

James W. Hammes

SUITE 200
1601 EAST RACINE AVENUE
POST OFFICE BOX 558
WAUKESHA, WISCONSIN 53187-0558
TELEPHONE (262) 542-4278
FACSIMILE (262) 542-4270
E-MAIL jwh@cmhlaw.com
www.cmhlaw.com

December 15, 2017

VIA E-MAIL

thafner@ci.delafield.wi.us

City Administrator
Tom Hafner
500 Genesee Street
Delafield, WI 53018

Re: Ordinance Creating Section 10.1002

Dear Tom:

Attached is the further revision to the Land Spreading Ordinance.

When you approve the final draft of the Ordinance, I will send the document to Jeanne O'Brien in Word Format so that if there are other or further formatting changes needed, those changes can be made by the City Clerk to conform with the form of the Ordinance used by the Clerk.

Note that I have eliminated the word "and" in Section 3, and I have modified the penalty section to simply provide that any violation of this Ordinance, without reference to any specific section, results in a forfeiture of not less than \$500 nor more than \$5,000 for each violation..

Let me know if further changes are needed, or alternatively, if the final draft can be forwarded to the City Clerk.

Very truly yours,

/s/ James W. Hammes

James W. Hammes

JWH:bjm
Attachment

ORDINANCE NO. 743

AN ORDINANCE CREATING SECTION 10.1002 OF THE MUNICIPAL CODE OF THE CITY OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN PROHIBITING THE APPLICATION, DISPERSAL, OR LAND SPREADING OF ANIMAL MANURES OR ANIMAL WASTE

The Common Council of the City of Delafield, Waukesha County, Wisconsin, does ordain as follows:

SECTION 1: Section 10.1002 is the Municipal Code of the City of Delafield, Wisconsin is hereby created to read as follows:

Section 10.1002

APPLICATION, DISPERSAL OR LAND SPREADING OF ANIMAL MANURES AND ANIMAL WASTE PROHIBITED

(1) PURPOSE

The Common Council has determined that the application, dispersal or land spreading of animal manures and agricultural waste within the City of Delafield are a detriment to the health, safety, welfare, and convenience of the public as such activities reduce the use and enjoyment of property within the City and reduce the quality of life for residents of the City, and accordingly, that prohibiting the application, dispersal or land spreading of animal manures and agricultural wastes is in the best interests of the City of Delafield residents' public health, safety, general welfare and convenience.

(2) APPLICATION, DISPERSAL OR LAND SPREADING OF ANIMAL MANURES OR AGRICULTURAL WASTES ARE PROHIBITED.

No person, unless otherwise exempted from the provisions of this Ordinance, shall apply, disperse or land spread animal manures or agricultural wastes within the City of Delafield. Any person who violates the prohibition contained in this Ordinance creates a substantial threat to the public health and safety of the residents of the City of Delafield, and accordingly, such activity shall constitute a public nuisance.

(3) EXEMPTION.

This Ordinance does not apply to animal manures or agricultural wastes that is applied, dispersed or land spread on lands located within the City of Delafield provided that the animal manure or agricultural wastes are generated as a result of agricultural or farming activities conducted solely within the boundaries of the City of Delafield.

(4) PENALTIES.

Any person violating this Ordinance shall be subject to a forfeiture of not less than \$500 nor more than \$5,000 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 City of Delafield, engineering expenses if incurred, and actual and reasonable attorney fees incurred.

(5) ABATEMENT OF VIOLATION.

The Common Council 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 City of Delafield shall be entitled to recovery of all costs and expenses incurred in such action, including engineering fees and actual and reasonable attorney fees.

(6) 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 Common Council.

(7) EFFECTIVE DATE.

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

SECTION 2: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 3: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 4: This Ordinance shall take effect and be in force from and after its passage and publication or posting, as required by law.

Dated this _____ day of _____, 2018.

CITY OF DELAFIELD

By: _____
Michele DeYoe, Mayor

ATTESTED:

Jeanne O'Brien
City of Delafield Interim City Clerk

Date Adopted: _____

Date Published: _____

Effective Date: _____