

4 - AN ORDINANCE TO IMPOSE A TEMPORARY MORATORIUM ON THE
5 EXPANSION AND CREATION OF LARGE-SCALE LIVESTOCK FACILITIES PENDING
6 12 MONTH REVIEW -

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

8 **SECTION 1. Reasoning.** The Federal Clean Water Act, 33 U.S.C. § 1251 et. seq.
9 (1972), established the law for regulating discharges of pollutants into the waters of the United
10 States.
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12 The Clean Water Act is partially encoded into Wisconsin State law under Wisconsin
13 Administrative Code Chapter NR140, Groundwater Quality, and clearly establishes the levels of
14 pollutants, including nitrates, which must be met before a Wisconsin Pollution Discharge
15 Elimination System (WPDES) permit can be issued.
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17 Chapter NR140 prohibits the issuance of a WPDES permit if groundwater nitrate levels are
18 10mg/L or greater and health is impacted.
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20 Current Eau Claire County Ordinances regarding large-scale livestock facilities may not
21 adequately protect the health, safety and welfare of Eau Claire County residents. It is critical that
22 necessary and appropriate safeguards be in place before large-scale livestock facilities commence
23 or expand in Eau Claire County.
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25 **SECTION 2. Authority.** This ordinance is adopted pursuant to the powers granted
26 under the Wisconsin Constitution, and Wisconsin Statutes including but not limited to Sections
27 59.02(2), 59.03(2)(a) and 59.69.
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29 **SECTION 3. Purposes.** The purposes of this ordinance are as follows:

- 30 1. To allow Eau Claire County to investigate the impacts of large-scale livestock facilities
- 31 on groundwater, surface water and air quality, specifically as those issues apply in Eau
- 32 Claire County.
33
- 34 2. To allow Eau Claire County adequate time to review current ordinances, to study and
- 35 determine whether amendment of existing ordinances, and/or creation and adoption of
- 36 other ordinances applicable in all unincorporated areas within Eau Claire County is
- 37 appropriate. The goal is to protect the public health, safety and welfare of all Eau Claire
- 38 County residents and the quality of land, air and water resources for generations to come.
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41 **SECTION 4. Definitions.**

- 42 1. Livestock facility - A feedlot, dairy farm or other operation where livestock are or will be
- 43 fed, confined, maintained or stabled for a total of 45 days or more in any 12 month
- 44 period. A livestock facility includes all of the tax parcels of land on which the facility is
- 45 located but does not include the pasture or winter grazing areas. Related livestock

1 facilities are collectively treated as a single livestock facility except that an operator may
2 elect to treat a separate species facility as a separate livestock facility.

- 3 2. Related livestock facilities - livestock facilities that are owned or managed by the same
4 person, related to each other in at least one of the following ways:
 - 5 a. They are located on the same tax parcel or adjacent tax parcels of land.
 - 6 b. They use one or more of the same livestock structures to collect or store manure.
 - 7 c. At least a portion of their manure is applied to the same land spreading acreage.
- 8 3. Separate species facility - a livestock facility that meets all of the following criteria:
 - 9 a. It has only one of the following types of livestock and that type of livestock is not
10 kept on any other livestock facility to which the different species facility is related
11 under sub.2:
12 Cattle, Swine, Poultry, Sheep, Goats, or Mink and other fur-bearing animals
 - 13 b. It has no more than 1,000 animal units
 - 14 c. Its livestock housing and manure storage structures, if any, are separate from the
15 livestock housing and manure storage structures used by livestock facilities to which
16 it is related under sub. 2.
 - 17 d. It meets one of the following criteria:
 - 18 1. Its livestock housing and manure storage structures, if any, are located at least 750
19 feet from the nearest livestock housing or manure storage used by a livestock
20 facility to which it is related under sub. 2.
 - 21 2. It and the other livestock facilities to which it is related under sub.2 have a
22 combined total of fewer than 1,000 animal units.
- 23 4. Large scale livestock facility – A livestock facility which houses 1,000 animal units or
24 more.
- 25 5. Animal units - measure equivalencies between animal types as established by section NR
26 243.05, Wis. Adm. Code. For example, 1,000 beef cattle, 715 milking cows, or 200,000
27 chickens are each equivalent to 1,000 animal units.
- 28 6. Expansion - an increase of 20% or greater in the number of animal units fed, confined,
29 maintained, or stabled.

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31 **SECTION 5. Moratorium Imposed.**

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

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37 **SECTION 6. Exception.**

38 The moratorium imposed herein shall not apply to existing facilities who are not currently
39 expanding, or to applicants who have submitted completed permit applications to establish or
40 expand a livestock facility of 1,000 or more animal units as of the date of adoption of this
41 ordinance. The moratorium imposed herein shall not apply to existing facilities needing to
42 undertake emergency repairs to existing Animal Waste Storage Facilities as allowed under
43 Section 17.04.080 (B) of the Eau Claire County Code of General Ordinances. Any subsequent
44 expansion not included in such applications shall be subject to the moratorium.

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1 **SECTION 7. Duration of Moratorium.**

2 This moratorium shall be in effect for a period of twelve (12) months from the date this
3 ordinance is passed by the Eau Claire County Board of Supervisors unless the County Board of
4 Supervisors rescinds this moratorium at an earlier date. This moratorium may be extended for up
5 to twelve (12) months by a majority vote of the Eau Claire County Board of Supervisors.
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7 **SECTION 8. Action and Review During Moratorium.**

8 The Eau Claire County Board of Supervisors hereby directs the Eau Claire County Planning and
9 Development Department to:

- 10 1. Review and analyze existing state and local regulations and ordinances regarding the
11 impact large-scale livestock facilities of 1,000 animals or more may have on groundwater,
12 surface water, air quality, public health as these issues apply to Eau Claire County.
- 13 2. Identify areas where new regulations may be needed, where current regulations need to
14 be modified, and where enforcement of current regulation is inadequate to protect the
15 groundwater, surface water, air quality, public health and safety.
- 16 3. Identify who has monitoring and citation authority to ensure applicable regulations are
17 followed.

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19 **SECTION 9. Severability.**

20 If any section, sentence, clause or phrase of this ordinance should be held to be invalid or
21 unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be
22 affected thereby.
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24 **SECTION 10. Effective Date.**

25 This ordinance shall take effect upon passage and publication as provided by law.
26 This ordinance shall not be codified.
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28 ADOPTED BY:

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39 Committee on Planning & Development

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45 Dated this _____ day of _____, 2018.