

**WASHINGTON COUNTY CODE**

**CHAPTER 15**

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## CHAPTER 15

### LAND AND WATER CONSERVATION

**15.01 LAND CONSERVATION COMMITTEE.** (1) **Establishment.** There is hereby established a County Land Conservation Committee for Washington County in accordance with §92.06, Wis. Stats.

(2)(AM 16-8) **Authority.** This chapter is hereby adopted to fulfill the legislative intent set forth at §92.02, Wis. Stats., and under the general authorities granted by Chapters 59, 92, and 281 of the Wisconsin Statutes.

(3) (AM 16-8) **Membership.** The Land Conservation Committee shall be comprised of the Land Use and Planning Committee and the Chairperson of the Farm Services Agency (FSA Committee) or the designee of the FSA Committee Chairperson from the membership of the FSA Committee.

(4) (AM 16-8) **Per Diem.** The FSA Committee representative shall be entitled to per diem or reimbursement from the County as provided by §92.06(1)(d), Wis. Stats.

(5) (AM 16-8) **Terms.** Members shall serve a 2 year term commencing with the organizational meeting of the County Board.

**15.02 POWERS OF THE LAND CONSERVATION COMMITTEE.** (1) (AM 16-8) The Land Conservation Committee, herein after referred to as the Committee, shall have such powers as may be necessary to enable it to perform its functions and duties to promote the conservation of soil, water and other natural resources in the county; and such powers shall include the following:

(a) To develop policies in support of management practices to control soil erosion, sedimentation and nonpoint sources of water pollution.

(b) To use the rules promulgated under §281.16(3)(e) to determine the availability of funds and to distribute and allocate Federal, State, County and other funds made available to the Committee for cost sharing programs or other incentive programs for improvements and practices relating to soil and water conservation on private or public lands, and within the limits permitted under these programs, to determine the methods of allocating these funds.

(c) To develop and adopt policy or guidelines necessary to carry out the Committee's responsibilities or duties through Federal, State or County programs under the authority of the Committee, including a Land and Water Resource Management Plan for Washington County.

(d) To recommend ordinances for County Board approval which may regulate land use, land management and pollutant management practices by the authority of and in accordance with procedures established by State Statutes and Administrative Rules.

(e) To review and authorize the County Board Chairperson and County Clerk to enter into contracts, agreements, and other instruments as necessary, and within the authority granted by the County Board, to carry out its duties.

(2) The Committee shall have all additional powers and duties granted or assigned by the Wisconsin Statutes to land conservation committees; and any amendments thereto are hereby granted or assigned to the Committee; and such statutes are hereby adopted by reference.

**15.03 DUTIES OF THE LAND CONSERVATION COMMITTEE.** The Committee shall have the following functions and duties:

(1) (AM 16-8) To develop, establish and maintain the conservation of soil, water and other natural resources in the County contained in the Land and Water Resource Management Plan.

(2) To provide technical assistance through its appointed agents and employees to landowners or land operators and units of government in applying soil and water conservation principles and practices, in support of, and in cooperation with Federal, State or local programs.

(3) (AM 16-8) To identify County information/educational needs relating to soil and water conservation.

(4)(AM 04-27) To approve cost sharing agreements for land owners/operators in the County in accordance with secs. 15.05 and 15.06 of this chapter.

(5)(AM 09-13) (AM 16-8) To review and make recommendations for County Board action on matters relating to the following:

(a) The development, adoption, implementation and maintenance of all natural resource management plans; specifically those aimed to control soil erosion or to protect or improve surface and groundwater resources in the County. Such plans may include, but are not limited to the following: Aquatic Invasive Species (AIS) strategic Plan, total Maximum Daily Load Plan in accordance with the U.S. Clean water Act, Lake Management Plans, County Animal Waste Management Plans and the County Land and Water Resource Management Plan.

(b) The County's policy toward, or participation in programs relating to water pollution control, soil conservation, drainage/flood management, farmland preservation and farmland protection, wildlife management/damage and abatement, forestry or other natural resources management issues or programs within the County.

(6) (AM 16-8) To actively solicit public participation in the planning and evaluation of soil and water conservation programs.

(7)(AM 04-27) (AM 16-8) To hear appeals on matters relating to the following:

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(a) The issuance of a notice pursuant to ATCP 50 to landowners who are found to be in violation of the Agriculture Performance Standards and Prohibitions of NR 151 of the Wisconsin Administrative Code.

(b) The denial of an Animal Waste Storage Facility permit or any regulatory action taken by the Land and Water Conservation Division relating to animal waste storage, in accordance with Ch. 16 of this Code.

(c) Any crop damage abatement measures or crop damage claimed by a landowner through the Wisconsin Wildlife Damage Abatement and Claims Program.

(8)(AM 04-27) (AM 16-8) To establish fees, set policy and develop guidelines related to the administration of County animal waste storage facility, erosion control and storm water management and nonmetallic mining reclamation requirements under Chapters 16, 17 and 18 of this Code.

**15.04(AM 04-27) LAND AND WATER CONSERVATION DIVISION.** (1)(AM 04-27) (AM 16-8) **Creation.** There is hereby established a Land and Water Conservation Division of Washington County Planning and Parks Department herein referred to as the Division, of which the position of County Conservationist shall serve as Division Manager. Other Division positions are described in the official staffing plan.

(2)(AM 04-27) (AM 16-8) **Supervising Committee.** The Land Conservation Committee shall have jurisdiction over the activities and functions of the Land and Water Conservation Division, subject to the overarching authority of the County Board.

(3)(AM 04-27) (AM 16-8) **Duties of the Land and Water Conservation Division.** The Land and Water Conservation Division shall be responsible for the following:

(a) The implementation of all policies and programs under the jurisdiction of the Land Conservation Committee, or as assigned by this section.

(b) The animal waste storage facility requirements of Ch. 16 of this Code.

(c) The soil erosion control and stormwater management requirements of Ch. 17 of this Code.

(d) The Nonmetallic Mining requirements of Ch. 18 of this Code.

(e) Adhering to the technical standards found in sec. 15.05(1) of this chapter when carrying out all applicable Division responsibilities.

**15.05 TECHNICAL ASSISTANCE.** (1) (AM 16-8) **Technical Standards.** The following standards are adopted recognizing the need for sound technical standards in order to provide adequate protection of the County's natural resources, to ensure proper and consistent planning and application of all recommended conservation practices, and to minimize County liability:

(a) The technical standards, specifications and other planning and design references set forth in the *Wisconsin Edition of the Natural Resources Conservation Service Field Office Technical Guide*, published by the Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture.

(b) The technical standards, specifications and design references set forth in Chapter NR 151 for the Non-agriculture Performance Standards developed by the Wisconsin Department of Natural Resources.

(c) The methods of calculating storm runoff volume, peak rate of discharge, hydrographs and storage volumes for floodwater reservoirs as described in *Technical Release-55, Urban Hydrology for Small Watersheds*, published by the Natural Resources Conservation Service of the U.S. Department of Agriculture.

(2) **Amendments to Standards.** Any future amendment, revision or modification of the standards referenced in this section, unless otherwise noted, are hereby made a part of this chapter.

(3)(AM 04-27) (AM 16-8) **Engineering.** For those reasons stated in sub. (1) above, the need for engineering assistance and a system of quality control in the design and implementation of conservation practices is recognized. To address the need for engineering assistance, the County may utilize the following:

(a) Certified Land and Water Conservation Division staff by the NRCS or the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP), may be relied upon if approved in concurrence with the County Conservationist. Any proposed changes or additions shall be brought before the County Conservationist before final action is taken.

(b) Engineering assistance may be sought from sources other than NRCS, DATCP or the Land and Water Conservation Division. All engineering services provided by other sources shall be with licensed professional engineers. All contracts with the private sector shall be approved in accordance with other applicable sections of this code and Wisconsin Administrative Rules.

(4) (AM 16-8) **Conservation Planning.** Conservation Planning is available and provided in cooperation with NRCS as guided by the standards set forth herein. (a) **Definition.** A conservation plan is a written record of a landowner's or land operator's management decisions and the conservation practices planned to be used or maintained on a given parcel of land.

(b) **Purpose.** The purpose of a conservation plan is to document how a landowner or land operator is or will preserve or enhance the soil, water and other natural resources present on the subject land. The particular resource management objectives of any conservation plan may vary depending on the owner or operator's preference as well as possible government program requirements or regulations.

(c) **Minimum Technical Standards.** Conservation plans developed for landowners or land operators in Washington County shall be in accordance with the minimum technical standards found in sub. (1) above or required by applicable laws or program administrative rules. Where there is a conflict, the more stringent technical standard shall apply.

(d) **Conservation Plan Approval.** Conservation plans developed for landowners or land operators shall be approved in accordance with the following:

1. Conservation plans prepared in cooperation with, or to satisfy the requirements of United States Department of Agriculture (U.S.D.A.) programs, shall be presented for approval or disapproval to the District Conservationist of the U.S.D.A. The District Conservationist shall certify that these conservation plans meet all applicable technical standards.

2. Conservation plans or amendments thereof prepared in cooperation with, or to satisfy the requirements of State, County or other non-Federal programs shall be presented for approval or disapproval to the County Conservationist. The County Conservationist shall certify that these conservation plans meet all applicable technical standards.

(e) **Variations.** Any conservation plan or amendment of a conservation plan that contains a planned conservation system which does not meet the technical standards found in sec. (1) above, shall be presented to the Committee for approval or disapproval of a variance along with a detailed summary of field conditions, management decisions, estimates of soil erosion and the tolerable erosion rate for the dominant soil type. The Committee may request field checks of soil erosion calculations prior to taking action on the proposed variance. The Committee may not grant a variance from any technical standard that is required by applicable law or program administrative rule.

**15.06(AM 16-8) COST SHARING AND COST CONTAINMENT.** (1) (AM 16-8) **Establishment.** The following policy is hereby established for bidding and cost sharing conservation projects carried out using state or local cost share funding.

(2) (AM 16-8) **Purpose.** The policies and procedures described in this section were developed for the following purposes:

(a) To facilitate an effective and competitive process and to clearly establish that awards are made by the landowner and contracts are between the landowner and contractor.

(b) To assist cost share recipients with soliciting bids from capable and interested contractors; and

(c) To contain costs, and satisfy such requirements in State cost share programs administered by the County as described in ATCP 50.40, NR 120.19 and NR 153.23 Administrative Code; and

(d) To encourage fairness and consistency for contractors.

(3)(AM 00-5) (AM 16-8) **Policy.** The Committee shall prepare a document, herein described as LCC procedures, which outlines the Committee's Bidding and Cost Sharing Procedures for conservation projects under contract with the Committee. Said LCC procedures shall be made available to the general public and shall include the following:

(a) The Committee must authorize all cost sharing agreements and amendments to these agreements.

(b) All projects estimated to cost \$5,000 or greater shall follow the Bidding and Cost Share Procedure identified herein.

(c) Bidding is optional for all projects with total estimated costs below \$5,000 or where there are established flat cost share rates identified in the Administrative Code. However, projects not bid will be subject to other cost containment requirements as specified in the LCC procedures.

(d) The Committee shall establish and keep current in-kind rates and average costs to be used for reimbursement of costs of conservation work as identified in the LCC procedures.

(e) Documentation of all cost sharing reimbursements made through this chapter shall be consistent with County requirements, applicable program Administrative Rules and State or Federal law.