

C. The Commission may also authorize variances from the schedule of compliance when the staff is unable to review and determine conformance with requirements due to staff shortages. (Ord. 148-50, Sec.9 & 10; 2005; Ord.141-11, Sec.5, 1997; Ord. 130-10 Sec.1(part), 1986).

17.03.025 Administration. This ordinance shall be administered by the commission and its staff. The county land conservation supervisor is designated for daily administration of these standards and procedures. Technical assistance may also be provided by staff of other county, state or federal agencies.

A. Screening of participants. The staff will screen each participant in the farmland preservation program by the end of the year that this policy first applies to the participant. The screening will evaluate whether each participant is meeting the soil and water conservation standards enumerated in Section III, and the extent to which any participant is out of compliance with the standards. For participants who are out of compliance with the standards, the staff will establish a schedule of compliance as a final step in the screening process. Screening of the participants will include use of the farm conservation plans and other appropriate means to assure compliance.

B. Compliance.

1. Certification. After a participant has been screened as to compliance, the participant shall certify in writing each year that he or she is complying with the conservation standards required in Section III. The participant shall submit proof of compliance to the land conservation division no later than April 15 of each year. Failure to submit proof of compliance by April 15 will result in a late fee as outlined in Section 4.35.165 of the code. The participant may be issued a notice of noncompliance if he or she does not annually certify compliance with required conservation standards. For participants with an ongoing schedule of compliance, the participant shall certify in writing that the annual progress to achieve required standards has or has not been accomplished. Written certification may be made by mail or in person to the land conservation division on forms provided by the division.

2. Spot-checking. Staff will randomly determine individual compliance with the required conservation standards at least once every six years. This determination will be made through a combination of field inspection, landowner consultation, examination of aerial photos or slides, and other methods which can determine compliance or noncompliance to conservation standards.

3. Notice of noncompliance. Notices of noncompliance shall be issued as provided under Wis. Admin. Code § ATCP 50.16. The county may issue a notice of noncompliance to a landowner if the landowner does any of the following:

- a. fails to comply with county standards
- b. fails to comply with an existing farm conservation plan
- c. fails to allow reasonable inspection to determine compliance

The notice of noncompliance must disclose the nature of the violation and a deadline date for correcting the violation. The notice must state that the landowner may not claim farmland preservation tax credits unless the farmer corrects the violation. The notice must state that the farmer may meet with the Land Conservation Commission to contest or discuss the notice and it should spell out the procedure for contacting the Land Conservation Commission and contesting the notice. The county may issue a notice of noncompliance and suspend the landowners eligibility for tax credits, without offering cost sharing to the landowner.

The Land Conservation Commission may not issue a notice of noncompliance before a field inspection of the land has been made. The requirement for a field inspection and hearing may be waived by the Land Conservation Commission if the notice of noncompliance is voluntarily agreed upon. Copies of notices of noncompliance shall be submitted to the appropriate zoning jurisdiction and the Wisconsin Department of Revenue. No farmland preservation tax credits will be allowed to landowners who have been issued a notice of noncompliance with soil and water conservation requirement unless such notice is subsequently canceled by the Commission under Wis. Admin. Code § ATCP 50.16.

4. **Hearing.** Prior to issuing a notice of noncompliance, the affected participant will be notified by registered mail that the commission is considering issuing the notice of noncompliance. The affected participant will be given an opportunity at a regular commission meeting to present reasons why the notice of noncompliance should not be issued. The commission will provide at least 10 days written notice to the participant prior to the meeting at which the participant is required to be present.

5. **Cancellation of notice of noncompliance.** If a participant has been issued a notice of noncompliance, subsequently complies with the required standards or reestablishes a schedule of compliance, the Commission will cancel the notice of noncompliance. The cancellation of the notice of noncompliance must be based on a request from the affected landowner and an on-site field inspection. Notice of the cancellation of the notice of noncompliance will be given to the appropriate zoning authority and the Department of Revenue. (Ord. 161-18, Sec. 10, 2017; Ord. 148-50, Sec 11, 2005; Ord.141-19, Sec.3, 1997; Ord.137-24, Sec.7, 1993; Ord.137-24, Sec.6, 1993; Ord.137-21, Sec.8, 1993; Ord. 134-03 Sec.50, 1990; Ord. 130-10 Sec.1(part), 1986).

17.03.030 Annual report. Each year the Commission will prepare a report on the status of administering this ordinance for the previous year. The report will include the number of participants complying with standards, the number of participants at various stages of schedules of compliance, the type and number of variances granted and the number of notices of noncompliance issued. A copy of the report will be forwarded to DATCP by April 15, and copies will be made available to participants on a request basis. The report will be consistent with Wis. Admin. Code § ATCP 50.18. (Ord. 148-50, Sec 12; 2005)

17.03.035 Amendments. This ordinance may be amended by the county board of supervisors following a public hearing held by the commission for which a class 2 notice shall be published. All amendments shall be consistent with the Wisconsin Land and Water Conservation Board Guidelines for Soil and Water Conservation Requirements in the Farmland Preservation Program. (Ord.141-11, Sec.6, 1997; Ord. 130-10 Sec.1(part), 1986).

Chapter 17.04

AGRICULTURAL PERFORMANCE STANDARDS AND MANURE STORAGE

Sections:

SUBCHAPTER I. GENERAL PROVISIONS

<u>17.04.001</u>	Authority and name.
<u>17.04.005</u>	Findings and declaration of policy.
<u>17.04.010</u>	Purpose.
<u>17.04.020</u>	Interpretation.
<u>17.04.030</u>	Severability clause.
<u>17.04.040</u>	Applicability.

17.04.001 Authority and name. This ordinance is adopted under authority granted by Wis. Stat. §§ 59.70, 59.02, 59.03, 92.15, and 92.16, and Wisconsin Administrative Code (“Wis. Admin. Code”) Wis. Admin. Code ch. ATCP 50.56 and NR 151.05. This ordinance shall be known as, referred to, and may be cited as the “Eau Claire County Agricultural Performance Standards and Manure Storage Ordinance” and is hereinafter referred to as the "ordinance". (163-08, Sec. 2, 2019)

17.04.005 Findings and declaration of policy. The Eau Claire County Board of Supervisors finds that the following conditions may threaten the county’s natural and water resources, cause harm to the health, safety and welfare of people within the county, and adversely impact the property tax base of the county:

- A. New and substantially altered manure storage facilities that fail to meet performance and technical standards for proper design, construction and operation.
- B. Existing manure storage facilities that are not properly functioning and pose unreasonable risks related to structural failure and leakage.
- C. Existing manure storage facilities that overtop or are operated in a manner that creates an unreasonable risk of discharge to waters of state.
- D. Existing manure storage facilities where no manure has been added or removed for a period of 24 months and are not slated for future use.
- E. Management and storage of manure including land application that fails to meet performance and technical standards for proper handling and land application of manure. (163-08, Sec. 2, 2019)

17.04.010 Purpose. The purpose of this ordinance is to regulate the location, design, construction, installation, alteration, operation, maintenance, closure, and use of manure storage facilities; ensure the proper application of waste and manure from all storage facilities covered by this Ordinance, and prescribe performance standards and prohibitions related to manure and other agricultural management and use of manure storage facilities in order to prevent water pollution and thereby protect the health of Eau Claire County residents and visitors; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Eau Claire County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation. (163-08, Sec. 2, 2019)

17.04.020 Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. (163-08, Sec. 2, 2019)

17.04.030 Severability clause. If any section, provision, or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective. (163-08, Sec. 2, 2019)

17.04.040 Applicability. This ordinance applies to all land located within the unincorporated areas of Eau Claire County, unless an intergovernmental agreement is established with the governmental entity of an incorporated municipality within Eau Claire County. Best management practices, conservation practices and manure storage facilities shall comply with all federal, state, and local laws, rules and regulations. (163-08, Sec. 2, 2019)

SUBCHAPTER II. ACTIVITIES SUBJECT TO REGULATION

17.04.050 Permit requirements.

17.04.060 Performance standards and prohibitions.

17.04.050 Permit requirements. Any person who constructs, substantially alters, changes use of or closes a manure storage facility and related transfer systems, or who employs another person to do the same, shall be subject to the provisions of this Ordinance. A person is in compliance with this ordinance if he or she follows the procedures of this ordinance, receives a permit from the land conservation division before beginning activities subject to permit requirements under this ordinance, and complies with the requirements of the permit. (163-08, Sec. 2, 2019)

17.04.060 Performance standards and prohibitions. Any person who stores manure, owns or operates cropland or livestock facilities in Eau Claire County is subject to the performance standards and prohibitions in Subchapter III, regardless of whether they received a permit under this Ordinance. This Ordinance incorporates by reference the definitions in Wis. Admin. Code ch. ATCP 50 and ch. NR 151, to the extent that they are not explicitly referenced herein. (163-08, Sec. 2, 2019)

SUBCHAPTER III. AGRICULTURAL PERFORMANCE
STANDARDS AND PROHIBITIONS

<u>17.04.080</u>	Performance standards and prohibitions.
<u>17.04.090</u>	Standards.
<u>17.04.100</u>	Cost shared required

17.04.080 Performance standards and prohibitions.

A. Sheet, Rill, And Wind Erosion. All land where crops and feed are grown, including pastures, shall be managed to achieve a soil erosion rate equal or less than the “tolerable” (T) rate established for that soil by the USDA-NRCS.

B. Tillage Setback.

1. No crop producer may conduct a tillage operation that negatively impacts stream bank integrity or deposits soil directly in surface waters.

2. No tillage operations may be conducted within 5 feet of the top of the channel of surface waters. Tillage setbacks greater than 5 feet but no more than 20 feet may be required to meet this standard.

3. Crop producers shall maintain the area within the tillage setback required under sub. (b) in adequate sod or self-sustaining vegetative cover that provides a minimum of 70% coverage.

4. This section does not apply to grass waterways installed as conservation practices.

C. Phosphorus Index. All cropland, pastures, and winter grazing areas must meet the Wisconsin Phosphorus Index (PI) established in Wis. Admin. Code § NR 151.04 including where the PI applies, the methods for calculating the PI, and acceptable PI runoff levels. A nutrient management plan meeting the standard in Wis. Admin. Code § ATCP 50.04 (3) may be used to demonstrate compliance with Wis. Admin. Code § NR 151.04.

D. Nutrient Management. All crop and livestock producers that apply manure or other nutrients directly, or through contract, to agricultural fields shall comply with this section.

1. This performance standard does not apply to industrial waste and byproducts regulated under Wis. Admin. Code ch. NR 214, municipal sludge regulated under Wis. Admin. Code ch. NR 204, or septage regulated under Wis. Admin. Code ch. NR 113.

2. Nutrient management plans are required on pastures unless exempt as established in Wis. Admin. Code § ATCP 50.04(3)(b).

3. Manure, commercial fertilizer, and other nutrients shall be applied in conformance with a nutrient management plan as established in Wis. Admin. Code § ATCP 50.04(3).

a. The nutrient management plan shall be designed to limit or reduce the discharge of nutrients to waters of the state for the purpose of complying with state water quality standards and groundwater standards.

b. Nutrient management plans for croplands in watersheds that contain impaired surface waters or in watersheds that contain outstanding or exceptional resource waters shall meet the following criteria:

i. unless otherwise provided in this subsection, the plan shall be designed to manage soil nutrient concentrations so as to maintain or reduce delivery of nutrients contributing to the impairment of impaired surface waters and to outstanding or exceptional resources waters.

ii. The plan may allow for an increase in soil nutrient concentrations at a site if necessary to meet crop demands

iii. For lands in watersheds containing exceptional or outstanding resource waters, the plan may allow an increase in soil nutrient concentrations if the plan documents that any potential nutrient delivery to the exceptional or outstanding resource waters will not alter the background water quality of the exceptional or outstanding resource waters. For lands in watersheds containing impaired waters, the plan may allow an increase in soil nutrient concentrations if a low risk of delivery of nutrients from the land to the impaired water can be demonstrated.

4. In this ordinance, impaired surface waters are waters identified as impaired pursuant to 33 U.S.C. § 1313(d)(1)(A) and 40 C.F.R. § 130.7. Outstanding and Exceptional Resource Waters are defined in Wis. Admin. Code Ch. NR 102.

5. An updated nutrient management plan and checklist shall be submitted to the land conservation division annually to ensure the plan meets requirements of this section.

E. Clean Water Diversion. All livestock producers within a water quality management area shall comply with this section. Runoff shall be diverted away from contacting feedlot, manure storage areas and barnyard areas within water quality management areas except that a diversion to protect a private well under Wis. Admin. Code § NR 151.015 (18) (a) is required only when the feedlot, manure storage area, or barnyard area is located upslope from the private well.

F. Manure Management Prohibitions. All livestock producers shall comply with this section as follows:

1. A livestock operation shall have no overflow of manure storage structures.

2. A livestock operation shall have no unconfined manure piles within a water quality management area.

3. A livestock operation shall have no direct runoff from a feedlot or stored manure to waters of the state. Stored manure not contained within a manure storage facility shall meet the standards for stacking or piling manure.

4. A livestock operation may not allow unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod or self-sustaining vegetative cover. This prohibition does not apply to properly designed, installed and maintained livestock or farm equipment crossings.

G. Process Wastewater Handling. All livestock producers shall comply with this section.

1. There may be no significant discharge of process wastewater to waters of the state.

2. The land conservation division shall consider all of the following factors when determining whether a discharge of process wastewater is a significant discharge to waters of the state:

- a. Volume and frequency of the discharge.
- b. Location of the source relative to receiving waters.
- c. Means of process wastewater conveyance to waters of the state.
- d. Slope, vegetation, rainfall, and other factors affecting the likelihood of process wastewater discharge to waters of the state.
- e. Available evidence of discharge to a surface water of the state or to a direct conduit to groundwater.
- f. Whether the process wastewater is discharged to a site that is defined as a site that is susceptible to groundwater contamination.
- g. Other factors relevant to the impact of the discharge on water quality standards of the receiving water or to groundwater standards.

H. Manure Storage Facilities. All livestock producers building new manure storage facilities, substantially altering manure storage facilities, or choosing to abandon their manure storage facilities shall comply with this section.

1. New construction and alterations.
a. New or substantially altered manure storage facilities shall be designed, constructed, and maintained to minimize the risk of structural failure of the facility and to minimize leakage of the facility in order to comply with groundwater standards. The levels of materials in the storage facility may not exceed the margin of safety level. Storage facilities that are constructed or significantly altered on or after January 1, 2011, shall be designed and operated to contain the additional volume of runoff and direct precipitation entering the facility as a result of a 25-year, 24-hour storm.

b. A new manure storage facility means a facility constructed after October 1, 2002.

c. A substantially altered manure storage facility is a manure storage facility that is substantially altered after October 1, 2002.

2. Closure.
a. Closure of a manure storage facility shall occur when an operation where the facility is located ceases operations or manure has not been added or removed from that facility for a period of 24 months. Manure facilities shall be closed in a manner that will prevent future contamination of groundwater and surface waters.

b. The owner or operator may retain the facility for a longer period of time by demonstrating to the land conservation division that all of the following conditions are met:

i. The facility is designed, constructed and maintained in accordance with 17.04.080 (H)(1)a of this ordinance.

ii. Retention of the facility is warranted based on anticipated future use.

3. Existing Facilities. Manure storage facilities in existence as of October 1, 2002, that pose an imminent threat to public health or fish and aquatic life, or are causing a violation of groundwater standards, shall be upgraded, replaced, or abandoned in accordance with this section. Levels of materials in manure storage facilities may not exceed the margin of safety level.

I. Human Household Wastewater Prohibited. Human household wastewater shall not be discharged into manure storage facilities. (163-08, Sec. 2, 2019)

17.04.090 Standards.

A Standards for Evaluating Sheet, Rill, and Wind Erosion. The standards for evaluating sheet, rill, and wind erosion shall be the Revised Universal Soil Loss Equation II (RUSLE2) equation or the Wind Erosion Prediction System (WEPS) models published by NRCS. Copies of RUSLE2 and the WEPS models are on file with the land conservation division.

B. Standards for Design and Construction of Manure Storage Facilities. The standards for design and construction of manure storage facilities shall be the current standards in the NRCS Technical Guide, including but not limited to 313 Waste Storage Facility; 367 Roofs and Covers; 520 Pond Sealing or Lining, Compacted Soil Treatment; 521 Pond Sealing or Lining, Geomembrane or Geosynthetic Clay Liner; 522 Pond Sealing or Lining, Concrete; 558 Roof Runoff Structure; 634 Waste Transfer; and 629 Waste Treatment and any amendments to these standards.

C. Standards for Nutrient Management. The standards for management of manure and nutrients applied to cropland and pastures shall be the current standards in the NRCS Technical Guide, including 590 Nutrient Management and any amendments.

D. Standards for Closure of Manure Storage Facility. The standards for closure of an unused manure storage facility shall be the current standards in the NRCS Technical Guide, including 360 Waste Facility Closure and any amendments.

E. Standards for Stacking or Piling Manure. The standards for stacking or piling manure shall be the current standards in the NRCS Technical Guide, including 318 Short Term Storage of Animal Waste and By-Products and 313 Waste Storage Facility, and any amendments.

F. Standards for Determination of Significant Discharge and Direct Runoff. The standards for determination of direct runoff shall be the "BARNY runoff prediction model" which is the NRCS "Evaluation System to Rate Feedlot Pollution Potential," ARM-NC-17 (April 1982 version with modifications as of August 2005, or an equivalent predictive model for manure runoff as approved by the land conservation division. An Excel computer spreadsheet version of the BARNY model is available at <https://datcp.wi.gov/Documents/BARNYSpreadsheet.xls>.

G. Standards for the Determination of Adequate Sod or Self-Sustaining Vegetative Cover. Standards for determination of adequate sod or self-sustaining vegetative cover shall be the standards outlined in the NRCS Technical Guide 528 Prescribed Grazing, and any amendments, or vegetative measurement by grid sample shall show at least 70 percent living plant material cover.

H. Subsequent Modification of Standards. The standards of the NRCS Technical Guide are adopted and by reference made a part of this chapter as if fully set forth herein. Any future amendment, revision or modification of the standards incorporated herein are made a part of this chapter upon adoption by the Eau Claire County Land Conservation Commission. Copies of the current standards are available at the land conservation division. (163-08, Sec. 2, 2019)

17.04.100 Cost share required. An owner or operator of an agricultural facility or practice that is in existence before October 1, 2002, may not be required to comply with the performance standards, prohibitions, conservation practices or technical standards under this subchapter unless cost-sharing is available from any source, to the owner or operator. A determination that cost-sharing is available to meet the performance standards, prohibitions, conservation practices or technical standards under this subchapter will be determined in accordance with Wis. Admin. Code § NR 151.09(4)(d) or § NR 151.095(5)(d) when funding is provided under Wis. Stat. § 281.65, and will be determined in accordance with Wis. Admin. Code ch. ATPC 50 when funds are from any other source. Cost sharing under this subchapter is only required for the minimum practice necessary to meet the performance standards and prohibitions.(163-08, Sec. 2, 2019)

SUBCHAPTER IV. MANURE STORAGE FACILITY PERMIT, USE
AND SPECIFICATIONS

17.04.110 Application for issuance of permits.

17.04.120 Certificate of use.

17.04.110 Application for Issuance of Permits.

A. Permit Required. No person may do any of the following without first obtaining a permit in accordance with this Subchapter:

1. Construct a new manure storage facility or substantially alter an existing manure storage facility, including the construction or substantial alteration of waste transfer systems connected to a manure storage facility.

2. Upgrade, repair or replace a manure storage facility that has been identified as posing an imminent threat to public health, fish and aquatic life, or groundwater under 17.04.080(H)(3).

3. Close an existing manure storage facility, including conversion of its use, regardless of whether the facility must be closed in accordance with 17.04.080(H)(3).

B. No Permit Required. Manure storage facilities in place as of the date of passage of this ordinance shall be determined to be existing storage facilities subject to the rules in place at the time of construction and shall not be required to obtain a permit unless they are being substantially altered or closed after the date of passage. Owners of existing storage facilities may, at their discretion, apply for a Certificate of Use.

C. Exception to Permit Requirement. Emergency repairs such as repairing a broken pipe or equipment, leaking dikes, or the removal of stoppages may be performed without a permit. A report shall be made to the land conservation division within 2 work days of the emergency for a determination by the land conservation division on whether a permit will be required for any additional alteration or repair to the facility.

D. Onsite Investigation Required. Each application for a permit under this section shall require an onsite inspection prior to permit issuance and include a summary report on site conditions. The site inspection shall be conducted by the land conservation division staff.

E. Fees. The nonrefundable fees for a permit under this ordinance shall be based upon the footprint of the liner(s) and as listed in 4.35.165. A double permit fee shall be charged by the land conservation division if activity requiring approval under 17.04.110(A) commences prior to obtaining a permit. Such double fee shall not release the responsible party from full compliance with this chapter nor from prosecution for violation of this chapter.

F. Manure Storage Facility Plan Requirements. Each application for a manure storage permit under this section shall include the completion of the county permit application and a detailed manure storage facility construction plan. The applicant can employ the services of a private design consultant or a registered professional engineer to prepare the plan. Technical assistance for plan development may be made available to applicants upon request through the land conservation division, as available staff time will allow.

G. Manure Storage Construction Plan Requirements. A complete permit application for a new or modified storage facility shall meet or exceed the minimum established limits and specific criteria within NRCS Technical Standard 313 Waste Storage Facility, and additional Technical Standards, including, but not limited to; 367 Roofs and Covers; 520 Pond Sealing or Lining, Compacted Soil Treatment; 521 Pond Sealing or Lining, Geomembrane or Geosynthetic Clay Liner; 522 Pond Sealing or Lining, Concrete; 558 Roof Runoff Structure; 634 Waste Transfer; and 629 Waste Treatment where they apply. The plan shall include all the following:

1. The number, type, and size of animals for which storage is provided and the duration for which storage is to be provided.
2. The type and amount of bedding to be used in the operation and all aspects of handling and recovery of this bedding material.
3. The type and quantity of flush water, milk house waste, or other additives which will be added to the manure storage facility.
4. A general location map drawing of the site which shall include the location of structures in relation to buildings, homes, property lines, roads, wells, karst features, public or private drainage ditches and creeks, flowages, rivers, streams, lakes, floodplains, or wetlands within one thousand (1,000) feet of the proposed facility or system. The map will include the scale of the drawing, a north arrow, and the date the general location map was prepared.
5. The soil test pit locations, elevations, and soil descriptions to a depth as required for the planned structure according to the NRCS Technical Standard 313 Waste Storage Facility. Soil test pits must be verified by land conservation division staff at the time of investigation.
6. The elevation of groundwater, bedrock or seasonally saturated conditions if encountered in the soil profile and the date of any such determinations.
7. Engineering design drawings of the manure storage facility or waste transfer system which shall include:
 - a. Specific design components that shall comply with NRCS Technical Standard 313 Waste Storage Facility, and additional applicable NRCS Technical Standards such as 634 Waste Transfer.
 - b. A recoverable benchmark(s) including elevation(s) expressed in feet and tenths.
 - c. The scale of the drawings and the north arrow. The engineering design drawing shall be drawn to a scale no smaller than one (1) inch equals one hundred (100) feet.
 - d. The date the engineering design drawings were prepared.
8. The structural details, including but not limited to dimensions, cross-sections, concrete thickness, concrete joint design and placement, design loads, design computations, reinforcement schedules, thickness and placement of groundwater protection liners, and all material specifications.
9. Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater.
10. An erosion control and/or storm water management plan as defined in Chapter 17.05 and 17.06.
11. Estimated start of construction and construction schedule.
12. A safety plan that identifies hazards to animals and people in the production area, and design features to minimize those hazards.

13. An operation and maintenance plan for installed practices.

14. An emergency response plan identifying the names and phone numbers of individuals or others to be notified in the event of any leaks, spills or other system failures that could discharge manure.

15. A certification by a professional engineer registered in the State of Wisconsin, or an engineering practitioner certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) or the NRCS that the plans meet technical and ordinance standards.

16. A nutrient management plan that complies with Wis. Admin. Code § ATCP 50.04. The nutrient management plan must be prepared by a nutrient management planner qualified under Wis. Admin. Code § ATCP 50.04 (3)(c) and submitted prior to issuance of the permit. If the nutrient management plan indicates manure will be applied to land not owned by the applicant, the nutrient management plan must include a copy of a lease, manure spreading agreement, or written proof of land availability. The nutrient management plan must be based on current soil analyses that comply with Wis. Admin. Code § ATCP 50.04. If current soil analyses are not available due to frozen soils or other conditions beyond the control of the applicant, the land conservation division may accept, at its discretion, an incomplete nutrient management plan at permit submission. A complete nutrient management plan that complies with Wis. Admin. Code § ATCP 50.04 (3) (d) must be submitted and a Certificate of Use must be issued prior to use of the manure storage facility.

17. Any other additional information required by the land conservation division to protect water quality and determine compliance with this section.

H. Safety Devices. Safety devices as outlined within NRCS Technical Standard 313 Waste Storage Facility or related standards will be installed prior to issuance of the Certificate of Use.

I. Manure Storage Facility Closure Application Requirements. A complete permit application for waste storage facility closure shall meet all standards as outlined in NRCS Technical Standard 360 Waste Facility Closure and shall specify:

1. Provisions to remove and properly dispose of all accumulated wastes in the manure storage facility.
2. Provisions to remove any concrete or synthetic liner, or properly use pieces of the concrete or synthetic liner as clean fill at the site.
3. Provisions to remove and properly dispose of any soil saturated with waste from the manure storage facility.
4. Provisions to remove any soils to the depth of significant manure saturation. When contaminated soils are found, they must be removed to the extent necessary with a minimum depth of 6 inches.
5. Provision to remove or permanently plug the waste transfer system serving the manure storage facility.
6. Covering all disturbed area with topsoil, seeding the areas with a grass mixture, and mulching the seeded area. This section does not apply if an alternative use of the site is authorized under a closure plan approved by the county as part of the permit.
7. Any other additional information required by the land conservation division to protect water quality and determine compliance with this section.

J. Review of Application. The land conservation division shall receive and review all permit applications. The land conservation division shall determine if the proposed facility meets required standards set forth in 17.04. Within 30 business days after receiving the completed application and fee, the land conservation division shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the land conservation division shall so notify the permit applicant. The land conservation division has 14 business days from the receipt of the additional information in which to approve or disapprove the application. No construction may commence without the final approval form being executed by the land conservation division.

K. Permit Conditions. All permits issued under this ordinance shall be issued subject to the following conditions and requirements:

1. Manure storage facility design, construction, closure, management and utilization activities shall be carried out in accordance with the manure facility plan and applicable standards specified in 17.04.

2. The permittee shall give 5 working days' notice to the land conservation division before starting any construction or closure activity authorized by the permit.

3. Written approval from the land conservation division must be obtained prior to any modifications to the permitted plans.

4. Activities authorized by permit must be completed within 2 years from the date of issuance, after which the permit shall be void. Permits may be extended upon written request of the applicant, subject to the corresponding fee, with approval from the land conservation division.

5. Following completion of construction and prior to issuance of a Certificate of Use, an agricultural or civil engineer registered in the State of Wisconsin or a DATCP, NRCS, or land conservation division engineering practitioner and the permittee, and, if applicable, the contractor shall certify in writing that all facilities and systems were installed as planned, including as-built drawings and authorized changes or modifications made during construction.

6. The permittee, engineer and contractor shall participate in a pre-construction conference with land conservation division staff before initiating construction of a new facility to outline the requirements and responsibilities of all the involved parties.

7. The land conservation division shall provide onsite inspection prior to issuance of the Certificate of Use. To receive a Certificate of Use, a manure storage facility must be fully constructed as designed, including the marking of the maximum operating level and implementation of all safety devices.

8. No permitted manure storage facilities may receive manure until the land conservation division provides its final approval. No manure may be emptied from a permitted manure storage facility until the land conservation division approves the nutrient management plan submitted by the applicant.(163-08, Sec. 2, 2019)

17.04.120 Certificate of use.

A. Certificate requirement. No person may operate or use a manure storage facility or any portion of a manure storage facility that was constructed after the effective date of this ordinance unless the person has a valid Certificate of Use for the storage facility or portion of the manure storage facility that is being operated or used.

B. Issuance. The land conservation division will issue a Certificate of Use upon receipt of the written certification required by 17.04.110(K)(5). The Certificate of Use will not be subject to fees.

C. Operating requirements. The operator of a manure storage facility is in compliance with the Certificate of Use if the person does all the following:

1. Updates and follows an annual nutrient management plan that complies with requirements in this ordinance and includes all manure land applied from the manure storage facility covered by the certification of use.

2. Provides a nutrient management plan, including the Nutrient Management Checklist, annually to the land conservation division by April 15th to document compliance with ordinance requirements. The land conservation division may take appropriate action authorized by this chapter if the submitted nutrient management plan does not reasonably substantiate a checklist answer.

3. Properly operates the storage facility in accordance with performance standards in 17.04.080 (H) and consistent with the recommended operating methods as defined by the Technical Guide, NRCS-Agricultural Waste Management Field Handbook and NRCS-Engineering Field Handbook.

4. Properly maintains the storage facility free from visible and serious damage, erosion, or deformities that would impair the facility's safety or function as determined by the Technical Guide, NRCS-Agricultural Waste Management Field Handbook, and the NRCS-Engineering Field Handbook.

5. Properly maintains the safety devices for a manure storage facility.

6. Provides the land conservation division proof of compliance with the requirements in 17.04 upon request and submits to periodic inspections of the storage facility with 2 business days advance notice from the land conservation division.

7. Develops and implements a plan for closure of the manure storage facility when the operator ceases use of the facility or closure is required based on conditions specified in this ordinance.

D. Certificate Revocation. The land conservation division may revoke a certificate of use if there is a misrepresentation of any material fact in the permit application, a misrepresentation of any material fact in the manure storage facility plan, a misrepresentation of any material fact in the nutrient management plan, a failure to comply with the nutrient management plan requirement, a failure to provide the land conservation division with a copy of the nutrient management plan upon request, or for multiple or repeat violations of this ordinance. The land conservation division will immediately provide written notice of the revocation, the reason for the revocation, and corrective actions required.

E. Permit Revocation. The land conservation division may revoke the permit issued under this ordinance if the holder of the permit has misrepresented any material fact in the permit application or manure facility plan, or if the holder of the permit violates any of the conditions of the permit.

SUBCHAPTER V. ADMINISTRATION, VIOLATIONS AND
APPEALS

<u>17.04.130</u>	Administration.
<u>17.04.140</u>	Violations.
<u>17.04.150</u>	Appeals.

17.04.130 Administration.

A. Delegation of Authority. Eau Claire County hereby designates the Eau Claire County Land Conservation Division to administer and enforce this ordinance.

B. Administrative Duties. In the administration of this ordinance, the land conservation division shall:

1. Keep an accurate record of all permit applications, animal waste facility plans, permits issued, inspections made, and other official actions.
2. Review permit applications and issue permits in accordance with 17.04.110.
3. Inspect animal waste facility construction to insure the facility is being constructed according to plan standards and specifications.
4. Investigate complaints relating to compliance with the ordinance.
5. Perform other duties as specified in this ordinance.

C. Inspection Authority. The land conservation division is authorized to enter upon any lands affected by this ordinance to inspect the land prior to or after permit issuance to determine compliance with this ordinance. If permission cannot be received from the applicant or permittee, the permit may be denied or entry by the land conservation division shall be according to Wis. Stat. § 66.0119.

D. Enforcement Authority. The land conservation division is authorized to post an order stopping work upon land which has had a permit revoked or on land currently undergoing activity in violation of this ordinance. Notice is given by both posting upon the land where the violation occurs one or more copies of a poster stating the violation, and by mailing a copy of the order by certified mail to the person whose activity is in violation of this ordinance. The order shall specify that the activity must cease immediately and be brought into compliance within 5 working days. Any permit revocation or order stopping work shall remain in effect unless retracted by the board of land use appeals, the land conservation division, or by a court of general jurisdiction; or until the activity is brought into compliance with the ordinance. The land conservation division is authorized to refer any violation of this ordinance or of an order stopping work issued pursuant to this ordinance to the corporation counsel for commencement of further legal proceedings. (163-08, Sec. 2, 2019)

17.04.140 Violations.

A. Penalties. Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this ordinance shall be subject to a forfeiture of up to \$200.00 plus costs of prosecution for each violation. An unlawful violation includes failure to comply with any standard of this ordinance or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense.

B. Enforcement of injunction. As a substitute for or as an addition to forfeiture actions, Eau Claire County may seek enforcement of any part of this ordinance by court actions seeking injunctions or restraining orders. (163-08, Sec. 2, 2019)

17.04.150 Appeals.

A. Authority. Under authority of Wis. Stat. Ch. 68, the Eau Claire County Board of Land Use Appeals, created under Wis. Stat. § 59.694, and under 18.31.020 and acting as an appeal authority under Wis. Stat. § 59.694, is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by the land conservation division in administering this ordinance.

B. Procedure. The rules, procedures, duties and powers of the board of land use appeals and Wis. Stat. Ch. 68, shall apply to this ordinance.

C. Who May Appeal. Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirement, decision or determination made by the land conservation division. (163-08, Sec. 2, 2019)

SUBCHAPTER VI. DEFINITIONS

17.04.160 Purpose.

17.04.170 Word usage.

17.04.180 Definitions.

17.04.160 Purpose. To define words, terms, and phrases contained in this chapter that are essential to the understanding, administration, and enforcement of this chapter. (163-08, Sec. 2, 2019)

17.04.170 Word usage. For the purposes of this chapter, certain words and terms are used as follows:

- Words used in the present tense include the future.
- Words in the singular include the plural.
- Words in the plural include the singular.
- The word “shall” is mandatory and not permissive.

17.04.180 Definitions. For the purposes of this chapter, certain words and terms are defined as follows:

A. "Adequate sod, or self-sustaining vegetative cover" means maintenance of sufficient vegetation types and densities that provide 70% coverage such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves, and woody debris.

B. "Applicant" means any person who applies for a permit under this ordinance.

C. "BARNY" means the BARNY runoff prediction model which is the NRCS "Evaluation System to Rate Feedlot Pollution Potential," ARM-NC-17 (April 1982 version with modifications as of August 2005. An Excel computer spreadsheet version of the BARNY model is available at <https://datcp.wi.gov/Documents/BARNYSpreadsheet.xls>.

D. "Best management practices (BMPs)" mean structural or nonstructural measures, practices, techniques, or devices employed to avoid or minimize soil, sediment, or pollutants carried in runoff to waters of the state.

E. "Direct conduit to groundwater" means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, cenotes, or depressional groundwater recharge areas over shallow fractured bedrock.

F. "Direct runoff" means any of the following:

1. Runoff of stored manure, including manure leachate, that discharges a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water.

2. Runoff from a feedlot that can be predicted to discharge a significant amount of pollutants to surface waters of the state or a direct conduit to groundwater.

3. Discharge of a significant amount of leachate from stored manure to waters of the state.

4. Construction of a manure storage facility in permeable soils or over fractured bedrock without a liner designed in accordance with Wis. Admin. Code § NR 154.04(3).

G. "Footprint of the liner" means the area measured in square feet located beneath the liner of the manure storage facility, including the waste transfer system.

H. "Feedlot" means a barnyard, exercise area, or other outdoor area where livestock are concentrated for feeding or other purposes and self-sustaining vegetative cover is not maintained. "Feedlot" does not include a winter grazing area or a bare soil area such as a cattle lane or a supplemental feeding area located within a pasture, provided that the bare soil area is not a significant source of pollution to waters of the state as determined by the BARNY runoff prediction model or an equivalent predictive model for manure runoff utilized by the land conservation division.

I. "Land application" means the physical transfer of manure from any animal confinement area or manure storage facility to fields for purposes of fertilization or disposal.

J. "Land Conservation Commission" means the Commission which is designated by the county board pursuant to Wis. Stat. § 92.06.

K. "Land Conservation Division" means the Eau Claire County Land Conservation Division of the Planning and Development Department.

L. "Landowner" means any of the following:

1. A person who owns a parcel of land.
2. A person who rents, controls, or uses a parcel of land for agricultural

purposes.

M. "Livestock" means all domestic animals, including deer, elk, or any fenced-in animals.

N. "Livestock operation" means a feedlot or other facility or a pasture where animals are fed, confined, maintained, or stabled.

O. "Livestock producer" means an owner or operator of a livestock operation.

P. "Manure" means livestock excreta. "Manure" includes the following when intermingled with excreta in normal farming operations: debris including bedding, water, soil, hair, and feathers; processing derivatives including separated sand, separated manure solids, precipitated manure sludges, supernatants, digested liquids, composted biosolids, and process water; and runoff collected from barnyards, animal lots, and feed storage areas.

Q. "Manure storage" means physically transferring manure from the livestock production area, feedlot, or place of origin to another location, manure storage facility, or unconfined manure pile. Manure storage does not include transferring manure for land application.

R. "Manure storage facility" means an impoundment made by constructing an embankment or excavating a pit or dugout or by fabricating a structure to contain manure and other animal or agricultural waste.

S. "Natural Resources Conservation Service (NRCS)" means an agency of the United States Department of Agriculture (USDA) which, for purposes of this chapter, provides the Land Conservation Commission and the land conservation division with technical assistance and information on the design criteria, size, shape, engineering strength, and other necessary technical data for the proper and safe installation of a manure storage facility.

T. "Navigable waters" means any body of water that is navigable under the laws of the state as defined in Wis. Stat. § 30.01(4m).

U. "Nutrient management plan" means a plan that balances the nutrient needs of a crop with the nutrients available from legume crops, manure, fertilizer, or other sources. The requirements for a nutrient management plan are as established in Wis. Admin. Code § ATCP 50.04(3).

V. "Nutrients" means plant nutrients derived from commercial fertilizers, manure, organic wastes, soil reserves, legumes, or other sources.

W. "Ordinary high-water mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

X. "Pasture" means land on which livestock graze or otherwise seek feed in a manner that maintains the vegetative cover over the grazing area. Pasture may include limited areas of bare soil such as cattle lanes and supplemental feeding areas provided the bare soil areas are not significant sources of pollution to waters of the state.

Y. "Permit" means the signed, written statement issued by the land conservation division under this ordinance authorizing the applicant to construct, install, substantially alter, close, or reuse a manure storage facility, and to use or dispose of waste from the facility.

Z. "Permitted manure storage facility" means a facility that was permitted under this ordinance.

AA. "Permittee" means any person to whom a permit is issued under this ordinance.

BB. "Person" means any individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency, or federal agency pursuant to Wis. Stat. § 283.01(11).

CC. "Phosphorus index" or "PI" means the State's agricultural land management planning tool for assessing the potential of a cropped or grazed field to contribute phosphorus to surface waters.

DD. "Pollutant" means any dredged, spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water as defined in Wis. Stat. § 283.01(13).

EE. "Pollution" includes contaminating or rendering unclean or impure the waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

FF. "Process wastewater" means wastewater from the production area directly or indirectly used in the operation of animal feeding operation that results from any or all of the following:

1. Spillage or overflow from animal or poultry watering systems.
2. Washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities.
3. Direct contact swimming, washing, or spray cooling of animals or dust control.
4. Water that comes into contact with any raw materials or animal byproducts including manure, feed, milk, eggs, or bedding.

GG. "Recoverable benchmark" means a readily identifiable, relatively permanent benchmark that is intended to maintain its elevation without change over a long period of time and will not be influenced by disturbing activities.

HH. "Runoff" means storm water or precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

II. "Safety devices" means constructed measures designed to protect humans and livestock from hazards associated with a manure storage facility.

JJ. "Site that is susceptible to groundwater contamination" under Wis. Stat. § 281.16 (1) (g) means any one of the following:

1. An area within 250 feet of a private well.
2. An area within 1000 feet of a municipal well.
3. An area within 300 feet upslope or 100 feet downslope of a direct conduit to groundwater.
4. A channel that flows to a direct conduit to groundwater.
5. An area where the soil depth to groundwater or bedrock is less than 2 feet.
6. An area where the soil does not exhibit one of the following soil characteristics:

- a. At least a 2-foot soil layer with 40% fines or greater above groundwater and bedrock.
- b. At least a 3-foot soil layer with 20% fines or greater above groundwater and bedrock.
- c. At least a 5-foot soil layer with 10% fines, or greater above groundwater and bedrock.

KK. "Stored manure" means manure that is kept in a manure storage facility or an unconfined manure pile.

LL. "Substantially alter or significantly alter" means a change initiated by a landowner or operator that results in a relocation of a structure or facility or changes to the size, depth or configuration of a structure or facility including any of the following:

1. Replacement of a liner of any type in a manure storage facility.
2. An increase in the volumetric capacity or area of a manure storage facility.
3. A change in a manure storage facility related to a change in livestock management from one species of livestock to another such as cattle to poultry.
4. The addition of a new pipe penetration or waste transfer system that requires an alteration to the manure storage facility.

MM. "Surface waters" means all natural and artificial named and unnamed lakes and all naturally flowing streams within the boundaries of the state, but not including cooling lakes, farm ponds and facilities constructed for the treatment of wastewaters.

NN. "Tolerable soil loss" or "T" means the maximum average annual rate of soil erosion, in tons per year, allowable for particular soils and site conditions that will maintain soil productivity.

OO. "Technical guide" means the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Technical Guide as adopted by the Land Conservation Commission, including subsequent amendments or additions.

PP. "Top of the channel" means an edge or point on the landscape landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

QQ. "Unconfined manure pile" means a quantity of manure that is at least 175 cubic feet in volume and which covers the ground surface to a depth of at least 2 inches and is not confined within a manure storage facility, livestock housing facility or barnyard runoff control facility or covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater.

RR. "Waste transfer system" means components such as pumps, pipes, conduits, valves, and other mechanisms installed to convey manure, leachate and contaminated runoff, and milking center wastes from livestock structures to a storage structure, loading area, or treatment area. Waste transfer system may include permanently installed conveyance systems necessary to transfer material from the source to a storage facility, treatment facility or system, loading area, or cropland, and does not include vehicles, temporary surface pipes or hoses.

SS. "Water pollution" means any act or condition contaminating or rendering unclean or impure the ground or surface waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life.

TT. "Water Quality Management Area (WQMA)" means land that includes any of the following: an area within 1,000 feet of the ordinary high-water mark of a navigable lake, pond, or flowage; an area within 300 feet of the high-water mark of a navigable river or stream; an area that is susceptible to groundwater contamination, or has the potential to be a direct conduit for contamination to reach groundwater.

UU. "Waters of the state" mean those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

VV. "Winter grazing area" means a cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period of October 1 to April 30.(163-008, Sec. 2, 2019:

Chapter 17.05

EROSION CONTROL

Sections:

- 17.05.010 Authority
- 17.05.020 Findings
- 17.05.030 Purpose
- 17.05.040 Administration
- 17.05.045 Public Notice
- 17.05.050 Jurisdiction
- 17.05.060 Definitions
- 17.05.070 Applicability and Exemptions
- 17.05.080 Prohibited Activities
- 17.05.085 Protective Areas
- 17.05.090 Fees
- 17.05.095 Application Review Process
- 17.05.100 Erosion Control Plan Requirements
- 17.05.110 Application Requirements
- 17.05.120 Technical Standards and Specifications
- 17.05.130 Maintenance Responsibilities
- 17.05.150 Enforcement
- 17.05.160 Validity

17.05.010 Authority. This ordinance is adopted by the county board under the authority granted by Wis. Stat. §§ 59.693, 92.07(6) and 92.07(15) and Wis. Stat. ch 236. (Ord. 158-26, 2015; Ord. 156-002, Sec. 4, 2012; Ord. 150-36, 2006)

17.05.020 Findings.

A. The Eau Claire County Board of Supervisors finds that uncontrolled construction site erosion from land disturbing activity can have significant adverse impacts upon local water resources and the health, safety and general welfare of the community, and diminish the public enjoyment and use of natural resources. Specifically, uncontrolled soil erosion can:

1. Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperatures;
2. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;
3. Alter wetland communities by changing wetland hydrology and increasing pollutant loads;

4. Reduce the quality of groundwater by increasing pollutant loading;
5. Threaten public health, safety, property, and general welfare by changing runoff flow direction and infiltration capacities as well as overwhelming neighbors and water bodies with excess sediment.
6. Generate airborne particulate concentrations that are health threatening or may cause other damage to property or the environment.(Ord. 158-26, 2015; Ord. 150-36, 2006)

17.05.030 Purpose.

A. The general purpose of this ordinance is to establish regulatory requirements for land disturbing activities aimed to minimize the threats to public health, safety, welfare, and the natural resources of Eau Claire County from construction site erosion. Specific purposes are to:

1. Further the maintenance of safe and healthful conditions.
2. Prevent and control the adverse effects of soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; establish erosion control standards for building sites, placement of structures and land uses; and preserve ground cover and scenic beauty.
3. Reduce sedimentation in existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger property.

a. Through this erosion control permit process, this ordinance is intended to meet the current construction site erosion control regulatory requirements of Wis. Admin. Code ch. NR 151 on the effective date of this ordinance. Nothing in this ordinance prevents the Wisconsin Department of Natural Resources (WDNR) from adopting or enforcing more stringent soil erosion or storm water management requirements in future revisions of Wis. Admin. Code.

b. Provisions have also been incorporated to coordinate the erosion control permit requirements of this ordinance with other county and town zoning and land division regulations. (Ord. 158-26, 2015; Ord. 150-36, 2006)

17.05.040 Administration The Department of Planning and Development Land Conservation Division (LCD) is designated to administer and enforce this ordinance. (158-26, 2015; Ord. 150-36, 2006)

17.05.045 Public Notice.

A. The department shall publish a Class 1 notice pursuant to Wis. Stat. § 985.07(1) outlining any proposed changes to this ordinance. The notice shall include:

1. A brief description of the proposed changes.
2. The opportunity to provide written comments on the proposed changes.
3. The location at which the public may review the proposed ordinance changes.

B. Copies of the notice shall be forwarded by the department to the clerk and chair of each unincorporated municipality of Eau Claire County. (Ord 158-26, 2015)

17.05.050 Jurisdiction.

A. The provisions of this chapter shall apply to all unincorporated lands within the jurisdictional boundaries of Eau Claire County where a town board has not adopted a similar ordinance or entered into an intergovernmental agreement with Eau Claire County under § 66.0301, Wis. Stats., for ordinance administration services.

B. Under the authority of Wis. Stat. §59.693(10), this chapter shall continue in effect in any area annexed by a city or village, unless the city or village enacts, maintains and enforces a city or village ordinance which complies with minimum standards established by the Wisconsin Department of Natural Resources and which is at least as restrictive as this chapter. (Ord. 158-26, 2015; Ord. 150-36, 2006)

17.05.060 Definitions.

A. The following definitions shall apply in this chapter:

1. "Applicable review authorities" means the town planning commission, the county zoning administrator or the county committee on planning and development, depending on the type of project and its location.

2. "Applicant" means any person or entity holding fee title to the property or their representative. The applicant shall become the "permit holder" once a permit is issued. The applicant shall sign the initial permit application form in accordance with a. through e. below, after which the applicant may provide the LCD written authorization for others to serve as the applicant's representative:

a. In the case of a corporation, by a principal executive officer of at least the level of vice president or by the officer's authorized representative having overall responsibility for the operation of the site for which a permit is sought.

b. In the case of a limited liability company, by a member or manager.

c. In the case of a partnership, by the general partner.

d. In the case of a sole proprietorship, by the proprietor.

e. For a unit of government, by a principal executive officer, ranking elected official or other duly authorized representative.

3. "Best management practice" (or "BMP") means structural and nonstructural measures, practices, techniques or devices employed to avoid or minimize sediment or other pollutants carried in runoff.

4. "Clean runoff" means that runoff which is derived from relatively uncontaminated sources which may include, but is not limited to: uncontaminated ground water, potable water source, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been dechlorinated.

5. "Common plan of development" means all lands included within the boundary of a certified survey map or subdivision plat created for the purpose of development or sale of property where integrated, multiple, separate and distinct land developing activity may take place at different times by future owners.

6. "Conservation Plan" means a plan outlining the planting, growing, and harvesting of agricultural crops and other associated land uses which meet the state's soil and water conservation standards contained within Wis. Admin. Code ch. ATCP 50 and Wis. Admin. Code ch. NR 151.

7. "County mapping standards" means Eau Claire County's mapping standards conform to National Map Accuracy Standards (NMAS) of the United States Geological Survey (USGS). The geodetic referenced is to the Eau Claire County Coordinate System which is directly relatable to the Wisconsin State Plane Coordinate System, Central South Zone, North American Datum 1983(91) (NAD 83(91) and North American Vertical Datum of 1988 (NAVD 88).

8. "County zoning administrator" means the Supervisor of the Eau Claire County Department of Planning and Development, Land Use Controls Division, or designee.

9. "County committee on planning and development" means the zoning agency of Eau Claire County as defined under Wis. Stat. §59.69 (2)(a).

10. "Design storm" means a hypothetical depth of rainfall that would occur for the stated return frequency (i.e. once every 2 years or 10 years), duration (i.e 24 hours) and timing of distribution (e.g. type II). All values are based on the historical rainfall records for the area. Design storms used in this ordinance are summarized in 17.06.120

11. "Dewatering" means the removal of trapped water from a construction site to allow land development or utility installation activities to occur.

12. "Erosion" means the process of detachment, transport and deposition of soil, sediment or rock fragments by action of water, wind, ice or gravity.

13. "Effective infiltration area" means the area of the infiltration system that is used exclusively to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

14. "Environmentally sensitive area" means any area that, due to the natural resources present or the lack of filtering capacity, is more susceptible to the adverse impacts of sediment and other pollutants associated with erosion and urban runoff. Examples include environmental corridors, slopes of 20% and greater, direct hydrologic connections to lakes, streams, wetlands, groundwater or other water resources, or very coarse or shallow soils above groundwater or bedrock.

15. "Filtering layer" means soil that has at least a three-foot deep layer with at least 20% that passes through a #200 sieve (fines); or at least a five-foot deep layer with at least 10% that passes through a #200 sieve (fines); or another medium exists with an equivalent level of protection, as determined by the LCD.

16. "Final plat" means a map of a proposed condominium or subdivision to be recorded with the Eau Claire County Register of Deeds pursuant to Wisconsin Statutes.

17. "Forest Management Plan" means a plan outlining the planting, growing, and harvesting of silvicultural products which meets the guidelines contained within the Wisconsin Department of Natural Resources publication PUB FR226 2003 entitled "Wisconsin Forest Management Guidelines.

18. "Groundwater" means any of the waters of the state, as defined in Wis. Stat. § 281.01 (18), occurring in a saturated subsurface geological formation of rock or soil.

19. "Groundwater recharge areas" means lands identified in a document published by the West Central Wisconsin Regional Planning Commission as groundwater recharge areas; or where, prior to any land disturbing or land development activity, precipitation or runoff could only leave the area by infiltrating the ground, thereby recharging the groundwater.

20. "Groundwater Table" means the surface in geological material at which the pore pressure is atmospheric.

21. "Illicit connection" means any drain or conveyance, whether on the surface or subsurface, which allows an illegal non-storm water discharge to enter the storm drain system, including but not limited to: sewage, process wastewater and wash water, any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this ordinance.

22. "Impervious surface" means an area that releases all or a large portion of the precipitation that falls on it, except for frozen soil. Conventional rooftops and asphalt or concrete sidewalks, driveways, parking lots and streets are typical examples of impervious surfaces. For purposes of this ordinance, typical gravel driveways and other examples listed shall be considered impervious (RCN 98) unless specifically designed to encourage infiltration or storage of runoff.

23. "Impracticable" means that complying with a specific requirement would cause undue economic hardship and special conditions exist that are beyond the control of the applicant and would prevent compliance.

24. "Infill development" means land development that occurs where there was no previous land development and is surrounded by other existing land development;

25. "Infiltration" means the entry of precipitation or runoff into or through the soil.

26. "Infiltration system(s)" means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

27. "Karst features" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

28. "LCD" means the Land Conservation Division of the Eau Claire County Department of Planning and Development. The LCD supervisor supervises the daily activities of the Division, including the administration of this ordinance.

29. "Land development activity" or "land development" means any construction related activity that may ultimately result in the addition of impervious surfaces, such as the construction of buildings, roads, parking lots and other structures.

30. "Land disturbing activity" (or "disturbance") means any manmade alteration of the land surface that may result in a change in the topography or existing vegetative or non-vegetative soil cover, or may expose soil and lead to an increase in soil erosion and movement of sediment. Land disturbing activity includes, but not limited to, clearing and grubbing for future land development, excavating, filling, grading, building construction or demolition, geothermal system installation, and pit trench dewatering.

31. "MEP" means Maximum Extent Practicable as an acceptable level of implementing best management practices to achieve a performance standard specified in this ordinance, as determined by the LCD. In determining MEP, the LCD shall take into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties, cultural resources, and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

32. "Municipal project," as used in this ordinance, means any project conducted by any city, town, village, county, utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district, as defined in Wis. Stat. § 281.01(6).

33. "Navigable Water(s)" or "Navigable" means all natural inland lakes, flowages, streams rivers, and other water within the unincorporated areas in accordance with Wis. Stat. § 281.31.

34. "Nonmetallic mining" has the meaning specified under 18.90.030.

35. "Nonresidential" means any commercial, industrial or institutional activity.

36. "Nutrient Management Plan" means a plan that meets all requirements of Wis. Admin. Code § ATCP 50.04 (3) and is either:

a. A plan required under Wis. Admin. Code §§ ATCP 50.04 (3) or 50.62 (5) (f); or

b. A farm nutrient plan prepared or approved, for a landowner, by a qualified nutrient management planner.

37. "Offsite BMP" means best management practice(s) that are located outside of the boundaries of the site covered by a permit application due to current land disturbance or land development activities. Offsite BMPs address runoff from the permitted site and may be installed as part of a regional storm water management plan approved by a local government.

38. Ordinary high water mark (OHWM)" has the meaning given Wis. Admin. Code ch. NR 115.

39. "Planned land use" means the land use designated in the latest version of the Eau Claire County land use plan.

40. "Plat" means a map of a proposed condominium or subdivision.

41. "Pollutant" has the meaning as defined in Wis. Stat. § 283.01 (13).

42. "Pollution" has the meaning as defined in Wis. Stat. § 283.01 (14).

43. "Preliminary plat" means a map showing the salient features of a proposed condominium or subdivision submitted to an approving authority for purposes of preliminary consideration.

44. "Preventive action limit" means a numerical value expressing the concentration of a substance in groundwater which is adopted under Wis. Stat. § 160.15 and Wis. Admin Code ch. NR 140.

45. "Process Water" or "Process Wastewater" includes any water used in noncontact cooling water (NCCW), mine dewatering, scrubber water, dust suppression, wash water, flotation process wastewater, wet process water, or any other water conveyed or used on site.

46. "Protective areas" means an area of land that commences at the top of the channel of lakes, streams, and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, for purposes of this Chapter, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

47. "Publicly funded development" means a land development, such as a public road or municipal building that is being funded solely by a unit of government. It does not include new roads or other structures built with private funds, or a combination of public and private funds, and subsequently dedicated to a unit of government.

48. "Redevelopment" means land development that replaces previous land development of similar impervious conditions.

49. "Regional storm water management plan" means a planning document, adopted by a local unit of government, that coordinates storm water management activities for an entire drainage area or watershed, including future land development activities within the watershed. The plan may prescribe the use of BMPs for individual development sites and for selected points or phases within the drainage area to meet the goals and objectives of the plan.

50. "Regulatory agency" means a public agency that has the legal authority to review and approve erosion control and storm water management plans and enforce their implementation, with requirements at least as restrictive as this ordinance.

51. "Responsible party" means any person or entity holding fee title to the property or acting as the owners representative, including any person, firm, corporation or other entity performing services, contracted, subcontracted or obligated by other agreement to design, implement, inspect, verify or maintain the BMPs and other approved elements of erosion control and storm water plans and permits under this ordinance.

52. "Road or Access Lane" as used in this ordinance, means any area that is constructed to allow public or private access to a parcel of land that is connected to any private, public, local, arterial, collector, frontage road or highway.

53. "Runoff" means water from rain, snow or ice melt, or dewatering that moves over the land surface via sheet or channelized flow.

54. "Shoreland(s)" means lands within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond or flowage: 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

55. "Site" means the entire area included in the legal description of which the land disturbing or land development activity will occur.

56. "Stabilized" means that all land disturbing activities are completed and that a uniform, perennial vegetative cover has been established on at least 70% of the soil surface or other surfacing material is in place and the risk of further soil erosion is minimal, as determined by the LCD.

57. “Steep Slope” means 20% or greater. For the purpose of application of these regulations, slope shall be measured over a horizontal distance of 50 feet parallel to the direction of the existing slope and within the proposed “land disturbing activity”. Slopes shall be measured as the change in elevation over the horizontal distance between consecutive contour lines and expressed as a percent. Modeling software, where used, shall be adjusted to account for large areas with steep slopes.

58. “Storm drainage system” means a publicly owned facility by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and manmade or altered drainage channels, reservoirs, and other drainage structures.

59. “Storm water” includes all water as defined in the term “runoff” and may also include “process water”.

60. “Storm water BMP” means any best management practice that is designed to collect or manage the quantity or quality of storm water runoff for an indefinite time period. This term is a subset of the term “best management practice” and distinct in that they require long term maintenance. Some examples include, but are not limited to: wet or dry detention basin, infiltration trench or basin, bioretention basin, stilling basin, green roof, filter strip, artificial wetland or any combination of these or other permanent storm water management practices, as determined by the LCD.

61. “Storm water permit” means a written authorization made by the LCD to the applicant to conduct land disturbing or land development activities in accordance with the requirements of this ordinance. A storm water permit regulates both construction site erosion and post-construction storm water runoff from a site.

62. “Subdivision” means a division of a lot, parcel or tract of land by the owner thereof or the owner’s agent for the purpose of sale or of building development that meets the subdivision definition criteria under Wis. Stat. § 236.03 (12) or a more restrictive definition adopted by a local unit of government.

63. “Technical standard” means a document that specifies design, predicted performance and operation and maintenance requirements for a material, device or method.

64. “Top of channel” means an edge, or point on the landscape, commencing landward from the ordinary highwater mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary highwater mark, the top of the channel is the ordinary highwater mark.

65. “Utility” means a wire, pipe, tube or other conduit designed to distribute or collect a product or service, including but not limited to electricity, natural gas, oil, telecommunications, drinking water, storm water, sewage, or any combination of these items.

66. “Warm season plantings” and “wetland plantings” means seed or plant stock that are native to a prairie or wetland setting. These types of plantings usually take a couple of years to get established and require diligent removal of invasive species during this time. Upon maturity, warm season plants generally have a deep root system, which enhances infiltration.

67. “Waters of the state” has the meaning given in Wis. Stat. § 281.01 (18).

68. "Wetlands" means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

69. "Woodland" means an area where a grouping of 10 or more trees exist that have trunk diameters of at least four inches at four feet above the ground surface. The boundaries of a woodland shall be defined by the canopy, commonly referred to as the "drip line".

70. "Working day" means any day the office of the LCD is routinely and customarily open for business, and does not include Saturday, Sunday and any official county holidays. (Ord. 158-26, 2015; Ord. 156-002, Sec. 5-11, 2012; Ord 153-27, Sec. 1, Ord. 150-36, 2006)

17.05.070 Applicability and Exemptions.

A. Construction Site Erosion Control. Title 17.05 shall apply to the following land disturbing activities as set forth in Wis. Stat. § 281.33(3)(a)1:

1. Large Site. Activities at sites that have a land disturbance that is one acre or more in area.

2. Small Site. Activities at sites that have a land disturbance that is less than one acre and to which Wis. Stat. §§ 101.1206 and 101.653 do not apply. Title 15 applies to activities regulated by Wis. Stat. §§101.1206 and 101.653.

B. Uniform Statewide Standards. Unless otherwise exempted under 17.05.070 D., an erosion control permit shall be required and all erosion control provisions of this ordinance shall apply to all proposed land disturbing activity that meet the requirements of 17.05.070 A and any of the following:

1. Involves the grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity which affects an area of 4,000 square feet or more; or

2. Involves excavation or filling, or a combination of excavation and filling, which affects 400 cubic yards or more of soil, sand or other excavation or fill material; or

3. Involves street, highway, road, access lane or bridge construction, enlargement, relocation or reconstruction.

4. Involves the laying, repairing, replacing, or enlarging of an underground pipe, line or facility for a distance of 300 feet or more; or

5. Requires a subdivision plat approval or a certified survey.

6. Is a land disturbing activity, regardless of size, that is likely to cause an adverse impact to an environmentally sensitive area or other property.

C. Storm Water Management. The applicant may also be required to secure a storm water permit, as outlined in Chapter 17.06, on any and all projects that meet the criteria as outlined in 17.06.070.

D. Applicability Exemptions.

1. Exempt From All Requirements. Qualification for an exemption under this chapter is subject to approval by the LCD and may require a more complete applicability review, as identified under each item, before an exemption is granted. The following activities shall be exempt from all of the requirements of this ordinance:

a. Land disturbing activities directly involved in the planting, growing and harvesting of any plant grown for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries. This exemption does not exempt agricultural facility construction projects associated with construction of barns, barnyard runoff control systems, or other like facilities. To recognize an exemption under this paragraph, the LCD may require the applicant to provide a copy of the conservation plan and/or nutrient management plan for the property.

b. Land disturbing activities exempted by state or federal law, including highway construction and other projects conducted by a state agency, as defined under Wis. Stat. § 227.01 (1), or under a memorandum of understanding entered into under Wis. Stat. § 281.33 (2). To recognize an exemption under this paragraph, the LCD may require:

i. Documentation of the person(s) and regulatory agency charged with enforcing erosion control for the project.

ii. Documentation of the person(s) and regulatory agency charged with enforcing erosion control and storm water management for the project

iii. Documentation relating to the project as outlined under 17.05.070 D.2.

c. Land disturbing activity directly involved in the installation and maintenance of private onsite waste disposal systems, as regulated under Chapter 8.12.

d. Any proposal that is designed and/or certified by the LCD as part of a soil conservation or water pollution control project.

e. Land development activity associated with animal waste storage structures with active permits under Chapter 17.04.

f. Land disturbance from silviculture activities, including tree nursery operation, tree harvesting operation, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area for a construction site or access road is not a silviculture activity. To recognize an exemption under this paragraph, the LCD may require that the applicant provide a copy of the forest management plan for the property.

g. Other project sites that LCD determines are either partially or completely exempt following completion of the administrative waiver review process under 17.05.070 F.

2. Exempt from Certain Requirements.

a. For municipal projects, the County requires compliance with Chapter 17.05, but will waive the full permit process and fees as stipulated within an Intergovernmental Agreement.

b. For any project and/or portion of project that has been processed through the administrative waiver process as outlined under 17.05.070 F.2 and granted such exemption.

E. Performance Standards for Non-Permitted Sites.

1. If a site is not required to obtain a permit under this chapter, erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following, pursuant to Wis. Adm. Code ch. NR 151.105(4):

a. The deposition of soil from being tracked onto streets by vehicles.

- b. The discharge of sediment from disturbed areas into on-site storm water inlets.
- c. The discharge of sediment from disturbed areas into adjacent waters of the state.
- d. The discharge of sediment from drainage ways that flow off the site.
- e. The discharge of sediment by dewatering activities.
- f. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
- g. The transport by runoff into waters of the state of chemicals, cement and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state and have acquired appropriate state and federal permits, such as constructing footings or BMP installations or have completed the wetland mitigation process, are not prohibited.

F. Administrative Waiver Process.

1. Applicability. To ensure that all requirements of this ordinance are fulfilled, applicants may utilize the formal administrative waiver process as outlined herein to allow for LCD determination of exemption applicability in either of the following circumstances:

- a. If another regulatory agency is enforcing erosion control and storm water management provisions that the LCD determines are at least as restrictive as those contained in this ordinance, the applicant may request an exemption from any or all provisions of this ordinance in accordance with the administrative waiver process outlined herein..

- b. Through this administrative waiver process the LCD may exempt a site or a portion of a site from meeting certain technical requirements of this ordinance if the LCD determines that one of the following applies:

- i. OffSite BMP(s). The requirement has been satisfied through the use of offsite BMP(s). Offsite BMPs could be installed beyond the boundaries of the property covered by the application as part of a regional storm water management plan or through other legal arrangements. However, to be eligible for this exemption, the offsite BMP(s) must treat runoff from the site covered by the application and appropriate written agreements to be recorded that authorize use of the off-site BMP, as needed; or

- ii. Site conditions. It is impracticable to meet the requirement due to site conditions such as soils, desirable trees, surrounding land uses, potential for groundwater contamination, public health or safety problems, or other factors beyond the control of the applicant. No site shall be entitled to an exemption under this paragraph due solely to the size of the proposed land disturbance activity in relation to the parcel size.

2. Administrative Waiver Requirements. Applicants must submit a formal waiver request using a form provided by the LCD for that purpose. Based upon the scope of the waiver request, the LCD may require the applicants to submit documentation relating to the project, including any or all of the following:

a. A copy of the proposed plans certified as “approved” by a regulatory agency. Said plans shall also be signed, sealed, and dated by the project manager stating that all best management practices comply with this ordinance and all applicable standards.

b. Contact information for the applicant or for person(s) representing the applicant and charged with overseeing the implementation of the approved plans, including certifying construction.

c. A copy of the permit issued by the regulatory agency and contact information for the person(s) charged with permit enforcement duties.

d. An exemption under the technical administrative waiver process, as outlined in 17.05.070 D.2.b., may only be granted by the LCD upon the applicant’s submission of the following items to the LCD, which shall constitute a complete application:

i. A written request describing the provisions of this subsection for which an exemption is being requested and an explanation of why;

ii. A site plan in accordance with 17.05.110 A., including the delineation of the area and size (in acres) to which the exemption would apply and any other BMPs required to meet the purpose of this ordinance;

iii. For offsite BMP(s) under 17.05.070 F. 1. b. i. Documentation that the necessary BMP(s) have been properly installed, including as-built plans, construction certification, and design summaries;

e. Other items that the LCD determines are necessary to ensure compliance with state law.

3. Formal Administrative Waiver Fee. For those sites that are exempted under this subsection, and are not publicly funded, the applicant shall pay an administrative waiver review fee to the LCD. The LCD shall publish a fee schedule for this purpose, to be updated as needed to reflect actual costs associated with the administrative waiver process.

4. Appeal. If the applicant does not agree with any determination of the LCD under 17.05.070 F., the applicant may appeal the decision pursuant to the procedures in 17.05.150 C. (Ord. 158-26, 2015; Ord. 156-002, Sec. 12, 13,14 & 15, 2012; Ord. 153-27, Sec. 2, 3, 4, 5 & 6, 2010; Ord. 152-49, Sec. 1, 2009; Ord. 150-36, 2006)

17.05.080 Prohibited Activities.

A. Land disturbance activities on 30% slopes and greater, unless:

1. exempted in 17.05.070. D.; or
2. for activities that require public improvements; or
3. to correct a preexisting erosion problem.

B. No activity permitted under this ordinance shall cause contamination resulting in a public health hazard or other violation under Title 8. (Ord. 158-26, 2015; Ord. 156-002, Sec. 16 & 17, 2012; Ord. 153-27, Sec.’s 7 & 8, 2010; Ord. 151-36, Sec. 1, 2007; Ord. 150-36, 2006)

17.05.085 Protective Areas.

A. Land disturbance activities are prohibited in the following areas unless otherwise stated:

1. Surface Waters. Within:
 - a. 75 feet for outstanding resource waters and exceptional resource waters.
 - b. 50 feet for perennial and intermittent streams identified on the Eau Claire County GIS system. If there is a discrepancy between the Eau Claire County GIS system and the applicable United States Geological Survey 7.5 minute series topographic map, the more stringent stream identification shall apply.
 - c. 50 feet for lakes.
 - d. 10 feet for concentrated flow channels with drainage areas greater than 130 acres.

2. Wetlands. For determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in Wis. Admin. Code ch. NR 103. Within:
 - a. 75 feet for wetlands in areas of special natural resource interest as specified in Wis. Admin. Code ch. NR103.

- b. 50 feet for highly susceptible wetlands, as determined by LCD. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes, and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Wis. Admin. Code ch. NR 103 and performed by a certified wetland delineator. This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

- c. For less susceptible wetlands, 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

B. Groundwater protection.

1. The discharge from BMPs shall remain below the enforcement standard at the point of application of those standards.

2. No BMP shall be installed that meets the definition of an injection well under Wis. Admin. Code ch. NR 812.

3. All storm water BMPs shall comply with the provision of any applicable wellhead protection plan for a community water supply under Wis. Admin. Code ch. NR 811 and Chapter 18.55.

4. No subsurface drainage shall occur unless the requirements of 17.05.110 C.2.d. are met.

C. Requirements. The following requirements shall be met for all land development activity located within a protective area:

1. Impervious surfaces shall be kept out of the protective area, except for boathouses and walkways authorized under Shoreland and Floodplain Zoning in Title 20 and 18.20. The erosion control plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

2. Where land disturbing activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upgradient overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

3. No BMPs shall be located in the protective areas.

D. Protective Area Exemptions. The protective area requirements of 17.05.080 may be exempted in accordance with application under the administrative waiver requirements outlined 17.05.070 F. for the following activities:

1. Structures that cross or access surface waters such as boat landings, bridges, and culverts;

2. Structures constructed or placed on property in a shoreland setback area in accordance with Wis. Stat. § 59.692(1v) and Title 20; and

3. Sites where runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability. (Ord. 160-23, Sec. 4, 2017; Ord. 158-26, 2015)

17.05.090 Fees.

A. Application and review fees under this ordinance shall be in accordance with the following:

1. All fees shall be established by the LCD and approved by the county board through the annual budget process.

2. Fee amounts shall not exceed actual and direct LCD costs of administering this ordinance.

3. The fee schedule in 4.35.160 shall be available for review and public distribution.

4. A double permit fee shall be charged by the LCD if land disturbing activity requiring approval under 17.05.070 B. commences prior to obtaining an erosion control permit. Such double fee shall not release the responsible party from full compliance with this chapter nor from prosecution for violation of this chapter.

5. Any overpayment of required fees will be refunded to the applicant at the time of final permit approval.

6. In addition to the application and review fees, applicants shall be responsible for the payment of all reasonable expenses of the department for retaining outside expert assistance in analyzing the applicant's application and its conformity to the requirements of this chapter. (Ord. 158-26, 2015; Ord. 156-002, Secs. 18- 23, 2012; Ord. 152-49, Sec. 3, 2009; Ord. 150-36, 2006)

17.05.095 Application Review Processes.

A. In addition to an electronic copy, five hard copies of the application materials shall be submitted to the LCD.

B. Preliminary Erosion Control Review Letter. Upon submittal of a complete application under 17.05.100 C., the applicant is authorizing the LCD to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

1. The LCD shall have 30 calendar days from the date the LCD receives the application to issue a review letter to the applicable review authorities and the applicant based on the requirements of this ordinance.

2. If within 10 calendar days, the LCD determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the LCD shall have 30 calendar days from the date additional information is received to issue a review letter. The LCD shall inform the applicant and the applicable review authorities when additional information is requested from another source. If the application is not complete, LCD will inform the applicant and will not proceed with a full review until a complete application is provided.

3. If the LCD does not issue a review letter within the 30 calendar days, the applicant may continue pursuing other applicable approvals or deed recording without the preliminary storm water review letter or certification of compliance.

4. If within the 30 calendar days, the LCD notifies the applicable review authorities that the application under 17.05.100 C. is not complete, information has been requested from another source, or recommended changes or objections to the application need to be addressed before other approvals can proceed, then the applicable review authorities may:

a. At the request of the applicant, grant an extension to the review period, if needed to allow more time for the LCD review process to be completed or to address LCD recommendations, requirements, or objections to the application; or

b. Disapprove the application.

5. An extension may be approved by written mutual consent. Application and issuance of a preliminary erosion control review letter for a project that is reviewed in conjunction with a storm water permit application for the same site will follow the procedures as outlined in 17.06.080 B. Issuance of a preliminary storm water plan review letter will encompass issuance of the preliminary erosion control review letter and a separate notification will not be issued for the erosion control portion.

C. Final erosion control permit. Upon submittal of a complete application, under either large site or small site requirements outlined in 17.05.100 D. or as part of an administrative waiver application under 17.05.070 F., the applicant is authorizing the LCD to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

1. Within 30 calendar days from the date the LCD receives the application, the LCD shall inform the applicant whether the application materials are approved or disapproved.

2. If all requirements of this ordinance have been met through the application, the LCD shall approve the application and issue a permit. If all requirements of this ordinance have not been met, the LCD shall state in writing the reasons for disapproval.

3. If within 10 calendar days, the LCD determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the LCD shall have 30 working days from the date the additional information is received to review and act on the application. The LCD shall inform the applicant when additional information is requested from another source. If the application is not complete, LCD will inform the applicant and will not proceed with a full review until a complete application is provided.

4. Failure of the LCD to inform the applicant of missing information or of a decision within 30 working days shall be deemed to mean approval of the application and the applicant may proceed as if a permit had been issued.

5. An extension beyond the 30 calendar days may be approved by written mutual consent from representatives of both the LCD and the applicant.

6. Application and permit issuance of a Final Erosion Control Plan reviewed in conjunction with a Storm Water Permit application for the same site will follow the procedures as outlined in 17.06.100. Approval of the Final Storm Water Plan will encompass approval of the Final Erosion Control Plan and a separate notification will not be issued for the Erosion control portion.

D. Permit Issuance, Duration, Amendments, Transfer, and Termination.

1. Permit issuance. The LCD shall issue a permit to the applicant, under the procedures outlined in 17.05.095, after verifying that all applicable conditions of this ordinance and possibly other related permits have been met, including the submittal of contact information for all responsible parties. The LCD may delay issuance of an erosion control permit if the LCD determines that the proposed construction timelines and best management practices will not comply with the erosion control plan requirements under 17.05.100 or the purposes of the ordinance under 17.05.030, including proposed late season new road construction with grass swales.

2. Permit duration. The LCD shall establish an expiration date for all erosion control permits not to exceed a period of two years unless the LCD grants an extension. All applicants shall submit a written request for the one year permit extension and shall pay the corresponding fee.

3. Permit amendments. The LCD may amend any terms of an erosion control permit, including extending the permit expiration date, if the LCD determines it is necessary to ensure compliance with this ordinance. The applicant shall request an amendment to an erosion control permit at least two weeks before permit expiration on a form provided by the LCD.

4. Permit transfer. The LCD may transfer an erosion control permit issued under this ordinance to a new applicant upon a written request from the applicant and payment of the corresponding fee. The permit transfer shall not take effect until the LCD verifies in writing that the new applicant has satisfied all conditions of this ordinance, including an updated list of responsible parties

5. Permit termination. The termination of the erosion control permit occurs at the expiration of the permit. Applicant may request a permit termination letter from LCD upon final stabilization of the site.

E. Supporting proprietary information (for the plan reviewer only). Proprietary information includes any required information under this ordinance which the applicant considers to be a trade secret, copyrighted, or otherwise confidential. Such information shall be discussed with the LCD prior to application submittal for a determination and, where appropriate, to make other legal arrangements for meeting all requirements under this ordinance. Ultimate responsibility for determination of proprietary status will remain with the LCD in accordance with public records and open meetings law as outlined in Subchapter II and Subchapter IV of Wis. Statutes. (Ord. 158-26, 2015)

17.05.100 Erosion Control Plan Requirements.

A. General Erosion Control Plan Requirements and Performance Standards. An erosion control plan shall describe how the permit holder and other responsible party will minimize, to the maximum extent practicable, soil erosion and the transport of sediment from land disturbing activities to waters of the state or other property. To meet this requirement, the following performance standards shall apply:

1. All erosion control plans and associated BMPs shall comply with the planning, design, implementation and maintenance requirements of this ordinance.
2. All erosion control plans shall by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls, until the site is stabilized.
3. Erosion and sediment control BMPs may be used alone or in combination to meet the 80% sediment reduction goal. Plans that comply with the guiding principles shall be determined by the LCD as meeting the 80% sediment reduction goal. An erosion control plan shall, to the maximum extent practicable, adhere to the following:
 - a. Propose grading that best fits the terrain of the site, avoiding steep slopes, wetlands, floodplains, and environmental corridors;
 - b. Minimize, through project phasing and construction sequencing, the time the disturbed soil surface is exposed to erosive forces.
 - c. Minimize soil compaction, the loss of trees, and other natural vegetation and the size of the disturbed area at any one time;
 - d. Locate erosion control BMPs upstream from where runoff leaves the site or enters waters of the state and outside of wetlands, floodplains, primary or secondary environmental corridors, or isolated natural areas.
 - e. Emphasize the use of BMPs that prevent soil detachment and transport over those aimed to reduce soil deposition (sedimentation) or repair erosion damage.
4. The LCD may recognize other methods for determining compliance with the 80% sediment reduction goals as they are standardized, including any methods that may come from the procedures under sub ch. V. of Wis. Admin. Code ch. NR 151.

B. Specific Erosion Control Plan Requirements. The following applicable minimum requirements shall be addressed in erosion control plans to the maximum extent practicable. The LCD may establish more stringent erosion and sediment control requirements than the minimum requirements set forth in Wis. Admin. Code ch. NR 151.11 if the DNR is silent on a requirement.

1. Access Drives and Tracking. Provide access drive(s) for construction vehicles that minimize tracking of soil off site using BMPs such as stone tracking pads, tire washing or grates. Minimize runoff and sediment from adjacent areas from flowing down or eroding the access drive.
2. Diversion of Upslope Runoff. Divert excess runoff from upslope land, rooftops or other surfaces, if practicable, using BMPs such as earthen diversion berms, silt fence and downspout extenders. Prevent erosion of the flow path and the outlet.
3. Inlet Protection. Protect inlets to storm drains, culverts and other storm water conveyance systems from siltation until the site is stabilized.
4. Soil Stockpiles. Locate soil stockpiles away from channelized flow and no closer than 25 feet from roads, ditches, lakes, streams, ponds, wetlands or environmental corridors, unless otherwise approved by the LCD. Control sediment from soil stockpiles. Any soil stockpile that remains for more than 30 days shall be stabilized.
5. Slopes. Minimize land disturbing construction activity on slopes of 20% or more.
6. Channel Flow. Trap sediment in channelized flow before discharge from the site using BMPs such as sediment traps and sediment basins. Stabilize open channels in accordance with LCD standards as soon as practicable.
7. Outlet Protection. Protect outlets from erosion during site dewatering and storm water conveyance, including velocity dissipation at pipe outfalls or open channels entering or leaving a permitted site.
8. Overland Flow. Trap sediment in overland flow before discharge from the site using BMPs such as silt fence, vegetative filter strips, temporary sediment ponds.
9. Site Dewatering. Treat pumped water to remove sediment prior to discharge from the site, using BMPs such as sediment basins and portable sediment tanks. Discharge of pumped water to waters of the state shall not be permitted.
10. Dust Control. Prevent excessive dust from leaving the construction site through construction phasing and timely stabilization or the use of BMPs such as site watering and mulch – especially with very dry or fine sandy soils.
11. Topsoil Application. Save existing topsoil and reapply to all disturbed areas for final stabilization such as for temporary seeding or storm water infiltration BMPs. The LCD may give credit toward meeting the sediment performance standard of Wis. Admin. Code ch. NR151.11(6m)(b) for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.
12. Waste Material. Recycle or properly dispose of all waste and unused building materials in a timely manner. Control runoff from waste materials until they are removed or reused.
13. Sediment Cleanup. By the end of each workday, clean up all offsite sediment deposits or tracked soil that originated from the permitted site. Flushing shall not be allowed unless runoff is treated before discharge from the site.
14. Final Site Stabilization. For nonmetallic mining operations, final stabilization will be completed in accordance with Title 20 and a reclamation plan shall be submitted with the erosion control plan. For all other areas the final site stabilization items shall be addressed in the erosion control plan.

15. Maintain existing vegetation, especially adjacent to surface water, whenever possible. All previous cropland areas or otherwise exposed soil surfaces where land disturbing activities will not be occurring under the proposed grading plans, shall be stabilized within 30 days of permit issuance.

16. Stabilization. Stabilize all eroding soil stockpile areas within seven days.

17. Large sites permitted under 17.05.100 D. 2. shall be treated in stages or phases as final grading is completed in each stage or phase.

18. Ongoing Maintenance Plan. The erosion control plan shall identify the process for continued maintenance beyond the life of the permit. Any soil erosion that occurs after final grading or the application of stabilization measures must be repaired and the stabilization work redone.

19. Temporary Site Stabilization. Any disturbed site that remains inactive for greater than 14 days shall be stabilized with temporary stabilization measures such as soil treatment, temporary seeding or mulching unless the site is protected by other BMP's approved by the LCD. For purposes of this subsection, "inactive" means that no site grading, landscaping or utility work is occurring on the site and that precipitation events are not limiting these activities. Frozen soils do not exclude the site from this requirement.

20. Removal of Practices. The permit holder shall remove all temporary BMPs such as silt fences, ditch checks and sediment traps as soon as all disturbed areas have been stabilized.

21. Emergency Response Plan. Develop spill prevention and response procedures as part of the plan.

C. Preliminary Erosion Control Plan Contents. Preliminary erosion and sediment control plans shall be required for sites that either require a preliminary storm water review letter under 17.06.080 B. or for sites with over one acre of proposed land disturbance, and shall contain the following items:

1. A site map in accordance with 17.05.110 A.

2. A brief narrative describing the proposed land disturbing activity, construction timeline and sequencing, and a general review of the major erosion and sediment control BMPs proposed to be used to minimize offsite impacts during the construction phase and to stabilize the site following construction.

3. Delineation of the following items on the map:

a. The area and size (in acres) of the proposed land disturbance;

b. The woodland and wetland areas, and the size (in acres) of each that is proposed to be lost during construction and a general description of the current vegetation types and tree sizes;

c. The general location of major BMPs referenced under 17.05.100 B.

D. Final Erosion Control Plan Contents. The following shall be the minimum requirements for items to be included in a final erosion and sediment control plan:

1. Small Site. Sites Less than One Acre of Total Land Disturbance.

a. A sequence describing the proposed land disturbing activity, construction timeline and sequencing, temporary BMPs to be used to minimize offsite impacts during the construction phase, and proposed methods to stabilize the site following construction in accordance with the requirements of this ordinance;

b. A survey map or scaled site plan drawing of sufficient clarity showing a north arrow, the location of proposed land disturbance, direction of flow for runoff entering and leaving the disturbed area, upslope drainage area (if known), proposed BMPs, existing and proposed slopes, soils, ground cover, buildings, roads, access drives, property boundaries, drainage ways, water bodies, trees, culverts, utilities and other structures within 50 feet of the proposed land disturbance;

c. The name, address and daytime phone number of the person(s) charged with installing and maintaining all best management practices;

d. For underground utility installations, the plans must delineate where utilities will be installed, show the location of the open cut and the topography in the area, and list the total lineal feet to be installed and the lineal feet that will be done by open cut;

e. For land disturbance activities to occur within one foot of the groundwater table, provide additional information as outlined in 17.05.100 D.3.

f. Name of immediate receiving water along with area and location of wetland acreage on the construction site and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site, and

g. Available data describing the surface soil as well as subsoils.

2. Large Site. Sites One Acre or Greater of Total Land Disturbance shall include all items listed under 17.05.100 D.1. for small site plans, but shall also ensure that the following are included:

a. A site map in accordance with 17.05.110 A.

b. A map at a scale of one inch equals no more than 100 feet (unless otherwise noted), delineating and labeling the following applicable items:

i. North arrow, graphic scale, draft date, name and contact information for project engineer or planner and designation of source documents for all map features.

ii. Proposed site topography at contour intervals not to exceed two feet, proposed percent slope for all open channels and side slopes and all proposed runoff discharge points from the site;

iii. Proposed building envelopes other land area to be disturbed and size in acres;

iv. General location and description of trees and other vegetative cover types;

v. Access drive location including the specified surface material and minimum depth;

vi. Temporary flow diversion devices for upgradient, clean runoff, as defined in 17.05.060, or exposed bedrock that is capable of diverting a 25 year, 24 hour storm, where practicable, until the site is stabilized;

vii. Temporary sediment trapping devices for site perimeter and inlets to culverts and storm drains;

viii. Temporary settling basin or other BMP to be used for site dewatering during utility or other subsurface work;

ix. Soil stockpile sites indicating setbacks from nearby water resources or environmental corridors and the proposed erosion protection methods;

x. Detailed drawings and cross-sections for any sediment traps, basins or other major cut or fill areas requested by the LCD, showing side slopes and elevations;

xi. Final stabilization measures for open channels and erosion protection for pipe and channel inlets, outlets and emergency spillways;

xii. Location of proposed utilities, including: standard cross-section for buried utilities, associated easements, labeling the type of utility and notes on erosion control and restoration plans;

xiii. Final site stabilization procedures for all other disturbed areas, showing areas to be stabilized in acres, depth of applied topsoil, seed types, rates and methodology, fertilizer, sod or erosion matting specifications, maintenance requirements until plants are well established, and other BMPs used to stabilize the site. For nonmetallic mining operations, final stabilization shall be completed in accordance with Subtitle IV of Title 18, Nonmetallic Mining Reclamation and a reclamation plan shall be submitted with erosion control plan for reference;

xiv. Detailed construction notes clearly explaining all necessary procedures to be followed to properly implement the plan, including estimated starting date of grading, timing and sequence of construction or demolition, any construction stages or phases, utility installation, dewatering plans, refuse disposal, inspection requirements, and the installation, use, and maintenance of best management practices proposed in the plan;

xv. Location of geologic soil evaluations with surface elevations and unique references to supplemental report forms in accordance with 17.05.120 C. Also show estimated seasonal water table depths and soil textures down to planned excavation depths, which may be on a separate map with sufficient references to the proposed site plan;

xvi. For land disturbance activities planned to occur within one foot of the groundwater table, provide additional information as outlined in 17.05.100 D. 3.

c. A narrative summary of the erosion control plan, briefly explaining the overall plan, and, any unique information that led to the selection of BMPs and how the plan meets the guiding principles under 17.05.100 A.3. and specific requirements under 17.05.100 B.

d. Summary of design data for any structural BMP such as sediment basins or sediment traps. A professional engineer, licensed in the State of Wisconsin, shall sign, seal, and date a statement, in accordance with the WI Admin. Code Rules of the Examining Board of Architect, Professional Engineers, Designers, and Land Surveyors, approving all designs and certifying that they have read the requirements of this ordinance, and that, to the best of their knowledge, the submitted plans comply with the requirements of this ordinance.

e. Open channel design and stabilization data to support the selected BMPs for stabilization.

f. Estimated time soil stockpiles, or other temporary practices, will exist to support the selected BMPs for erosion control.

g. For land disturbance activities to occur within one foot of the groundwater table, provide additional information as outlined in 17.05.100 D.3.

h. Other items specified within Wis. Adm. Code Ch. NR216.46 .

3. Additional Plan Requirements. For land disturbance within one foot of the groundwater table elevation, the following items shall be included in the plan:

a. Data from a minimum one year groundwater assessment, with groundwater monitoring data collected at least once a month, and hydrogeological study including:

i. Groundwater elevation and flow characteristic information to help characterize seasonal groundwater fluctuations.

ii. Initial soil/geological borings, to a total depth of at least 10 feet below the intended depth of activity, incorporating the minimum monitoring components as identified by LCD.

iii. A minimum of at least three nested monitoring wells installed onsite with a monitoring protocol to be designed by a professional hydrogeologist incorporating the minimum groundwater monitoring components as identified by LCD.

iv. The groundwater monitoring plan shall be designed and implemented by an independent, credentialed, third party employing the skills of a professional with expertise in the area of hydrogeology and groundwater.

v. Professional recommendations for monitoring needed while covered under a storm water or erosion control permit as well as for long term monitoring needs shall be included in the final report.

b. Impacts from Dewatering Activities. The following shall be included with the application:

i. Groundwater elevation data collected during dewatering activities. Includes minimum of monthly monitoring required and submitted for LCD review.

ii. Permitted activities shall not result in negative impacts to Groundwater Quality as specified in Wis. Admin. Code ch. NR140 and as outlined within Chapter 8.12.

iii. Plan and map that quantifies and outlines holding and/or utilization of water removed as part of the dewatering process.

c. Identify procedures and practices that would restrict surface storm water and other contaminants from entering the exposed groundwater table.

d. Final report shall be submitted as part of the final application.

E. Erosion Control Permit Administration.

1. Other Permits. Compliance with the erosion control provisions of this ordinance does not relieve the permit holder, or other responsible party, from the responsibility to comply with other applicable federal, state, and local laws and regulations. The LCD may require the applicant to obtain other permits and plan approval prior to issuing an erosion control permit.

2. Plan Modifications. The LCD shall be notified of any modifications proposed to be made to the approved plans. Any modifications made during plan implementation without prior approval by LCD are subject to enforcement action.

3. LCD Access. The LCD or its designee shall be permitted access to the site for the purpose of inspecting the property for compliance with the approved plans and other permit requirements.

4. BMP Maintenance. The permit holder shall maintain and repair all best management practices outlined in their erosion control plan in a timely fashion as long as the practice is necessary.

5. Other Repairs. The permit holder shall be responsible for any damage to adjoining properties, municipal facilities, or drainage ways caused by erosion, siltation, runoff, or equipment tracking. The LCD may order immediate repairs or cleanup within road right-of-ways or other public lands if the LCD determines that such damage is caused by activities regulated by a permit under this ordinance. With the approval of the landowner, the LCD may also order repairs or cleanup on other affected property.

6. Permit Display. The permit holder shall display the erosion control permit in a manner that can be seen from the nearest public road and shall protect it from damage from weather and construction activities until permit termination under 17.05.095 D.5. (Ord. 160-23, Sec.5, 2017; Ord. 158-26, 2015; Ord. 156-002, Secs. 24-32, 2012, Ord. 150-36, 2006;)

17.05.110 Application Requirements.

A. Site Plan Map Requirements. A site plan map and supporting data of site conditions at a scale of 1 inch equals no more than 100 feet (unless otherwise noted) shall delineate or display all the following applicable items:

1. Development title, graphic scale and north arrow;
2. Property location description by public land survey system (1/4 section, section, township, range, county);
3. Location map (smaller scale) showing the site location within a public land survey section or subdivision and drainage area contributing to the site, oriented the same as par. 4 below;
4. Ownership boundaries, bearings, lengths and other survey references that will accurately identify the sites location, in accordance with Wis. Stat. Ch. 236 and county mapping standards for all land divisions;
5. Lot numbers and dimensions, including outlots for all land divisions;
6. Name and complete contact information for the applicant, landowner, developer, project engineer and excavator;
7. Surveyor's certificate, signed, dated and sealed for all land divisions;
8. Sheet numbers and revision dates on every page;
9. Existing site topography at a contour interval not to exceed two feet, including spot elevations for physical features such as culvert (invert elevations), retaining walls, road and ditch centerlines and topographic high and low points;
10. Location and name, if applicable, of all lakes, streams, channels, ditches, and other water bodies or areas of channelized flow on or adjacent to the site;
11. Location and name, if applicable, of all wetlands and identification of source of delineator. For final land divisions, these boundaries shall be field verified by a certified wetland delineation;
12. Boundaries of shoreland zones and the ordinary high water mark (OHWM) for any navigable water body as defined by Title 20, Eau Claire County Shoreland Protection Overlay District. For final land divisions, the OHWM boundaries shall be field verified;

13. Boundaries and elevation of the 100 year floodplains, flood fringes and floodways, as defined by Chapter 18.20, Eau Claire County Floodplain Overlay District. For final land divisions, these boundaries and elevations shall be field verified;

14. Boundaries and soil symbol for each soil mapping unit and the identification of all hydric soils as defined by the USDA Natural Resources Conservation Service;

15. Locations of all available soil or geologic borings or soil profile evaluations with unique references to supplemental data report forms;

16. Location and descriptive notes for existing and proposed structures within 50 feet of the property boundaries and their proposed use including, but not limited to, buildings and foundations, roads, parking areas, fence lines, access lanes, culverts (include size and type), above ground utilities and retaining walls;

17. Location and descriptive notes for other known existing site features including, but not limited to, rock outcrops karst features, tile drains, buried utilities, dumps, landfills, manure or other waste storage facilities;

18. Boundaries and descriptive notes for all applicable setbacks and for “protective areas”, as specified in 17.05.085;

19. Location and descriptive notes for any existing or proposed easements, right-of-ways, vision corners or other known site restrictions. Road right-of-ways and building setbacks shall be in compliance with all applicable administrative codes, adopted plans and ordinances, and state and federal law;

20. Location and descriptive notes for existing and proposed public dedications of parcels or right-of-ways;

21. Location and descriptive notes for preplanned building or waste disposal sites, when limited by site features;

22. Location and documentation of any existing well and delineation of any applicable regulatory setbacks, in accordance with Wis. Admin. Code chs. NR 811 & 812;

23. Notes describing source documents, date and measure of accuracy for all applicable mapping features noted above;

24. Other site information as outlined in Wis. Admin Code ch. NR 216.46(5).

B. Other Considerations for Plan Review.

1. Fueling and Vehicle Maintenance Areas. Fueling and vehicle maintenance areas shall have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

2. Site Drainage. Measures shall be implemented to ensure proper site drainage, prevent property damage and protect public health and safety, including the following minimum requirements:

- a. Ensure positive flows away from all buildings, roads, driveways, ditches and septic systems;
- b. Be coordinated with the general storm water drainage patterns for the area;
- c. Minimize adverse impacts on adjacent properties.
- d. Subsurface drainage.

i. Basement floor surfaces shall be built one foot above the seasonal high water table elevation, as documented in the submitted soil evaluations, and shall avoid hydric soils as much as possible.

ii. The LCD shall be notified of any drain tiles that are uncovered during construction, which the LCD may require to be restored or connected to other drainage systems.

iii. No discharge of groundwater from tile lines, sump pumps or other means shall be allowed onto another person's land or any public space without the written approval of the owner or unit of government. Drainage activity on or near agricultural lands must comply with requirements of the Natural Resources Conservation Service.

3. Additional Requirements. The LCD may establish more stringent requirements than the minimums set forth in this section, such as addressing habitat impacts of sediment movement or chronic wetness conditions, if the LCD determines that an added level of protection is needed to protect:

a. An outstanding resource water (ORW) or exceptional resource water (ERW), as identified under Wis. Stat. § 281.15;

b. A cold water stream;

c. An environmentally sensitive area;

d. A downstream property;

e. Public health or safety.

f. An impaired water and meet its associated Total Maximum Daily Load, where applicable, as identified in Wis. Stat. § 283.13 (5) and adopted pursuant to 33 U.S.C § 1313.

g. Receiving Storm Sewer System infrastructure. (Ord. 160-23, Sec. 6, 2017; Ord. 158-26, 2015; Ord. 156-002, Secs. 33-44, 2012, Ord 152-49, Sec. 4, 2009; Ord. 151-14, Sec. 1, 2007; Ord. 150-36, 2006)

17.05.120 Technical Standards and Specifications.

A. Best Management Practice (BMP) Design Standards.

1. The design, installation and maintenance of all BMPs used to meet the requirements of this ordinance shall comply with the technical standards identified, developed or disseminated by the WDNR under subchapter V of Wis. Admin. Code ch. NR 151 and ATCP 50; whichever is most restrictive.

2. Where BMP standards have not been identified or developed state law, the LCD may approve the use of other available standards, such as those from other states or USDA-NRCS.

B. Construction Specifications. The construction or installation of all BMPs and BMP components shall comply with all applicable manufacturers and industry standards and specifications including, but not limited to, those published by American Society for Testing and Materials (ASTM) and the NRCS.

C. Soil and Geologic Evaluations. All profile evaluations and forms submitted for review by the LCD under the provisions of this ordinance shall be completed in accordance with Wis. Admin. Code ch. SPS 385 and any applicable standards as outlined in 17.05.120 B.

D. Availability. Copies of all technical references made in this section shall be available for review and distribution through the LCD office during normal business hours. Fees may be charged for hard copies of these items.

E. Future Revisions or Updates. The technical references in this section are made a part of this ordinance and shall be updated periodically in order to keep current with field experiences, research, technological advances and the development of related technical standards by other agencies and units of government. Any future revisions of the documents incorporated herein are also made part of this ordinance unless otherwise acted upon by the LCD. (Ord. 158-26, 2015; Ord. 156-002, Sec. 45, 2012; Ord. 150-36, 2006)

17.05.130 Maintenance Responsibilities. The permit holder and other responsible party shall be responsible for the maintenance of all BMPs as outlined in the approved erosion control plan. (Ord. 158-26, 2015)

17.05.150 Enforcement.

A. Prohibited Practices. Not complying with any requirement of this ordinance shall be deemed a violation, and shall subject the responsible party to enforcement action under 17.05.150. Prohibited practices shall include, but are not limited to, the following:

1. Commencing any land disturbing or land development activity prior to:
 - a. Obtaining an erosion control or storm water permit;
 - b. Notifying the LCD a minimum of five working days in advance for sites that have obtained a permit; or
 - c. Installation of required BMPs as identified in the approved plans.
2. Failing to apply for a LCD preliminary erosion control review letter in accordance with 17.05.100 C. of this ordinance.
3. Failing to comply with all permit conditions, including erosion control management requirements and approved plans in accordance with this ordinance.
4. Failing to maintain BMPs until permit termination.
5. Failing to comply with any notice of violation.
6. Sediment movement and off-site impacts.
7. Failing to comply with an Intergovernmental Agreement.

B. Violations.

1. Written Notice. The LCD shall notify the permit holder of any violation in writing, and copy any other known responsible party involved in the violation.
 - a. The written notice shall be sent by certified mail or personally served on the permit holder or applicant.
 - b. The notice shall describe the violation, remedial action(s) needed and a schedule for all remedial action to be completed.
 - c. Any enforcement measures shall continue until compliance is achieved or as ordered by the court.
2. Enforcement Methods. The LCD is authorized to use the following methods of enforcement in any combination thereof against any applicant or responsible party that is found to be in violation of any provision of this ordinance:
 - a. Citation. The department may issue a citation for any violation that is not corrected within the time frame listed in the written notice.

b. Forfeiture. Subject to counsel's direction, for violation of this chapter, a forfeiture of not less than \$100 or more than \$1,000 plus the cost of prosecution for each violation, shall be imposed upon conviction and adjudication. Each day that a violation exists or continues shall constitute a separate offense.

c. Stop Work Order. Any violator is subject to an order to stop all work except that which is needed as a corrective action to bring the site into compliance.

d. Permit Revocation. The LCD may revoke a permit issued under this ordinance. Upon loss of the permit, all construction shall cease and the site shall be stabilized, with any costs incurred by the county to be charged against the financial assurance.

e. Injunction. The county, or any person affected by activities regulated under this ordinance, may enforce the provisions of this ordinance by a temporary restraining order, injunction and other such relief as a court may order.

f. Declared nuisances. Any land disturbing or land development activity carried out in violation of the provisions of this ordinance is hereby declared to be a nuisance per se, and the county may apply to any court of competent jurisdiction to restrain or abate such nuisance.

g. Emergency Action. The LCD may enter upon the property and take any necessary emergency action if the LCD determines that the site in violation is an immediate threat to public health, safety, welfare, the environment or downstream property, or if the permit holder or other violator refuses to take the corrective action as ordered by the LCD. Any cost incurred by the LCD as a result of this action shall be billed to the permit holder or other responsible party or subtracted from the financial assurance. The LCD shall provide reasonable notice to the permit holder and other responsible party after exercising this authority.

3. Nothing in this section shall be deemed to prevent private prosecutions pursuant to Wis. Stat. § 59.69 (11).

C. Variances and Appeals.

1. Authority. The Board of Land Use Appeals (BLUA) shall act as the review and appeal authority for any order, requirement, decision or determination by the LCD under this ordinance.

2. Procedure. The rules, procedures, duties and powers of the BLUA shall be as provided in the county code of ordinances and the provisions of Wis. Stat. § 59.694, shall apply to any review or appeal under this ordinance.

3. Variances. Upon appeal, the BLUA may authorize variances from the provisions of this ordinance which are not contrary to the public interest or the purposes of this ordinance, and where owing to special conditions beyond the control of the applicant, a literal enforcement of this ordinance will result in unnecessary hardship.

4. Who May Appeal. Appeals to the BLUA may be taken by any aggrieved person or by an officer, department, board, or bureau of the county affected by any decision of the LCD. (Ord. 158-26, 2015; Ord. 156-002, Sec. 48 & 49, 2012; Ord. 153-27, Sec. 9, 2010; Ord. 150-36, 2006)

17.05.160 Validity.

A. Repeal of conflicting ordinances. This ordinance repeals all provisions of an ordinance previously enacted under Wis. Stat. §59.693 relating to construction site erosion control management regulations. Wherever there may be a conflict with other county ordinances relating to erosion control, storm water management, or site drainage, the more restrictive provision shall apply, as determined by the LCD.

B. Declaration of severability. All provisions of this Chapter are hereby declared to be severable. If any provisions of this Chapter shall be by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of the Chapter, or of the section of which the invalid portion or paragraph may be a part. (Ord. 158-26, 2015; Ord. 156-002, Sec. 50, 2012; Ord. 150-36, 2006)

CHAPTER 17.06

STORM WATER MANAGEMENT

Sections:

<u>17.06.010</u>	Authority.
<u>17.06.020</u>	Findings.
<u>17.06.030</u>	Purpose.
<u>17.06.040</u>	Administration.
<u>17.06.045</u>	Public Notice.
<u>17.06.050</u>	Jurisdiction.
<u>17.06.060</u>	Definitions.
<u>17.06.070</u>	Applicability and Exemptions.
<u>17.06.080</u>	Prohibited Activities
<u>17.06.085</u>	Protective Areas
<u>17.06.090</u>	Fees
<u>17.06.095</u>	Application Review Process
<u>17.06.100</u>	Storm Water Permit Processes, Land Divisions and Zoning.
<u>17.06.110</u>	Storm Water Permit Requirements.
<u>17.06.120</u>	Erosion Control Plan Requirements.
<u>17.06.130</u>	Storm Water Management Plan Requirements.
<u>17.06.140</u>	Technical Standards and Specifications.
<u>17.06.150</u>	Maintenance of Storm Water BMPs.
<u>17.06.160</u>	Illicit Discharges.
<u>17.06.170</u>	Enforcement.
<u>17.06.180</u>	Validity.

17.06.010 Authority. This ordinance is adopted by the county board under the authority granted by Wis. Stats. §§ 59.693, 92.07(6), 92.07(15), and Wis. Stat. ch 236. (Ord. 158-26, 2015

17.06.020 Findings.

A. The Eau Claire County Board of Supervisors finds that uncontrolled storm water runoff from land development activity can have significant adverse impacts upon local water resources and the health, safety and general welfare of the community, and diminish the public enjoyment and use of natural resources. Specifically, storm water runoff can:

1. Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperatures;
2. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;
3. Alter wetland communities by changing wetland hydrology and increasing pollutant loads;
4. Reduce the quality of groundwater by increasing pollutant loading;
5. Threaten public health, safety, property, and general welfare by increasing runoff volumes and peak flood flows and overburdening storm sewers, drainage ways and other storm drainage systems;
6. Undermine floodplain management efforts by increasing the incidence and levels of flooding. (Ord. 158-26, 2015)

17.06.030 Purpose.

A. The general purpose of this ordinance is to establish regulatory requirements for land development activities aimed to minimize the threats to public health, safety, welfare, and the natural resources of Eau Claire County from post-construction storm water runoff. Specific purposes are to:

1. Further the maintenance of safe and healthful conditions.
2. Prevent and control the adverse effects of storm water; prevent and control water pollution; protect spawning grounds, fish and aquatic life; establish erosion control and storm water standards for building sites, placement of structures and land uses; and preserve ground cover and scenic beauty.
3. Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger property.
 - a. Through this storm water permit process, this ordinance is intended to meet the current post-construction storm water management regulatory requirements of Wis. Admin. Code ch. NR 216 on the effective date of this ordinance. Nothing in this ordinance prevents the Wisconsin Department of Natural Resources from adopting or enforcing more stringent storm water management requirements in future revisions of Wis. Admin. Code.
 - b. Provisions have also been incorporated to coordinate the storm water permit requirements of this ordinance with other county and town zoning and land division regulations. (Ord. 158-26, 2015)

17.06.040 Administration. The Department of Planning and Development Land Conservation Division (LCD), is designated to administer and enforce this ordinance. (Ord. 158-26, 2015)

17.06.045 Public Notice.

- A. The department shall publish a Class 1 notice pursuant to Wis. Stat. §985.07(1) outlining any proposed changes to this ordinance. The notice shall include:
1. A brief description of the proposed changes.
 2. The opportunity to provide written comments on the proposed changes.
 3. The location at which the public may review the proposed ordinance changes.
- B. Copies of the notice shall be forwarded by the department to the clerk and chair of each unincorporated municipality of Eau Claire County. (Ord. 158-26, 2015)

17.06.050 Jurisdiction.

- A. The provisions of this chapter shall apply to all unincorporated lands within the jurisdictional boundaries of Eau Claire County where a town board has not adopted a similar ordinance or entered into an intergovernmental agreement with Eau Claire County Wis. Stat. § 66.0301, for ordinance administration services.
- B. Under the authority of Wis. Stat. §59.693(10), this chapter shall continue in effect in any area annexed by a city or village, unless the city or village enacts, maintains and enforces a city or village ordinance which complies with minimum standards established by the Wisconsin Department of Natural Resources (WDNR) and which is at least as restrictive as this chapter. (Ord. 158-26, 2015)

17.06.060 Definitions. All definitions in 17.05.060 shall apply in this chapter. (Ord. 158-26, 2015)

17.06.070 Applicability and Exemptions.

- A. Construction Site Erosion Control. All projects must also comply with items listed in Chapter 17.05. Appropriate Erosion Control plans shall be incorporated into or otherwise accompany Storm Water Management Plans as required in this chapter.
- B. Storm Water Management. Unless otherwise exempted under 17.06.070 C., a storm water permit, the requirements of which are outlined in 17.06.110, shall be required and all storm water management and other provisions of this chapter shall apply to all proposed land development activity. Uniform statewide standards for storm water management, which must be regulated by the county, for any construction site land disturbance activities that fall within the following categories:
1. A residential development with a gross cumulative area of five acres or more.
 2. A residential development with a gross cumulative area of three acres or more with at least 1.5 acres of impervious surfaces.
 3. A development other than a residential development with a gross cumulative area of three acres or more.
 4. Likely to result in storm water runoff which exceeds the safe capacity of the existing drainage facilities or receiving body of water, which causes undue channel erosion, which increases water pollution by scouring or the transportation of particulate matter of which endangers downstream property.
 5. Any other land development activity that may ultimately result in the addition of 0.5 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development that may be constructed at different times.

C. Applicability Exemptions.

1. Exempt From All Requirements. Qualification for an exemption under this chapter is subject to approval by the LCD and may require a more complete applicability review, as identified under each item, before an exemption is granted. The following activities shall be exempt from all of the requirements of this ordinance:

a. Land disturbing activities directly involved in the planting, growing and harvesting of any plant grown for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries. This exemption does not apply to agricultural facility construction projects associated with construction of barns, barnyard runoff control systems, or other like facilities. To recognize an exemption under this paragraph, the LCD may require the applicant to provide a copy of the conservation plan and/or nutrient management plan for the property.

b. Land development activities exempted by state or federal law, including highway construction and other projects conducted by a state agency, as defined under Wis. Stat. § 227.01 (1), or under a memorandum of understanding entered into under Wis. Stat. § 281.33 (2). To recognize an exemption under this paragraph, the LCD may require:

i. Documentation of the person(s) and regulatory agency charged with enforcing erosion control and storm water management for the project.

ii. Documentation of the person(s) and regulatory agency charged with enforcing erosion control and storm water management for the project and;

iii. Documentation relating to the project as outlined under 17.06.070 D.2.f.

c. Land disturbing activity directly involved in the installation and maintenance of private onsite waste disposal systems, as regulated under Chapter 8.12.

d. Any proposal that is designed and/or certified by the Eau Claire County LCD as part of a soil conservation or water pollution control project.

e. Storm water discharges from silviculture activities, including tree nursery operation, tree harvesting operation, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area for a construction site or access road is not a silviculture activity. To recognize an exemption under this paragraph, the LCD may require that the applicant provide a copy of the forest management plan for the property.

f. Land development activity associated with animal waste storage structures with active permits under Chapter 17.04.g. Other project sites that LCD determines are either partially or completely exempt following completion of the administrative waiver review process under 17.06.070 D.

h. Unless 17.06.070 B. 1, 2, or 4 are applicable, land disturbance activity associated with construction of one and two-family dwellings pursuant to Title 15.

i. Underground utility construction such as water, sewer and fiberoptic lines, but not including the construction of any above ground structures associated with utility construction.

2. Exempt from Certain Requirements.

a. For municipal projects, the county requires compliance with Chapter 17.06, but will exempt the following requirements as long as an Intergovernmental Agreement is signed between the county and the municipality:

i. Provide financial assurance;

- ii. Pay permit application fees; and
 - iii. Develop and record maintenance agreements.
- b. For any project and/or portion of project that has been processed through the administrative waiver process as outlined under 17.05.070 F.2 and granted such exemption.

D. Administrative Waiver Process.

1. Applicability. To ensure that all requirements of this ordinance are fulfilled, applicants may utilize the formal administrative waiver process as outlined herein to allow for LCD determination of exemption applicability in either of the following circumstances:

a. If another regulatory agency is enforcing erosion control and storm water management provisions that the LCD determines are at least as restrictive as those contained in this ordinance, the applicant may request an exemption from any or all provisions of this ordinance in accordance with the administrative waiver process outlined herein. Note that General Permit Coverage under the Wisconsin Department of Natural Resources WPDES Permitting process under Wis. Admin. Code ch. NR 216 may not be considered at least as restrictive as this ordinance.

b. Through this administrative waiver process the LCD may exempt a site or a portion of a site from meeting certain technical requirements of this ordinance if the LCD determines that one of the following applies:

i. OffSite BMP(s). The requirement has been satisfied through the use of offsite BMP(s). Offsite BMPs could be installed beyond the boundaries of the property covered by the application as part of a regional storm water management plan or through other legal arrangements. However, to be eligible for this exemption, the offsite BMP(s) must treat runoff from the site covered by the application and include appropriate written agreements that authorize use of the off-site BMP, as needed; or

ii. Site conditions. It is impracticable to meet the requirement due to site conditions such as slopes, soils, proximity to structures, or desirable trees, limited site dimensions, surrounding land uses, the potential for groundwater contamination, public health or safety problems, or other factors beyond the control of the applicant. No site shall be entitled to an exemption under this paragraph due solely to the size of the proposed land development activity in relation to the parcel size. However, the LCD shall give special consideration in granting exemptions under this paragraph for the following sites:

(A) Redevelopment sites.

(B) Infill development areas less than 5 acres.

(C) Highway projects where limited public right-of-way

land is available for the installation of storm water BMPs.

(D) Land developments with less than 10% of the site planned to be impervious surfaces and the total cumulative area of all impervious areas is less than 1 acre using the final build-out condition.

(E) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the bottom of the infiltration system.

(F) Infiltration areas during periods when the soil on the site is frozen.

(G) Sites that offset their impacts by using land protection options such as those outlined in 17.06.130 C.3.h.

2. Administrative Waiver Requirements. Applicants must submit a formal waiver request using a form provided by the LCD for that purpose. Based upon the scope of the administrative waiver, the LCD may require the applicants to submit documentation relating to the project, including any or all of the following:

a. A copy of the proposed plans certified as “approved” by a regulatory agency. Said plans shall also be signed, sealed and dated by a professional engineer licensed in State of Wisconsin in accordance with the Wis. Admin. Code Rules of the Examining Board of Architect, Professional Engineers, Designers, and Land Surveyors, stating that the design of all best management practices comply with this ordinance and all applicable standards.

b. Contact information for the applicant or for person(s) representing the applicant and charged with overseeing the implementation of the approved plans, including certifying construction.

c. A copy of the permit issued by the regulatory agency and contact information for the person(s) charged with permit enforcement duties.

d. A copy of design summaries, as-built documents, and construction certification pursuant to 17.06.110 C. for all storm water BMPs constructed as part of the project.

e. A copy of a recorded maintenance agreement in accordance with 17.06.130 for all storm water management facilities constructed as part of the project.

f. An exemption under the technical administrative waiver process, as outlined in 17.06.070 C.1.g., may only be granted by the LCD upon the applicant’s submission of the following items to the LCD, which shall constitute a complete application:

i. A written request describing the provisions of this subsection for which an exemption is being requested and an explanation of why;

ii. A site plan in accordance with 17.06.130 B., including the delineation of the area and size (in acres) to which the exemption would apply and any other storm water BMPs required to meet the purpose of this ordinance or as recommended in a regional storm water management plan;

iii. The necessary technical documentation to demonstrate that the site meets one or more of the criteria for which an exemption is being applied, including documentation of the applicable provisions of any regional storm water management plan that may be involved;

iv. For offsite BMP(s) under 17.06.070 D. 1. b. i.:

(A) Documentation that the necessary BMP(s) have been properly installed, including as-built plans, construction certification, and design summaries in accordance with 17.06.110 C.;

(B) A copy of the recorded maintenance agreement in accordance with 17.06.130, and any other easements or legal arrangement that may be involved to ensure the long term maintenance of the offsite BMP(s);

(C) Documentation of payment of any applicable fees that may be required by a unit of government charged with implementing a regional storm water management plan.

3. Formal Administrative Waiver Fee. For those sites that are exempted under this subsection, and are not publicly funded, the applicant shall pay an administrative waiver review fee to the LCD. The LCD shall publish a fee schedule for this purpose, to be updated as needed to reflect actual administrative waiver review costs.

4. Appeal. If the applicant does not agree with any determination of the LCD under 17.06.070 D., the applicant may appeal the decision pursuant to the procedures in 17.06.170 C. (Ord. 158-26, 2015)

17.06.080 Prohibited Activities.

A. Land development activities on 30% slopes and greater, unless:

1. Exempted in 17.05.070 C.; or
2. For activities that require public improvements; or
3. To correct a preexisting erosion problem.

B. No activity permitted under this ordinance shall cause contamination resulting in a public health hazard or other violation under Title 8. (Ord. 158-26, 2015)

17.06.085 Protective Areas.

A. Land development activities are prohibited in the following areas unless otherwise stated:

1. Surface Waters. Within:

- a. 75 feet for outstanding resource waters and exceptional resource waters.
- b. 50 feet for perennial and intermittent streams identified on the Eau Claire County GIS system. If there is a discrepancy between the Eau Claire County GIS system and the applicable United States Geological Survey 7.5 minute series topographic map, the more stringent stream identification shall apply.
- c. 50 feet for lakes.
- d. 10 feet for concentrated flow channels with drainage areas greater than 130 acres.

2. Wetlands. For determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in Wis. Admin. Code ch. NR 103. Within:

- a. 75 feet for wetlands in areas of special natural resource interest as specified in Wis. Admin. Code ch. NR103. (Ord. 158-26, 2015)

b. 50 feet for highly susceptible wetlands, as determined by LCD. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes, and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Wis. Admin. Code ch. NR 103 and performed by a certified wetland delineator. This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

c. For less susceptible wetlands, 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

B. Groundwater protection.

1. Infiltration systems designed in accordance with 17.06.130 C.3. shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with Wis. Adm. Code ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

2. The discharge from BMPs shall remain below the enforcement standard at the point of application of those standards.

3. No storm water BMP shall be installed that meets the definition of an injection well under Wis. Admin. Code ch. NR 812.

4. All storm water BMPs shall comply with the provision of any applicable wellhead protection plan for a community water supply under Wis. Admin. Code ch. NR 811 and Chapter 18.55.

5. No subsurface drainage shall occur unless the requirements of 17.06.130 C.5.d. are met.

C. Requirements. The following requirements shall be met for all land development activity located within a protective area:

1. Impervious surfaces shall be kept out of the protective area, except for boathouses and walkways authorized under Shoreland and Floodplain Zoning in Title 20 and 18.20. The erosion control plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

2. Where land disturbing activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upgradient overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

3. No BMPs shall be located in the protective areas.

D. Protective Area Exemptions. The protective area requirements of 17.06.085 may be exempted in accordance with application under the administrative waiver requirements outlined 17.06.070 D. for the following activities:

1. Structures that cross or access surface waters such as boat landings, bridges, and culverts;
2. Structures constructed or placed on property in a shoreland setback area in accordance with Wis. Stat. § 59.692(1v) and Title 20; and
3. Sites where runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability. (Ord. 160-23, Sec. 7, 2017; Ord. 158-26, 2015)

17.06.090 Fees.

A. Application and review fees under this ordinance shall be in accordance with the following:

1. All fees shall be established by the LCD and approved by the county board through the annual budget process.
2. Fee amounts shall not exceed actual and direct LCD costs of administering this ordinance.
3. The fee schedule in 4.35.160 shall be available for review and public distribution.
4. A double permit fee shall be charged by the LCD if land development activity requiring approval under 17.06.070 commences prior to obtaining a storm water permit. Such double fee shall not release the responsible party from full compliance with this chapter nor from prosecution for violation of this chapter.
5. Any overpayment of required fees will be refunded to the applicant at the time of final permit approval.
6. In addition to the application and review fees, applicants shall be responsible for the payment of all reasonable expenses of the department for retaining outside expert assistance in analyzing the applicant's application and its conformity to the requirements of this chapter. (Ord. 158-26, 2015)

17.06.095 Application Review Processes.

A. In addition to an electronic copy, five hard copies of the application materials shall be submitted to the LCD. The following additional requirements apply for review of applications under this ordinance:

1. Preliminary Storm Water Review Letter and Certification of Compliance. Upon submittal of a complete application under 17.06.100, the applicant is authorizing the LCD to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

- a. The LCD shall have 30 calendar days from the date the LCD receives the application to issue a review letter to the applicable review authorities and the applicant based on the requirements of this ordinance.

b. If within 10 calendar days, the LCD determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the LCD shall have 30 calendar days from the date additional information is received to issue a review letter. The LCD shall inform the applicant and the applicable review authorities when additional information is requested from another source. If the application is not complete, LCD will inform the applicant and will not proceed with a full review until a complete application is provided.

c. If the LCD does not notify the applicant of missing information or issue a review letter within the 30 calendar days, the applicant may continue pursuing other applicable approvals or deed recording without the preliminary storm water review letter or certification of compliance.

d. If within the 30 calendar days, the LCD notifies the applicable review authorities that the application submitted under 17.06.100 B.3. is not complete, information has been requested from another source, or recommended changes or objections to the application need to be addressed before other approvals can proceed, then the applicable review authorities may:

i. At the request of the applicant, grant an extension to the review period, if needed to allow more time for the LCD review process to be completed or to address LCD recommendations, requirements, or objections to the application; or

ii. Disapprove the application, plat, or CSM. e. An extension may be approved by written mutual consent.

2. Final Storm Water Permit. Upon submittal of a complete storm water permit application under 17.06.100 C., or administrative waiver application under 17.06.070 D., the applicant is authorizing the LCD to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

a. Within 30 calendar days from the date the LCD receives the application, the LCD shall inform the applicant whether the application materials are approved or disapproved based on the requirements of this ordinance.

b. If all requirements of this ordinance have been met through the application, the LCD shall approve the application and issue a permit. If all requirements of this ordinance have not been met, the LCD shall state in writing the reasons for disapproval.

c. If within 10 calendar days, the LCD determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the LCD shall have 30 calendar days from the date the additional information is received to review and act on the application. The LCD shall inform the applicant when additional information is requested from another source. If the application is not complete, LCD will inform the applicant and will not proceed with a full review until a complete application is provided.

d. Failure of the LCD to inform the applicant of missing information or of a decision within 30 calendar days shall be deemed to mean approval of the application and the applicant may proceed as if a permit had been issued.

e. An extension beyond the 30 calendar days may be approved by written mutual consent.

3. Final CSM or Final Plat Review. Upon submittal of a complete permit application under 17.06.100 D., or administrative waiver application under 17.06.070 D., the applicant is authorizing the LCD to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

a. Within 30 calendar days from the date the LCD receives the application, the LCD shall inform the applicant whether the application materials are approved or disapproved based on the requirements of this ordinance.

b. If all requirements of this ordinance have been met through the application, the LCD shall approve the application and issue a permit. If all requirements of this ordinance have not been met, the LCD shall state in writing the reasons for disapproval.

c. If within 10 calendar days, the LCD determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the LCD shall have 30 calendar days from the date the additional information is received to review and act on the application. The LCD shall inform the applicant when additional information is requested from another source. If the application is not complete, LCD will inform the applicant and will not proceed with a full review until a complete application is provided.

d. Failure of the LCD to inform the applicant of missing information or of a decision within 30 calendar days shall be deemed to mean approval of the application and the applicant may proceed as if a permit had been issued.

e. An extension beyond the 30 calendar days may be approved by written mutual consent.

B. Permit Issuance, Duration, Amendments, Transfer, and Termination.

1. Permit issuance. The LCD shall issue a permit to the applicant, under the procedures outlined in 17.06.095, after verifying that all applicable conditions of this ordinance and possibly other related permits have been met, including the submittal of contact information for all responsible parties, and the submittal of the financial assurance under 17.06.110 B. The LCD may delay issuance of a storm water permit if the LCD determines that the proposed construction timelines and best management practices will not comply with the plan requirements under 17.06.130 or the purposes of the ordinance under 17.06.030, including proposed late season new road construction with grass swales.

2. Permit duration. The LCD shall establish an expiration date for all storm water permits not to exceed a period of two years unless the LCD grants an extension. All applicants shall submit a written request for the one year permit extension and shall pay the corresponding fee.

3. Permit amendments. The LCD may amend any terms of a storm water permit, including extending the permit expiration date, if the LCD determines it is necessary to ensure compliance with this ordinance. The applicant shall request an amendment to a storm water permit at least two weeks before permit expiration on a form provided by the LCD

4. Permit transfer. The LCD may transfer a storm water permit issued under this ordinance to a new applicant upon a written request from the applicant and payment of the corresponding fee. The permit transfer shall not take effect until the LCD verifies in writing that the new applicant has satisfied all conditions of this ordinance, including an updated list of responsible parties and, where required, the submittal of a new financial assurance under 17.06.110 B.

5. Permit termination. The LCD shall issue a permit termination letter to the permit holder upon releasing the financial assurance under 17.06.110 B., which shall serve as documentation that all conditions of this ordinance have been satisfied and the permit has been terminated. A copy of this letter shall also be sent to the WDNR and may also serve as the "Notice of Termination" under Wis. Admin. Code ch. NR 216.55.

C. Supporting proprietary information (for the plan reviewer only). Proprietary information includes any required information under this ordinance which the applicant considers to be a trade secret, copyrighted, or otherwise confidential. Such information shall be discussed with the LCD prior to application submittal for a determination and, where appropriate, to make other legal arrangements for meeting all requirements under this ordinance. Ultimate Responsibility for determination of proprietary status will remain with the LCD in accordance with public records and open meetings law as outlined in Subchapter II and Subchapter IV of Wis. Statutes. (Ord. 158-26, 2015)

17.06.100 Storm Water Permit Processes, Land Divisions and Zoning.

A. Permit Required. A storm water permit shall be obtained before any person commences a land disturbing or land development activity, pursuant to the applicability and exemption provisions of 17.06.070. Based on the scope of the project, a preliminary review letter under 17.06.100 B. may be required. Certification of compliance under 17.06.100 D. may be required as part of the permit process.

B. Preliminary Storm Water Review Letter.

1. Purpose and Intent. A preliminary storm water review letter is prepared by the LCD to ensure that early site planning for any new development accounts for compliance with this ordinance. A preliminary storm water review will help resolve spatial and soils issues early in the site planning phase, preventing a conflict with other permit requirements or the recording of land divisions. This will also assist the applicant in obtaining other permits or zoning approvals prior to finalizing detailed construction plans. A storm water permit is required prior to the start of any proposed land disturbing or land development activity on applicable projects

2. Applicability and Requirements.

a. A preliminary storm water review letter from the LCD is required prior to the approval of a preliminary plat by the county zoning administrator and shall also be required prior to approval of a certified survey map, site plan, conditional use permit, zoning permit or zoning amendment by the county committee on planning and development or county zoning administrator for any proposed land disturbing or land development activity that:

i. Is a subdivision plat; or
ii. Ultimately results in the addition of 0.5 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development; or

iii. Constitutes other land disturbing or land development activities, as determined by the LCD under 17.05.070 B. or 17.06.070 B.

b. All final permit approvals shall be subject to the recommendations, requirements or objections contained in a preliminary review letter from the LCD, which may include requiring certification of compliance under 17.06.100 D.

3. Preliminary Review Letter Application.

a. To request a preliminary review letter, the applicant shall submit a complete application to the LCD, which shall include all of the following:

- i. A completed and signed application on a form provided by the LCD for that purpose;
- ii. The application fee, unless exempted under 17.06.070 D.;
- iii. A site plan map in accordance with 17.06.130 B., which may be in a preliminary stage as prepared for zoning amendments and certified survey maps;
- iv. A preliminary erosion control review in accordance with 17.05.100 C.
- v. A preliminary storm water management review in accordance with 17.06.130 D.; and
- vi. A preliminary maintenance agreement for all storm water BMPs proposed for the site.

b. The LCD may waive the requirement for a preliminary erosion control or preliminary storm water management review, as required under 17.06.100 B. 2. above, if the LCD determines that it is not necessary to ensure compliance with this ordinance based on the site map submitted. However, all items required for a storm water permit as outlined in 17.06.100 C. shall still apply.

c. The LCD may require map items listed under 17.06.130 B. to be submitted in a digital form, if available, including georeferencing map data to the public land survey system in accordance with county mapping standards.

d. Review procedures for a preliminary review letter application shall be in accordance with 17.06.095.

C. Final Storm Water Permit Application

1. To request a storm water permit under this ordinance, the applicant shall submit a complete application, which shall include all of the following:

- a. A completed and signed application on a form provided by the LCD for that purpose;
- b. The applicable fee(s) in accordance with 17.06.090;
- c. A site plan map in accordance with 17.06.130 B. For subdivisions, all storm water BMPs shall be located on out lots;
- d. A final erosion control plan in accordance with 17.05.100 D.;
- e. A final storm water management plan in accordance with 17.06.130 E. for those land disturbance activities that meet any of the applicability criteria of 17.06.070 B., and the documentation required under 17.06.070 D. 1. b. i. related to offsite BMPs, if applicable;
- f. A maintenance agreement in accordance with 17.06.150;
- g. A financial assurance, in accordance with 17.06.110 B.;
- h. Abandonment and site reclamation plans for site in accordance with 17.06.130 E. 14; and
- i. Emergency action plan in accordance with 17.06.130 E. 15.

2. The LCD may require map items listed under 17.06.130 B. to be submitted in a digital form, if available, including georeferencing map data to the public land survey system in accordance with county mapping standards.

3. Review procedures for a storm water permit application shall be in accordance with 17.06.095. (Ord. 158-26, 2015)

17.06.110 Storm Water Permit Requirements.

A. General Permit Requirements. Storm water permits shall be subject to all of the requirements of this section. Violation of any permit requirement shall cause the permit holder and any other responsible party to be subject to enforcement action under 17.06.170. Upon issuance of a storm water permit, the permit holder and any other responsible party shall be deemed to have accepted these requirements. General requirements include all of the following:

1. Other Permits. Compliance with a storm water permit does not relieve the permit holder or other responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations. The LCD may require the applicant to obtain other permits or plan approvals prior to issuing a storm water permit.

2. Approved Plans. All best management practices shall be installed and maintained in accordance with approved plans and construction schedules. A copy of the approved plans shall be kept at the construction site at all times during normal business hours.

3. Plan Modifications. The LCD shall be notified of any modifications proposed to be made to the approved plans. The LCD may require proposed changes to be submitted for review prior to incorporation into the approved plans or prior to implementation. No modifications may be made during plan implementation without prior approval by both the project engineer, as identified under 17.06.090 A. 6., and the LCD representative.

4. Notification. The LCD shall be notified at least five working days before commencing any work in conjunction with approved plans. The LCD shall also be notified of proposed plan modifications within one working day of completing construction of a storm water BMP. The LCD may require additional notification according to a schedule established by the LCD so that practice installations can be inspected during construction.

5. LCD Access. The LCD or its designee shall be permitted access to the site for the purpose of inspecting the property for compliance with the approved plans and other permit requirements.

6. Project Engineer/Landscape Architect. The permit holder shall provide an engineer licensed in the state of Wisconsin to be responsible for achieving compliance with approved construction plans, including the implementation of the approved inspection plan and verification of construction in accordance with 17.06.110 C. If warm season or wetland plantings are involved, the permit holder shall also provide a landscape architect or other qualified professional to oversee and verify the planting process and its successful establishment in accordance with 17.06.110 C.

7. Inspection Log. The permit holder shall provide a qualified professional to conduct inspections and maintain an inspection log for the site. All best management practices shall be inspected within 24 hours after each rain event of 0.5 inch or more that results in runoff, or at least once each week. The inspection log shall include the name of the inspector, the date and time of inspection, a description of the present phase of construction, the findings of the inspection, including an assessment of the condition of erosion and sediment control measures and the installation of storm water management BMPs, and any action needed or taken to comply with this ordinance. The inspection log shall also include a record of BMP maintenance and repairs conducted. A DNR inspection log is acceptable.

a. The permit holder shall maintain a copy of the inspection log at the construction site or via the Internet, and shall notify the LCD of the method of availability upon permit issuance.

i. If the inspection log is maintained on site, an LCD representative may view or obtain a copy at any time during normal business hours until permit termination under 17.06.095 B.5.

ii. If the inspection log is made available via the Internet, the permit holder shall notify the LCD of the appropriate Internet address and any applicable access codes, and shall maintain the availability of the log until permit termination under 17.06.095 B.5.

b. Any environmental monitoring data, required by the monitoring plan developed under 17.05.100 D.3. or as part of any other permitting requirements, shall be attached as a component of the inspection log for the life of the permit.

8. BMP Maintenance. The permit holder shall maintain and repair all best management practices within 24 hours of inspection, or upon notification by the LCD, unless the LCD approves a longer period due to weather conditions. All BMP maintenance shall be in accordance with approved plans and applicable technical standards until the site is stabilized and a permit termination letter is issued under 17.06.095 B.5. The permit holder, upon approval by the LCD, shall remove all temporary erosion control practices such as silt fence, ditch checks, etc. The permit holder, in accordance with approved plans and applicable technical standards, shall maintain permanent storm water management practices in accordance with 17.06.150 until maintenance responsibility is transferred to another party or unit of government pursuant to the recorded maintenance agreement.

9. Other Repairs. The permit holder shall be responsible for any damage to adjoining properties, municipal facilities or drainage ways caused by erosion, siltation, runoff, or equipment tracking. The LCD may order immediate repairs or cleanup within road right-of-ways or other public lands if the LCD determines that such damage is caused by activities regulated by a permit under this ordinance. With the approval of the landowner, the LCD may also order repairs or cleanup on other affected property.

10. Emergency Work. The permit holder authorizes the LCD, in accordance with the enforcement procedures under 17.06.170, to perform any work or operations necessary to bring erosion control or storm water management practices into conformance with the approved plans and consents to charging such costs against the financial assurance pursuant to 17.06.110 B. or to a special assessment or charge against the property as authorized under sub ch. VII of Wis. Stat. ch. 66.

11. Permit Display. The permit holder shall display the storm water permit in a manner that can be seen from the nearest public road and shall protect it from damage from weather and construction activities until permit termination under 17.06.095 B.5.

12. Other Requirements. The LCD may include other permit requirements that the LCD determines are necessary to ensure compliance with this ordinance.

B. Financial Assurance.

1. Purpose. The LCD shall require the applicant to submit a financial assurance to ensure compliance with the approved erosion control and storm water management plans and other storm water permit requirements.

2. Type and Authority. The LCD shall determine the acceptable type and form of financial assurance, which may include cash, bank check, a bond, an escrow account or irrevocable letter of credit. The LCD shall, upon written notice to the permit holder, be authorized to use the funds to complete activities required in the approved plans or this ordinance if the permit holder or other responsible party defaults or does not properly implement the requirements.

3. Amount. The amount of the financial assurance shall be 125% of the amount provided under 17.06.130 E. 12. i. for the completion of the approved erosion control and storm water management plans.

4. Security. The LCD shall provide the permit holder or other responsible party a written statement outlining the purpose of the financial assurance, the applicable amount and type received and all of the conditions for release.

5. Conditions for Release. The LCD shall release the financial assurance, and issue a termination letter in accordance with 17.06.095 B.5., only after determining full compliance with the permit and this ordinance, including the following:

- a. Accepting an "as-built" survey certified pursuant to 17.06.110 C. 1.;
- b. Accepting verification of construction pursuant to 17.06.110 C. 2.;
- c. Completing a satisfactory final inspection pursuant to 17.06.110 D.;
- d. Receiving a copy of the recorded maintenance agreement pursuant to 17.06.150.
- e. Removal of temporary BMPs has been verified under 17.05.100 B. 20.

6. Partial Releases. The permit holder may apply for a partial release of the financial assurance based on the completion or partial completion of various construction components or satisfaction of individual requirements noted above.

7. Amounts Withheld. The LCD shall withhold from the financial assurance amount released to the permit holder any costs incurred by the LCD to complete installation or maintenance of best management practices through enforcement action or prior to the transfer of maintenance responsibilities through an approved maintenance agreement, or other unpaid fees or costs incurred by the LCD associated with the enforcement of this ordinance.

8. Other Financial Assurances. The financial assurance provisions of this ordinance shall be in addition to any other financial assurance requirements of the local community for other site improvements. Any arrangements made to share financial assurances with the local community shall be made at the discretion of the LCD and shall be at least as restrictive the requirements in this ordinance.

C. Construction and Planting Verification.

1. As-built Survey. To ensure compliance with this ordinance and to serve as a basis for the engineering verification, an as-built survey shall be completed in accordance with LCD standards and certified as accurate by a registered land surveyor or an engineer licensed in the State of Wisconsin. As-built plans shall be submitted to the LCD for all storm water management BMPs, bridges and culverts pursuant to 17.06.130 C. 5. c., and other permanent best management practices or practice components as deemed necessary by the LCD to ensure its long-term maintenance. The LCD may require a digital submittal of the as-built survey, in accordance with LCD standards.

2. Verification Certificate. A professional engineer licensed in the State of Wisconsin shall verify, in accordance with State and LCD standards, that the engineer has successfully completed all site inspections outlined in the approved plans and that the construction of all storm water management BMPs, as determined by the LCD, comply with the approved plans and applicable technical standards or otherwise satisfy all the requirements of this ordinance. If warm season or wetland plantings are involved, a landscape architect or other qualified professional shall verify the planting process and its successful establishment, in accordance with LCD standards.

3. Design Summaries. Any changes noted in the as-built survey or final design data compared to the design summaries approved with the final storm water management plans shall be documented and resubmitted to the LCD as part of the verification under 17.05.110 C. 2.

D. Final Inspection.

1. After completion of construction, the LCD shall conduct a final inspection of all permitted sites to determine compliance with the approved plans and other applicable ordinance requirements, including ensuring the site is stabilized.

2. If, upon inspection, the LCD determines that any of the applicable requirements have not been met, the LCD shall notify the permit holder what changes would be necessary to meet the requirements.

3. At the request of the permit holder, the LCD shall provide a notification of noncompliance or a report of final inspection in written or electronic form. (Ord. 160-15, Sec. 8, 2016; Ord. 158-26, 2015)

17.06.120 Erosion Control Plan Requirements.

A. General Erosion Control Plan Requirements and Performance Standards. An erosion control plan in accordance with Chapter 17.05 shall be incorporated into or otherwise accompany the Storm Water Management Plan under this Chapter. Erosion Control activities prescribed for the site shall describe how the permit holder and other responsible party will minimize, to the maximum extent practicable, soil erosion and the transport of sediment from land disturbing activities to waters of the state or other property. (158-26, 2015)

17.06.130 Storm Water Management Plan Requirements.

A. General Storm Water Management Plan Requirements.

1. Plan. A storm water management plan shall describe how the permit holder and other responsible party will meet the storm water management requirements of this section and other related requirements in this ordinance. All storm water management plans and associated BMPs shall comply with the planning, design, implementation and maintenance requirements described in this ordinance.

2. Guiding Principles for Storm Water Management. To satisfy the requirements of 17.06.130, a storm water management plan shall, to the maximum extent practicable, adhere to the following guiding principles:

- a. Preserve natural watershed boundaries and drainage patterns;
- b. Reserve adequately sized areas for storm water infiltration, detention and treatment early in the site planning process;
- c. Locate storm water BMPs prior to runoff leaving the site or entering waters of the state, and outside of wetlands, floodplains, primary or secondary environmental corridors or isolated natural areas;
- d. Minimize soil compaction and maintain predevelopment groundwater recharge areas;
- e. Minimize impervious surfaces and have them drain to vegetated areas for pollutant filtering and infiltration;
- f. Emphasize vegetated swales, warm season and wetland plantings, and low flow velocities for storm water conveyance, treatment and infiltration, especially for transportation related projects;
- g. Allow for different storm water management strategies for clean runoff, as defined in 17.05.060, versus more polluted runoff (i.e. heavily used streets and parking lots);
- h. Provide for emergency overflow in all storm water BMP designs;
- i. Distribute storm water bioretention and infiltration BMPs throughout the site plan for large land developments;

B. Site Plan Map Requirements. A site plan map and supporting data of site conditions at a scale of 1 inch equals no more than 100 feet (unless otherwise noted) shall delineate or display all the following applicable items:

1. Development title, graphic scale and north arrow;
2. Property location description by public land survey system (1/4 section, section, township, range, county);
3. Location map (smaller scale) showing the site location within a public land survey section or subdivision and drainage area contributing to the site, oriented the same as par. 4 below;
4. Ownership boundaries, bearings, lengths and other survey references that will accurately identify the sites location, in accordance with Wis. Stat. Ch. 236 and county mapping standards for all land divisions;
5. Lot numbers and dimensions, including outlots for all land divisions;
6. Name and complete contact information for the applicant, landowner, developer, project engineer and excavator;

7. Surveyor's certificate, signed, dated and sealed for all land divisions;
8. Sheet numbers and revision dates on every page;
9. Existing site topography at a contour interval not to exceed two feet, including spot elevations for physical features such as culvert (invert elevations), retaining walls, road and ditch centerlines and topographic high and low points;
10. Location and name, if applicable, of all lakes, streams, channels, ditches and other water bodies or areas of channelized flow on or adjacent to the site;
11. Location and name, if applicable, of all wetlands and identification of source of delineator. For final land divisions, these boundaries shall be field verified by a certified wetland delineation;
12. Boundaries of shoreland zones and the ordinary high water mark (OHWM) for any navigable water body as defined by Title 20, Eau Claire County Shoreland Protection Overlay District. For final land divisions, the OHWM boundaries shall be field verified;
13. Boundaries and elevation of the 100 year floodplains, flood fringes and floodways, as defined by Chapter 18.20, Eau Claire County Floodplain Overlay District. For final land divisions, these boundaries and elevations shall be field verified;
14. Boundaries and soil symbol for each soil mapping unit and the identification of all hydric soils as defined by the USDA Natural Resources Conservation Service;
15. Locations of all available soil or geologic borings or soil profile evaluations with unique references to supplemental data report forms;
16. Location and descriptive notes for existing and proposed structures within 50 feet of the property boundaries and their proposed use including, but not limited to, buildings and foundations, roads, parking areas, fence lines, access lanes, culverts (include size and type), above ground utilities and retaining walls;
17. Location and descriptive notes for other known existing site features including, but not limited to, rock outcrops karst features, tile drains, buried utilities, dumps, landfills, manure or other waste storage facilities;
18. Boundaries and descriptive notes for all applicable setbacks and for "protective areas", as specified in 17.06.085. of this ordinance;
19. Location and descriptive notes for any existing or proposed easements, right-of-ways, vision corners or other known site restrictions. Road right-of-ways and building setbacks shall be in compliance with all applicable administrative codes, adopted plans and ordinances and state and federal law;
20. Location and descriptive notes for existing and proposed public dedications of parcels or right-of-ways;
21. Location and descriptive notes for preplanned building or waste disposal sites, when limited by site features;
22. Location and documentation of any existing well and delineation of any applicable regulatory setbacks, in accordance with Wis. Admin. Code chs. NR 811 and 812;
23. Notes describing source documents, date and measure of accuracy for all applicable mapping features noted above;

24. Other site information that the LCD determines is necessary to administer this ordinance.

C. Specific Storm Water Management Plan Requirements and Performance Standards. All storm water management plans and associated BMPs shall meet the following minimum requirements to the maximum extent practicable. It is highly recommended that the applicant meet with the LCD prior to preparing a storm water management plan to determine the applicability of these requirements early in the site planning process.

1. Peak Discharge.

a. Minimum requirement. To minimize downstream bank erosion and the failure of downstream conveyance systems, the calculated post development peak storm water discharge rate shall not exceed the calculated predevelopment discharge rates for the 2-year, 10-year, 25-year, and 100-year, 24-hour design storms. Modeling requirements for this provision are further described in 17.06.120.

b. Release Rate Per Acre. The LCD may establish a maximum allowable release rate on a per acre basis based on site conditions and/or proximity to exceptional water resources or environmentally sensitive areas.

c. Peak Discharge Exemptions. Certain sites or portions of sites may be exempted from the peak discharge requirements of this subsection in accordance with 17.05.070 D.

2. Total Suspended Solids.

a. By design, each storm water management plan shall meet the following post-development total suspended solids reduction targets, based on average annual rainfalls, as compared to no runoff management controls:

i. For new land development, 80% reduction in total suspended solids load;

ii. For redevelopment, 40% reduction of total suspended solids load;

iii. For in-fill development that occurs prior to October 1, 2012, 40 % reduction total suspended solids load;

iv. For infill development that occurs after October 1, 2012, 80% reduction of total suspended solids load.

3. Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following requirements, except as otherwise provided herein.

a. Residential. For residential developments no more than 1% of the project site is required as an effective infiltration area and one of the following shall be met:

i. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the predevelopment infiltration volume, based on an average annual rainfall.

ii. Infiltrate 25% of the post-development runoff volume from the 2year, 24hour design storm with a type II distribution. Separate runoff curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, not composite curve numbers, as prescribed in 17.06.140.

b. Nonresidential. For nonresidential development, (including commercial, industrial and institutional development), no more than 2% of the project site is required as an effective infiltration area and one of the following shall be met:

i. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the predevelopment infiltration volume, based on an average annual rainfall.

ii. Infiltrate 10% of the post-development runoff volume from the 2year, 24hour design storm. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, not composite curve numbers, as defined in TR55.

c. Modeling. Refer to 17.06.140 A. for details on calculating runoff volumes and predevelopment conditions.

d. Pretreatment. Pretreatment shall be required before infiltrating parking lot and road runoff from nonresidential areas. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with 17.06.085 B. Pretreatment options may include, but are not limited to, oil/grease separators, separator plates, sedimentation or bioretention basins, filtration swales or filter strips. All designs shall comply with the technical standards in 17.05.140 B.

e. Infiltration Exclusions. Infiltration of runoff shall not be credited toward meeting the requirements of this subsection for the following land uses:

i. Infiltration of runoff from outdoor material storage and loading docks for tier 1 and tier 2 industrial facilities, as identified in Wis. Admin. Code ch. NR 216 (2).

ii. Infiltration of runoff from fueling and vehicle maintenance areas, not including rooftops and canopies.

iii. Infiltration of runoff within 1,000 feet upgradient or within 100 feet downgradient of karst features or other direct conduit to groundwater.

iv. Infiltration of runoff from any area except for infiltration of runoff derived from areas contributing clean runoff as defined in 17.05.060, into locations with less than three feet separation distance from the top of the filtering layer to the elevation of seasonal high groundwater or the top of bedrock.

v. Infiltration of runoff from nonresidential parking lots, roads, and residential arterial roads with less than five feet separation distance from top of the filtering layer to the elevation of seasonal high groundwater or the top of bedrock.

vi. Areas within 400 feet of a community water system well as specified in Wis. Admin. Code ch. NR 216.47(4), or within 100 feet of a private well as specified in Wis. Admin. Code ch. NR 812.08(4), for runoff infiltrated from nonresidential land uses or regional devices for residential development, not including infiltration of runoff derived from areas contributing clean runoff.

vii. Areas where contaminants of concern, as defined in Wis. Admin. Code ch NR720.03(2), are present in the soil through which infiltration will occur.

f. Infiltration Exemptions. These infiltration requirements do not apply to frozen soil conditions. The administrative waiver process, as outlined in 17.06.070 D. may be utilized if soils have a measured infiltration rate of less than 0.6 inches per hour and the LCD determines it would be impracticable to modify existing soil conditions.

g. Alternate runoff uses. Where storage and reuse of runoff are employed, such as to support green roofs, landscape watering, toilet flushing, laundry or irrigation, such alternate uses shall be given equal credit toward the infiltration volume required by this section. Such activities must also comply with all other local, state, and federal laws.

h. Permanent Land Protection. Sites may choose to offset their impacts to the ecosystem, groundwater recharge/infiltration capabilities, watershed hydrologic patterns, and landscape by permanently protecting lands within the drainage area, as identified on the site map submitted under 17.06.110 B.

i. Permanent land protections may utilize the Eau Claire County Stewardship program outlined in 17.02.100, a land trust, or other similar program for permanent land protection options.

ii. Such land protections are subject to LCD approval if those areas are accounted for within the calculations and determinations in 17.06.130 E.12.c. for considering post development runoff volumes and peak flow rates, or as part of a regional storm water management plan.

iii. Land protections on receiving lands downgradient from the proposed land development activity, but within the same watershed, may also be given consideration due to the increased ability of those permanently protected lands to absorb emergency overflow in accordance with 17.06.130 A.2.h.

4. Fueling and Vehicle Maintenance Areas. Fueling and vehicle maintenance areas shall have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

5. Site Drainage. Measures shall be implemented to ensure proper site drainage, prevent property damage and protect public health and safety, including the following minimum requirements:

a. Drainage easement.

i. Perpetual drainage easements or other deed restrictions shall be recorded on the property to preserve major storm water flow paths and permanent storm water BMP locations.

ii. Covenants in these areas shall not allow buildings or other structures and shall prevent any grading, filling or other activities that interrupt or obstruct flows in any way. Covenants shall also specify maintenance responsibilities and authorities in accordance with 17.06.150.

b. Site grading. Site grading shall:

i. Ensure positive flows away from all buildings, roads, driveways, ditches and septic systems;

ii. Be coordinated with the general storm water drainage patterns for the area;

iii. Minimize adverse impacts on adjacent properties.

c. Bridges and cross-culverts.

i. All new or modified bridges and cross-culverts shall comply with applicable design standards and regulations, facilitate fish passage and prevent increased flooding or channel erosion upstream or downstream from the structure.

ii. Design flow depths at the road centerline for all crossings shall not exceed six (6) inches during the peak flows generated by the 100-year, 24-hour design storm, using planned land use conditions for the entire contributing watershed area.

iii. All predevelopment runoff storage areas within the flow path upstream of bridges and crossculverts shall be preserved and designated as drainage easements, unless compensatory storage is provided and accounted for in modeling.

iv. As-built documentation shall be submitted in accordance with 17.06.110 for all new or modified structures that are located within a mapped floodplain or that the LCD determines to be necessary to maintain floodplain modeling for the applicable watershed.

d. Subsurface drainage.

i. Basement floor surfaces shall be built one foot above the seasonal high water table elevation, as documented in the submitted soil evaluations, and shall avoid hydric soils as much as possible.

ii. The LCD shall be notified of any drain tiles that are uncovered during construction, which the LCD may require to be restored or connected to other drainage systems.

iii. No discharge of groundwater from tile lines, sump pumps or other means shall be allowed onto another person's land or any public space without the written approval of the owner or unit of government. Drainage activity on or near agricultural lands must comply with requirements of the Natural Resources Conservation Service.

e. Open channels.

i. All open channel drainage systems shall at a minimum be designed to carry the peak flows from a 25-year, 24-hour design storm using planned land use for the entire contributing watershed area.

ii. Side slopes shall be no steeper than 3:1 unless otherwise approved by the LCD for unique site conditions.

iii. Open channels that carry runoff from more than 130 acres shall at a minimum be designed to carry the peak flows from a 25-year, 24-hour design storm.

f. Storm sewers. All storm sewers shall be designed in accordance with applicable community technical standards and specifications as well as any agreements or contracts that may be in effect.

g. Structure protection and safety. Flows generated by the 100-year, 24hour design storm under planned land use conditions may exceed the design capacity of conveyance systems, but shall not come in contact with any buildings. For buildings designed for human occupation on a regular basis, the following additional requirements shall apply:

i. The lowest elevation of the structure that is exposed to the ground surface shall be a minimum of two feet above the maximum water elevation produced by the 100-year, 24-hour design storm, including flows through any storm water BMP that may temporarily or permanently store water at a depth of greater than one foot; and

ii. The structure shall be setback at least 50 feet from any storm water BMP that may temporarily or permanently store water at a depth of greater than one foot. Setback distance shall be measured from the closest edge of water at the elevation produced by the 100-year, 24-hour design storm.

6. Additional Requirements. The LCD may establish more stringent requirements than the minimums set forth in this section, such as addressing thermal impacts of storm water or chronic wetness conditions, if the LCD determines that an added level of protection is needed to protect:

a. An outstanding resource water (ORW) or exceptional resource water (ERW), as identified under Wis. Stat. § 281.15;

b. A cold water stream;

c. An environmentally sensitive area;

d. A downstream property;

e. Public health or safety

f. An impaired water and meet its associated Total Maximum Daily Load, where applicable, as identified in Wis. Stat. § 283.13 (5) and adopted pursuant to 33 U.S.C. § 1313.

g. Receiving Storm Sewer System infrastructure.

D. Preliminary Storm Water Management Plan Requirements. Preliminary storm water management plans shall contain the following applicable items:

1. Drafting date and contact information for the project engineer with all other mapping elements and scale consistent with the site plan map;
2. Delineation of existing and proposed watersheds, subwatersheds and major flow paths within the site and draining into the site from adjacent properties;
3. Location, type and preliminary design of proposed storm water BMPs needed to comply with this ordinance;
4. Location and type of major storm water conveyance systems proposed for the site;
5. Existing and proposed storm water discharge points;
6. Location and preliminary dimensions of proposed drainage easements;
7. Location of soil borings and soil profile evaluations with surface elevations and unique references to supplemental data sheets, as needed to determine feasibility of any proposed storm water BMP and to comply with applicable BMP technical standards;
8. Preliminary location of access lanes for maintenance of storm water BMPs;
9. A preliminary plan narrative describing site drainage, ultimate receiving water body for offsite discharges, major site restrictions, and how the preliminary storm water management plan will meet the requirements of this ordinance and other objectives identified by the project engineer;
10. Summary of watershed, subwatershed and land use data in acres and the preliminary results of any hydrology calculations;
11. Soil profile evaluation data in accordance with BMP technical standards;
12. Proposed ownership and maintenance responsibilities for all proposed storm water BMPs.

E. Final Storm Water Management Plan Requirements. Final storm water management plans shall contain the following applicable items:

1. Drafting date and contact information for the project engineer, with all other mapping elements and scale consistent with the site plan map;
2. Location of existing and proposed storm water discharge points;
3. Delineation and labeling of all proposed impervious areas and accompanying area computations;
4. Final design drawings of all proposed storm water BMPs with unique references to support documentation, prepared in accordance with minimum LCD standards and of sufficient clarity for those responsible for site grading, including:
 - a. Plan views showing the location of proposed BMPs in combination with the site plan map at a scale of one inch equals no more than 100 feet;
 - b. Additional detail plan view drawings at a scale of one inch equals no more than 40 lineal feet, showing proposed 2-foot contours and all critical design features and elevations;
 - c. Detailed cross-sections and profiles of each BMP showing all critical design features, side slopes, structures, soil profiles and applicable elevations, including seasonal high water table and depth to bedrock if within five feet of the proposed BMP;
 - d. Detailed drawings or material specifications for inlets or outlets.
5. Type, size, location and cross-sections of all pipes, open channels, grade stabilization structures and other proposed storm water conveyance systems, with unique references to support documentation;
6. Location and dimensions of proposed drainage easements;
7. Location, dimensions and surfacing material or soils data of proposed access lanes and delineation of easements needed to allow future maintenance of all storm water BMPs in accordance with 17.06.130. The minimum width of any access easement shall be 15 feet;
8. Location of geologic borings, soil borings and soil profile evaluations with surface elevations and unique references to supplemental data sheets, as needed to determine feasibility of any proposed storm water BMP and to comply with applicable technical standards;
9. Detailed construction notes explaining all necessary procedures to be followed to properly implement the plan, including planting and landscaping specifications, timing, phasing, and sequencing of construction and any temporary measures needed to protect BMPs during the construction phase;
10. A detailed construction inspection plan, outlining the critical elements in the plan that need to be surveyed or inspected by a representative of the project engineer and the timing and notification requirements involved.
11. A final storm water BMP maintenance agreement in accordance with 17.06.150;
12. Support documentation summarized in accordance with LCD standards, including but not limited to:
 - a. A narrative summary of the storm water management plan, briefly explaining any unique information that led to the selection of BMPs, how the proposed plan meets the guiding principles under 17.06.130 A. 2., and the specific storm water planning requirements under 17.06.130 C.

b. Maps of existing and proposed watersheds, subwatersheds, Tc/Tt flow paths, soil types, hydrologic soil groups, land uses/cover type and accompanying runoff curve numbers within the site and draining into the site from adjacent properties, with unique references to hydrology data summaries and a description of the ultimate receiving water body(s) for offsite discharges;

c. Predevelopment and post-development hydrology and pollutant loading (if applicable) data for each watershed, such as peak flows and runoff volumes, as needed to meet the requirements of this ordinance. All major assumptions used in developing input parameters shall be clearly stated and cross-referenced to the maps;

d. Impervious surface maps and calculations of runoff volumes and effective infiltration areas, in accordance with 17.06.130 C. 3.

e. Hydraulic and hydrologic data summaries for all existing and proposed pipes, open channels, grade stabilization structures and other storm water conveyance systems, and the necessary documentation to demonstrate compliance with the site drainage requirements under 17.06.130 C. 5.

f. BMP design data for each proposed BMP, showing how it complies with applicable technical standards and the requirements of this ordinance;

g. Soil and geologic evaluation reports, following the standards in 17.06.140 D., with matching references to map features showing their location and elevations;

h. A cover sheet stamped and signed by a professional engineer registered in the State of Wisconsin indicating that all plans and supporting documentation have been reviewed and approved by the engineer and certifying that they have read the requirements of this ordinance and that, to the best of their knowledge, the submitted plans comply with the requirements;

i. Cost estimates for the installation of proposed storm water BMPs, which shall serve as a basis for the financial assurance under 17.06.110 B. The applicant may use average costs for BMP installations in the county rather than specific estimates, upon approval by the LCD.

j. For sites where changes are proposed in storm water flow paths, or where proposed storm water discharges may otherwise have a significant negative impact on downstream property owner(s), the LCD may require the applicant to submit written authorization or complete other legal arrangements with the affected property owner(s);

13. Any and all environmental monitoring data collected by applicant in relation to the proposed site and associated activity, including well monitoring data as outlined in the plan required under 17.05.100 D.3., as collected for compilation of the application as well as continued monitoring for the life of the permit.

14. Plan for abandonment of storm water structures and intended site reclamation at the end of life of the proposed activity, where applicable. Such activity shall be reflected in the maintenance agreement as required under 17.06.150.

15. Emergency action plan for use in rain events that exceed the design storm, failure of BMPs, equipment malfunctions, and for other unforeseen circumstances that could have significant adverse impacts.

16. Other items deemed necessary by the LCD to ensure compliance with the requirements of this ordinance. (Ord. 160-23, Sec. 8, 2017; Ord. 158-26, 2015)

17.06.140 Technical Standards and Specifications.

A. Hydrologic and Hydraulic Computations.

1. Models.

a. All computations of runoff volumes and peak flow rates used in the development of erosion control and storm water management plans in accordance with this ordinance shall be based on United States Department of Agriculture Natural Resources Conservation Service (NRCS) methodology.

b. Models such as WinSLAMM, P8 or other LCD approved models may be used to evaluate the efficiency of the design in reducing total suspended solids to meet the requirements of this Chapter.

c. Models such as RECARGA or other LCD approved models may be used to evaluate the efficiency of the design in meeting the infiltration requirements of this Chapter.

d. HydroCAD and other similar modeling software may be used only if the components incorporated therein comply with all other requirements outlined in 17.06.120.

2. Rainfall depths. To determine compliance with this ordinance, the following design storm rainfall depths shall be used, which are derived from NRCS publications and extrapolated for Eau Claire County:

Design Storm	1 year 24 hour	2 year 24 hour	10 year 24 hour	25 year 24 hour	100 year 24 hour
Rainfall Depth	2.4	2.8	4.2	4.7	6.0

3. Runoff curve numbers. All computations of predevelopment conditions as specified in this ordinance shall use those NRCS runoff curve numbers assigned for a "good" hydrologic condition for each land cover type. For lands where the predevelopment land use was cropland, the following NRCS curve number values shall be used as maximums:

Soil Hydrologic Group	A	B	C	D
NRCS Runoff Curve Number	56	70	79	83

4. Average annual rainfalls. All modeling involving average annual rainfall or runoff volumes shall use rainfall data from the Minneapolis area between March 13 and November 4, 1959 as the typical annual rainfall pattern for Eau Claire County.

5. Rainfall distribution. All peak flow calculations shall use Type II rainfall distribution patterns, as defined in NRCS methodologies.

6. Other methods.

a. All velocity and peak flow computations for open channels and storm sewer pipe flows shall be based on Manning's Formula.

b. Flow routing, culvert design, weir and orifice flow and other related hydraulic computations used to design storm water management facilities shall be based on standard applicable engineering formulas.

c. Any design data or methodology proposed to be used for hydrologic or hydraulic computations other than those prescribed in this ordinance shall be approved by the LCD.

d. Revisions or updates to the rainfall depths and distribution prescribed above may be allowed upon approval by the applicable regulatory agencies and the LCD.

B. Best Management Practice (BMP) Design Standards.

1. The design, installation and maintenance of all BMPs used to meet the requirements of this ordinance shall comply with the technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of Wis. Admin. Code ch. NR 151.

2. Where BMP standards have not been identified or developed under 1. above, the LCD may approve the use of other available standards, such as those from other states or the NRCS.

C. Construction Specifications. The construction or installation of all BMPs and BMP components shall comply with all applicable manufacturers and industry standards and specifications, including but not limited to those published by American Society for Testing and Materials (ASTM) and the NRCS.

D. Soil and Geologic Evaluations.

1. All profile evaluations and forms submitted for review by the LCD under the provisions of this ordinance shall be completed in accordance with Wis. Admin. Code ch. SPS 385 and any applicable standards as listed in 17.06.140 B.

2. Where there are no specific standards for the number, location or depth of soil profile evaluations for a proposed BMP, the LCD shall determine the minimum requirements based on the design of the BMP and the likely variability of the onsite soils.

E. Availability. Copies of all technical references made in this section shall be available for review and distribution through the LCD office during normal business hours. Fees may be charged for hard copies of these items.

F. Future Revisions or Updates. The technical references in this section are made a part of this ordinance and shall be updated periodically in order to keep current with field experiences, research, technological advances and the development of related technical standards by other agencies and units of government. Any future revisions of the documents incorporated herein are also made part of this ordinance unless otherwise acted upon by the LCD. (Ord. 158-26, 2015)

17.06.150 Maintenance of Storm Water BMPs.

A. Maintenance Agreement Required. A maintenance agreement shall be required for all permanent storm water BMPs installed to comply with the requirements of this ordinance. The maintenance agreement shall be independent of all other restrictions or covenants and shall comply with all provisions of 17.06.150.

B. Agreement Provisions. The maintenance agreement shall, at a minimum, contain the following information and provisions:

1. Ownership.

a. Identification of the owner(s) of the land parcel(s) where the storm water BMP(s) is located.

b. Ownership shall be the same as those assigned maintenance responsibilities under 17.06.150 B. 6., unless otherwise designated in a regional storm water management plan and approved by the applicable unit(s) of government.

c. All storm water BMPs that collect runoff from more than one lot shall be located on outlots.

d. For all privately owned outlots, ownership shall be by proportional undividable interest for all properties that are within the control of the applicant and drain to the BMP; however, the applicant may combine ownership of more than one BMP within the site.

2. Location. A legal description and survey map of the storm water BMP location(s), showing associated drainage or access easements required to maintain the BMP.

3. Design.

a. Detailed drawings of each storm water BMP and a general description of its purpose and design including, but not limited to, BMP dimensions and elevations, inlet and outlet designs and elevations and the drainage area served by the BMP.

b. Where possible, use as-built survey information; however, in order to meet the application requirements, recording will likely require utilization of plan design information at the time of recording.

c. See 17.06.150 C. 3. for details on recording procedures.

4. Maintenance plan. A description of all long term maintenance activities that will likely be required for each BMP included in the agreement, and an estimated time interval between each activity.

5. Access.

a. Authorization for vehicle access, including a minimum 15-foot wide access easement dedicated to the local municipality and connecting to a public road right-of-way, to allow for future BMP maintenance work.

b. The access easement shall be of adequate soil conditions or surfacing to withstand loads produced by standard construction equipment.

c. The access easement shall not include any area where channelized flow of runoff occurs or where storm water may pond to a depth greater than six inches during a 100-year, 24-hour design storm.

6. Maintenance responsibility.

a. Identification of the person(s), organization, municipality or other entity responsible for longterm maintenance of the storm water BMP and Access Easement.

b. The assignment of maintenance responsibilities for a privately owned storm water BMP and its access shall, at a minimum, include all properties that are within the control of the applicant and drain to the BMP.

c. The applicant may combine the maintenance responsibilities of more than one BMP within the site.

7. Inspections.

a. Authorization for access to the property by representatives of the local municipality or their designee and Eau Claire County to conduct inspections of the BMP, monitor its performance and maintenance, and notify the designated entity when maintenance or repair activities are necessary.

b. A statement shall also be included that says, upon written notification by the local municipality or their designee, that the responsible entity shall, at their own cost and within a reasonable time period, have a BMP inspection conducted by a qualified professional, file a report and complete any maintenance or repair work recommended in the report.

c. Reinspection Fee. A fee may be assessed when it is necessary for an LCD inspector to make a reinspection due to required activities in the initial inspection report not being completed.

8. Municipal maintenance. Authorization for the local municipality or their designee to carry out any maintenance activities and associated inspections if:

a. The entity identified under 6. above does not perform the required activity within the specified time period in the notification; or

b. The local municipality determines that the inspection work conducted by the designated entity does not adequately address the issues outlined in the inspection report.

9. Special assessment. A statement that the applicable local unit of government may exercise their statutory authority to levy and collect a special assessment or charge pursuant to sub ch. VII of Wis. Stat. ch. 66, for any services carried out relating to 17.06.150 B. 7. or 17.06.150 B. 8.

10. Binding agreement. A statement confirming that the entire agreement shall remain binding on all subsequent owners of the property upon which the storm water BMP is located and that the restrictions shall run with the land and on any other property which is subject to maintenance responsibility in the agreement.

11. Agreement modifications. Sole authorization for the unit of government named under 17.06.150 B. 7. above to modify the provisions of the agreement upon 30-day notice to the current owner(s) and other parties responsible for maintenance of the storm water BMP. Any changes made to the agreement shall maintain the minimum items listed in 17.06.150 and ensure the longterm maintenance of the BMP.

12. Other. Other information as determined to be necessary by the LCD to ensure compliance with this ordinance.

C. Agreement Form, Approval and Recording.

1. Form. The LCD shall provide the applicant with sample maintenance agreement forms that comply with the requirements of 17.06.150.

2. Approval. The LCD shall review and approve the form and content of all maintenance agreements proposed under this ordinance and ensure compliance with all provisions of 17.06.150. If the agreement does not comply, the LCD shall notify the applicant what changes are needed in order to comply, in accordance with the plan review procedures in 17.06.095.

3. Recording.

a. Upon LCD approval, the maintenance agreement shall be recorded at the Eau Claire County Register of Deeds referencing any plat, certified survey or other ownership transfer device pertaining to land which contains the subject storm water BMP or is subject to maintenance responsibility in the approved agreement.

b. For new land divisions, the recording of the maintenance agreement shall occur simultaneously with the recording of the land division.

c. However, no storm water BMP maintenance agreement shall be recorded prior to LCD approval.

d. The LCD may require that the county zoning administrator or the LCD record the agreement.

e. Applicant is responsible for any and all applicable recording fees.

4. Copy. The permit holder shall provide a copy of the recorded agreement, including evidence of the actual recording(s), to the LCD as a condition of release of the financial assurance under 17.06.110 B.

D. Maintenance Responsibilities Prior to a Maintenance Agreement. The permit holder and other responsible party shall be responsible for the maintenance of all storm water BMPs prior to permit termination under 17.06.095 B.5. (Ord. 161-18, Sec. 12, 2017; Ord. 158-26, 2015)

17.06.160 Illicit Discharges.

A. Prohibitions.

1. Discharges.

a. Except for storm water and other discharges specifically exempted under 17.06.070 C., no discharge, spilling or dumping of substances or materials shall be allowed into receiving water bodies or onto driveways, sidewalks, parking lots, or other areas that drain into the storm drainage system.

b. No discharges shall be in violation of Chapter 8.12, or any other local, state or federal law.

2. Connections. The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this ordinance, regardless of whether the connection was permissible under law or whether the practice was applicable or prevailing at the time of connection.

B. Exemptions. The following activities are exempt from the provisions of this section unless found to have an adverse impact on the storm water or design functionality of any proposed BMP:

1. Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.

2. Discharges resulting from firefighting activities.

3. Discharges from clean runoff, as defined in 17.05.060.

C. Notice of Violation. Whenever the LCD discovers a violation under 17.06.160, the LCD may order compliance by written notice of violation to the responsible party. Such notice may require without limitation:

1. The elimination of illicit connections or discharges;

2. That violating discharges, practices, or operations shall cease and desist;

3. The abatement or remediation of storm water pollution or contaminated hazards and the restoration of any affected property;

4. Any responsible party that fails to comply with a notice of violation under this section shall be subject to further enforcement action under the provisions of 17.06.170. (Ord. 158-26, 2015)

17.06.170 Enforcement.

A. Prohibited Practices. Not complying with any requirement of this ordinance shall be deemed a violation, and shall subject the responsible party to enforcement action under 17.06.170. Prohibited practices shall include, but are not limited to, the following:

1. Commencing any land disturbing or land development activity prior to:

a. Obtaining an erosion control or storm water permit;

b. Notifying the LCD a minimum of five working days in advance for sites that have obtained a permit; or

c. Installation of BMPs as identified in the approved plans.

2. Failing to apply for a LCD preliminary storm water review letter in accordance with 17.06.080 B. of this ordinance.

3. Failing to obtain LCD certification of compliance for a final plat or certified survey map in accordance with 17.06.100 D. of this ordinance.

4. Failing to comply with all permit conditions, including erosion control or storm water management requirements and approved plans in accordance with this ordinance.

5. Failing to maintain BMPs until permit termination.

6. Failing to comply with any notice of violation.

7. Failing to comply with an Intergovernmental Agreement.

B. Violations.

1. Written Notice. The LCD shall notify the permit holder of any violation in writing, and copy any other known responsible party involved in the violation.

a. The written notice shall be sent by certified mail to the permit holder or applicant.

b. The notice shall describe the violation, by certified mail to the permit holder of applicant.

c. The notice shall describe the violation, remedial action(s) needed and a schedule for all remedial action to be completed.

d. Any enforcement measures shall continue until compliance is achieved or as ordered by the court.

2. Enforcement Methods. The LCD is authorized to use the following methods of enforcement in any combination thereof against any applicant or responsible party that is found to be in violation of any provision of this ordinance:

a. Citation. The department may issue a citation for any violation.

b. Forfeiture. Subject to counsel's direction, for violation of this chapter, a forfeiture of not less than \$100 or more than \$1,000, plus the cost of prosecution for each violation, shall be imposed upon conviction and adjudication. Each day that a violation exists or continues shall constitute a separate offense.

c. Stop Work Order. Any violator is subject to an order to stop all work except that which is needed as a corrective action to bring the site into compliance.

d. Permit Revocation. The LCD may revoke a permit issued under this ordinance. Upon loss of the permit, all construction shall cease and the site shall be stabilized, with any costs incurred by the county to be charged against the financial assurance.

e. Injunction. The county, or any person affected by activities regulated under this ordinance, may enforce the provisions of this ordinance by a temporary restraining order, injunction and other such relief as a court may order.

f. Declared nuisances. Any land disturbing or land development activity carried out in violation of the provisions of this ordinance is hereby declared to be a nuisance per se, and the county may apply to any court of competent jurisdiction to restrain or abate such nuisance.

g. Emergency Action. The LCD may enter upon the property and take any necessary emergency action if the LCD determines that the site in violation is an immediate threat to public health, safety, welfare, the environment or downstream property, or if the permit holder or other violator refuses to take the corrective action as ordered by the LCD. Any cost incurred by the LCD as a result of this action shall be billed to the permit holder or other responsible party or subtracted from the financial assurance. The LCD shall provide reasonable notice to the permit holder and other responsible party after exercising this authority.

3. Nothing in this section shall be deemed to prevent private prosecutions pursuant to Wis. Stat. § 59.69 (11).

C. Variances and Appeals.

1. Authority. The Board of Land Use Appeals (BLUA) shall act as the review and appeal authority for any order, requirement, decision or determination by the LCD under this ordinance.

2. Procedure. The rules, procedures, duties and powers of the BLUA shall be as provided in the county code of ordinances and the provisions of Wis. Stat. § 59.694, shall apply to any review or appeal under this ordinance.

3. Variances. Upon appeal, the BLUA may authorize variances from the provisions of this ordinance which are not contrary to the public interest or the purposes of this ordinance, and where owing to special conditions beyond the control of the applicant, a literal enforcement of this ordinance will result in unnecessary hardship.

4. Who may appeal? Appeals to the BLUA may be taken by any aggrieved person or by an officer, department, board, or bureau of the county affected by any decision of the LCD. (Ord. 158-26, 2015)

17.06.180 Validity.

A. Repeal of conflicting ordinances. This ordinance repeals all provisions of an ordinance previously enacted under Wis. Stat. § 59.693 relating to storm water management regulations. Wherever there may be a conflict with other county ordinances relating to erosion control, storm water management, or site drainage, the more restrictive provision shall apply, as determined by the LCD.

B. Declaration of severability. All provisions of this chapter are hereby declared to be severable. If any provisions of this chapter shall be by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of the chapter, or of the section of which the invalid portion or paragraph may be a part. (Ord. 158-26, 2015)

