

**CHAPTER 14  
MANURE MANAGEMENT, EROSION  
CONTROL AND  
STORMWATER MANAGEMENT**

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MANURE STORAGE AND  
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**[History:** Ch. 14 cr., Sub. 2 to OA 13, 1987-88, pub. 03/19/88; ch. title am., Sub. 1 to OA 2, 2005-06, pub. 11/30/05; title of subch. 1 am., OA 14, 2005-06, pub. 12/12/05.]

**SUBCHAPTER I  
MANURE STORAGE AND  
UTILIZATION**

**14.001 SUBCHAPTER 1.** Subchapter I of this chapter consists of sections 14.01 through 14.27, inclusive.

**[History:** cr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; am., OA 14, 2005-06, pub. 12/12/05.]

**14.01 TITLE.** Subchapter I shall be known as, referred to, and may be cited as the Dane County Manure Storage and Utilization Ordinance and is hereinafter referred to as this subchapter.

**[History:** am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; am., OA 14, 2005-06, pub. 12/12/05.]

**14.02 AUTHORITY.** This subchapter is adopted under authority granted by sections 33.455 and 92.16, Wis. Stats., and section ATCP 50.56, Wis. Admin. Code.

[History: am., OA 49, 1996-97, pub. 07/18/97; am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

#### **14.03 FINDINGS AND DECLARATION OF POLICY.**

The Dane County Board of Supervisors finds that: **(1)** Dane County's water resources are vital to the high quality of life enjoyed by all who live here. The purity of Dane County's ground water is essential to the health and welfare of all County residents and visitors and to the health of the County's livestock industry as well. Our lakes, rivers and streams are important to the County's economy, to the health of aquatic life and other animals and plants and to maintaining the recreational opportunities available to all those who spend their free time enjoying Dane County's natural water resources. The storage and utilization of manure generated by the livestock industry, when properly managed, is important for maintaining soil quality, reducing the reliance on commercial fertilizer, and is of significant importance to the agricultural economy of Dane County.

**(2)** The pollution of the ground and surface waters of Dane County would harm the health and welfare of county residents and visitors, livestock, aquatic life and other animals and plants and also damage the scenic, recreational, economic and environmental value of Dane County's natural water resources.

**(3)** The storage of manure in facilities that fail to meet technical design and construction standards, livestock operations with manure storage facilities that are at risk of overflow, the presence of unconfined manure piles in water quality management areas and the improper land application of manure may cause pollution of the surface and ground waters of Dane County. The winter application of stored, pumpable liquid manure on cropland that is either frozen, snow-covered or ice-covered can be an important source of annual nutrient loading to the surface waters and ground waters of Dane County.

**(4)** Landowners apply manure in the winter because of land and labor availability and to avoid excessive soil compaction. The application of stored, pumpable liquid manure in the winter also enables landowners to avoid or lessen the cost of the structures that would be needed to store manure throughout the winter months. However, the land application of manure in the winter increases the risk of pollution to ground and surface waters,

therefore, the Dane County Board of Supervisors strongly discourages landowners from applying stored, pumpable liquid manure under the following conditions:

- (a)** melting snow on frozen cropland;
- (b)** ice sheet over frozen cropland;
- (c)** ice pack of snow over frozen cropland;
- (d)** wet heavy snow on frozen cropland; or
- (e)** dry snow on frozen cropland.

Landowners who self-report manure spills or runoff in time for the initiation of remedial measures to prevent or substantially minimize damage to aquatic ecosystems shall be considered for enforcement leniency by the department.

**(5)** The Dane County Board of Supervisors further finds that the technical standards developed and maintained by the USDA-NRCS adopted by the committee provide effective, practical and environmentally safe methods of storing and utilizing waste manure. The Board further finds that where operations have ceased, the manure storage facility shall be closed according to NRCS standards.

[History: am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; (1) and (2) am., (3) renum. as (5) and a new (3) and (4) cr., OA 14, 2005-06, pub. 12/12/05.]

**14.04 PURPOSE.** The purpose of this subchapter is to regulate the design, construction, maintenance and proper closure of manure storage facilities and provide for proper utilization of manure. It is also intended to provide for the administration and enforcement of this subchapter and to provide penalties for its violation.

[History: am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

**14.05 APPLICABILITY.** This subchapter applies to the entire geographical area of Dane County.

[History: am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

**14.06 DEFINITIONS.** As used in this subchapter, the following words and phrases have the meanings indicated:

- (1)** *Abandoned or idle manure storage facility* means a manure storage facility not used or maintained for the storage of manure for 24 consecutive months.
- (2)** *Applicant* means any person who applies for a permit under this subchapter.
- (3)** *Committee* means the Dane County Land Conservation Committee.

**(4)** *Conservation plan* means the written agreement between the department and a landowner that records the decisions made by the landowner and approved by the department, and the supporting information provided by the landowner, regarding the conservation practices the landowner will employ to protect the natural resources located on an identified parcel of land.

**(4m)** *Conservation practices* means the facilities and activities that are designed to prevent or reduce soil erosion, prevent or reduce water pollution, or achieve or maintain compliance with soil and water conservation standards.

**(5)** *Department* means the Dane County Land and Water Resources Department.

**(6)** *Direct runoff* means a discharge of a significant amount of pollutants to waters of the state resulting from any of the following practices:

**(a)** Runoff from a manure storage facility.

**(b)** Runoff from an animal lot that can be predicted to reach surface waters of the state through a defined or channelized flow path or human made conveyance.

**(c)** Discharge of leachate from a manure pile.

**(d)** Seepage from a manure storage facility.

**(e)** Construction of a manure facility in permeable soils over fractured bedrock without a liner designed in accordance with s. NR 154.04(3), Wis. Admin. Code.

**(6d)** *Effectively incorporate* means, within 24 hours of application, the mixing of manure with the topsoil or residue or the subsurface placement of manure with the topsoil by such means as injector, disc, sweep, mold-board plow, chisel plow, or other tillage/infiltration methods such that nutrients will not run off the field or drain to subsurface tiles.

**(6m)** *Landowner* means either of the following:

**(a)** A person who owns a parcel of land, or

**(b)** A person who rents, controls or uses a parcel of land for agricultural purposes.

**(7)** *Livestock operation* means a feedlot or other facility or pasture where animals are fed, confined, maintained or stabled as defined in s. 281.16, Wis. Stats.

**(8)** *Manure* means livestock excreta and other materials such as bedding, water, soil, hair, feathers, waste water, contaminated runoff and other debris normally included in manure handling operations.

**(8m)** *Manure storage facility* is an impoundment made by constructing an embankment or excavating a pit or dugout or by fabricating a

structure to contain manure and other animal or agricultural wastes.

**(9)** *Permit* means the signed, written statement issued by the department under this subchapter authorizing the applicant to construct, install, reconstruct, enlarge, or substantially alter a manure storage facility to appropriately utilize manure from the facility, including the winter application of stored, pumpable liquid manure.

**(10)** *Permittee* means any person to whom a permit is issued under this subchapter.

**(11)** *Person* means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.

**(12)** *Stacking* is the practice of unconfined storage of manure that is at least 175 cubic feet in volume, which covers the ground surface to a depth of at least 2 inches and is not confined within a manure storage facility, livestock housing facility or barnyard runoff control facility or covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater.

**(13)** *Sod or self-sustaining cover* means maintenance of sufficient vegetation types and densities such that the physical integrity of the stream bank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

**(14)** *Standard 313* means the USDA-NRCS Conservation Practice Standard 313 - Waste Storage Facility, November 2004.

**(15)** *Standard 360* means the USDA-NRCS Conservation Standard 360 - Closure of Waste Impoundments, December 2002.

**(16)** *Standard 590* means the USDA-NRCS Conservation Practice Standard 590 - Nutrient Management, January 1999.

**(17)** *Standard 634* means the USDA-NRCS Conservation Practice Standard 634 - Manure Storage, November 2004.

**(18)** *Water quality management area* includes all of the following:

**(a)** Areas within 1,000 feet of the ordinary high water mark of a lake, pond, or flowage;

**(b)** Areas within 300 feet of the ordinary high water mark of a river or stream;

**(c)** A site that is susceptible to groundwater contamination or that has the potential to be a

direct conduit for groundwater contamination; and

(d) Areas of direct runoff of manure to surface waters.

(19) *Technical Guide* means the USDA-NRCS Technical Guide as adopted by the committee.

(20) *USDA-NRCS* means the United States Department of Agriculture-Natural Resources Conservation Service.

(21) *Water pollution* means contaminating or rendering unclean or impure the ground water or surface 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.

[History: [intro.], (2), (4) and (5) am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; (8), (2), (3) and (4) renum. respectively as (8m), (8), (2) and (3), a new (4), (4m), (6d) and (6m) cr., and (9) am., OA 14, 2005-06, pub. 12/12/05.]

**14.07 STANDARDS FOR MANURE STORAGE FACILITIES.** The standards for design, construction, modification and closure of manure storage facilities shall meet the minimum criteria established by Standard 313, Standard 360 and Standard 634.

[History: 14.13 renum. as 14.07 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

**14.08 STANDARDS FOR MANURE MANAGEMENT AND UTILIZATION.** The standards for management and utilization of manure are those in standard 590.

[History: 14.14 renum. as 14.08 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

**14.09 PERMIT REQUIRED.** No person may undertake an activity subject to this subchapter without obtaining a permit from the department prior to beginning any of the following activities:

- (1) Construction of a manure storage facility.
- (2) Closure of a manure storage facility.
- (3) Substantial alteration of an existing facility involving the relocation of an existing structure or facility or significant changes to the size, depth or configuration of a structure or facility including:
  - (a) replacement of a liner in a manure storage facility;
  - (b) a greater than 20% increase in the volumetric capacity or area of a structure; or
  - (c) a change in a structure or facility related to a change in livestock management related to livestock species change.
- (4) Application of stored pumpable liquid manure on cropland that is either frozen, snow-

covered or ice-covered in a manner that does not effectively incorporate the manure.

[History: 14.21 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.21 renum. as 14.09 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; (1) through (3) am. and (4) cr., OA 14, 2005-06, pub. 12/12/05.]

**14.10 EXCEPTION TO PERMIT REQUIREMENT.** Emergency repairs to a manure storage facility, such as repairing a broken pipe or equipment, repairing leaking dikes, or the removal of stoppages, may be performed without a permit. If repairs will significantly alter the original design and construction of the storage facility, a report shall be made to the department for determination as to whether a permit will be required for any additional alteration or repair to the facility.

[History: 14.22 renum. as 14.10 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

**14.11 FEE. (1)** The fee for a permit for a manure storage facility shall be \$750.

(2) Waiver of permit fee. The permit fee in sub. (1) may be waived at the discretion of the director if the permittee has completed an educational training program within one year prior to the date of application.

(a) The training shall include, but not be limited to, proper facility planning and siting per sec. 14.12(1) and (2), and manure management. Manure management training shall be consistent with sec. 14.12(4) and may result in the permit applicant becoming certified to produce and implement the manure management plan accordingly.

(b) If the director deems appropriate, a site visit by either LCD or UWEX staff will be a condition of the waiver.

(c) Only certified training programs will satisfy the waiver of such permit fee.

[History: 14.11 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.11 rep. and 14.23 renum. as 14.11 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

**14.12 MANURE STORAGE FACILITY PLAN REQUIRED.** Each application for a permit under this section shall at a minimum include:

(1) A management assessment that addresses the storage components, available resources, waste manure disposal schemes and waste characterization consistent with Standard 313 and Standard 634;

(2) A site assessment that describes the physical characteristics that will influence the placement, construction, maintenance and

environmental integrity of the proposed site consistent with Standard 313;

(3) A facility design, construction plan preparation and operation and maintenance plan consistent with Standard 313, prepared by a professional engineer registered with the Wisconsin examining board of architects, professional engineers, designers and land surveyors under ch. 443, Stats., or by an agricultural engineer practitioner certified under s. ATCP 50.46, Wis. Admin. Code; and

(4) A nutrient management plan that conforms to Standard 590. The plan shall be developed by individuals with qualifications described in s. ATCP 50.04(3), Wis. Admin. Code. The plan shall be updated and implemented on an annual basis. The permittee shall retain all updated plans and appropriate implementation records for the four previous years and shall produce these records at the request of the authorized designee under s. 14.18. Nutrient management planning obligations do not cease upon completion of construction of the facility. The nutrient management plan shall:

(a) include all land on which the landowner mechanically applies manure;

(b) rely on soil nutrient tests conducted at a laboratory certified under s. ATCP 50.50, Wis. Admin. Code;

(c) comply with Standard 590; and

(d) follow recommendations for nutrient management applications in the University of Wisconsin Extension *Soil Test Recommendations for Field, Vegetable, and Fruit Crops*, UWEX Publication A-2809 (1998), unless it is established that the circumstance of the particular land requires nutrients in excess of the recommended application.

[History: 14.12 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.12 rep. and 14.24 renum. as 14.12 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

#### 14.13 FACILITY CLOSURE PLAN REQUIRED.

(1) (a) Closure of a manure storage facility shall occur when a facility ceases operations, or manure has not been added or removed from the facility for a period of 24 consecutive months. Manure storage facilities shall be closed in a manner that will prevent contamination of groundwater and surface waters.

(b) The owner or operator may retain the facility for a longer period of time by demonstrating to the department that all of the following conditions are met:

1. The facility is designed, constructed and maintained in accordance with secs. 14.07 and 14.08.

2. The facility is designed to store manure for a period of time longer than 24 months.

3. Retention of the facility is warranted based on anticipated future use.

(2) To close a facility, a site-specific design and inspection plan will be developed. A closure plan will be consistent with Standard 360.

(3) A facility closure plan shall be approved by the department prior to implementation.

(4) There shall be no fee for a facility closure permit.

[History: 14.13 renum. as 14.07 and a new 14.13 cr., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

#### 14.14 STANDARDS FOR LIVESTOCK OPERATIONS OR STACKING.

Any person who operates a livestock operation or engages in stacking shall comply with the following standards:

(1) No overflow of manure storage facilities;

(2) No unconfined manure piles in water quality management areas;

(3) No direct runoff from a feedlot or stored manure into the waters of the state;

(4) No unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod or self-sustaining vegetative cover; and

(5) Manure storage facilities in existence as of the effective date of this ordinance shall be upgraded, replaced or abandoned in accordance with this subchapter. Pursuant to s. 281.16(3), Stats., a facility or practice in existence prior to the effective date of this ordinance shall not be required to comply with this subchapter unless cost sharing is available.

[History: 14.14 renum. to 14.08 and new 14.14 cr., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

#### 14.15 REVIEW OF APPLICATION FOR MANURE STORAGE FACILITY.

The department shall receive and review all permit applications and shall determine if the proposed facility meets required standards set forth in this subchapter. Within 20 working days after receiving the completed application, the department shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the department shall so notify the permit applicant. The department has 10

working days from the receipt of the additional information in which to approve or disapprove the application. If the department fails to approve or disapprove the permit application in writing within 30 days of the receipt of the permit application or additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.

[History: 14.25 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.25 renum. as 14.15 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; am., OA 14, 2005-06, pub. 12/12/05.]

**14.16 MANURE STORAGE FACILITY PERMIT CONDITIONS. (1)** All manure storage facility permits issued under this subchapter shall be issued subject to the following conditions and requirements:

(a) Manure storage facility designs and constructions shall be carried out in accordance with the manure storage facility plan and applicable standards specified in section 14.12 of this subchapter.

(b) The permittee shall give two (2) working days notice to the department before starting any construction activity authorized by the permit.

(c) Approval in writing must be obtained from the department prior to any modifications to the approved manure storage facility plan.

(d) Prior to any use of the facility, the permittee and the individual preparing the site assessment described in s. 14.12(3) shall certify in writing that the facility was installed as planned. As-built drawings will be provided as part of the certification.

(2) Activities authorized by permit must be completed within two years from the date of issuance after which such permit shall be void.

[History: 14.26(1) am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.26 renum. as 14.16 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; title and (1) am., OA 14, 2005-06, pub. 12/12/05.]

**14.17 CONSERVATION PLAN. (1)** Prior to the issuance of a permit under this subchapter, the landowner shall work with the department to develop a conservation plan which shall include, at a minimum:

(a) an inventory of the natural resources located on the land;

(b) land use, soil and topographic maps;

(c) a plan for the winter application of stored, pumpable liquid manure; and

(d) a description and schedule of conservation practices to be employed by the landowner.

(2) The landowner shall update and amend the plan, and submit it to the department for approval, when necessary to show changes in land unit boundaries or uses, resource management systems, or any other changes that would impact the recommended conservation practices to be employed by the landowner.

[History: 14.27 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.27 renum. as 14.17 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.17 renum. as 14.21 and a new 14.17 cr., OA 14, 2005-06, pub. 12/12/05.]

**14.18 STORED PUMPABLE LIQUID MANURE WINTER APPLICATION PERMIT. (1)** No person may apply stored, pumpable liquid manure on either frozen or on snow-covered or on ice-covered cropland, unless the liquid manure is effectively incorporated, without first obtaining a winter application permit issued under this subchapter.

Said permit shall be issued after the receipt and approval, by the department, of a conservation plan as described in section 14.17 of this subchapter. The permit shall remain in effect for as long as the landowner maintains an approved conservation plan or until the permit is revoked by the department pursuant to section 14.20 of this subchapter.

(2) *Liquid Manure Winter Application Plan.* At a minimum, a stored, pumpable liquid manure winter application plan must meet the following conditions and requirements:

(a) The plan must be in writing in a format approved by the department and submitted to the department for review and approval by no later than November 1<sup>st</sup> prior to the winter during which the permittee intends to apply liquid manure.

(b) The plan must include a description, in a format approved by the department, of the emergency response procedures that will be engaged immediately in the event of direct runoff of liquid manure.

(c) The maximum liquid manure application rates on either frozen, on snow-covered or on ice-covered cropland shall be determined by the slope of the land upon which the permittee intends to spread the manure, as follows:

| Slope                    | 0-2%           | 3-6%           | 7-12%          | >12%       |
|--------------------------|----------------|----------------|----------------|------------|
| Maximum Application Rate | 7,000 gal/acre | 6,000 gal/acre | 5,000 gal/acre | Prohibited |

(d) The permittee shall follow one or more of the following conservation practices in the area where liquid manure will be applied:

1. Install a grassed buffer, at least 30 feet wide, along a stream, drainage ditch or lake.
2. Install a grassed buffer in a field.
3. Install a contour strip.
4. Employ contour farming practices and leave all residues on the surface.
5. Employ no-till practices with all crop residues remaining from the previous crop year.
6. Create and maintain terraces or diversions to reduce slope length.
7. Chisel plow the field prior to ground freeze.
8. Other conservation practices such as, but not limited to, intermittent strip spreading, as approved by department staff.

(3) The stored, pumpable liquid manure winter application plan shall be reviewed by the department and amended as necessary, whenever the landowner's conservation plan is updated.

[History: 14.31 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.31 renum. as 14.18 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.18 renum. as 14.22 and a new 14.18 cr., OA 14, 2005-06, pub. 12/12/05.]

**14.185 TRANSITIONAL PROVISION.** Landowners required to have a permit under s. 14.18 for the winter of 2005-2006 shall notify the department by January 20, 2006 of their intent to comply. The department shall enter the landowner's name on an application register, and work with the landowner to develop winter application plans in priority order based on the potential for off-site impacts. A landowner who is listed on the application register shall be deemed to be in compliance for the entire winter of 2005-2006 provided that the landowner cooperates with the department in the development of the winter application plan under s. 14.18(2) and complies with the plan after approval by the department.

[History: 14.185 cr., OA 14, 2005-06, pub. 12/12/05.]

**14.19 RECORD KEEPING REQUIREMENT.** The landowner shall maintain an accurate record of the date, location and rate of application (gallons per acre) for every application of stored, pumpable liquid manure on the land that is subject to the winter application permit. The record shall be made available to the department upon request and shall be retained by the landowner for one year following the date of application.

[History: 14.32 [intro.], (2) and (5) am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.32 renum. as 14.19 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.19 renum. as 14.23 and a new 14.19 cr., OA 14, 2005-06, pub. 12/12/05.]

**14.20 APPLICATION OF STORED, PUMPABLE LIQUID MANURE PROHIBITED. (1)**

Stored, pumpable liquid manure may not be applied on either frozen, on snow-covered or on ice-covered cropland located in any of the following areas:

- (a) on a waterway or other channelized flow;
- (b) on non-harvested vegetation;
- (c) within 30 feet on either side of a waterway;
- (d) within 200 feet upslope of a well, tile inlet, sinkhole, gravel pit or fractured bedrock at the surface;
- (e) within 300 feet of a stream or drainage ditch;
- (f) within 1,000 feet of a lake; or
- (g) on slopes of greater than 12%.

(2) Stored, pumpable liquid manure may not be applied on either frozen, on snow-covered or on ice-covered cropland, unless it is effectively incorporated, except in the manner and location or locations described in the permittee's approved liquid manure winter application plan.

[History: 14.33 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.33 renum. as 14.20 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.20 renum. as 14.24 and a new 14.20 cr., OA 14, 2005-06, pub. 12/12/05.]

[History: 14.34(1) and (2) am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.34 renum. as 14.21 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.21 renum. as 14.25, OA 14, 2005-06, pub. 12/12/05.]

[History: 14.22 cr., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.22 renum. as 14.26, OA 14, 2005-06, pub. 12/12/05.]

[History: 14.23 cr., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.23 renum. as 14.27, OA 14, 2005-06, pub. 12/12/05.]

**14.21 PERMIT REVOCATION.** The department may revoke any permit issued under this subchapter if the holder of the permit has misrepresented any material fact in the permit application, conservation plan, manure facility plan or stored liquid manure winter application plan, or if the holder of the permit violates any of the conditions of the permit.

[History: 14.27 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.27 renum. as 14.17 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.17 renum. as 14.21 and am., OA 14, 2005-06, pub. 12/12/05.]

**14.22 DELEGATION OF AUTHORITY.** The County of Dane hereby designates its Land and Water Resources Department to administer and enforce this subchapter.

[History: 14.31 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.31 renum. as 14.18 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.18 renum. as 14.22, OA 14, 2005-06, pub. 12/12/05.]

**14.23 ADMINISTRATIVE DUTIES.** In the administration and enforcement of this subchapter, the department shall:

- (1) Keep an accurate record of all permit applications, conservation plans, manure facility plans, liquid manure winter application plans, permits issued, inspections made, complaints received and other official actions.
- (2) Review permit applications and issue permits in accordance with sections 14.15 and 14.18 of this subchapter.
- (3) Inspect manure facility construction to insure the facility is being constructed according to plan specifications.
- (4) Investigate complaints relating to compliance with the ordinance.
- (5) Perform other duties as specified in this subchapter.

[History: 14.32 [intro.], (2) and (5) am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.32 renum. as 14.19 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.19 renum. as 14.23 and (1) and (2) am., OA 14, 2005-06, pub. 12/12/05.]

**14.24 INSPECTION AUTHORITY.** The department is authorized to enter upon any lands affected by this subchapter in order to inspect such lands prior to or after permit issuance for the purpose of determining compliance with this subchapter. If permission cannot be received from the applicant or permittee, entry by the department shall be according to section 66.0119, Wis. Stats.

[History: 14.33 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.33 renum. as 14.20 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.20 renum. as 14.24, OA 14, 2005-06, pub. 12/12/05.]

**14.25 ENFORCEMENT AUTHORITY. (1)** The department is authorized to post an order stopping work upon land which has had a permit revoked or on land currently undergoing activity in violation of this subchapter. Notice is given by both posting upon the land where the violation occurs one or more copies of the poster stating the violation, and by mailing a copy of the order by certified mail to the person whose activity is in violation of this subchapter. This order shall specify that the activity must cease or be brought into compliance within 30 days.

(2) Any permit revocation or order stopping work shall remain in effect until rescinded by the department, or a court of general jurisdiction; or until the activity is brought into compliance with the ordinance. The department is authorized to refer any violation of this subchapter or of an order stopping work issued pursuant to this

subchapter to the corporation counsel for commencement of further legal proceedings.

[History: 14.34(1) and (2) am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.34 renum. as 14.21 and am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.21 renum. as 14.25, OA 14, 2005-06, pub. 12/12/05.]

**14.26 APPEALS. (1) (a)** Any person aggrieved by any decision of the department pursuant to this ordinance may appeal to the committee. Such appeal shall be taken within 30 days after the challenged decision. Notice of Appeal setting forth the specific grounds for the appeal shall be filed with the department and the committee. The department shall forthwith transmit to the committee the record upon which the action appealed from was taken.

(b) The committee shall fix a reasonable time for the hearing of the appeal and publish a class 2 notice thereof under ch. 985, Wis. Stats., as well as give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

(c) The committee may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and shall have all the powers of the officer from whom the appeal is taken.

(d) The concurring vote of a majority of the committee shall be necessary to reverse the decision of the department.

[History: 14.22 cr., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.22 renum. as 14.26, OA 14, 2005-06, pub. 12/12/05.]

**14.27 PENALTIES.** Any person violating any provision of this subchapter shall, upon conviction, forfeit not less than \$10 nor more than \$200, together with the costs of such action. Each day of violation shall constitute a separate offense. Any violation of this ordinance may be enforced by court action seeking injunctive relief. The corporation counsel is authorized to commence all legal proceedings in aid of enforcement of this subchapter when requested by the department.

[History: 14.23 cr., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.23 renum. as 14.27, OA 14, 2005-06, pub. 12/12/05.]

[History: 14.25 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.25 renum. as 14.15 and, as renum., am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

[History: 14.26(1) am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.26 renum. as 14.16 and, as renum., am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

[History: 14.27 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.27 renum. as 14.17 and, as renum., am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

[History: 14.31 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.31 renum. as 14.18 and, as renum., am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

[History: 14.32 [intro.], (2) and (5) am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.32 renum. as 14.19 and, as renum., am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

[History: 14.33 am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.33 renum. as 14.20 and, as renum., am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

[History: 14.34(1) and (2) am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.34 renum. as 14.21 and, as renum., am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05.]

[14.28 - 14.39 reserved.]

## SUBCHAPTER II EROSION CONTROL AND STORMWATER MANAGEMENT

**14.401 SUBCHAPTER II.** Subchapter II of this chapter consists of sections 14.40 through 14.81, inclusive.

[History: cr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; am., Sub. 1 to OA 2, pub. 11/30/05.]

**14.40 AUTHORITY.** This subchapter II is recommended by the Dane County Lakes and Watershed Commission and adopted by the Dane County Board of Supervisors under the authority of sec. 33.455 of the Wisconsin Statutes.

[History: 14.50 am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; am., OA 49, 1996-97, pub. 07/18/97; renum. from 14.50 and as renum., am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02.]

**14.41 DEFINITIONS.** As used in subchapter II:

(1) *Affected* means that a regulated activity has significantly:

- (a) caused negative impacts on water quality or the use or maintenance of land or business; or
- (b) endangered health, safety, or general welfare.

(2) *Agricultural* means related to or used for the production of food and fiber including, but not limited to, general farming, livestock and poultry enterprises, grazing, nurseries, horticulture, viticulture, truck farming, forestry, sod production, cranberry productions and wild crop

harvesting and includes lands used for on-site buildings and other structures necessary to carry out such activities.

(2g) *Average annual rainfall* means measured precipitation in Madison, Wisconsin between March 12 and December 2, 1981.

(2m) *Bank erosion* means the removal of soil or rock fragments along the banks or bed of a stream channel resulting from high flow after rain events.

(3) *Best management practice* means a practice, technique, or measure that is an effective, practical means of preventing or reducing soil erosion or water pollution, or both, from runoff both during and after land development activities. These can include structural, vegetative or operational practices.

(4) *Cold water community* means surface waters capable of supporting a community of cold water fish and other aquatic life, or serving as a spawning area for cold water fish species (NR 102.04(3)(a), Wisconsin Administrative Code).

(4m) *Connected imperviousness* means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

(5) *Construction site erosion control* means preventing or reducing soil erosion and sedimentation from land disturbing activity.

(5a) *Development* means any of the following activities:

- (a) Structural development, including construction of a new building or other structure;
- (b) Expansion or alteration of an existing structure that results in an increase in the ground surface dimensions of the building or structure;
- (c) Land disturbing activities; or
- (d) Creation or expansion of impervious surfaces.

(5e) *Director.* The Director of the Dane County Land and Water Resources Department or his or her designee.

(5m) *Effective infiltration area* means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

(6) *Erosion* (soil erosion) means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

(7) *Excavation* means any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the resulting conditions.

**(8)** *Existing development* means buildings and other structures and impervious area existing prior to August 22, 2001.

**(9)** *Fill* means any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved to a new location and shall include the resulting conditions.

**(10)** *Financial security instrument* means a surety bond, performance bond, maintenance bond, irrevocable letter of credit, or similar guarantees submitted to the local approval authority to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.

**(11)** *Gully erosion* means a severe loss of soil caused by or resulting in concentrated flow of sufficient velocity to create a defined flow channel.

**(12)** *Heavily disturbed site* means a site where an area of land is subjected to significant compaction due to the removal of vegetative cover or earthmoving activities, including filling.

**(13)** *Hydrologic soil group (HSG)* has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.

**(14)** *Impervious surface* means any land cover that prevents rain or melting snow from soaking into the ground, such as roofs (including overhangs), roads, sidewalks, patios, driveways and parking lots. For purposes of this chapter, all road, driveway or parking surfaces including gravel surfaces, shall be considered impervious, unless specifically designed to encourage infiltration and approved by the local approval authority.

**(15)** *Infiltration*, for the purposes of this ordinance, refers to any precipitation that does not leave the site as surface runoff.

**(15m)** *Infiltration system* means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices such as swales or road side channels designed for conveyance and pollutant removal only.

**(15r)** *Karst feature* means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged

fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

**(16)** *Land conservation committee* or *LCC* means the Dane County Land Conservation Committee created under sec. 92.06 of the Wisconsin Statutes.

**(17)** *Land disturbing activities* means any land alterations or disturbances that may result in soil erosion, sedimentation, or change in runoff including, but not limited to, removal of ground cover, grading, excavating, and filling of land.

**(18)** *Lightly disturbed site* means a site where an area of land is subjected to minor compaction due to the limited removal of vegetative cover or earthmoving activities.

**(19)** *Local approval authority* means the director in areas under the direct jurisdiction of Dane County as described in sec. 14.44(2) and (3). In incorporated areas that have adopted a local ordinance under sec. 14.44(3) and are in compliance, the term means the municipal staff, agency or contracted entity charged by the local unit of government with responsibility for enforcing stormwater and erosion control ordinances.

**(20)** *Local land division ordinance* means any county, city, village or town ordinance adopted under chapter 236, Wis. Stats., to regulate the division of land.

**(21)** *Local zoning ordinance* means any county, city, village or town ordinance adopted under sections 59.69, 59.692, 59.693, 60.61, 60.62, 61.351, 61.354, 62.23, 62.231, or 62.234 of the Wisconsin Statutes to regulate the use of land.

**(21m)** *Maximum extent practicable (MEP)*. A level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. *MEP* allows flexibility in the way to meet performance standards and may vary based on the performance standard and site conditions.

**(22)** *New development* means any of the following activities:

- (a)** Structural development, including construction of a new building or other structure;
- (b)** Land-disturbing activities; or
- (c)** Creation or expansion of impervious surface.

**(23)** *Non-erosive velocity* means a rate of flow of stormwater runoff, usually measured in feet per second, that does not erode soils. Non-

erosive velocities vary for individual sites, taking into account topography, soil type, and runoff rates.

**(24) Peak flow** means the maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from the predetermined storm or flood.

**(25) Pervious surface** means any land cover that permits rain or melting snow to soak into the ground.

**(26) Plan** means an erosion control plan required by sec. 14.45 or a stormwater management plan required by sec. 14.46.

**(27) Plan review agency** means the Dane County Land and Water Resources Department, or its successor, in areas under the direct administrative jurisdiction of Dane County as described in sec. 14.44(2). In incorporated areas of Dane County that have adopted a local ordinance under sec. 14.44(3) and are in compliance, the term means the municipal staff, agency or qualified contracted entity charged by the local unit of government with responsibility for reviewing stormwater and erosion control plans under the local stormwater and erosion control ordinance.

**(28) Plat review officer** means the county or municipal staff, agency or contracted entity charged by the local unit of government with responsibility for reviewing land divisions, certified survey maps or subdivision plats, or any combination thereof, under chapter 236 of the Wisconsin Statutes.

**(29) Post-development** refers to the extent and distribution of land cover types anticipated to occur under conditions of full development of the submitted plan. This term is used to match pre- and post-development stormwater peak flows as required by the ordinance.

**(30) Pre-development** refers to the extent and distribution of land cover types present before the initiation of the proposed land development activity, assuming that all land uses prior to land disturbing activity are in “good” condition as described in the Natural Resources Conservation Service Technical Release 55, “Urban Hydrology for Small Watersheds” (commonly known as TR-55). This term is used to match pre- and post-development stormwater peak flows as required by the ordinance. In a situation where cumulative impervious surface created after August 21, 2001 exceeds the 20,000 sq. ft. threshold, the pre-development conditions shall be those prior to the proposed land disturbance.

**(30a) Recharge** means the portion of the average annual rainfall that infiltrates the soil and becomes groundwater. *Recharge* does not include evaporation, transpiration, or runoff from the site.

**(31) Redevelopment** means any construction, alteration or improvement exceeding four thousand square feet of land disturbance performed on sites where the existing site is predominantly developed as commercial, industrial, institutional or multifamily residential uses. Projects may include a mix of redevelopment and new impervious surfaces. New impervious surfaces added as a result of redevelopment are subject to s. 14.46(1).

**(32) Runoff curve number (RCN)** has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.

**(33) Sediment** means solid earth material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity or ice, and has come to rest on the earth’s surface at a different site.

**(34) Sedimentation** means the deposition of eroded soils at a site different from the one where the erosion occurred.

**(35) Sheet and rill erosion** means a loss of soil caused by sheet flow or shallow concentrated flow, and characterized by an absence of channeling or a relatively uniform loss across the exposed upper layer of the soil or shallow irregular scouring of the soil surface.

**(36) Site** means the bounded area described in an erosion control plan or stormwater management plan.

**(37) Slope** means the net vertical rise over horizontal run, expressed as a percentage, which represents a relatively homogeneous surface incline or decline over the area disturbed.

**(38) Soil loss rate** means the rate, usually measured in tons per acre per year, at which soil is transported beyond the perimeter of a given control site and which occurs as a result of sheet and rill erosion. This term does not apply to soil movement resulting from concentrated flow such as gully or bank erosion.

**(39) Storm events** mean the precipitation amounts that occur over a 24-hour period that have a specified recurrence interval for Dane County, Wisconsin. For example, one-year, two-year, 10-year and 100-year storm events mean

the precipitation amounts that occur over a 24-hour period that have a recurrence interval of one, two, 10 and 100 years, respectively.

**(40)** *Stormwater* means the flow of water which results from, and which occurs during and immediately following, a rainfall, snow- or ice-melt event.

**(41)** *Stormwater management* means any measures taken to permanently reduce or minimize the negative impacts of stormwater runoff quantity and quality after land development activities.

**(42)** *Stormwater runoff* means the waters derived from rains falling or snowmelt or icemelt occurring within a drainage area, flowing over the surface of the ground and collected in channels, watercourses or conduits.

**(43)** *Street reconstruction* means removal and replacement of the road subgrade, where existing stormwater conveyance systems are modified.

**(44)** *Structure* means any human-made object with form, shape and utility, either permanently or temporarily attached to, placed upon, or set into the ground, stream bed or lake bed.

**(45)** *Unnecessary hardship* means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with regulations unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

**[History:** (4), (5), (6) and (7) cr., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; renum. from 14.51 and as renum., am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; (2) del., (1) renum. as (2), new (1), (2g), (2m), (4m), (5m), (15m) and (15r) cr., and (8), (15), (27), (30) and (31) am., Sub. 1 to OA 2, 2005-06, pub. 11/30/05; (30a) cr., sub. 1 to OA 4, 2006-07, pub. 08/31/06; (5e) cr. and (19) am., OA 23, 2006-07, pub. 12/29/06; (5a) cr. and (22) am., OA 39, 2008-09, pub. 06/08/09.]

**14.42 LEGISLATIVE FINDINGS. (1)** The Dane County Board of Supervisors, acting upon the recommendation of the Dane County Lakes and Watershed Commission, finds that construction site erosion and uncontrolled stormwater runoff from land disturbing and land development activities have significant adverse impacts upon regional water resources and the health, safety, property and general welfare of the community, and diminish the public enjoyment and use of natural resources. Specifically, soil erosion and stormwater runoff can:

**(a)** Carry sediment, nutrients, pathogens, organic matter, heavy metals, toxins and other pollutants to regional lakes, streams and wetlands;

**(b)** Diminish the capacity of water resources to support recreational and water supply uses and a natural diversity of plant and animal life;

**(c)** Clog existing drainage systems, increasing maintenance problems and costs;

**(d)** Cause bank and channel erosion;

**(e)** Increase downstream flooding;

**(f)** Reduce groundwater recharge, which may diminish stream base flows and lower water levels in regional lakes, ponds and wetlands;

**(g)** Contaminate drinking water supplies;

**(h)** Increase risk of property damage and personal injury; and

**(i)** Cause damage to agricultural fields and crops.

**(2)** The Dane County Board of Supervisors finds that effective sediment and stormwater management depends on proper planning, design, and timely installation of conservation and management practices and their continuing maintenance.

**[History:** am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; renum. from 14.52 and as renum., am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02.]

**14.43 PURPOSE AND INTENT. (1)** The purpose of this subchapter is to set forth the minimum requirements for construction site erosion control and stormwater management that will diminish threats to public health, safety, public and private property and natural resources of Dane County.

**(2)** This chapter is intended to regulate construction site erosion and stormwater runoff, to accomplish the following objectives:

**(a)** Promote regional stormwater management by watershed;

**(b)** Minimize sedimentation, water pollution from nutrients, heavy metals, chemical and petroleum products and other contaminants, flooding and thermal impacts to the water resources of Dane County;

**(c)** Promote infiltration and groundwater recharge;

**(d)** Protect functional values of natural water courses and wetlands;

**(e)** Provide a single, consistent set of performance standards that apply to all developments in both the unincorporated and incorporated areas of Dane County;

**(f)** Achieve an 80% reduction in sediment load rates to Dane County waters compared to no controls for all new development, a 40% reduction in sediment load rates compared to no controls for all redevelopment and street reconstruction, and a 20% reduction in sediment

load rates compared to no controls for existing developments;

(g) Ensure no increase in temperature of stormwater post-construction in order to protect cold water communities;

(h) Ensure no increase in the rate of surface water drainage from sites during or after construction; and

(i) Protect public and private property from damage resulting from runoff or erosion.

[History: cr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02.]

**14.44 JURISDICTION AND ADMINISTRATION. (1)** This ordinance applies to all areas of Dane County.

(2) *Unincorporated areas.* This ordinance shall become effective in all unincorporated areas of Dane County 12 months after it is published. The director, in consultation with the Dane County Conservationist, shall be responsible for administration and enforcement of this ordinance.

(3) *Incorporated areas.* (a) Cities and villages wholly or partially in Dane County may assume administration and regulation of soil erosion and stormwater control programs if they have adopted stormwater and erosion control ordinances that include standards at least as restrictive as those described in ss. 14.41, 14.45 – 14.53 and 14.71 – 14.73. Any such ordinance shall supercede any less restrictive or conflicting provision of a minimum standard, ordinance or local regulation previously adopted by that municipality and shall include effective measures for consistent administration and enforcement. Cities and villages shall have the discretion to adopt by ordinance their own equivalent internal procedures for administration of county standards.

(b) Cities and villages that have enacted local ordinances pursuant to par. (a) or entered into s. 66.0301, Wis. Stats., intergovernmental cooperative agreements with the county consistent with this ordinance may assume responsibility for administration and regulation of soil erosion and stormwater control programs. When a city or village assumes responsibility for administration and regulation of soil erosion and stormwater control consistent with this ordinance, references in this chapter to the director shall mean the local approval authority as designated by the municipal government.

(c) If a municipality does not enact an ordinance pursuant to par. (a) by the effective date of this ordinance, or if the Dane County Lakes & Watershed Commission, after notice

and hearing, determines that a municipality has enacted an ordinance that fails to meet the standards of ss. 14.41, 14.45 – 14.51, 14.53 and 14.71 – 14.73, the director shall enforce the provisions of this ordinance within the limits of the municipality. The director shall continue to administer and enforce the provisions of this ordinance until the municipality adopts and enforces an ordinance at least as restrictive as the county ordinance.

(d) If the Dane County Lakes & Watershed Commission, after notice and hearing, determines that a municipality is not providing effective administration and enforcement of an ordinance adopted under this section, it may make a finding of noncompliance with this ordinance. If a municipality is found to be in noncompliance, the director shall administer and enforce the provisions of this ordinance within the limits of the municipality, to the extent necessary to assure compliance. The director shall continue to administer and enforce the provisions of this ordinance until the Dane County Lakes and Watershed Commission rescinds its finding of noncompliance.

(4) Where the standards of this ordinance differ or conflict with applicable local land division, zoning, shoreland zoning or other applicable local ordinances or state regulations, the more restrictive standards shall apply.

[History: cr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; (1) and (3) am., Sub. 1 to OA 2, 2005-06, pub. 11/30/05; (2) and (3) am., OA 23, 2006-07, pub. 12/29/06.]

**14.45 APPLICABILITY OF REQUIREMENT FOR EROSION CONTROL PLANS. [INTRO.]**

Unless expressly exempted by sec. 14.47, an erosion control permit under sec. 14.49 shall be required and all construction site erosion control provisions of this chapter shall apply, to any of the following activities in Dane County:

(1) Land disturbing activity in excess of 4,000 square feet;

(2) Land disturbing activity on a slope of greater than 12%;

(3) Land disturbing activity that involves the excavation or filling, or a combination of excavation and filling, in excess of 400 cubic yards of material;

(4) Land disturbing activity that disturbs more than 100 lineal feet of road ditch, grass waterway or other land area where surface drainage flows in a defined open channel; including the placement, repair or removal of any underground pipe, utility or other facility within the cross-section of the channel;

(5) Any new public or private roads or access drives longer than 125 feet;

(6) Development that requires a subdivision plat, as defined in the applicable local land division ordinance(s);

(7) Land disturbing activity that disturbs less than 4,000 square feet of land, including the installation of access drives, that the local approval authority determines to have a high risk of soil erosion or water pollution, or that may significantly impact a lake, stream, or wetland area. Examples of activities with a high risk of soil erosion or water pollution may include, but are not limited to, land disturbance on erodible soil or disturbance adjacent to lakes, rivers, streams or wetlands. All such determinations made by the local approval authority shall be in writing, unless waived by applicant.

**[History:** (1) rep. and recr., OA 45, 1987-88, pub. 05/05/88; am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; renum. from 14.53 and as renum., am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02.]

#### **14.46 APPLICABILITY OF REQUIREMENT FOR STORMWATER CONTROL PERMITS.**

[INTRO.] Unless otherwise exempted by sec. 14.47, a stormwater control permit under sec. 14.49 shall be required and all stormwater management provisions of this chapter shall apply to any of the following activities within Dane County:

(1) Any development(s) after August 22, 2001 that result(s) in the cumulative addition of 20,000 square feet of impervious surface to the site.

(1m) Agricultural development that creates new impervious surface area exceeding 20,000 square feet on the site.

(2) Any development that requires a subdivision plat, as defined in applicable local land division ordinance(s).

(3) Any development that requires a certified survey map, as defined in the applicable local land division ordinance(s); for property intended for commercial or industrial use.

(4) Redevelopment, as defined in s. 14.41(31).

(5) Other land development activities including, but not limited to, redevelopment or alteration of existing buildings and other structures, that the local approval authority determines may significantly increase downstream runoff volumes, flooding, soil erosion, water pollution or property damage, or significantly impact a lake, stream, or wetland area. All such determinations shall be made in writing unless waived by the applicant.

**[History:** cr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; (4) am., Sub. 1 to OA 10, 2001-02, pub. 01/07/02, eff.

08/22/02; (1) and (4) am. and (1m) cr., Sub. 1 to OA 2, 2005-06, pub. 11/30/05.]

#### **14.47 EXEMPTIONS AND CLARIFICATIONS.**

(1) The following activities are exempt from all requirements of this ordinance:

(a) Any activity directly related to the planting, growing and harvesting of agricultural crops.

(2) The following activities are exempt from the construction site erosion control provisions of sec. 14.45:

(a) One- and two-family dwelling units regulated under the Wisconsin Uniform Dwelling Code. Land disturbing activities in excess of one (1) acre, or not associated with the construction of a dwelling, are not exempt from this chapter.

(b) Projects specifically exempted from local erosion control ordinances under state or federal statute. It is the responsibility of the landowner to demonstrate such exemption with documentation acceptable to the local approval authority.

(c) Projects subject to an approved shoreland erosion control permit under chapter 11.

(d) Agricultural development with less than one acre of land disturbing activity, and not subject to s. 14.46(1m).

(e) Municipal road or county highway projects not exempted under s. 14.47(2)(b) are exempt from s. 14.51(2)(c) where all of the following conditions are met:

1. The purpose of the project is only to meet current state or federal design or safety guidelines;

2. All activity takes place within existing public right-of-way;

3. All other requirements of s. 14.51 are met; and

4. The project does not include the addition of new driving lanes.

(f) Soil conservation, stream and adjacent wetland protection and restoration practices such as terraces, run-off diversions, grassed waterways, cattle and equipment crossings, cattle watering access, water control structures, dikes, ditch plugs, tile breaks and sediment removal catchments, when implemented according to plans and designs approved by the Natural Resources Conservation Service or U.S. Fish & Wildlife Service of the U.S. Department of the Interior, Wisconsin Department of Natural Resources or the Dane County Land and Water Resources Department, provided that any such project involving land disturbing activity equal to or greater than one (1) acre shall also comply with the performance standards in s. 14.50(3).

(3) The following activities are exempt from the infiltration standards described in s. 14.51(2)(e):

- (a) Redevelopment sites.
- (b) New development sites with less than 10% connected imperviousness based on complete development of the post construction site, provided the cumulative area of all impervious surface is less than one acre.
- (c) Agricultural facilities and practices.
- (d) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the bottom of the proposed infiltration system where the soil layer is not easily removed or manipulated.
- (e) Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
- (f) Roads in commercial, industrial and institutional land uses, and arterial roads.

[History: cr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; (1), (2) and (3) am. and (4) rep., Sub. 1 to OA 2, 2005-06, pub. 11/30/05; (2) am., OA 39, 2008-09, pub. 06/08/09.]

#### **14.48 PRELIMINARY REVIEW LETTER. (1)**

*Purpose and intent.* A preliminary review letter provides a potential permit applicant with an initial simple evaluation of whether erosion and stormwater control standards can be met for a proposed site, lot layout, construction design. This review is intended to assist applicants in preparing general site plans and other submittals necessary to obtain an erosion control and stormwater permit. A preliminary review letter does not guarantee that an erosion or stormwater control plan will be approved or that a permit will be issued. Erosion and stormwater control plans and permit applications must meet all applicable standards and criteria for approval.

(2) *Application procedure.* (a) The local approval authority may adopt an application procedure and fees for provision of a preliminary review letter.

(b) The local approval authority may charge a fee to compensate for the cost of the preliminary review letter process.

(c) Any person may apply for a preliminary review letter by submitting an application that contains the information required by the local approval authority.

(d) The local approval authority may require a preliminary review letter prior to accepting an application for a zoning permit, petition to rezone or conditional use permit under applicable ordinance(s), or the plat review officer may require a preliminary review letter prior to accepting an application for a certified survey

map under applicable local land division ordinance(s) where any of the following apply:

- 1. The proposal would involve one or more acres within either the current or proposed boundaries of a commercial zoning district;
  - 2. Proposed lot or rezone area configuration would necessitate driveways, access roads or other construction that would clearly require an erosion control plan or stormwater management plan under sec. 14.45 or 14.46;
  - 3. Natural features of the site including, but not limited to, slope, soils, wetlands, or hydrology are such that, in the opinion of the local approval authority, substantial risk of erosion, flooding or other environmental or public safety hazard exists; or, in the opinion of the plat review officer, consultation with plan review agency staff is necessary to determine land suitability requirements under local subdivision ordinances.
- (e) Unless expressly waived by the applicant, decisions by the local approval authority to require a preliminary review letter shall be made in writing and shall detail the reasons why the authority believes there to be a substantial risk of erosion, flooding or hazard.

[History: cr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; (2)(d) am., Sub. 1 to OA 2, 2005-06, pub. 11/30/05.]

#### **14.49 EROSION AND STORMWATER CONTROL PERMITS AND ADMINISTRATION.**

(1) No activity meeting the criteria described in ss. 14.45 or 14.46 shall occur and no zoning permit may be issued, until an erosion control and stormwater control permit is issued by the local approval authority.

(2) The applicant must provide the following when requesting a permit:

(a) Completed application form;

1. The application must be signed by the landowner or include a notarized statement signed by the landowner authorizing the applicant to act as the landowner's agent and bind the landowner to the terms of this ordinance.

2. If a landowner appoints an agent to submit an application pursuant to (2)(a)1., the landowner shall be bound by all of the requirements of this ordinance and the terms of any permit issued to the agent.

(b) Fees as required by sec. 14.55;

(c) Copy of preliminary review letter, as described in sec. 14.48, if applicable;

(d) If required by sec. 14.45, an erosion control plan meeting all the standards of sec. 14.50, or a simplified checklist as described in sec. 14.50.

**(e)** If required by sec. 14.46, a stormwater management plan meeting all of the standards of sec. 14.51 and a draft maintenance agreement as described in sec. 14.51(1)(i);

**(f)** Copies of permits or permit applications or approvals required by any other governmental entity;

**(g)** A proposed timetable and schedule for completion and installation of all elements of approved erosion control and stormwater management plans and a detailed schedule for completion of construction.

**(h)** An estimate of the cost of completion and installation of all elements of the approved erosion control and stormwater management plans.

**(i)** Evidence of financial responsibility to complete the work proposed in the plan. The local approval authority may require a financial security instrument sufficient to guarantee completion of the project.

**(3) Approval process. (a)** The local approval authority shall verify that the permit application is complete under s. 14.49(2). The local approval authority shall then forward plan(s) to the plan review agency for review and approval. Plan review staff shall review the plan(s) for compliance with the standards identified in ss. 14.50-14.51.

**(b)** Within the timeframe set by the local approval authority, plan review staff shall either approve the submitted plan or notify the local approval authority of any deficiencies. Staff engaged in this review and approval process shall be certified where appropriate by the Wisconsin Department of Commerce for this purpose.

**(c)** The local approval authority shall notify the applicant in writing of any deficiency in the proposed plan and the applicant shall be given an opportunity to correct any deficiency.

**(d)** Where installed stormwater practices will be privately-owned, an affidavit which describes the property by legal description, notifying future prospective purchasers of the existence of a stormwater permit issued under this ordinance and applicable plan, timetables and potential liability imposed by sec. 14.73(3) for failure to bring the property into compliance with this ordinance after notification, shall be recorded with the Dane County Register of Deeds prior to issuance of an erosion and stormwater control permit. The foregoing information shall also be noted on every plat and certified survey map.

**(e)** Upon approval of the plan review agency, the erosion control or stormwater management

permit shall be issued by the local approval authority after the applicant has met all other requirements of this ordinance.

**(4) Permit conditions. (a)** The plan shall be implemented prior to the start of any land disturbing activity and shall be maintained over the duration of the project. Stormwater components of the plan shall be maintained in perpetuity.

**(b)** The permittee is responsible for successful completion of the erosion control plan and the stormwater management plan. The permittee shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.

**(c)** Application for a permit shall constitute express permission by the permittee and landowner for the local approval authority to enter the property for purposes of inspection under sub. (5) or curative action under sec. 14.73(3). The application form shall contain a prominent provision advising the applicant and landowner of this requirement.

**(d)** All incidental mud-tracking off-site onto adjacent public thoroughfares shall be cleaned up and removed by the end of each working day using proper disposal methods.

**(e)** A copy of the approved permit and erosion control plan shall be kept on the project site, in a place readily accessible to contractors, engineers, local approval authority inspection staff and other authorized personnel.

**(5) Inspections. (a)** Application for a permit under this ordinance shall constitute permission by the applicant and landowner for the local approval authority to enter upon the property and inspect during the construction phase prior to the inspections pursuant to paragraphs (d) and (f), as necessary to confirm compliance with the requirements of this ordinance.

**(b)** As part of the plan approval process, the local approval authority shall determine the minimum number of inspections required to assure compliance. The site of any regulated land disturbing activity shall be inspected once every 30 days, or more frequently as determined by the local approval authority during the construction phase with assistance from the plan review agency staff.

**(c)** Within 10 days after installation of all practices in an approved erosion control plan and achievement of soil stabilization, the permittee shall notify the local approval authority.

**(d)** The local approval authority shall inspect the property to verify compliance with the

erosion control plan within 10 days of notification of soil stabilization.

**(e)** Within 10 days after installation of all practices in an approved stormwater management plan, the permittee shall notify the local approval authority and submit drawings documenting construction. A professional engineer shall submit as-built certification to ensure that constructed stormwater management practices and conveyance systems comply with the specifications included in the approved plans. At minimum, as-built certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. Other information shall be submitted as required by the local approval authority.

**(f)** The local approval authority shall inspect the property to verify compliance within 30 days of notification.

**(g)** Maintenance is the responsibility of the owner, and facilities are subject to inspection and orders for repairs.

**(6) Permit transfers.** **(a)** When a permittee and landowner act to transfer an interest in property subject to an approved plan prior to completion of the proposed steps to attain soil stabilization, the permittee must secure approval from the local approval authority.

**(b)** When a permittee and landowner transfer ownership, possession or control of real estate subject to either or both an uncompleted erosion control stormwater management plan, the successor in interest to any portion of the real estate shall be responsible to control soil erosion and runoff and shall comply with the minimum standards provided in this ordinance.

**(c)** When ownership, possession or control of property subject to an uncompleted erosion control or stormwater management plan, or both, is transferred, the former owner (seller) shall notify the new owner (buyer) as to the current status of compliance with notice to the authority, and provide a copy of the erosion control plan or stormwater management plan, or both.

**(d)** Transfers of interest in real estate subject to an approved, uncompleted plan may be conducted consistent with this ordinance under any of the following arrangements:

**1.** The transferee shall file a new, approved erosion control or stormwater management plan, or both, with the authority;

**2.** The transferee shall obtain an approved assignment from the authority as sub-permittee to complete that portion of the approved plan

regulating soil erosion and runoff on the transferee's property.

**3.** The permittee shall provide the authority with a duly completed and executed continuing surety bond or certified check in an amount sufficient to complete the work proposed in the approved plan; at the time of transfer the permittee may seek to reduce the surety bond or certified check to the appropriate amount to complete remaining work. If the transferor enters into escrow agreements with transferees to complete an approved plan, these funds shall be available to the authority to attain plan compliance. When an approved erosion control plan and, if required, a stormwater management plan is or are not completed as proposed, the authority may use the surety bond to complete remaining work to achieve plan compliance.

**(7) Plan or permit amendments.** Any proposed modifications to approved plans, construction schedules or alterations to accepted sequencing of land disturbing site activities shall be approved by the local approval authority in consultation with the plan review agency prior to implementation of said changes. One permit revision is allowed at no charge. The second and subsequent revisions, to a maximum of five revisions, cost Fifty Dollars (\$50) each.

[**History:** cr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; (3)(d) and (4)(c) am., (4)(e) cr., and (8), (9) and (10) rep., Sub. 1 to OA 2, 2005-06, pub. 11/30/05; (5)(e) and (f) am., OA 39, 2008-09, pub. 06/08/09.]

#### **14.50 EROSION CONTROL PLAN REQUIREMENTS.**

**(1) Plan materials.** Erosion control plans required under section 14.45 may include consideration of adjoining landowners' cooperative efforts to control transport of sediment and except as specifically exempted below, shall include at a minimum, the following information:

**(a)** property lines, lot dimensions, and limits of disturbed area;

**(b)** limits of impervious area, including buildings. Include all public and private roads, interior roads, driveways, parking lots, and indicate type of paving and surfacing material;

**(c)** All natural and artificial water features including, but not limited to, lakes, ponds, streams (including intermittent streams), and ditches; and areas of natural woodland or prairie. The plan must show ordinary high-water marks of all navigable waters, 100-year flood elevations and delineated wetland boundaries. A certified flood zone determination and/or wetland delineation may be required at the applicant's expense;

- (d) cross sections of and profiles of channels, swales, and road ditches;
  - (e) culvert sizes;
  - (f) direction of flow of runoff;
  - (g) watershed size for each drainage area;
  - (h) design discharge for ditches and structural measures;
  - (i) runoff velocities;
  - (j) fertilizer and seeding rates and recommendations;
  - (k) time schedules for stabilization of ditches and slopes;
  - (l) description of methods by which sites are to be developed and a detailed land disturbance schedule including time schedules for stabilization of ditches and slopes;
  - (m) provision for sequential steps mitigating erosive effect of land disturbing activities to be followed in appropriate order and in a manner consistent with accepted erosion control methodology suitable to proposed sites and amenable to prompt re-vegetation, including runoff calculations as appropriate;
  - (n) provisions to prevent mud-tracking off-site onto public thoroughfares during the construction period;
  - (o) provisions to disconnect impervious surfaces, where feasible;
  - (p) provisions to prevent sediment delivery to, and accumulation in, any proposed or existing stormwater conveyance systems;
  - (q) copies of permits or permit applications required by any other unit of government or agency;
  - (r) existing and proposed elevations (referenced to the North American Vertical Datum of 1988, where available) and existing and proposed contours in the area, where deemed necessary;
  - (s) any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features of the site.
- (2) Simplified plan checklist.** Applicants may submit erosion control proposals using simplified checklists of standard erosion control practices, on a standard form approved by the local approval authority, wherever all of the following conditions exist:
- (a) The site does not exceed 20,000 square feet in area;
  - (b) Soil on slopes steeper than 6% will be disturbed for less than 15 days; and
  - (c) Soil on slopes less than 6% will be exposed for less than 6 months.

**(2m)** Simplified plan checklists shall be reviewed by the local approval authority for completeness and accuracy.

**(3) Erosion control performance standards.** (a) Proposed design, suggested location and phased implementation of effective, practicable erosion control measures for plans shall be designed, engineered and implemented to achieve the following results:

1. Prevent gully and bank erosion;
2. Limit total off-site permissible annual aggregate soil loss for exposed areas resulting from sheet and rill erosion to an annual, cumulative soil loss rate not to exceed 7.5 tons per acre annually; and
3. Discharges from new construction sites must have a stable outlet capable of carrying designed flow as required in s. 14.51(2)(cm), at a non-erosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater conveyance or waterbody.

**(b)** Plan compliance under par. (a) shall be determined using the U.S. Natural Resources Conservation Service Technical Guide or another commonly accepted soil erosion methodology approved by the Dane County Conservationist, that considers season of year, site characteristics, soil erodibility and slope.

**(c)** Erosion control measures for plan approval need not attempt to regulate soil transportation within the boundaries of the applicant's site.

**(d) 1.** Except as authorized in this section, the topography within five (5) feet of any property line at the commencement of any development shall remain unchanged.

**a.** When land disturbing activities associated with development occur within five (5) feet of any property line, finished grades in that area shall be restored to the topography in existence before the land disturbing activity began. A positive slope of one-half (1/2) inch vertical per one (1) foot horizontal within five (5) feet of the property line is allowed to provide proper drainage away from a one or two family residence.

**b.** The established grade of the adjoining property shall determine the finished grade at the property line for any development. The owner of the property under development bears the burden of proof as to the established grade at the property line and the topography within five (5) feet of the property line. The director of the Department of Land and Water Resources may

require detailed site grading plans of existing and proposed conditions to be submitted before commencement of land disturbing activities.

**2.** Existing drainage ways and drainage easements along property lines shall be maintained including, but not limited to, natural watercourses and stormwater management areas shown on subdivision plats and certified survey maps.

**3.** Development in Floodplain Districts requiring fill to comply with chapter 17 is exempt from this subsection.

**4.** Upon written application, the director of the Department of Land and Water Resources may authorize exceptions resulting in changes to the existing topography at and within five (5) feet of any property line that would promote the purposes stated in this ordinance. An exception authorized under this subsection may not direct additional stormwater runoff toward adjacent properties. Proposed exceptions may include, but are not limited to, retaining walls, berms and other structures, and other changes to existing grade at and within five (5) feet of a property line. The director of the Department of Land and Water Resources may require the submittal of detailed site grading plans of existing and proposed conditions including, but not limited to, detailed topographical information of the subject and adjoining properties, before land disturbing activities commence.

**[History:** 14.54 am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; 14.545 cr., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; ss. 14.54 and 14.545 combined and renum. as 14.50 and as combined and renum., am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.50 am., Sub. 1 to OA 2, 2005-06, pub. 11/30/05; (1)(r) and (2) am., OA 39, 2008-09, pub. 06/08/09; (3)(d) cr., OA 13, 2009-10, pub. 11/19/09.]

#### **14.51 STORMWATER MANAGEMENT PLAN REQUIREMENTS. (1) *Plan materials.***

Stormwater management plans shall satisfy all of the requirements in 14.51(2), and shall address at a minimum the following information:

**(a)** A narrative describing the proposed project, including implementation schedule for planned practices;

**(b)** Identification of the entity responsible for long-term maintenance of the project;

**(c)** A map showing drainage areas for each watershed area;

**(d)** A summary of runoff peak flow rate calculations, by watershed area, including:

1. Pre-existing peak flow rates;
2. Post-construction peak flow rates with no detention;

**3.** Post-construction peak flow rates with detention;

**4.** Assumed runoff curve numbers (RCNs); and

**5.** Time of concentration (T<sub>c</sub>) used in calculations.

**(e)** A complete site plan and specifications, signed by the person who designed the plan. All plans shall be drawn to an easily legible scale, shall be clearly labeled, and shall include, at a minimum, all of the following information:

**1.** Property lines and lot dimensions;

**2.** All buildings and outdoor uses, existing and proposed, including all dimensions and setbacks;

**3.** All public and private roads, interior roads, driveways and parking lots. Show traffic patterns and type of paving and surfacing material;

**4.** All natural and artificial water features including, but not limited to lakes, ponds, streams (including intermittent streams), and ditches. Show ordinary high water marks of all navigable waters, 100-year flood elevations and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the applicant's expense;

**5.** Depth to bedrock;

**6.** Depth to seasonal high water table;

**7.** The extent and location of all soil types as described in the Dane County Soil Survey, slopes exceeding 12%, and areas of natural woodland or prairie;

**8.** Existing and proposed elevations (referenced to the North American Vertical Datum of 1988, where available) and existing and proposed contours in the area requiring a grading and filling permit;

**9.** Elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project;

**10.** Soil erosion control and overland runoff control measures, including runoff calculations as appropriate;

**11.** Detailed construction schedule;

**12.** Copies of permits or permit applications required by any other governmental entities or agencies;

**13.** Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features;

**14.** Location of all stormwater management practices;

15. All existing and proposed drainage features;

16. The location and area of all proposed impervious surfaces; and

17. The limits and area of the disturbed area.

(f) Engineered designs for all structural management practices;

(g) A description of methods to control oil and grease or written justification for not providing such control;

(h) If required under sub. (2)(f), a description and plans to control temperature of runoff;

(i) A maintenance plan and schedule for all permanent stormwater management practices as recorded on the affidavit required in sec. 14.49(3)(d).

**(2) Stormwater management performance standards.** Proposed design, suggested location and phased implementation of effective, practicable stormwater management measures for plans shall be designed, engineered and implemented to achieve the following results:

**(a) Sediment control.**

1. For new development, design practices to retain soil particles greater than 5 microns on the site (80% reduction) resulting from a one-year 24-hour storm event (2.5 inches over 24-hour duration), according to approved procedures, and assuming no sediment resuspension;

2. For redevelopment resulting in exposed surface parking lots and associated traffic areas, design practices to retain soil particles greater than 20 microns on the entire site (40% reduction) resulting from a one-year 24-hour storm event, according to approved procedures, and assuming no sediment resuspension. Under no circumstances shall the site's existing sediment control level or trapping efficiency be reduced as a result of the redevelopment.

**(b) Oil and grease control.** For all stormwater plans for commercial or industrial developments and all other uses where the potential for pollution by oil or grease, or both, exists, the first 0.5 inches of runoff will be treated using the best oil and grease removal technology available. This requirement may be waived by the plan reviewer only when the applicant can demonstrate that installation of such practices is not necessary.

**(c) Runoff rate control - hydrologic calculations.** All runoff calculations shall be according to the methodology described in the Natural Resources Conservation Service's Technical Release 55, "Urban Hydrology for Small Watersheds" (commonly known as TR-55), or other methodology approved by the Dane

County Conservationist. For agricultural land subject to this section, the maximum runoff curve number (RCN) used in such calculations shall be 51 for HSG A, 68 for hydrologic soil group B, 79 for HSG C, and 83 for HSG D. The TR-55-specified curve numbers for other land uses shall be used. Heavily disturbed sites will be lowered one permeability class for hydrologic calculations. Lightly disturbed areas require no modification. Where practices have been implemented to restore soil structure to pre-developed conditions, no permeability class modification is required.

**(cm) Runoff rate control - design standards.** Except for redevelopment projects, all stormwater facilities shall be designed, installed and maintained to effectively accomplish the following:

1. Maintain predevelopment peak runoff rates for the 2-year, 24-hour storm event (2.9 inches over 24-hour duration).

2. Maintain predevelopment peak runoff rates for the 10-year, 24-hour storm event (4.2 inches over 24-hour duration).

3. Safely pass the 100-year, 24-hour storm event (6.0 inches over 24-hour duration).

**(d) Outlets.** Discharges from new construction sites must have a stable outlet capable of carrying designed flow as required in sub. (2)(cm), at a non-erosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater conveyance or waterbody.

**(e) Infiltration.**

1. For both residential and nonresidential developments, design practices to infiltrate sufficient runoff volume so that post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based upon average annual rainfall.

2. The runoff curve numbers used in calculating pre-development conditions shall be based on the pre-development land uses. For agricultural land, the maximum runoff curve number (RCN) used in calculating pre-development conditions shall be 51 for hydrologic soil group (HSG) A, 68 for HSG B, 78 for HSG C, and 83 for HSG D.

3. If, when designing appropriate infiltration systems, more than two percent (2%) of the site is required to be used as effective infiltration area, the applicant may alternately design infiltration systems and pervious surfaces to meet or exceed the annual pre-development recharge rate. The annual pre-development

recharge rate shall be determined from the Wisconsin Geological and Natural History Survey's 2009 report, *Groundwater Recharge in Dane County, Estimated by a GIS-Based Water-Balanced Model* or subsequent updates to this report, or by a site specific analysis using other appropriate techniques. If this alternative design approach is taken, at least two percent (2%) of the site must be used for infiltration.

**4. Pre-treatment.** Before infiltrating runoff, pre-treatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pre-treatment shall conform to the design standards in s. 14.53 and be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality.

**5. Prohibitions.** Notwithstanding subparagraphs 1. through 3., infiltration systems may not be installed in any of the following areas:

**i.** Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Admin. Code, including storage, loading, rooftop and parking.

**ii.** Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Admin. Code.

**iii.** Fueling and vehicle maintenance areas.

**iv.** Areas within 1,000 feet up gradient or within 100 feet down gradient of karst features.

**v.** Areas with less than three feet separation distance from bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except that this provision does not prohibit infiltration of roof runoff.

**vi.** Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.

**vii.** Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Admin. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

**viii.** Areas where contaminants of concern, as defined in s. NR 720.03(2), Wis. Admin. Code, are present in the soil through which infiltration will occur.

**ix.** Any area where the soil does not exhibit one of the following characteristics between the bottom of the infiltration system and the

seasonal high groundwater and top of bedrock: at least a 5 foot soil layer with 10% fines or greater. This provision does not apply where the soil medium within the infiltration system provides an equivalent level of protection and does not prohibit infiltration of roof runoff.

**6. Alternate use of runoff.** Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this section.

**7. Minimizing groundwater pollution.** According to ch. NR 151, Wis. Admin. Code, infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Admin. Code. However, if site-specific information indicates that compliance with the preventive action limit is not achievable, the infiltration system may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

**(f) Thermal control.** The stormwater management plan shall include provisions and practices to reduce the temperature of runoff for sites located within the watershed of a river or stream identified by the Wisconsin Department of Natural Resources as:

**1.** A Cold Water Community as identified through NR 102.04(3)(a), NR 104, Wisconsin Administrative Code, and Class I, Class II, and Class III Trout Streams identified in "Wisconsin Trout Streams," DNR publication PUB-FH-806-2002 or its successor.

**2.** Rivers or streams proposed by the Wisconsin Department of Natural Resources as Cold Water Communities and Class I, II, and III Trout Streams.

**(g) Thermal control; continued.** The stormwater management plan does not have to meet the requirement in sub. (2)(f) if the applicant can justify by use of a model approved by the Dane County Conservationist that practices are not necessary because the temperature increase of runoff from the site post-development will be zero.

**(h) Thermal control; continued.** A current list and maps of affected watersheds shall be available for reference at the office of the local approval authority and the plan review agency.

**(3) Stormwater management goals.** The following standards shall be met whenever possible, and proposed design, suggested

location and implementation of practices to meet these goals shall be included in plans:

**(a)** For existing development, design practices to retain soil particles greater than 40 microns on the site (20% reduction) resulting from a one-year, 24-hour storm event, according to approved procedures, and assuming no sediment resuspension.

**(b)** For street reconstruction, design practices to retain soil particles greater than 20 microns on the site (40% reduction) resulting from a one-year, 24-hour storm event, according to approved procedures, and assuming no sediment resuspension.

**[History:** cr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; (2)(a), (2)(c), (2)(cm), (2)(e) and (2)(f) am., Sub. 1 to OA 2, 2005-06, pub. 11/30/05; (2)(e)1. and 2. am., Sub. 1 to OA 4, 2006-07, pub. 08/31/06; (2)(c) and (2)(e)3. am., OA 39, 2008-09, pub. 06/08/09; (2)(e)1. and 2. am., 3. through 6. renum. as 4. through 7., OA 33, 2010-11, pub. 03/15/11.]

#### **14.52 OFF-SITE STORMWATER MANAGEMENT.**

**(1)** The local authority may establish off-site stormwater management and associated fees, provided that provisions are made to manage stormwater by an off-site facility, and provided that all of the following conditions for the off-site facility are met:

**(a)** The facility is in place;

**(b)** The facility is designed and adequately sized to provide a level of stormwater control that at least meets the ordinance standards.

**(c)** The local approval authority is satisfied that the facility has a legally obligated entity responsible for its long-term operation and maintenance.

**(2)** A municipality adopting and administering an ordinance pursuant to sec. 14.44(3) that establishes off-site stormwater management shall adopt the standards for off-site stormwater management set forth in this ordinance.

**[History:** cr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02.]

#### **14.53 TECHNICAL STANDARDS AND SPECIFICATIONS.**

The design of all best management practices designed to meet the requirements of this subchapter shall comply with the following technical standards:

**(1)** Natural Resources Conservation Service's "Wisconsin Field Office Technical Guide, Chapter 4" or its successor;

**(2)** Applicable construction or erosion control standards by the Wisconsin Department of Natural Resources;

**(3)** Any other technical methodology approved by the Dane County Conservationist.

**[History:** cr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; (1) and (2) am., Sub. 1 to OA 2, 2005-06, pub. 11/30/05.]

**[History:** (14.54) am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; 14.54 comb. w/14.545 and renum. as 14.50 and, as renum., am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02.]

**[History:** (14.545) cr., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; 14.545 comb. w/14.54 and renum. as 14.50 and, as renum., am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02.]

**[History:** 14.57 cr., Sub. 2 to OA 10, 1987-88, pub. 09/14/87; am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; renum. from 14.57 to 14.54 and as renum., am., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; 14.54 rep., Sub. 1 to OA 2, 2005-06, pub. 11/30/05.]

*[14.54 reserved.]*

**14.55 PERMIT FEES.** **(1)** The local approval authority may establish a fee schedule for erosion control and stormwater management permits.

**(2) (a)** For areas under Dane County jurisdiction according to s. 14.44(2) and s. 14.44(3)(c) and (d), the erosion control and stormwater management permit fee shall be a \$100 base fee for projects eligible for a simplified checklist under s. 14.50(2). The base fee for other projects subject to the erosion control requirements of s. 14.45 shall be \$200, and the base fee for projects subject to the stormwater management requirements of s. 14.46 shall be \$400.

**(b) Late filing fee.** When an applicant or landowner begins work requiring a permit before obtaining the permit or appropriate approvals, the fee shall be doubled.

**(3)** The fee for preliminary review letters shall be \$50.

**(a)** If a preliminary approval letter has been obtained, the erosion control and stormwater management base fee shall be reduced by \$50.

**(4)** For sites required to obtain an erosion control permit under s. 14.45, there shall be an additional fee of \$.005 per square foot of disturbed area.

**(5)** For sites required to obtain a stormwater control permit under s. 14.46, there shall be an additional fee of \$.010 per square foot of impervious area, and \$.005 per square foot of redeveloped impervious area.

**(7)** Municipal street and road maintenance projects are exempt from fees required in this section.

**[History:** am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; rep. and recr., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; (6) cr., Sub. 1 to OA 10, 2001-02, pub. 01/07/02, eff. 08/22/02; (2) and (3) am. and (7) cr., Sub. 1 to OA 2, 2005-06, pub. 11/30/05; (2), (4) and (5) am., OA 30, 2008-09, pub. 11/26/08, eff. 01/01/09; (2)(a) am., OA 39, 2008-09,

pub. 06/08/09; (6) resc., Sub. 1 to OA 23, 2010-11, pub. 12/02/10.]

**[History:** 14.56(1)–(7) am. and (8)–(12) cr., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; (12) am., OA 11, 1996-97, pub. 08/23/96; 14.56 rep., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02.]

**[History:** 14.60 cr., Sub. 2 to OA 3, 1994-95, pub. 09/30/94, eff. 01/01/95; (8) am., OA 11, 1996-97, pub. 08/23/96; (1) am., OA 49, 1996-97, pub. 07/18/97; 14.60 rep., Sub. 1 to OA 2, 2005-06, pub. 11/30/05.]

*[14.56 - 14.70 reserved.]*

**14.71 APPEALS. (1) County jurisdiction. (a)** Any person aggrieved by any decision of the director pursuant to this ordinance may appeal to the Dane County Land Conservation Committee (hereinafter “committee”). Such appeal shall be taken within 30 days after the challenged decision. Notice of Appeal setting forth the specific grounds for the appeal shall be filed with the director and the committee. The director shall forthwith transmit to the committee the record upon which the action appealed from was taken.

**(b)** The committee shall fix a reasonable time for the hearing of the appeal and publish a class 2 notice thereof under ch. 985, Wis. Stats., as well as give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

**(c)** The committee may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and shall have all the powers of the officer from whom the appeal is taken.

**(d)** The concurring vote of a majority of the committee shall be necessary to reverse the decision of the director.

**(2) Municipal jurisdiction.** A municipality adopting and administering an ordinance pursuant to s. 14.44(3), shall be governed by the appeals process described in s. 62.23(7)(e), Wis. Stats.

**[History:** 14.71 am., OA 49, 1996-97, pub. 07/18/97; 14.71 rep. and recr., Sub. 1 to OA 2, 2005-06, pub. 11/30/05; (1) am., OA 23, 2006-07, pub. 12/29/06.]

**14.72 VARIANCES. (1)** An applicant may include in the application a request for a variance from the requirements of sec. 14.50 or 14.51. No variance shall be granted unless applicant

demonstrates and the director and the county conservationist find that all of the following conditions are present:

**(a)** Enforcement of the standards set forth in this ordinance will result in unnecessary hardship to the landowner;

**(b)** The hardship is due to exceptional physical conditions unique to the property; and

**(c)** Granting the variance will not adversely affect the public health, safety or welfare, nor be contrary to the spirit, purpose and intent of this ordinance.

**(2)** If all of the conditions set forth in sub. (1) are met, a variance may only be granted to the minimum extent necessary to afford relief from unnecessary hardship, with primary consideration to water quality and impact to downstream conditions.

**(3)** A person aggrieved by a variance determination by the director may appeal that decision to the committee pursuant to s. 14.71.

**(4)** A person aggrieved by a decision of the committee regarding a variance may appeal that decision to the board of adjustment pursuant to s. 10.26.

**[History:** 14.72 rep. and recr., Sub. 1 to OA 2, 2005-06, pub. 11/30/05; am., OA 23, 2006-07, pub. 12/29/06.]

**14.73 VIOLATIONS AND ENFORCEMENT. (1) Stop work order. (a)** Whenever the local approval authority finds any noncompliance with the provisions of this ordinance, the local approval authority shall attempt to communicate with the owner or person performing the work to obtain immediate and voluntary compliance if such person is readily available. If the owner or person performing the work is not readily available, that person refuses to voluntarily comply immediately or the noncompliance presents an immediate danger or will cause or threatens to cause bodily injury or damage to off-site property including, but not limited to, off-site runoff, the local approval authority shall post in a conspicuous place on the premises, a stop work order which shall cause all activity not necessary to correct the noncompliance to cease until noncompliance is corrected.

**(b)** The stop work order shall provide the following information:

1. date of issuance;
2. town and section number or equivalent information within a municipality;
3. reason for posting; and
4. signature of inspector posting the order.

(c) Unauthorized removal of a stop work order from the premises shall be a violation of this ordinance.

(2) In addition to posting a stop work order, the local approval authority shall provide notification to the owner or contractor by personal service, written notice by certified mail, electronic mail, or facsimile transmission.

(a) The permittee, landowner and contractor shall have 24 hours from time of notification by the local approval authority to correct any noncompliance with the plan when notification is by either personal communication of noncompliance to the owner or contractor or their respective agents, or written notice sent by certified mail to owner or contractor.

(b) If notice is not provided under sub. (2)(a), the permittee and landowner shall have 72 hours to correct any noncompliance with the plan when notification is by posting notice in a conspicuous place on the site or sending notice by facsimile transmission to the owner or contractor.

(3) If the noncompliance is not corrected within the time periods specified in sub. (2)(a) or (b), the permittee and landowner authorize the local approval authority to take any action, to perform any work, or commence any operations necessary to correct noncompliance on the subject property where notice of noncompliance has been issued to bring the property into conformance with plan requirements. The permittee and landowner further consent to reimburse the authority for the total costs and expenses of the corrective actions. Reimbursement may be collected as a special charge upon the property for current services rendered as provided by law.

(4) If the permittee has filed an appeal under s. 14.71(1)(a) prior to the expiration of the time for compliance under sub. (2)(a) or (b), the local approval authority may take action, perform work or correct conditions only to the extent necessary to protect against an imminent hazard or condition that will cause or threatens to cause personal injury or damage to off-site property.

[History: 14.73 am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; 14.73 rep. and recr., Sub. 1 to OA 2, 2005-06, pub. 11/30/05.]

[14.74 - 14.80 reserved.]

**14.81 PENALTIES.** (1) Any person, firm, company or corporation who violates or refuses

to comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$200 nor more than \$1,000 and the costs of prosecution. Each day that a violation exists shall constitute a separate offense.

(2) Any person who has the ability to pay any forfeiture entered against him or her under this ordinance, but refuses to do so, may be confined in the county jail until such forfeiture is paid, but in no event to exceed thirty days. In determining whether an individual has the ability to pay a forfeiture, all items of income and all assets may be considered regardless of whether or not such income or assets are subject to garnishment, lien, or attachment by creditors.

(3) The corporation counsel is authorized to seek enforcement of any part of this ordinance by court action seeking injunctive relief. It shall not be necessary for the county to seek other remedies before seeking injunctive relief.

[History: 14.81 am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; (2) rep., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02; am., Sub. 1 to OA 13, 2004-05, pub. 05/19/05; 14.81 rep. and recr., Sub. 1 to OA 2, 2005-06, pub. 11/30/05.]

[History: 14.82 am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95; 14.82 rep., OA 2, 2001-02, pub. 08/22/01, eff. 08/22/02.]

[14.82- 14.96 reserved.]

**14.97 INTERPRETATION.** In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Dane County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**14.98 SEVERABILITY CLAUSE.** If any section, provision or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective.

[14.99 reserved.]

[History: 14.99 rep., Sub. 1 to OA 2, 2005-06, pub. 11/30/05.]

**END OF CHAPTER**