# Fact Sheet: Dane County's Erosion Control and Stormwater Management Ordinance

Rev. 7/5/2023



#### **Goals of the Ordinance**

The Erosion Control and Stormwater Management Ordinance (Dane County Ordinance Chapter 14) aims to address the negative consequences of development on stormwater. Stormwater is defined as the flow of water which results from, and which occurs during and immediately following, a rainfall, snow- or ice- melt event. If not managed properly, development can result in:

- An increased flood risk to downstream property owners,
- A reduction in groundwater infiltration crucial for our drinking water supply, and
- Pollution of Dane County's natural water resources during and following construction activities.

#### Do I need a permit?

The most common triggers for a permit are listed below. If the triggers listed below do not apply to your project, please contact staff (see **Attachment A** for contact information) or see the permit decision tree available in **Attachment B** for a more comprehensive determination.

- An <u>Erosion Control Permit</u> is required for projects that disturb more than 4,000 square feet.
- A Stormwater Management Permit is required for:
  - Projects that disturb more than 4,000 square feet of existing commercial, industrial, institutional, or multifamily use site; or,
  - Projects where more than 20,000 square feet of impervious surfaces (such as driveways, roofs, and sidewalks), have been added since August 22, 2001.
- A <u>Shoreland Erosion Control Permit</u> is required for projects that disturb land within 1,000 feet of a lake, pond, or flowage; 300 feet of a river or stream; 75 feet of a wetland; or within a floodplain.
- A <u>Shoreland Mitigation Permit</u> may be required if your project is located within the Shoreland Zone (see **Attachment C** for definition). If your project is located within the Shoreland Zone, contact Dane County Zoning at (608) 266-4993 to determine if a Shoreland Zoning Permit or Shoreland Mitigation Permit is required. You will receive written confirmation of their decision.

#### Am I Exempt?

The most common exemptions are listed below. If these exemptions below do not apply, please contact staff (see **Attachment A**) or review the decision tree available in **Attachment B** for a more comprehensive determination.

- Any activity directly related to the planting, growing and harvesting of agricultural crops (except the construction of a building or any other impervious surface) are exempt from both erosion control and stormwater requirements.
- Construction of one- or two-family dwellings are regulated under the Uniform Dwelling
   Code, which has its own erosion control requirements. Therefore, these activities are

# Fact Sheet: Dane County's Erosion Control and Stormwater Management Ordinance

Rev. 7/5/2023



typically exempt from the erosion control requirements listed in Dane County Ordinance Chapter 14. This exemption does not apply to land disturbing activity within the Shoreland Zone (see **Attachment C**), in excess of one (1) acre, or not associated with the construction of a dwelling. Also, please note, that one- and two-family dwelling units are not exempt from Stormwater Management requirements.

#### Who can I contact with questions?

We strongly encourage permit applicants to contact us *early* in the design process to verify their understanding of which permits are required and which standards apply. Please keep in mind that we have a performance-based ordinance that allows for multiple approaches to meet the standards. Conversations between the landowner and their engineer are an essential part of the process. Not all engineers will immediately understand a landowner's goals, and likewise, landowners may not realize that alternative designs are likely possible if they are unsatisfied with their engineer's initial proposal. Feel free to contact Dane County staff if you'd like to discuss potential stormwater measures that are available to meet the standards. Contact information for staff members who cover different regions of Dane County can be found in **Attachment A**.

## **Frequently Asked Questions**

#### What is the role of building inspector versus county erosion control inspector?

The distinction between Building Inspectors and County Erosion Control Inspectors lies in their jurisdiction and focus. Building Inspectors have the responsibility of verifying compliance with building codes, regulations, and standards across a broad range of construction areas, such as foundations, framing, electrical, and plumbing. In addition, Building Inspectors are tasked with erosion control enforcement for projects that fall under their jurisdiction.

In contrast, the primary focus of Erosion Control Inspectors is monitoring and enforcing erosion control measures specifically on sites that fall under the jurisdiction of Dane County's Erosion Control Ordinance. Their inspections would exclude sites that are exempt from this ordinance.

As an example: In the case of a single-family home construction project that is exempt from obtaining an Erosion Control Permit, an Erosion Control Inspector would not be responsible for visiting the site; instead, a Building Inspector would be responsible for performing inspections and ensuring the building code's standards are met, including erosion control standards.

#### What is surety and why is it required?

Permit applications with an erosion control and stormwater management installation cost estimate greater than \$5,000.00 must provide a Financial Security Instrument (FSI), such as a bond or letter of credit, prior to permit issuance. The FSI must be for 110% of the estimated cost of implementation of all erosion control and stormwater management measures. In the event that proposed work is not completed in a manner sufficiently consistent with the approved plan, the funds may be drawn upon to complete the work.

# Fact Sheet: Dane County's Erosion Control and Stormwater Management Ordinance

Rev. 7/5/2023



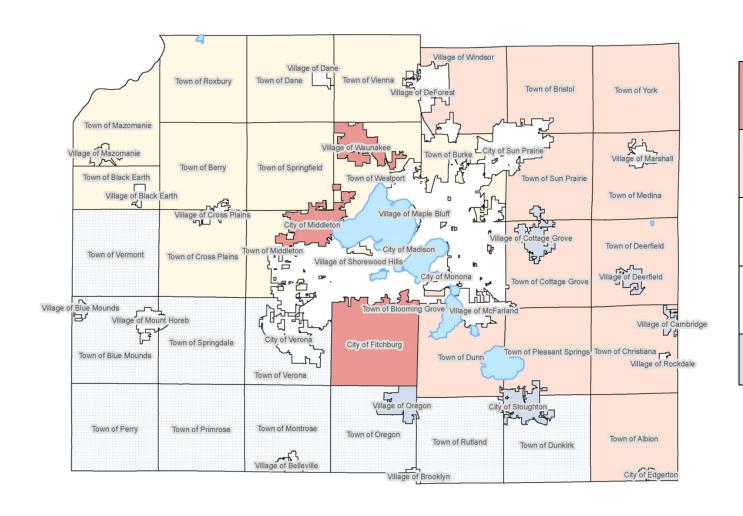
Upon successful completion of the project and approval of the As-Built Certification, a final inspection will be performed to verify compliance prior to surety release. If surety funds were held by the county, a check will be issued approximately fourteen (14) days after site approval. Letters of credit will be returned to the financial institution with a memo stating that all interest has been relinquished.

# Attachment A.

## **Erosion Control and Stormwater Permit Staff**

Use the map below to determine the staff contact for your project.





### **Staff Contacts**

#### **Aaron Streicher**

Streicher.Aaron@countyofdane.com (608) 712-7185

### Jason Tuggle

tuggle.jason@countyofdane.com (608) 516-2275

#### **Jess Starks**

starks@countyofdane.com (608) 219-1844

#### Jim Niedhart

Neidhart@countyofdane.com (608) 516-2738

#### **Kaci Coconate**

Coconate.Kaci@countyofdane.com (608) 250-0456

If you can't tell who your staff contact should be, please email our Water Resources Engineering email inbox wrediv@countyofdane.com or call the office (608) 224-3730.

# Attachment B.

# **Erosion Control and Stormwater Permit Decision Tree**

If a project disturbs ground or creates impervious surfaces that don't allow water to infiltrate it may need a permit. Use this decision tree to help you understand permitting requirements.

NO



NO

Revised Jan. 2023

# ▶ ▶ ► START HERE ▷ □

# Will the land disturbing activity occur:

- 1. Within 300 feet of the ordinary high water mark (OHWM) of a navigable water?
- 2. In the 100 year flood plain?
- 3. Within 75 feet of the shoreland or inland wetland district?
- 4. Within 1000 feet of a lake or pond?

STOP!

CONTACT DANE COUNTY ZONING FOR SHORELAND ZONING DETERMINATION

# If Dane County Zoning DOES require shoreland erosion control:

- 1. Will there be adverse stormwater or erosion impacts to adjacent properties?
- 2. Will soil be exposed for more than 30 days?
- 3. Will soil on slopes steeper than 6% be disturbed for more than 15 days?
- 4. Will there be soil disturbance within 15 feet of the ordinary high water mark?
- 5. Will the soil disturbance exceed 1000 square feet?
- 6. Will the new impervious surfaces exceed 500 square feet?

NO to all least one

**SIMPLIFIED** 

**SHORELAND** 

**EROSION** 

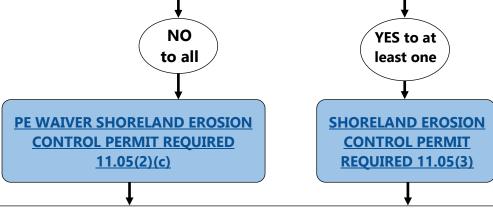
**CONTROL** 

**PERMIT** 

**REQUIRED** 

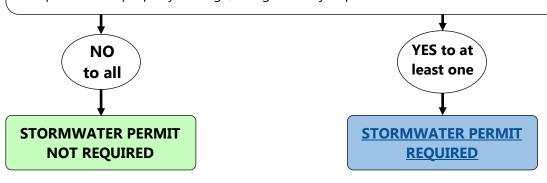
11.05(2)(b)

- 1. Will the soil disturbance exceed 60 days?
- 2. Will soil disturbance on slopes steeper than 12% exceed 30 days?
- 3. Will soil disturbance within 15 feet of the ordinary high water mark exceed 200 square feet?
- 4. Will soil disturbance exceed 2000 square feet?
- 5. Will new impervious surfaces exceed 1000 square feet?
- 6. Will the soil disturbance exceed 1000 square feet?
- 7. Will the new impervious surfaces exceed 500 square feet?



# Does the land development activity:

- 1. Result in the cumulative addition of 20,000 square feet or more of new impervious surface area?
- 2. Involve redevelopment and/or an alteration of existing development greater than 4000 square feet on sites where uses are predominantly commercial, industrial or multi-family?
- 3. Require a subdivision plat?
- 4. Require a certified survey map (for property intended for commercial or industrial use)?
- 5. Significantly increase downstream runoff volumes, flooding, soil erosion, water pollution or property damage, or significantly impact a sensitive area?

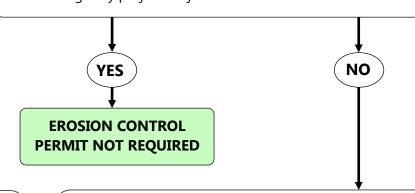


Is the land disturbing activity directly related to the planting, growing and harvesting of agricultural crops?

EXEMPT FROM ORDINANCE

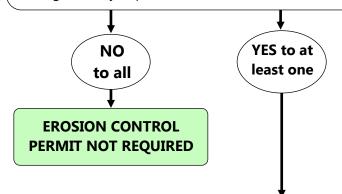
### Is the proposed development:

- 1. A one or two family dwelling unit regulated by Wisconsin's Uniform Dwelling Code with an existing driveway and limited to less than 4000 square feet of land disturbance activity outside the footprint of the house?
- 2. A state building project subject to s. 13.48(13) Wis. Stats. or a state highway project subject to Trans 401?

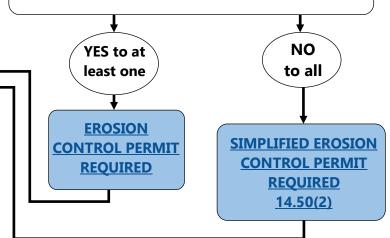


# Will the land disturbing activity:

- 1. Disturb an area in excess or 4000 square feet?
- 2. Involve the excavation or filling, or a combination of excavation and filling, in excess of 400 cubic yards of material?
- 3. Disturb more than 100 lineal feet of road ditch, grass waterway or other land area where surface drainage flows in a defined open channel
- 4. Create a new public or private road longer than 125 feet?
- 5. Require a subdivision plat?
- 6. Have a high risk of eroding soil or polluting water or significantly impact a sensitive area?



- 1. Will the site exceed 20,000 square feet?
- 2. Will soil on slopes steeper than 6% be exposed for more than 15 days?
- 3. Will the disturbance exceed 6 months?



#### Attachment C. Shoreland Zone Definition



The Shoreland Zone includes all lands within:

- 1,000 feet from the ordinary high-water mark of navigable lakes, ponds, or flowages
- 300 feet of the ordinary high-water mark or landward side of the floodplain of the navigable reaches of rivers and streams
- 75 feet of the shoreland or inland wetland district

You can use the Land & Water Resources Viewer, available at the link below, to help determine the distance your project is from wetlands, waterways, and floodplains.

https://dcimapapps.countyofdane.com/lwrviewer/

#### Extent of Shoreland Zone

