

1 **Sub. 1 to ORD. AMEND. NO. 2, 2005-2006**

2  
3 AMENDING CHAPTER 14 OF THE DANE COUNTY CODE OF ORDINANCES,  
4 REGARDING EROSION CONTROL AND STORMWATER MANAGEMENT

5  
6 The County Board of Supervisors of the County of Dane does ordain as follows:  
7

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

10  
11 ARTICLE 2. The title of Chapter 14 is amended from "MANURE STORAGE" to  
12 "MANURE MANAGEMENT, EROSION CONTROL AND STORMWATER  
13 MANAGEMENT."

14  
15 ARTICLE 3. Section 14.401 is amended to read as follows:

16 14.401 SUBCHAPTER II. Subchapter II of this chapter consists of sections  
17 14.40 through ~~14.59~~14.81, inclusive.

18  
19 ARTICLE 4. Section 14.41 is amended to read as follows:

20 14.41 DEFINITIONS. As used in subchapter II:

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

22 (a) *caused negative impacts on water quality or the use or maintenance of land*  
23 *or business; or*

24 (b) *endangered health, safety, or general welfare.*

25 ~~(1)(2) *Agricultural* means related to or used for the production of food and fiber~~  
26 ~~including, but not limited to, general farming, livestock and poultry enterprises,~~  
27 ~~grazing, nurseries, horticulture, viticulture, truck farming, forestry, sod production,~~  
28 ~~cranberry productions and wild crop harvesting and includes lands used for on-~~  
29 ~~site buildings and other structures necessary to carry out such activities.~~

30 ~~(2) *Affected* means that a regulated activity has significantly:~~

31 ~~(a) *Caused negative impacts on water quality or the use or maintenance of*~~  
32 ~~*one's property or business; or*~~

33 ~~(b) *Endangered one's health, safety, or general welfare.*~~

34 (2g) *Average annual rainfall* means *measured precipitation in Madison,*  
35 *Wisconsin between March 12 and December 2, 1981.*

36 (2m) *Bank erosion* means *the removal of soil or rock fragments along the banks*  
37 *or bed of a stream channel resulting from high flow after rain events.*

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

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

- 46 (4m) *Connected Imperviousness* means an impervious surface that is directly  
47 connected to a separate storm sewer or water of the state via an impervious flow  
48 path.
- 49 (5) *Construction site erosion control* means preventing or reducing soil  
50 erosion and sedimentation from land disturbing activity.
- 51 (5m) *Effective infiltration area* means the area of the infiltration system that is  
52 used to infiltrate runoff and does not include the area used for site access, berms  
53 or pretreatment.
- 54 (6) *Erosion* (soil erosion) means the detachment and movement of soil or rock  
55 fragments by water, wind, ice or gravity.
- 56 (7) *Excavation* means any act by which organic matter, earth, sand, gravel,  
57 rock or any other similar material is cut into, dug, quarried, uncovered, removed,  
58 displaced, relocated or bulldozed and shall include the resulting conditions.
- 59 (8) *Existing development* means buildings and other structures and  
60 impervious area existing prior to ordinance adoption August 22, 2001.
- 61 (9) *Fill* means any act by which earth, sand, gravel, rock or any other material  
62 is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved to  
63 a new location and shall include the resulting conditions.
- 64 (10) *Financial security instrument* means a surety bond, performance bond,  
65 maintenance bond, irrevocable letter of credit, or similar guarantees submitted to  
66 the local approval authority to assure that requirements of the ordinance are  
67 carried out in compliance with the stormwater management plan.
- 68 (11) *Gully erosion* means a severe loss of soil caused by or resulting in  
69 concentrated flow of sufficient velocity to create a defined flow channel.
- 70 (12) *Heavily disturbed site* means a site where an area of land is subjected to  
71 significant compaction due to the removal of vegetative cover or earthmoving  
72 activities, including filling.
- 73 (13) *Hydrologic soil group (HSG)* has the meaning used in the runoff  
74 calculation methodology promulgated by the United States Natural Resources  
75 Conservation Service Engineering Field Manual for Conservation Practices.
- 76 (14) *Impervious surface* means any land cover that prevents rain or melting  
77 snow from soaking into the ground, such as roofs (including overhangs), roads,  
78 sidewalks, patios, driveways and parking lots. For purposes of this chapter, all  
79 road, driveway or parking surfaces including gravel surfaces, shall be considered  
80 impervious, unless specifically designed to encourage infiltration and approved  
81 by the local approval authority.
- 82 (15) *Infiltration*, means the process by which rainfall or runoff seeps into the  
83 soil for the purposes of this ordinance, refers to any precipitation that does not  
84 leave the site as surface runoff.
- 85 (15m) *Infiltration system* means a device or practice such as a basin, trench, rain  
86 garden or swale designed specifically to encourage infiltration, but does not  
87 include natural infiltration in pervious surfaces such as lawns, redirecting of  
88 rooftop downspouts onto lawns or minimal infiltration from practices such as  
89 swales or road side channels designed for conveyance and pollutant removal  
90 only.

- 91 (15r) Karst feature means an area or surficial geologic feature subject to bedrock  
92 dissolution so that it is likely to provide a conduit to groundwater, and may  
93 include caves, enlarged fractures, mine features, exposed bedrock surfaces,  
94 sinkholes, springs, seeps or swallets.
- 95 (16) *Land conservation committee* or *LCC* means the Dane County Land  
96 Conservation Committee created under sec. 92.06 of the Wisconsin Statutes.
- 97 (17) *Land disturbing activities* means any land alterations or disturbances that  
98 may result in soil erosion, sedimentation, or change in runoff including, but not  
99 limited to, removal of ground cover, grading, excavating, and filling of land.
- 100 (18) *Lightly disturbed site* means a site where an area of land is subjected to  
101 minor compaction due to the limited removal of vegetative cover or earthmoving  
102 activities.
- 103 (19) *Local approval authority* means the Dane County Zoning Administrator in  
104 areas under the direct jurisdiction of Dane County as described in sec. 14.44(2)  
105 and (3). In incorporated areas that have adopted a local ordinance under sec.  
106 14.44(3) and are in compliance, the term means the municipal staff, agency or  
107 contracted entity charged by the local unit of government with responsibility for  
108 enforcing stormwater and erosion control ordinances.
- 109 (20) *Local land division ordinance* means any county, city, village or town  
110 ordinance adopted under Chapter 236, Wis. Stats., to regulate the division of  
111 land.
- 112 (21) *Local zoning ordinance* means any county, city, village or town ordinance  
113 adopted under sections 59.69, 59.692, 59.693, 60.61, 60.62, 61.351, 61.354,  
114 62.23, 62.231, or 62.234 of the Wisconsin Statutes to regulate the use of land.
- 115 (21m) Maximum extent practicable (MEP). A level of implementing best  
116 management practices in order to achieve a performance standard specified in  
117 this chapter which takes into account the best available technology, cost  
118 effectiveness and other competing issues such as human safety and welfare,  
119 endangered and threatened resources, historic properties and geographic  
120 features. MEP allows flexibility in the way to meet performance standards and  
121 may vary based on the performance standard and site conditions.
- 122 (22) *New development* means any of the following activities:  
123 (a) Structural development, including construction of a new building or other  
124 structures;  
125 (b) Expansion or alteration of an existing structure that results in an increase  
126 in the surface dimensions of the building or structure;  
127 (c) Land-disturbing activities; or  
128 (d) Creation or expansion of impervious surface.
- 129 (23) *Non-erosive velocity* means a rate of flow of stormwater runoff, usually  
130 measured in feet per second, that does not erode soils. Non-erosive velocities  
131 vary for individual sites, taking into account topography, soil type, and runoff  
132 rates.
- 133 (24) *Peak flow* means the maximum rate of flow of water at a given point in a  
134 channel, watercourse, or conduit resulting from the predetermined storm or flood.
- 135 (25) *Pervious surface* means any land cover that permits rain or melting snow  
136 to soak into the ground.

137 (26) *Plan* means an erosion control plan required by sec. 14.45 or a storm  
138 water management plan required by sec. 14.46.

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

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

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

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

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

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

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

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

180 (35) *Sheet and rill erosion* means a loss of soil caused by sheet flow or shallow  
181 concentrated flow, and characterized by an absence of channeling or a relatively

182 uniform loss across the exposed upper layer of the soil or shallow irregular  
183 scouring of the soil surface.

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

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

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

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

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

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

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

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

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

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

215 *[EXPLANATION: This amendment adds or revises necessary definitions for*  
216 *purposes of Subchapter II.]*

217

218 ARTICLE 5. Section 14.44 is amended to read as follows:

219 14.44 JURISDICTION AND ADMINISTRATION. (1) This ordinance ~~shall~~  
220 ~~become effective in~~ applies to all areas of Dane County ~~no later than 12 months~~  
221 ~~after it is published.~~

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

227 (3) *Incorporated areas.* (a) Cities and villages wholly or partially in Dane  
228 County may assume administration and regulation of soil erosion and stormwater  
229 control programs if they have adopted stormwater and erosion control ordinances  
230 that include standards at least as restrictive as those described in ss. 14.41,  
231 14.45 —~~14.54~~ 14.53 and 14.71 – 14.73. Any such ordinance shall supercede  
232 any less restrictive or conflicting provision of a minimum standard, ordinance or  
233 local regulation previously adopted by that municipality and shall include effective  
234 measures for consistent administration and enforcement. Cities and villages  
235 shall have the discretion to adopt by ordinance their own equivalent internal  
236 procedures for administration of county standards.

237 (b) Cities and villages that have enacted local ordinances pursuant to par. (a)  
238 or entered into s. ~~66.30–66.0301~~, Wis. Stats., intergovernmental cooperative  
239 agreements with the county consistent with this ordinance may assume  
240 responsibility for administration and regulation of soil erosion and stormwater  
241 control programs. When a city or village assumes responsibility for  
242 administration and regulation of soil erosion and stormwater control consistent  
243 with this ordinance, references in this chapter to the Dane County Zoning  
244 Administrator shall mean the local approval authority as designated by the  
245 municipal government.

246 (c) If a municipality does not enact an ordinance pursuant to par. (a) by the  
247 effective date of this ordinance, or if the Dane County Lakes & Watershed  
248 Commission, after notice and hearing, determines that a municipality has  
249 enacted an ordinance that fails to meet the standards of ss. 14.41, 14.45 – 14.51,  
250 14.53 and 14.~~54~~ 71-14.73, the Dane County Zoning Administrator shall enforce  
251 the provisions of this ordinance within the limits of the municipality. The Dane  
252 County Zoning Administrator shall continue to administer and enforce the  
253 provisions of this ordinance until the municipality adopts and enforces an  
254 ordinance at least as restrictive as the county ordinance.

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

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

268 *[EXPLANATION: This amendment corrects ordinance and statutory references.]*  
269

270 ARTICLE 6. Section 14.46 is amended to read as follows:  
271 14.46 APPLICABILITY OF REQUIREMENT FOR STORMWATER CONTROL  
272 PERMITS. [INTRO.] Unless otherwise exempted by sec. 14.47, a stormwater

273 control permit under sec. 14.49 shall be required and all stormwater  
274 management provisions of this chapter shall apply to any of the following  
275 activities within Dane County:

276 (1) Any development(s) after ~~the adoption date of this ordinance August 22,~~  
277 ~~2001~~ that result(s) in the cumulative addition of 20,000 square feet of impervious  
278 surface to the site;

279 (1m) Agricultural development that creates new impervious surface area  
280 exceeding 20,000 square feet on the site;

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

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

286 (4) Redevelopment, as defined in s. 14.41(31), ~~shall meet the following~~  
287 ~~stormwater management performance standards: 14.51(2)(a)2., (2)(b), (2)(d),~~  
288 ~~(2)(e), and (2)(f).~~

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

295 *[EXPLANATION: This amendment modifies the activities requiring a stormwater*  
296 *control permit.]*

297

298 ARTICLE 7. Section 14.47 is amended to read as follows:

299 14.47 EXEMPTIONS AND CLARIFICATIONS. (1) The following activities are  
300 exempt from all requirements of this ordinance:

301 (a) Any activity directly related to the planting, growing and harvesting of  
302 agricultural crops; ~~and~~

303 ~~(b) Construction of agricultural buildings, provided the resulting new total~~  
304 ~~impervious surface area does not exceed 20,000 square feet.~~

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

307 (a) One- and two-family dwelling units regulated under the Wisconsin Uniform  
308 Dwelling Code; Land disturbing activities in excess of one (1) acre, or not  
309 associated with the construction of a dwelling, are not exempt from this chapter.  
310 ~~Dane County shall regulate these sites during the period that residential building~~  
311 ~~permits are in effect under its authority under sec. 14.60, consistent with then-~~  
312 ~~existing Wisconsin Uniform Dwelling Code requirements.~~

313 ~~(b) Construction of public buildings and buildings that are places of~~  
314 ~~employment relating to activities specifically regulated by the Wisconsin~~  
315 ~~Department of Commerce during the period that Department of Commerce-~~  
316 ~~authorized building permits are in effect and specific erosion control procedures~~  
317 ~~on these construction sites are effective, pursuant to s. 101.1205, Wis. Stats.~~

318 ~~(c) — State building projects subject to s. 13.48(13) Wis. Stats., and state~~  
319 ~~highway projects subject to Wis. Admin. Code Chap. Trans 401.~~  
320 ~~(b) Projects specifically exempted from local erosion control ordinances under~~  
321 ~~state or federal statute. It is the responsibility of the landowner to demonstrate~~  
322 ~~such exemption with documentation acceptable to the local approval authority.~~  
323 ~~(c) Projects subject to an approved shoreland erosion control permit under~~  
324 ~~Chapter 11.~~  
325 ~~(d) Agricultural development not subject to s.14.46(1m).~~  
326 ~~(e) Municipal road or county highway projects not exempted under s. 14.47(2)(b)~~  
327 ~~are exempt from s. 14.51(2)(c) where all of the following conditions are met:~~  
328 ~~1. The purpose of the project is only to meet current state or federal design or~~  
329 ~~safety guidelines;~~  
330 ~~2. All activity takes place within existing public right-of-way.~~  
331 ~~3. All other requirements of s. 14.51 are met; and~~  
332 ~~4. The project does not include the addition of new driving lanes.~~  
333 ~~(3) — Notwithstanding the language of sub. (2)(b), activities unrelated to actual~~  
334 ~~building construction shall be subject to all the requirements of this ordinance.~~  
335 ~~These activities shall include, but are not limited to:~~  
336 ~~(a) — Land disturbing activity prior to excavation for foundation work;~~  
337 ~~(b) — Landscaping;~~  
338 ~~(c) — Installation of driveways, parking areas and sidewalks;~~  
339 ~~(d) — Earthwork on an area greater than 4,000 square feet on sites not directly~~  
340 ~~related to structural concerns; and~~  
341 ~~(e) — Development of ponds and channelized watercourses, commercial parks,~~  
342 ~~and landing strips or airport runways.~~  
343 ~~(4) — Notwithstanding the language of sub. (2)(c), the following activities are~~  
344 ~~subject to the requirements of this ordinance:~~  
345 ~~(a) — Buildings and activities of municipalities;~~  
346 ~~(b) — Buildings and activities of school districts;~~  
347 ~~(c) — Local highway projects; and~~  
348 ~~(d) — Municipal streets.~~  
349 ~~(3) The following activities are exempt from the infiltration standards described~~  
350 ~~in s. 14.51(2)(e):~~  
351 ~~(a) Redevelopment sites.~~  
352 ~~(b) New development sites with less than 10% connected imperviousness based~~  
353 ~~on complete development of the post construction site, provided the cumulative~~  
354 ~~area of all impervious surface is less than one acre.~~  
355 ~~(c) Agricultural facilities and practices.~~  
356 ~~(d) Areas where the infiltration rate of the soil is less than 0.6 inches/hour~~  
357 ~~measured at the bottom of the proposed infiltration system where the soil layer is~~  
358 ~~not easily removed or manipulated.~~  
359 ~~(e) Parking areas and access roads less than 5,000 square feet for commercial~~  
360 ~~and industrial development.~~  
361 ~~(f) Roads in commercial, industrial and institutional land uses, and arterial roads.~~  
362 ~~[EXPLANATION: This amendment revises the exemptions to the ordinance.]~~  
363

364 ARTICLE 8. Section 14.48 is amended as follows:  
365 14.48 PRELIMINARY REVIEW LETTER. (1) *Purpose and intent.* A preliminary  
366 review letter provides a potential permit applicant with an initial simple evaluation  
367 of whether erosion and stormwater control standards can be met for a proposed  
368 site, lot layout, construction design. This review is intended to assist applicants  
369 in preparing general site plans and other submittals necessary to obtain an  
370 erosion control and stormwater permit. A preliminary review letter does not  
371 guarantee that an erosion or stormwater control plan will be approved or that a  
372 permit will be issued. Erosion and stormwater control plans and permit  
373 applications must meet all applicable standards and criteria for approval.  
374 (2) *Application procedure.* (a) The local approval authority may adopt an  
375 application procedure and fees for provision of a preliminary review letter.  
376 (b) The local approval authority may charge a fee to compensate for the cost  
377 of the preliminary review letter process.  
378 (c) Any person may apply for a preliminary review letter by submitting an  
379 application that contains the information required by the local approval authority.  
380 (d) The local approval authority may require a preliminary review letter prior to  
381 accepting an application for a zoning permit, petition to rezone or conditional use  
382 permit under applicable ordinance(s), or the plat review officer may require a  
383 preliminary review letter prior to accepting an application for a certified survey  
384 map under applicable local land division ordinance(s) where any of the following  
385 apply:  
386 1. The proposal would involve one or more acres within either the current or  
387 proposed boundaries of a commercial zoning district;  
388 2. Proposed lot or rezone area configuration would necessitate driveways,  
389 access roads or other construction that would clearly require an erosion control  
390 plan or stormwater management plan under sec. 14.45 or 14.46;  
391 3. Natural features of the site including, but not limited to, slope, soils,  
392 wetlands, or hydrology are such that, in the opinion of the local approval  
393 authority, substantial risk of erosion, flooding or other environmental or public  
394 safety hazard exists; or, in the opinion of the plat review officer, consultation with  
395 plan review agency staff is necessary to determine land suitability requirements  
396 under local subdivision ordinances.  
397 (e) Unless expressly waived by the applicant, decisions by the local approval  
398 authority to require a preliminary review letter shall be made in writing and shall  
399 detail the reasons why the authority believes there to be a substantial risk of  
400 erosion, flooding or hazard.  
401 *[EXPLANATION: This amendment authorizes the zoning administrator to require*  
402 *a preliminary review letter for a rezone petition.]*  
403

404 ARTICLE 9. Section 14.49 is amended to read as follows:  
405 14.49 EROSION AND STORMWATER CONTROL PERMITS AND  
406 ADMINISTRATION. (1) No activity meeting the criteria described in ss. 14.45 or  
407 14.46 shall occur and no zoning permit may be issued, until an erosion control  
408 and stormwater control permit is issued by the local approval authority.  
409 (2) The applicant must provide the following when requesting a permit:

410 (a) Completed application form;  
411 1. The application must be signed by the landowner or include a notarized  
412 statement signed by the landowner authorizing the applicant to act as the  
413 landowner's agent and bind the landowner to the terms of this ordinance.  
414 2. If a landowner appoints an agent to submit an application pursuant to  
415 (2)(a)1., the landowner shall be bound by all of the requirements of this  
416 ordinance and the terms of any permit issued to the agent.  
417 (b) Fees as required by sec. 14.55;  
418 (c) Copy of preliminary review letter, as described in sec. 14.48, if applicable;  
419 (d) If required by sec. 14.45, an erosion control plan meeting all the standards  
420 of sec. 14.50, or a simplified checklist as described in sec. 14.50.  
421 (e) If required by sec. 14.46, a stormwater management plan meeting all of  
422 the standards of sec. 14.51 and a draft maintenance agreement as described in  
423 sec. 14.51(1)(i);  
424 (f) Copies of permits or permit applications or approvals required by any  
425 other governmental entity;  
426 (g) A proposed timetable and schedule for completion and installation of all  
427 elements of approved erosion control and stormwater management plans and a  
428 detailed schedule for completion of construction.  
429 (h) An estimate of the cost of completion and installation of all elements of the  
430 approved erosion control and stormwater management plans.  
431 (i) Evidence of financial responsibility to complete the work proposed in the  
432 plan. The local approval authority may require a financial security instrument  
433 sufficient to guarantee completion of the project.  
434 (3) *Approval process.* (a) The local approval authority shall verify that the  
435 permit application is complete under s. 14.49(2). The local approval authority  
436 shall then forward plan(s) to the plan review agency for review and approval.  
437 Plan review staff shall review the plan(s) for compliance with the standards  
438 identified in ss. 14.50-14.51.  
439 (b) Within the timeframe set by the local approval authority, plan review staff  
440 shall either approve the submitted plan or notify the local approval authority of  
441 any deficiencies. Staff engaged in this review and approval process shall be  
442 certified where appropriate by the Wisconsin Department of Commerce for this  
443 purpose.  
444 (c) The local approval authority shall notify the applicant in writing of any  
445 deficiency in the proposed plan and the applicant shall be given an opportunity to  
446 correct any deficiency.  
447 (d) Where installed stormwater practices will be privately-owned, an affidavit  
448 which describes the property by legal description, notifying future prospective  
449 purchasers of the existence of a stormwater permit issued under this ordinance  
450 and applicable plan, timetables and potential liability imposed by [sec. 14.73\(3\)](#)  
451 ~~sub. (8)(c)~~ for failure to bring the property into compliance with this ordinance  
452 after notification, shall be recorded with the Dane County Register of Deeds prior  
453 to issuance of an erosion and stormwater control permit. The foregoing  
454 information shall also be noted on every plat and certified survey map.

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

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

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

465 (c) Application for a permit shall constitute express permission by the  
466 permittee and landowner for the local approval authority to enter the property for  
467 purposes of inspection under sub. (5) or curative action under [sec. 14.73\(3\)sub.](#)  
468 ~~(8)(e)~~. The application form shall contain a prominent provision advising the  
469 applicant and landowner of this requirement.

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

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

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

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

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

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

491 (e) Within 10 days after installation of all practices in an approved stormwater  
492 management plan, the permittee shall notify the local approval authority and  
493 submit drawings documenting construction. The person who designed the  
494 stormwater management plan for the permittee shall submit as-built certification  
495 to ensure that constructed stormwater management practices and conveyance  
496 systems comply with the specifications included in the approved plans. At  
497 minimum, as-built certification shall include a set of drawings comparing the  
498 approved stormwater management plan with what was constructed. Other  
499 information shall be submitted as required by the local approval authority.

500 (f) The local approval authority shall inspect the property to verify compliance  
501 within 10 days of notification.

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

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

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

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

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

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

523 2. The transferee shall obtain an approved assignment from the authority as  
524 sub-permittee to complete that portion of the approved plan regulating soil  
525 erosion and runoff on the transferee's property.

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

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

542 ~~(8) — *Enforcement.* (a) *Stop Work Order.*~~

543 ~~1. — *Whenever the local approval authority finds any noncompliance with the*~~  
544 ~~*provisions of this ordinance, the local approval authority shall attempt to*~~  
545 ~~*communicate with the owner or person performing the work to obtain immediate*~~

546 ~~and voluntary compliance if such person is readily available. If the owner or~~  
547 ~~person performing the work is not readily available, that person refuses to~~  
548 ~~voluntarily comply immediately or the noncompliance presents an imminent~~  
549 ~~danger or will cause or threatens to cause bodily injury or damage to off-site~~  
550 ~~property including, but not limited to, off-site run-off, the local approval authority~~  
551 ~~shall post in a conspicuous place on the premises, a stop work order which shall~~  
552 ~~cause all activity not necessary to correct the noncompliance to cease until~~  
553 ~~noncompliance is corrected.~~

554 ~~2. The stop work order shall provide the following information: date of~~  
555 ~~issuance, town and section number, or equivalent identifying information within a~~  
556 ~~municipality, reason for posting and the signature of the inspector posting the~~  
557 ~~card.~~

558 ~~3. It shall be a violation of the ordinance for the unauthorized removal of the~~  
559 ~~stop work order from the premises.~~

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

563 ~~1. The permittee, landowner and contractor shall have 24 hours from the~~  
564 ~~time and date of notification by the local approval authority to correct any~~  
565 ~~noncompliance with the plan when notification is by either personal~~  
566 ~~communication of noncompliance to owner or contractor or their respective~~  
567 ~~agents or written notice sent by certified mail to owner or contractor.~~

568 ~~2. If notice is not provided under s. (8)(b)1., the permittee and landowner~~  
569 ~~shall have 72 hours to correct any noncompliance with the plan when notification~~  
570 ~~is by posting notice in a conspicuous place on the site or sending notice by~~  
571 ~~facsimile transmission to owner or contractor.~~

572 ~~(c) If any noncompliance is not corrected within the time periods specified in~~  
573 ~~s. (8)(b)1. or 2., the permittee and landowner authorize the local approval~~  
574 ~~authority to take any action, to perform any work, or commence any operations~~  
575 ~~necessary to correct conditions upon the subject property where notice of~~  
576 ~~noncompliance has been issued to bring the property into conformance with plan~~  
577 ~~requirements. The permittee and landowner further consent to reimburse the~~  
578 ~~authority for the total costs and expenses of the aforementioned actions, said~~  
579 ~~reimbursement may be collected as a special charge upon the property for~~  
580 ~~current services rendered as provided by law.~~

581 ~~(d) If the permittee has filed an appeal under s. 14.54(1)(a) prior to the~~  
582 ~~expiration of the time for compliance under s. 14.49(8)(b), the local approval~~  
583 ~~authority may take action, perform work or correct conditions only to the extent~~  
584 ~~necessary to protect against or correct an imminent hazard or a condition that will~~  
585 ~~cause or threatens to cause personal injury or damage to off-site property.~~

586 ~~(9) Penalties. (a) Any person or persons, firm, company or corporation,~~  
587 ~~owner, occupant or other user of the premises who violates, disobeys, omits,~~  
588 ~~neglects or refuses to comply with or resists the enforcement of any of the~~  
589 ~~provisions of this ordinance shall be subject to a forfeiture of not less than \$50~~  
590 ~~nor more than \$500 and costs. Each day that a violation exists shall constitute a~~  
591 ~~separate offense.~~

592 ~~(b) — Any person who has the ability to pay any forfeiture entered against him or~~  
593 ~~her under this ordinance but refuses to do so may be confined in the county jail~~  
594 ~~until such forfeiture is paid, but in no event to exceed thirty (30) days. In~~  
595 ~~determining whether an individual has the ability to pay a forfeiture, all items of~~  
596 ~~income and all assets may be considered regardless of whether or not such~~  
597 ~~income or assets are subject to garnishment, lien or attachment by creditors.~~

598 ~~(c) — As a substitute for or as an addition to forfeiture actions under sub.(9)(a)~~  
599 ~~or corrective action under sub.(8)(c), the corporation counsel is authorized to~~  
600 ~~seek enforcement of any part of this ordinance by court action seeking injunctive~~  
601 ~~relief. It shall not be necessary for the county to take corrective action or~~  
602 ~~prosecute for forfeiture before resorting to injunctive relief.~~

603 ~~(10) — Fees. The permit fee shall be payable at the time an application for either~~  
604 ~~an erosion control or a stormwater management permit, or both, is submitted.~~

605 *[EXPLANATION: This amendment adds a requirement that a copy of required*  
606 *permits and plans be kept onsite and deletes the provisions regarding*  
607 *enforcement, penalties and fees that are transferred to s.14.73.]*  
608

609 ARTICLE 10. Section 14.50 is amended to read as follows:

610 14.50 EROSION CONTROL PLAN REQUIREMENTS. (1) *Plan materials.*  
611 Erosion control plans required under section 14.45 may include consideration of  
612 adjoining landowners' cooperative efforts to control transport of sediment and  
613 except as specifically exempted below, shall include at a minimum, the following  
614 information:

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

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

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

625 ~~(e)(d)~~ cross sections of and profiles within road ditches of channels, swales, and  
626 road ditches;

627 ~~(d)(e)~~ culvert sizes;

628 ~~(e)(f)~~ direction of flow of runoff;

629 ~~(f)(g)~~ watershed size for each drainage area;

630 ~~(g)(h)~~ design discharge for ditches and structural measures;

631 ~~(h)(i)~~ runoff velocities;

632 ~~(i)(j)~~ fertilizer and seeding rates and recommendations;

633 ~~(j)(k)~~ time schedules for stabilization of ditches and slopes;

634 ~~(k)(l)~~ description of methods by which sites are to be developed and a detailed  
635 land disturbance schedule including time schedules for stabilization of ditches  
636 and slopes;

637 ~~(+)(m)~~ provision for sequential steps mitigating erosive effect of land disturbing  
638 activities to be followed in appropriate order and in a manner consistent with  
639 accepted erosion control methodology suitable to proposed sites and amenable  
640 to prompt re-vegetation, including runoff calculations as appropriate;  
641 ~~(+)(n)~~ provisions to prevent mud-tracking off-site onto public thoroughfares  
642 during the construction period; ~~and~~  
643 (o) provisions to disconnect impervious surfaces, where feasible;  
644 (p) provisions to prevent sediment delivery to, and accumulation in, any  
645 proposed or existing stormwater conveyance systems;  
646 (q) copies of permits or permit applications required by any other unit of  
647 government or agency;  
648 (r) existing and proposed elevations (referenced to the National Geodetic  
649 Vertical Datum of 1929) and existing and proposed contours in the area, where  
650 deemed necessary;  
651 ~~(+)(s)~~ any other information necessary to reasonably determine the location,  
652 nature and condition of any physical or environmental features of the site.  
653 (2) *Simplified plan checklist.* Applicants may submit erosion control proposals  
654 using simplified checklists of standard erosion control practices, on a standard  
655 form approved by the local approval authority, wherever all of the following  
656 conditions exist:  
657 (a) The site does not exceed 20,000 square feet in area; and  
658 (b) the slope of the land does not exceed six percent (6%) ~~throughout the site~~.  
659 (2m) Simplified plan checklists shall be reviewed by the local approval authority  
660 for completeness and accuracy.  
661 (3) *Erosion control performance standards.* (a) Proposed design, suggested  
662 location and phased implementation of effective, practicable erosion control  
663 measures for plans shall be designed, engineered and implemented to achieve  
664 the following results:  
665 1. Prevent gully and bank erosion; ~~and~~  
666 2. Limit total off-site permissible annual aggregate soil loss for exposed  
667 areas resulting from sheet and rill erosion to an annual, cumulative soil loss rate  
668 not to exceed 7.5 tons per acre annually; ~~and~~  
669 3. Discharges from new construction sites must have a stable outlet capable of  
670 carrying designed flow as required in s. 14.51(2)(cm), at a non-erosive velocity.  
671 Outlet design must consider flow capacity and flow duration. This requirement  
672 applies to both the site outlet and the ultimate outlet to stormwater conveyance or  
673 waterbody.  
674 (b) Plan compliance under par. (a) shall be determined using the U.S. Natural  
675 Resources Conservation Service Technical Guide or another commonly  
676 accepted soil erosion methodology approved by the Dane County  
677 Conservationist, that considers season of year, site characteristics, soil erodibility  
678 and slope.  
679 (c) Erosion control measures for plan approval need not attempt to regulate  
680 soil transportation within the boundaries of the applicant's site.  
681 *[EXPLANATION: This amendment modifies erosion control plan requirements.]*  
682

683 ARTICLE 11. Section 14.51 is amended to read as follows:  
684 14.51 STORMWATER MANAGEMENT PLAN REQUIREMENTS. (1) *Plan*  
685 *materials*. Stormwater management plans shall satisfy all of the requirements in  
686 14.51(2), and shall address at a minimum the following information:  
687 (a) A narrative describing the proposed project, including implementation  
688 schedule for planned practices;  
689 (b) Identification of the entity responsible for long-term maintenance of the  
690 project;  
691 (c) A map showing drainage areas for each watershed area;  
692 (d) A summary of runoff peak flow rate calculations, by watershed area,  
693 including:  
694 1. Pre-existing peak flow rates;  
695 2. Post-construction peak flow rates with no detention;  
696 3. Post-construction peak flow rates with detention;  
697 4. Assumed runoff curve numbers (RCNs); and  
698 5. Time of concentration (Tc) used in calculations.  
699 (e) A complete site plan and specifications, signed by the person who  
700 designed the plan. All plans shall be drawn to an easily legible scale, shall be  
701 clearly labeled, and shall include, at a minimum, all of the following information:  
702 1. Property lines and lot dimensions;  
703 2. All buildings and outdoor uses, existing and proposed, including all  
704 dimensions and setbacks;  
705 3. All public and private roads, interior roads, driveways and parking lots.  
706 Show traffic patterns and type of paving and surfacing material;  
707 4. All natural and artificial water features including, but not limited to lakes,  
708 ponds, streams (including intermittent streams), and ditches. Show ordinary high  
709 water marks of all navigable waters, 100-year flood elevations and delineated  
710 wetland boundaries, if any. If not available, appropriate flood zone determination  
711 or wetland delineation, or both, may be required at the applicant's expense;  
712 5. Depth to bedrock;  
713 6. Depth to seasonal high water table;  
714 7. The extent and location of all soil types as described in the Dane County  
715 Soil Survey, slopes exceeding 12%, and areas of natural woodland or prairie;  
716 8. Existing and proposed elevations (referenced to the North American  
717 Vertical Datum of 1988, where available) and existing and proposed contours in  
718 the area requiring a grading and filling permit;  
719 9. Elevations, sections, profiles, and details as needed to describe all natural  
720 and artificial features of the project;  
721 10. Soil erosion control and overland runoff control measures, including runoff  
722 calculations as appropriate;  
723 11. Detailed construction schedule;  
724 12. Copies of permits or permit applications required by any other  
725 governmental entities or agencies;  
726 13. Any other information necessary to reasonably determine the location,  
727 nature and condition of any physical or environmental features;  
728 14. Location of all stormwater management practices;

729 15. All existing and proposed drainage features;  
730 16. The location and area of all proposed impervious surfaces; and  
731 17. The limits and area of the disturbed area.  
732 (f) Engineered designs for all structural management practices;  
733 (g) A description of methods to control oil and grease or written justification  
734 for not providing such control;  
735 (h) If required under sub. (2)(f), a description and plans to control temperature  
736 of runoff;  
737 (i) A maintenance plan and schedule for all permanent stormwater  
738 management practices as recorded on the affidavit required in sec. 14.49(3)(d).  
739 (2) *Stormwater management performance standards.* Proposed design,  
740 suggested location and phased implementation of effective, practicable  
741 stormwater management measures for plans shall be designed, engineered and  
742 implemented to achieve the following results:  
743 (a) *Sediment Control.*  
744 1. For new construction development, design practices to retain soil particles  
745 greater than 5 microns on the site (80% reduction) resulting from a one-year 24-  
746 hour storm event (2.5 inches over 24-hour duration), according to approved  
747 procedures, and assuming no sediment resuspension;  
748 2. For redevelopment resulting in exposed surface parking lots and  
749 associated traffic areas, design practices to retain soil particles greater than 20  
750 microns on the entire site (40% reduction) resulting from a one-year 24-hour  
751 storm event, according to approved procedures, and assuming no sediment  
752 resuspension. Under no circumstances shall the site's existing sediment control  
753 level or trapping efficiency be reduced as a result of the redevelopment.  
754 (b) *Oil and grease control.* For all stormwater plans for commercial or  
755 industrial developments and all other uses where the potential for pollution by oil  
756 or grease, or both, exists, the first 0.5 inches of runoff will be treated using the  
757 best oil and grease removal technology available. This requirement may be  
758 waived by the plan reviewer only when the applicant can demonstrate that  
759 installation of such practices is not necessary.  
760 (c) *Runoff rate control - hydrologic calculations.* All runoff calculations shall  
761 be according to the methodology described in the Natural Resources  
762 Conservation Service's Technical Release 55, "Urban Hydrology for Small  
763 Watersheds" (commonly known as TR-55), or other methodology approved by  
764 the Dane County Conservationist. For agricultural land subject to this section,  
765 the maximum runoff curve number (RCN) used in such calculations shall be 51  
766 for HSG A, 68 for hydrologic soil group B, 79 for HSG C, and 84 for HSG D. The  
767 TR-55-specified curve numbers for other land uses shall be used. hHeavily  
768 disturbed sites will be lowered one permeability class for hydrologic calculations.  
769 Lightly disturbed areas require no modification. Where practices have been  
770 implemented to restore soil structure to pre-developed conditions, no  
771 permeability class modification is required.  
772 (cm) *Runoff rate control - design standards.* Except for redevelopment  
773 projects, Aall stormwater facilities shall be designed, installed and maintained to  
774 effectively accomplish the following:

- 775 1. Maintain predevelopment peak runoff rates for the 2-year, 24-hour storm  
776 event (2.9 inches over 24-hour duration).
- 777 2. Maintain predevelopment peak runoff rates for the 10-year, 24-hour storm  
778 event (4.2 inches over 24-hour duration).
- 779 3. Safely pass the 100-year, 24-hour storm event (6.0 inches over 24-hour  
780 duration).
- 781 (d) *Outlets.* Discharges from new construction sites must have a stable outlet  
782 capable of carrying designed flow as required in sub. (2)(cm), at a non-erosive  
783 velocity. Outlet design must consider flow capacity and flow duration. This  
784 requirement applies to both the site outlet and the ultimate outlet to stormwater  
785 conveyance or waterbody.
- 786 (e) *Infiltration.* ~~All downspouts, driveways and other impervious areas shall  
787 be directed to pervious surfaces, where feasible, unless the applicant can  
788 demonstrate that the practice is likely to result in groundwater contamination.~~
- 789 1. Residential development. For residential developments, design practices to  
790 infiltrate sufficient runoff volume so that post-development infiltration volume shall  
791 be at least 90% of the pre-development infiltration volume, based upon average  
792 annual rainfall. When designing appropriate infiltration systems, no more than  
793 one percent (1%) of the site is required to be used as effective infiltration area if  
794 the infiltration system has been designed to the maximum extent practicable.  
795 This one percent (1%) infiltration area cap sunsets one year from the date of  
796 adoption of this amendment.
- 797 2. Nonresidential development. For nonresidential development, including  
798 commercial, industrial and institutional development, design practices to infiltrate  
799 sufficient runoff volume so that post-development infiltration volume shall be at  
800 least 60% of the pre-development infiltration volume, based on average annual  
801 rainfall. When designing appropriate infiltration systems, no more than two  
802 percent (2%) of the site is required to be used as effective infiltration area if the  
803 infiltration system has been designed to the maximum extent practicable. This  
804 two percent (2%) infiltration area cap sunsets one year from the date of adoption  
805 of this amendment.
- 806 3. Pre-treatment. Before infiltrating runoff, pretreatment shall be required for  
807 parking lot runoff and for runoff from new road construction in commercial,  
808 industrial and institutional areas that will enter an infiltration system. The pre-  
809 treatment shall be designed to protect the infiltration system from clogging prior  
810 to scheduled maintenance and to protect groundwater quality.
- 811 4. Prohibitions. Notwithstanding subparagraphs 1. through 3., infiltration  
812 systems may not be installed in any of the following areas:
- 813 i. Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a),  
814 Wis. Admin. Code, including storage, loading, rooftop and parking.
- 815 ii. Storage and loading areas of tier 2 industrial facilities identified in s. NR  
816 216.21(2)(b), Wis. Admin. Code.
- 817 iii. Fueling and vehicle maintenance areas.
- 818 iv. Areas within 1,000 feet up gradient or within 100 feet down gradient of karst  
819 features.

820 v. Areas with less than [three](#) feet separation distance from bottom of the  
821 infiltration system to the elevation of seasonal high groundwater or the top of  
822 bedrock, except that this provision does not prohibit infiltration of roof runoff.  
823 vi. Areas with runoff from industrial, commercial and institutional parking lots and  
824 roads and residential arterial roads with less than [five](#) feet separation distance  
825 from the bottom of the infiltration system to the elevation of seasonal high  
826 groundwater or the top of bedrock.  
827 vii. Areas within 400 feet of a community water system well as specified in s. NR  
828 811.16(4), Wis. Admin. Code, for runoff infiltrated from commercial, industrial and  
829 institutional land uses or regional devices for residential development.  
830 viii. Areas where contaminants of concern, as defined in s. NR 720.03(2), Wis.  
831 Admin. Code, are present in the soil through which infiltration will occur.  
832 ix. Any area where the soil does not exhibit one of the following characteristics  
833 between the bottom of the infiltration system and the seasonal high groundwater  
834 and top of bedrock: at least a 5 foot soil layer with 10% fines or greater. This  
835 provision does not apply where the soil medium within the infiltration system  
836 provides an equivalent level of protection and does not prohibit infiltration of roof  
837 runoff.  
838 5. *Alternate use of runoff.* Where alternate uses of runoff are employed, such as  
839 for toilet flushing, laundry or irrigation, such alternate use shall be given equal  
840 credit toward the infiltration volume required by this section.  
841 6. *Minimizing groundwater pollution.* According to ch. NR 151, Wis. Admin.  
842 Code, infiltration systems designed in accordance with this section shall, to the  
843 extent technically and economically feasible, minimize the level of pollutants  
844 infiltrating to groundwater and shall maintain compliance with the preventive  
845 action limit at a point of standards application in accordance with ch. NR 140,  
846 Wis. Admin. Code. However, if site-specific information indicates that  
847 compliance with the preventive action limit is not achievable, the infiltration  
848 system may not be installed or shall be modified to prevent infiltration to the  
849 maximum extent practicable.  
850 (f) *Thermal control.* The stormwater management plan shall include  
851 provisions and practices to reduce the temperature of runoff for sites located  
852 within the watershed of a river or stream identified by the Wisconsin Department  
853 of Natural Resources as:  
854 1. A Cold Water Community as identified through NR 102.04(3)(a), NR 104,  
855 Wisconsin Administrative Code, and Class I, Class II, and Class III Trout Streams  
856 identified in “Wisconsin Trout Streams,” DNR publication [6-3600\(80\) PUB-FH-](#)  
857 [806-2002](#) or its successor.  
858 2. Rivers or streams proposed by the Wisconsin Department of Natural  
859 Resources as Cold Water Communities and Class I, II, and III Trout Streams.  
860 (g) *Thermal control; continued.* The stormwater management plan does not  
861 have to meet the requirement in sub. (2)(f) if the applicant can justify by use of a  
862 model approved by the Dane County Conservationist that practices are not  
863 necessary because the temperature increase of runoff from the site post-  
864 development will be zero.

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

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

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

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

879 *[EXPLANATION: This amendment revises the stormwater management plan*  
880 *requirements, particularly regarding infiltration.]*

881

882 ARTICLE 12. Section 14.53 is amended to read as follows:

883 14.53 TECHNICAL STANDARDS AND SPECIFICATIONS. The design of all  
884 best management practices designed to meet the requirements of this  
885 subchapter shall comply with the following technical standards:

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

888 (2) Applicable construction or erosion control standards by the Wisconsin  
889 Department of Natural Resources' "~~Wisconsin Construction Site Best~~  
890 Management Practice Handbook" or its successor;

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

893 *[EXPLANATION: This amendment changes the reference to applicable DNR*  
894 *standards.]*

895

896 ARTICLE 13. Section 14.54 is rescinded and incorporated into existing sections  
897 14.71 and 14.72.

898 *[EXPLANATION: The provisions for appeals is recodified as s. 14.71.]*

899

900 ARTICLE 14. Section 14.55 is amended to read as follows:

901 14.55 PERMIT FEES. (1) The local approval authority may establish a fee  
902 schedule for erosion control and stormwater management permits.

903 (2)(a) For areas under Dane County jurisdiction according to s. 14.44(2) and s.  
904 14.44(3)(c) and (d), the erosion control and stormwater management permit fee  
905 shall be a ~~\$50~~ \$200 base fee for projects eligible for a simplified checklist under s.  
906 14.50(2). The base fee for all other projects shall be \$200.

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

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

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

913 (4) For sites required to obtain an erosion control permit under s. 14.45, there  
914 shall be an additional fee of \$.004 per square foot of disturbed area.

915 (5) For sites required to obtain a stormwater control permit under s. 14.46,  
916 there shall be an additional fee of \$.005 per square foot of impervious area, and  
917 \$.0025 per square foot of redeveloped impervious area.

918 (6) Nonmetallic mining sites that have been issued a permit and have paid  
919 fees under ch. 74 of the Dane County Code of Ordinances are exempt from fees  
920 required in this section.

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

923 *[EXPLANATION: This amendment modifies fees and imposes a late fee for*  
924 *failure to obtain a permit before commencing work.]*

925

926 ARTICLE 15. Section 14.60 is rescinded.

927 ~~14.60 ONE- AND TWO-FAMILY DWELLING EROSION CONTROL. (1)~~  
928 ~~Authority. Section 14.60 is adopted under the authority of sec. 59.70 and sec.~~  
929 ~~101.65 of the Wisconsin Statutes.~~

930 ~~(2) Purpose. This ordinance serves as the county erosion control ordinance for~~  
931 ~~one- and two-family dwelling construction consistent with the Wisconsin Uniform~~  
932 ~~Dwelling Code ("UDC"). The county shall exercise jurisdiction for UDC~~  
933 ~~construction site erosion control by plan review, permitting and inspections to~~  
934 ~~promote public health, safety and general welfare.~~

935 ~~(3) Scope. This ordinance shall apply to all one- and two-family dwellings whose~~  
936 ~~initial construction is commenced hereafter and new additions to pre-existing~~  
937 ~~dwellings. The county shall administer and enforce this ordinance in any town,~~  
938 ~~village or city within the County of Dane which has not adopted the Wisconsin~~  
939 ~~UDC as well as any municipality in the county which enters into an~~  
940 ~~intergovernmental cooperative agreement with Dane County pursuant to sec.~~  
941 ~~66.30, Wisconsin Statutes, for this purpose.~~

942 ~~(4) Adoption. Wisconsin Administrative Code Chapters ILHR 20 through 25 are~~  
943 ~~hereby adopted by reference, incorporated herein and made a part of this~~  
944 ~~ordinance. Future amendments and revisions to the Wisconsin UDC or~~  
945 ~~successor provisions relating to one- and two-family dwelling construction site~~  
946 ~~erosion control are also made a part of this ordinance by reference to promote~~  
947 ~~statewide uniformity. Copies of the Wisconsin UDC shall be kept on file in the~~  
948 ~~offices of the zoning administrator and county conservationist.~~

949 ~~(5) Enforcement. The county shall only administer and enforce pertinent~~  
950 ~~administrative and technical sections of the Wisconsin UDC related to~~  
951 ~~construction site erosion control measures and procedures (i.e., Ch. ILHR 20,~~  
952 ~~administration and enforcement, and s. ILHR 21.125, technical requirements,~~  
953 ~~Wis. Admin. Code) through this ordinance.~~

954 ~~(6) Zoning administrator and county conservationist. The county's zoning~~  
955 ~~administrator and county conservationist, who shall be state certified inspectors~~  
956 ~~pursuant to department of industry, labor and human relations requirements for~~

957 ~~this purpose, or other zoning and land conservation committee staff with~~  
958 ~~appropriate state certified inspection status, shall administer this UDC~~  
959 ~~construction site erosion control ordinance. The zoning administrator shall~~  
960 ~~maintain all records related to UDC plan review, permit and inspection activity for~~  
961 ~~periodic DILHR review and performance audits.~~

962 ~~(7) Permit required. No person shall cause soil to be disturbed for construction~~  
963 ~~within the scope of this ordinance without first obtaining a permit for that work~~  
964 ~~from the zoning administrator.~~

965 ~~(8) Permit fee. The fee for review of a UDC construction site erosion control~~  
966 ~~plan shall be made payable to the county zoning administrator in the amount of~~  
967 ~~one hundred ten dollars (\$110.00) upon submittal of an application.~~

968 ~~(9) Violation and penalties. (a) Orders. The zoning administrator or his or her~~  
969 ~~designee shall be empowered to issue written citations for violations of this~~  
970 ~~ordinance. Violations shall be promptly corrected by the appropriate party. The~~  
971 ~~zoning administrator or his or her designee may also issue "stop work" orders at~~  
972 ~~construction sites when soil disturbance and erosion occurs. Construction~~  
973 ~~activities may resume when the site is in compliance with UDC rules and the~~  
974 ~~zoning administrator or his or her designee authorizes resumption of obstruction~~  
975 ~~activities. The zoning administrator or designee shall inspect a site subject to a~~  
976 ~~"stop work" order to determine compliance with UDC rules within two (2) working~~  
977 ~~days after receiving a request from a permittee or other appropriate party.~~

978 ~~(b) Penalties. Any person who violates, neglects or refuses to comply with, or~~  
979 ~~resists the enforcement of, any of the provisions of this ordinance shall be~~  
980 ~~subject to a civil forfeiture of not less than \$25.00 nor more than \$500.00, plus~~  
981 ~~costs of prosecution for each violation. An unlawful violation includes failure to~~  
982 ~~comply with any standard of this ordinance or with any condition or qualification~~  
983 ~~attached to the erosion control permit. Each day that a violation exists shall be a~~  
984 ~~separate offense.~~

985 *[EXPLANATION: State law has rescinded county authority to enforce the*  
986 *Uniform Dwelling Code.]*

987  
988 ARTICLE 16. Section 14.71 is amended to read as follows:

989 14.71 APPEALS. ~~Under authority of chapter 68, Wis. Stats., the Dane County~~  
990 ~~Board of Adjustment, created under section 59.694, Wis. Stats., and under~~  
991 ~~section 10.26 of the county zoning ordinance, and acting as an appeal authority~~  
992 ~~under section 59.694(7)(a), Wis. Stats., is authorized to hear and decide appeals~~  
993 ~~where it is alleged that there is an error in any order, requirement, decision or~~  
994 ~~determination by the zoning administrator in administering this ordinance.~~

995 (1) County jurisdiction. (a) Any person aggrieved by any decision of the zoning  
996 administrator pursuant to this ordinance may appeal to the Dane County Land  
997 Conservation Committee (hereinafter "committee"). Such appeal shall be taken  
998 within 30 days after the challenged decision. Notice of Appeal setting forth the  
999 specific grounds for the appeal shall be filed with the zoning administrator and  
1000 the committee. The zoning administrator shall forthwith transmit to the  
1001 committee the record upon which the action appealed from was taken.

1002 (b) The committee shall fix a reasonable time for the hearing of the appeal  
1003 and publish a class 2 notice thereof under ch. 985, Wis. Stats., as well as give  
1004 due notice to the parties in interest, and decide the same within a reasonable  
1005 time. Upon the hearing any party may appear in person or by agent or attorney.

1006 (c) The committee may, in conformity with the provisions of this ordinance,  
1007 reverse or affirm, wholly or partly, or modify the order, requirement, decision or  
1008 determination appealed from and may make such order, requirement, decision or  
1009 determination as ought to be made, and shall have all the powers of the officer  
1010 from whom the appeal is taken.

1011 (d) The concurring vote of a majority of the committee shall be necessary to  
1012 reverse the decision of the zoning administrator.

1013 (2) Municipal jurisdiction. A municipality adopting and administering an  
1014 ordinance pursuant to s. 14.44(3), shall be governed by the appeals process  
1015 described in s. 62.23(7)(e), Wis. Stats.

1016 *[EXPLANATION: This amendment adopts the language of the rescinded sec.*  
1017 *14.54(1) and adopts a provision for municipal jurisdiction.]*

1018  
1019 ARTICLE 17. Section 14.72 is amended to read as follows:

1020 14.72 ~~PROCEDURE ON APPEALS.~~ The rules, procedures, duties and powers  
1021 of the board of adjustment and chapter 68, Wisconsin Statutes, shall apply to this  
1022 ordinance. VARIANCES. (1) An applicant may include in the application a  
1023 request for a variance from the requirements of sec. 14.50 or 14.51. No variance  
1024 shall be granted unless applicant demonstrates and the zoning administrator and  
1025 the county conservationist find that all of the following conditions are present:

1026 (a) Enforcement of the standards set forth in this ordinance will result in  
1027 unnecessary hardship to the landowner;

1028 (b) The hardship is due to exceptional physical conditions unique to the  
1029 property;

1030 (c) Granting the variance will not adversely affect the public health, safety or  
1031 welfare, nor be contrary to the spirit, purpose and intent of this ordinance;

1032 (2) If all of the conditions set forth in sub. (1) are met, a variance may only be  
1033 granted to the minimum extent necessary to afford relief from unnecessary  
1034 hardship, with primary consideration to water quality and impact to downstream  
1035 conditions.

1036 (3) A person aggrieved by a variance determination by the zoning administrator  
1037 may appeal that decision to the committee pursuant to s. 14.71.

1038 (4) A person aggrieved by a decision of the committee regarding a variance may  
1039 appeal that decision to the board of adjustment pursuant to s. 10.26.

1040 *[EXPLANATION: This amendment adopts some of the variance standards from*  
1041 *rescinded s. 14.54(2)]*

1042  
1043 ARTICLE 18. Section 14.73 is amended to read as follows:

1044 ~~14.73 WHO MAY APPEAL.~~ Appeals may be taken to the LCC by any person  
1045 having a substantial, material interest in an erosion control plan which is  
1046 adversely affected by an order, requirement, decision, or determination made by

1047 ~~the zoning administrator. The LCC may adopt appropriate written rules of~~  
1048 ~~procedure for this erosion control plan appeals process.~~  
1049 VIOLATIONS AND ENFORCEMENT. (1) Stop Work Order. (a) Whenever the  
1050 local approval authority finds any noncompliance with the provisions of this  
1051 ordinance, the local approval authority shall attempt to communicate with the  
1052 owner or person performing the work to obtain immediate and voluntary  
1053 compliance if such person is readily available. If the owner or person performing  
1054 the work is not readily available, that person refuses to voluntarily comply  
1055 immediately or the noncompliance presents an immediate danger or will cause or  
1056 threatens to cause bodily injury or damage to off-site property including but not  
1057 limited to, off-site runoff, the local approval authority shall post in a conspicuous  
1058 place on the premises, a stop work order which shall cause all activity not  
1059 necessary to correct the noncompliance to cease until noncompliance is  
1060 corrected.  
1061 (b) The stop work order shall provide the following information:  
1062 1. date of issuance;  
1063 2. town and section number or equivalent information within a municipality;  
1064 3. reason for posting; and  
1065 4. signature of inspector posting the order.  
1066 (c) Unauthorized removal of a stop work order from the premises shall be a  
1067 violation of this ordinance.  
1068 (2) In addition to posting a stop work order, the local approval authority shall  
1069 provide notification to the owner or contractor by personal service, written notice  
1070 by certified mail, electronic mail, or facsimile transmission.  
1071 (a) The permittee, landowner and contractor shall have 24 hours from time of  
1072 notification by the local approval authority to correct any noncompliance with the  
1073 plan when notification is by either personal communication of noncompliance to  
1074 the owner or contractor or their respective agents, or written notice sent by  
1075 certified mail to owner or contractor.  
1076 (b) If notice is not provided under sub. (2)(a), the permittee and landowner shall  
1077 have 72 hours to correct any noncompliance with the plan when notification is by  
1078 posting notice in a conspicuous place on the site or sending notice by facsimile  
1079 transmission to the owner or contractor.  
1080 (3) If the noncompliance is not corrected within the time periods specified in sub.  
1081 (2)(a) or (b), the permittee and landowner authorize the local approval authority  
1082 to take any action, to perform any work, or commence any operations necessary  
1083 to correct noncompliance on the subject property where notice of noncompliance  
1084 has been issued to bring the property into conformance with plan requirements.  
1085 The permittee and landowner further consent to reimburse the authority for the  
1086 total costs and expenses of the corrective actions. Reimbursement may be  
1087 collected as a special charge upon the property for current services rendered as  
1088 provided by law.  
1089 (4) If the permittee has filed an appeal under s. 14.71(1)(a) prior to the expiration  
1090 of the time for compliance under sub. (2)(a) or (b), the local approval authority  
1091 may take action, perform work or correct conditions only to the extent necessary

1092 to protect against an imminent hazard or condition that will cause or threatens to  
1093 cause personal injury or damage to off-site property.

1094 *[EXPLANATION: This amendment establishes guidelines for enforcement of*  
1095 *violations.]*

1096  
1097 ARTICLE 19. Section 14.81 is amended to read as follows:

1098 ~~14.81 PENALTIES. (1) Any person who violates, neglects or refuses to comply~~  
1099 ~~with, or resists the enforcement of, any of the provisions of this ordinance relating~~  
1100 ~~to earthen manure storage facilities shall be subject to a forfeiture of not less~~  
1101 ~~than \$5.00 nor more than \$200.00, plus costs of prosecution for each violation.~~  
1102 ~~An unlawful violation includes failure to comply with any standard of this~~  
1103 ~~ordinance or with any condition or qualification attached to the permit. Each day~~  
1104 ~~that a violation exists shall be a separate offense.~~

1105 (1) Any person, firm, company or corporation who violates or refuses to comply  
1106 with the provisions of this ordinance shall be subject to a forfeiture of not less  
1107 than \$200 nor more than \$1,000 and the costs of prosecution. Each day that a  
1108 violation exists shall constitute a separate offense.

1109 (2) Any person who has the ability to pay any forfeiture entered against him or  
1110 her under this ordinance, but refuses to do so, may be confined in the county jail  
1111 until such forfeiture is paid, but in no event to exceed thirty days. In determining  
1112 whether an individual has the ability to pay a forfeiture, all items of income and all  
1113 assets may be considered regardless of whether or not such income or assets  
1114 are subject to garnishment, lien, or attachment by creditors.

1115 (3) The corporation counsel is authorized to seek enforcement of any part of this  
1116 ordinance by court action seeking injunctive relief. It shall not be necessary for  
1117 the county to seek other remedies before seeking injunctive relief.

1118 *[EXPLANATION: This amendment establishes a forfeiture range for violations,*  
1119 *and authorizes the corporation counsel to seek injunctive relief.]*

1120  
1121 ARTICLE 20. Section 14.99 is recinded.

1122 ~~14.99 EFFECTIVE DATE. This ordinance shall become effective upon its~~  
1123 ~~adoption by the Dane County Board of Supervisors and publication.~~

1124 *[EXPLANATION: This language is no longer required in the ordinance.]*

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Submitted By:

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