

Chapter 32
Stormwater Management and Erosion Control
(Rep. & recr. #34-05)

32.05 Definitions (Am. #14-18)

(a) “Applicant” means any person or entity holding fee title to the property or their representative. The applicant shall be the “landowner” as herein defined. The applicant shall sign the initial permit application form in accordance with subs. 1 through 5 below, after which the applicant may provide the AUTHORITY written authorization for others to serve as the applicant’s representative:

1. In the case of a corporation, by a principal executive officer of at least the level of vice president or by the officer’s authorized representative having overall responsibility for the operation of the site for which a permit is sought.
2. In the case of a limited liability company, by a member or manager.
3. In the case of a partnership, by the general partner.
4. In the case of a sole proprietorship, by the proprietor.
5. For a unit of government, by a principal executive officer, ranking elected official or other duly authorized representative.

(b) “Authority” means the Director of Public Works or his/her duly authorized representative.

(b2) “Basement” means an enclosed space of any height below existing grade for a residential or commercial building, including crawlspaces, but not including spaces below buildings supported by pillars or stilts (e.g. for flood control purposes)

(c) “Best management practice” (or “BMP”) means structural and non-structural measures, practices, techniques or devices employed to either avoid or minimize sediment or other pollutants carried in runoff; or to reduce runoff volumes or peakflows.

(d) “Common plan of development” means all lands included within the boundary of a certified survey map or subdivision plat created for the purpose of development or sale of property where integrated, multiple, separate and distinct land developing activity may take place at different times by future owners.

(d2) “Connected Impervious Surface” means an impervious surface connected to the waters of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.

(d3) “Construction Site” means an area where one or more land disturbing construction activities occur, including areas that may be part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

(e) “City mapping standards” means that the maps are drawn to national map accuracy standards using the Wisconsin State Plane Coordinate System, Wisconsin South Zone, and the most recent horizontal and vertical datums adopted by the Waukesha County Board.

(e2) “Cropland” means land cultivated in annual agricultural crops including, but not limited to, corn and soybeans or small grain such as wheat or oats.

(f) “Design storm” means a hypothetical depth of rainfall that would occur for the stated return frequency (i.e. once every 2 years or 10 years), duration (i.e 24-hours) and timing

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of distribution (i.e. type II). All values are based on the historical rainfall records for the area. Design storms used in this ordinance are summarized in section 32.11(a).

(g) “Dewatering” means the removal of trapped water from a construction site to allow land development or utility installation activities to occur.

(h) “Erosion” means the process of detachment, transport and deposition of soil, sediment or rock fragments by action of water, wind, ice or gravity.

(i) “Effective infiltration area” means the area of the infiltration system that is used exclusively to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

(j) “Environmental corridor (primary and secondary)” means a composite of the best individual elements of the natural resource base including surface water, streams, and rivers and their associated floodlands and shorelands; woodlands, wetlands and wildlife habitat; areas of ground water discharge and recharge; organic soils, rugged terrain and high relief topography; and significant geological formations and physiographic features. A description of the process of defining and delineating Environmental Corridors is set forth in the Southeastern Wisconsin Regional Planning Commission's Technical Record, Volume 4, No. 2 and is incorporated herein by reference.

(k) “Environmentally sensitive area” means any area that, due to the natural resources present or the lack of filtering capacity, is more susceptible to the adverse impacts of sediment and other pollutants associated with erosion and urban runoff. Examples include environmental corridors, direct hydrologic connections to lakes, streams, wetlands, groundwater or other water resources, or very coarse or shallow soils above groundwater or bedrock.

(l) “Filtering layer” means soil that has at least a 3-foot deep layer with at least 20% that passes through a #200 sieve (fines); or at least a 5-foot deep layer with at least 10% that passes through a #200 sieve (fines); or another medium exists with an equivalent level of protection, as determined by the AUTHORITY.

(m) “Final plat” means a map of a proposed condominium or subdivision to be recorded with the City of Waukesha Register of Deeds pursuant Wisconsin Statutes.

(n) “GIS system of City of Waukesha” means the computerized mapping system that City of Waukesha makes available to the general public over the Internet.

(n2) “Grassland/Meadow” means lands on which grass, alfalfa, hay, prairie or a similar ground cover has been growing for at least five (5) consecutive years prior to land disturbing activity.

(o) “Groundwater recharge areas” means lands identified in a document published by the Southeastern Wisconsin Regional Planning Commission as groundwater recharge areas; or where, prior to any land disturbing or land development activity, precipitation or runoff could only leave the area by infiltrating the ground, thereby recharging the groundwater.

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(o2) “Highest Groundwater Table” means the upper limit of the zone of soil saturation caused by underlying groundwater at its highest level based on soil and site elevations in accordance with technical standards prescribed in this ordinance.

Note: The above definition recognizes that the elevation of the groundwater table will fluctuate by season and from year-to-year depending on weather patterns, topography and other site conditions, and that solids and site evaluations are the best indicator of the Highest Groundwater Table.

(p) “Illicit connection” means any drain or conveyance, whether on the surface or subsurface, which allows an illegal non-storm water discharge to enter the storm drain system, including but not limited to: sewage, process wastewater and wash water, any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this ordinance.

(q) “Impervious surface” (“or imperviousness”) means an area that releases all or a large portion of the precipitation that falls on it, except for frozen soil. Conventional rooftops and asphalt or concrete sidewalks, existing or proposed driveways, gravel or paved driveways, gravel or paved parking lots, roofs and streets shall be considered impervious surfaces at the time of application. For purposes of this ordinance, the examples listed shall be considered entirely impervious unless specifically designed to encourage infiltration or storage of runoff. Existing gravel driveways or parking lots shall be considered 50% impervious for the purposes of determining the amount of additional new impervious area under section 32.06(b)2 of this code. If these surfaces are specifically designed, built and maintained to encourage infiltration or storage of runoff, and the Authority determines they meet applicable requirements of section 32.10 of this code, they shall subsequently be designated by the Authority as a pervious surface.

(r) “Impracticable” means that complying with a specific requirement would cause undue economic hardship and that special conditions exist that are beyond the control of the applicant and would prevent compliance.

(s) “In-fill development” means land development that occurs where there was no previous land development and is surrounded by other existing land development;

(t) “Infiltration” means the entry of precipitation or runoff into or through the soil.

(u) “Infiltration system(s)” means a device or practice such as a basin, trench, rain garden, pervious pavement or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

(v) “Karst features” means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

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(w) “Land development activity” or “land development” means any construction related activity that may ultimately result in the addition of impervious surfaces, such as the construction of buildings, roads, parking lots and other structures.

(x) “Land disturbing activity” (or “disturbance”) means any manmade alteration of the land surface that may result in a change in the topography or existing vegetative or non-vegetative soil cover, or may expose soil and lead to an increase in soil erosion and movement of sediment. Land disturbing activity includes clearing and grubbing for future land development, excavating, filling, grading, building construction or demolition, and dewatering, or dredging related to stormwater BMP maintenance. Repaving is considered a land disturbing activity only if the subgrade material below the pavement is removed, replaced or significantly regraded.

(x2) “Landowner” (or “Owner”) means any person or entity holding fee title to the property. Utility companies shall be deemed landowners of the subject property if they hold the appropriate easement or have established prescriptive rights under s.893.28(2) Wisconsin Statutes.

(y) “Maximum Extent Practicable or MEP” means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this Chapter and has been approved by the Authority. In determining when MEP has been achieved, the Authority shall take into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

(z) “Navigable” has the meaning given in the City of Waukesha Shoreland and Floodland Protection Ordinance.

(aa) “Nonmetallic mining” has the meaning specified under s. 295.11(3) Wisconsin Statutes

(bb) “Off-site BMP” means best management practice(s) that are located outside of the boundaries of the site covered by a permit application. Off-site BMPs are usually installed as part of a regional storm water management plan approved by a local government.

(cc) Ordinary high water mark (OHWM)” has the meaning given in s. NR115 Wis. Admin. Code.

(cc2) “Peakflow” means the maximum rate of discharge of a volume of water passing a given location during a given period of time.

(dd) “Planned land use” means the land use designated in the latest version of the City of Waukesha land use plan.

(dd2) “Permit Holder” means any person or entity issued a Storm Water Permit under this ordinance or their successors in interest with respect to the property to which the permit applies. (See also definition of “Applicant”)

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(dd3) “Pervious surface” means an area that releases as runoff a small portion of precipitation that falls on it. Lawns, gardens, parks, forests and similar vegetated areas are examples of surfaces that typically are pervious.

(ee) “Plat” means a map of a proposed condominium or subdivision.

(ff) “Pollutant,” as per s. 283.01(13) Wisconsin Statutes, 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.

(gg) “Pollution,” as per s. 283.01(14) Wisconsin Statutes, means manmade or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

(hh) “Preliminary plat” means a map showing the salient features of a proposed condominium or subdivision submitted to an approving authority for purposes of preliminary consideration.

(ii) “Preventive action limit” has the meaning given in s. NR 140.05(17), Wis. Admin. Code.

(jj) “Publicly funded” means a land disturbing or land development activity, such as a public road or municipal building, that is being funded solely by a Town, City, Village, County, State or Federal governmental unit. It does not include new roads or other structures built with private funds, or a combination of public and private funds, and subsequently dedicated to a unit of government.

(jj2) “Qualified professional” means a Professional Landscape Architect, Professional Hydrologist, or Professional Engineer licensed in Wisconsin, or a person certified in erosion control planning, implementation or inspection.

(kk) “Redevelopment” means land development that replaces previous land development of similar impervious conditions.

(ll) “Regional storm water management plan” means a planning document, adopted by a local unit of government, that coordinates storm water management activities for an entire drainage area or watershed, including future land development activities within the watershed. The plan may prescribe the use of BMPs for individual development sites and for selected points within the watershed to meet the goals and objectives of the plan.

(mm) “Regulatory agency” means a public agency that the Authority recognizes as having the legal authority to review and approve erosion control and storm water management plans and enforce their implementation, with requirements at least as restrictive as this ordinance.

(nn) “Responsible party” means the landowner or any person or entity acting as the owner’s representative, including any person, firm, corporation or other entity performing services, contracted, subcontracted or obligated by other agreement to design, implement, inspect, verify or maintain the BMPs and other approved elements of erosion control and storm water plans and permits under this ordinance.

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- (oo) “Road”** as used in section 32.06 of this ordinance, means any access drive that serves more than two (2) residences or businesses.
- (pp) “Runoff”** means water from rain, snow or ice melt, or dewatering that moves over the land surface via sheet or channelized flow.
- (pp2) “Sediment”** means settleable solid material that is transported by runoff, suspended within runoff, or deposited by runoff away from its original location.
- (qq) “Shoreland”** has the meaning given in the City of Waukesha Shoreland and Floodland Protection Ordinance.
- (rr) “Site”** means the entire area included in the legal description of the subject property.
- (ss) “Stabilized”** means that all land disturbing activities are completed and that a uniform, perennial vegetative cover has been established on at least 80% of the soil surface or other surfacing material is in place and the risk of further soil erosion is minimal, as determined by the Authority.
- (tt) “Storm drainage system”** means a publicly-owned facility by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (uu) “Storm water”** has the same meaning as the term “runoff”.
- (vv) “Storm water BMP”** means any best management practice that is designed to collect or manage the quantity or quality of storm water runoff for an indefinite time period and is incorporated into an approved storm water management plan to meet the requirements of this ordinance. This term is a subset of the term “best management practice” and distinct in that the BMPs require long-term maintenance. Some examples include, but are not limited to wet or dry detention basin, infiltration trench or basin, bio-retention basin, stilling basin, green roof, filter strip, artificial wetland, rain garden or any combination of these or other permanent storm water management practices, as determined by the Authority.
- (ww) “Storm water permit”** means a written authorization made by the Authority to the applicant to conduct land disturbing or land development activities in accordance with the requirements of this ordinance. A storm water permit regulates both construction site erosion and post-construction storm water runoff from a site.
- (xx) “Subdivision”** means a division of a lot, parcel or tract of land by the owner thereof or the owner’s agent for the purpose of sale or of building development that meets the subdivision definition criteria under s. 236.02(12) Wisconsin Statutes or a more restrictive definition adopted by a local unit of government.
- (xx2) “Targeted Performance Standard” or “Targeted Non-Agricultural Performance Standard”** means a performance standard that will apply in a specific area, where additional practices beyond those contained in this chapter are necessary to meet water quality standards.

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(yy) **“Technical standard”** means a document that specifies design, predicted performance and operation and maintenance requirements for a material, device or method.

(zz) **“Top of channel”** means an edge, or point on the landscape, commencing 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.

(zz2) **“TR-55”** means the United States department of agriculture, natural resources conservation service (previously soil conservation service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986, which is incorporated by reference for this chapter.

(aaa) **“Utility”** means a wire, pipe, tube or other conduit designed to distribute or collect a product or service, including but not limited to electricity, natural gas, oil, telecommunications, drinking water, storm water, sewage, groundwater, or any combination of these items.

(bbb) **“Warm season and wetland plantings”** means seed or plant stock that are native to a prairie or wetland setting. These types of plantings usually take a couple of years to get established and require diligent removal of invasive species during this time. Upon maturity, warm season plants generally have a deep root system, which enhances infiltration.

(ccc) **“Waters of the state”** has the meaning given in s. 283.01 (20), Wisconsin Statutes.

(ddd) **“Wetlands”** means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

(eee) **“Woodland”** means an area where a grouping of 10 or more trees exist that have trunk diameters of at least 4 inches at four feet above the ground surface. The boundaries of a woodland shall be defined by the canopy, commonly referred to as the “drip line”.

(fff) **“Working day”** means any day the office of the Authority is routinely and customarily open for business, and does not include Saturday, Sunday and any official city holidays.