERAL REQUIREMENT

1. Any person who conducts agricultural activities within the agricultural shoreland management area or who employs another person to do the same, on land subject to this Ordinance, shall be subject to the provisions of this Ordinance. All activities on land within agricultural shoreland management areas must be conducted in ways that prevent soil erosion and minimize the movement of suspended solids into surface water.

B. COMPLIANCE WITH ORDINANCE REQUIREMENTS

1. Persons are in compliance with this Ordinance if they install or follow best management practices on their land affected by the Ordinance and meet the intent of the standards in this Ordinance.

11.004 - STANDARDS

A. AGRICULTURAL ACTIVITIES IN THE AGRICULTURAL SHORELAND CORRIDOR

1. Vegetative Buffer. Landowners or operators shall establish and maintain an adequate vegetative buffer or equally effective erosion control practice, in the agricultural shoreland corridor. When a vegetative buffer is established, the plant variety or seed mixture shall be one of those listed in Technical Guide Standard 342, Critical Area Planting. If any activity disturbs a vegetative buffer in the agricultural shoreland corridor, the landowner must replant or restore the disturbed area to an effective vegetative buffer as soon as practicable. Row cropping and tillage practices are prohibited in the agricultural shoreland corridor, except that tillage practices are allowed to establish or re-establish a seed bed.
2. Barnyards. Livestock holding areas, other than pastures as defined in this Ordinance, are prohibited within the agricultural shoreland corridor unless a barnyard runoff control system is installed that meets Technical Guide Standard 312.

B. AGRICULTURAL ACTIVITIES IN THE AGRICULTURAL SHORELAND MANAGEMENT AREA

1. Cropland area with annually tilled crops. Erosion on cropland within the agricultural shoreland management area must not exceed the tolerable rate (T) for the predominant soil in the field.
2. Pastures. Pastures within the agricultural shoreland management area must comply with Technical Guide Standard 510 for pasture and hayland management. Rotation grazing must comply with the UW-Extension publication "Pastures for Profit" (February 1993 edition).
3. Agricultural lands receiving manure and other nutrients. Agricultural lands within the agricultural shoreland management area must meet Technical Guide Standard 590 if they receive manure and other nutrients through the application of sludge, commercial fertilizer, and other added nutrients.

11.005 - ADMINISTRATION

A. DELEGATION OF AUTHORITY

1. The Town of Humboldt hereby designates the Town Planning Commission or its designee, to administer and enforce the provisions of this Ordinance.

B. ADMINISTRATIVE DUTIES

1. In the administration and enforcement of the Ordinance, the Town Planning Commission shall:
 - a) Inform all landowners or operators subject to this Ordinance of the potential agencies which may be available to provide technical or financial assistance.
 - b) Establish a procedure for landowners or operators to contact the Town of Humboldt Planning Commission about conditions on their land that are not in compliance with the Ordinance and establish a procedure for landowners or operators to apply for funding.
 - c) Send notices of problem to landowners or operators that are not in compliance with the Ordinance.
 - d) Send notices of availability of funds to landowners or operators that are not in compliance with the Ordinance.

- e) Provide accomplishment reports to the Department of Agriculture, Trade and Consumer Protection on the activities related to the Ordinance and its effectiveness.
- f) Investigate complaints relating to compliance with the Ordinance.
- g) Perform other duties as specified in the Ordinance.

C. INSPECTION AUTHORITY

1. The Town of Humboldt Planning Commission, or its designee, is authorized to enter upon any lands affected by this Ordinance to inspect the land to determine compliance with this Ordinance. If permission cannot be received from the landowner or operator, entry by the Town of Humboldt Planning Commission or its designee, shall be according to Sections 66.122 and 66.123, Wisconsin Statutes.

D. ENFORCEMENT PROCEDURE

1. A notice of problem must be mailed to the landowner or operator stating that the standards of this Ordinance have not been met. The Town of Humboldt Planning Commission, or its designee, shall prepare a conservation plan with the landowner or operator including a schedule of implementation. The Town Planning Commission, or its designee, must provide a notice of availability of funds to the landowner or operator when funds are available to implement or install the necessary practices. A minimum of one year must elapse after the landowners plan and schedule have been developed before beginning any enforcement action. The one-year deadline for enforcement action may be extended upon agreement between the landowner or operator and the Town of Humboldt Planning Commission.
2. The Town Planning Commission, or its designee, must provide along with the notice of problem: a list of pertinent best management practices and associated average costs per unit as provided by the Town Planning Commission, or its designee; a written statement informing the landowner of the right to appeal the decision, and the appeals procedure.

11.006 - VIOLATIONS

A. PENALTIES

1. Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Ordinance shall be subject to a forfeiture of not less than \$100.00 nor more than \$200.00. Each day of violation shall constitute a separate offense. A violation includes failure to

comply with any standard of this Ordinance or with any condition or qualification attached to the conservation plan.

B. ENFORCEMENT BY INJUNCTION

1. As a substitute for or in addition to forfeiture actions, the Town of Humboldt Planning Commission may seek to enforce any part of this Ordinance by seeking injunctions or restraining orders.

11.007 - VARIANCES

A. PROCEDURE

1. Variances from the requirements of this Ordinance may be granted by the Town of Humboldt Planning Commission based on any of the following findings:
 - a) Staff are not available due to excessive workload to develop conservation plans or schedules of implementation.
 - b) Cost-share funds have not been made available to the landowner or operator as required under Section 92.17(2m), Wisconsin Statutes.
 - c) Severe weather or other catastrophic events beyond the control of the landowner or operator make implementation impractical.
 - d) The installation or implementation of all component of the conservation plan will not or does not result in complete compliance with the Ordinance. A variance under this provision can only be granted if all the components of the plan are installed or implemented.

11.008 - APPEALS

A. AUTHORITY

1. Pursuant to Wisconsin Statutes Chapter 68, the Town Board is hereby authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination that had been made by the Town Planning Commission in administering the Ordinance.

B. WHO MAY APPEAL

1. Appeals may be made by any person having a substantial interest which is adversely affected by the order, decision, or determination made by the Town Planning Commission.

This Agricultural Shoreland Management Ordinance shall become effective upon adoption and publication by the Town of Humboldt and upon approval by the Department of Agriculture, Trade and Consumer Protection.

Adopted ~~XXXXXXXXXX~~ Nov. 3, 1997

/s/

Norbert Dantinne, Chairperson

/s/

Merlin Vanden Plas, Supervisor

/s/

Stuart Allen, Supervisor

/s/

Attested by: Emerence Jadin, Clerk