

1/11/02

Procedures for ensuring consistent county-wide implementation of the Dane County construction site erosion control and stormwater management program

The County Board adopted Dane County's erosion control and stormwater management ordinance on August 2, 2001. The stormwater standards included in the ordinance were designed to improve the quality and limit the quantity of stormwater runoff, building on the construction site erosion control standards that had been in place since 1995. This ordinance applies countywide and gives landowners and builders in towns, villages and cities across the County a consistent set of standards to meet. Administration of the ordinance in unincorporated areas (towns) will be by Dane County. Administration in incorporated areas will be by cities and villages, if they adopt stormwater and erosion control standards at least as restrictive as in the county ordinance.

The ordinance becomes effective county-wide on August 22, 2002. Through letters, workshops, and other forums, cities and villages have been informed that the ordinance gives communities until August 22, 2002 to amend their ordinances to include standards at least as restrictive as the county's.

This document summarizes procedures that Dane County will use to review administration and enforcement of this program to ensure that it is consistently implemented county-wide. It also summarizes the advice and assistance available to communities in meeting their responsibilities under this ordinance.

A. Ordinance review and certification

Under the Dane County Erosion Control and Stormwater Management Ordinance, cities and villages need to amend their ordinances to include standards at least as restrictive as the county's. This section describes how the county will review and certify ordinances adopted by cities and villages.

1. City and village draft ordinances received and logged by Lakes and Watershed Coordinator; distributed for review for consistency with county standards to:

- Land Conservation Department (technical provisions review, using standard checklist)
- Planning and Development Department (administrative/enforcement provisions review, using standard checklist)
- Lakes and Watershed Coordinator (overall review)
- other staff at the Coordinator's discretion

2. Lakes and Watershed Coordinator compiles results from reviews; determines overall compliance with county ordinance. Correspondence/meetings with communities continue until the local ordinance is

adopted. A standard paragraph explaining the stormwater ordinance will be included in each letter to a municipality to be followed by the county staff's written review of the municipality's ordinance. Correspondence to communities will be sent to Regulation and Standards Subcommittee members for review before it is mailed to the community.

3. Lakes and Watershed Coordinator prepares comments on the community ordinance as adopted, and recommendations to the Lakes and Watershed Commission, in consultation with the County Corporation Counsel.

3. Regulations and Standards Subcommittee reviews adopted ordinances and staff recommendations at regular meetings, and recommend action by Lakes and Watershed Commission.

4. Lakes and Watershed Commission acts on adopted ordinance.

Consequences of failure of a community to amend its ordinance to include standards at least as restrictive as the county ordinance is addressed in section _____ of this document.

B. Erosion control and stormwater management program quality control

After municipalities have adopted construction site erosion control standards at least as restrictive as the county's, the county focus will be on consistent ordinance implementation and enforcement. The intent would be to comprehensively evaluate, with city and village staff and elected officials, whether or not existing local ordinances are accomplishing what was intended, and that inspection and enforcement are sufficient.

For the cities and villages who are or will be administering the county standards, county staff will establish a two-part evaluation process:

1. An annual survey (brief written, with phone follow-up as necessary) of each city and village (including their consultants) to determine level of activity in the construction site erosion control and stormwater management program, for example:
 - permits issued
 - plans reviewed
 - stop work orders and other enforcement taken
 - results of enforcement actions
 - problems
 - suggestions
 - training needs
 - regional facilities constructed and their location
 - have fees-in-lieu of construction been collected but regional facilities not constructed?
 - for any regional facilities proposed, what is the timetable for their completion?
 - maintenance plans filed
 - variances granted

- cases of acknowledged noncompliance (enforcement discretion)
 - open-ended question about how things are working.
2. Each community will undergo a comprehensive, face-to-face program review, at least once every 2-3 years. This compliance review would be similar to that conducted by Land Conservation Department staff in the Mendota and Monona watersheds. Those participating in the review may include Land Conservation Department, Planning and Development Department, and Lakes and Watershed Coordinator. Elements of the review will include:
- verification of information submitted in annual surveys
 - review of commercial and industrial developments and subdivision plans
 - site visits to selected developments to determine if plan met needs of site, if plan is being implemented, if practices are being maintained, and overall compliance
 - review of stormwater detention basins created throughout community, to ensure county database is complete.
 - review of safety features designed into basins (concerns about kids)
 - funding mechanisms
 - maintenance program; deed restrictions in place
 - comprehensive review of enforcement records
 - variances granted
 - cases of acknowledged noncompliance (enforcement discretion)
 - discussion of problem areas raised by community or county staff
 - discussion of complaints received and logged by county staff

Program review frequency will be determined by county staff and the Lakes and Watershed Commission, based in part on frequency of complaints to the county.

The County may occasionally review certain large-scale projects with city and village staff to ensure that the biggest projects in the county with the potential for greatest impact to waters are constructed with appropriate erosion and stormwater controls. Examples of such projects would include those with cross-jurisdictional impacts.

C. County erosion control and stormwater management assistance to Dane County communities

In order to assist cities and villages in ordinance implementation and enforcement, the county will offer the following:

- annual technical training for staff and their consulting firms
- individualized assistance to communities on addressing erosion control and stormwater management problems
- opportunity for communities to contract with the Land Conservation Department for inspection and plan review services

- multi-program briefing offered each May by county for newly-elected town and village board members and city council members (similar in concept to briefing for new county board supervisors) that would address:
 - erosion control and stormwater management
 - county government departments, sources of information
 - county policy development and implementation

D. County staff response to enforcement complaints

When county staff receive complaints on enforcement in cities and villages they will log the contact, and refer the caller to the inspection/enforcement staff within the appropriate community. Referrals will also be made to DNR as appropriate. Frequent unresolved complaints about a particular site or about a particular community will prompt further investigation and community contact by county staff. However, the county does not have the staff resources to follow up on each complaint regarding program implementation within cities and villages.

E. Consequences of city or village failure to amend ordinance to include standards at least as restrictive as the county ordinance

If a municipality does not enact an ordinance by August 22, 2002 that meets or exceeds the county minimum standards, or if the Dane County Lakes and Watershed Commission after notice and hearing, and consultation with the County Corporation Counsel, determines that a municipality has enacted an ordinance that fails to meet the minimum standards, the Dane County Zoning Administrator shall enforce the provisions of the county ordinance within the limits of the municipality. The Zoning Administrator shall continue to administer and enforce the provisions of the ordinance until the municipality adopts and enforces an ordinance at least as restrictive as the county ordinance.

F. Consequences of city or village failure to administer and enforce county standards

County staff will work cooperatively with municipalities to ensure that the county minimum construction site erosion control and stormwater management standards are uniformly, fairly and effectively implemented in all towns, cities and villages. However, under the authority of the Lakes and Watershed Commission and under county ordinance, if a municipality is not administering and enforcing its ordinance in conformance with the minimum county standards, the county after notice, hearing, consultation with the County Corporation Counsel, and a finding of noncompliance by the Lakes and Watershed Commission, shall administer and enforce the provisions of the ordinance within the limits of the noncomplying municipality. The Dane County Zoning Administrator shall continue to administer and enforce the provisions of the ordinance until the Dane County Lakes and Watershed Commission rescinds its finding of noncompliance.

G. Evaluation of county program implementation

County staff will develop evaluation measures and schedules to ensure that the ordinance is being consistently implemented across the county, and that the program is being thoroughly and efficiently administered in the unincorporated areas of Dane County. To accomplish this, Dane County will seek to have its own evaluation process mirror the process it will use with cities and villages. County staff will explore use of peer review by another county, an evaluation team from the Wisconsin County Code Administrators, an audit under contract to the Dane County Board Executive Committee, or an audit by the Department of Natural Resources.