

TOWN OF NEW HOLSTEIN
Calumet County, Wisconsin
Ordinance No. 2021-2

MANURE DISTRIBUTION EQUIPMENT PERMIT

The Town Board of the Town of New Holstein do ordain as follows:

Section 1: MANURE DISTRIBUTION EQUIPMENT PERMIT

- A. This Ordinance is adopted pursuant to the authority of Wis. Stat. §§ 60.22, 66.0425, 86.07, 86.16, 86.021, & 349.13.
- B. Definitions. The following definitions are applicable to this Ordinance:
1. LOCATE means to park or stop the Manure Distribution Equipment in any portion of the right-of-way, except for emergency purposes.
 2. MANURE DISTRIBUTION EQUIPMENT includes a FRAC tank, drag lines, dump stations and equipment used for the application of manure on fields. A FRAC tank is a large heavy gauge steel tank pulled by a tractor to a site used for the temporary storage of manure.
 3. MANURE SOURCE is the farm that produces the manure subject to distribution.
 4. MUTCD means the most current edition of the Manual on Uniform Traffic Control Devices published by the U.S. Department of Transportation, Federal Highway Administration, as well as the most current Wisconsin Supplement to the MUTCD. __
 5. OPERATOR means the person in charge of operation of the Manure Distribution Equipment.
 6. OWNER means the legal owner of the Manure Distribution Equipment.
 7. RIGHT-OF-WAY means the right-of-way of all public highways under the jurisdiction of the Town of New Holstein.
 8. TOWN means the Town of New Holstein, Calumet County, Wisconsin.
- C. Permit.

1. No person shall locate or operate Manure Distribution Equipment within the right-of-way without first obtaining a Permit from the Town Board or its designee according to the terms of this Ordinance. The Town Board shall approve of an appropriate Permit form.
2. A separate Permit is required for each application of manure on fields. Following manure application pursuant to a Permit, provided there was no violation of this Ordinance, the permit holder may apply for a second or subsequent Permit for a second or subsequent manure application on fields.
3. The Town Board shall set the applicable fee for permits under this Ordinance.
4. A separate application shall be completed by the owner or operator of the manure source for each permit. The permit application shall be completed on forms provided by the Town Clerk or available on the Town of New Holstein Internet site and shall be filed with the Town Clerk together with: (1) the application fee; (2) an endorsement of the insurance carrier acceptable to the Town as required in Section C.5.; and (3) such additional information as the Town may require.
5. The minimum insurance requirements for obtaining a permit are:
 - a. Farm or general liability: \$1,000,000 aggregate and \$500,000 per occurrence.
 - b. *MOTOR VEHICLE* Farm and/or business automobile coverage: \$500,000 each person/\$500,000 each accident for bodily injury and \$100,000 for property damage, or \$1,000,000 combined single limit for bodily injury and property damage for each accident.
 - c. Pollution liability coverage: \$2,000,000 general aggregate and/or \$2,000,000 per occurrence.
 - d. All insurance policies shall contain an endorsement from the carrier that name the Town of New Holstein as an additional insured. All insurance policies shall be issued by companies licensed to sell insurance in the State of Wisconsin. All insurance policies shall contain the provision requiring 30 days' advanced notice of cancellation.
6. Each permit shall contain a start date and an expiration date and is limited to one application of manure on fields.

7. The issuance of a permit does not create any right to subsequent permits for the Permit Holder.
 8. Any person who previously held a permit and who was found to be in violation of the permit shall not be eligible for issuance of a subsequent permit except as determined by the Town Board with such requirements and conditions imposed to be in the best interest of the Town.
- D. Rules of Operation. The Owner and Operator of the Manure Distribution Equipment subject to a permit issued under this Ordinance shall comply with the following rules:
1. Follow the MUTCD standards for marking work zones, such as sign and/or flashing light dimensions and placement within the work zone.
 2. Follow the MUTCD standards for flagging procedures. Flagging personnel shall be properly trained and outfitted with appropriate ANSI STD safety/visibility garments.
 3. Notify the Town by telephone or email at least twenty-four (24) hours before set up of the equipment and prior to removal from the site. The Owner/Operator shall notify the Town if drag lines are located in the right-of-way.
 4. Day and Night Location operations will be permitted as long as all requirements of the MUTCD are met. However, night, i.e., one-half (1/2) hour before sunset until one-half (1/2) hour after sunrise, location operation privileges may be restricted, suspended, or revoked in the sole discretion of the Town Board.
 5. Manure Transfer Equipment may be located on the right-of-way when not in operation as long as it is properly marked and such equipment does not extend into the roadway. However, no Manure Transport Equipment may be placed closer than 250 feet from an intersection unless proper MUTCD procedures for flagging are followed.
 6. No more than three (3) manure transfer trucks shall be waiting to access the transfer site at any given time. All such waiting trucks shall be parked on the same side of the road at minimum intervals of one-quarter mile, and parked to avoid interference with intersections and driveways.
- E. Damages. The Owner, Operator, and Owner of the Manure Source shall be jointly and severally liable to the Town for all damages to the right-of-way, including the travelled surface, edge of roadway, shoulder, and ditch fore slope and back slope. Prior to utilizing the right-of-way under the Permit, the Owner

and/or Operator shall notify the Town Board with photographic evidence of any existing right-of-way damage. Failing such notice, or satisfactory evidence of existing right-of-way damage, all damages are presumed to be caused by the operation of the Manure Distribution Equipment pursuant to the Permit.

F. Enforcement. This Ordinance shall be enforced by the Town by persons designated by the Town Board. Failure to obtain a Permit or failure to comply with the terms of the Permit issued hereunder is a violation of this Ordinance. Each day of violation is a separate offense. Any violator of this Ordinance is subject to any one or any combination of the following penalties:

1. A forfeiture in the amount of not less than \$50 and not more than \$500;
2. If a vehicle is removed, then the reasonable charges for moving or towing or any storage involved, as determined by being the reasonable direct costs;
3. The withholding of future permits;
4. The revocation of existing permits; and
5. Court-imposed injunctive relief to enjoin further violations.

Section 2: If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is found invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provision or application of this Ordinance that can be given effect without the invalid or unconstitutional provision or application.

Section 3: All ordinances and parts of ordinances in conflict herewith are hereby repealed insofar as they would prevent or hinder any operation of this Ordinance as written.

Section 4: This Ordinance shall be in full force and effect from and after its date of adoption and notice to the public as required by law.

Section 5: Town officers and personnel are hereby authorized and directed to take all further actions necessary in order to enact this Ordinance.

Adopted this 14th day of July, 2021.

TOWN OF NEW HOLSTEIN

By: Ben Henke
Ben Henke, Chairperson

ATTEST:

By: Cheryl Heller
Cheryl Heller, Clerk

Noticed to the public on: July 14 2021.

