

ORDINANCE NO. 35

TOWN OF RICE LAKE, MINNESOTA

A CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT
ORDINANCE

SECTION 1. PURPOSE/INTENT.

The purpose of this regulatory mechanism is to set forth minimum requirements for stormwater management that will prevent or reduce water pollution during and after land disturbance activities to safeguard persons, protect property, and prevent damage to the environment in the Town of Rice Lake.

SECTION 2. DEFINITIONS.

For the purpose of this ordinance, the following shall mean:

Best Management Practices (BMP). Practices to prevent or reduce the pollution of the waters of the state, including schedules of activities, prohibitions or practices, and other management practices, and also includes treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge, or waste disposal or drainage from raw material storage.

Construction Activity. A disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. This may include clearing, grading, filling, and excavating.

Common Plan of Development or Sale. Contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

Dewatering. The removal of surface or ground water to dry and/or solidify a construction site to enable construction activity. Dewatering may require a Minnesota Department of Natural Resources water appropriation permit and, if dewatering water is contaminated, discharge of such water may require an individual MPCA NPDES/SDS permit.

Energy Dissipation. Methods employed at pipe outlets to prevent erosion caused by the rapid discharge of water scouring soils.

Erosion Control Measure: Measures that prevent soil particle exposure and detachment.

Green Infrastructure. A wide array of practices at multiple scales that manages wet weather and that maintains or restores natural hydrology. On a regional scale, green infrastructure is the preservation or restoration of natural landscape features, such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduce overall imperviousness in a watershed. On the local scale, green infrastructure consists of site and neighborhood-specific practices.

Karst (active). A geographic area underlain by carbonate bedrock (or other forms of bedrock that can erode or dissolve) with less than 50 feet of sediment cover.

Land Disturbance. Any project or activity, including removal of vegetation, excavations, clearing, filling, stockpiling, grading, or other earth change that directly or indirectly affects slopes, water bodies, the moving of ground cover or which may result in the movement of sediment.

MPCA Construction Permit. The current Minnesota Pollution Control Agency General Permit to Discharge Stormwater Associated with Construction Activity under the National Pollution Discharge Elimination System State Disposal System Program (NPDES/SDS).

Municipal Separate Storm Sewer System (MS4). The conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains owned and operated by the Town of Rice Lake.

New Development. All construction activity that is not defined as redevelopment and areas where new impervious is being created.

Owner. Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public, or quasi-public corporation, private corporation, or a combination of any of them, with legal or equitable interest in the parcel of record or as identified on the land disturbance permit.

Receiving Water. Any lake, river, stream, or wetland that receives stormwater discharges from the MS4.

Redevelopment. Any construction activity where, prior to the start of construction, the areas to be disturbed have 15 percent or more of existing impervious surface(s).

Saturated Soil. The highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water.

Sediment Control Measure. Measures that prevent eroded sediment from leaving the site.

Stormwater. Stormwater runoff, snow melt runoff, and surface runoff and drainage.

Structural Stormwater BMPs. Stationary and permanent BMPs designed, constructed and operated to prevent or reduce the discharge of pollutants in stormwater.

Steep Slopes. Slopes that are 1:3 (V:H) (33.3 percent) or steeper in grade.

Stormwater Pollution Prevention Plan (SWPPP). A comprehensive plan developed to manage and reduce the discharge of pollutants in stormwater.

Town. The Town of Rice Lake.

Town Board. Supervisors of the Town of Rice Lake.

Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

SECTION 3. APPLICABILITY

This ordinance shall apply to all land disturbance and construction activity that disturbs land of equal to or greater than one (1) acre, or includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) acre as deemed necessary by the Town of Rice Lake to safeguard persons, protect property, and prevent degradation to the environment in the Town of Rice Lake.

SECTION 4. REQUIRED LAND DISTURBANCE PERMIT.

The permit authorizes, subject to the terms and conditions of this ordinance, land disturbance and the discharge of stormwater.

- (1) Prior to the commencement of any land disturbing activities on lands subject to this ordinance the Owner shall obtain a Land Disturbance Permit from the Town of Rice Lake.
- (2) The following activities are not required to obtain a Land Disturbance Permit:
 - (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources;
 - (b) Nursery, home gardening, and agricultural operations conducted as a permitted main or accessory use;
 - (c) Maintenance work conducted on behalf of the Town.

SECTION 5. LAND DISTURBANCE PERMIT PROCESS AND DATA REQUIREMENTS.

- (1) A Land Disturbance Permit Application and applicable application fee shall be filed with the Town of Rice Lake on an approved form, with accompanying documents, and Stormwater

Pollution Prevention Plan (SWPPP) as applicable, meeting the requirements of this ordinance and the Town of Rice Lake Stormwater Management Design Standards.

- (2) Town of Rice Lake Employees or a Town Representative will review each Land Disturbance Permit Application. It is the responsibility of the owner/applicant to meet the provisions of this ordinance and the Town of Rice Lake Stormwater Management Design Standards.
- (3) The Town of Rice Lake Building Department Administrator shall in writing either:
 - (a) Approve the permit application;
 - (b) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 - (c) Disapprove the permit applications, indicating the reason(s) and procedure for submitting a revised application and/or submission.
- (4) Each application shall include at a minimum:
 - (a) Application form and fee;
 - (b) Project name;
 - (c) Address of proposed land disturbing activities;
 - (d) Total acres of land to be disturbed;
 - (e) Name, address, and contact information of consulting firm(s) retained by owner/applicant, if applicable;
 - (f) Stormwater Pollution Prevention Plan (SWPPP) meeting the requirements set forth in the Town of Rice Lake Stormwater Management Design Standards;
 - (g) Details, plans, specifications, calculations, and other documentation needed to verify compliance with this ordinance and the Town of Rice Lake Stormwater Management Design Standards.
 - (h) Private Stormwater BMP Maintenance Agreement and Maintenance Plan, if applicable.

SECTION 6. MAINTENANCE OF STRUCTURE BMPS.

Any structural BMPs which are designed and installed to meet the Post-Construction Stormwater Management Requirements set forth in the Town of Rice Lake Stormwater Management Design Standards shall meet the following requirements:

- (1) Private Facilities:
 - (a) A permanent public easement shall be provided to the Town for access for inspection and/or maintenance purposes. Costs incurred by the Town for any maintenance of private systems will be billed and/or assessed to the owner/operator.
 - (b) The owner shall enter into a Maintenance Agreement with the Town of Rice Lake. The agreement shall include as an attachment a maintenance plan which identifies and defines inspection and maintenance responsibilities. Agreements are transferrable to any party that becomes the owner/operator of the site.

(c) If site configurations or structural stormwater BMPs change, causing decreased BMP effectiveness, new or improved structural stormwater BMPs must be designed and implemented to meet the requirements set forth in the Town of Rice Lake Stormwater Management Design Standards for Post-Construction Stormwater Management. New and/or improved BMP design information and plans must be submitted to the Town of Rice Lake for review and approval.

(2) Public Facilities

(a) A permanent public easement shall be provided to the Town for access for inspection and/or maintenance purposes prior to final acceptance of the project.

SECTION 7. INSPECTION AND FEES.

- (1) The Town of Rice Lake or Town Representative shall review all documents and material submitted showing compliance with this ordinance and the Town of Rice Lake Stormwater Management Design Standards. The costs associated with the review process including but not limited to, staff hours, engineering fees, administrative tasks, reproductions and other expenses associated with the review, shall be charged back to the applicant, including any follow-up reviews for incomplete or non-compliant submittals.
- (2) The Town of Rice Lake or Town Representative may make inspections of the temporary and/or permanent stormwater management measures prior to construction, during the construction and/or after construction is complete. Upon inspection, the Town of Rice Lake shall notify the owner/operator wherein the work fails to comply with this ordinance, the Town of Rice Lake Stormwater Management Design Standards, or the site specific Stormwater Pollution Prevention Plan (SWPPP) as applicable, as approved.
- (3) The owner or his/her agent shall make regular inspections of the property, construction activity, land disturbance activity, and/or permanent stormwater management features after construction is complete in accordance with this ordinance, the Town of Rice Lake Stormwater Management Design Standards and the site specific Stormwater Pollution Prevention Plan (SWPPP) as applicable, as approved. All inspections shall be documented in written form and made available upon request to the Town of Rice Lake or Town Representative. Records shall be retained and made accessible for a period of at least five (5) years.
- (4) The Town of Rice Lake or Town Representative shall be allowed access to enter the property of the applicant as deemed necessary to make inspections to ensure the validity and compliance with this ordinance, the Town of Rice Lake Stormwater Management Design Standards and the site specific Stormwater Pollution Prevention Plan (SWPPP) as applicable, as approved.

(5) Land Disturbance Permit fees shall be one hundred twenty five dollars (\$125.00) for projects consisting of less than one acre of added impervious area. Land Disturbance permit fees for projects consisting of greater than one acre of added impervious area shall be subject to fees associated with a qualified engineering review.

SECTION 8. FINANCIAL SECURITY.

The Town of Rice Lake may require at their discretion the submittal of a letter of credit or other financial security in a form acceptable to the Town in the amount of 150% of the total estimated construction cost of the stormwater management systems.

SECTION 9. ENFORCEMENT.

(1) Violations

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Town of Rice Lake is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Town of Rice Lake is authorized to seek costs of the abatement as outlined in Section 15: Enforcement Measures after Appeal.

(2) Warning Notice

When the Town of Rice Lake finds that any person has violated, or continues to violate any provision of this ordinance, or any order hereunder, the Town of Rice Lake may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting a violator to immediately investigate the matter and to seek a resolution whereby any offending violation will cease.

Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after the receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the Town of Rice Lake to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

(3) Violation Notice

Whenever the Town of Rice Lake finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Town of Rice Lake may order compliance by Violation Notice to the responsible person. The Violation Notice shall contain:

- (a) The name and address of the alleged violator;
- (b) The address when available or a description of the building structure or land upon which the violation is occurring, or has occurred;
- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of the such remedial action;
- (e) A statement that the determination of violation may be appealed to the Town of Rice Lake by filing a written notice of appeal within ten (10) days of service of notice of violation; and
- (f) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Such notice may require without limitation, at the violator's expense:

- (i) The performance of monitoring, analysis, and reporting;
- (ii) The elimination of the violation(s);
- (iii) That violating discharges, practices, or operations shall cease and desist;
- (iv) The abatement or remediation of stormwater pollution or contamination hazards and restoration of any affected property;
- (v) Payment of a fine to cover administrative and remediation costs; and
- (vi) The implementation of source control or treatment BMPs.

SECTION 10. COSTS.

In addition to the other penalties provided herein, the Town may recover engineering fees court costs, court reporter's fees, attorney fees, and other expenses of litigation or enforcement by an appropriate action against the person or entity found to have violated this ordinance or the orders, rules, regulations, and permits issued hereunder.

SECTION 11. STOP WORK ORDER.

In the event that any person holding a Land Disturbance Permit pursuant to this ordinance violated the terms of the permit and is found non-compliant with the permit or implements site development construction practices in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood or development site so as materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Town of Rice Lake may suspend or revoke

the Land Disturbance Permit. The Town shall notify the owner in writing with a notice of violation of the approved Land Disturbance Permit to remove such conditions or remedy such defects. Such notice shall require the owner to stop work immediately and remove or abate said violations within forty-eight (48) hours of notification.

SECTION 12. CIVIL PENALTIES.

In the event the alleged violator fails to take the remedial measure set forth in the notice of violation or otherwise fails to cure the violations described therein within forty-eight (48) hours, or such greater period as the Town of Rice Lake shall deem appropriate, after the Town of Rice Lake has taken one or more of the actions described above, the Town of Rice Lake may impose a penalty not to exceed one-thousand (\$1,000) dollars (depending on the severity of the violation) for each day the violation remains un-remedied after receipt of the notice of violation.

SECTION 13. CRIMINAL PENALTIES.

Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed one-thousand (\$1,000) dollars or by imprisonment for not to exceed ninety (90) days, or both.

SECTION 14. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the Town of Rice Lake. The notice of appeal must be received within ten (10) days from the date of the Notice of Violation, except in the instance where a Stop Work Order is issued as described above in Section 11, then the notice of appeal must be received within forty-eight (48) hours from the date of the Stop Work Order. Hearing on the appeal before the Town Board or his/her designee shall take place within thirty (30) days from the date of receipt of the Notice of Appeal. The decision of the Town Board or their designee shall be final.

SECTION 15. ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or in the event of an appeal, within forty-eight (48) hours of the decision of the municipal authority upholding the decision of the Town of Rice Lake, then representation of the Town of Rice Lake shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 16. COST OF ABATEMENT OF THE VIOLATION.

Within forty-five (45) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the Town of Rice Lake by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of eight (8) percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

SECTION 17. REMEDIES NOT EXCLUSIVE.


The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the Town of Rice Lake to seek cumulative remedies.

The Town of Rice Lake may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

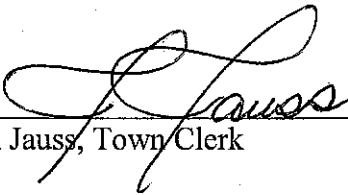
SECTION 18. ADOPTION OF ORDINANCE.

This ordinance shall be in full effect thirty (30) days after its final passage and adoption.

PASSED AND ADOPTED this 16th day of March, 2015, by the Rice Lake Town Board



John Goman, Town Board Chairman



Joan Jauss, Town Clerk