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, 92.07(15), and 92.16, Wis. Stat., and s. ATCP 50.56, Wis. Adm. Code.

49.02 PURPOSE, FINDINGS AND DECLARATION OF POLICY. 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 the state performance standards and prohibitions for agriculture. The standards in this ordinance have been proposed by the Lakes and Watershed Commission pursuant to Wis. Stat. §§ 33.455(2)(a)5 and 6. 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 application of manure and fertilizers results in the delivery of pollutants 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 agricultural management practices contribute 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 chapters NR 151 and ATCP 50, Wis. Adm. Code, by the county landowners is necessary to protect these interests. Compliance with this ordinance requires that persons follow the procedures contained herein, receive a permit or other approval from the department before beginning activities that require a permit or other approval, and comply with the requirements of this ordinance and the permit or other approval.

49.03 REPEAL AND REENACTMENT.
(1) RIGHTS AND LIABILITIES UNDER PREVIOUS CODE. It is the intention of this chapter to continue in force such existing provisions of the previous code known as “Chapter 49, Agricultural Performance Standards and Manure Management” so that all rights and liabilities that have accrued thereunder are enforced, unless explicitly surrendered by specific provisions of this chapter.

(2) REPEAL OF PROVISIONS NOT ENACTED. All provisions of Chapter 49 of the Dane County Code of Ordinances which existed prior to October 3, 2026 and which are not enacted herein are hereby repealed.
(3) VIOLATION OF PREVIOUS CODE. The adoption of this chapter shall not adversely affect the County's right to prosecute any violation of the predecessor chapter 49, provided that such violation occurred while that chapter was in effect. Declarations of rights and injunctions abating violations shall not be invalidated by the repeal and reenactment of Chapter 49.

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

49.05 STANDARDS

(1) SUBSEQUENT MODIFICATION OF STANDARDS. The standards of the NRCS Technical Guide are adopted and by reference made a part of this chapter as if fully set forth herein. Any future amendment, revision, or modification of the standards incorporated herein are made part of this chapter, unless otherwise acted upon by the department. Copies of the current standards are available at the department.
(2) ADDITIONAL STANDARDS. Standards not identified in this chapter may be utilized to meet the requirements of this ordinance with prior approval from the department. Variances may be requested in accordance with s. 49.17.

SUBCHAPTER II
DEFINITIONS

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

49.07 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 used in the singular include the plural.
(3) Words used in the plural include the singular.
(4) The word "shall" is mandatory and not permissive.

49.08 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* mean lands in agricultural use as provided under s. 91.01(2), Wis. Stat.

(3) *Applicant* means any person who applies for a permit or certificate of use under this chapter.

(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) *Certificate of use* means an authorization provided by the department to a landowner or operator allowing them to utilize a manure storage facility that is not subject to a current valid permit.

(6) *Committee* means the Land Conservation Committee as designated by the County Board pursuant to s. 7.20(2), Dane County Code of Ordinances, and s. 92.06, Wis. Stat.

(7) *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.

(8) *Crop producer* means a person engaged in crop related agricultural practices specified in s. 281.16(1)(b), Wis. Stat.

(9) *Department* means the Dane County Land & Water Resources Department.

(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 or nutrients will not run off the field or drain to subsurface tiles during application.

(13) *Exceptional resource water* means waters listed in s. NR 102.11, Wis. Adm. Code.

(14) *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 supplemental feeding area located within a pasture, provided that the bare soil is not a significant source of pollution to waters of the state as determined by predictive models for manure runoff utilized by the department.

(15) *Impaired water* means a waterbody impaired in whole or in part and listed by the state department of natural resources for not meeting a water quality standard, including

a water quality standard for a specific substance or the waterbody's designated use, as defined in s. NR 151.002(16m), Wis. Adm. Code.

(16) *Land application* means the physical transfer of manure from any animal confinement area or manure storage facility to fields for the purpose of fertilization or disposal.

(17) *Landowner* means a person who owns a parcel of land.

(18) *Livestock* means all domestic animals, including deer, elk, however kept, or any fenced-in animals.

(19) *Livestock operation* means a feedlot, or other facility, or a pasture where animals are fed, confined, maintained, or stabled.

(20) *Livestock producer* means an owner or operator of a livestock operation.

(21) *Manure* means livestock excreta and includes the following biological materials 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 liquid, composted biosolids, process wastewater; and runoff collected from barnyards, animals lots, and feed storage areas.

(22) *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.

(23) *Manure storage facility, existing* means a facility that was constructed prior to October 1, 2002.

(24) *Manure storage facility, idle* means a manure storage facility, permitted or unpermitted, that ceases operation or where manure has not been added or removed for a period of 24 months.

(25) *Manure storage facility, new* means a manure storage facility constructed after October 1, 2002.

(26) *Manure storage facility, permitted* means a manure storage facility constructed with a permit issued by the department under this chapter after July 1, 2019 and the permit is not expired.

(27) *Manure storage facility, substantially altered* means a change initiated by the landowner or operator that results in a relocation of a manure storage facility or significant changes to the size, depth, or configuration of a manure storage 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 facility.

(b) An increase in the volumetric capacity of area of a manure storage facility by greater than 20%.

(c) A change in a manure storage facility related to a change in livestock management from one species of livestock to another, such as cattle to poultry.

(28) *Manure storage facility, unpermitted* means either a manure storage facility that was constructed before July 1, 2019 or the permit has expired.

(29) *Margin of safety level* means the level in a liquid manure storage facility that is vertically one foot below the lowest point of the top of the manure storage facility, also referred to as freeboard.

(30) *Maximum operation level (MOL)* means the level in a liquid manure storage facility, measured vertically from the lowest point of the top of the facility, that is the sum

of the margin of safety level and the level necessary to contain the precipitation and runoff entering the manure storage facility as a result of a 25-year, 24-hour storm event.

(31) *Natural Resources Conservation Service (NRCS)* means an agency of the United States Department of Agriculture (USDA) that houses and maintains the technical standards associated with implementation of this chapter.

(32) *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. Stat.

(33) *Nutrient management plan* means a plan that meets the current NRCS Technical Guide 590 for Nutrient Management. A nutrient management plan shall include a winter spreading plan if manure is going to be spread during frozen or snow-covered conditions.

(34) *Nutrients* mean plant nutrients derived from commercial fertilizers, manure, organic wastes, soil reserves, legumes, or other sources.

(35) *Operator* means a person who rents, controls, or uses a parcel of land for agricultural purposes.

(36) *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.

(37) *Outstanding resource waters* means waters listed in s. NR 102.10, Wis. Adm. Code.

(38) *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.

(39) *Permit* means the signed, written statement issued by the department under this chapter authorizing the applicant to construct, install, substantially alter, or close a manure storage facility.

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

(41) *Person* means any individual, agent, owner, operator, corporation, limited liability company, sole proprietorship, partnership, association, municipality, interstate agency, state agency, or federal agency.

(42) *Phosphorus index or "PI"* means that state's agricultural land management planning tool for assessing the potential of a cropped or grazed field to contribute phosphorus to surface waters.

(43) *Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked of discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

(44) *Pollution* means 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.

(45) *Process wastewater* means wastewater from the production area directly or indirectly used in the operation of an animal feeding operation that results from any or all of the following:

(a) Spillage of overflow from animal or poultry watering systems.

(b) Washing, cleaning, or flushing pens, barns, manure storage facilities, or other animal feeding operations.

(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.

(46) *Production area* means that part of an animal feeding operation that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cow yards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions that separate uncontaminated storm water. Included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

(47) *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.

(48) *Safety devices* means constructed measures designed to protect humans and livestock from hazards associated with a manure storage facility.

(49) *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 1,000 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 two (2) feet.

(f) An area where the soil does not exhibit one of the following soil characteristics:

1. At least a two-foot soil layer with 40% fines or greater above groundwater and bedrock.

2. At least a three-foot soil layer with 20% fines or greater above groundwater and bedrock.

3. At least a five-foot soil layer with 10% fines or greater above groundwater and bedrock.

(50) *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.

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

(52) *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.

(53) *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.

(54) *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 two (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.

(55) *Waste transfer system* means all components including tanks, pipes, pumps, conduits, valves, gutters, flow channels, and any other component constructed to convey manure, contaminated runoff, milking center wastes, or waste byproducts from an agricultural source to a manure storage facility, treatment facility, or land application site.

(56) *Water quality management area (WQMA)* means land that includes any of the following:

(a) An area within 1,000 feet up-gradient of the ordinary high-water mark of a navigable lake, pond, or flowage.

(b) An area within 300 feet up-gradient of the ordinary high-water mark of a navigable river or stream.

(c) An area that is susceptible to groundwater contamination or has the potential to be a direct conduit for pollutants to reach groundwater.

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

(58) *Winter grazing area* means 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.

SUBCHAPTER III
AGRICULTURAL PERFORMANCE STANDARDS AND PROHIBITIONS

49.09 CROPLAND PERFORMANCE STANDARDS.

(1) SHEET, RILL, AND WIND EROSION.

(a) 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.

(b) The standards for evaluating sheet, rill, and wind erosion shall be the Revised Universal Soil Loss Equation 2 (RUSLE2) or the current version of SNAP Plus. An equivalent methodology may be used as approved by the department.

(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. This standard does not apply to grassed waterways installed as conservation practices. To achieve this standard, the following practices are required:

(a) No tillage operations may be conducted within five (5) feet of the top of the channel of surface waters. Tillage setbacks greater than five (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.

(c) The standards for implementing the tillage setback include the NRCS Technical Guides including but not limited to 342 Critical Area Planting, 410 Grade Stabilization Structure, and 580 Streambank and Shoreline 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.

(3) PHOSPHORUS INDEX.

(a) 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.

(b) The standard for meeting the PI on croplands, pastures, or winter grazing areas shall be based on the calculations utilized by the current version of the SNAP Plus nutrient management planning model. An equivalent methodology may be used as approved by the department.

(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) Nutrient management plan standards include:

1. Manure, commercial fertilizer, and other nutrients shall be applied in conformance with a nutrient management plan.

2. 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.

3. Plans for croplands in watersheds that contain impaired surface waters or in watersheds that contain outstanding or exceptional resources 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 sediment and nutrients contributing to the impairment of impaired waters and to outstanding or exceptional resource waters.

4. No person may apply manure on frozen, snow-covered, or ice-covered ground without a nutrient management plan on file with the department. Updates to the winter spreading plan must be submitted prior to manure applications to frozen, snow-covered, or ice-covered ground.

5. 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.

6. Maps identifying manure stacking sites utilized to implement the nutrient management requirements per s. 49.10 (3)(d) shall be included in the nutrient management plan.

7. An updated plan shall be submitted to the department annually by April 15 to ensure the plan meets requirements of this section.

(d) The standards for management of manure and nutrients applied to cropland and pastures shall be the current standards in the NRCS Technical Guide, including but not limited to 590 Nutrient Management.

49.10 LIVESTOCK PERFORMANCE STANDARDS AND PROHIBITIONS.

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

(a) Runoff shall be diverted away from feedlots, manure storage facilities, 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 facility, or barnyard area is located upslope from the private well.

(b) The standards for clean water diversions shall be the current standards in the NRCS Technical Guide, including but not limited to 362 Diversion, 367 Roofs & Covers, 558 Roof Runoff Structure, 620 Underground Outlet, 554 Drainage Water Management, 606 Subsurface Drain, 412 Grassed Waterway, 468 Lined Waterway, 582 Open Channel, or 533 Pumping Plant.

(2) 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 department shall consider the following factors 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 was 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 the groundwater standards.

(c) The standards for process wastewater handling shall be the current standards in the NRCS Technical Guide, including but not limited to 627 Wastewater Treatment–Milk House, 313 Waste Storage Facility, 632 Waste Separation, 634 Waste Transfer, 635 Vegetated Treatment Area, 533 Pumping Plant, 521 Pond Sealing or Lining–Geomembrane or Geosynthetic Clay Liner, 520 Pond Sealing or Lining–Compacted Soil Treatment, 522 Pond Sealing or Lining–Concrete.

(d) The standards for evaluating significant discharge shall be the Barnyard Runoff Evaluation Tool (BERT), BARNY, Vegetated Treatment Area spreadsheet, feedstock storage rating, milking center waste rating, or equivalent predictive model for manure, feed leachate, milkhouse waste, or other process wastewater runoff. An equivalent methodology may be used as approved by the department.

(3) MANURE STORAGE FACILITIES. All livestock producers building new manure storage facilities, substantially altering manure storage facilities, maintaining existing manure storage facilities, or closing manure storage facilities shall comply with this section.

(a) New construction or 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.

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

3. Manure storage facilities that are constructed or significantly altered on or after January 1, 2011 shall be designed and operated in accordance with the maximum operating level (MOL).

4. The standards for new or substantially altered manure storage facilities shall be the current standards in NRCS Technical Guide, including but not limited to 313 Waste Storage Facility, 632 Waste Separation, 634–Waste Transfer, 533 Pumping Plant, 521 Pond Sealing or Lining–Geomembrane or Geosynthetic Clay Liner, 520 Pond Sealing or Lining–Compacted Soul Treatment, 522 Pond Sealing or Lining–Concrete.

5. Obtain a permit in accordance with s. 49.12 and meet all applicable operating requirements.

(b) Existing.

1. Existing manure storage facilities that pose an imminent threat to public health, fish and aquatic life, or groundwater shall be upgraded, replaced, or closed in accordance with this chapter.

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

3. Obtain a certificate of use in accordance with s. 49.15 and meet all applicable operating requirements.

(c) Closure or retention.

1. *Conditions for closure.* Idle manure storage facilities shall be closed in a manner that will prevent future contamination of groundwater and surface water.

a. The standards for closure of an idle manure storage facility shall be the current standards in NRCS Technical Guide, including but not limited to 360 Waste Storage Closure.

b. Obtain a permit in accordance with s. 49.13(3) and meet all applicable operating requirements.

2. *Conditions for retention.* A landowner or operator may retain an idle manure storage 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 manure storage facility is brought into use or properly closed and by demonstrating to the department the following conditions are met:

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

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

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

d. Obtain a certificate of use in accordance with s. 49.15 and meet all applicable operating requirements if the facility does not have a valid manure storage permit or current certificate of use.

(d) Stacking of manure.

1. *Conditions for stacking.* In order to implement a nutrient management plan and prevent the land application of manure during restrictive conditions, manure stacking may be utilized.

a. The standards for manure stacking shall be the current standards in the NRCS Technical Guide, including but not limited to 318 Short Term Storage of Animal Waste and By-Products or 313 Waste Storage Facility.

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

(a) No overflow of manure storage facilities.

(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.

1. The standards for evaluating direct runoff shall be the Barnyard Runoff Evaluation Tool (BERT), BARNY, APLE Lots, VTA spreadsheet, or equivalent predictive model for manure, feed leachate, milkhouse waste, or other process wastewater runoff. An equivalent methodology may be used as approved by the department.

(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.

1. This prohibition does not apply to properly designed, installed, and maintained livestock or farm equipment crossings.

2. The standards for evaluating adequate sod or self-sustaining vegetative cover shall be the standards outlined in the NRCS Technical Guide 528 Prescribed Grazing or by vegetative measurements using grid samples showing at least 70% living plant material cover. An equivalent methodology may be used as approved by the department.

49.11 COST SHARE REQUIRED. Cost-share may be required for a landowner or operator to comply with a cropland performance standard or livestock performance standard or manure management prohibition in accordance with s. NR 151.09, Wis. Adm. Code for cropland performance standards and s. NR 151.095, Wis. Adm. Code, for livestock performance standards and manure management prohibitions.

SUBCHAPTER IV
MANURE STORAGE FACILITY PERMITS, USE CERTIFICATES, AND SPECIFICATIONS

49.12 PERMIT REQUIREMENTS, MODIFICATIONS, AND TERMS.

(1) PERMIT REQUIRED. Except as otherwise provided in this chapter, work done without a proper permit shall constitute noncompliance with this chapter. No person may do any of the following without obtaining a permit in accordance with this subchapter:

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

(b) 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.

(c) Close a manure storage facility in accordance with s. 49.10(3)(c), including conversion of its use, regardless of whether the manure storage facility is required to be closed.

(2) EXCEPTIONS TO PERMIT REQUIREMENT.

(a) Emergency Repairs. Repairs necessary to respond to an existing emergency 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 manure storage facility failing, or overtopping, or repairs intercepting the liner or substantially altering the original design of construction of a manure storage 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 an existing emergency. The department is authorized to enter upon lands where a repair has been made to a manure storage facility to make this determination.

2. A permit shall be required for any work deemed to constitute a substantial alteration to the manure storage facility in excess of that reasonably necessary to respond to an emergency. The department's determination shall be rendered within five (5) business days of the reporting under sub. (a).

(b) Manure storage facilities and waste transfer systems that have a capacity of 1,000 gallons or less in total volume may be constructed without a permit. This exemption applies only if the manure storage facility is not connected to another manure storage facility(ies) or waste transfer system(s) that results in a cumulative volume capacity of more than 1,000 gallons.

(c) Manure storage facilities and waste transfer systems that receive only process wastewater, such as milkhouse wastewater, parlor wash water, or feed leachate, and have a capacity of 10,000 gallons or less may be constructed without a permit if they are

constructed in accordance with ss. NR 213.08 and NR 213.15, Wis. Adm. Code. This exemption applies only if the manure storage facility is not connected to another manure storage facility. A certificate of use shall be applied for and issued for the manure storage facility.

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

(4) PERMIT EXPIRATION. Within six (6) months prior to permit expiration, the landowner shall either obtain a certificate of use in accordance with s. 49.15 or obtain a permit to close the manure storage facility in accordance with s. 49.13(3).

(5) REVIEW OF APPLICATION. The department shall approve or deny permits, in writing, based on the standards set forth in s. 49.13 within 45 working days after receiving the completed application and fee. If disapproved, the department shall inform the applicant, in writing, of the reasons for disapproval. If additional information is required, the department shall notify the applicant what is required and shall approve or deny the permit application, in writing, within 45 working days after receipt of the requested additional information. If the department fails to approve or deny the permit application within the schedule set in this section, the application shall be deemed approved and the applicant may proceed as if a permit had been issued. In any event, the manure storage facility for which the permit was sought shall comply with the applicable performance standards and prohibitions of this ordinance. In this section, “working days” means week days and excludes holidays.

(6) PERMIT MODIFICATION. Changes to a manure storage facility that fall under activities identified in sub. (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. 49.13. The department shall make a determination whether the activities proposed in the application shall require a new permit or shall be performed under a permit modification. A permit modification does not alter the expiration date of the original permit.

(7) 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.

49.13 PERMIT APPLICATION REQUIREMENTS. Manure storage facility permit applications shall meet the requirements in this section.

(1) MANURE STORAGE FACILITY CONSTRUCTION PLAN REQUIREMENTS. A complete permit application for a new or substantially altered manure storage facility or waste transfer system shall include a construction plan that meets or exceeds the minimum established limits and specific criteria within NRCS Technical Standard 313 Waste Storage and additional NRCS Technical Standards, including but not limited to 342 Critical Area Planting, 382 Fence, 558 Roof Runoff Structure, 590 Nutrient Management, and 634 Waste Transfer as applicable. The manure storage facility construction plan shall also 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) The specific locations of all of the following that are or may be located within 500 feet of the proposed manure storage facility:

1. Residential buildings.

2. Property lines.

3. Wells.

4. All utilities.

5. All roadways including each state and federal highway, county and town roads, and public streets.

6. Navigable water and drainage ways.

7. Floodplains and waterways not covered by sub. 6 above.

(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 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 manure storage facility.

(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 manure storage facility.

(k) Details and plans for the method and structures used in transferring manure into and from the manure storage facility.

(l) Plan to control erosion during construction or modification of the manure storage facility.

(m) Plans that address the safety devices and requirements of the manure storage facility.

(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, an engineering practitioner certified by the Wisconsin Department of Agriculture Trade and Consumer Protection (DATCP), or the NRCS that the manure storage facility construction plans meet technical and ordinance requirements.

(p) Operation and maintenance plan for the manure storage facility signed by the landowner or operator that identifies the basic requirements for safe operation of the facility, the manure removal interval, the proper procedures for operation of all components, suggested preventative maintenance, and when repairs are required to damaged components such as pumps, pipes, berms, and roads that are a necessary part of the manure storage facility function.

(q) Nutrient management plan. The nutrient management plan must be prepared by a nutrient management planner qualified under s. ATCP 50.48, Wis Adm. Code, and submitted and approved prior to the issuance of the permit.
(r) Manure storage facility setbacks identified in s. 49.13(2).
(s) Any other additional information required by the department to protect water quality and determine compliance with this chapter.
(2) MANURE STORAGE FACLITY SETBACK REQUIREMENTS.
(a) Setback from property lines and road right-of-way. Manure storage facilities and any additions to such manure storage facilities shall maintain the following setback:
1. In addition to the setbacks required under the standards referenced in this ordinance, manure storage facilities 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.
2. 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. The manure storage facility measurements shall be from the inside top of the liner of the manure storage facility.
(b) Setbacks do not apply to manure transfer systems.
(c) Expansion. Subject to the permitting requirements in s. 49.12, manure storage facilities located within a setback area may be expanded provided the area to be expanded meets required setbacks.
(3) MANURE STORAGE FACLITY CLOSURE APPLICATION REQUIREMENTS. A complete permit application for a manure storage facility closure shall meet all standards as outlines in NRCS Technical Guide 360 Waste Storage Closure 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 soils, to the depth of significant manure contamination or two (2) feet, whichever is less, from the bottom and sides of a manure storage facility without a constructed liner.
(e) Provisions to remove or permanently plug the waste transfer system serving the manure storage facility.
(f) Provisions to cover all disturbed areas with topsoil, seed the areas with grass or native plant mixture, and mulch 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 requirement by the department to protect water quality and determine compliance with this section.

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 approved manure storage facility construction plan, including approved modifications, and applicable standards in this ordinance.
(2) The permittee shall give five (5) calendar days' notice to the department before starting any construction or closure activity authorized by permit.
(3) Before initiating construction, the permittee, engineer, contractor, and department shall participate in a pre-construction conference to outline the requirements and responsibilities of all of the involved parties.
(4) Written approval from the department must be obtained for all substantial modifications to the permitted plans prior to implementation of any proposed modifications.
(5) The permittee and engineer shall certify, in writing, that the manure storage facility was constructed in accordance with the standards listed in the approved design. This certification shall include records and drawing signed and stamped by the engineer documenting the construction of the facility and depicting any changes to the approved construction plan.
(6) The department shall provide onsite inspection and final verification of compliance with the permit terms for all construction projects conducted under a permit issued under this chapter. To receive final verification, a manure storage facility must be fully constructed, certified by the permittee and engineer, and approved by the department.
(7) No permitted manure storage facility may receive manure until the department provides final verification of compliance or issues a temporary authorization to use the facility. The permittee may submit a request for a temporary authorization. This request shall include information about the type of waste to be placed in the facility and when certification of the constructed facility will be submitted to the department. A temporary authorization may be issued by the department based on the information provided in the request and may be revoked at any time for any reason.
(8) Construction activities authorized by permit must be completed and verified by the department within two (2) years from the date of issuance, after which any additional construction or closure activities will require a new manure storage permit application to be submitted and approved.

49.15 CERTIFICATE OF USE.

(1) CERTIFICATE REQUIREMENT. No person may operate or use a manure storage facility, or any portion of a manure storage facility that was 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) APPLICATION FOR CERTIFICATE OF USE.
(a) Unpermitted facility. The landowner or operator of an unpermitted manure storage facility shall apply for a certificate of use by submitting a complete application and fee to the department for review and approval.
(b) Facility with expiring permit. The landowner or operator of a permitted manure storage facility shall apply for a certificate of use within six (6) months of permit expiration

and submit a complete application and fee to the department for review and approval. A complete application must comply with sub. (c) and is subject to the following:

1. 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 chapter.

a. If the department determines, based on the engineering evaluation, that the manure storage facility meets the standards listed in this chapter, a certificate of use will be issued in accordance with sub. (4).

b. 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 through a conditional approval.

2. If no evaluation is performed in accordance with sub. 1, or 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(1)(c) prior to the expiration date of the permit.

(c) A complete application includes the following:

1. A department approved application.

2. A copy of the current nutrient management plan associated with the manure storage facilities.

3. Copies of any engineering documentation for the manure storage facility including, but not limited to, original construction designs and engineering evaluations.

(3) REVIEW OF APPLICATION. Upon receipt of a complete application and fee, the department shall conduct a file review and an on-site inspection of the manure storage facility and issue one of the following:

(a) Approval. The department issues a certificate of use that is valid for up to ten (10) years in accordance with the provisions listed in sub. (4).

(b) Conditional approval. The department issues a certificate of use with conditions for a period of time less than ten (10) years to allow the landowner or operator to follow a schedule of compliance to come into compliance with the requirements listed in sub. (4).

(c) Denial. The department issues a denial of certificate of use if the manure storage facility is unable to meet the operating requirements listed in sub. (4). The manure storage facility shall be closed in accordance with s. 49.12(1)(c).

(4) CERTIFICATE OF USE CONDITIONS. Certificates of use issued under this subchapter shall be issued subject to the following conditions and requirements:

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

(b) Provides a copy of a nutrient management plan annually to the department by April 15 that documents compliance with this chapter.

(c) Operates the manure storage facility in accordance with performance standards and prohibitions in s. 49.10(3) and (4).

(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.

(e) Maintains all safety devices for a manure storage facility including:

1. For unpermitted manure storage facilities, a substantial fence shall be in place and maintained around the perimeter to prevent accidental entry into the manure storage facility. All fence openings shall have gates that can be shut and securely fastened.
2. For expired permitted manure storage facilities, a fence around the manure storage facility is required unless the manure storage facility has vertical walls five (5) feet above the ground surface or the manure storage facility has a cover that will support foot traffic. Fences shall meet NRCS Technical Guide standards for 313 Waste Storage Facility at the time of permit issuance.
3. A grate or cover is required for any opening in the waste transfer system that is larger than six (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 in accordance with sub. 1 or 2 above.
4. Safety stops, gates, or both shall be installed at push-off ramps and load out areas of manure storage facilities to prevent accidental entry of tractors or other equipment.
5. Manure storage facilities and their components shall have signs at all access points to warn of the danger of entry.
(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) Submits a permit application in accordance with s. 49.12(1)(c) within two (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 chapter.
(5) RENEWAL. Applicants shall submit an application for a renewal of a certificate of use within six (6) months before the expiration date of the original certificate of use. The landowner or operator may be required to provide documentation that the operation requirements listed in s. 49.15(4) are still being maintained. A renewal of a certificate of use may be for a period of up to ten (10) years.
(6) CERTIFICATE REVOCATION. The department may revoke a certificate of use if there is a misrepresentation of any material fact in the application, manure storage facility plan, or 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, or for multiple or repeat violations of this chapter. Upon verification of the violation, the department will immediately provide written notice of the revocation and the reason for the revocation.

SUBCHAPTER V
PROCEDURES AND ADMINISTRATION

49.16 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 chapter, the department shall:

(a) Inventory and ensure landowner compliance with agricultural performance standards and prohibitions in this chapter.
(b) Review manure storage facility and certificate of use applications and plans, and issue permits and certificates of use, in accordance with this chapter.
(c) Keep an accurate record of all permit applications, manure storage facility construction 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 for compliance with this chapter.
(e) Review designs of best management practices and conduct inspections during construction and implementation to ensure that the best management practices are constructed and maintained according to the requirements of this chapter.
(f) Investigate complaints relating to compliance with the ordinance.
(g) Perform other duties as specified in this ordinance.
(3) ENFORCEMENT. The department shall enforce this chapter as set forth in s. 49.18.

49.17 VARIANCES.

(1) VARIANCE FROM PERMIT.
(a) A permit applicant may request a variance from one or more of the requirements under s. 49.13 if the applicant demonstrates and the county conservationist agrees that all of the following conditions are present:
1. Enforcement of the standards set forth in this ordinance will result in unnecessary hardship to the landowner.
2. The hardship is due to exceptional physical conditions unique to the property.
3. 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.
4. The potential impacts that will be caused by the requested variance and the measures that will be implemented mitigate those impacts.
(b) 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 the unnecessary hardship, with primary consideration given to water quality and impact to downstream conditions.
(2) VARIANCE FROM PERFORMANCE STANDARD OR PROHIBITION. No variance from the performance standards or prohibitions in ss. 49.09 or 49.10 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 (DNR) 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 DNR within ten (10) days of receiving the request.
(c) The request for variance from the standards in ss. 49.09 or 49.10 shall include documentation of all 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 identified in sub. (1).

(3) VARIANCE FROM NRCS STANDARD. In addition to other applicable requirements in this section, no variance from the NRCS Technical Guide standards required by this chapter may be granted by the department unless the applicant or department receives written justification from the NRCS or other qualified engineering authority.

(4) A person aggrieved by a variance determination may appeal that decision to the committee pursuant to s. 49.19.

49.18 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 and prohibitions.

(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 Noncompliance (NON) or Notice of Violation (NOV) to the landowner.

(3) UNLAWFUL CONDITIONS.

(a) Violations of this chapter or an approval issued under this chapter, including without limitation, a permit, certificate of use, compliance determination, condition or plan, shall be deemed a violation of this chapter and shall constitute grounds for revocation of such approval as well as fines, forfeitures, and any other available remedies. An approval may be revoked only by action of the body that initially granted it following procedures either required by this chapter or comparable to those applied for its initial issuance, to the extent practical. The decision of the appropriate body shall be furnished to the holder of the approval in writing, stating the reasons for thereof.

(b) An approval, including without limitation, a permit, certificate of use, compliance determination, condition, or plan issued in violation of this chapter, other ordinances of the Dane County Code of Ordinances, the Wisconsin Administrative Code, or Wisconsin Statutes, gives the holder of such approval no vested right to continue the activity authorized by the 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, operators, 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 the 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) FORFEITURES. Any person who violates, disobeys, omits, neglects, or refuses to comply 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 provision(s), 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.

(6) INJUNCTIVE RELIEF. The Dane County Corporation Counsel may bring an action to enforce this chapter and seek all available remedies, legal, or equitable, including temporary and permanent injunctive relief as well as forfeitures and other penalties. It shall not be necessary to prosecute for forfeiture before seeking injunctive relief.

49.19 APPEALS.

(1) AUTHORITY. The committee shall hear and decide appeals where it is alleged that there is error in any order, requirements, decisions, 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 thirty (30) days after receiving the written decision of the department. A 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) Stays. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the committee, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, a stay would cause imminent hazard or a condition that will cause or threatens to cause personal injury or damage to off-site property. In such case, proceedings shall not be stayed otherwise than by injunctive relief granted by a court.

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

(d) The committee may by majority vote and 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 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.

49.20 FEES. 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, certificate of use, or other application fee is payable upon submissions of the application.

49.21 SEVERABILITY

(1) JUDGMENT 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 in the judgment.

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

[NON-CODE PROVISION: The effective dates of this ordinance shall be July 1, 2019 with subsequent revisions in October 3, 2026.]

[**History**: Chapter 49 entirely re-written, 2026 OA-017, pub. 10/02/2026.]

END OF CHAPTER