

VILLAGE OF NASHOTAH

ORDINANCE NO. 215

**AN ORDINANCE TO AMEND SECTION 10.095 (3) and (4) OF THE
VILLAGE OF NASHOTAH MUNICIPAL CODE REGARDING
PROHIBITING THE APPLICATION, DISPERSAL OR LAND
SPREADING OF UNMANIPULATED ANIMAL OR VEGETABLE
MANURE**

WHEREAS, on or about March 7, 2018 the Village of Nashotah Village Board adopted Ordinance No. 211 to regulate the application, dispersal or land spreading of unmanipulated animal or vegetable manure in the Village of Nashotah; and

WHEREAS, the Village of Nashotah adopted Ordinance No. 211 to protect the health, safety, welfare and property values of the Village of Nashotah, to control against the adverse impacts that such activities can have on surrounding properties and the Village; and

WHEREAS, upon further consideration of the remedies described in the Ordinance, the Village intends to clarify that other remedies are available and hereby intends to establish appropriate penalties; and

WHEREAS, upon further consideration of the exemption in the Ordinance, the Village Board finds that the exemption should be more narrowly tailored to serve the public interest; namely, this exemption should be confined to the spreading of manures that are generated on the lot where generated, to ensure that the impact will be no larger than the carrying capacity of the land where the manures are spread; and

WHEREAS, the Village Board further intends to clarify that in the unlikely event that circumstances arise whereby State laws preempt this Ordinance, the State laws shall be followed.

NOW, THEREFORE, the Village Board of Trustees for the Village of Nashotah, Waukesha County, Wisconsin **DOES HEREBY ORDAIN AS FOLLOWS:**

SECTION 1: Chapter 10 of the Village of Nashotah Municipal Code entitled, "Public Nuisance," Section 10.095 entitled, "Application, Dispersal or Land Spreading of Unmanipulated Animal or Vegetable Manure Prohibited," Subsection (3) entitled, "Application, Dispersal or Land Spreading of Unmanipulated Animal or Vegetable Manure Prohibited," and Subsection (4) entitled, "Exemption" is hereby repealed and re-created as follows:

(3) APPLICATION, DISPERSAL OR LAND SPREADING OF UNMANIPULATED ANIMAL OR VEGETABLE MANURE PROHIBITED.

No person, unless otherwise exempted from the provisions of this Section 10.095, shall apply, disperse or land spread unmanipulated animal or vegetable manure within the Village of Nashotah. Any person who violates the prohibition contained in this Section 10.095 creates a substantial threat to the public health and safety of the residents of the Village of Nashotah, and accordingly, such activity shall constitute a public nuisance. In addition, and not to the exclusion or prejudice of such public nuisance remedies as may apply, violation of this Section 10.095 shall be subject to the penalties described in Section 10.13 and 25.04 of this Code. The Village Board may also enforce this Ordinance through actions for injunction or abatement.

(4) EXEMPTIONS.

- a. This Section 10.095 does not apply to unmanipulated animal or vegetable manure that is applied, dispersed or land spread on the lot where such unmanipulated animal or vegetable manure is generated as a result of agricultural or farming activities.
- b. This Section 10.095 does not apply to any livestock operation conducted in the Village of Nashotah to the extent this Section 10.095 is preempted by Chapter 92 Wisconsin Statutes. A livestock operation is defined to mean a feed lot or other facility or a pasture where animals are fed, confined, maintained or stabled.
- c. This Section 10.095 does not apply to the siting of livestock operations to the extent this Section 10.095 is preempted by Chapter 93 of the Wisconsin Statutes.
- d. This Section 10.095 shall not be applied to so as to find an agricultural use or an agricultural practice to be a nuisance when such a finding is prohibited by Wisconsin Statutes Section 823.08(3)(a).

SECTION 2: Severability

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: Effective Date

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

This ordinance passed this 6th day of February, 2019.

BY THE VILLAGE BOARD OF THE
VILLAGE OF NASHOTAH:

Rich Lartz

Richard Lartz,
Village President

ATTEST:

Cynthia M. Pfeifer

Cynthia M. Pfeifer, Administrative
Director/Village Clerk/Treasurer