

**ORDINANCE NO. 117 – THIRD SERIES**

**ORDINANCE ESTABLISHING STORM WATER MANAGEMENT AND STANDARDS FOR CONSTRUCTION ACTIVITIES; NEW DEVELOPMENT/REDEVELOPMENT PROJECTS; AND ILLICIT DISCHARGE (ADDING SEC. 3.43)**

WHEREAS, the State of Minnesota requires the reduction in pollutants in any storm water runoff from construction activities that result in a land disturbance of greater than or equal to one acre and disturbances less than one acre that are a part of a common plan of development or sale; and

WHEREAS, the City Council desires to encourage "best management practices" for the control of pollutants associated with storm water runoff; and

WHEREAS, the City Council desires to encourage development of storm water control retention and detention areas that are consistent with the Comprehensive Plan; and

WHEREAS, the State of Minnesota requires illicit discharge limitations into surface waters; and

WHEREAS, the City Council desires to encourage "best management practices" for the control of illicit discharges into the Municipal Separate Storm Sewer System (MS4); and

WHEREAS, a procedure to regulate storm water pollution associated with construction activities and illicit discharge is necessary.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDWOOD FALLS, REDWOOD COUNTY, MINNESOTA DOES HEREBY ORDAIN:

Redwood Falls City Code is hereby amended by adding the following Chapter entitled "Storm Water Management and Standards" as follows:

**Section 1.1 Definitions**

For the purposes of this section, the following terms, phrases, words, and their derivatives shall have the meanings stated below. When not inconsistent with the context, words used in the present tense, include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

- A. "Best Management Practice" or "BMP" Activities or structural improvements that help reduce the quantity and improve the quality of storm water runoff. BMPs include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage..
- B. "Land Disturbing Activity" means any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the City's jurisdiction. This may include, but is not limited to, 1) a disturbance to the land that results in a change in the topography, 2) disturbance of the existing soil cover (both vegetative and non-vegetative cover), or 3) a disturbance of the existing soil topography that may result in accelerated stormwater runoff. Land disturbing activity includes clearing and grubbing, grading, excavating, transporting and filling of land for all new construction and redevelopment.
- C. The term "Municipal Separate Storm Sewer System (MS4)" means the system of conveyances, including sidewalks, municipal streets, driveways, curb & gutter, ditches, channels, retention basins, catch basins or similar storm water inlets, and/or any other conveyance delivering water to the public storm sewer collection and delivery system.
- D. "NPDES/SDS" means the National Pollutant Discharge Elimination System/State Disposal System.

**Section 1.2 Construction Site Stormwater Runoff Control**

- Subd. 1. No construction activity that result or reasonably is anticipated to result in a land disturbance of greater than or equal to one acre and disturbances less than one acre that are a part of a common plan of development or sale shall commence on any site without first obtaining from the Minnesota Pollution Control Agency (MPCA) an NPDES/SDS General Stormwater Permit for Construction Activity. A copy of said permit shall be submitted to the MS4 Administrator prior to the initiation of construction.
- Subd. 2. The owner of the site shall be responsible for ensuring compliance with the provisions of the Storm Water Pollution Prevention Plan (SWPPP) as prepared in accordance with the requirements of the NPDES/SDS permit. The SWPPP shall clearly define and describe the Best Management Practices (BMP's) to be implemented in order to reduce or eliminate pollutants from entering the MS4.
- Subd. 3. Construction activities that result in a land disturbance of less than one acre and discharge storm water that ultimately flows to a Special Water (Ramsey Creek), Impaired Stream (Minnesota River and Redwood River) or Impaired Lake (Redwood Lake) shall be required to comply with the requirements as provided in the NPDES/SDS permit for Construction Activities unless the requirements are waived in writing by the MS4 Administrator. The owner of the site shall be responsible for ensuring implementation of the BMP's.
- Subd. 4. Construction activities that result in a land disturbance of less than one acre and do not discharge storm water to a Special Water, Impaired Stream or Impaired Lake shall implement BMP's that reduce or eliminate pollutants from entering the MS4. The owner of the site shall be responsible for ensuring implementation of the BMP's.

**Section 1.3 Post-Construction Stormwater Management in New Development and Redevelopment**

- Subd. 1. For construction activities that result or reasonably is anticipated to result in a land disturbance of greater than or equal to one acre and disturbances less than one acre that are a part of a common plan of development or sale, the owner of the site shall prepare and implement an operation and maintenance plan to ensure that permanent, structural BMP's are operated and maintained in a condition that maximizes their effectiveness and efficiency in eliminating pollutants from the MS4. A copy of the written plan shall be submitted to the MS4 Administrator upon completion of the initial phase of construction.
- Subd. 2. The owner of the site shall implement the operation and maintenance plan.

**Section 1.4 Illicit Discharge**

- Subd. 1. Administration.  

The MS4 Administrator is authorized to administer, implement, and enforce the provisions of this Ordinance.
- Subd. 2. Discharge to MS4 Prohibited.
  - A. A person commits a violation if the person introduces or causes to be introduced into the Redwood Falls MS4 any discharge that is not composed entirely of storm water.
  - B. The following are considered exempt discharge activities from enforcement action for a violation of subdivision 2.A:

- i. A discharge authorized by, and in full compliance with a site specific NPDES/SDS permit such as a storm water management plan permit for construction activities;
- ii. A discharge or flow resulting from fire fighting by the Fire Department;
- iii. Agricultural storm water runoff;
- iv. A discharge or flow from water line flushing or disinfection that contains no harmful quantity of total residual chlorine or any other chemical used in line disinfection;
- v. A discharge or flow from lawn watering, or landscape irrigation;
- vi. A discharge or flow from a diverted stream flow or natural spring;
- vii. A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
- viii. Uncontaminated groundwater infiltration;
- ix. Uncontaminated discharge or flow from a foundation drain, sump pump, or footing drain;
- x. A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
- xi. A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
- xii. A discharge or flow from individual residential car washing;
- xiii. A discharge or flow from a riparian habitat or wetland;
- xiv. A discharge or flow from cold water (or hot water with prior permission of the MS4 Administrator) used in street washing or cosmetic cleaning that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance; or
- xv. Drainage from a private residential swimming pool containing no harmful quantities of chlorine or other chemicals. Drainage from swimming pool filter backwash is prohibited.

C. No exemption shall be allowed under Subdivision 2.B if:

- i. The discharge or flow in question has been determined by the MS4 Administrator to be a source of a pollutant or pollutants to the waters of the State or to the MS4;
- ii. Written notice by the MS4 Administrator of such determination has been provided to the discharger; and
- iii. The discharge has continued after the expiration of the time given in the notice to cease the discharge.

D. A person commits a violation if the person introduces or causes to be introduced into the MS4 any harmful quantity of any pollutant.

Subd. 3. Connection of Sanitary Sewer Prohibited.

A. The connecting of a line conveying sewage to the MS4, or allows such a connection to continue shall be considered a violation.

Subd. 4. Nuisances.

A. An actual or threatened discharge to the MS4 that violates or would violate this Article is hereby declared to be a nuisance.

B. A line conveying sewage or designed to convey sewage that is connected to the MS4 is hereby declared to be a nuisance.

Subd. 5. Emergency Suspension of Utility Service and MS4 Access.

- A. Providing there are State regulations restricting the interruption of service, the City may, without prior notice, suspend water service, sanitary sewer service, and/or MS4 discharge access to a person discharging to the MS4, Waters of the State, or Waste Water Treatment Plant when such suspension is necessary to stop an actual or threatened discharge which:
  - i. Presents or may present imminent and substantial danger to the environment or to the health or welfare of persons; or
  - ii. Presents or may present imminent and substantial danger to the MS4 or Waters of the State.
- B. When the MS4 Administrator determines that City-provided water and/or sanitary sewer service needs to be suspended pursuant to Subdivision 5.A, the MS4 Administrator is empowered to order such suspension.
- C. As soon as is practicable after the suspension of service or MS4 discharge access, the MS4 Administrator shall notify the violator of the suspension in person or by certified mail, return receipt requested, and shall order the violator to cease the discharge immediately. When time permits, the MS4 Administrator will attempt to notify the violator prior to suspending service or access.
- D. If the violator fails to comply with an order issued under Subdivision 5.C, the MS4 Administrator may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to the public.
- E. The MS4 Administrator shall not reinstate suspended services or MS4 access to the violator until:
  - i. The violator presents proof, satisfactory to the MS4 Administrator, that the noncompliant discharge has been eliminated and its cause determined and corrected;
  - ii. The violator pays the City for all costs incurred by the City in responding to, abating, and remediating the illicit discharge or threatened discharge; and
  - iii. The violator pays the City for all costs the City will incur in reinstating service or access.
- F. A violator whose service or access has been suspended or disconnected may appeal such enforcement action to the MS4 Administrator, in writing, within ten days of notice of the suspension.
- G. The City may obtain an assessment against the property to recover its response costs.
- H. The remedies provided by this Section are in addition to any other remedies set out in this chapter. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.

Subd. 6. Non-emergency Suspension of Utility Service and MS4 Access.

- A. The City may terminate the City-provided water supply, sanitary sewer connection, and/or MS4 access any person discharging to the MS4 in violation of this ordinance, if such termination would abate or reduce the illicit discharge.

- B. The MS4 Administrator will notify a violator of the proposed termination of its water supply, sanitary sewer connection, and/or MS4 access. The violator may petition the MS4 Administrator for a reconsideration and hearing before the City Council.
- C. The City shall not reinstate suspended services or MS4 access to the discharger until:
  - i. The violator presents proof, satisfactory to the MS4 Administrator, that the noncompliant discharge has been eliminated and its cause determined and corrected; and
  - ii. The violator pays the City for all costs incurred by the City in reinstating service or MS4 access.
- D. The remedies provided by this Section are in addition to any other remedies set out in this ordinance. Exercise of this remedy shall not be a bar against, or a prerequisite for, taking other action against a violator.

A person commits a violation if the person reinstates water service, sanitary sewer service, and or MS4 access to premises terminated pursuant to this ordinance, without the prior approval of the MS4 Administrator.

**Section 1.5 Enforcement, Penalty and Noncompliance Fees**

Subd. 1. Any person who is found to have violated an order of the MS4 Administrator made in accordance with this ordinance, or who has failed to comply with any provision of this ordinance and the orders, rules, regulations and permits issued hereunder is guilty of an offense. Each day on which a violation occurs or continues to exist shall be deemed a separate and distinct offense. All land use and building permits may be suspended until the applicant has corrected the violation.

The following penalties shall apply to land disturbing activities performed in violation of any provision of this ordinance:

- A. The City may impose a maximum penalty of two hundred fifty dollars (\$250.00) per day per offense for each violation involving the construction of a single family dwelling or other construction activity resulting in the disturbance of less than one acre.
- B. The City may impose a maximum penalty of one thousand dollars (\$1,000.00) per day per offense for each violation involving land disturbing activities of greater than or equal to one acre of disturbed area.
- C. The penalties listed herein are in addition to any penalties or fines imposed by the Minnesota Pollution Control Agency (MPCA), Environmental Protection Agency (EPA), or other agency having enforcement authority.

Subd. 2. Any person violating any of the provisions of this ordinance or who initiates an activity which causes a deposit, obstruction, or damage or other impairment to the MS4 is liable to the City for any expense, loss or damage caused by the violation or the discharge. The City may bill the person violating this chapter the cost for any cleaning, repair or replacement work caused by the violation of storm water discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator's property.

Subd. 3. In addition to the civil penalties provided herein, the City may recover reasonable attorney's fees, court costs, court recorder's fees, and other expenses of litigation by appropriate action

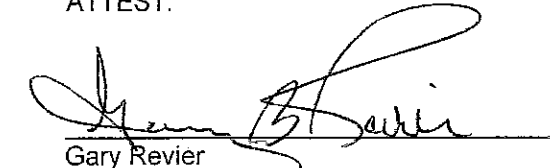
against the person found to have violated this ordinance or the orders, rules, regulations and permits issued hereunder.


Subd. 4. Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, permit or other document filed or required to be maintained pursuant to this ordinance, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this ordinance, shall be guilty of an offense.

Subd. 5. Any person violating any provision of this ordinance, in addition to other sanctions set forth above, may be charged with a criminal misdemeanor, pursuant to Section 1.03 of the City Code, and if convicted, may be penalized as provided by the City Code.

Adopted by the City Council of the City of Redwood Falls, Redwood County, Minnesota, this 3rd day of June, 2008.

ATTEST:

  
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Gary Revier  
Mayor

  
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Keith Muetzel  
City Administrator

(City Seal)

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**2nd Reading: 06-03-08**

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