

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

**32.06 Storm Water Permit Applicability and Exemptions (Am. #14-18)**

**(a) Construction Site Erosion Control.** Unless otherwise exempted under sub. (c) below, a storm water permit under section 32.07 of this Code shall be required and all erosion control provisions of this ordinance shall apply to all proposed land disturbing activity that meets any of the following:

1. Disturbs a total land surface area of 3,000 square feet or more;
2. Involves excavation or filling, or a combination of excavation and filling, in excess of 400 cubic yards of material;
3. Involves the laying, repairing, replacing, or enlarging of an underground utility, pipe or other facility, or the disturbance of road ditch, grass swale or other open channel for a distance of 300 feet or more; or
4. Involves the maintenance of an existing stormwater BMP; or
5. Land disturbing activity regardless of size that the City of Waukesha requires as a condition of approval, or that the City determines is likely to cause an adverse impact to an environmentally sensitive area or other property.

**(b) Storm Water Management.** Unless otherwise exempted in this ordinance, a storm water permit under section 32.07 of this Code shall be required and all storm water management including storm water management plans, and other provisions of this ordinance shall apply to all proposed land development activity that meet any of the following:

1. Is a subdivision plat;
2. Is a certified survey map or any other land development activity that may ultimately result in the addition of 0.5 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development that may be constructed at different times (existing gravel surfaces shall be considered 50% impervious for purposes of determining the increase in impervious surface area);
3. Involves the construction of any new public or private road;
4. Disturbs a total land surface area of one acre or more; or
5. Is a land development activity, regardless of size, that the City of Waukesha determines is likely to cause an adverse impact to an environmentally

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sensitive area or other property. For purposes of this section, adverse impacts shall include causing chronic wetness on other property due to reoccurring discharges of storm water, or violating any other storm water management standard set forth in this ordinance.

**(c) Exemptions.**

1. Exempt from All Requirements. The following activities shall be exempt from all of the requirements of this ordinance:

A. Land disturbing activities directly involved in the planting, growing and harvesting of any plant grown for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries.

B. Land development and land disturbing activities exempted by state or federal law, including highway construction and other projects conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats. This includes City Highway right-of-ways where the State has assumed all stormwater related responsibilities during the planning or construction phases through a written agreement.

2. Exempt from Erosion Control Requirements. The following land disturbing activities shall be exempt from the erosion control provisions of sub. (a) of this section:

A. Those activities the Authority determines are required for the construction of individual one and two family residential buildings under SPS 321.125 Wis. Admin. Code, unless the proposed or actual land disturbance is one (1) acre or greater.

B. Nonmetallic mining activities that are covered under a nonmetallic mining reclamation permit under NR 135 Wis. Admin. Code.

C. Placement of underground pipe or other utility that is plowed or bored into the ground outside areas of channelized runoff.

3. Exempt from Storm Water Management Requirements

A. Underground utility construction such as water, sewer and fiberoptic lines. This exemption does not apply to the construction of any

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above ground structures associated with utility construction.

B. Land developments that comply with all of the following: (1) disturb less than 1 acre of land; (2) have impervious surfaces that make up less than 10% of the site; (3) add less than 0.5 acres of impervious surface area; and (4) the total cumulative area of all impervious surface areas is less than 1 acre based on the development's calculated final build-out condition.

C. Off-Site Best Management Practices ("BMP(s)"). The requirement has been satisfied through the use of off-site BMP(s). Off-site BMP(s) could be installed beyond the boundaries of the property covered by the application as part of a regional storm water management plan or through other legal arrangements. However, to be eligible for this exemption, the off-site BMP(s) must treat runoff from the site covered by the application.

D. Internally Drained Sites. The site is internally drained and will not discharge runoff from the site after development occurs.