

Town of Rock Creek
Ordinance Number: 2018-01-01

Section I: Purpose

The purpose of this ordinance is to provide for the safe transport of manure by issuing permits for the use of manure pipelines in the Town right-of-way or across support structures.

Section II: Authority

This ordinance is adopted pursuant to the powers granted under the Wisconsin Statutes including, but not limited to, Sections 86.07 and 86.16 of the Wisconsin Statutes.

Section III: Definitions

Above ground manure line: A temporary manure line that is located on or above the surface of the ground, which includes manure lines running through culverts, tunnels, or similar underground structures originally installed for purposes other than manure transport.

Manure: A material that consists primarily of litter or excreta, treated or untreated, from livestock, poultry or other animals. Manure includes material mixed with runoff, bedding contaminated with litter or excreta, or processed wastewater.

Manure line: Any hose, pipeline, or other conduit, whether temporary or permanent in nature, for the transmission of liquid manure within or across the right-of-way of a highway to a destination for application on a farm field or for storage.

Subterranean manure line: A manure line that exists, occurs, or is located under the earth's surface. Any culvert installed in the ground for the purpose of running through it a manure line is considered a subterranean manure line. Such culverts may require less design than other subterranean manure lines. The Town Board shall have the flexibility to decide the specific design levels.

Section IV: Permitting of Manure Lines

A person or entity shall obtain a permit from the Town before the installation of any manure line(s) in the Town right-of-way is allowed. Issuance of a permit grants the permittee the authority to install manure lines in the right-of-way subject to all applicable permit terms and conditions and any applicable federal, state or local laws.

Section V: Above Ground Manure Lines

(a) Upon receipt of a completed written application and the required fee the Town may issue a permit for above ground manure lines within or across the road right-of-way. All permits will be valid for the time specified in the permit application, not to exceed 30 days, unless a different time period is approved by the Town Board. The Town may attach additional conditions to any permit

prior to issuance, including but not limited to inspection requirements, hours of operation, bond amounts, proof of insurance, or any other condition the Town deems necessary.

(b) Upon receipt of a written application and the required fee the Town may issue a permit to temporarily affix hoses or pipes to support structures across the Town right-of-way. As part of the application, the applicant must submit a plan specifying how the manure hose or pipe would be attached to or supported by the support structure. The Town may attach conditions to any permit prior to issuance, including but not limited to inspection requirements, hours of operation, bond amounts, proof of insurance, or any other condition the Town deems necessary.

Section VI: Subterranean Manure Lines

(a) Upon receipt of a written permit application in the form required by the Town Board and an application fee, the Town Board may issue a permit for the installation of an underground manure line in a Town right-of-way consistent with the following:

1. The design of the pipeline shall be in accordance with sound engineering principles and certified by a qualified professional engineer.
2. Prior to the installation of the manure lines, the applicant shall submit to the Town a map of the proposed installation drawn to a reasonable legible scale, showing the proposed location, size, depth, and kind of installation.
3. Within 90 days of completing the installation of the manure lines, the applicant shall submit to the Town a map of the final installation drawn to a reasonable legible scale, showing the location, size, depth, and kind of installation.
4. The Town may require test wells be drilled along the pipeline and specify periodic groundwater sampling.
5. Subterranean manure lines shall be inspected and pressure tested by qualified testing personnel annually and a report shall be submitted to the Town Board.
6. The person or entity who owns the lines will bear the cost of any relocation should the right-of-way need to be shifted or moved.

(b) The Town Board may attach appropriate conditions to any permit, including, but not limited to, requiring a bond, proof of insurance, installation specifications, groundwater sampling, or any other conditions that the Town Board deems appropriate.

(c) Permits shall be valid for one year. An application for renewal, test reports as described above, and fee must be submitted to the Town Clerk no later than March 1 each year.

1. There shall be a presumption that a permit will be renewed unless the Town Board determines:
 - a. There have been violations of this ordinance or any conditions laid out in the permit;
 - b. There has been a substantial change in circumstances of the Town right-of-way, including, but not limited to, repair or improvement of the road or development along the road; or

- c. That there are additional or more significant health hazards posed by the pipeline than were known or understood by the Town Board before the initial permit was granted.

Section VII: Application Materials

Any request to install manure lines in the right-of-way shall not be considered until all required information is provided. Applicants must use the standard manure line (or utility) application form provided by the Town. All applications shall contain the following:

1. Adequate drawings showing the existing and/or proposed location of all manure lines within the right-of-way with respect to the planned installation. The drawings shall include dimensions from the proposed manure line to the commonly accepted right-of-way line and to the edge of the traveled way.
2. For highway crossings a cross-section detail showing depth of bury is required.
3. The applicant shall include information concerning the installation of the manure lines. The application shall include, but is not limited to:
 - a. A detailed description of the location, size, type, and the extent of manure lines to be installed.
 - b. Proposed construction procedures.
 - c. Special traffic control and protection measures as it relates to the installation of the manure lines.
4. Any other information that the Town Board deems necessary.

Section VIII: Fees

Above-Ground Permit Fee: \$35

Support Structure Fee: \$100

Subterranean Fee: \$2.00 per Lineal Foot not to exceed \$1000

Section IX: Removal

When deemed necessary by the Town Board for purposes of public health, safety, or welfare, the owner of the pipeline may be required to remove any pipeline located in the Town right-of-way. If removal does not occur within 30 days of proper notice given by the Town, the Town may remove the line and bill the cost to the owner of doing so.

Section X: Enforcement and Penalties

Any manure line installed in the Town right-of-way without the proper permit is punishable by a fine of no more than \$500.00. Each day a violation continues shall constitute a separate offense. The Town may also seek injunctive relief or other declaratory actions.

Section XI: Liability

The person or entity that owns the manure lines shall be liable for any and all damages related to the negligent installation or use of the manure lines.

Section XII: Severability

Should any portion of this ordinance be declared invalid by a court of competent jurisdiction the remainder of this ordinance shall not be affected.

Section XIII: Effective Date and Publication

This ordinance shall become effective upon adoption by a majority of those present and voting at a duly noticed meeting of the Town Board, and proper publication or posting as required by law.

ADOPTED by a vote of **3** for and **0** against on this 15th day of **March**, 2018

By the Town Board of Rock Creek

Harry Warden

Harry Warden, Town Chair

Dan Whitehead

Dan Whitehead, Supervisor

Rachel Kummer

Rachel Kummer, Supervisor

Attested to this 15th day of March, 2018

Susan Huftel

Susan Huftel, Town Clerk