

ORDINANCE CODE PART IV, CHAPTER 25
AGRICULTURAL APPLICATION OF SEWER SLUDGE

(Added by Ord. No. 3166, effective 7-25-96)

ARTICLE 1. GENERAL PROVISIONS

**PURPOSE AND
INTENT**

SECTION 4-25-1000. It is the purpose and intent of this Chapter to regulate the agricultural land application of sewage sludge in the unincorporated areas of Tulare County in a manner that is consistent with agronomic rates and that protects public health and safety, water quality, and agricultural markets. Sewer sludge may contain heavy metals, pathogenic organisms, and chemical pollutants. To protect critical groundwater quality and food production areas, this chapter provides local control of sewer sludge spread on land and assures that safe land spreading practices of such sludge will be observed.

DEFINITIONS

SECTION 4-25-1005. Whenever in this Chapter the following terms are used they shall have the meanings respectively ascribed to them in this section unless the context clearly dictates otherwise:

**Agricultural
Commissioner**

(a) "AGRICULTURAL COMMISSIONER" means the Tulare County Agricultural Commissioner/Sealer or his/her designated representative or deputy.

Applicator

(b) "APPLICATOR" means any person, company, organization, or other legal entity engaged, or about to become engaged, with the placement or spreading of biosolids on land at a controlled rate for the purpose of and enhancing the growth of plants in accordance with the provisions of this Chapter.

Biosolids

(c) "BIOSOLIDS" means sewage sludge which (1) complies with the Class A Biosolids standards in the Federal Rule 40 CFR 503.32(a) or has been stored for at least eighteen (18) months and has been tested to verify it meets the Class A Biosolids standards in 40 CFR 503.32(a), and (2) contains constituents in concentrations not exceeding the concentrations listed in 40 CFR 503.13, Table I and Table 3, as applicable.

**Biosolids, Land
Spreading of**

(d) "BIOSOLIDS, LAND SPREADING OF" means the beneficial use of biosolids generated by wastewater treatment plants as a soil amendment or fertilizer, provided that the biosolids are applied at an agronomic rate and in conformance with Federal Rule 40 CFR 503, Subpart B. Methods of beneficial use shall be limited to incorporation of biosolids into the soil so that the biosolids will either condition the soil or fertilize crops or vegetation grown in the soil.

Biosolids Land Spreading Site Plan	(e)	"BIOSOLIDS LAND SPREADING SITE PLAN" means map(s) and written information providing specific details on the location and physical characteristics of a site on which biosolids are to be land spread, in accordance with an approved Biosolids Management Permit.
Biosolids Management Permit	(f)	"BIOSOLIDS MANAGEMENT PERMIT" means a written plan that specifies the method of application of biosolids in conformance with the provisions of this Chapter and the County's Biosolids Land Spreading Regulations adopted from time to time by resolution.
County	(g)	"COUNTY" means the County of Tulare, State of California.
County's Biosolids Land Spreading Regulations	(h)	"COUNTY'S BIOSOLIDS LAND SPREADING REGULATIONS" means those regulations adopted from time to time by resolution of the Tulare County Board of Supervisors pertaining to, and setting standards and requirements for, the land spreading of sewer sludge and biosolids in the unincorporated areas of the County of Tulare.
EPA	(i)	"EPA" means the U.S. Environmental Protection Agency.
Federal Rule or 40 CFR Part 503	(j)	"FEDERAL RULE" or "40 CFR PART 503" means the "Standards for the Use or Disposal of Sewage Sludge, 40 CFR Part 503, Final Rule" adopted by the U.S. Environmental Protection Agency (EPA) on February 19, 1993, in Title 40 of the Code of Federal Regulations, Part 503, as amended from time to time.
Generator	(k)	"GENERATOR" means a person (as defined herein) who generates biosolids during the treatment of domestic sewage in a treatment works.
Nutrient Management Plan	(l)	"NUTRIENT MANAGEMENT PLAN" means the management strategy for nitrogen, phosphorous, potassium and heavy metals developed for a given site based on: the nutrients and metal concentrations in the biosolids to be applied; the background levels in the soil; nutrient requirements of the crop to be planted; and any additional amendments or fertilizers.
Person	(m)	"PERSON" means any person; firm; business; city; county (other than the County of Tulare); district; special district (including a water district); Public Utility District; sole proprietorship; partnership; joint venture; trust; association; or corporation, whether for profit or non-profit.

**Sewer or
Sewage Sludge**

- (n) "SEWER OR SEWAGE SLUDGE" means a solid, semi-solid, or liquid residue generated during the treatment of sewage in a treatment works or sewage treatment plant. Sewage sludge includes, but is not limited to, septage, scum, or solids removed in primary, secondary, or advanced wastewater treatment processes, and any material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, or grit and screenings generated during primary treatment of sewage in a treatment works. As used in this Ordinance, the term "Sewage Sludge" does not include sewer sludge to be land applied which has been diluted through composting and is distributed in bags or other similar containers not exceeding one hundred (100) pounds for landscaping purposes or home use and has been classified as "Exceptional Quality Biosolids Products" in compliance with all applicable State and Federal rules and regulations. (Amended by Ord. No. 3186, effective 6-5-97.)

**TIME FOR
COMPLIANCE**

SECTION 4-25-1010. No person shall land spread Biosolids or sewer sludge within the unincorporated areas of Tulare County following the effective date of this Chapter except in compliance with all terms and requirements of this Chapter.

ENFORCEMENT

SECTION 4-25-1015. The Agricultural Commissioner is authorized to enforce the provisions of this Chapter. The Agricultural Commissioner may issue an annual report to the Board of Supervisors relating to the implementation of this Chapter.

**NOT EXCLUSIVE
REGULATION**

SECTION 4-25-1020. This Chapter is not the exclusive regulation of the land spreading of sewer sludge. It shall supplement and be in addition to the other regulating statutes and ordinances heretofore or hereinafter adopted by the State, County, or any other legal entity or agency having jurisdiction.

SEVERABILITY

SECTION 4-25-1025. If any clause, provision, sentence, or paragraph of this Chapter, or the application thereof, is deemed to be invalid as to any person, entity, establishment, or circumstance, such invalidity shall not effect the other provisions of this Chapter which shall still remain in effect, and to its end, it is hereby declared that the provisions of this Chapter are severable.

ARTICLE 2. PROHIBITIONS

PROHIBITIONS SECTION 4-25-1100.

- A. Land application of untreated and/or domestic septage is prohibited.
- B. No sewer sludge shall be land spread unless it qualifies as biosolids as herein provided and in accordance with the County's Biosolids Land Spreading Regulations adopted from time to time by resolution.
- C. Land application of biosolids classified as “hazardous” or “designated”, as those terms are defined in Section 2521(a) and Section 2522 (a) of Title 23, California Code of Regulations, is prohibited.
- D. Biosolids to be land applied in Tulare County shall be contained at the generator's wastewater treatment plant site and shall not be transported until a Biosolids Management Permit is issued by the Agricultural Commissioner for the proposed site where such biosolids will be applied.
- E. The land spreading of Biosolids conducted in any way which causes a public or private nuisance or degrades groundwater or surface water is hereby prohibited.

RESPONSI- BILITIES

SECTION 4-25-1105.

- A. The generator and applicator shall be jointly responsible for the quality of the biosolids to be land spread. The applicator shall also be responsible for compliance with biosolids transportation, land spreading, and monitoring requirements of this Chapter. If the applicator falls to meet these requirements, then the generator shall be responsible for compliance.
- B. The landowner shall be responsible for compliance with the Nutrient Management Plan.
- C. The applicant shall obtain, and submit to the Agricultural Commissioner, a written statement showing that the grower and landowner have been informed of potential problems associated with biosolids and consent to land spreading of biosolids on the site.

ARTICLE 3. PERMIT REQUIREMENTS

PERMIT AND APPROVAL REQUIREMENTS

SECTION 4-25-1300.

- A. No person shall apply sewage sludge biosolids in the unincorporated areas of Tulare County without first having obtained approval of a Biosolids Management Permit (including a “Land Spreading Site Plan” and a “Nutrient Management Plan” for each site, and other supporting documentation) from the Agricultural Commissioner and paid all fees as set from time to time by resolution of the Tulare County Board of Supervisors.
- B. In order to obtain the approvals required by subsection A, each person shall file an application for such approvals with the Agricultural Commissioner as provided in the County's Biosolids Land Spreading Regulations and shall continuously comply with the provisions of this Chapter and all of the requirements, including: quality standards; application standards; inspection, monitoring and reporting requirements; and insurance and bonding requirements set out in the County's Biosolids Land Spreading Regulations.

ACTION ON APPLICATIONS FOR REQUIRED APPROVALS

SECTION 4-25-1320.

- A. The Agricultural Commissioner shall approve the Biosolids Management Permit if it complies with all of the requirements of this Chapter, the County's Biosolids Land Spreading Regulations, and with all local, state, and federal laws and regulations, unless the Agricultural Commissioner finds that the applicant has shown:
1. Lack of responsibility as shown by past work by the applicant; or
 2. Demonstrated failure to comply with local, state, or federal laws and regulations.
- B. Approvals granted for Biosolids Management Permits shall be valid for a period not to exceed five (5) years and shall be reviewed annually. If a Land Spreading Site Plan is not applied for on land subject to a Biosolids Management Permit within two years of the approval date of the Management Permit, then said Biosolids Management Permit shall expire. Time extension(s) may be granted for a period/periods not to exceed the total five-year period initially approved.

- C. A Nutrient Management Plan shall only be valid for the particular crop or crops which are the subject of the plan. If the applicator or property owner desire to change the crops or crops used, a new Nutrient Management Plan is required and the Land Spreading Site Plan shall automatically be suspended until a new Nutrient Management Plan is approved.
- D. A Land Spreading Site Plan shall be valid for a twelve-month period.
- E. Applicants shall be notified of Incomplete or Inaccurate Applications within ten (10) working days after the date of the filing of the applications for each. The applicant may make the necessary corrections and additions and resubmit the application within sixty (60) days of notification. Failure to supply the corrections and additions within 60 days shall be deemed withdrawal of the application.
- F. Notice of the application and the comment period shall be given to all owners of properties that are within 2,640 feet (one-half mile) of the parcel(s) containing each site on which biosolids are to be applied. Said notice shall be given to property owners shown on the latest equalized assessment roll (which shall be provided to the Agricultural Commissioner by the applicant), and shall be sent by the Agricultural Commissioner by first-class mail at least ten (10) working days prior to the rendering of a decision by the Agricultural Commissioner. The applicants, all landowners who receive a copy of the first notice, any person requesting a copy of the specific opinion in writing, and the Board of Supervisors shall be mailed a copy of the Agricultural Commissioner's decision.
- G. Written notice of the approval or denial of an application for a Biosolids Management Permit or Land Spreading Site Plan shall be given by personal delivery or by mailing by certified mail to the applicant at the address on file with the Agricultural Commissioner. The Agricultural Commissioner shall review the completed Biosolids Management Permit application and shall approve or reject the plan within twenty (20) days of its acceptance as complete.
- H. Any person adversely affected by the decision of the Agricultural Commissioner regarding approval or denial of a Biosolids Management Permit, Nutrient Management Plan, or Land Spreading Site Plan may appeal the decision to the Board of Supervisors. An appeal to the Board of Supervisors shall be in

writing and filed with the Clerk of the Board of Supervisors in accordance with Section 165 of the Ordinance Code of Tulare County. The Clerk shall give notice and the appeal hearing and decision procedure shall be handled in accordance with the provisions of Section 165 of this Ordinance Code.

- I. A Biosolids Management Permit approval or Land Spreading Site Plan approval may be revoked by the Agricultural Commissioner when evidence demonstrates that the applicant has violated any of the following:
 1. Any provision(s) of this Chapter, including its fee requirements, and the County's Biosolids Land Spreading Regulations;
 2. Any Federal or State laws or regulations; or
 3. The waste discharge requirements of the Regional Water Quality Control Board.

If the Agricultural Commissioner revokes the Biosolids Management Permit approval or Land Spreading Site Plan approval, a written notice to this effect shall be delivered within five (5) working days in person or by certified mail to the business address of the name appearing on the application. The written notice shall state the grounds for the revocation.

- J. The applicant may appeal an Agricultural Commissioner revocation to the Board of Supervisors in accordance with Section 165 of this Ordinance Code by filing a written notice of appeal and request for hearing before the Board of Supervisors with the Clerk of the Board not more than ten (10) calendar days after notice of the revocation has been delivered. Unless the Agricultural Commissioner finds the grounds for the revocation to constitute an immediate threat to public health or safety, any revocation by the Agricultural Commissioner shall be stayed during the pendency of an appeal therefrom which has been properly and timely filed. At the next regular meeting of the Board of Supervisors following the filing of the appeal, the Board of Supervisors shall set the matter for public hearing. The Clerk shall give notice to the applicant and the revocation appeal hearing and decision procedure shall be handled in accordance with the provisions of Section 165 of this Ordinance Code.

FEES

SECTION 4-25-1325

- A. It is the Intent of this Chapter that application, monitoring, and inspection fees shall be imposed in an amount necessary to fully recover the actual costs incurred by the County in administering this Chapter and paid by the applicant(s) with no costs of administration or enforcement of this Chapter passed on to Tulare County growers or residents. Such fees shall be established from time to time by resolution of the Tulare County Board of Supervisors.
- B. All costs of laboratory analysis of biosolids, soil, water, and vegetation samples requested by the Agricultural Commissioner and this Chapter shall be paid by the applicant(s).
- C. The aforementioned fees shall be paid at the same time that the application is filed for such permit or appeal, and no part of said fees shall be returned to the applicant if he or she subsequently withdraws his application. However, if a person who wishes to apply for or who has applied for a permit or appeal believes that special circumstances exist that make it inequitable or unreasonable for the County to charge an application fee or retain an application fee previously paid, he or she may request a waiver of said fee or a refund of the fee paid and said request shall be processed in accordance with Sections 130 and 135 of the Ordinance Code of Tulare County.

DELINQUENCY DATES AND PENALTIES

SECTION 4-25-1330.

- A. In the case of permitted sites, the delinquency date of any fee required by this Chapter shall be the thirtieth (30th) day following the initial billing date, and the fee shall be paid by a person holding the Biosolids Management Permit.
- B. If any fee specified is not paid prior to the delinquency date, the permittee shall pay a penalty. A penalty fee of twenty-five percent (25%) of the initial billing will be imposed upon the delinquency. If the permit fee is not paid within sixty (60) days of the initial billing the fee will be doubled.
- C. Failure to pay fees as herein provided in a timely manner is grounds for revocation.

ARTICLE 5. MONITORING AND UPDATING REQUIREMENTS

RIGHT OF ENTRY

SECTION 4-25-1500. As a condition of the issuance of a permit under this Chapter, the generator, applicator, farm operator, landowner, and any lessee shall agree to allow the Agricultural Commissioner or other regulatory agencies at reasonable times and upon presentation of credentials to:

- A. Enter upon the applicator's and/or generator's premises or location where any records are required to be kept under the terms and conditions of this Chapter or application permit.
- B. Have access to and copy any records required to be kept under the terms and conditions of this Chapter or application permit.
- C. Inspect any monitoring equipment or observe any monitoring method required in this Chapter or application permit.
- D. Inspect any collection or transport vehicles; or treatment, pollution management, or control facilities required under this Chapter or application permit.
- E. Enter any site where biosolids are proposed to be used or have been used or stored and sample any ground or surface waters, soils, vegetation, biosolids, or other materials on the site.
- F. Obtain any photographic documentation or evidence.
- G. Generally inspect, observe, and monitor the biosolids application operation.

INSPECTIONS, MONITORING, AND REPORTING

SECTION 4-25-1505. As a condition for the issuance of a permit under this Chapter, the generator, applicator, farm operator, landowner, and any lessee shall comply with the inspection, monitoring and reporting requirements set out in the County's Biosolids Land Spreading Regulations and pay such fees for County services to inspect, monitor and review reports as are set from time to time by resolution of the Tulare County Board of Supervisors.

ARTICLE 7. GENERAL REQUIREMENTS

COMPLIANCE WITH FEDERAL AND STATE LAWS AND LOCAL

SECTION 4-25-1705.

- A. Land spreading of biosolids shall comply with all Federal and State laws and regulations, including 40 CFR Part 503 of the

REGULATIONS

Code of Federal Regulations or its revisions; however, the County Biosolids Land Spreading Regulations may require more restrictive concentrations for metals than the limits set forth in 40 CFR Part 503 based on conditions specific to Tulare County.

- B. No land spreading of biosolids shall be permitted until the generator and applicator demonstrate compliance with all requirements of the California Regional Water Quality Control Board.
- C. No land spreading of biosolids shall be permitted until the generator and applicator demonstrate compliance with all of the requirements of this Chapter and the County's Biosolids Land Spreading Regulations.

AUTHORIZATION : COUNTY BIOSOLIDS LAND SPREADING REGULATIONS

SECTION 4-25-1710. The quality of biosolids to be land spread, the land spreading operation, transportation and monitoring shall conform to the applicable standards and requirements which are set forth in the document entitled "Tulare County Biosolids Land Spreading Regulations" as such standards and requirements are adopted by the Board of Supervisors from time to time by resolution.

APPLICATION AND CONTINUING COMPLIANCE

SECTION 4-25-1715. After the approvals required by Section 4-25-1300 have been obtained, each generator and applicator shall comply with the standards, regulations, and other requirements set out in the County's Biosolids Land Spreading Regulations for the actual land spreading of biosolids. Failure to do so shall be a violation of the provisions of this Chapter as set forth in Article 9 hereof.

TECHNICAL STANDARDS

SECTION 4-25-1720. Technical standards governing biosolids application rates, cumulative soil metals, etc. shall be as established by the Regional Water Quality Control Board and 40 CFR Part 503 or its revisions, and in conformance with the approved Nutrient Management Plan.

ARTICLE 9. VIOLATIONS

VIOLATIONS/ PENALTIES

SECTION 4-25-1900. Any person violating any prohibition of this Chapter or failing to comply with any of the provisions of this Chapter or the County's Biosolids Land Spreading Regulations shall be guilty of a misdemeanor and be subject to the penalties set forth in section 125 of this Ordinance Code. Such person shall be guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is committed, continued, or permitted by such person, and shall be punishable therefor as hereinabove provided.

**PUBLIC
NUISANCE
DECLARATION**

SECTION 4-25-1905. Any violation of any provision of this Chapter or failure to comply with any requirement of this Chapter or the County's Biosolids Land Spreading Regulations shall constitute a public nuisance and may be abated pursuant to the procedures of the Tulare County Public Nuisance Ordinance or abated or enjoined by any other means provided by law.