

CHAPTER 49

AGRICULTURAL PERFORMANCE STANDARDS AND MANURE MANAGEMENT

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SUBCHAPTER I GENERAL PROVISIONS

49.01 AUTHORITY. This ordinance is adopted under authority granted by ss. 33.455 and 92.16, Wis. Stats., and s. ATCP 50.56, Wis. Adm. Code.

[**History:** cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.02 JURISDICTION. This ordinance applies to the entire geographical area of Dane County.

[**History:** cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.03 PURPOSE, FINDINGS AND DECLARATION OF POLICY.

(1) The purpose of this ordinance is to provide for proper and safe storage, handling, and land application of manure and to reduce the delivery of manure, other waste materials, fertilizers, and sediment to surface waters and groundwater through the use of conservation practices and implementation of state performance standards and prohibitions for agriculture. The Dane County Board of Supervisors finds that polluted surface runoff and leachate from improperly designed or maintained manure storage facilities, feed storage facilities, unconfined manure piles, animal lots, milking centers and agricultural practices causing excessive tillage and land applications of manure and fertilizers have resulted in the delivery of sediment, manure, other waste materials, and nutrients to surface waters and groundwater within Dane County. The board recognizes the importance of protecting our ground and surface water resources and finds that proper management of agricultural practices contributes to the protection of ground and surface waters; public health; plant, animal, and aquatic life; and the property tax base of Dane

County. The board finds that adherence to agricultural performance standards in chs. NR 151 and ATCP 50, Wis. Adm. Code, by the county landowners is necessary to protect these interests.

(2) Compliance with this ordinance requires that individuals follow the procedures contained herein, receive a permit from the department before beginning activities that require a permit, and comply with the requirements of this ordinance and the permit.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.04 SEVERABILITY.

(1) JUDGEMENT OF ORDINANCE PROVISIONS. If a court of competent jurisdiction adjudges any section, provision or portion of this chapter to be invalid, the judgment shall not affect any other provision of this chapter not specifically included in the judgment.

(2) JUDGMENT OF ORDINANCE APPLICATION. If a court of competent jurisdiction adjudges invalid the application of any portion of this chapter to a particular property, building, use, or structure, the judgment shall not affect the application of the provision to any other property, building, use, or structure not specifically included in the judgment.

(3) JUDGMENT OF PERMIT. If a court of competent jurisdiction adjudges as invalid any requirement or limitation contained in a permit given under this chapter, it shall be presumed, that the permit would not have been granted without the requirement or limitation, and therefore, the permit shall also be invalid.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

SUBCHAPTER II DEFINITIONS

49.05 PURPOSE. To define words, terms, and phrases contained in this chapter that are essential to the understanding, administration, and enforcement of this chapter.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/2019.]

49.06 WORD USAGE. For the purposes of this chapter, certain words and terms are used as follows:

(1) Words used in the present tense include the future.

(2) Words in the singular include the plural.

(3) Words in the plural include the singular.

(4) The word "shall" is mandatory and not permissive.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/2019.]

49.07 DEFINITIONS. For the purposes of this chapter, certain words and terms are defined as follows:

(1) *Adequate sod or self-sustaining vegetative cover* means maintenance of sufficient vegetation types and densities that provide 70% coverage such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves, and woody debris.

- (2) *Agricultural lands* means lands in agricultural use as provided under s. 91.01(2), Wis. Stats.
- (3) *Applicant* means any person who applies for a permit under this ordinance.
- (4) *Best management practices (BMPs)* mean structural or nonstructural measures, practices, techniques, or devices employed to avoid or minimize soil, sediment, or other pollutants from being carried in runoff to waters of the state.
- (5) *Concentrated flow channel* means a natural channel or constructed channel that has been shaped or graded to required dimensions and established in perennial vegetation for the stable conveyance of runoff. This definition may include but is not limited to non-vegetated channels caused by ephemeral erosion including intermittent streams, drainage ditches, and drainage ends identified on the NRCS soil survey. Some drainage ditches are identified on the Dane County web page at: <https://dcimapapps.countyofdane.com/lwrviewer/>
- (6) *Department* means the Dane County Land & Water Resources Department.
- (7) *Certificate of use* means an authorization provided by the Department to an agricultural producer allowing them to continue to utilize an unpermitted waste storage facility or permitted facilities that have exceeded the 20-year lifespan.
- (8) *Committee* means the Land Conservation Committee as designated by the county board pursuant to s. 7.20(2), Dane County Ordinance and s. 92.06, Wis. Stats.
- (9) *Crop producer* means an owner or operator of an operation engaged in crop related agricultural practices specified in Wis. Stat. s. 281.16(1)(b).
- (10) *Direct conduit to groundwater* means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, cenotes, or depressional groundwater recharge areas over shallow fractured bedrock.
- (11) *Direct runoff* means any of the following:
- (a) Runoff of stored manure, including manure leachate, that discharges a significant amount of pollutants to surface waters of the state or to a direct conduit to groundwater.
 - (b) Runoff from a feedlot that can be predicted to discharge a significant amount of pollutants to surface waters of the state or to a direct conduit to groundwater.
 - (c) Discharge of a significant amount of leachate from stored manure or feed to waters of the state.
 - (d) Construction of a manure storage facility in permeable soils or over fractured bedrock without a liner designed in accordance with NRCS Standard 313.
- (12) *Effective incorporation* means mixing manure with soil, or subsurface placement of nutrients by such means as injection, disc, sweep, plow or other tillage/infiltration method such that manure will not run off the field or drain to subsurface tiles during application.
- (13) *Feedlot* means a barnyard, exercise area, or other outdoor area where livestock are concentrated for feeding or other purposes and self-sustaining vegetative cover is not maintained. Feedlot does not include a winter grazing area or a bare soil area such as a cattle lane or a supplemental feeding area located within a pasture, provided that the bare soil area is not a significant source of pollution to waters of the state as determined by predictive models for manure runoff utilized by the department.
- (14) *Idle storage facility* means a facility where manure has not been added or removed for a period of 24 months.

- (15) *Land application* means the physical transfer of manure from any animal confinement area or manure storage facility to fields for purposes of fertilization or disposal.
- (16) *Landowner* means a person who owns a parcel of land.
- (17) *Livestock* means all domestic animals, including deer, elk, or any fenced-in animals.
- (18) *Livestock operation* means a feedlot or other facility or a pasture where animals are fed, confined, maintained, or stabled.
- (19) *Manure* means livestock excreta and includes the following when intermingled with excreta in normal farming operations: debris including bedding, water, soil, hair, and feathers; processing derivatives including separated sand, separated manure solids, precipitated manure sludges, supernatants, digested liquids, composted biosolids, process wastewater; and runoff collected from barnyards, animal lots, and feed storage areas.
- (20) *Manure storage facility* means an impoundment made by constructing an embankment or excavating a pit or dugout or by fabricating a structure to contain manure, process wastewater, or other animal or agricultural waste.
- (21) *Manure storage facility, existing* means a facility that was constructed prior to October 1, 2002.
- (22) *Manure storage facility, substantially altered* means a change initiated by a landowner and operator that results in a relocation of a manure structure or facility or significant changes to the size, depth or configuration of a manure structure or facility including:
- (a) Replacement of a liner, or any interception of the liner as a result of changes in the management system of the manure storage structure.
 - (b) An increase in the volumetric capacity or area of a structure or facility by greater than 20%.
 - (c) A change in a structure or facility related to a change in livestock management from one species of livestock to another, such as cattle to poultry.
- (23) *Manure storage facility, unpermitted* means a facility that was constructed without a permit issued by Dane County Land & Water Resources Department under this ordinance.
- (24) *Margin of safety level* means the level in a liquid manure storage or containment facility that is vertically one foot below the lowest point of the top of the manure storage facility or structure.
- (25) *Natural Resources Conservation Service (NRCS)* means an agency of the United States Department of Agriculture (USDA) which, for purposes of this chapter, provides the agency and the department with technical assistance and information on the design criteria, size, shape, engineering strength, and other necessary technical data for the proper and safe installation of a manure storage facility.
- (26) *Navigable waters and navigable drainage ways* means any body of water that is navigable under the laws of the state as defined in s. 281.31(2)(d), Wis. Stats.
- (27) *Nutrient management plan* means a plan that meets the definition in s. ATCP 50.04(3), Wis. Adm. Code.
- (28) *Nutrients* means plant nutrients derived from commercial fertilizers, manure, organic wastes, soil reserves, legumes, or other sources.

- (29) *Operator* means a person who rents, controls or uses a parcel of land for agricultural purposes.
- (30) *Ordinary high-water mark* means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.
- (31) *Pasture* means land on which livestock graze or otherwise seek feed in a manner that maintains the vegetative cover over the grazing area. Pasture may include limited areas of bare soil such as cattle lanes and supplemental feeding areas provided the bare soil areas are not significant sources of pollution to waters of the state.
- (32) *Permit* means the signed, written statement issued by the department under this ordinance authorizing the applicant to construct, install, substantially alter, or close, a manure storage facility, and/or the application of livestock waste on frozen or snow-covered ground.
- (33) *Permitted facility* means a facility that was permitted under this ordinance.
- (34) *Permittee* means any person to whom a permit is issued under this ordinance.
- (35) *Person* means any individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency, or federal agency.
- (36) *Phosphorus index* means the State's agricultural land management planning tool for assessing the potential of a cropped or grazed field to contribute phosphorus to surface waters.
- (37) *Pollutant* means any dredged, spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.
- (38) *Pollution* includes contaminating or rendering unclean or impure the waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.
- (39) *Process wastewater* means wastewater from the production area directly or indirectly used in the operation of animal feeding operation that results from any or all of the following:
- (a) Spillage or overflow from animal or poultry watering systems.
 - (b) Washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities.
 - (c) Direct contact swimming, washing, or spray cooling of animals or dust control.
 - (d) Water that comes into contact with any raw materials or animal byproducts including manure, feed, milk, eggs, or bedding.
- (40) *Runoff* means storm water or precipitation including rain, snow, ice melt or similar water that flows across the land surface via sheet or channelized flow.
- (41) *Safety devices* means constructed measures designed to protect humans and livestock from hazards associated with a manure storage facility.

(42) *Site that is susceptible to groundwater contamination* means any one of the following:

- (a)** An area within 250 feet of a private well.
- (b)** An area within 1000 feet of a municipal well.
- (c)** An area within 300 feet upslope or 100 feet downslope of a direct conduit to groundwater.
- (d)** A channel that flows to a direct conduit to groundwater.
- (e)** An area where the soil depth to groundwater or bedrock is less than 2 feet.
- (f)** An area where the soil does not exhibit one of the following soil characteristics:
 - 1.** At least a 2-foot soil layer with 40% fines or greater above groundwater and bedrock.
 - 2.** At least a 3-foot soil layer with 20% fines or greater above groundwater and bedrock.
 - 3.** At least a 5-foot soil layer with 10% fines or greater above groundwater and bedrock.

(43) *Surface waters* means all natural and artificial named and unnamed lakes and all naturally flowing streams within the boundaries of the state, but not including cooling lakes, farm ponds and facilities constructed for the treatment of wastewaters.

(44) *Technical guide* means the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Technical Guide as adopted by the agency, including subsequent amendments or additions.

(45) *Tolerable soil loss or "T"* means the maximum rate of erosion, in tons per acre per year, allowable for particular soils and site conditions that will maintain soil productivity.

(46) *Top of the channel* means an edge, or point on the landscape landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

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

(48) *Waste transfer system* means all components including tanks, pipes, pumps, conduits, valves, gutters, flow channels, and any other component designed to convey manure, contaminated runoff, and milking center wastes into or out of buildings, retention basins, or storage facilities.

(49) *Water Quality Management Area (WQMA)* means land that includes any of the following: an area within 1,000 feet up-gradient of the ordinary high-water mark of a navigable lake, pond, or flowage; an area within 300 feet up-gradient of the high-water mark of a navigable river or; an area that is susceptible to groundwater contamination, or has the potential to be a direct conduit for pollutants to reach groundwater.

(50) *Waters of the state* mean those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface

water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

(51) *Winter grazing area* means a cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period of October 1 to April 30.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

SUBCHAPTER III AGRICULTURAL PERFORMANCE STANDARDS AND PROHIBITIONS

49.08 PERFORMANCE STANDARDS AND PROHIBITIONS.

(1) SHEET, RILL, AND WIND EROSION. All pastures and land where crops or feed are grown shall be managed to achieve a soil erosion rate equal to or less than the tolerable soil loss (T) rate established for that soil.

(2) TILLAGE SETBACK. To prevent tillage operations from destroying stream banks and depositing soil directly in surface waters, crop producers shall not conduct a tillage operation that negatively impacts stream bank integrity or deposits soil directly in surface waters.

(a) No tillage operations may be conducted within 5 feet of the top of the channel of surface waters. Tillage setbacks greater than 5 feet but no more than 20 feet may be required to meet this standard. Determinations for tillage setbacks are established in s. ATCP 50.04(4)(b)2., Wis. Adm. Code.

(b) Crop producers shall maintain the area within the tillage setback required under sub. (a) in adequate sod or self-sustaining vegetative cover that provides a minimum of 70% coverage. Note: Conservation practices such as but not limited to critical area stabilization, grade stabilization, shoreland protection may be installed to stabilize the bank and protect its integrity. Enrollment in federal set aside programs such as CREP can also be used to achieve compliance.

(c) This standard does not apply to grassed waterways installed as conservation practices.

(3) PHOSPHORUS INDEX. All cropland, pastures, and winter grazing areas shall meet the Wisconsin Phosphorus Index (PI) established in s. NR 151.04, Wis. Adm. Code, including where the PI applies, the methods for calculating the PI, and acceptable PI runoff levels. Note: A nutrient management plan meeting s. ATCP 50.04(3), Wis. Adm. Code, may be used to demonstrate compliance with this standard.

(4) NUTRIENT MANAGEMENT. All crop and livestock producers that apply manure or other nutrients directly or through contract to agricultural fields shall comply with this section.

(a) This performance standard does not apply to industrial waste and byproducts regulated under ch. NR 214, Wis. Adm. Code, municipal sludge regulated under ch. NR 204, Wis. Adm. Code, and septage regulated under ch. NR 113, Wis. Adm. Code.

(b) Nutrient management plans are required on pastures unless exempt as established in s. ATCP 50.04(3)(b), Wis. Adm. Code.

(c) Manure, commercial fertilizer, and other nutrients shall be applied in conformance with a nutrient management plan as established in s. ATCP 50.04(3), Wis. Adm. Code.

1. The plan shall be designed to limit or reduce the discharge of nutrients to waters of the state for the purpose of complying with state water quality standards and groundwater standards.

2. Plans for croplands in watersheds that contain impaired surface waters or in watersheds that contain outstanding or exceptional resource waters shall meet the following criteria: unless otherwise provided in this subsection, the plan shall be designed to manage soil nutrient concentrations so as to maintain or reduce delivery of nutrients contributing to the impairment of impaired surface waters and to outstanding or exceptional resource waters.

3. An updated plan shall be submitted to the department annually by June 1 to ensure the plan meets requirements of this section.

(d) The plan may allow for an increase in soil nutrient concentrations at a site consistent with s. ATCP 50.04(3)(f), Wis. Adm. Code if necessary to meet crop demands.

(5) CLEAN WATER DIVERSION.

(a) All livestock producers within a water quality management area shall comply with this section.

(b) Runoff shall be diverted away from feedlots, manure storage areas and barnyard areas within water quality management areas except that a diversion to protect a private well under s. NR 151.015(18)(a), Wis. Adm. Code, is required only when the feedlot, manure storage area, or barnyard area is located upslope from the private well.

(6) MANURE MANAGEMENT PROHIBITIONS. All livestock operations shall comply with this section as follows:

(a) No overflow of manure storage structures.

(b) No unconfined manure piles within a water quality management area.

(c) No direct runoff from a feedlot or stored manure to waters of the state.

(d) No unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod or self-sustaining vegetative cover. This prohibition does not apply to properly designed, installed and maintained livestock or farm equipment crossings.

(7) PROCESS WASTEWATER HANDLING. All livestock producers shall comply with this section.

(a) No significant discharge of process wastewater to waters of the state.

(b) The following factors will be considered when determining whether a discharge of process wastewater is a significant discharge to waters of the state:

1. Volume and frequency of the discharge.

2. Location of the source relative to receiving waters.

3. Means of process wastewater conveyance to waters of the state.

4. Slope, vegetation, rainfall, and other factors affecting the likelihood of process wastewater discharge to waters of the state.

5. Available evidence of discharge to a surface water of the state or to a direct conduit to groundwater.

6. Whether the process wastewater is discharged to a site that is defined as a site that is susceptible to groundwater contamination.

7. Other factors relevant to the impact of the discharge on water quality standards of the receiving water or to groundwater standards.

(8) MANURE STORAGE FACILITIES. All livestock producers building new manure storage facilities, substantially altering manure storage facilities, or choosing to close their manure storage facilities shall comply with this section.

(a) *New construction and substantial alterations.*

1. New or substantially altered manure storage facilities shall be designed, constructed, and maintained to minimize the risk of structural failure of the facility and to minimize leakage of the facility in order to comply with groundwater standards and NRCS technical standard 313.

2. The levels of materials in the storage facility may not exceed the margin of safety level.

3. Storage facilities that are constructed or significantly altered on or after January 1, 2011, shall be designed and operated to contain the additional volume of runoff and direct precipitation entering the facility as a result of a 25-year, 24-hour storm.

4. A new manure storage facility means a facility constructed after October 1, 2002.

5. A substantially altered manure storage facility is a manure storage facility that is substantially altered after October 1, 2002.

(b) *Closure.*

1. Conditions for closure. Idle storage facilities shall be closed in a manner that will prevent future contamination of groundwater and surface waters in accordance with NRCS technical standard 360.

2. Conditions for retention. The landowner or operator may retain the facility for a longer period of time by making a written request to the department to retain the facility once every two years until the facility is brought into use and by demonstrating to the county the following conditions are met:

a. The facility is designed, constructed and maintained in accordance with this chapter.

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

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

(c) *Existing facilities.*

1. Manure storage facilities in existence as of October 1, 2002, that pose an imminent threat to public health, fish and aquatic life, or groundwater, shall be upgraded, replaced, or closed in accordance with this section.

2. Levels of materials in storage facilities may not exceed the margin of safety level.

(9) SAFETY DEVICES. The following safety devices are required on all manure storage facilities in Dane County whether or not a permit has been issued under this ordinance:

(a) A fence around the manure storage facility is required unless the manure storage facility has vertical walls 5 feet above the ground surface or the manure storage facility has a cover that will support foot traffic. Fences shall be a minimum of 48 inches above grade and shall not allow the passage of a larger than 6-inch sphere between any fence or gate member or meets s. 49.09(2). All fence openings shall have gates that can be shut and securely fastened.

(b) A grate or cover for any opening in the waste transfer system that is larger than 6 inches in diameter. Grates and covers must be designed to withstand all load requirements. A fence around a waste transfer system may be used in lieu of a grate or cover if the fence meets the criteria contained in sub. (a).

(c) Safety stops, gates, or both shall be installed at push-off ramps and load out areas of impoundments and structures to prevent accidental entry of tractors and other equipment.

(d) Manure storage facilities and their components shall have signs at all access points to warn of the danger of entry.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.09 STANDARDS.

(1) STANDARDS FOR EVALUATING SHEET, RILL, AND WIND EROSION. The standards for evaluating sheet, rill, and wind erosion shall be Revised Universal Soil Loss Equation 2 (RUSLE2). Note: RUSLE2 is available at https://www.nrcs.usda.gov/wps/portal/nrcs/detail/wi/technical/cp/?cid=nrcs142p2_020801. Equivalent methodology may be used as approved by the department.

(2) STANDARDS FOR DESIGN AND CONSTRUCTION OF MANURE STORAGE FACILITIES. The standards for design and construction of manure storage facilities shall be the current standards in the NRCS Technical Guide, including 313 Waste Storage Facility, 634 Manure Transfer, 635 Vegetated Treatment Area, 632 Waste Separation Facility, and 629 Waste Treatment and any amendments to these standards.

(3) STANDARDS FOR NUTRIENT MANAGEMENT. The standards for management of manure and nutrients applied to cropland and pastures shall be the current standards in the NRCS Technical Guide, including 590 Nutrient Management and any amendments.

(4) STANDARDS FOR PHOSPHORUS INDEX (PI). The standard for meeting the PI on croplands, pastures, or winter grazing areas shall be based on the calculation utilized by the current SNAP Plus nutrient management planning model. Note: SNAP Plus is available at <https://snapplus.wisc.edu/>.

(5) STANDARDS FOR CLOSURE OF MANURE STORAGE FACILITY. The standards for closure of an unused manure storage facility shall be the current standards in the NRCS Technical Guide, including 360 Waste Facility Closure and any amendments.

(6) STANDARDS FOR DETERMINATION OF SIGNIFICANT DISCHARGE AND DIRECT RUNOFF. The standards for determination of direct runoff shall be the Barnyard Runoff Evaluation Tool (BERT), BARNY, VTA spreadsheet or an equivalent predictive model for manure, feed leachate, milkhouse waste or other process wastewater runoff. Note: Available models can be found at https://www.nrcs.usda.gov/wps/portal/nrcs/detail/wi/technical/engineering/?cid=nrcs142p2_025422. Equivalent methodology may be used as approved by the department.

(7) STANDARDS FOR THE DETERMINATION OF ADEQUATE SOD OR SELF-SUSTAINING VEGETATIVE COVER. Standards for determination of adequate sod or self-sustaining vegetative cover shall be the standards outlined in the NRCS Technical guide 528 Prescribed Grazing or vegetative measurement by grid sample shall show at least 70 percent living plant material cover.

(8) **SUBSEQUENT MODIFICATION OF STANDARDS.** The standards of the NRCS Technical Guide are adopted and by reference made a part of this section as if fully set forth herein. Any future amendment, revision or modification of the standards incorporated herein are made a part of this section, unless otherwise acted upon by the department. Copies of the current standards are available at the department.

(9) **ADDITIONAL STANDARDS.** Standards not identified in this section may be utilized to meet the requirements of this ordinance with prior approval from the department. Variances may be requested in accordance with s. 49.22.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.10 COST SHARE REQUIRED. A landowner or operator of an agricultural facility or practice that is in existence before October 1, 2002, may not be required to comply with the performance standards, prohibitions, conservation practices or technical standards under this subchapter unless cost-sharing is made available to the landowner or operator to the extent that cost-sharing is required by state law. A determination that cost-sharing is available to meet the performance standards, prohibitions, conservation practices or technical standards under this subsection will be determined in accordance with s. NR 151.09 or NR 151.095, Wis. Adm. Code, when funding is provided under ch. 281.65, Wis. Stats., and will be determined in accordance with ch. ATPCP 50, Wis. Adm. Code, when funds are from any other source.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

SUBCHAPTER IV MANURE STORAGE FACILITY PERMIT, USE AND SPECIFICATIONS

49.11 APPLICATION FOR ISSUANCE OF PERMITS.

(1) **PERMIT REQUIRED.**

(a) No person may do any of the following without obtaining a permit in accordance with this section:

1. Construct a manure storage facility or substantially alter manure storage facility, including the construction or substantial alteration of waste transfer systems connected to a manure storage facility.

2. Upgrade, repair or replace a manure storage facility that has been identified as posing an imminent threat to public health, fish and aquatic life, or groundwater.

3. Close a manure storage facility, including conversion of its use, regardless of whether the facility must be closed in accordance with s. 49.08(8)(c).

(2) **EXCEPTION TO PERMIT REQUIREMENT.**

(a) Emergency repairs such as repairing a broken pipe or equipment, leaking dikes, or the removal of stoppages may be performed without a permit. Any repairs performed as a result of the facility failing, overtopping or repairs intercepting the liner or substantially altering the original design or construction of a facility shall be reported, in writing, within one day of the emergency to the department.

1. The department will make a determination whether the repairs made were reasonably necessary to respond to the existing emergency. The department is

authorized to enter upon lands where a repair has been made to a facility to make this determination.

2. A permit shall be required for any work deemed to constitute additional alteration or repair to the facility in excess of that reasonably necessary to respond to the emergency. The department's determination shall be rendered within 5 business days of the reporting. Work done without a proper permit shall constitute noncompliance with the ordinance. The passage of this ordinance is not to be construed as a requirement that livestock operations construct manure storage facilities but rather that facilities that are constructed be required to obtain the appropriate permits and approvals.

(b) Manure storage facilities that are 1,000 gallons or less in total volume may be constructed without a permit. These facilities are required to meet the NRCS Standard 313-Waste Storage Facility, and 634-Manure Transfer. This exemption applies only if the manure storage facility is not connected to another manure storage facility or facilities with a cumulative volume of more than 1,000 gallons.

(3) PERMIT DURATION. Permits for manure storage facilities shall be valid for 20 years.

(4) PERMIT EXPIRATION. The landowner may choose to either obtain a certificate of use in accordance with s. 49.16 or close the facility in accordance with s. 49.12(3).

(a) To obtain a certificate of use, the manure storage facility shall be evaluated by a professional engineer in the last year of the permit to assess the manure storage facility's structural condition and compliance with the standards listed in this ordinance.

1. If the department determines, based on the engineering evaluation, that the facility meets the standards listed in this ordinance, a certificate of use will be issued for the facility.

2. If the department determines, based on the engineering evaluation, that repairs are required, a certificate of use will not be issued until the required repairs are made to the manure storage facility or a schedule of repairs is agreed upon by the landowner or operator and the department.

(b) If no evaluation is performed or if the landowner or operator does not want to implement the repairs to bring the manure storage facility into compliance with this chapter, the manure storage facility shall be closed in compliance with s. 49.12(3) prior to the expiration date of the permit.

(5) PERMIT MODIFICATION. Changes to a manure storage facility that fall under the activities identified in s. 49.11(1) during the 20-year permit duration may require a new permit or may be performed under a permit modification. Prior to making any changes the landowner or operator shall submit an application to the department following the requirements in s. 49.12. The department shall make a determination whether the activities proposed in the application require a new permit or can be performed under a permit modification. A permit modification does not alter the expiration date of the original permit.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.12 MANURE STORAGE FACILITY PLAN REQUIREMENTS. Each application for a manure storage permit under this section shall include the completion of the county permit application and a detailed manure storage facility construction plan.

(1) MANURE STORAGE FACILITY PLAN REQUIREMENTS. Manure storage structures, and any additions to such structures, shall maintain the following setbacks and additional setbacks set forth in s. 49.09(2).

(a) SETBACKS FROM PROPERTY LINES AND ROAD RIGHTS-OF-WAY. Manure storage structures shall be setback 350 feet from any property line or road right-of-way, however, the setback from the property line or road right-of-way may be reduced if the new manure storage facility is located no closer than an existing manure storage facility that is in use. For purposes of measuring this setback, property line is defined as the outermost boundary of a property under common ownership as described on a deed recorded with the Dane County Register of Deeds and the manure storage facility measurement will be from the inside top of the liner of the structure. Setbacks do not apply to manure transfer facilities.

(b) EXPANSION. Manure storage structures located within a setback area may be expanded provided the area to be expanded meets required setbacks.

(2) MANURE STORAGE CONSTRUCTION PLAN REQUIREMENTS. A complete permit application for a manure storage facility shall meet or exceed the minimum established limits and specific criteria within NRCS Technical Standard 313 for Waste Storage and additional Technical Standards, including, but not limited to, 342 Critical Area Planting, 382 Fence, 558 Roof Runoff Structure, 590 Nutrient Management, and 634 Manure transfer as applicable. The plan shall include all of the following:

(a) Number, type, and size of animals for which storage is provided and the duration for which storage is to be provided.

(b) Type of bedding to be used in the operation and all aspects of handling and recovery of the bedding material.

(c) Site plan of the facility and its location in relation to the following:

1. Residences. The location of any residential buildings other than that of the landowner of the premises, or owned by the landowner of the premises but occupied by his/her family, agent or employee within 500 feet of the facility shall be identified.

2. Property Lines. The location of any property lines within 500 feet of the facility shall be identified.

3. Wells. The location of any wells within 500 feet of the facility shall be identified.

4. Utilities. The location of all utilities within 500 feet of the facility shall be identified.

5. State and federal highways, county and town roads, and public streets designated as roadways. The location of any roadway within 500 feet of the facility shall be identified.

6. Navigable waters and navigable drainage ways. The location of any navigable water and drainage ways within 500 feet of the facility shall be identified.

7. Floodplains and other water bodies. The location of floodplains and other waterways within 500 feet of the facility shall be identified.

(d) North arrow, scale of the drawing, legal description of the parcel and location, description and elevation of a temporary benchmark.

- (e) Structural details including, but not limited to, dimensions, cross-sections, concrete thickness, reinforcing steel location and design loading details when other than NRCS pre-qualified designs and drawings are used.
- (f) Construction and material specifications including, but not limited to, applicable specifications for earth fill, excavation, concrete, reinforcing steel, timber and pipes.
- (g) Soil test pit locations, elevations, and soil descriptions to a depth as required for the planned structure according to the NRCS Technical Standard 313.
- (h) Elevation of groundwater, bedrock or seasonally saturated conditions if encountered in the soil profile and the date of any such determinations.
- (i) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater.
- (j) Time schedule for construction of the facility.
- (k) Details and plans for the method and structures used in transferring manure into and from the facility.
- (l) Plan to control erosion during the construction or modification of the facility.
- (m) Plans that address the safety requirements of the facility as needed.
- (n) Emergency response plan identifying the names and phone numbers of individuals or others to be notified in the event of any leaks, spills or other system failures that could discharge manure.
- (o) Certification by a professional engineer registered in the State of Wisconsin, or an engineering practitioner certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) or the NRCS that the plans meet technical and ordinance standards.
- (p) Operation and maintenance plan for the manure storage facility signed by the landowner or operator that identifies the basics of operation, the manure removal interval, the use of agitation pads, and required repairs to berms and roads that are a necessary part of the facility function and meets all other requirements of NRCS Technical Standards 313 and 634.
- (q) Nutrient management plan that complies with s. ATCP 50.04, Wis. Adm. Code. The nutrient management plan must be prepared by a nutrient management planner qualified under s. ATCP 50.04(3), Wis. Adm. Code, submitted and approved prior to issuance of the permit.
- (r) Any other additional information required by the department to protect water quality and determine compliance with this section.
- (3) MANURE STORAGE FACILITY CLOSURE APPLICATION REQUIREMENTS.**
A complete permit application for manure storage facility closure shall meet all standards as outlined in NRCS Technical Standard 360 and shall specify:
 - (a) Provisions to remove and properly dispose of all accumulated wastes in the manure storage facility.
 - (b) Provisions to remove any concrete or synthetic liner, or properly use pieces of the concrete or synthetic liner as clean fill at the site.
 - (c) Provisions to remove and properly dispose of any soil contaminated with waste from the manure storage facility.
 - (d) Provisions to remove any soils, to the depth of significant manure contamination or 2 feet, whichever is less, from the bottom and sides of a manure storage facility without a constructed liner.

(e) Provision to remove or permanently plug the waste transfer system serving the manure storage facility.

(f) Provisions to cover all disturbed area with topsoil, seeding the areas with a grass or native plant mixture, and mulching the seeded area. This section does not apply if an alternative use of the site is authorized under a manure storage facility closure plan approved by the department as part of the permit.

(g) Any other additional information required by the department to protect water quality and determine compliance with this section.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.13 REVIEW OF APPLICATION. The department shall receive and review all permit applications. The department shall determine if the proposed manure storage facility and nutrient management plan, if applicable, meets required standards set forth in s. 49.12. within 30 calendar days after receiving the completed application and fee, the department shall inform the applicant, in writing, of the reasons for disapproval. If additional information is required, the department shall notify the permit application. The department has 30 calendar days to approve or deny the permit application, in writing, from receipt of the requested additional information. If the department fails to approve or deny the permit application in writing within 30 calendar days of the receipt of the permit application or additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.14 PERMIT CONDITIONS. All permits issued under this subchapter shall be issued subject to the following conditions and requirements:

(1) Manure storage facility design, construction, operations, management, utilization, and closure activities shall be carried out in accordance with the manure facility plan and applicable standards specified in s. 49.12.

(2) The permittee shall give 5 calendar days' notice to the department before starting any construction or closure activity authorized by the permit.

(3) The permittee, engineer and contractor shall participate in a pre-construction conference with county staff before initiating construction of a new facility to outline the requirements and responsibilities of all of the involved parties.

(4) Written approval from the department must be obtained prior to modifications to the permitted plans.

(5) The permittee and design engineer or consultant shall certify, in writing, that a manure storage facility was installed as planned. This certification shall include an as-built survey and as-built drawings signed and stamped by the engineer depicting the as-built survey and any changes to the construction plan in red.

(6) The department shall provide onsite inspection and verification for all construction projects conducted under a permit issued under this chapter. To receive final verification, a manure storage facility must be fully constructed as designed including the marking of the maximum operating level and implementation of all safety devices.

(7) No permitted manure storage facilities may receive manure until the county provides final verification.

(8) Construction activities authorized by permit must be completed and certified within 2 years from the date of issuance, after which any additional construction activities will require a new manure storage permit application to be submitted and approved.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.15 PERMIT REVOCATION. The department may revoke the permit issued under this subchapter if the holder of the permit has misrepresented any material fact in the permit application or manure storage facility plan, or if the holder of the permit violates any of the conditions of the permit.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.16 CERTIFICATE OF USE.

(1) **CERTIFICATE REQUIREMENT.** No person may operate or use a manure storage facility, or any portion of a manure storage facility constructed without a permit issued by the department or has an expired permit unless the person has a valid certificate of use for the manure storage facility or that portion of the manure storage facility that is being operated or used.

(2) **OPERATING REQUIREMENTS.** The operator of a manure storage facility is in compliance with the certificate of use if the person does all of the following:

(a) Updates and follows an annual nutrient management plan that complies with requirements in this ordinance, and covers all manure land applied from the manure storage facility covered by the certificate of use.

(b) Provides a nutrient management plan annually to the department by June 1 to document compliance with ordinance requirements.

(c) Operates the manure storage facility in accordance with performance standards in s. 49.08(8) and consistent with the recommended operating methods as defined by the NRCS Technical Guide, Agricultural Waste Management Field Handbook, and Engineering Field Handbook.

(d) Maintains the manure storage facility free from visible and serious damage, erosion, or deformities that would impair the manure storage facility's safety or function as determined by the NRCS Technical Guide, Agricultural Waste Management Field Handbook, and Engineering Field Handbook.

(e) Maintains the safety devices for a manure storage facility.

(f) Provides the department proof of compliance with the requirements in subs. (c) and (d) upon request and submits to periodic inspections of the manure storage facility with advance notice from the department.

(g) Develops and implements a plan for closure of the manure storage facility within 2 years of when the landowner or operator ceases use of the manure storage facility or when closure is required based on conditions specified in this ordinance.

(3) **CERTIFICATE REVOCATION.** The department may revoke a certificate of use if there is a misrepresentation of any material fact in the permit application, a misrepresentation of any material fact in the manure storage facility plan, a misrepresentation of any material fact in the nutrient management plan, a failure to comply with the nutrient management plan requirements, a failure to provide the department with a copy of the nutrient management plan upon request, or for multiple or

repeat violations of this ordinance. The department will immediately provide written notice of the revocation and the reason for the revocation.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

SUBCHAPTER V WINTER SPREADING PERMIT

49.17 PERMIT REQUIREMENT.

(1) No person may apply manure on frozen, snow-covered, or ice-covered ground without first obtaining a winter spreading permit issued under this subchapter. Said permit shall be issued after review and approval of a winter manure spreading plan meeting the requirements of this subchapter. The permit shall remain in effect for a period of 4 years unless revoked by the department pursuant to s. 49.23(4).

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.18 WINTER MANURE SPREADING PLAN COMPONENTS.

(1) WINTER MANURE SPREADING PLAN. The winter manure spreading plan shall be updated and submitted to the department annually no later than October 15 prior to the winter during which the permittee intends to apply manure in order to validate the permit for that year. These requirements do not apply to manure deposited through winter gleaning or pasturing of plant residue. At a minimum, a winter manure spreading plan shall include the following components:

- (a) Capacity of storage for each manure type generated on the farm.
- (b) Quantity of manure anticipated to be spread during periods of frozen or snow-covered soil, or the amount generated in 14 days, whichever is greater.
- (c) Capacity for stacking manure that is $\geq 16\%$ solids without permanent storage. Refer to NRCS Technical Standard 313 or 318 to locate potential stacking sites.
- (d) Aerial maps showing township, range, section and landowner, field boundaries, identification numbers, acreage, soil types, and areas not spreadable because of prohibitions.
- (e) Fields/location of planned manure applications as well as previous year's crop and planned crop.
- (f) Identified methods for tracking applications that includes dates, field/locations, and the rates of manure application.
- (g) Emergency response procedures that include contacts, steps to be taken to contain and clean up the manure, and the documentation to be recorded in the event of a discharge event.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.19 LIMITATIONS TO APPLICATION OF MANURE TO FROZEN, SNOW-COVERED, OR ICE-COVERED GROUND.

- (1) Manure shall not be applied in the following areas:
- (a) Within a water quality management area (WQMA),
 - (b) In waterways or other areas of concentrated flow,
 - (c) During active snow-melt where water is flowing.

(2) Do not exceed the phosphorus removal of the following growing season's crop. Liquid manure applications shall not exceed 7,000 gallons per acre. All winter manure applications shall not exceed 60 lbs. P2O5 per acre in a winter season.

(3) Do not apply to fields with a slope > 6% unless the plan documents there are no other fields available and, at least two of the following practices are implemented:

(a) Field has contour buffer strips or is contour strip cropped,

(b) All crop residue is left on the field and no fall tillage is conducted. This practice is not an option where residue is removed as silage or for bedding.

(c) Apply manure in intermittent strips on no more than 50% of the field,

(d) Apply manure to no more than 25% of the field during each application, waiting a minimum of 14 days between applications,

(e) Reduce manure application rates not to exceed 3,500 gallons/acre, or 30 pounds of P2O5, whichever is less.

(4) Do not apply nutrients to fields where concentrated flow channels are present unless at least two of the following practices are implemented:

(a) Practices available under s. 49.49(3)(a) through (e),

(b) No manure application within 200 feet of all concentrated flow channels,

(c) Fall tillage is on the contour and slopes are lower than 6%.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.20 PERMIT CONDITIONS.

(1) Record Keeping Requirements. The permittee shall maintain an accurate record of the date, location and rate of application for every application of manure on land subject to the winter spreading permit. This record will be retained for a period of one year following the date of application. All manure application records shall be made available to the department upon request.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

SUBCHAPTER VI PROCEDURES AND ADMINISTRATION

49.21 ADMINISTRATION.

(1) DELEGATION OF AUTHORITY. The County of Dane hereby designates its Land and Water Resources Department to administer and enforce this chapter.

(2) ADMINISTRATIVE DUTIES. In the administration and enforcement of this ordinance, the department shall:

(a) Inventory and ensure landowner compliance with agricultural performance standards and prohibitions in s. 49.08 and s. 49.09.

(b) Review manure storage facility and winter spreading permit applications, and issue permits and certificates of use, in accordance with this chapter.

(c) Keep an accurate record of all permit applications, manure storage facility plans, permits issued, certificates of use issued, inspections made and other official actions.

(d) Review the nutrient management plan prepared for the manure storage facility.

(e) Review designs of best management practices and conduct inspections during construction and implementation to ensure that they are constructed and maintained

according to technical standards, design specifications, and the operation and maintenance plan.

(f) Investigate complaints relating to compliance with the ordinance.

(g) Perform other duties as specified in this ordinance.

(3) **INSPECTION AUTHORITY.** The department is authorized to enter upon any lands affected by this chapter to inspect the land, and request records to determine compliance with this chapter including inspection of sites prior to or after the issuance of a permit or certificate, and sites with unpermitted storage facilities. If permission cannot be received from the applicant or permittee, entry by the department shall request a special inspection warrant pursuant to s. 66.0119, Wis. Stats. Refusal to grant permission to enter lands subject to a permit under this ordinance shall be grounds for denial of or revocation of the permit.

(4) **ENFORCEMENT.** The department shall enforce this chapter as set forth in s. 49.23.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.22 VARIANCES.

(1) A permit applicant may request a variance from the requirements under ss. 49.12 or 49.18 if the applicant demonstrates and county conservationist agrees that all of the following conditions are present:

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

(b) The hardship is due to exceptional physical conditions unique to the property.

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

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

(3) A person aggrieved by a variance determination may appeal that decision to the committee pursuant to s. 49.24.

(4) No variance from the standards in s. 49.09 may be granted by the department unless the applicant or department receives a written justification from the NRCS or other qualified engineering authority.

(5) No variance from the performance standards in s. 49.08 may be granted unless the landowner or operator complies with the requirements for variances specified in s. NR 151.097, Wis. Adm. Code, and receives approval from the Wisconsin Department of Natural Resources and the department.

(a) Requests for such a variance shall be made in writing to the department.

(b) The department shall forward the variance request to the Wisconsin Department of Natural Resources within 10 days of receiving the request.

(c) The request for variance from the standards in 49.08 shall include documentation of the following:

1. Compliance with the performance standard or technical standard is not feasible due to site conditions.

2. The landowner or operator will implement best management practices or other corrective measures that ensure a level of pollution control that will achieve a level of

water quality protection comparable to that afforded by the performance standards in ch. NR 151, Wis. Adm. Code.

3. The landowner or operator or their agents or assigns did not create the conditions for which the variance is requested.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.23 ENFORCEMENT.

(1) PROCEDURES. The department may do the following:

(a) Provide voluntary cost sharing to secure compliance.

(b) Follow the procedures in s. NR 151.09, Wis. Adm. Code, to implement and enforce the cropland performance standards and the procedures in s. NR 151.095, Wis. Adm. Code, to implement and enforce the livestock performance standards.

(c) Pursue any other action or remedy authorized under this ordinance.

(2) INVESTIGATION AND NOTICE OF VIOLATION. Department staff are responsible for conducting the necessary inspection and investigation to ensure compliance with this chapter and documenting the presence of violations by completing and sending a Notice of Violation (NOV) to the landowner.

(3) ENFORCEMENT OF VIOLATIONS.

(a) Violations of a permit, certificate, compliance determination, or other approval issued under this chapter, or any condition or approved plan associated with such permit or other approval, shall be deemed a violation of this chapter and shall constitute grounds for revocation of the permit, certificate, compliance determination, or other approval as well as fines, forfeitures, and any other available remedies. A permit, certificate, compliance determination, or other approval may be revoked only by action of the body that initially granted it following procedures required for its initial issuance to the extent practical. The decision of the appropriate body shall be furnished to the permit, certificate, or compliance determination holder in writing, stating the reasons for thereof.

(b) A permit, certificate, compliance determination, or other approval issued in violation of this chapter, other ordinances of the Dane County Code of Ordinances, the Wisconsin Administrative Code, or Wisconsin Statutes, gives the permit holder no vested right to continue the activity authorized by the permit, certificate, compliance determination, or other approval and is considered voidable.

(4) STOP WORK ORDER.

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

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

1. date of issuance;

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

3. reason for posting; and
4. signature of inspector posting the order.
- (c) Unauthorized removal of a stop work order from the premises shall be a violation of this ordinance.
- (5) NOTIFICATION. In addition to posting a stop work order, the department shall provide notification to the landowner, operator, contractor or other person by personal service, written notice by certified mail, electronic mail, or facsimile transmission.
 - (a) The permittee, landowner, operator, contractor or other person shall have 24 hours from time of notification by the department to correct any noncompliance with the plan when notification is by either personal communication of noncompliance to the landowner, operator, contractor, person or their respective agents, or written notice sent by certified mail to the landowner or operator.
 - (b) If notice is not provided under sub. (a), the permittee and landowner, operator or other person shall have 72 hours to correct any noncompliance with the plan when notification is by posting notice in a conspicuous place on the site or sending notice by facsimile transmission to the landowner, operator, contractor or other person.
 - (c) If the noncompliance is not corrected within the time periods specified in subs. (a) or (b), the permittee, landowner, operator or other person authorize the department to take any action, to perform any work, or commence any operations necessary to correct noncompliance on the subject property where notice of noncompliance has been issued to bring the property into compliance with plan requirements. The permittee, landowner, operator or other person further consent to reimburse the authority for the total costs and expenses of the corrective actions. Reimbursement may be collected as a special charge upon the property for current services rendered as provided by law.
 - (d) If the permittee has filed an appeal under s. 49.24(2)(a) prior to the expiration of the time for compliance under sub. (a), the department may take action, perform work or correct conditions only to the extent necessary to protect against an imminent hazard or condition that will cause or threatens to cause personal injury or damage to off-site property.
- (6) UNLAWFUL. Any manure storage facility erected, moved or structurally altered or any use established in violation of the provisions of this chapter by any person, firm, association, corporation, including building contractors or their agents, shall be an unlawful structure or use.
- (7) FORFEITURES. Any person, firm, company, or corporation that violates, disobeys, omits, neglects, or refuses to comply with; or who resists the enforcement of any of the provisions of this chapter, shall be subject to a fine of not less than \$50 or more than \$500 together with the costs of action. Any person found guilty of violating this chapter who has previously been convicted of a violation of the same ordinance, shall be subject to a fine of not less than twice the established forfeiture for each such offense, together with the costs of action. Each day a violation exists or continues constitutes a separate offense.

(8) INJUNCTIVE RELIEF. Compliance with this ordinance may be enforced by injunctive order at suit of the county. The Dane County Corporation Counsel may bring an action to enforce this chapter and seek any remedy, legal or equitable. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19; (5)(c) am., 2019 OA-6, pub. 08/23/19.]

49.24 APPEALS.

(1) AUTHORITY. The committee shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by department staff in administering this ordinance.

(2) PROCEDURE.

(a) Any person aggrieved by any decision of the department pursuant to this ordinance may appeal to the committee. Such appeal shall be submitted to the committee in writing within 60 days after receiving the written decision of the department. Notice of Appeal setting forth the specific grounds for the appeal shall be filed with the department. The department shall forthwith transmit to the committee the Notice of Appeal.

(b) The committee shall fix a reasonable time for the hearing of the appeal and publish a class 1 notice under ch. 985, Wis. Stats., as well as give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

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

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

49.25 FEES.

(1) All fees under this ordinance are established pursuant to a fee schedule adopted by the committee. Copies of the current fee schedule are kept on file at the department. Any permit fee is payable upon submission of a permit application.

[History: cr., Sub. 2 to 2018 OA-28, pub. 03/19/19.]

[NON-CODE PROVISION: The effective date of this ordinance shall be July 1, 2019.]

END OF CHAPTER