

**TOWN OF CHARLESTOWN
CALUMET COUNTY, WISCONSIN**

ORDINANCE NO. 201~~7~~ -/

MANURE DISTRIBUTION EQUIPMENT PERMIT

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

WHEREAS, the Town Board is aware of the agricultural practices related to land application of manure involving the use of frac tanks and dump stations and drag lines 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 distribution 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 Charlestown, Calumet 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. DEFINITIONS.

(A) LOCATE means to park or stop the Manure Distribution Equipment in any portion of the right-of-way, except for emergency purposes.

(B) MANURE DISTRIBUTION EQUIPMENT includes a frac tank, drag lines, dump stations and equipment used for the application of manure on fields. Frac tank is a large heavy gauge steel tank pulled by a tractor to a site used for the temporary storage of manure.

(C) MANURE SOURCE is the farm that produces the manure subject to distribution.

(D) MUTCD means the Manual of Uniform Traffic Control Devices located at <http://mutcd.fhwa.dot.gov/kno-millennium.htm>

(E) OPERATOR means the person in charge of operation of the Manure Distribution Equipment.

(F) OWNER means the legal owner of the Manure Distribution Equipment.

(G) RIGHT-OF-WAY means the right-of-way of all public highways under the jurisdiction of the Town of Charlestown.

(H) TOWN means the Town of Charlestown, Calumet County, Wisconsin

2. PERMIT.

(A) 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.

(B) 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.

(C) The fee for the first Permit issued in each calendar year is \$100.00. The fee for the second Permit issued in the same calendar year is \$ 25.⁰⁰. Thereafter the fee for each subsequent Permit issued in the same calendar year is \$ 25.⁰⁰.

(D) 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 Charlestown website at www.townofcharlestown.com, and shall be filed with the Town Clerk together with (1) the required application fee; (2) certificate of insurance acceptable to the Town as required in section 2 (E); and (3) such additional information as the Town may require.

(E) The minimum insurance requirements for obtaining 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 \$100,000 for property damage, or \$1,000,000 combined single limit for bodily injury and property damage for each accident.

(3) Pollution liability coverage - \$2,000,000 general aggregate/\$2,000,000 each occurrence limit.

(4) All insurance policies shall name the Town of Charlestown 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.

(F) Each permit shall contain a start date and an expiration date and is limited to one application of manure on fields.

(G) The issuance of a permit does not create any right to subsequent permits for the Permit Holder.

(H) 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.

3. 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:

(A) Follow the Manual of Uniform Traffic Control Devices (MUTCD) for work zone signage and installation within the work zone. Signs shall be at least 48 inches x 48 inches with prismatic sheeting or higher grade intensity.

(B) Follow all requirements of the MUTCD pertaining to property flagging procedures. Flagging personnel shall be properly trained and outfitted with approved ANSI STD Class III garments.

(C) Notify the Town Road Supervisor 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 Road Supervisor if drag lines are located in the right-of-way.

(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 Transport Equipment may be placed closer than 250 feet from an intersection unless proper MUTCD procedures for flagging are followed.

(F) 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.

4. 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 photographs 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.

5. ENFORCEMENT. This ordinance shall be enforced by the Town Constable, Town Chairman or other 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 violation is punishable by one or more of (a) a forfeiture of between \$25.00 and \$50.00 plus statutory costs and the costs of prosecution; (b) withholding of permits; (c) revocation of permit;

or (d) injunctive relief. Each day of violation is a separate offense.

6. PERMIT FEE AMENDMENT. The amount of the Permit fee may be changed by resolution of the Town Board.

7. SEVERABILITY. The provisions of this Ordinance are severable. If any provision of this Ordinance is 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.

8. EFFECTIVE DATE. This Ordinance is effective upon the later of January 1, 2018, or adoption and publication according to law.

Adopted Dec. 11, 2017

Attest: Sharon Allen, Clerk
Sharon Allen, Clerk

TOWN OF CHARLESTOWN
TOWN BOARD

By: Wilmer Geiser, Chairperson
Wilmer Geiser, Chairperson

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