

TOWN OF BAILEYS HARBOR
Door County, Wisconsin

ORDINANCE No. 03-2015
ORDINANCE REGULATING APPLICATION OF
LIQUID ANIMAL MANURE

The Town Board of Supervisors of the Town of Baileys Harbor ("Town Board"), Door County, Wisconsin, does ordain as follows:

1. AUTHORITY.

This ordinance is adopted pursuant to the authority granted under Wis. Stats. §60.22 (3) and 61.34 to enact ordinances and regulations promoting and protecting the health, safety, welfare, and convenience of the public, and defining and prohibiting public nuisances.

2. PURPOSE.

The Town Board has researched the subject of spray irrigation of manure and, in doing so, has reviewed the following materials which raise concerns over the use of spray irrigation of manure through center pivot irrigation systems:

- A. University of Nebraska – Lincoln Extension publication entitled "Application of Liquid Animal Manures Using Center Pivot Irrigation System", which suggests that the application of manure by center pivot manure distribution systems offers a large potential for significant odor release.
- B. Report of Ben Brancel, Secretary of Wisconsin Department of Agriculture, Trade and Consumer Protection to members of the Department of Agriculture, Trade and Consumer Protection Board dated August 17, 2011 relating to use of center pivots for spreading manure on farm fields. In such report, Mr. Brancel related that "spray irrigation systems and surface applied liquid manure have high odors and emissions compared to applications that inject or incorporate liquid manure."
- C. Report of Robert Thiboldeaux, Wisconsin Division of Public Health, to Ken Johnson, Regional Water Leader, Wisconsin Department of Natural Resources, dated February 17, 2011, regarding public health setbacks for manure spray irrigation, which recognized that the Division of Health Services recommends that land application of manure liquids be managed to minimize impacts, particularly nuisance odor, that might inhibit the full use and enjoyment of neighboring private residences.

The Town Board of the Town of Baileys Harbor has determined, based upon its review and research of materials as described above, that spray irrigation systems for irrigating liquid through center pivot or traveling gun or pressured spray manure irrigation systems are a detriment to the health, safety, welfare, and convenience of the public, as they distribute manure odors recognized as a contributing factor to reduced quality of life, and that prohibition of spray irrigation systems for liquid manure is in the best interests of the Town of Baileys Harbor residents' public health, safety, general welfare and convenience.

3. DEFINITION.

"Center pivot manure irrigation system," as used in this chapter, means a system for spreading manure or manure by-products which involves spraying or otherwise distributing the manure or by-product in liquid form through spray or drop nozzles attached to a pivoting arm located in a farm field.

4. LIQUID MANURE SPRAYING PROHIBITED.

No person shall spray liquid manure by use of a center pivot or traveling gun manure irrigation system in the Town of Baileys Harbor.

5. CREATION OF PUBLIC NUISANCE PROHIBITED.

No person shall create a substantial threat to public health or safety by the spraying of liquid manure by use of a center pivot or traveling gun manure irrigation system in the Town of Baileys Harbor.

6. LAND APPLICATION REQUIREMENTS.

No person shall apply liquid manure by any application method which is not worked into the land within 72 hours.

7. PENALTIES.

Any person violating section 4 or 6 of this ordinance shall be subject to a forfeiture of not less than \$500 nor more than \$5,000 for each violation. Any person violating section 5 of this ordinance shall be subject to a forfeiture of not less than \$2,000 nor more than \$10,000 for each violation. Each day that a violation exists shall be considered a separate violation. In addition, upon conviction, the person in violation shall be subject to the imposition of court costs, actual expenses incurred by the Town, engineering expenses if incurred, and actual and reasonable attorney fees incurred.

8. ABATEMENT OF VIOLATION.

The Town Board may, in its discretion, require that a person in violation of this ordinance be enjoined from and prohibited from further violation of this ordinance upon order of a court of competent jurisdiction. In such event, the Town shall be entitled to recovery of all costs and expenses incurred in such action, including engineering fees and actual and reasonable attorney fees.

9. PRIVATE ACTION.

Any person damaged or inconvenienced by a violation of this ordinance may commence an action in his/her/its own name seeking to enjoin or abate violations of this ordinance, without acquiring authority or permission of the Town Board to do so.

10. EFFECTIVE DATE.

This ordinance shall be effective on the day following its passage and publication.

Submitted by:

Board Members	Aye	Nay	Exc.
Donald Sitte	x		
Peter Jacobs	x		
Roberta Thelen	x		
Robert L. Schultz	x		
Barbara Anschutz	x		

Certification

I, Doug Smith, Clerk of Town of Baileys Harbor, hereby certify that the above is a true and correct copy of an ordinance that was adopted on the 13th day of April 2015 by the Town Board of Supervisors.

Doug Smith, Town Clerk
Town of Baileys Harbor

