

AMENDING CHAPTERS 11 AND 14 OF THE DANE COUNTY CODE OF ORDINANCES, REGARDING  
STORMWATER MANAGEMENT, EROSION CONTROL AND MANURE STORAGE FACILITIES

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. Subsection 11.05(3)(b)2. is deleted, and subsections 11.05(3)(b)3. through 8. are renumbered to 11.05(3)(b)2. through 7. respectively, to read as follows:

(b) Land disturbing activity, any portion of which occurs between 300 feet and 1,000 feet from an ordinary highwater mark of a lake or pond, that meets the following criteria:

1. Includes 4,000 square feet or more of disturbed area;
2. Involves the excavation or filling, or a combination of both, in excess of 400 cubic yards of material;
3. Disturbs more than 100 lineal feet of road ditch, grassed waterway or other land area where surface drainage flows in a defined open channel, including the placement, repair or removal of any underground pipe, utility or other facility within the cross-section of the channel;
4. Involves the creation of any new public or private roads or access drives longer than 125 feet;
5. Development that requires a subdivision plat, as defined in chapter 75;
6. Land disturbing activity that disturbs less than 4,000 square feet of land, including the installation of access drives, that the director determines to have a high risk of soil erosion or water pollution, or that may significantly impact a lake, stream or wetland area. Examples of activities with a high risk of soil erosion or water pollution may include, but are not limited to, land disturbance on erodible soil or disturbance adjacent to lakes, rivers, streams or wetlands. All such determinations made by the director shall be in writing, unless waived by the applicant;
7. Constructing, dredging or commencing work on any artificial waterway, canal, ditch, lagoon, pond, lake or similar artificial waterway which is within 300 feet of the ordinary high-water mark of a navigable body of water or where the purpose is connection with a navigable body of water.

ARTICLE 3. Section 11.05(5)(c) is amended to read as follows:

*Plan or permit amendments.* Any proposed modifications to approved plans, construction schedules or alterations to accepted sequencing of land disturbing site activities shall be approved by the director prior to implementation. A maximum of five permit revisions may be allowed.

ARTICLE 4. Subsection 11.05(5)(e) is created to read as follows:

**(e) Timeframe and Expiration:**

1. Erosion control plan timetables and construction schedules must begin within one year of the date the permit application is filed.
2. All permit applications shall expire upon the earlier of:
  - a. one year from the date the applicant is notified of an application deficiency, if the applicant has not submitted additional information to adequately address the deficiency within the year, or
  - b. three years from the date of application.
3. Erosion control permits shall expire:
  - a. Upon the stabilization date included in the approved plan and included in the analysis provided to meet the requirements of 14.50(3)2.
  - b. A maximum of three years after the permit is issued.

ARTICLE 5. Section 11.50(8) is amended and (9) is created to read as follows:

**(8) Expired Permit Fee:** When an applicant or landowner fails to stabilize the site according to the approved permit conditions, an after-the-fact permit is required, and applicable fees shall be doubled.

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

ARTICLE 6. Subsection 14.13(1)(b) is amended to read as follows:

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

1. The facility is designed, constructed and maintained in accordance with Secs. 14.07 and 14.08.
2. The facility is designed to store manure for a period of time longer than 24 months.
3. Retention of the facility is warranted based on anticipated future use.

ARTICLE 7. Subsections 14.41(2), (5e), and (10) are amended, (5f) is created, and (15r) is deleted as follows:

(2) *Agricultural* means related to or used for the production of food and fiber including, but not limited to, general farming, livestock and poultry enterprises, grazing, nurseries, horticulture, viticulture, truck farming, forestry, sod production, cranberry productions and wild crop harvesting. Clearing and grubbing of an area or structural development are not agricultural activity.

(5e) *Direct Conduits to Groundwater* means wells, sinkholes, swalletts, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

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

(10) *Financial security instrument* means an irrevocable letter of credit, surety bond, performance bond, certified check, or cashier's check submitted to the local approval authority to assure that requirements of the ordinance are carried out in compliance with approved plans.

ARTICLE 8. Subsection 14.45(2) is deleted, and subsections 14.45(3) through (7) are renumbered to 14.45(2) through (6) respectively, to read as follows:

**14.45 APPLICABILITY OF REQUIREMENT FOR EROSION CONTROL PLANS.** [INTRO.] Unless expressly exempted by sec. 14.47, an erosion control permit under sec. 14.49 shall be required and all construction site erosion control provisions of this chapter shall apply, to any of the following activities in Dane County:

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

ARTICLE 9. Section 14.46(1m) is deleted as follows:

ARTICLE 10. Section 14.47 is amended to read as follows:

**14.47 EXEMPTIONS AND CLARIFICATIONS.**

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

(a) Any activity directly related to the planting, growing and harvesting of agricultural crops except the construction of a building or other structure.

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

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

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

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

(d) Maintenance of existing cropped fields with a prior approved conservation plan.

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

1. The purpose of the project is only to meet current state or federal design or safety guidelines;
2. All activity takes place within existing public right-of-way;
3. All other requirements of s. 14.51 are met; and
4. The project does not include the addition of new driving lanes.

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

ARTICLE 11. Subsections 14.49(5)(b), (5)(c), and (7) are amended and (8) is created as follows:

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

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

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

**(7) Plan or permit amendments.** Any proposed modifications to approved plans, construction schedules or alterations to accepted sequencing of land disturbing site activities shall be approved by the director prior to implementation. A maximum of five permit revisions may be allowed.

**(8) Timeframe and Expiration:**

**(a)** Erosion control plan timetables and construction schedules must begin within one year of the date the permit application is filed.

**(b)** All permit applications shall expire upon the earlier of:

1. one year from the date the applicant is notified of an application deficiency, if the applicant has not submitted additional information to adequately address the deficiency within the year, or
2. three years from the date of application.

**(c)** Erosion control permits shall expire:

1. Upon the stabilization date include in the approved plan and included in the analysis provided to meet the requirements of 14.50(3)2.
2. A maximum of three years after the permit is issued

ARTICLE 12. Subsection 14.51(1)(j) is created to read as follows:

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

**(j)** A summary of infiltration calculations including:

1. Predevelopment infiltration volume.
2. Calculated infiltration volume goal.
3. Achieved post development infiltration volume.

ARTICLE 13. Subsections 14.51(2)(c), (cm), and (e) are amended to read as follows:

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

**(c) *Runoff Curve Number.*** The maximum runoff curve number (RCN) used in such calculations shall be those shown in Table 1. The TR-55-specified curve numbers for other land uses shall be used. Heavily disturbed sites will be lowered one permeability class for hydrologic calculations. Lightly disturbed areas require no

modification. Where practices have been implemented to restore soil structure to pre-developed conditions, no permeability class modification is required.

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

\*When dual HSG are specified, the drained condition shall be assumed

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

1. Maintain predevelopment peak runoff rates for the 1-year, 24-hour storm event (2.5 inches over 24-hour duration).
2. Maintain predevelopment peak runoff rates for the 2-year, 24-hour storm event (2.9 inches over 24-hour duration).
3. Maintain predevelopment peak runoff rates for the 10-year, 24-hour storm event (4.2 inches over 24-hour duration).
4. Safely pass the 100-year, 24-hour storm event (6.0 inches over 24-hour duration).

**(e) Infiltration.**

1. For both residential and nonresidential developments, design practices to infiltrate sufficient runoff volume so that post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based upon average annual rainfall.
2. The maximum predevelopment runoff curve number (RCN) used in such calculations shall be those as specified in 14.51(2)(c), Table 1.
3. If, when designing appropriate infiltration systems, more than two percent (2%) of the site is required to be used as effective infiltration area, the applicant may alternately design infiltration systems and pervious surfaces to meet or exceed the annual pre-development recharge rate. The annual pre-development recharge rate shall be determined from the Wisconsin Geological and Natural History Survey's 2009 report, Groundwater Recharge in Dane County, Estimated by a GIS-Based Water-Balanced Model or subsequent updates to this report, or by a site specific analysis using other appropriate techniques. If this alternative design approach is taken, at least two percent (2%) of the site must be used for infiltration.
4. **Pre-treatment.** Before infiltrating runoff, pre-treatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pre-treatment shall conform to the design standards in s. 14.53 and be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect ground-water quality.
5. **Prohibitions.** Notwithstanding subparagraphs 1. through 3., infiltration systems may not be installed in any of the following areas:
  - i. Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Admin. Code, including storage, loading, rooftop and parking.
  - ii. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Admin. Code.
  - iii. Fueling and vehicle maintenance areas.
  - iv. Areas within 1,000 feet up gradient or within 100 feet down gradient of direct conduits to groundwater.
  - v. **Separation distances.** Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 2, below:

<b>Table 2. Separation Distances and Soil Characteristics</b>		
<b>Source Area</b>	<b>Separation Distance</b>	<b>Soil Characteristics</b>
Industrial, Commercial, Institutional Parking Lots and	5 Feet or More	Filtering Layer

<u>Roads</u>		
<u>Residential Arterial Roads</u>	<u>5 Feet or More</u>	<u>Filtering Layer</u>
<u>Roofs Draining to Subsurface Infiltration Practices</u>	<u>1 Foot or More</u>	<u>Native or Engineered Soil with Particles Finer than Coarse Sand</u>
<u>Roofs Draining to Surface Infiltration Practices</u>	<u>Not Applicable</u>	
<u>All Other Impervious Source Areas</u>	<u>3 Feet or More</u>	<u>Filtering Layer</u>

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

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

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

ARTICLE 14. Subsection 14.55(2)(c) is created to read as follows:

(c) Expired Permit Fee. When an applicant or landowner fails to stabilize the site according to the approved permit conditions, an after-the-fact permit is required, and applicable fees shall be doubled.