

**COUNTY OF EAU CLAIRE
EAU CLAIRE, WISCONSIN
"NOTICE OF PUBLIC MEETING"**

In Accordance with the provisions of Chapter 19, subchapter IV, Wisconsin Statutes, **NOTICE IS HEREBY GIVEN** of the following public meeting:

THE LAND CONSERVATION COMMISSION

WILL MEET ON MONDAY, APRIL 15, 2019 TIME: 5:00 P.M.

PLACE: AGRICULTURE & RESOURCE CENTER, Room AG120
227 – 1ST STREET WEST, ALTOONA, WI 54720

OPEN SESSION

AGENDA

1. Call to Order
2. Confirmation of Compliance with Open Meetings Law
3. Public Input Session (15-minute maximum) – Discussion
Please Note: Limit of 3 minutes per speaker
4. Approve Minutes from March 18, 2019 meeting – Discussion/Action **Page 2-3**
5. Review Vouchers and Ledger Update – Discussion **Page 4-5**
6. Cost-Share Applications – Discussion/Action **Page 6-7**
7. West Central Area WI Land+Water Conservation Association summer tour – Discussion/Action
8. Review of Ag Ordinance Review Special Committee’s recommendations and first draft of
“Agricultural Performance Standards and Manure Storage Ordinance” – Discussion/Action **Page 8-29**
9. Staff and Agency Updates
 - a. Land Stewardship Subcommittee Update
 - b. Multi-Discharger Variance (MDV) program
 - c. Water Quality Trading with the City of Augusta
10. Future agenda items
 - a. Ag Ordinance Review Special Committee recommendations
11. Set dates for next meetings – Discussion/Action
 - a. May 14, 2019
 - b. Annual LCC Tour/West Central Area Land+Water summer tour – June 12, 2019
12. Adjourn

PLEASE NOTE: *Upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through sign language, interpreters or other auxiliary aids. For additional information or to request the service, contact the County ADA Coordinator at 839-4710, (Fax:) 839-1669 or 839-4735, tty: use Relay (711), or by writing to the ADA Coordinator, Human Resources, Eau Claire County Courthouse, 721 Oxford Avenue, Eau Claire, WI 54703.*

RECEIVED _____

POSTED _____

Eau Claire County
LAND CONSERVATION COMMISSION MINUTES

Monday, March 18, 2019 • 5:00 p.m.
Agriculture & Resource Center • 227 – 1st Street West • Room AG120
Altoona, Wisconsin

Members Present: Robin Leary, Gary Gibson, Ray Henning, Heather DeLuka, Glory Adams, Dean Solie, Tami Schraufnagel, Ricky Strauch

Members Absent: (none)

Staff Present: Greg Leonard, Amanda Peters, and Liz Fagen (Land Conservation); Matt Krueger, Executive Director-WI Land+Water Conservation Association

Others Present: (none)

Draft

1. Call to Order
Chair Leary called the meeting to order at 5:00 pm.
2. Confirmation of Compliance with Open Meetings Law
Leary confirmed compliance with the open meetings law.
3. Public Input Session (15 minutes maximum) – Discussion
(none)
4. Approve Minutes from February 18, 2019 meeting – Discussion/Action
ACTION: Motion by Gibson to approve the minutes as presented. Motion carried, 8-0-0.
5. Update on Ag Ordinance Review Special Committee process – Discussion
Leonard provided an update on the Ag Ordinance Review Special Committee’s process. The committee is requesting a 2-month extension, which will allow the committee to complete its task, and allow time for drafting and passage of the proposed ordinances to implement their recommendations. The extension request will be discussed and voted on at the County Board meeting scheduled for March 19.
6. Matt Krueger, Executive Director of WI Land+Water Conservation Association – Discussion
Matt Krueger, Executive Director of WI Land+Water, provided an overview of the association’s mission and program areas, the Governor’s budget recommendations, and the history of decreasing land conservation staff funding over the past 20 years.
7. Review Vouchers and Ledger Update – Discussion
The February expenditures and revenues were reviewed. DATCP grant reimbursements for 2018 were received, and Multi-Discharger Variance (MDV) funds were received from several sources located outside of Eau Claire County.
8. Cost-Share Applications – Discussion/Action
There were no cost-share applications.
9. Staff and Agency Updates
 - a. Multi-Discharger Variance (MDV) program
Eau Claire County Land Conservation has received or will soon receive \$8,401.15 in MDV funds from surrounding communities through the MDV program. Participation is voluntary for Eau Claire County. These funds can be used to further conservation practice installation but is dependent on submitting a plan to DNR within one year.

b. Water Quality Trading with the City of Augusta

The City of Augusta's engineer has submitted a draft agreement for the Water Quality Trading program. Leonard will be working with Corporation Counsel to finalize the agreement.

10. Future agenda items

Multi-Discharger Variance and Water Quality Trading with the City of Augusta will remain as future items on the agenda, and Ag Ordinance Review will be on the next agenda.

11. Set date for next meeting

- a. The date for the next LCC meeting was set for Monday, April 15, 2019.
- b. The annual LCC tour will be in conjunction with the West Central Area Land+Water Conservation Association summer tour. The date was set for June 12, 2019 and will include stops in the eastern portion of the county.

12. Adjourn

Leary adjourned the meeting at 6:14 pm.

Respectfully submitted,

A handwritten signature in black ink that reads "Greg Leonard". The signature is written in a cursive, flowing style.

Greg Leonard
Clerk, Land Conservation Commission

Land Conservation Division 2019 Bills

The following bills were sent to the Finance Department for payment.

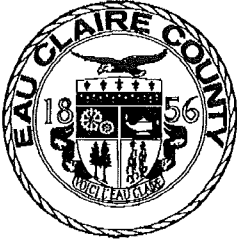
March

| Vendor | Account # | Amount | Description |
|-----------------------------|---------------|---------------------|--|
| Amanda Peters | 56922-340-000 | \$ 42.46 | WLW Conference |
| Avery Products (PC) | 56926-326-704 | \$ (1.27) | Land stewardship Labels |
| Avery Products (PC) | 56926-326-704 | \$ 24.29 | Land stewardship Labels |
| Blue Ribbon Express | 56922-903-000 | \$ 23.80 | 2019 ribbons--Poster Contest |
| Chad Berge | 56922-340-000 | \$ 45.95 | Feb Expense Soil Health Conference |
| Country Today | 56922-320-000 | \$ 70.00 | Bi Yearly Renewal |
| Express Lube (PC) | 56922-241-000 | \$ 37.96 | 2013 Dodge Oil Change |
| Golden Spike Awards | 56922-390-000 | \$ 95.50 | Conservation Award Plaques |
| Grand Geneva Resort (PC) | 56922-340-000 | \$ 224.00 | WLW Conference |
| Greg Leonard | 56922-340-000 | \$ 38.45 | WLW Conference |
| Kwik Trip (PC) | 56922-903-000 | \$ 19.98 | Poster Contest Treat/Gift card \$10 |
| Liz Fagen | 56922-340-000 | \$ 370.57 | UMRCC Conference/Training |
| Menards Distrubution Center | 23172-000-000 | \$ 7,128.00 | FA Assurance SW-04-15 |
| Midwest Groundcovers | 56922-829-000 | \$ 2,371.73 | Native Plants |
| Timber Lodge | 56922-340-000 | \$ (28.74) | WLW Conference |
| Timber Lodge | 56922-340-000 | \$ 366.74 | WLW Conference |
| Voyager | 56922-330-000 | | Feb Voyager Fuel Expense |
| WI DATCP | 56922-340-000 | \$ 30.00 | 19 Conservation Partner Meeting GL CB AP |
| Zoom (PC) | 56922-390-000 | \$ 14.99 | Monthly Conference Charge |
| Total | | \$ 10,874.41 | |

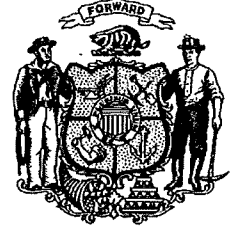
4/10/2019

Monthly Deposits March

| Date | Account Number | Description | Amount Deposited |
|--------------|-----------------------|---|-------------------------|
| 3/4/2019 | 43582-000-000 | 2018 Staffing Grant Reimbursement | \$148,353.00 |
| 3/5/2019 | 43586-390-710 | MDV-City of Phillips | \$514.85 |
| 3/5/2019 | 46820-000-000 | EC-05-19 Gravel Pit-Menards | \$662.00 |
| 3/7/2019 | 43587-005-000 | 2018 NMFE Reimbursement | \$5,888.00 |
| 3/13/2019 | 43586-000-710 | MDV-Spring Valley | \$318.68 |
| 3/26/2019 | 43587-008-000 | 2018 R2R Reimbursement | \$28,003.84 |
| 3/27/2019 | 43587-000-000 | 2018 Wildlife Damage Reimbursement | \$8,921.28 |
| Total | | | \$192,661.65 |



Eau Claire County Planning and Development
LAND CONSERVATION DIVISION
 Eau Claire County Courthouse - Room 3344
 721 Oxford Avenue
 Eau Claire, Wisconsin 54703-5212
 Phone: (715) 839-6226 • Fax: (715) 831-5802



COST SHARE AGREEMENT

NAME Doug & Lynette Knuth

PRACTICE Prescribed Grazing ((528)

TELEPHONE (715) 225-6481

ADDRESS S14225 Hwy 93, Eleva, WI 54738

PRACTICE _____

UNITS 34.6 acres

AGREEMENT PROVISIONS:

| | TOTAL: | DATCP | COUNTY | GRANTEE |
|------------------------|--------------|--------------|-------------|-------------|
| | | X 70.0 % | X 5.0 % | X 25.0 % |
| ESTIMATED COST: | \$ 20,000.00 | \$ 14,000.00 | \$ 1,000.00 | \$ 5,000.00 |
| ACTUAL COST: | \$ _____ | \$ _____ | \$ _____ | \$ _____ |

Any practice cost estimated to exceed \$25,000 requires bids. The Land Conservation Division (LCD) will obtain these.

2. AS A COST SHARE RECIPIENT, I AGREE TO:

- A. Install the practice(s) listed above by October 1, 2019. If NOT installed by October 1, 2019 I understand that cost share funds shall be withdrawn and reallocated to other projects, unless the parties in writing agree to an extension. A Nutrient Management Plan must be developed within one year of installation of other practices.
- B. Notify LCD staff immediately if I decide to withdraw from this agreement.
- C. Operate and maintain the practice(s) for a period of ten (10) years from the time of installation.
- D. Repay the full amount of cost share funds to Eau Claire County, if:
 - 1) The practice(s) is rendered ineffective during its ten (10) year life span due to an action or neglect on my part.
 - 2) A change in ownership, land use, or management occurs –unless the new owner agrees in writing to assume operation and maintenance of the practice(s) for the rest of the agreement period or it can be demonstrated a change in land use or management affecting the installed practice(s) will not result in deterioration of soil and water resources.
- E. Hire a contractor for practice(s) estimated to cost less than \$25,000.
- F. Provide at least three (3) days notice to the LCD office that installation will occur.
- G. Install the practice according to the design, standards, and specifications provided by the LCD staff.
- H. Submit all receipts to the LCD office (Payment will be made after inspection by and certification of an LCD Technician that the practice(s) was installed and completed according to the design).

3. THE LAND CONSERVATION DIVISION AGREES TO:

- A. Provide technical assistance for design, construction, and inspection for the practice (s).
- B. Obtain bids for practices estimated to cost \$25,000 or more.
- C. Pay the cost share rate when the receipts are received and the practices (s) is certified complete.

**EAU CLAIRE COUNTY LAND CONSERVATION DIVISION
COST SHARE AGREEMENT**

I request cost sharing for the practice (s) listed on Page 1 of this agreement and agree to install and maintain the practice(s) in accordance with the "Agreement Provisions" listed:

SIGNATURE Douglas D Knutts DATE 4/8/19
 ADDRESS 514225 Hwy 93 Eleva WI 54738
MAILING ADDRESS CITY STATE ZIP

| | | | |
|---|--|-----------------------------------|---------------------------------|
| LAND CONSERVATION COMMISSION ACTION: | | <input type="checkbox"/> APPROVED | <input type="checkbox"/> DENIED |
| LCC MEMBER _____ | | DATE _____ | |
| LCC APPROVAL REQUIRED IF UPDATED COSTS EXCEED <u>50</u> % | | | |

FOR OFFICE USE ONLY

Practice _____ Units Installed _____

The above practice(s) & units were installed according to the Standards & Specifications:

Technician's Signature _____
Date

Remarks: _____

TOTAL PROJECT COSTS INCURRED: \$ _____

| | DATCP | COUNTY | GRANTEE |
|-----------------------------|------------------|------------------|------------------|
| COST SHARE RATE: | <u>X</u> _____ % | <u>X</u> _____ % | <u>X</u> _____ % |
| ELIGIBLE COST SHARE AMOUNT: | \$ _____ | \$ _____ | \$ _____ |

THE APPLICANT HAS MET ALL PROGRAM REQUIREMENTS AND IS ELIGIBLE TO RECEIVE THE COST SHARE PAYMENT FROM EAU CLAIRE COUNTY IN THE AMOUNT SHOWN ABOVE:

 ADMINISTRATOR'S SIGNATURE _____
DATE

LIVESTOCK MORATORIUM PROCESS FOR 2019

| SPECIAL COMMITTEE | STARTING | ENDING |
|-----------------------------------|------------|------------|
| BACKGROUND / EDUCATION | 11/20/2018 | 1/29/2019 |
| DEVELOPING RECOMMENDATIONS FOR... | | |
| • NR 151 | 02/26/2019 | 02/26/2019 |
| • ANIMAL WASTE | 03/12/2019 | 03/12/2019 |
| • CAFO / LIVESTOCK SITING | 03/26/2019 | 03/26/2019 |
| EXTENSION | 04/18/2019 | 06/18/2019 |

| OTHER MEETINGS | DATE |
|--|------------|
| LCC REVIEW OF DRAFT | 04/15/2019 |
| P&D REVIEW OF DRAFT | 04/23/2019 |
| TOWNS ASSOCIATION MEETING | 04/30/2019 |
| JOINT LCC/P&D - PUBLIC HEARING | 05/14/2019 |
| COUNTY BOARD - 1 ST READING | 05/21/2019 |
| COUNTY BOARD - APPROVAL | 06/18/2019 |

| JANUARY | | | | | | | FEBRUARY | | | | | | | MARCH | | | | | | | APRIL | | | | | | | MAY | | | | | | | JUNE | | | | | | | |
|---------|----|----|----|----|----|----|----------|----|----|----|----|----|----|-------|----|----|----|----|----|----|-------|----|----|----|----|----|----|-----|----|----|----|----|----|----|------|----|----|----|----|----|----|---|
| S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | |
| | | 1 | 2 | 3 | 4 | 5 | | | | | | 1 | 2 | | | | | | | 1 | 2 | | 1 | 2 | 3 | 4 | 5 | 6 | | | | 1 | 2 | 3 | 4 | | | | | | | 1 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | |
| 27 | 28 | 29 | 30 | 31 | | | 24 | 25 | 26 | 27 | 28 | | | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 28 | 29 | 30 | | | | | 26 | 27 | 28 | 29 | 30 | 31 | | 23 | 24 | 25 | 26 | 27 | 28 | 29 | |
| | | | | | | | | | | | | | | 31 | | | | | | | | | | | | | | | | | | | | | 30 | | | | | | | |

Oct 02, 2018 – Clerk signed

Oct 18, 2018 – Published

Apr 18, 2019 – 6-month period end date

Jun 18, 2019 – 2-month requested extension end date

Note: Early April 2019 will be utilized for drafting of ordinance(s).

Early May 2019 will be utilized for redrafting of ordinance(s) following LCC and Planning & Development Committee reviews.

AG ORDINANCE REVIEW SPECIAL COMMITTEE

Recommendations

Members: Gary Gibson, Tami Smith-Schroeder, Robin Leary, Derrick Nelson, Ed Gorell, Steve Strey, Roland Fischer, Andy Ferguson, Eleanor Wolf, Paul La Liberte, Jody Wilhelm, Mark Zuber, Dane Zook, Kate Beaton, Todd Meyer, Cynthia Anderegg

Alternates: Tami Schraufnagel, Jon Nicolet

The Ag Ordinance Review Special Committee (AORSC) was appointed by County Board Chair Nick Smiar to proceed with the action items contained within the Large-Scale Livestock Moratorium adopted by the Eau Claire County Board in October of 2018.

The AORSC first met in November 2018 and took tours of local farms. Since the initial meeting, the AORSC has met eight additional times. The AORSC meetings have included educational and background presentations on:

- Local zoning, erosion control, stormwater and shoreland protection ordinances
- Wisconsin's Ag Performance Standards and Prohibitions (NR-151)
- Eau Claire County's Animal Waste Storage Ordinance
- Eau Claire County's State of the Groundwater Report
- Wisconsin's Concentrated Animal Feeding Operations (CAFO) regulations (NR-243)
- Wisconsin's Livestock Facility Siting regulations (ATCP-51)

These presentations are recorded and available at:

<https://www.co.eau-claire.wi.us/government/boards-commissions-and-councils/ag-ordinance-review-committee>

Following the educational and background information process, the AORSC began a comprehensive discussion concerning the above outlined topics. The following is a summary of the action items and recommendations made by the Ag Ordinance Review Special Committee:

ACTION: Motion by Smith-Schroeder/Zuber to recommend incorporation of NR-151 Ag Performance Standards and Prohibitions into County Code. Discussion to clarify how NR-151 would be adopted, such as an operations ordinance, part of livestock siting, or part of the animal waste storage ordinance. The motion is to recommend incorporating NR-151 into County Code only, but the placement and type of ordinance will be part of future meeting recommendations. Motion carried, 9-1-0.

ACTION: Motion by Gibson to incorporate the NRCS 634 Waste Transfer Standard into the ordinance update. Motion carried, 12-0-0.

Consensus by the whole group: in support of updating and changing the definition of "idle facility" in the ordinance, while allowing well-constructed facilities to be retained for emergency situations.

Consensus by the whole group: In support of incorporating the NRCS 360 Waste Facility Closure standard into the ordinance.

Consensus by the whole group: "written proof of land availability" should accompany a Nutrient Management Plan when stored manure will be applied on land not owned by the farm operator.

AG ORDINANCE REVIEW SPECIAL COMMITTEE

Recommendations

Zook: the manure storage ordinance should not apply in the incorporated areas of Eau Claire County.

Consensus by the whole group: future updates to NRCS standards referenced in the ordinance are adopted with LCC approval.

Consensus by the whole group: allow double fees for after the fact permits.

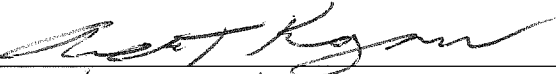
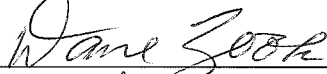





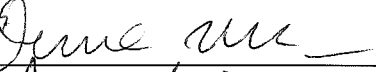
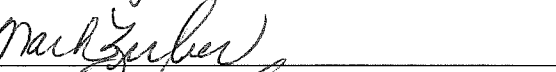
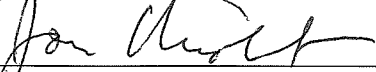
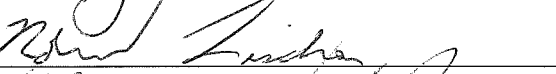


Consensus by the whole group: submittal of a partial nutrient management plan is acceptable during initial manure storage construction permit issuance if a certificate of use will later be granted.

Consensus by the whole group: incorporate a Certificate of Use into the ordinance.

ACTION: Motion by Ed Gorell to recommend not adopting livestock siting into county ordinances. Motion carried, 12-0-0.

ACTION: Motion by Mark Zuber to approve the above action items, consensuses, and recommendations. Motion carried, 12-0-0.

Signatures:

| | |
|---|--|
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  | |
|  | |
|  | |

Signed this 26th day of March, 2019.

Chapter 17.04

(note: Ord. references refer to existing Chapter 17.04 and are carried here for ease of reference.)

AGRICULTURAL PERFORMANCE STANDARDS AND MANURE STORAGE

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11 Apr 2019 Draft
Not to be distributed or referenced

1 **Subchapter I – General Provisions**

2 **17.04.001 Authority and name.**

3 This ordinance is adopted under authority granted by Wis. Stat. §§ 59.70(1), 59.69, 92.16. (note: state
4 has by sections 59.70 , 59.02, 59.03, 92.15, and 92.16, Wisconsin Statutes (Stats.), and ss. ATCP 50.56
5 and NR 151.05, Wisconsin Administrative Code (“Wis. Admin. Code”)) This ordinance shall be known
6 as, referred to, and may be cited as the “Eau Claire County Agricultural Performance Standards and
7 Manure Storage Ordinance” and is hereinafter referred to as the "ordinance". (Ord.141-03, Sec.1,
8 1997; Ord. 133-88, 1990).

9
10 **17.04.005 Findings and Declaration of Policy.**

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

- 14
- 15 (1) New and substantially altered manure storage facilities that fail to meet performance and
- 16 technical standards for proper design, construction and operation.
- 17 (2) Existing manure storage facilities that are not properly functioning and pose unreasonable
- 18 risks related to structural failure and leakage.
- 19 (3) Existing manure storage facilities that overtop or are operated in a manner that creates an
- 20 unreasonable risk of discharge to waters of state.
- 21 (4) Existing manure storage facilities where no manure has been added or removed for a
- 22 period of 24 months and are not slated for future use.
- 23 (5) Management and storage of manure including land application that fails to meet
- 24 performance and technical standards for proper handling and land application of manure.

25
26 The Eau Claire County Board of Supervisors further finds that the technical standards developed by the
27 USDA Natural Resources Conservation Service (“NRCS”), and the performance standards, prohibitions
28 and conservation practices codified by Wisconsin Department of Agriculture, Trade, and Consumer
29 Protection (“DATCP”) and Department of Natural Resources (“DNR”), if adopted by the Eau Claire
30 County, provide effective, practical, and environmentally protective methods for storing and managing
31 manure.

32
33 Eau Claire County Board of Supervisors further finds the regulation of activities identified in this
34 chapter will protect and promote the county's agricultural industry; prevent pollution of surface and
35 ground water; protect the health, safety, and general welfare of the people and communities within
36 the county; preserve the health of livestock, aquatic life and other animals and plants; advance the
37 appropriate use of land and water conservation resources within the community; and protect the
38 property tax base of the county.

1
2 **17.04.010 Purpose.**

3 The purpose of this ordinance is to regulate the location, design, construction, installation, alteration,
4 operation, maintenance, closure, and use of manure storage facilities; ensure the proper application of
5 waste and manure from all storage facilities covered by this Ordinance, and prescribe performance
6 standards and prohibitions related to manure and other agricultural management and use of manure
7 storage facilities in order to prevent water pollution and thereby protect the health of Eau Claire
8 County residents and transients; prevent the spread of disease; and promote the prosperity and
9 general welfare of the citizens of Eau Claire County. It is also intended to provide for the administration
10 and enforcement of the ordinance and to provide penalties for its violation. (Ord. 133-88, 1990)

11
12 **17.04.020 Interpretation.**

13 In their interpretation and application, the provisions of this ordinance shall be held to be minimum
14 requirements and shall not be deemed a limitation or repeal of any other power granted by the
15 Wisconsin Statutes. (Ord. 133-88, 1990).

16
17 **17.04.030 Severability clause.**

18 If any section, provision, or portion of this ordinance is ruled invalid by a court, the remainder of the
19 ordinance shall not for that reason be rendered ineffective. (Ord. 133-88, 1990).

20
21 **17.04.040 Applicability.**

22 This ordinance applies to all land located within the unincorporated areas of Eau Claire County, unless
23 an intergovernmental agreement is established with the governmental entity of an incorporated
24 municipality within Eau Claire County. Best management practices, conservation practices and manure
25 storage facilities shall comply with all federal, state, and local laws, rules and regulations. (Ord. 144-94,
26 Sec. 1, 2001; Ord. 133-88, 1990).

27
28 **Subchapter II- Activities Subject to Regulation**

29
30 **17.04.050 Permit Requirements.**

31 Any person who constructs, substantially alters, changes use of or closes a manure storage facility and
32 related transfer systems, or who employs another person to do the same, shall be subject to the
33 permit requirements provisions of this Ordinance in Subchapter IV. A person is in compliance with this
34 ordinance if he or she follows the procedures of this ordinance, receives a permit from the land
35 conservation division before beginning activities subject to permit requirements under this ordinance,
36 and complies with the requirements of the permit. (Ord. 144-94 Sec. 3, 2001; Ord. 133-88, 1990).

1 **17.04.060 Performance Standards and Prohibitions.**

2 Any person who stores manure, owns or operates cropland or livestock facilities in this county is
3 subject to the performance standards and prohibitions in Subchapter III, regardless of whether they
4 received a permit under this Ordinance. This Ordinance incorporates by reference the definitions in
5 chapters ATPC 50 and NR 151, Wisconsin Admin. Code, to the extent that they are not explicitly
6 referenced herein.

7
8 **17.04.070 Safety Devices.** All manure storage facilities shall be equipped with safety devices
9 including fences and warning signs intended to protect humans and livestock from the hazards
10 associated with a such facilities. Safety devices shall be designed and installed as required by Technical
11 Standard 313.

12
13 **Subchapter III – Agricultural Performance Standards and Prohibitions**

14 **17.04.080 Performance standards and prohibitions.**

15 (A) **Sheet, Rill, And Wind Erosion.** All pastures and land where crops or feed are grown shall be
16 managed to meet the tolerable soil loss value for that soil established by the USDA-NRCS.

17 (B) **Tillage Setback.** Cropland producers shall not conduct tillage operations within 5 feet of the
18 top of the channel of surface waters. Crop producers shall maintain the area within the tillage setback
19 in adequate sod or self- sustaining vegetative cover. Tillage setbacks greater than 5 feet but no more
20 than 20 feet may be required to meet this standard. Determinations for tillage setbacks are established
21 in Wis. Admin. Code § ATPC 50.04 (4) (b) 2.

22 (1) Conservation practices such as critical area stabilization, grade stabilization, and
23 shoreland protection should be installed if necessary to stabilize the bank and protect its
24 integrity.

25 (2) Determinations regarding compliance with this standard may be appealed as authorized
26 under Wis. Stat. § 227.42 or other provisions of law.

27 (3) Landowners may achieve compliance with this standard by enrolling riparian land in the
28 CREP program or other federal set-aside programs.

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

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

36 (1) This performance standard does not apply to industrial waste and byproducts regulated
37 under Wis. Admin. Code Ch. NR 214, municipal sludge regulated under Wis. Admin. Code Ch. NR
38 204, or septage regulated under Wis. Admin. Code Ch. NR 113.

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

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

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

8 b. Nutrient management plans for croplands in watersheds that contain impaired
9 surface waters or in watersheds that contain outstanding or exceptional resource waters
10 shall meet the following criteria: unless otherwise provided in this subsection, the plan
11 shall be designed to manage soil nutrient concentrations so as to maintain or reduce
12 delivery of nutrients contributing to the impairment of impaired surface waters and to
13 outstanding or exceptional resources waters.

14 c. An updated plan shall be submitted to the Land Conservation Division annually
15 to ensure the plan meets requirements of this section.

16 (4) The plan may allow for an increase in soil nutrient concentrations at a site if necessary
17 to meet crop demands.

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

23 (F) **Manure Management Prohibitions.** All livestock producers shall comply with this section as
24 follows:

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

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

28 (3) A livestock operation shall have no direct runoff from a feedlot or stored manure to
29 waters of the state.

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

34 (G) **Process Wastewater Handling.** All livestock producers shall comply with this section.

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

36 (2) The Land Conservation Division shall consider all of the following factors when
37 determining whether a discharge of process wastewater is a significant discharge to waters of
38 the state:

39 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. "Conditions for closure." Idle storage facilities shall be closed in a manner that will prevent future contamination of groundwater and surface waters in accordance with NRCS technical standard 360.
- b. "Conditions for retention." 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 Eau Claire County Code Ch. 17.04.080 (H)(1)a of this ordinance.
 - ii. The facility is designed to store manure for a period of time longer than 24 months.
 - iii. Retention of the facility is warranted based on anticipated future use.

(3) "Failing and leaking existing facilities." Manure storage facilities in existence as of October 1, 2002, and that pose an imminent threat to public health or fish and aquatic life, or are

1 causing a violation of groundwater standards, shall be upgraded, replaced, or abandoned in
2 accordance with this section.

3 4 17.04.090 Standards

5 (A) **Standards For Evaluating Sheet, Rill, And Wind Erosion.** The standards for evaluating sheet,
6 rill, and wind erosion shall be the Revised Universal Soil Loss Equation II (RUSLE2) equation or the Wind
7 Erosion Prediction System (WEPS) models published by NRCS. Copies of RUSLE2 and the WEPS models
8 are on file with the Land Conservation Division.

9
10 (B) **Standards For Design And Construction Of Manure Storage Facilities.** The standards for design
11 and construction of manure storage facilities shall be the current standards in the NRCS Technical
12 Guide, including 313 Waste Storage Facility, 634 Manure Transfer, 635 Vegetated Treatment Area, 638
13 Water and Sediment Control Basin, and 629 Waste Treatment and any amendments to these
14 standards.

15
16 (C) **Standards For Nutrient Management.** The standards for management of manure and nutrients
17 applied to cropland and pastures shall be the current standards in the NRCS Technical Guide, including
18 590 Nutrient Management and any amendments.

19
20 (D) **Standards For Closure Of Manure Storage Facility.** The standards for closure of an unused
21 manure storage facility shall be the current standards in the NRCS Technical Guide, including 360
22 Closure of Waste Impoundments and any amendments.

23
24 (E) **Standards for stacking or piling manure.** The standards for stacking or piling manure shall be
25 the current standards in the NRCS Technical Guide, including 318 Short Term Storage of Animal Waste
26 and By-Products and 313 Waste Storage Facility, and any amendments.

27
28 (F) **Standards For Determination Of Significant Discharge And Direct Runoff.** The standards for
29 determination of direct runoff shall be the "BARNY model" which is the NRCS "Evaluation System to
30 Rate Feedlot Pollution Potential," ARM-NC-17 (April 1982 version with modifications as of August 2005.
31 An Excel computer spreadsheet version is available at
32 <https://datcp.wi.gov/Documents/BARNYSpreadsheet.xls>).

33
34 ~~Barnyard Runoff Evaluation Tool (BERT) or an equivalent predictive model for manure runoff or the~~
35 ~~Feedstock Storage Area Evaluation Rating Tool or equivalent predictive model for feed leachate.~~

36
37 (G) **Standards For The Determination Of Adequate Sod Or Self-Sustaining Vegetative Cover.**
38 Standards for determination of adequate sod or self-sustaining vegetative cover shall be the standards

1 outlined in the NRCS Technical Guide 528 Prescribed Grazing or vegetative measurement by grid
2 sample shall show at least 70 percent living plant material cover.

3
4 (H) **Human Household Wastewater Prohibited.** Human household wastewater shall not be
5 discharged into manure storage facilities. (Ord. 133-88, 1990)

6
7 (I) **Subsequent Modification Of Standards.** The standards of the NRCS Technical Guide are
8 adopted and by reference made a part of this section as if fully set forth herein. Any future
9 amendment, revision or modification of the standards incorporated herein are made a part of this
10 section upon adoption by the Eau Claire County Land Conservation Commission. Copies of the current
11 standards are available at the Land Conservation Division.

12 13 17.04.100 Cost share required.

14 An owner or operator of an agricultural facility or practice that is in existence before October 1, 2002,
15 may not be required to comply with the performance standards, prohibitions, conservation practices
16 or technical standards under this chapter unless cost-sharing is available from any source, to the
17 owner or operator. A determination that cost-sharing is available to meet the performance standards,
18 prohibitions, conservation practices or technical standards under this subsection will be determined in
19 accordance with Wis. Admin. Code § NR 151.09(4)(d) or NR 151.095(5)(d) when funding is provided
20 under Wis. Stat. § 281.65, and will be determined in accordance with Wis. Admin. Code Ch. ATCP 50
21 when funds are from any other source. Cost sharing under this section is only required for the
22 minimum practice necessary to meet the performance standards and prohibitions.

23 Subchapter IV – Manure Storage Facility Permit, Use, and Specifications

24 25 17.04.110 Application for Issuance of Permits.

26 (A) **Permit Required.** No person may do any of the following without obtaining a permit in accordance
27 with this Subchapter:

- 28 (1) Construct a new manure storage facility or substantially alter an existing manure storage
29 facility, including the construction or substantial alteration of waste transfer systems
30 connected to a manure storage facility.
- 31 (2) Upgrade, repair or replace a manure storage facility that has been identified as posing an
32 imminent threat to public health, fish and aquatic life, or groundwater under
33 17.04.080(8)(c).
- 34 (3) Close an existing manure storage facility, including conversion of its use, regardless of
35 whether the facility must be closed in accordance with 17.04.080(8)(c).

36 (B) **No Permit Required.** Manure storage facilities in place as of the date of passage of this ordinance
37 shall be determined to be existing storage facilities subject to the rules in place at the time of
38 construction and shall not be required to obtain a permit unless they are being substantially

1 altered or closed after the date of passage. Owners of existing storage facilities may, at their
2 discretion, apply for a Certificate of Use.

3 (C) **Exception To Permit Requirement.** Emergency repairs such as repairing a broken pipe or
4 equipment, leaking dikes, or the removal of stoppages may be performed without a permit. If repairs
5 will significantly alter the original design and construction of the facility, a report shall be made to the
6 land conservation division within 2 work days of the emergency for a determination by the land
7 conservation division on whether a permit will be required for any additional alteration or repair to the
8 facility.

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

12 (E) **Fees.** The nonrefundable fees for a permit under this ordinance shall be as listed in 4.35.165. A
13 double permit fee shall be charged by the LCD if activity requiring approval under 17.04.110(A)
14 commences prior to obtaining a permit. Such double fee shall not release the responsible party from
15 full compliance with this chapter nor from prosecution for violation of this chapter.

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

22 (G) **Manure Storage Construction Plan Requirements.** A complete permit application for a new or
23 modified storage facility shall meet or exceed the minimum established limits and specific criteria
24 within NRCS Technical Standard 313 for Waste Storage, and additional Technical Standards, including,
25 but not limited to, 342 Critical Area Planting, 382 Fence, 558 Roof Runoff Structure, 590 Nutrient
26 Management, and 634 Manure transfer where they apply. The plan shall include all of the following:

27 (1) The number, type, and size of animals for which storage is provided and the duration for
28 which storage is to be provided.

29 (2) The type and amount of bedding to be used in the operation and all aspects of handling
30 and recovery of this bedding material.

31 (3) The quantity of flush water, milk house waste, or other additives which will be added to
32 the manure storage facility.

33 (4) A general location map drawing of the site which shall include the location of structures
34 in relation to buildings, homes, property lines, roads, wells, karst features, public or private
35 drainage ditches and creeks, flowages, rivers, streams, lakes, floodplains, or wetlands within
36 one thousand (1000) feet of the proposed facility or system. The map will include the scale of
37 the drawing, a north arrow, and the date the general location map was prepared.

- 1 (5) The soil test pit locations, elevations, and soil descriptions to a depth as required for the
2 planned structure according to the NRCS Technical Standard 313. Soil test pits must be verified
3 by land conservation division staff at the time of investigation.
- 4 (6) The elevation of groundwater, bedrock or seasonally saturated conditions if
5 encountered in the soil profile and the date of any such determinations.
- 6 (7) Engineering design drawings of the manure storage facility or transfer system which
7 shall include:
- 8 a. Specific design components that shall comply with Technical Standard 313, and
9 additional applicable Technical Standards such as 634.
 - 10 b. A recoverable benchmark(s) including elevation(s) expressed in feet and tenths.
 - 11 c. The scale of the drawings and the north arrow. The engineering design drawing
12 shall be drawn to a scale no smaller than one (1) inch equals one hundred (100) feet.
 - 13 d. The date the engineering design drawings were prepared.
- 14 (8) The structural details, including but not limited to dimensions, cross-sections, concrete
15 thickness, concrete joint design and placement, design loads, design computations,
16 reinforcement schedules, thickness and placement of groundwater protection liners, and all
17 material specifications.
- 18 (9) Provisions for adequate drainage and control of runoff to prevent pollution of surface
19 water and groundwater.
- 20 (10) A construction site erosion control plan.
- 21 (11) Estimated start of construction and construction schedule.
- 22 (12) A safety plan that identifies hazards to animals and people in the production area, and
23 design features to minimize those hazards.
- 24 (13) An operation and maintenance plan for installed practices.
- 25 (14) An emergency response plan identifying the names and phone numbers of individuals or
26 others to be notified in the event of any leaks, spills or other system failures that could
27 discharge manure.
- 28 (15) A certification by a professional engineer registered in the State of Wisconsin, or an
29 engineering practitioner certified by the Wisconsin Department of Agriculture, Trade and
30 Consumer Protection (DATCP) or the NRCS that the plans meet technical and ordinance
31 standards.
- 32 (16) A nutrient management plan that complies with Wis. Admin. Code § ATCP 50.04. The
33 nutrient management plan must be prepared by a nutrient management planner qualified
34 under Wis. Admin. Code § ATCP 50.04 (3) and submitted prior to issuance of the permit. If the
35 nutrient management plan includes land not owned by the applicant, the nutrient management
36 plan must include a copy of a lease, manure spreading agreement, or written proof of land
37 availability. The nutrient management plan must be based on current soil analysis that comply
38 with Wis. Admin. Code § ATCP 50.04. If current soil analysis are not available due to frozen soils
39 or other conditions beyond the control of the applicant, the land conservation division may

1 accept, at its discretion, an incomplete nutrient management plan at permit submission. A
2 complete and compliant nutrient management plan must be submitted and a certificate of use
3 must be issued prior to use of the manure storage facility.

4 (17) Any other additional information required by the Land Conservation Division to protect
5 water quality and determine compliance with this section.
6

7 (H) **Safety Devices.** The following safety devices are required on all manure storage facilities in Eau
8 Claire County whether or not a permit has been issued under this ordinance:

9 (1) A fence around the manure storage facility is required unless the manure storage facility
10 has vertical walls 5 feet above the ground surface or the manure storage facility has a cover
11 that will support foot traffic. Fences shall be a minimum of 48 inches above grade and shall not
12 allow the passage of a larger than 6-inch sphere between any fence or gate member. All fence
13 openings shall have gates that can be shut and securely fastened.

14 (2) A grate or tank cover, covering the opening to the pump or gravity flow collection pit,
15 which is designed to withstand all load requirements. A barrier around the transfer system may
16 be used in lieu of the grate only if the barrier provides protection to children and others.

17 (3) Proper ventilation is required in enclosed areas.

18 (4) Safety stops, gates, or both shall be installed at push-off ramps and load out areas of
19 impoundments and structures to prevent accidental entry of tractors and other equipment.

20 (5) Manure storage facilities and their components shall have signs at all access points to
21 warn of the danger of entry.

22 (6) Other devices deemed necessary by the LCD, NRCS Technical Guide, Agricultural Waste
23 Management Field Handbook (AWMFH) or Engineering Field Handbook (EFH).

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

27 (1) Provisions to remove and properly dispose of all accumulated wastes in the manure
28 facility.

29 (2) Provisions to remove any concrete or synthetic liner, or properly use pieces of the
30 concrete or synthetic liner as clean fill at the site.

31 (3) Provisions to remove and properly dispose of any soil saturated with waste from the
32 manure storage facility.

33 (4) Provisions to remove any soils, to the depth of significant manure saturation or 2 feet,
34 whichever is less, from the bottom and sides of a facility without a constructed liner.

35 (5) Provision to remove or permanently plug the waste transfer system serving the manure
36 storage facility.

37 (6) Covering all disturbed area with topsoil, seeding the areas with a grass mixture, and
38 mulching the seeded area. This section does not apply if an alternative use of the site is
39 authorized under an abandonment plan approved by the county as part of the permit.

1 (7) Any other additional information required by the Land Conservation Division to protect
2 water quality and determine compliance with this section.

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

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

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

16 (2) The permittee shall give 5 working days notice to the Land Conservation Division before
17 starting any construction or closure activity authorized by the permit.

18 (3) Written approval from the Land Conservation Division must be obtained prior to any
19 modifications to the permitted plans.

20 (4) Activities authorized by permit must be completed within 2 years from the date of
21 issuance, after which the permit shall be void. Permits can be extended annually upon request
22 with approval from the Land Conservation Division.

23 (5) The permittee, design engineer or consultant, and the contractor shall certify, in writing,
24 that a facility was installed as planned.

25 (6) The permittee, engineer and contractor shall participate in a pre-construction
26 conference with county staff before initiating construction of a new facility to outline the
27 requirements and responsibilities of all of the involved parties.

28 (7) The Land Conservation Division shall provide onsite inspection and final approval for all
29 construction projects conducted under a permit issued under this chapter. To receive final
30 approval, a manure storage facility must be fully constructed as designed including the marking
31 of the maximum operating level and implementation of all safety devices.

32 (8) No permitted manure storage facilities may receive manure until the county provides its
33 final approval. No manure may be emptied from a permitted manure storage facility until the
34 county approves the nutrient management plan submitted by the applicant.

35
36 **17.04.120 Certificate of use.**

37 (A) **Certificate Requirement.** No person may operate or use an animal waste storage facility or any
38 portion of an animal waste storage facility that was constructed after the effective date of this

1 ordinance unless the person has a valid certificate of use for the storage facility or portion of the
2 animal waste storage facility that is being operated or used.

3 (B) **Issuance.** The Land Conservation Division will issue a certificate of use upon receipt of the
4 written certification required by 17.04.110(K)(5).

5 (C) **Operating Requirements.** The operator of a manure storage facility is in compliance with the
6 certificate of use if the person does all of the following:

7 (1) Updates and follows an annual nutrient management plan that complies with
8 requirements in this ordinance, and covers all manure land applied from the manure storage
9 facility covered by the certification of use.

10 (2) Provides a nutrient management plan checklist annually to the Land Conservation
11 Division by April 15th to document compliance with ordinance requirements. The Land
12 Conservation Division may ask the operator to submit the documentation to substantiate the
13 planner's answer to one or more questions on the nutrient management checklist. The Land
14 Conservation Division may take appropriate action authorized by this chapter if the submitted
15 documentation does not reasonably substantiate a checklist answer.

16 (3) Properly operates the storage facility in accordance with performance standards in Eau
17 Claire County Code 17.04.080 (8) and consistent with the recommended operating methods as
18 defined by the Technical Guide, AWMFH and EFH.

19 (4) Properly maintains the storage facility free from visible and serious damage, erosion, or
20 deformities that would impair the facility's safety or function as determined by the Technical
21 Guide, AWMFH, and the EFH.

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

23 (6) Provides the Land Conservation Division proof of compliance with the requirements in
24 17.04 upon request and submits to periodic inspections of the storage facility with advance
25 notice from the Land Conservation Division.

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

29 (D) **Certificate Revocation.** The Land Conservation Division may revoke a certificate of use if there
30 is a misrepresentation of any material fact in the permit application, a misrepresentation of any
31 material fact in the storage facility plan, a misrepresentation of any material fact in the animal
32 waste management plan, a failure to comply with the nutrient management plan requirement, a
33 failure to provide the Land Conservation Division with a copy of the nutrient management plan upon
34 request, or for multiple or repeat violations of this ordinance. The Land Conservation Division will
35 immediately provide written notice of the revocation and the reason for the revocation.

36
37 (E) **Permit Revocation.** The Land Conservation Division may revoke the permit issued under this
38 ordinance if the holder of the permit has misrepresented any material fact in the permit application or
39 manure facility plan, or if the holder of the permit violates any of the conditions of the permit.

1
2 (F) **Stored Manure.** Stored manure not contained within a manure storage facility shall meet the
3 standards for stacking or piling manure.
4

5 Subchapter V – Administration, Violations, and Appeals

6 17.04.130 Administration.

7 (A) **Delegation Of Authority.** Eau Claire County hereby designates the Eau Claire County Land
8 Conservation Division to administer and enforce this ordinance.

9 (B) **Administrative Duties.** In the administration of this ordinance, the land conservation
10 division shall:

- 11 (1) Keep an accurate record of all permit applications, animal waste facility plans, permits
12 issued, inspections made, and other official actions.
- 13 (2) Review permit applications and issue permits in accordance with 17.04.080.
- 14 (3) Inspect animal waste facility construction to insure the facility is being constructed
15 according to plan standards and specifications.
- 16 (4) Investigate complaints relating to compliance with the ordinance.
- 17 (5) Perform other duties as specified in this ordinance.

18 (C) **Inspection Authority.** The land conservation division is authorized to enter upon any lands
19 affected by this ordinance to inspect the land prior to or after permit issuance to determine
20 compliance with this ordinance. If permission cannot be received from the applicant or permittee,
21 the permit may be denied or entry by the land conservation division shall be according to Wis. Stat.
22 §§ 66.122 and 66.123.

23 (D) **Enforcement Authority.** The land conservation division is authorized to post an order stopping
24 work upon land which has had a permit revoked or on land currently undergoing activity in violation of
25 this ordinance. Notice is given by both posting upon the land where the violation occurs one or more
26 copies of a poster stating the violation, and by mailing a copy of the order by certified mail to the
27 person whose activity is in violation of this ordinance. The order shall specify that the activity must
28 cease immediately and be brought into compliance within 5 working days. Any permit revocation or
29 order stopping work shall remain in effect unless retracted by the board of land use appeals, the land
30 conservation division, or by a court of general jurisdiction; or until the activity is brought into
31 compliance with the ordinance. The land conservation division is authorized to refer any violation of
32 this ordinance or of an order stopping work issued pursuant to this ordinance to the corporation
33 counsel for commencement of further legal proceedings. (Ord. 146-75, 2003; Ord. 133-88, 1990)
34

35 17.04.140 Violations.

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

41 (B) **Enforcement of injunction.** As a substitute for or as an addition to forfeiture actions, Eau

1 Claire County may seek enforcement of any part of this ordinance by court actions seeking
2 injunctions or restraining orders. (Ord. 133-88, 1990)

4 17.04.150 Appeals.

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

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

12 C. **Who May Appeal.** Appeals may be taken by any person having a substantial interest which is
13 adversely affected by the order, requirement, decision or determination made by the land
14 conservation division. (Ord. 141-03, Sec. 1, 1997; Ord. 133-88, 1990)

17 Subchapter VI – Definitions

18 17.04.160 **Purpose.** To define words, terms, and phrases contained in this chapter that are
19 essential to the understanding, administration, and enforcement of this chapter.

21 17.04.170 **Word usage.** For the purposes of this chapter, certain words and terms are used as
22 follows:

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

28 17.04.180 **Definitions.** For the purposes of this chapter, certain words and terms are defined as
29 follows:

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

34 “**Agricultural lands**” means lands in agricultural use as provided under Wis. Stat. § 91.01(1).

35 “**Applicant**” means any person who applies for a permit under this ordinance.

36 “**Best management practices (BMPs)**” mean structural or nonstructural measures, practices,
37 techniques, or devices employed to avoid or minimize soil, sediment, or pollutants carried in runoff
38 to waters of the state.

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

1 **“Direct runoff”** means any of the following:

- 2 (1) Runoff of stored manure, including manure leachate, that discharges a significant
3 amount of pollutants to surface waters of the state or to a direct conduit to ground
4 water.
- 5 (2) Runoff from a feedlot that can be predicted to discharge a significant amount of
6 pollutants to surface waters of the state or a direct conduit to groundwater.
- 7 (3) Discharge of a significant amount of leachate from stored manure to waters of the state.
- 8 (4) Construction of a manure storage facility in permeable soils or over fractured bedrock
9 without a liner designed in accordance with Wis. Admin. Code § NR 154.04(3).

10 **“Feedlot”** means a barnyard, exercise area, or other outdoor area where livestock are concentrated
11 for feeding or other purposes and self-sustaining vegetative cover is not maintained. “Feedlot”
12 does not include a winter grazing area or a bare soil area such as a cattle lane or a supplemental
13 feeding area located within a pasture, provided that the bare soil area is not a significant source of
14 pollution to waters of the state as determined by the BARNY runoff prediction model or an
15 equivalent predictive model for manure runoff utilized by the Land Conservation Division.

16 **“Idle storage facility”** means a facility where manure has not been added or removed for a period of 24
17 months.

18 **“Land application”** means the physical transfer of manure from any animal confinement area or
19 manure storage facility to fields for purposes of fertilization or disposal.

20 **“Land Conservation Commission”** means the Commission which is designated by the county board
21 pursuant to Wis. Stat. § 92.06.

22 **“Land Conservation Division”** means the Eau Claire County Land Conservation Division of the
23 Planning and Development Department.

24 **“Landowner”** means any of the following:

- 25 (1) A person who owns a parcel of land.
- 26 (2) A person who rents, controls, or uses a parcel of land for agricultural purposes.

27 **“Livestock”** means all domestic animals, including deer, elk, or any fenced-in animals.

28 **“Livestock operation”** means a feedlot or other facility or a pasture where animals are fed, confined,
29 maintained, or stabled.

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

35 **“Manure storage”** or **“to store manure”** means physically transferring manure from the livestock
36 production area, feedlot, or place of origin to another location, manure storage facility, or unconfined
37 manure pile. Manure storage does not include transferring manure for land application.

38 **“Manure storage facility”** means an impoundment made by constructing an embankment or
39 excavating a pit or dugout or by fabricating a structure to contain manure and other animal or
40 agricultural waste.

41 **“Manure storage facility, existing”** means a facility that was constructed prior to October 1, 2002.

42 **“Manure storage facility, substantially altered”** means a change initiated by an owner or operator that
43 results in a relocation of a manure structure or facility or significant changes to the size, depth or
44 configuration of a manure structure or facility including:

- 45 (1) Replacement of a liner in a manure storage structure.
- 46 (2) An increase in the volumetric capacity or area of a structure or facility by greater than

20%.

- (3) A change in a structure or facility related to a change in livestock management from one species of livestock to another, such as cattle to poultry.

~~“Manure storage facility, unpermitted” means a facility that was constructed prior to May 15, 1990.~~

“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.

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

“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).

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

“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.

“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.

“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.

“Permitted facility” means a facility that was permitted under this ordinance.

“Permittee” means any person to whom a permit is issued under this ordinance.

“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).

“Phosphorus index” 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.

“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).

“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.

“Process wastewater” means wastewater from the production area directly or indirectly used in the

1 operation of animal feeding operation that results from any or all of the following:

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

8 **“Runoff”** means storm water or precipitation including rain, snow, ice melt or similar water that
9 moves on the land surface via sheet or channelized flow.

10 **“Safety devices”** means constructed measures designed to protect humans and livestock from
11 hazards associated with a manure storage facility.

12 **“Site that is susceptible to groundwater contamination”** under Wis. Stat. § 281.16 (1) (g) means
13 any one of the following:

- 14 (1) An area within 250 feet of a private well.
- 15 (2) An area within 1000 feet of a municipal well.
- 16 (3) An area within 300 feet upslope or 100 feet downslope of a direct conduit to
17 groundwater.
- 18 (4) A channel that flows to a direct conduit to groundwater.
- 19 (5) An area where the soil depth to groundwater or bedrock is less than 2 feet.
- 20 (6) An area where the soil does not exhibit one of the following soil characteristics:
 - 21 (a) At least a 2-foot soil layer with 40% fines or greater above groundwater and bedrock.
 - 22 (b) At least a 3-foot soil layer with 20% fines or greater above groundwater and bedrock.
 - 23 (c) At least a 5-foot soil layer with 10% fines, or greater above groundwater and bedrock.

24 **“Stored manure”** means manure that is kept in a manure storage facility or an unconfined manure
25 pile.

26 **“Surface waters”** means all natural and artificial named and unnamed lakes and all naturally
27 flowing streams within the boundaries of the state, but not including cooling lakes, farm ponds and
28 facilities constructed for the treatment of wastewaters.

29 **“T-value (“T”), or Tolerable soil loss”** means the maximum average annual rate of soil erosion for
30 each soil type that will permit a high level of crop productivity to be sustained economically and
31 indefinitely.

32 **“Technical guide”** means the United States Department of Agriculture (USDA) Natural Resources
33 Conservation Service (NRCS) Technical Guide as adopted by the Land Conservation Commission,
34 including subsequent amendments or additions.

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

39 **“Transfer system”** means all components including pipes, pumps, gutters, flow channels, and any
40 other component designed to convey manure either into or out of buildings, retention basins, or
41 storage facilities.

42 **“Unconfined manure pile”** means a quantity of manure that is at least 175 cubic feet in volume and
43 which covers the ground surface to a depth of at least 2 inches and is not confined within a manure
44 storage facility, livestock housing facility or barnyard runoff control facility or covered or contained
45 in a manner that prevents storm water access and direct runoff to surface water or leaching of

1 pollutants to groundwater.

2 **“Waste transfer system”** means components such as pumps, pipes, conduits, valves, and other
3 mechanisms installed to convey manure, leachate and contaminated runoff, and milking center
4 wastes from livestock structures to a storage structure, loading area, or treatment area.

5 **“Waste utilization”** means the land application of manure at an environmentally acceptable rate and
6 in such a manner as to make use of the constituent nutrients for maintenance or improvement of the
7 soil and plant resources.

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

11 **“Water quality management area (WQMA)”** means land that includes any of the following: an area
12 within 1000 feet of the ordinary high water mark of a navigable lake, pond, or flowage; an area
13 within 300 feet of the high water mark of a navigable river or stream; an area that is susceptible to
14 groundwater contamination, or has the potential to be a direct conduit for contamination to reach
15 groundwater.

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

21 **“Winter grazing area”** means a cropland or pasture where livestock feed on dormant
22 vegetation or crop residue, with or without supplementary feed, during the period of October 1 to
23 April 30.

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