- AN ORDINANCE TO IMPOSE A TEMPORARY MORATORIUM ON THE EXPANSION AND CREATION OF LARGE-SCALE LIVESTOCK FACILITIES PENDING 6-MONTH REVIEW -

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


The Clean Water Act is partially encoded into Wisconsin State law under Wisconsin Administrative Code Chapter NR140, Groundwater Quality, and clearly establishes the levels of pollutants, including nitrates, which must be met before a Wisconsin Pollution Discharge Elimination System (WPDES) permit can be issued.

Chapter NR140 prohibits the issuance of a WPDES permit if groundwater nitrate levels are 10mg/L or greater and health is impacted.

Current Eau Claire County Ordinances regarding large-scale livestock facilities may not adequately protect the health, safety and welfare of Eau Claire County residents. It is critical that necessary and appropriate safeguards be in place before large-scale livestock facilities commence or expand in Eau Claire County.

SECTION 2. Authority. This ordinance is adopted pursuant to the powers granted under the Wisconsin Constitution, and Wisconsin Statutes including but not limited to Sections 59.02(2), 59.03(2)(a) and 59.69.

SECTION 3. Purposes. The purposes of this ordinance are as follows:
1. To allow Eau Claire County to investigate the impacts of large-scale livestock facilities on groundwater, surface water and air quality, specifically as those issues apply in Eau Claire County.

2. To allow Eau Claire County adequate time to review current ordinances, to study and determine whether amendment of existing ordinances, and/or creation and adoption of other ordinances applicable in all unincorporated areas within Eau Claire County is appropriate. The goal is to protect the public health, safety and welfare of all Eau Claire County residents and the quality of land, air and water resources for generations to come.

SECTION 4. Definitions.
1. Livestock facility - A feedlot, dairy farm or other operation where livestock are or will be fed, confined, maintained or stalled for a total of 45 days or more in any 12 month period. A livestock facility includes all of the tax parcels of land on which the facility is located but does not include the pasture or winter grazing areas. Related livestock
facilities are collectively treated as a single livestock facility except that an operator may elect to treat a separate species facility as a separate livestock facility.

2. Related livestock facilities - livestock facilities that are owned or managed by the same person, related to each other in at least one of the following ways:
   a. They are located on the same tax parcel or adjacent tax parcels of land.
   b. They use one or more of the same livestock structures to collect or store manure.
   c. At least a portion of their manure is applied to the same land spreading acreage.

3. Separate species facility - a livestock facility that meets all of the following criteria:
   a. It has only one of the following types of livestock and that type of livestock is not kept on any other livestock facility to which the different species facility is related under sub.2:
      Cattle, Swine, Poultry, Sheep, Goats, or Mink and other fur-bearing animals
   b. It has no more than 1,000 animal units
   c. Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related under sub.2.
   d. It meets one of the following criteria:
      1. Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage used by a livestock facility to which it is related under sub.2.
      2. It and the other livestock facilities to which it is related under sub.2 have a combined total of fewer than 1,000 animal units.

4. Large scale livestock facility – A livestock facility which houses 1,000 animal units or more.

5. Animal units - measure equivalencies between animal types as established by section NR 243.05, Wis. Adm. Code. For example, 1,000 beef cattle, 715 milking cows, or 200,000 chickens are each equivalent to 1,000 animal units.

6. Expansion - an increase of 20% or greater in the number of animal units fed, confined, maintained, or stabled.

SECTION 5. Moratorium Imposed.
The Eau Claire County Board of Supervisors hereby imposes a moratorium on the establishment of all new large-scale livestock facilities that will have 1,000 or more animal units, and/or the expansion of currently existing livestock facilities if the number of animal units kept at the expanded facility will be 1,000 or more, except as provided in Section 6 of this ordinance.

SECTION 6. Exception.
The moratorium imposed herein shall not apply to existing facilities who are not currently expanding, or to applicants who have submitted completed permit applications to establish or expand a livestock facility of 1,000 or more animal units as of the date of adoption of this ordinance. The moratorium imposed herein shall not apply to existing facilities needing to undertake emergency repairs to existing Animal Waste Storage Facilities as allowed under Section 17.04.080 (B) of the Eau Claire County Code of General Ordinances. Any subsequent expansion not included in such applications shall be subject to the moratorium.
SECTION 7. Duration of Moratorium.
This moratorium shall be in effect for a period of six (6) months from the date this ordinance is passed by the Eau Claire County Board of Supervisors unless the County Board of Supervisors rescinds this moratorium at an earlier date. This moratorium may be extended for up to six (6) months by a majority vote of the Eau Claire County Board of Supervisors.

SECTION 8. Action and Review During Moratorium.
The Eau Claire County Board of Supervisors hereby directs the Eau Claire County Planning and Development Department to:
1. Review and analyze existing state and local regulations and ordinances regarding the impact large-scale livestock facilities of 1,000 animals or more may have on groundwater, surface water, air quality, public health as these issues apply to Eau Claire County.
2. Identify areas where new regulations may be needed, where current regulations need to be modified, and where enforcement of current regulation is inadequate to protect the groundwater, surface water, air quality, public health and safety.
3. Identify who has monitoring and citation authority to ensure applicable regulations are followed.

If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

SECTION 10. Effective Date.
This ordinance shall take effect upon passage and publication as provided by law. This ordinance shall not be codified.

ENACTED: October 2, 2018

Janet K. Loomis
County Clerk