

TOWN OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN

ORDINANCE NO 2-18

MANURE EQUIPMENT TRANSFER PERMIT ORDINANCE

WHEREAS, the Town of Kaukauna is in charge of public highways within its jurisdiction; and

WHEREAS, the town Board is aware if the agriculture practices related to land application of manure involving the use of frac tanks and dump stations and the need for their temporary location on public highways near the receiving fields; and

WHEREAS, the Town deems it in the public interest to allow the temporary location of such manure transfer equipment in the right-of-way of public highways under limited conditions and subject to specific requirements as a cost effective method of manure removal and application; and

WHEREAS it is necessary and in the public interest to regulate this procedure for purposes of public health and safety;

NOW THEREFORE, the Town Board of the Town of Kaukauna, Outagamie County, Wisconsin, pursuant to Section 60.22, Wis. Stat. and its village powers and its statutory authority over the regulation of public highways, DO ORDAIN AS FOLLOWS:

1. PERMIT REQUIRED.

- (A) No person shall Locate Manure Transfer Equipment within the right-of-way without first obtaining a permit from the Town Chairman.
- (B) An annual permit application shall be completed by the owner or operator of the Manure Source. The permit application can be found on the Town of Kaukauna website at: www.townofkaukauna.com, by email: townofkaukaunaclerk@gmail.com, or by calling: 920-759-1677 to request a permit. You must submit current proof of insurance(s) to the Town Chairman. The Chairman may also require additional information including, but not limited to, Certificates of Insurance from one or more of the parties involved in the Manure Transfer meeting insurance requirements as stated below.
- (C) The minimum insurance requirements to obtain a permit are:
 - (1) Farm or general liability – \$1,000,000 aggregate, \$500,000 per occurrence.
 - (2) Farm and/or business automobile coverage - \$500,000 each person/ \$500,000 each accident for bodily injury and \$1,000,000 for property damage, or \$1,000,000 combined single limit for bodily injury and property damage for each accident.
 - (3) Pollution liability coverage - \$1,000,000 general aggregate/ \$1,000,000 each occurrence limit.
 - (4) All insurance policies shall name the Town of Kaukauna as an additional insured. All insurance policies shall be issued by companies licensed to sell insurance in the State of Wisconsin. All insurances polices shall contain the provisions requiring 30 days advanced notice cancellation.
- (D) Each Permit shall expire on December 31st of the year of issuance.

2. **RULES OF OPERATION.** The Owner and Operator of the Manure Transfer Equipment for a Manure Source subject to a permit issued under this Ordinance shall comply with the following rules:
- (A) Notify the Town Chairman by phone at least 24 hours before each hauling event or within 3 days after a hauling event.
 - (B) At the Chairman's request, the Operator shall have a listing and a road map of the locations of all possible manure transfer sites (i.e. where Manure Transfer Equipment may be placed before, during, and after transport) for review by the Town Chairman to determine if any changes or restrictions are necessary. Such required changes may include, but are not limited to establishing and approving a transport route for loaded and empty trucks and combining as many fields to one transfer site to keep repairs and inconvenience to a minimum. Such restrictions required by the Town Chairman shall focus on improving traffic safety or road conditions. Such restrictions will be determined on a site by site basis.
 - (C) Follow the Manual of Uniform Traffic Control Devices (MUTCD) for work zone signage and installation within the work zone. All signs shall be at least 48 inches X 48 inches with prismatic sheeting or higher grade intensity or such alternative signage approved by the Town Chairman.
 - (D) Day and night Location operations will be permitted as long as all requirements of the MUTCD are met, as well as the proper usage of signage and flashing lights. 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 by the Town Board, at its sole discretion.
 - (E) 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 Transfer Equipment may be placed closer than 250 feet from an intersection unless proper MUTCD procedures for flagging are followed.
 - (F) No more than 4 Manure Transfer trucks, including the unloaded truck, shall be located at a transfer site at any given time.
 - (G) No Manure Transfer site shall have any more than two trucks waiting in route (i.e. parked in right-of-way) and each truck shall be parked be a minimum of a half mile from another parked truck.
3. **RESPONSIBILITY FOR DAMAGES.** The Owner, Operator and Owner of the Manure Source shall be jointly and severally liable to the Town for all damages to the highway, right-of-way, including the travelled surface, edge of roadway, shoulder, and ditch for slope and back slope pursuant to s. 86.02 and s. 86.021, Wisconsin Statutes. Prior to utilizing the right-of-way under the permit, the Owner and/or Operator shall notify the Town Board with photographs of any existing highway and/or right-of-way damage. By failing to provide such notice, or satisfactory evidence of existing highway and/or right-of-way damage, all damages shall be presumed to be caused by the operating of the Manure Transfer Equipment pursuant to the permit.

4. **PENALTIES FOR FAILURE TO OBTAIN PERMIT AND/OR FAILURE TO FOLLOW RULES.**
The enforcement of this ordinance and all other laws and ordinances related to Manure Transfer Equipment may by means of one or more of the following: 1) the withholding of permits; 2) imposition of forfeitures; and/or 3) injunctive action. Forfeitures shall be not more than 25.00 nor more than 1,000.00 for each day of noncompliance.

5. **SEVERABILITY.** The provisions of this Ordinance are severable. If any provision if this Ordinance if found to be void or unconstitutional by a court of competent jurisdiction, such finding shall not affect the remaining portions of this Ordinance which will be deemed in full force effect.

6. **EFFECTIVE DATE.** This Ordinance shall be deemed adopted with Town Board approval and effective upon publication according to law.

7. **DEFINITIONS:**
 - (A) LOCATE: To park or stop the Manure Transfer Equipment in any portion of the right-of-way, except for emergency purposes.
 - (B) MANURE TRANSFER EQUIPMENT: includes frac tanks and/or dump stations used for the application of manure on fields, including manure transfer hose.
 - (C) FRAC TANK: a large heavy gage steel tank pulled by a tractor to a site used for the temporary storage of manure.
 - (D) MANURE SOURCE: the farm that produces the manure subject to transfer.
 - (E) MUTCD: the Manual of Uniform Traffic Control Devices available from the DOT or at: <http://muted.fhwa.dot.gov/kon-millennium.htm>
 - (F) OPERATOR: the person in charge of operation of the Manure Transfer Equipment.
 - (G) OWNER: the legal owner of the Manure Transfer Equipment.
 - (H) RIGHT-OF-WAY: the right-of-way of all public highways under the jurisdiction of the Town of Kaukauna.
 - (I) TOWN: the Town of Kaukauna, Outagamie County, Wisconsin.

Adopted ___ May 14 _____, 2018

TOWN OF KAUKAUNA
TOWN BOARD

Chairman

Attest:

Clerk/Treasurer

TOWN OF KAUKAUNA, OUTAGAMIE COUNTY
MANURE TRANSFER EQUIPMENT ORDINANCE
ANNUAL PERMIT APPLICATION

Date _____.

Calendar year _____.

Farm Name: _____.

Address _____.

Contact Name _____.

Phone Number: _____.

Custom Manure Hauler:

Contact Name _____.

Phone Number(s) _____.

Include with permit:

- Proof of Insurance.
- Road map of proposed pumping location.

Submit form to: Town of Kaukauna/Town Chairman

PO Box 644

Kaukauna, WI 54130

Approved by _____

Town Chairman