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2021 OA-018

AMENDING CHAPTER 14 OF THE DANE COUNTY CODE OF ORDINANCES,
REVISING EROSION CONTROL AND
STORMWATER MANAGEMENT ORDINANCE

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Subchapter II of Chapter 14, Erosion Control and Stormwater Management, is re-codified and amended as follows:

**CHAPTER 14
EROSION CONTROL AND
STORMWATER MANAGEMENT**

- 14.01 Authority.
- 14.02 Legislative Findings.
- 14.03 Purpose and Intent.
- 14.04 Definitions.
- 14.05 Jurisdiction and Administration.
- 14.06 Applicability of Requirement for Erosion Control Permits.
- 14.07 Applicability of Requirement for Stormwater Management Permits.
- 14.08 Exemptions and Clarifications.
- 14.09 Preliminary Review Letter.
- 14.10 Erosion and Stormwater Control Permits and Administration.
- 14.11 Erosion Control Plan Requirements.
- 14.12 Stormwater Management Plan Requirements.
- 14.13 Off-Site Stormwater Management.
- 14.14 Technical Standards and Specifications.
- 14.15 Permit Fees.
- 14.16 Appeals.
- 14.17 Variances.
- 14.18 Violations and Enforcement.
- 14.19 Penalties.
- 14.20 Interpretation.
- 14.21 Severability Clause.

14.01 AUTHORITY. This chapter 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.

14.02 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 activity 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;

- 54 (b) Diminish the capacity of water resources to support recreational and water supply uses and
55 a natural diversity of plant and animal life;
56 (c) Clog existing drainage systems, increasing maintenance problems and costs;
57 (d) Cause bank and channel erosion;
58 (e) Increase downstream flooding;
59 (f) Reduce groundwater recharge, which may diminish stream base flows and lower water
60 levels in regional lakes, ponds and wetlands;
61 (g) Contaminate drinking water supplies;
62 (h) Increase risk of property damage and personal injury; and
63 (i) Cause damage to agricultural fields and crops.
64 (2) The Dane County Board of Supervisors finds that effective sediment and stormwater
65 management depends on proper planning, design, and timely installation of conservation and
66 management practices and their continuing maintenance.

67
68 **14.03 PURPOSE AND INTENT.**

- 69 (1) The purpose of this chapter is to set forth the minimum requirements for construction site
70 erosion control and stormwater management that will diminish threats to public health, safety,
71 public and private property and natural resources of Dane County.
72 (2) This chapter is intended to regulate construction site erosion and stormwater runoff, to
73 accomplish the following objectives:
74 (a) Promote regional stormwater management by watershed;
75 (b) Minimize sedimentation, water pollution from nutrients, heavy metals, chemical and
76 petroleum products and other contaminants, flooding and thermal impacts to the water resources
77 of Dane County;
78 (c) Promote infiltration and groundwater recharge;
79 (d) Protect functional values of natural water courses and wetlands;
80 (e) Provide a single, consistent set of performance standards that apply to all developments in
81 both the unincorporated and incorporated areas of Dane County;
82 (f) Achieve an 80% reduction in sediment load rates to Dane County waters compared to no
83 controls for all new development, a 40% reduction in sediment load rates compared to no
84 controls for all redevelopment and street reconstruction, and a 20% reduction in sediment load
85 rates compared to no controls for existing developments;
86 (g) Ensure no increase in temperature of stormwater post-development in order to protect cold
87 water communities;
88 (h) Ensure no increase in the rate of surface water drainage from sites during or after
89 construction; and
90 (i) Protect public and private property from damage resulting from runoff or erosion.

91
92 **14.04 DEFINITIONS.**

- 93 (1) *Affected* means that a regulated activity has significantly:
94 (a) caused negative impacts on water quality or the use or maintenance of land or business; or
95 (b) endangered health, safety, or general welfare.
96 (2) *Agricultural* means related to or used for the production of food and fiber including, but not
97 limited to, general farming, livestock and poultry enterprises, grazing, nurseries, horticulture,
98 viticulture, truck farming, forestry, sod production, cranberry productions and wild crop
99 harvesting. Clearing and grubbing of an area or structural development are not agricultural
100 activity.
101 (3) *Average annual rainfall* means measured precipitation in Madison, Wisconsin between
102 March 12 and December 2, 1981.
103 (4) *Bank erosion* means the removal of soil or rock fragments along the banks or bed of a
104 stream channel resulting from high flow after rain events.
105 (5) *Best management practice* means a practice, technique, or measure that is an effective,
106 practical means of preventing or reducing soil erosion or water pollution, or both, from runoff both
107 during and after land development activities. These can include structural, vegetative or
108 operational practices.

109 (6) *Closed watershed* means an area that does not have a surface outlet, with water only able to
110 leave through evaporation, infiltration, or mechanical means. For the purposes of this ordinance,
111 the following are considered closed watersheds:
112 (a) Internally drained watersheds that are at least 20,000 square feet in area and at least 1 foot in
113 depth from invert to lowest surface outlet.
114 (b) Watersheds with no surface outlet discharges from a 2-year, 24-hour design storm.
115 (c) Areas that have historically not drained through surface outlets, as determined by the local
116 approval authority.
117 (7) *Cold water community* means surface waters capable of supporting a community of cold
118 water fish and other aquatic life, or serving as a spawning area for cold water fish species (NR
119 102.04(3)(a), Wisconsin Administrative Code).
120 (8) *Connected impervious* means an impervious surface that is directly connected to a
121 separate storm sewer or water of the state via an impervious or concentrated flow path.
122 (9) *Construction site erosion control* means preventing or reducing soil erosion and
123 sedimentation from land disturbing activity.
124 (10) *Design storm* means a hypothetical rainstorm that occurs with a specified recurrence
125 interval in Dane County. For example, a 10-year, 24-hour design storm defines a rainstorm that
126 occurs over 24 hours, with a recurrence interval of 10 years. The amounts associated with these
127 storms are further defined as follows:
128 (a) 1-year, 24-hour design storm = 2.49 inches over 24 hours duration using the MSE4 NRCS
129 Rainfall Distribution.
130 (b) 2-year, 24-hour design storm = 2.84 inches over 24 hours duration using the MSE4 NRCS
131 Rainfall Distribution.
132 (c) 10-year, 24-hour design storm = 4.09 inches over 24 hours duration using the MSE4 NRCS
133 Rainfall Distribution.
134 (d) 100-year, 24-hour design storm = 6.66 inches over 24 hours duration using the MSE4 NRCS
135 Rainfall Distribution.
136 (e) 200-year, 24 hour design storm = 7.53 inches over 24 hours duration using the MSE4 NRCS
137 Rainfall Distribution.
138 (f) 500-year, 24-hour design storm = 8.94 inches over 24 hours duration using the MSE4 NRCS
139 Rainfall Distribution.
140 (11) *Development* means any of the following activities:
141 (a) Structural development, including construction of a new building or other structure;
142 (b) Expansion or alteration of an existing structure that results in an increase in the ground
143 surface dimensions of the building or structure;
144 (c) Land disturbing activity; or
145 (d) Creation or expansion of impervious surfaces.
146 (12) *Direct conduits to groundwater* means wells, sinkholes, swallets, fractured bedrock at the
147 surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or
148 depressional groundwater recharge areas over shallow fractured bedrock.
149 (13) *Director* means the Director of the Dane County Land and Water Resources Department or
150 his or her designee.
151 (14) *Easement* means an interest in land owned by another that creates a nonpossessory right
152 to enter and use the land of another and obligates the owner not to interfere with the uses
153 authorized by the easement.
154 (15) *Easement holder* means the holder of a legally enforceable easement that authorizes the
155 activity on the land for which a permit is sought under this chapter, including all required
156 maintenance and access obligations.
157 (14) *Effective infiltration area* means the area of the infiltration system that is used to infiltrate
158 runoff and does not include the area used for site access, berms or pretreatment.
159 (15) *Erosion* (soil erosion) means the detachment and movement of soil or rock fragments by
160 water, wind, ice or gravity.
161 (16) *Excavation* means any act by which organic matter, earth, sand, gravel, rock or any other
162 similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed
163 and shall include the resulting conditions.

- 164 (17) *Existing development* means buildings and other structures and impervious area existing
165 prior to August 22, 2001.
- 166 (18) *Fill* means any act by which earth, sand, gravel, rock or any other material is deposited,
167 placed, replaced, pushed, dumped, pulled, transported, or moved to a new location and shall
168 include the resulting conditions.
- 169 (19) *Final stabilization* means that all land disturbing activity has been completed and that a
170 uniform perennial vegetative cover with a density of at least 70% has been established.
- 171 (20) *Financial security instrument* means an irrevocable letter of credit, surety bond,
172 performance bond, certified check, or cashier's check submitted to the local approval authority to
173 assure that requirements of the ordinance are carried out in compliance with approved plans.
- 174 (21) *Green Infrastructure* means practices that use plant or soil systems, permeable pavement or
175 other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store,
176 infiltrate, or evapotranspire stormwater and reduce flows to sewer systems or to surface waters.
177 Green Infrastructure includes, but is not limited to, the following practices: rainwater
178 harvesting/reuse, rain gardens, bioretention systems, infiltration basins, planters that are
179 connected to roof drainage, vegetated swales, permeable pavement, green roofs, and rain
180 barrels.
- 181 (22) *Gully erosion* means a severe loss of soil caused by or resulting in concentrated flow of
182 sufficient velocity to create a defined flow channel.
- 183 (23) *Heavily disturbed site* means a site where an area of land is subjected to significant
184 compaction due to the removal of vegetative cover or earthmoving activities, including filling.
- 185 (24) *Hydrologic soil group (HSG)* has the meaning used in the runoff calculation methodology
186 promulgated by the United States Natural Resources Conservation Service Engineering Field
187 Manual for Conservation Practices.
- 188 (25) *Impervious surface* means any land cover that prevents rain or melting snow from soaking
189 into the ground, such as roofs (including overhangs), roads, sidewalks, patios, driveways and
190 parking lots. For purposes of this chapter, all road, driveway or parking surfaces including gravel
191 surfaces, shall be considered impervious, unless specifically designed to encourage infiltration
192 and approved by the local approval authority.
- 193 (26) *Infiltration*, for the purposes of this ordinance, refers to any precipitation that does not leave
194 the site as surface runoff. Also known as "stay-on".
- 195 (27) *Infiltration system* means a device or practice such as a basin, trench, rain garden or swale
196 designed specifically to encourage infiltration, but does not include natural infiltration in pervious
197 surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from
198 practices such as swales or road side channels designed for conveyance and pollutant removal
199 only.
- 200 (28) *Land conservation committee* or *LCC* means the Dane County Land Conservation
201 Committee created under sec. 92.06 of the Wisconsin Statutes.
- 202 (29) *Land disturbing activity* means any land alterations or disturbances that may result in soil
203 erosion, sedimentation, or change in runoff including, but not limited to, removal of ground cover,
204 grading, excavating, and filling of land.
- 205 (30) *Lightly disturbed site* means a site where an area of land is subjected to minor compaction
206 due to the limited removal of vegetative cover or earthmoving activities.
- 207 (31) *Local approval authority* means the director in areas under the direct jurisdiction of Dane
208 County as described in sec. 14.05(2) and (3). In incorporated areas that have adopted a local
209 ordinance under sec. 14.05(3) and are in compliance, the term means the municipal staff, agency
210 or contracted entity charged by the local unit of government with responsibility for enforcing
211 stormwater and erosion control ordinances.
- 212 (32) *Local land division ordinance* means any county, city, village or town ordinance adopted
213 under chapter 236, Wis. Stats., to regulate the division of land.
- 214 (33) *Local zoning ordinance* means any county, city, village or town ordinance adopted under
215 sections 59.69, 59.692, 59.693, 60.61, 60.62, 61.351, 61.354, 62.23, 62.231, or 62.234 of the
216 Wisconsin Statutes to regulate the use of land.
- 217 (34) *Maximum extent practicable (MEP)*. A level of implementing best management practices
218 in order to achieve a performance standard specified in this chapter which takes into account the
219 best available technology, cost effectiveness and other competing issues such as human safety

220 and welfare, endangered and threatened resources, historic properties and geographic features.
221 *MEP* allows flexibility in the way to meet performance standards and may vary based on the
222 performance standard and site conditions.

223 **(35)** *New development* means development that results in the cumulative increase of 20,000
224 square feet of impervious surface to a site since August 21, 2001. Sites may be a combination of
225 new development and redevelopment.

226 **(36)** *Non-erosive velocity* means a rate of flow of stormwater runoff, usually measured in feet
227 per second, that does not erode soils. Non-erosive velocities vary for individual sites, taking into
228 account topography, soil type, and runoff rates.

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

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

233 **(39)** *Plan* means an erosion control plan required by sec. 14.06 or a stormwater management
234 plan required by sec. 14.07.

235 **(40)** *Plan review agency* means the Dane County Land and Water Resources Department, or its
236 successor, in areas under the direct administrative jurisdiction of Dane County as described in
237 sec. 14.05(2). In incorporated areas of Dane County that have adopted a local ordinance under
238 sec. 14.05(3) and are in compliance, the term means the municipal staff, agency or qualified
239 contracted entity charged by the local unit of government with responsibility for reviewing
240 stormwater and erosion control plans under the local stormwater and erosion control ordinance.

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

244 **(42)** *Permittee* means a land owner or easement holder who has applied for a permit under this
245 Chapter and is responsible for the requirements of the permit.

246 **(43)** *Post-development* refers to the extent and distribution of land cover types after proposed
247 site development.

248 **(44)** *Pre-development* refers to the extent and distribution of land cover types present before
249 proposed development, assuming that all land uses prior to development are in “good” condition
250 as described in the Natural Resources Conservation Service Technical Release 55, “Urban
251 Hydrology for Small Watersheds” (commonly known as TR-55). Where the cumulative
252 impervious surface created after August 21, 2001 exceeds 20,000 square feet, the pre-
253 development condition shall be that prior to August 21, 2001.

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

257 **(46)** *Redevelopment* means development that replaces existing impervious surfaces or results in
258 the cumulative increase of less than 20,000 square feet of impervious surface to a site since
259 August 21, 2001 on sites predominately developed as commercial, industrial, institutional or
260 multifamily. Sites may be a combination of new development and redevelopment.

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

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

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

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

272 **(51)** *Site* means the bounded area described in an erosion control plan or stormwater
273 management plan, including areas that are part of a larger common plan of development

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

- 276 (53) *Soil loss rate* means the rate, usually measured in tons per acre per year, at which soil is
277 transported beyond the perimeter of a given control site and which occurs as a result of sheet
278 and rill erosion. This term does not apply to soil movement resulting from concentrated flow such
279 as gully or bank erosion.
- 280 (54) *Stormwater* means the flow of water which results from, and which occurs during and
281 immediately following, a rainfall, snow- or ice- melt event.
- 282 (55) *Stormwater management* means any measures taken to permanently reduce or minimize
283 the negative impacts of stormwater runoff quantity and quality after land development activities.
- 284 (56) *Stormwater runoff* means the waters derived from rains falling or snowmelt or icemelt
285 occurring within a drainage area, flowing over the surface of the ground and collected in
286 channels, watercourses or conduits.
- 287 (57) *Street reconstruction* means removal and replacement of the road subgrade, where existing
288 stormwater conveyance systems are modified.
- 289 (58) *Structure* means any human-made object with form, shape and utility, either permanently or
290 temporarily attached to, placed upon, or set into the ground, stream bed or lake bed.
- 291 (59) *Unnecessary hardship* means that circumstance where special conditions, which were not
292 self-created, affect a particular property and make strict conformity with regulations unnecessarily
293 burdensome or unreasonable in light of the purposes of this ordinance.

294
295 **14.05 JURISDICTION AND ADMINISTRATION.**

- 296 (1) This ordinance applies to all areas of Dane County.
- 297 (2) *Unincorporated areas.* This ordinance shall become effective in all unincorporated areas of
298 Dane County on the date of publication. The director, in consultation with the Dane County
299 Conservationist, shall be responsible for administration and enforcement of this ordinance.
- 300 (3) *Incorporated areas.*
- 301 (a) Cities and villages wholly or partially in Dane County may assume administration and
302 regulation of soil erosion and stormwater control programs if they have adopted stormwater and
303 erosion control ordinances that include standards at least as restrictive as those described in
304 secs. 14.04, 14.06 – 14.14 and 14.16 – 14.18. Any such ordinance shall supersede any less
305 restrictive or conflicting provision of a minimum standard, ordinance or local regulation previously
306 adopted by that municipality and shall include effective measures for consistent administration
307 and enforcement. Cities and villages shall have the discretion to adopt by ordinance their own
308 equivalent internal procedures for administration of county standards.
- 309 (b) Cities and villages that have enacted local ordinances pursuant to par. (a) or entered into
310 sec. 66.0301, Wis. Stats., intergovernmental cooperative agreements with the county consistent
311 with this ordinance may assume responsibility for administration and regulation of soil erosion
312 and stormwater control programs. When a city or village assumes responsibility for
313 administration and regulation of soil erosion and stormwater control consistent with this
314 ordinance, references in this chapter to the director shall mean the local approval authority as
315 designated by the municipal government.
- 316 (c) If a municipality does not enact an ordinance pursuant to par. (a) by the effective date of this
317 ordinance, or if the Dane County Lakes & Watershed Commission, after notice and hearing,
318 determines that a municipality has enacted an ordinance that fails to meet the standards of secs.
319 14.04, 14.06 – 14.12, 14.14 and 14.16 – 14.18, the director shall enforce the provisions of this
320 ordinance within the limits of the municipality. The director shall continue to administer and
321 enforce the provisions of this ordinance until the municipality adopts and enforces an ordinance
322 at least as restrictive as the county ordinance.
- 323 (d) If the Dane County Lakes & Watershed Commission, after notice and hearing, determines
324 that a municipality is not providing effective administration and enforcement of an ordinance
325 adopted under this section, it may make a finding of noncompliance with this ordinance. If a
326 municipality is found to be in noncompliance, the director shall administer and enforce the
327 provisions of this ordinance within the limits of the municipality, to the extent necessary to assure
328 compliance. The director shall continue to administer and enforce the provisions of this
329 ordinance until the Dane County Lakes and Watershed Commission rescinds its finding of
330 noncompliance.

331 (4) Where the standards of this ordinance differ or conflict with applicable local land division,
332 zoning, shoreland zoning or other applicable local ordinances or state regulations, the more
333 restrictive standards shall apply.
334

335 **14.06 APPLICABILITY OF REQUIREMENT FOR EROSION CONTROL PERMITS.** Unless
336 expressly exempted by sec. 14.08, an erosion control permit under sec. 14.10 shall be required
337 and all construction site erosion control provisions of this chapter shall apply, to any of the
338 following activities in Dane County:

- 339 (1) Land disturbing activity in excess of 4,000 square feet;
340 (2) Land disturbing activity that involves the excavation and/or filling or a combination of
341 excavation and filling, in excess of 400 cubic yards of material;
342 (3) Land disturbing activity that disturbs more than 100 lineal feet of road ditch, grass waterway
343 or other land area where surface drainage flows in a defined open channel; including the
344 placement, repair or removal of any underground pipe, utility or other facility within the cross-
345 section of the channel;
346 (4) Any new public or private roads or access drives longer than 125 feet;
347 (5) Development that requires a plat, as defined in the applicable local land division
348 ordinance(s);
349 (6) Land disturbing activity that disturbs less than 4,000 square feet of land, including the
350 installation of access drives, that the local approval authority determines to have a high risk of
351 soil erosion or water pollution, or that may significantly impact a lake, stream, or wetland area.
352 Examples of activities with a high risk of soil erosion or water pollution may include, but are not
353 limited to, land disturbance on erodible soil or disturbance adjacent to lakes, rivers, streams or
354 wetlands. All such determinations made by the local approval authority shall be in writing, unless
355 waived by applicant.
356

357 **14.07 APPLICABILITY OF REQUIREMENT FOR STORMWATER MANAGEMENT PERMITS.**
358 Unless otherwise exempted by sec. 14.08, a stormwater management permit under sec. 14.10
359 shall be required and all stormwater management provisions of this chapter shall apply to any of
360 the following activities within Dane County:

- 361 (1) Any development(s) after August 22, 2001 that result(s) in the cumulative addition of 20,000
362 square feet of impervious surface to the site.
363 (2) Any development that requires a plat, as defined in applicable local land division
364 ordinance(s).
365 (3) Any development that requires a certified survey map, as defined in the applicable local land
366 division ordinance(s); for property intended for commercial or industrial use.
367 (4) Land disturbing activity in excess of 4,000 square feet on sites developed as commercial,
368 industrial, institutional or multifamily.
369 (5) Other land development activities including, but not limited to, redevelopment or alteration of
370 existing buildings and other structures, that the local approval authority determines may
371 significantly increase downstream runoff volumes, flooding, soil erosion, water pollution or
372 property damage, or significantly impact a lake, stream, or wetland area. All such determinations
373 shall be made in writing unless waived by the applicant.
374

375 **14.08 EXEMPTIONS AND CLARIFICATIONS.**

- 376 (1) The following are exempt from all requirements of this ordinance:
377 (a) Any activity directly related to the planting, growing and harvesting of agricultural crops
378 except the construction of a building or other structure.
379 (b) Projects specifically exempted from local erosion control ordinances under state or federal
380 statute. It is the responsibility of the landowner or easement holder to demonstrate such
381 exemption with documentation acceptable to the local approval authority.
382 (2) The following are exempt from the construction site erosion control provisions of sec. 14.06:
383 (a) One and two-family dwelling units regulated under the Wisconsin Uniform Dwelling Code.
384 Land disturbing activity in excess of one (1) acre, or not associated with the construction of a
385 dwelling, are not exempt from this chapter.
386 (b) Projects subject to an approved shoreland erosion control permit under chapter 11.

- 387 (c) Maintenance of existing cropped fields with a prior approved conservation plan.
388 (d) Soil conservation, stream and adjacent wetland protection and restoration practices such as
389 terraces, run-off diversions, grassed waterways, cattle and equipment crossings, cattle watering
390 access, water control structures, dikes, ditch plugs, tile breaks and sediment removal
391 catchments, when implemented according to plans and designs approved by the Natural
392 Resources Conservation Service or U.S. Fish & Wildlife Service of the U.S. Department of the
393 Interior, Wisconsin Department of Natural Resources or the Dane County Land and Water
394 Resources Department, provided that any such project involving land disturbing activity equal to
395 or greater than one (1) acre shall also comply with the performance standards in sec. 14.11(3).
396 (3) The following are exempt from the runoff rate control standards of sec. 14.12(2)(c):
397 (a) Redevelopment.
398 (b) Municipal road or county highway projects not exempted under sec. 14.08(1)(b) where all of
399 the following conditions are met:
400 1. The purpose of the project is only to meet current state or federal design or safety
401 guidelines;
402 2. Proposed impervious areas are within existing public right-of-way;
403 3. All other requirements of sec. 14.12 are met; and
404 4. The project does not include the addition of new driving lanes.
405 (4) The following activities are exempt from the infiltration standards described in s. 14.12(2)(e):
406 (a) Redevelopment
407 (b) New development with less than 10% connected imperviousness, provided the cumulative
408 area of all impervious surface is less than one acre.
409 (c) Agricultural facilities and practices.
410 (d) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the
411 bottom of the proposed infiltration system where the soil layer is not easily removed or
412 manipulated.
413 (e) Expansion of municipal or county roads.

414
415 **14.09 PRELIMINARY REVIEW LETTER.**

- 416 (1) *Purpose and intent.* A preliminary review letter provides a potential permit applicant with an
417 initial simple evaluation of whether erosion and stormwater control standards can be met for a
418 proposed site, lot layout, construction design. This review is intended to assist applicants in
419 preparing general site plans and other submittals necessary to obtain an erosion control and
420 stormwater permit. A preliminary review letter does not guarantee that an erosion or stormwater
421 control plan will be approved or that a permit will be issued. Erosion and stormwater control
422 plans and permit applications must meet all applicable standards and criteria for approval.
423 (2) *Application procedure.*
424 (a) The local approval authority may adopt an application procedure and fees for provision of a
425 preliminary review letter.
426 (b) The local approval authority may charge a fee to compensate for the cost of the preliminary
427 review letter process.
428 (c) Any person may apply for a preliminary review letter by submitting an application that
429 contains the information required by the local approval authority.
430 (d) The local approval authority may require a preliminary review letter prior to accepting an
431 application for a zoning permit, petition to rezone or conditional use permit under applicable
432 ordinance(s), or the plat review officer may require a preliminary review letter prior to accepting
433 an application for a certified survey map under applicable local land division ordinance(s) where
434 any of the following apply:
435 1. The proposal would involve one or more acres within either the current or proposed
436 boundaries of a commercial zoning district;
437 2. Proposed lot or rezone area configuration would necessitate driveways, access roads or
438 other construction that would clearly require an erosion control plan or stormwater management
439 plan under sec. 14.06 or 14.07;
440 3. Natural features of the site including, but not limited to, slope, soils, wetlands, or hydrology
441 are such that, in the opinion of the local approval authority, substantial risk of erosion, flooding or
442 other environmental or public safety hazard exists; or, in the opinion of the plat review officer,

443 consultation with plan review agency staff is necessary to determine land suitability requirements
444 under local subdivision ordinances.
445 (e) Unless expressly waived by the applicant, decisions by the local approval authority to require
446 a preliminary review letter shall be made in writing and shall detail the reasons why the authority
447 believes there to be a substantial risk of erosion, flooding or hazard.
448

449 **14.10 EROSION AND STORMWATER CONTROL PERMITS AND ADMINISTRATION.**

450 (1) No activity meeting the criteria described in ss. 14.06 or 14.07 shall occur and no zoning
451 permit may be issued, until an erosion control and stormwater control permit is issued by the
452 local approval authority.

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

454 (a) Completed application form signed by the landowner or easement holder. If the applicant is
455 not the landowner or easement holder, a notarized statement authorizing the applicant to act as
456 agent on behalf of the landowner or easement holder must be provided. By signing the
457 statement, the permittee shall be bound by all requirements of this ordinance and the terms of
458 any permit issued to the applicant. If the applicant is an easement holder or an agent of an
459 easement holder the landowner must be given notice and a copy of the permit application and all
460 supporting documentation. Proof of such notice must be provided with the application. The local
461 approval authority shall provide the landowner with copies of all permits and notifications issued
462 regarding permit applications;

463 (b) Fees as required by sec. 14.15;

464 (c) Copy of preliminary review letter, as described in sec. 14.09, if applicable;

465 (d) If required by sec. 14.06, an erosion control plan meeting all requirements of sec. 14.11;

466 1. Simplified plan materials, described in sec 14.11(2), may be provided for sites with land
467 disturbance less than 20,000 square feet, slopes steeper than 6% disturbed for less than 15
468 days, and slopes flatter than 6% disturbed for less than 6 months.

469 (e) If required by sec. 14.07, a stormwater management plan meeting all of the standards of
470 sec. 14.12 and a draft maintenance agreement as described in sec. 14.12(1)(i);

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

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

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

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

481 (3) *Approval process.*

482 (a) The local approval authority shall verify that the permit application is complete under sec.
483 14.10(2). The local approval authority shall then forward plan(s) to the plan review agency for
484 review and approval. Plan review staff shall review the plan(s) for compliance with the standards
485 identified in secs. 14.11-14.12. Additional information may be requested at any time to help
486 determine ordinance compliance.

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

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

493 (d) Where stormwater practices will be implemented, an affidavit which describes the
494 property by legal description, notifying future prospective purchasers of the existence of a
495 stormwater permit issued under this ordinance and applicable plan, timetables and potential
496 liability imposed by sec. 14.18(3) for failure to bring the property into compliance with this
497 ordinance after notification, shall be recorded with the Dane County Register of Deeds prior to

498 issuance of an erosion and stormwater control permit. The foregoing information shall also be
499 noted on every plat and certified survey map.

500 **(e)** Upon approval of the plan review agency, the erosion control or stormwater management
501 permit shall be issued by the local approval authority after the applicant has met all other
502 requirements of this ordinance.

503 **(4) Permit conditions.**

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

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

510 **(c)** Application for a permit shall constitute express permission by the permittee for the local
511 approval authority to enter the property for purposes of inspection under sec. 14.10(5) or curative
512 action under sec. 14.18(3). If the permittee is an easement holder such entry must be consistent
513 with the terms of the easement. The application form shall contain a prominent provision
514 advising the applicant and landowner of this requirement.

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

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

520 **(5) Inspections.**

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

525 **(b)** As part of the plan approval process, the local approval authority shall determine the
526 minimum inspection frequency required to assure compliance. The minimum frequency shall not
527 be greater than every 30 days. The site shall be inspected by the local approval authority during
528 the construction phase at the frequency specified.

529 **(c)** The permittee shall notify the local approval authority within 10 days after installation of all
530 practices in an approved erosion control plan and achievement of soil stabilization. The permittee
531 shall inspect the site weekly, and prior to every forecasted rain fall of ½ inch or greater.

532 **(d)** The local approval authority shall inspect the property to verify compliance with the erosion
533 control plan within 10 days of notification of soil stabilization.

534 **(e)** Within 10 days after installation of all practices in an approved stormwater management
535 plan, the permittee shall notify the local approval authority and submit as-built certification to
536 ensure that constructed stormwater management practices and conveyance systems comply with
537 the specifications included in the approved plan. The as-built certification shall include a set of
538 drawings, stamped by a professional engineer, comparing the approved stormwater management
539 plan with what was constructed. Other information shall be submitted as required by the local
540 approval authority.

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

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

545 **(6) Permit transfers.**

546 **(a)** When a permittee acts to transfer an interest in property subject to an approved plan prior to
547 completion of the proposed steps to attain soil stabilization, the permittee must secure approval
548 from the local approval authority.

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

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

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

- 559 1. The transferee shall file a new, approved erosion control or stormwater management plan,
560 or both, with the authority;
- 561 2. The transferee shall obtain an approved assignment from the authority as sub-permittee to
562 complete that portion of the approved plan regulating soil erosion and runoff on the transferee's
563 property.
- 564 3. The permittee shall provide the authority with a duly completed and executed continuing
565 surety bond or certified check in an amount sufficient to complete the work proposed in the
566 approved plan; at the time of transfer the permittee may seek to reduce the surety bond or
567 certified check to the appropriate amount to complete remaining work. If the transferor enters into
568 escrow agreements with transferees to complete an approved plan, these funds shall be
569 available to the authority to attain plan compliance. When an approved erosion control plan and,
570 if required, a stormwater management plan is or are not completed as proposed, the authority
571 may use the surety bond to complete remaining work to achieve plan compliance.

572 (7) *Plan or permit amendments.* Any proposed modifications to approved plans, construction
573 schedules or alterations to accepted sequencing of land disturbing activity shall be approved by
574 the director prior to implementation.

575 (8) *Timeframe and Expiration:*

- 576 (a) Erosion control plan timetables and construction schedules must begin within one year from
577 date of application.
- 578 (b) All permit applications shall expire:
 - 579 1. one year after the applicant is notified of, but does not adequately address, a deficiency, or
 - 580 2. three years from date of application, whichever is sooner.
- 581 (c) Erosion control permits shall expire:
 - 582 1. upon stabilization date in the approved plan, or
 - 583 2. three years after permit issuance, whichever is sooner.

584

585 **14.11 EROSION CONTROL PLAN REQUIREMENTS.**

586 (1) *Plan materials.* Erosion control plans shall include, at a minimum, the following information:

- 587 (a) property lines, lot dimensions, and limits of disturbed area, including disturbed areas within
588 five (5) feet of the property line;
- 589 (b) limits of impervious area, including buildings. Include all public and private roads, interior
590 roads, driveways, parking lots, and indicate type of paving and surfacing material;
- 591 (c) All natural and artificial water features including, but not limited to, lakes, ponds, streams
592 (including intermittent streams), and ditches. The plan must show ordinary high-water marks of
593 all navigable waters, 100-year flood elevations and delineated wetland boundaries. A certified
594 flood zone determination and/or wetland delineation may be required at the applicant's expense;
- 595 (d) areas of natural woodland or prairie;
- 596 (e) cross sections of and profiles of channels, swales, and road ditches;
- 597 (f) culvert sizes;
- 598 (g) direction of flow of runoff;
- 599 (h) watershed size for each drainage area;
- 600 (i) design discharge for ditches and structural measures;
- 601 (j) runoff velocities;
- 602 (k) fertilizer and seeding rates and recommendations;
- 603 (l) time schedules for stabilization of ditches and slopes;
- 604 (m) description of methods by which sites are to be developed and a detailed land disturbance
605 schedule including time schedules for stabilization of ditches and slopes;
- 606 (n) provision for sequential steps mitigating erosive effect of land disturbing activity to be
607 followed in appropriate order and in a manner consistent with accepted erosion control

608 methodology suitable to proposed sites and amenable to prompt re-vegetation, including runoff
609 calculations as appropriate;

610 **(o)** provisions to prevent mud-tracking off-site onto public thoroughfares during the construction
611 period;

612 **(p)** provisions to disconnect impervious surfaces, where feasible;

613 **(q)** provisions to prevent sediment delivery to, and accumulation in, any proposed or existing
614 stormwater conveyance systems;

615 **(r)** copies of permits or permit applications required by any other unit of government or agency;

616 **(s)** existing and proposed elevations (referenced to the North American Vertical Datum of 1988,
617 where available) and existing and proposed contours in the area, where deemed necessary;

618 **(t)** any other information necessary to reasonably determine the location, nature and condition
619 of any physical or environmental features of the site.

620 **(2) *Simplified plan materials.*** Sites meeting the conditions described in sec. 14.10(2)(d)1. may
621 instead provide, at a minimum, the following information:

622 **(a)** Narrative describing the project;

623 **(b)** Site plan of known scale that includes property lines, disturbed area limits, impervious area
624 limits (existing and proposed), natural and artificial water features, 100-yr flood plain, delineated
625 wetland boundaries, and location of all proposed erosion control practices;

626 **(c)** Contours (existing and proposed);

627 **(d)** Watershed size for each drainage area, including areas draining to the site;

628 **(e)** Provisions to prevent tracking sediment onto public roads;

629 **(f)** Provisions to prevent sediment delivery to, and accumulation in, any proposed or existing
630 stormwater conveyance systems;

631 **(g)** Proposed erosion control practices;

632 **(h)** Construction schedule that includes dates of erosion control practice installation, start of land
633 disturbance and site stabilization;

634 **(i)** Culvert sizes (existing and proposed);

635 **(j)** Any other information necessary to reasonable determine the location, nature and conditions
636 of any physical or environmental features of the site.

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

640 **(a)** Prevent gully and bank erosion;

641 **(b)** Limit total off-site permissible annual aggregate soil loss for exposed areas resulting from
642 sheet and rill erosion to an annual, cumulative soil loss rate not to exceed 5.0 tons sediment yield
643 per acre annually, as determined using the U.S. Natural Resources Conservation Service
644 Technical Guide or another commonly accepted soil erosion methodology approved by The Dane
645 County Land and Water Resources Department, that considers season of year, site
646 characteristics, soil erodibility and slope. Erosion control measures for plan approval need not
647 attempt to regulate soil transportation within the boundaries of the applicant's site.

648 **(c)** Provide stable outlet capable of carrying designed discharge flow as required in s.
649 14.12(2)(c), at a non-erosive velocity. Outlet design must consider flow capacity and flow
650 duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater
651 conveyance or waterbody.

652 **(d)** Prevent or reduce all of the following:

653 1. The deposition of soil from being tracked onto streets by vehicles.

654 2. The discharge of sediment from disturbed areas into on-site storm water inlets.

655 3. The discharge of sediment from disturbed areas into adjacent waters of the state.

656 4. The discharge of sediment from drainage ways that flow off the site.

657 5. The discharge of sediment by dewatering activities.

658 6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.

659 7. The transport by runoff of chemicals, cement and other building compounds and materials on
660 the construction site during the construction period.

661 **(4) *Implementation.*** The BMPs used to comply with this section shall be implemented as follows:

662 **(a)** Erosion and sediment control practices shall be constructed or installed before land disturbing
663 activity begins.

664 (b) Erosion and sediment control practices shall be maintained until final stabilization.
665 (c) Final stabilization activity shall commence when land disturbing activity ceases and final grade
666 has been reached on any portion of the site.
667 (d) Temporary stabilization activity shall commence when land disturbing activity has temporarily
668 ceased and will not resume for a period exceeding 14 calendar days.
669 (e) BMPs that are no longer necessary for erosion and sediment control shall be removed.
670 (5) *Grading within five (5) feet of property line.* Except as authorized in this section, the
671 topography within five (5) feet of any property line at the commencement of any development
672 shall remain unchanged.
673 (a) When land disturbing activity associated with development occur within five (5) feet of any
674 property line, finished grades in that area shall be restored to the topography in existence before
675 the land disturbing activity began. A positive slope of one-half (1/2) inch vertical per one (1) foot
676 horizontal within five (5) feet of the property line is allowed to provide proper drainage away from
677 a one or two family residence.
678 (b) The established grade of the adjoining property shall determine the finished grade at the
679 property line for any development. The owner of the property under development bears the
680 burden of proof as to the established grade at the property line and the topography within five (5)
681 feet of the property line.
682 (c) Existing drainage ways and drainage easements along property lines shall be maintained
683 including, but not limited to, natural watercourses and stormwater management areas shown on
684 plats and certified survey maps.
685 (d) Development in Floodplain Districts requiring fill to comply with chapter 17 is exempt from
686 this subsection.
687 (e) The director may authorize grading resulting in changes to the existing topography at and
688 within five (5) feet of any property line, if the following are provided:
689 1. The intent of the grading and an explanation of its necessity, and
690 2. Documentation showing that stormwater runoff will not negatively affect adjacent properties.
691

692 **14.12 STORMWATER MANAGEMENT PLAN REQUIREMENTS.**
693 (1) *Plan materials.* Stormwater management plans shall satisfy all of the requirements in
694 14.12(2), and shall address at a minimum the following information:
695 (a) A narrative describing the proposed project, including implementation schedule for planned
696 practices;
697 (b) Identification of the entity responsible for long-term maintenance of the project;
698 (c) A map showing drainage areas for each watershed area;
699 (d) A summary of runoff peak flow rate calculations, by watershed area, including:
700 1. Pre-existing peak flow rates;
701 2. Post-development peak flow rates with no detention;
702 3. Post-development peak flow rates with detention;
703 4. Assumed runoff curve numbers (RCNs); and
704 5. Time of concentration (Tc) used in calculations.
705 (e) A complete site plan and specifications, signed by the person who designed the plan. All
706 plans shall be drawn to an easily legible scale, shall be clearly labeled, and shall include, at a
707 minimum, all of the following information:
708 1. Property lines and lot dimensions;
709 2. All buildings and outdoor uses, existing and proposed, including all dimensions and
710 setbacks;
711 3. All public and private roads, interior roads, driveways and parking lots. Show traffic patterns
712 and type of paving and surfacing material;
713 4. All natural and artificial water features including, but not limited to lakes, ponds, streams
714 (including intermittent streams), and ditches. Show ordinary high water marks of all navigable
715 waters, 100-year flood elevations and delineated wetland boundaries, if any. If not available,
716 appropriate flood zone determination or wetland delineation, or both, may be required at the
717 applicant's expense;
718 5. Depth to bedrock;

- 719 6. Depth to seasonal high water table;
- 720 7. The extent and location of all soil types as described in the Dane County Soil Survey, slopes
- 721 exceeding 12%, and areas of natural woodland or prairie;
- 722 8. Existing and proposed elevations (referenced to the North American Vertical Datum of 1988,
- 723 where available) and existing and proposed contours in the area requiring a grading and filling
- 724 permit;
- 725 9. Elevations, sections, profiles, and details as needed to describe all natural and artificial
- 726 features of the project;
- 727 10. Soil erosion control and overland runoff control measures, including runoff calculations as
- 728 appropriate;
- 729 11. Detailed construction schedule;
- 730 12. Copies of permits or permit applications required by any other governmental entities or
- 731 agencies;
- 732 13. Any other information necessary to reasonably determine the location, nature and condition
- 733 of any physical or environmental features;
- 734 14. Location of all stormwater management practices;
- 735 15. All existing and proposed drainage features;
- 736 16. The location and area of all proposed impervious surfaces; and
- 737 17. The limits and area of the disturbed area.
- 738 (f) Engineered designs for all structural management practices;
- 739 (g) A description of methods to control oil and grease or written justification for not providing
- 740 such control;
- 741 (h) If required under sec. 14.12(2)(f), a description and plans to control temperature of runoff;
- 742 (i) A maintenance plan and schedule for all permanent stormwater management practices as
- 743 recorded on the affidavit required in sec. 14.10(3)(d).
- 744 (j) A summary of infiltration calculations including:
- 745 1. Pre-development infiltration volume.
- 746 2. Calculated infiltration volume goal.
- 747 3. Achieved post-development infiltration volume.
- 748 (k) Flood elevation for the 200-yr design storm and proposed minimum opening elevation.
- 749 (2) *Stormwater management performance standards.* Proposed design, suggested location
- 750 and phased implementation of effective, practicable stormwater management measures for plans
- 751 shall be designed, engineered and implemented to achieve the following results:
- 752 (a) *Sediment control.*
- 753 1. For new development, design practices to retain soil particles greater than 5 microns on the
- 754 site (80% reduction) resulting from a one-year design storm, according to approved procedures,
- 755 and assuming no sediment resuspension;
- 756 2. For redevelopment resulting in exposed surface parking and drive areas, design practices to
- 757 retain soil particles greater than 20 microns on those areas (40% reduction) resulting from a one-
- 758 year design storm, according to approved procedures, and assuming no sediment resuspension.
- 759 Under no circumstances shall the site's existing sediment control level or trapping efficiency be
- 760 reduced as a result of redevelopment.
- 761 a. For redevelopment with proposed impervious surface area greater than 80% of existing, the
- 762 first 0.5 inches of runoff from impervious surfaces must be captured using green infrastructure.
- 763 (b) *Oil and grease control.* For all commercial or industrial development, and all other uses
- 764 where the potential for pollution by oil or grease, or both, exists, the first 0.5 inches of runoff must
- 765 be treated using the best oil and grease removal technology available. This requirement may be
- 766 waived by the plan reviewer only when the applicant can demonstrate that installation of such
- 767 practices is unnecessary.
- 768 (c) *Runoff rate control*
- 769 1. For new development, design practices to maintain pre-development peak runoff rates for
- 770 the 1, 2, 10, 100, and 200-year, 24-hour design storms.
- 771 2. The maximum runoff curve number (RCN) used in such calculations shall be those shown in
- 772 Table 1. The TR-55-specified curve numbers for other land uses shall be used. Heavily disturbed
- 773 sites will be lowered one permeability class for hydrologic calculations. Lightly disturbed areas, or

774 areas where practices have been implemented to restore soil structure to pre-developed
 775 conditions, require no modification.
 776 **(d) Outlets.** Provide stable outlet capable of carrying designed discharge flow as required in
 777 sec. 14.51(2)(c), at a non-erosive velocity. Outlet design must consider flow capacity and flow
 778 duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater
 779 conveyance or waterbody.
 780

<u>Table 1. Maximum Pre-development</u>				
<u>Runoff Curve Numbers</u>				
<u>Runoff Curve Number</u>	<u>Hydrologic Soil Group*</u>			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	51	68	78	83

781
 782 *When dual HSG are specified, the drained condition shall be assumed.
 783

784 **(e) Infiltration.**
 785 **1.** For new development, design practices to infiltrate sufficient runoff volume so that post-
 786 development infiltration volume shall be at least 90% of the pre-development infiltration volume,
 787 based upon average annual rainfall.
 788 **2.** The maximum pre-development runoff curve number (RCN) used in such calculations shall
 789 be those shown in Table 1.
 790 **3.** If, when designing appropriate infiltration systems, more than two percent (2%) of the site is
 791 required to be used as effective infiltration area, the applicant may alternately design infiltration
 792 systems and pervious surfaces to meet or exceed the annual pre-development recharge rate.
 793 The annual pre-development recharge rate shall be determined from the Wisconsin Geological
 794 and Natural History Survey's 2009 report, *Groundwater Recharge in Dane County, Estimated by*
 795 *a GIS-Based Water-Balanced Model* or subsequent updates to this report, or by a site specific
 796 analysis using other appropriate techniques. If this alternative design approach is taken, at least
 797 two percent (2%) of the site must be used for infiltration.
 798 **4. Pre-treatment.** Before infiltrating runoff, pre-treatment shall be required for parking lot runoff
 799 and for runoff from new road construction in commercial, industrial and institutional areas that will
 800 enter an infiltration system. The pre-treatment shall conform to the design standards in s. 14.14
 801 and be designed to protect the infiltration system from clogging prior to scheduled maintenance
 802 and to protect ground-water quality.
 803 **5. Separation distances.** Infiltration practices shall be located so that the characteristics of the
 804 soil and the separation distance between the bottom of the infiltration system and the elevation of
 805 seasonal high groundwater or the top of competent bedrock are shown in Table 2.
 806 **6. Prohibitions.** Infiltration practices may not be installed in any of the following areas:
 807 **a.** Areas associated with tier 1 industrial facilities identified in sec. NR 216.21(2)(a), Wis.
 808 Admin. Code, including storage, loading, rooftop and parking.
 809 **b.** Storage and loading areas of tier 2 industrial facilities identified in sec. NR 216.21(2)(b),
 810 Wis. Admin. Code.
 811 **c.** Fueling and vehicle maintenance areas.

- 812 d. Areas within 1,000 feet up gradient or within 100 feet down gradient of direct conduits to
 813 groundwater.
 814
 815

<u>Table 2. Separation Distances and</u> <u>Soil Characteristics</u>		
<u>Source Area</u>	<u>Separation</u> <u>Distance</u>	<u>Soil</u> <u>Characteristics</u>
Industrial, Commercial, Institutional Parking Lots and Roads	5 Feet or More	Filtering Layer
Residential Arterial Roads	5 Feet or More	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 Foot or More	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 Feet or More	Filtering Layer

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

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

822 g. Areas where contaminants of concern, as defined in sec. NR 720.03(2), Wis. Admin. Code,
823 are present in the soil through which infiltration will occur.

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

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

834 (f) *Thermal control.*

835 1. The stormwater management plan shall include provisions and practices to reduce the
836 temperature of runoff for sites located within the watershed of a river or stream identified by the
837 Wisconsin Department of Natural Resources as:

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

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

843 2. The storm-water management plan does not have to meet the requirement in sec. 14.12(2)(f) if
844 the applicant can justify by use of a model approved by the director, that practices are not
845 necessary because the temperature increase of runoff from the site post-development will be
846 zero.

847 3. A current list and maps of affected watersheds shall be available for reference at the office of
848 the local approval authority and the plan review agency.

849 (g) *Closed Watersheds.* Pre-development modeling must include closed watershed areas.
850 Sites within closed watersheds must be designed to achieve 90% stay-on, without exemption.
851 Sites with areas subject to inundation (ground elevations below the watershed outlet elevation)
852 must include:

853 1. a stable outlay capable of handling overflow events.
854 2. an emergency drawdown or pumping plan.
855 3. storage capacity for back-to-back 100-yr storm events..

856 (3) *Stormwater management goals.* The following standards shall be met whenever possible,
857 and proposed design, suggested location and implementation of practices to meet these goals
858 shall be included in plans:

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

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

865

866 **14.13 OFF-SITE STORMWATER MANAGEMENT.**

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

870 (a) The facility is in place;

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

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

875 (2) A municipality adopting and administering an ordinance pursuant to sec. 14.05(3) that
876 establishes off-site stormwater management shall adopt the standards for off-site stormwater
877 management set forth in this ordinance.

878
879 **14.14 TECHNICAL STANDARDS AND SPECIFICATIONS.** The design of all best management
880 practices designed to meet the requirements of this chapter shall comply with the following
881 technical standards:

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

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

886 (3) Any other technical methodology approved by the Dane County Land and Water Resources
887 Department.

888

889 **14.15 PERMIT FEES.**

890 (1) The local approval authority may establish a fee schedule for erosion control and stormwater
891 management permits.

892 (2) For areas under Dane County jurisdiction according to sec. 14.05(2) and sec. 14.05 (3)(c)
893 and (d), the erosion control and stormwater management permit fee shall be a \$100 base fee for
894 projects eligible to submit simplified plan materials under sec. 14.10(2)(d). The base fee for other
895 projects subject to the erosion control requirements of sec. 14.06 shall be \$200, and the base fee
896 for projects subject to the stormwater management requirements of sec. 14.07 shall be \$400.

897 (a) *Permit Revisions.* The fee for significant permit revisions shall be the base fee.

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

900 (c) *Expired permit fee.* When an applicant fails to stabilize the site according to the approved
901 permit conditions, an after-the-fact permit is required, and applicable fees shall be doubled.

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

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

905 (4) For sites required to obtain an erosion control permit under sec. 14.06, there shall be an
906 additional fee of \$.006 per square foot of disturbed area.

907 (5) For sites required to obtain a stormwater control permit under sec. 14.07, there shall be an
908 additional fee of \$.015 per square foot of new or redeveloped impervious area.

909 (6) Municipal street and road maintenance projects are exempt from fees required in this
910 section.

911

912 **14.16 APPEALS.**

913 (1) *County jurisdiction.*

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

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

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

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

929 (2) *Municipal jurisdiction.* A municipality adopting and administering an ordinance pursuant to
930 sec. 14.05(3), shall be governed by the appeals process described in sec. 62.23(7)(e), Wis. Stats.

931
932 **14.17 VARIANCES.**

933 (1) An applicant may include in the application a request for a variance from the requirements of
934 sec. 14.11 or 14.12. No variance shall be granted unless applicant demonstrates and the director
935 finds that all of the following conditions are present:

936 (a) Enforcement of the standards set forth in this ordinance will result in unnecessary hardship
937 to the permittee;

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

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

941 (2) If all of the conditions set forth in sec. 14.17(1) are met, a variance may only be granted to
942 the minimum extent necessary to afford relief from unnecessary hardship, with primary
943 consideration to water quality and impact to downstream conditions.

944 (3) A person aggrieved by a variance determination by the director may appeal that decision to
945 the committee pursuant to sec. 14.16.

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

948
949 **14.18 VIOLATIONS AND ENFORCEMENT.**

950 (1) *Stop work order.*

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

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

961 1. date of issuance;

962 2. town and section number or equivalent information within a municipality;

963 3. reason for posting; and

964 4. signature of inspector posting the order.

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

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

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

974 (b) If notice is not provided under sec. 14.18(2)(a), the permittee shall have 72 hours to correct
975 any noncompliance with the plan when notification is by posting notice in a conspicuous place on
976 the site or sending notice by facsimile transmission to the owner or contractor.

977 (3) If the noncompliance is not corrected within the time periods specified in sub. (2)(a) or (b),
978 the permittee authorizes the local approval authority to take any action, to perform any work, or
979 commence any operations necessary to correct noncompliance on the subject property where
980 notice of noncompliance has been issued to bring the property into conformance with plan
981 requirements. The permittee and landowner further consent to reimburse the authority for the

982 total costs and expenses of the corrective actions. Reimbursement may be collected as a special
983 charge upon the property for current services rendered as provided by law.

984 **(4)** If the permittee has filed an appeal under sec. 14.16(1)(a) prior to the expiration of the time
985 for compliance under sec. 14.18(2)(a) or (b), the local approval authority may take action, perform
986 work or correct conditions only to the extent necessary to protect against an imminent hazard or
987 condition that will cause or threatens to cause personal injury or damage to off-site property.
988

989 **14.19 PENALTIES.**

990 **(1)** Any person, firm, company or corporation who violates or refuses to comply with the
991 provisions of this ordinance shall be subject to a forfeiture of not less than \$200 nor more than
992 \$1,000 and the costs of prosecution. Each day that a violation exists shall constitute a separate
993 offense.

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

999 **(3)** The corporation counsel is authorized to seek enforcement of any part of this ordinance by
1000 court action seeking injunctive relief. It shall not be necessary for the county to seek other
1001 remedies before seeking injunctive relief.
1002

1003 **14.20 INTERPRETATION.** In their interpretation and application, the provisions of this ordinance
1004 shall be held to be minimum requirements and shall be liberally construed in favor of Dane
1005 County, and shall not be deemed a limitation or repeal of any other power granted by the
1006 Wisconsin Statutes.
1007

1008 **14.21 SEVERABILITY CLAUSE.** If any section, provision or portion of this ordinance is ruled
1009 invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective.
1010

1011
1012 *[EXPLANATION: This amendment revises and recodifies the Erosion Control and Stormwater*
1013 *Management Ordinance after recodification of the Manure Storage Ordinance to Chapter 49.]*
1014