

**ORDINANCE
ROCK COUNTY BOARD OF SUPERVISORS**

LAND CONSERVATION
COMMITTEE
INITIATED BY



ANDREW BAKER
DRAFTED BY

LAND CONSERVATION
COMMITTEE
SUBMITTED BY

MARCH 26, 2014
DATE DRAFTED

AMENDING VARIOUS SECTIONS OF THE ROCK COUNTY CONSTRUCTION SITE EROSION CONTROL ORDINANCE (CHAPTER 4 PART 11)

The County Board of Supervisors of the County of Rock does ordain as follows:

I. Chapter 4, Part 11, of the Rock County Ordinances shall be amended to read as follows (new language underscored, deleted language crossed out):

4.1105 Jurisdiction, Applicability and Waivers

(2) Applicability

(A) This ordinance applies to the following land disturbing activities:

- 9. Land disturbing activities, on a site of any size, that have been observed to cause, or have been determined likely to result in, undue channel erosion, increased water pollution by scouring or the transportation of particulate matter, or endangerment of property or public safety. The LCC LCD shall make this determination after review and recommendation by the Technical Review Committee LCD.

(3) Waivers

(B) ~~The Technical Review Committee LCD shall be responsible for making recommendations to the LCC concerning all waiver applications.~~

4.1107 Performance Standards

(1) Erosion and Other Pollutant Control Requirements

(B) BMPs shall, by design, reduce pollutants from the construction site to the maximum extent practicable by use of methods including, but not limited to, the following:

- 1. Prevent gully and bank erosion.
- 2. ~~Achieve a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. The LCD may, upon written approval by the DNR, use a standard that is equivalent to an 80% reduction in sediment load. Discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.~~ If BMPs cannot be designed to meet the standard in this paragraph, (B)2., the plan shall include a written and site-specific explanation as to why the standard is not attainable and a statement that the sediment load shall be reduced to the maximum extent practicable.

(E) Sediment controls shall be implemented to do all of the following:

14-4A-565

- 43 4. Prevent the discharge of sediment from soil stockpiles existing for more than 7
- 44 days.
- 45 5. Prevent the transport by runoff into waters of the state of untreated wash water
- 46 from vehicle and wheel washing.
- 47 6. Prevent the transport by runoff into waters of the state of chemicals, cement, and
- 48 other building compounds and materials on the construction site during the
- 49 construction period.

50

51
52 (2) Implementation. The BMPs used to comply with the performance standards must be implemented

53 as follows:

54 (A) Erosion and sediment control practices shall be constructed or installed before land

55 disturbing construction activities begin in accordance with the approved plan

56
57 (B) Final stabilization activity shall commence when land disturbing activities cease and

58 final grade has been reached on any portion of the site.

59
60 (C) Temporary stabilization activity shall commence when land disturbing construction

61 activities have temporarily ceased and will not resume for a period exceeding 14

62 calendar days.

63
64 (D) BMPs that are no longer necessary for erosion and sediment control shall be removed

65 by the responsible party.

66

67
68 (42) Maintenance. The permit holder shall maintain all BMPs once a week and within 24 hours of

69 each rain of 0.5 inches or more to meet the requirements of this ordinance until the site has

70 achieved final site stabilization and a written BMP removal authorization has been received from

71 the LCD.

72
73 (54) Alternate Requirements.

74
75 (A) The LCD may establish erosion and sediment control requirements more stringent than those

76 set forth in this section if the LCD determines that an added level of protection is needed to

77 protect sensitive resources.

78
79 (B) The LCD Technical Review Committee shall make recommendations to the LCC concerning

80 any erosion and sediment control requirements more stringent than those set forth in this

81 section.

82
83
84 **4.1108 Permits and Waivers**

85

86 (4) Erosion and Sediment Control Plans

87 (A) Plan Requirements for Class One Land Disturbing Activities.

88

89 3. Each plan shall include a description of interim and permanent BMPs that will be

90 implemented at the site to prevent pollutants from reaching waters of the state or

91 adjacent property. The plan shall clearly describe the appropriate control

92 measure(s) for each major activity and the timing during the land disturbing

93 activity. The BMPs shall meet, when appropriate, the following minimum

94 requirements:

- 95 a. Preservation of existing vegetation where possible, minimize soil
- 96 compaction and preservation of topsoil;

97

98 (5) Evaluation Of Applications. Within 10 working days of receipt, the LCD shall review

99 applications to insure they are complete. Any application found to be incomplete shall be

100 returned to the applicant for completion. Upon receiving a complete application, the LCD

101 shall use the following procedure:

102

(A) Completed applications will be evaluated for compliance with the requirements of this ordinance. Other governmental departments or the Technical Review Committee may be consulted during application evaluation.

(D) Within 20 working days from the receipt of a complete waiver application, or 10 working days from the receipt of additional information requested in accordance with paragraph (B), whichever is later, the applicant shall be informed whether the application has been approved or disapproved. The LCD shall base the decision in consideration of the recommendations of the ~~Technical Review Committee~~ other governmental departments and the requirements of this ordinance.

(I) If the application is disapproved, or if the applicant does not agree with the permit conditions, the applicant may request a review by the ~~Technical Review Committee~~ LCC. This request must be made in writing within 30 calendar days from the date of the applicant was notified of the LCD decision. The schedule and procedure for a waiver described in paragraph (D) above will be followed for this review.

(8) Permit Conditions. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. Compliance with this permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state and local laws and regulations. All permits shall require the permit holder to:

(J) Complete all seeding or mulching called for in the plan by the next September 15th or as soon as possible after final grade has been reached on any portion of the site. If either permanent or temporary soil stabilization by seeding or mulching is not accomplished by September 15, additional erosion control practices will be required. These practices may include additional mulching, application of erosion control matting, sodding, or application of polymer tackifiers. These additional practices will be prescribed by the LCD according to sec. 4.1108(6).

4.1113 Definitions

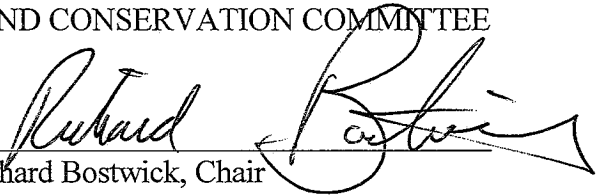
Maximum Extent Practicable: the highest level of performance that is achievable but is not equivalent to a performance standard in this chapter. Maximum extent practicable applies when a person who is subject to a performance standard of subchs. III and IV demonstrates to the LCD's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, an applicant shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties. -a level of implementing BMPs in order to achieve a performance standard specified in this chapter which takes 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. "Maximum extent practicable" allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

Technical Review Committee: ~~a committee comprised of the Director of the Land Conservation Department, a representative of the Rock County Planning and Development Agency, a representative of the Rock County Land Conservation Department, and a representative of the Public Works, Highway and Parks Department.~~

II. This ordinance shall be effective upon publication.

Respectfully submitted:

LAND CONSERVATION COMMITTEE


Richard Bostwick, Chair


Larry Wiedenfeld, Vice-Chair

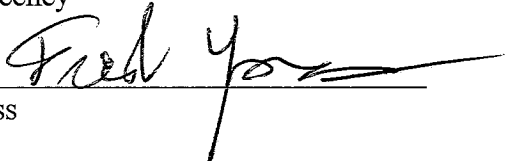
Absent
Eva Arnold


Edwin Nash


Norvain Pleasant Jr.


David Rebut, USDA-FSA Representative

Absent
Alan Sweeney


Fred Yoss

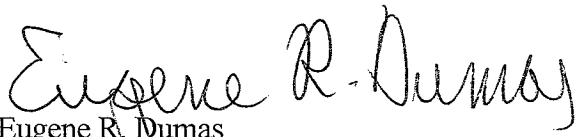
FISCAL NOTE:

No fiscal impact.


Sherry Oja
Finance Director


LEGAL NOTE:

The County Board is authorized to take this action by Wisconsin Statutes sections 59.02, 59.692 and 59.693.


Eugene R. Dumas
Deputy Corporation Counsel

ADMINISTRATIVE NOTE:

Recommended.


Craig Knutson
County Administrator

Executive Summary

Amending Various Sections of the Rock County Storm Water Management Ordinance (4.8)

and

Amending Various Sections of the Rock County Construction Site Erosion Control Ordinance (4.11)

Please note that complete annotated and non-annotated versions of each ordinance, which incorporate each of the proposed amendments, are available at the County Clerk's office.

The County of Rock was authorized by the DNR on November 13, 2006 to discharge stormwater from the County owned Municipal Separate Storm Sewer Systems (MS4) in the Urbanized Area under a general Wisconsin Pollutant Discharge Elimination System (WPDES) MS4 permit. The Urbanized Area is determined by population density based on the most recent census. Under the permit language, MS4 means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria: Owned or operated by a municipality, designed or used for collecting or conveying storm water, and which is not a combined sewer conveying both sanitary and storm water.

The County's WPDES MS4 General Permit outlines certain minimum programs and documentation that must be developed and submitted by dates certain. Among the requirements is to adopt and enforce construction site erosion control and post-construction storm water management regulations, which the County has had in place since March 2004. These ordinances have been approved by the DNR in the past, but changes to State Administrative Code NR 151 in January of 2011 are required to be incorporated into local ordinances. The recommended action for each ordinance approves those required changes (including various definitions) along with less substantive changes which are recommended by the LCD based on administrative experiences.

The substantive changes are summarized below with reference to the ordinance section(s):

Removal of Technical Review Committee (recommended by the LCD for both ordinances): All references to the Technical Review Committee have been deleted from each Ordinance and changed, where necessary, to LCD and/or LCC. Staff has determined that this additional level of review, requiring input from other departments or local unit of government, is a step in the review process that is not necessary to effectively administer the ordinances. Appeals and/or alternative requirements formerly requiring input from the Technical Review Committee will be processed with a LCD recommendation and LCC decision. The LCD recommendation will still be based on consultation with other entities with jurisdiction over the project.

Post-Construction Storm Water Management (4.8)

Changes to required standards for redevelopment projects:

1. **(4.805(2)(B)1.e.)** Redevelopment projects are no longer entirely exempt from storm water ordinance requirements under NR 151. Redevelopment projects must meet total suspended solid (TSS) reduction standards (40% reduction, compared to 80%

**Amending Various Sections of the Rock County Storm Water Management Ordinance (4.8) and
Amending Various Sections of the Rock County Construction Site Erosion Control Ordinance (4.11)**

reduction for new development), however exemptions remain for infiltration and peak discharge standards.

2. **(4.807(1)(B)) Maintenance of effort.** This section is added, based on NR 151, to address redevelopment sites that were previously approved under the storm water ordinance requirements for new development. This section prevents a redevelopment project from being required to meet lesser standards than what were required when originally permitted.

Changes to the peak discharge rate and volume standards:

1. (4.807(2)). The one year, twenty-four hour storm event was added to the design requirements in NR 151.
2. (4.807(2)(B)4). The maximum pre-development runoff curve numbers were revised.

Changes to the storm water runoff discharge quality standards (total suspended solids):

1. (4.807(3)). Infill development is no longer exempt from TSS reduction standards under NR 151.

Changes to infiltration standards (4.807(4)):

This section was entirely reorganized based on the changes to NR 151. The level of infiltration that is required is now based on the level of planned impervious surface, rather than land use type. Also, sections formerly titled “Exclusions” and “Exemptions” have been reorganized to clarify the intent of the standards. Generally, the ordinance now includes criteria for Source Area Restrictions (i.e. the area that drains to an infiltration practice(s)) and the Location of Practices.

Changes to certain definitions (4.813): For the most part, the changes to the definitions are directly from NR 151 and are primarily for clarification purposes.

Construction Site Erosion Control (4.11)

Changes to performance standards under NR 151:

1. (4.1107(1)(B)2.): The method used to estimate the sediment discharged from a project and, subsequently, design a plan to reduce it has been revised. The 80% reduction standard was changed to a standard which allows a maximum of 5 tons per acre per year from a construction site. This level of allowed discharge is consistent with agricultural standards for most of the soils in Rock County. In terms of actual tolerable soil loss, 80% reduction and 5 tons per acre per year are very similar thresholds. However, the acceptable software tools to estimate soil loss and plan the practices to reduce erosion and sedimentation are simpler to use and not cost prohibitive.
2. (4.1107(1)(E)): The addition of other sources of pollutants that must be consideration considered when developing a plan.
3. (4.1107(2)): Implementation techniques are specified to avoid any question of what is required. These points were typically included in the permit conditions of approval, but now are added directly to the performance standards section to be consistent with NR 151.