

TO AMEND SECTION 8.04.020 A. OF THE CODE: DEFINITIONS; TO AMEND SECTION 8.04.035 OF THE CODE: SITE-CLEARING OPEN BURNING; TO AMEND SECTION 8.12.005 K. OF THE CODE: DEFINITIONS; TO RELETTER SECTION 8.12.005 BB. THROUGH MM OF THE CODE TO CC. THROUGH NN.: DEFINITIONS; TO CREATE SECTION 8.12.005 BB. OF THE CODE DEFINITIONS; TO AMEND SECTION 8.12.040 OF THE CODE: PRIVATE WATER SYSTEMS; TO AMEND SECTION 8.12.060 C. OF THE CODE: SOLID WASTE DISPOSAL SITES PROHIBITED WITHOUT PERMITS; TO AMEND SECTION 8.12.075 B. 12. OF THE CODE: HUMAN HEALTH HAZARD AND PUBLIC NUISANCES; TO AMEND SECTION 8.12.110 H. OF THE CODE: PRIVATE SEWAGE SYSTEM-SANITARY PERMIT; TO AMEND SECTION 8.12.120 B. OF THE CODE: PUBLIC BUILDING-SANITARY PERMIT; TO REPEAL SECTION 8.12.140 D. OF THE CODE: PRIVIES—CONSTRUCTION, MAINTENANCE AND LOCATION; TO AMEND SECTION 8.12.230 A. OF THE CODE: WASTEWATER DISPOSAL FACILITIES—REQUIRED; TO RELETTER SECTION 8.12.230 C. OF THE CODE TO D.: WASTEWATER DISPOSAL FACILITIES—REQUIRED; TO CREATE SECTION 8.12.230 C. OF THE CODE: WASTEWATER DISPOSAL FACILITIES—REQUIRED; TO AMEND SECTION 8.12.240 C. OF THE CODE: HOLDING TANKS; TO AMEND SECTION 8.25.010 OF THE CODE: PURPOSE; TO AMEND SECTION 8.25.030 OF THE CODE PERMIT AND INSPECTION REQUIRED; TO CREATE CHAPTER 8.30 OF THE CODE: KEEPING OF POULTRY

The County Board of Supervisors of the County of Eau Claire does ordain as follows:

SECTION 1. That Subsection A. of Section 8.04.020 of the code be amended to read:

A. "Air contaminant" means dust, smoke, soot, burning embers, sparks, particulate matter, fly ash, cinders, alkalies, oxides, radioactive substances, fume mist, liquid, acid, vapor, gas, objectionable odor, allergen, pathogen, toxic material, or any combination thereof, but not including uncombined water vapor.

SECTION 2. That Section 8.04.035 of the code be amended to read:

8.04.035 Site-clearing open burning.

Site-clearing open burning shall be conducted in a safe manner ~~and that~~ does not cause air pollution as defined in 8.04.020 B. ~~and may be subject to permitting requirements of applicable jurisdictions.~~ Stumps shall not be burned, but rather disposed of in another manner such as chipping or grinding. Smoldering or the creation of dense black or noxious smoke is prohibited.

SECTION 3. That Subsection K. of Section 8.12.005 of the code be amended to read:

K. "Human health hazard" ~~means substance, activity or condition that is known to have the potential to cause acute or chronic illness or death if exposure to the substance, activity or condition is not abated.~~ means a substance, activity or condition that is known to have the potential to cause acute or chronic illness, to endanger life, to generate or spread infectious diseases or otherwise injuriously to affect the health of the public.

SECTION 4. That Subsections BB. Through MM. of Section 8.12.005 be relettered to CC. through NN.

SECTION 5. That Subsection BB. of Section 8.12.005 be created to read:

BB. "Seasonal Occupancy" means occupation of a habitable structure for no more than 90 days per calendar year for the sole purpose of recreational use by the property owner(s).

SECTION 6. That Section 8.12.040 of the code be amended to read:

8.12.040 Private water systems. The intent of this section is to regulate the location of new or reconstructed private wells and ~~to regulate existing private water systems and~~ to regulate well and drill hole abandonment.

A. Delegation level - The health department shall comply with and enforce all provisions of Wis. Admin. Code ch. NR 845 of the code applicable to delegation level one (private well location) ~~and level three (existing private water systems)~~, and level five (well and drill hole abandonment).

B. Well location permits.

1. No person may install a private well or water system unless the owner of the property on which the private water supply system is to be installed holds a valid well location permit issued by the health department or has made arrangements to acquire a permit by notifying the administrator prior to construction. Notification shall include providing the administrator with the property owner's name, address, property legal description, proposed starting date and identification of the person who will be obtaining the permit. ~~Unless other arrangements are made~~ In the instance of such notification, made the permit shall be applied for on the first workday following initial construction unless other arrangements are made.

2. No private water system may be located, installed or operated within the jurisdictional limits of Eau Claire County without the appropriate permit being obtained in compliance with 1. and without being in full compliance with provisions of this ordinance.

3. Well location permit applications:

a. Shall be on forms provided by the health department.
b. Shall be made by the property owner or the property owner's designated agent to the health department.
c. Shall be signed by the property owner or the property owner's designated agent.

d. Shall be submitted to the health department at least two working days prior to construction if the property owner or well constructor is interested in receiving information about potential contamination sources such as landfills; underground storage tanks; primary and replacement on site wastewater sewage disposal system areas on the development site and on adjacent properties; and special casing areas. The property owner and well constructor shall research such information prior to application submittal and well construction. ~~Where a well location permit application is submitted less than 2 working days prior to construction~~ ~~†The~~ well constructor shall be responsible for maintaining full compliance with all provisions of Wis. Admin. Code ch. NR 812.

e. The administrator shall review applications and approve, disapprove, return the application for incompleteness or notify an applicant of the need to seek a variance or special approval from the DNR.

f. The administrator shall issue written notice to each applicant whose well location permit application is disapproved, stating the specific reasons for disapproval and setting forth such amendments to the application, if any, which would render it approvable.

g. When construction occurs on a weekend or holiday, notification shall be provided to the health department on the first workday following the weekend or holiday in the same manner as described in d. Unless other arrangements are made with the health department, the permit application shall be obtained on the first workday following the weekend or holiday. The well constructor shall be responsible for maintaining full compliance with all provisions of Wis. Admin. Code ch. NR 812.

4. A permit transfer application shall be submitted to the health department when there is a change of property owner after the application is submitted but before well construction is completed. Failure to submit a transfer application shall invalidate a previously issued permit. The application shall be on a form made available by the health department.

5. As soon as the well location permit is received it shall be displayed conspicuously at the well site during construction and for a minimum of 7 days following completion or until the well has been inspected by health department staff, whichever occurs first.

6. A well location permit shall be valid for a period of one year or until construction is completed, whichever occurs first. If a permit expires, reapplications shall be evaluated so that construction will comply with the provisions of Wis. Admin Code ch NR 812 in effect at the time of reapplication.

7. A well location permit is not required, nor shall it be issued by the health department for public water systems and for private water systems which require written plan approval from the DNR.

8. Any permit issued under this section shall be void if any false or inaccurate statement is made or if any inaccuracy is shown on any application for a permit.

C. Private water system - non-complying - unsafe. The health department may issue notices or orders requiring:

1. The abandonment of a private well not in service or that will be taken out of service if the well is unused, non-complying or bacteriologically unsafe. The health department may also order the abandonment of a private well with water exceeding a primary drinking water standard listed in Wis. Admin. Code ch. NR 809 or other chemical compounds for which state health advisory limits have been issued including inorganic and organic compounds, after consultation and approval by the DNR.

~~2. The upgrading of a private water system not in compliance with the location or pump installation standards of Wis. Admin. Code ch. NR 812.~~

~~3. Prohibiting the use of any new or existing private water system that is found to be installed, constructed, operated or maintained so as to be a health hazard to the users, neighbors or community.~~

4.2 The advising of owners not to drink or use water from private water systems confirmed bacteriologically unsafe, or, except for non-community wells, having a level of contamination exceeding a primary drinking water standard specified in Wis. Admin. Code ch. NR 809 or having inorganic or organic compounds exceeding state health advisory limits in samples tested by a state certified or registered lab or by the State Laboratory of Hygiene.

~~5. Any person owning, operating or installing a new private water system to abandon, modify, repair or replace a private water system in a complying, safe and sanitary condition if the system is found to be unused, non-complying with the drinking water standards in Wis. Admin Code ch. NR 809 or not meeting state health advisory limits established for chemical compounds.~~

63. The suspension of work on a new private water system if it is determined that the well location ~~or pump installation~~ does not comply with Wis. Admin Code ch. NR 812 or this ordinance. Notification shall be made to the well constructor or pump installer and property owner in writing of the non-compliance and the nature of the work to be discontinued and

corrected, identifying the location and the name of the person issuing the order. It shall be a violation of this ordinance to engage in work that conflicts with the terms of an order or to make an unauthorized removal of a posted order. Work may resume on the site only under the direction of the administrator.

SECTION 7. That Subsection C. of Section 8.12.060 of the code be amended to read:

C. No person shall burn any garbage or mixed trash other than in an incinerator which is approved by the health department based on its durability and suitability for use and is otherwise in accordance with applicable governmental regulations and standards.

SECTION 8. That paragraph 12. of Subsection B. of Section 8.12.075 of the code be amended to read:

12. Accumulations of manure from domestic animals or fowl that is handled, stored or disposed of in a manner that creates a human health hazard and that creates non-compliance with 17.04.

SECTION 9. That Subsection H. of Section 8.12.110 of the code be amended to read:

H. All structures or premises in the county that are permanently or intermittently intended for human habitation or occupancy, where plumbing fixtures exist and pressurized water service is provided and which are not serviced by a public sewer, shall have a system for holding or treatment and dispersal of sewage and wastewater which complies with the provisions of this chapter. ~~No person shall construct or place a prebuilt unit intended for human occupancy unless the owner holds a valid sanitary permit.~~

SECTION 10. That Subsection B. of Section 8.12.120 of the code be amended to read:

B. The health department shall establish examination procedures for reviewing plans submitted under A. above. The procedures shall be in reasonable conformity with rules promulgated under Wis. Stat. ch. 145. Fees for plan examination shall be as established at 8.12.260.

SECTION 11. That Subsection D. of Section 8.12.140 of the code be repealed.

SECTION 12. That Subsection A. of Section 8.12.230 of the code be amended to read:

A. ~~All premises intended for human occupancy~~ structures or premises in the county that are permanently or intermittently intended for human habitation or occupancy, where plumbing fixtures exist and pressurized water service is provided shall be provided with an adequately functioning public sewer, privy, composting toilet system, incinerating toilet system, private onsite wastewater treatment system, or other approved method of wastewater disposal.

SECTION 13. That Subsection C. of Section 8.12.230 be relettered to D.

SECTION 14. That Subsection C. of Section 8.12.230 be created to read:

C. Temporary portable toilets are prohibited as the only means of human waste disposal for permanently constructed structures or premises in the county that are intended for

permanent or intermittent human habitation or occupancy and where plumbing fixtures exist and pressurized water service is provided, and which are not serviced by a public sewer.

SECTION 15. That Subsection C. of Section 8.12.240 of the code be amended to read:

C. Installation or use of holding tanks for disposal of sanitary waste shall be allowed for existing buildings (as defined in 8.12.005) when the use of a holding tank is the only available alternative for the disposal of sanitary liquid waste based on soil conditions or lot size limitations. Installation or use of holding tanks for new construction is prohibited except when those buildings will be limited to seasonal occupancy or a variance is granted. In the instance of seasonal dwelling intended to be serviced by a holding tank, the owner of the dwelling shall file an affidavit with the health department stating that the use of the structure will be consistent with the definition of Seasonal Occupancy. Granting of variances to this provision shall be set forth in the Board of Health Appeals Procedure.

SECTION 16. That Section 8.25.010 of the code be amended to read:

8.25.010 Purpose. The purpose of this ordinance is to preserve the public health, safety and general welfare of county residents in ~~the RH, R-1-L and R-1-M~~ residential zoning districts ~~(RH, R-1-L, R-1-M, R-2, R-3)~~ for the keeping of common, domestic honey bees, *Apis mellifera* species of European origin as regulated by the Eau Claire City-County Health Department.

SECTION 17. That Section 8.25.030 of the code be amended to read:

8.25.030 Permit and inspection required.

A. A person who keeps more than four colonies of honey bees in the ~~RH, R-1-L and R-1-M~~ noted residential zoning districts must obtain a permit from and pay an annual fee established by the Eau Claire City-County Health Department.

B. Permit shall not be transferrable or refundable. Only the owner of the proposed permitted real property, or an occupant of the proposed permitted real property with the owner's written permission, is eligible to obtain a beekeeping permit.

C. All permits issued shall expire on March 31st of the year following issuance unless sooner revoked.

D. Applicants shall provide detailed lot diagrams of the beekeeping equipment location including the distances to property lines and from nearby structures or neighboring properties.

E. Beekeeping equipment shall not be allowed on lots with two or more dwelling units unless the Health Department approves an exemption. An exemption may only be granted where circumstances exist in which the keeping of bees is otherwise consistent with both the purpose and requirements of this ordinance and will not interfere with any person's use or enjoyment of the property that person occupies. An exemption may be granted with special conditions and requirements to ensure beekeeping is consistent with the purpose and requirements of this ordinance.

F. Applicants shall provide written consent from at least 80% of the owners with real estate within ~~100~~ 50 feet of the applicant's proposed hive location or abutting the applicant's permitted property.

1. Large acreage exemption. When the proposed location of the beekeeping equipment is within a lot greater than four acres in size, the applicant is exempt from the above neighbor consent requirement if either of the following is true:

- a. The applicant provides approval from 80% of the occupants of real estate situated within 250 feet of the beekeeping equipment; or
- b. The applicant demonstrates that the beekeeping equipment is greater than 250 feet away from any property line.

FG. New permits may only be granted subject to the successful completion of the City-County Health Department pre-inspection. Permit renewals may only be granted subject to the successful completion of at least one annual inspection by an inspector approved by the City-County Health Department.

SECTION 18. That Chapter 8.30 of the code be created to read:

CHAPTER 8.30

KEEPING OF POULTRY

Sections:

- 8.30.010 Purpose.
- 8.30.020 Definitions.
- 8.30.030 License required.
- 8.30.040 Standards of Practice.
- 8.30.050 Conditions for Keeping and Sanitation.
- 8.30.060 Inspection and Enforcement.
- 8.30.070 Other methods not excluded.
- 8.30.080 Violation and Penalty.

8.30.010 Purpose. The purpose of this chapter is to outline conditions under which county residents in certain residential districts may safely keep and maintain a limited number of allowable poultry to provide eggs for household use; to assure appropriate coops or structures in which to house poultry; and to protect the health, safety, and welfare of the general population of the County of Eau Claire.

8.30.020 Definitions. For the purposes of this Chapter, the following terms have the meaning indicated:

- A. “Abutting property” shall mean all lots that the applicant’s property comes into contact with at one or more points, except for lots that are legally abutting but separated from the applicant’s property by a public or private street, alley or other right-of-way.
- B. “Poultry” shall mean for purposes of this ordinance, a female gallinaceous bird or hen of any age, including chicks. This definition includes chickens and quail but excludes waterfowl, pheasant, geese, turkeys, peacocks, emus or ostriches.
- C. “Coop” shall mean an enclosed structure, building, or pen within which poultry roost are housed.
- D. “Health Department” shall mean the Eau Claire City-County Health Department.
- E. “Health Officer” shall mean the Eau Claire City-County Health Department Director or his or her designee for the purpose of administering the provisions of this chapter and the rules and regulations adopted pursuant thereto.

F. “Run/Enclosure” shall mean the fenced or enclosed outdoor space provided for poultry. Runs/Enclosures shall be fully enclosed, including the top and all sides.

G. “Residential structure” shall mean any building located on a residentially zoned property, including a detached garage or shed.

H. “Lot” shall mean a contiguous parcel of land under common ownership.

8.30.030 License required.

A. No person shall own, harbor, keep, or maintain poultry within residential zoning districts (RH, R-1-L, R-1-M, R-2, R-3) of the county without first obtaining a license. Construction of a coop shall not commence until an application for a license has been submitted.

1. Applications for a license shall be made prior to acquiring a licensable poultry, on such forms as provided by the health department.

2. Applicants shall register with the Wisconsin Department of Agriculture, Trade and Consumer Protection pursuant to §95.51, Wis. Stats., and provide proof of registration with the Department prior to obtaining a county license.

3. Applicants shall state on the licensing application the number of planned poultry, the plan for handling of manure and other waste, as well as their intended coop design and materials plan including a diagram describing the location of the coop and any attached run/enclosure in relationship to lot boundaries and nearby structures, and on any renewal only if the applicant intends to increase the number of poultry or relocate the coop structure on the property from the previous license.

4. Applicant shall pay a license fee as provided in the Health Department Fee and License Schedule with application.

5. Applicant shall certify that the poultry and poultry products are primarily for personal non-commercial use. No commercial sales of poultry and poultry products from the residence or any residential area within the county is permitted.

6. The issuance and renewal of a license may be subject to an annual virtual or on-site consultation with the Health Department.

7. Licenses shall be issued for a term of one year, commencing with the first day in April and expiring on March 31. Failure to renew a license in a timely manner may result in citations and the issuance of a late fee.

8.30.040 Standards of Practice.

A. Property Requirements.

1. Poultry may be kept and maintained on a residentially zoned lot (RH, R-1-L, R-1-M, R-2, R-3). Poultry may be kept on a lot zoned R-2 or R-3 and used as a multi-family dwelling if the applicant does all of the following:

a. Submits a written statement of support to the county signed by the landlord or property owner, if applicant is not the landlord or property owner, and all other tenants within the dwelling.

b. Submits a written agreement between landlord or property owner and applicant, as to the plans for maintenance of the coop and poultry and their disposition after the applicant vacates the premises, if applicant is not the landlord or property owner.

2. Poultry shall not be kept or maintained upon a vacant lot or inside a residential structure, including basements, porches, garages, shed, or similar structures.

3. A coop and any attached run/enclosure shall be located in the back or side yard of the license holder's residence.

4. A coop and any attached run/enclosure shall be located at least ten (10) feet from an abutting lot, at least twenty-five (25) feet from any residential structure on adjacent lots, at least five (5) feet from any residential structure on the applicant's lot, and at least two (2) feet from all lot lines.

5. A coop and any attached run/enclosure shall be compliant with Chapter 17.04 Agricultural Performance Standards and Manure Storage.

6. Contiguous lots under common ownership shall be combined for purposes of this chapter. Setback provisions contained in this section shall not be applicable to those property lines creating the contiguous portion of a lot.

B. Coop Design.

1. All poultry shall be kept and maintained within a detached, stationary structure used exclusively for the keeping of poultry.

2. Coops shall be constructed in a skillful manner, including being ventilated, insulated, roofed, constructed of moisture resistant materials, and in compliance with current county building and zoning ordinances.

3. The coop floor, foundation and footings shall be constructed using a hard, cleanable surface, (e.g., concrete, wood, linoleum, or hard plastic) and shall be resistant to rodents. A dirt floor is not acceptable.

4. All coops, including run/enclosure, shall be enclosed with wire netting or equivalent material suitable for the intended use including a protective overhead that will prevent poultry from escaping the coop or the attached run/enclosure. An uncovered run may be utilized when all kept poultry's wings are maintained as clipped.

5. All coops and attached structures shall each be sized to provide a minimum of three (3) square feet per bird.

6. License information shall be attached to the coop, including the name of the license holder, license number, and an emergency contact telephone number.

8.30.050 Conditions for Keeping and Sanitation.

A. Conditions for Keeping.

1. A person keeping or maintaining poultry on property meeting the requirements set forth in 8.30.040 keep or maintain not more than the maximum number of birds permitted for their lot size:

Lot Size	Number of birds
Less than one acre	5
One acre to less than two acres	8
Two or more acres	12

2. A person keeping or maintaining poultry shall not keep or maintain any roosters, cocks, or drakes.

3. Poultry shall be provided with access to feed and clean water at all times.

4. Poultry that become ill shall receive veterinary care on-site or at a veterinary office. Poultry ill with an infectious disease capable of being transmitted from bird to bird or from birds to humans, including but not limited to, salmonella or avian influenza, are prohibited and shall be immediately euthanized by a veterinarian, or immediately removed from the county and humanely killed outside of the county. Any person keeping poultry shall immediately report any unusual illness or death of poultry to the Health Department.

5. The Health Officer may order testing, quarantine, isolation, vaccination or humane euthanasia of ill poultry or poultry believed to be a carrier of a communicable disease per DHS 145.06(6), Wis. Stats.

6. A dog or cat which kills or injures a bird shall not, for that reason alone, be considered a dangerous animal.

7. Deceased birds shall be disposed of immediately in a safe manner, which may include trash disposal after placing the deceased bird in a sealed bag.

8. Keeping of poultry and handling of associated waste shall be compliant with Chapter 17.04 Agricultural Performance Standards and Manure Storage.

9. The slaughtering of any permitted poultry may be conducted on the property only if conducted in a humane and sanitary manner, outside of the view of any public area or adjacent property, in accordance with all applicable laws, rules, and regulations, and for personal use only. The total number of poultry that may be slaughtered on the property in a license year shall not exceed the permitted number of live poultry for the license holder's lot size. This shall not constitute animal cruelty.

a. Culling of poultry for non-meat purposes shall be prohibited, except as may otherwise be required by this chapter.

10. Poultry shall be secured within a coop during non-daylight hours.

11. Poultry shall not roam free outside of a coop or attached run/enclosure.

12. No person may keep or harbor any poultry, which habitually by excessive noise disturbs the peace and quiet of any person in the vicinity.

13. Offsite sale of eggs is prohibited except as otherwise permitted by the State of Wisconsin and United States Department of Agriculture. All distribution of eggs shall be documented, including the names, address, and phone number of receiving individuals.

B. Sanitation.

1. Poultry feed shall be stored and kept in secured containers which make the feed unavailable to rodents, vermin, wild birds and predators.

2. All coops, attached runs/enclosures and yards where poultry are kept or maintained shall be cleaned regularly to keep them reasonably free from substances, including but not limited to manure, uneaten feed, feathers, and other such waste that it does not cause the air or environment to become noxious or offensive or to be in such condition as to promote the breeding of flies, mosquitoes, or other insects, or to provide habitat, breeding or feeding place for rodents or other animals, or otherwise be injurious to public health.

3. Poultry shall be kept and handled in a sanitary manner to prevent the spread of communicable diseases among birds or to humans.

8.30.060 Inspection and Enforcement.

A. License fees shall not be prorated or refundable once issued.

B. County and Health Department staff shall have the power, whenever it may deem reasonably necessary, to request entrance to a building, structure, or property related to a license

under this chapter to ascertain whether the license holder is in compliance with this chapter. Compliance orders and citations may be issued pursuant to the provisions of this chapter, County Code and State law.

C. Violations of this chapter may constitute a public nuisance under Wis. Stat. § 823 and are enforceable by Eau Claire County.

D. A license issued hereunder may be revoked by the health department upon determination that the licensee has failed to comply with the provisions of this chapter, this code, or state law, or the poultry or premises has been declared a public nuisance. Once a license has been revoked, it shall not be reissued for a period of at least two years.

E. Appeals from orders of the Health Department for compliance shall be pursuant to Health Department policy in conformance with the procedures for conducting appeals enumerated in Chapter 68, Wisconsin Statutes. All other orders are appealable pursuant to county code or as otherwise provided by law. An appeal does not limit the county's right to seek court intervention in the form of injunctive or other relief.

F. Licenses shall not be transferable. Only the owner of the proposed licensed real property, or an occupant of the proposed licensed real property with the owner's written permission, is eligible to obtain a poultry keeping license.

G. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisance or human health hazard by Eau Claire County or its officials in accordance with the laws of the State of Wisconsin, the laws of the United States, or the Eau Claire County code of ordinances. This chapter shall also not be construed as otherwise limiting, in any way, any other action Eau Claire County is permitted to bring under the laws of the State of Wisconsin, the laws of the United States or under the Eau Claire County code of ordinances.

8.30.070 Other methods not excluded. The provisions of this chapter are not exclusive and may be used in combination with each other or with any other section of this code or state statute applicable to this subject matter.

8.30.080 Violation and Penalty. Any person who violates this chapter shall, for each violation, forfeit not less than fifty (\$50) nor more than two hundred (\$200) not including court costs. Each day such violation continues shall constitute a separate offense.

Enacted: January 18, 2022

Sue McDonald
County Clerk