

ORDINANCE NO. 5

WATAB TOWNSHIP BENTON COUNTY, MINNESOTA AN ORDINANCE ESTABLISHING EROSION CONTROL AND STORM WATER MANAGEMENT REQUIREMENTS FOR LAND DISTURBANCES AND WATER QUALITY

Section 1: Purpose. The purpose of this ordinance is to establish standards and specifications for conservation practices and planning activities to minimize soil erosion and sedimentation, and regulate construction site erosion and storm water runoff to accomplish the following objectives:

- a. Promote local storm water management;
- b. Minimize sedimentation; water pollution from nutrients, heavy metals, chemicals, petroleum products and other contaminants; flooding; and thermal impacts to the water resources of Watab Township;
- c. Promote infiltration and groundwater recharge;
- d. Protect functional values of natural water courses and wetlands;
- e. Provide a single, consistent set of performance standards for Watab Township;
- f. Protect public and private property from damage resulting from runoff or erosion;
- g. Prohibit illicit discharges to the municipal separate storm sewer system;
- h. To establish legal authority to carry out all inspection, monitoring and enforcement procedures necessary to ensure compliance with this Ordinance.

Section 2: Definitions.

1. **LAND DISTURBANCE** means any disturbance to the ground surface that may result in soil erosion from water or wind and the movement of sediments into or upon waterbodies or wetlands within the watershed. Land disturbance includes but is not limited to the demolition of a structure or surface, soil stripping, clearing, grubbing, grading, excavating, filling, the storage of soil or earth materials, and the removal or replacement of impervious surfaces other than public roadways. This includes a disturbance to the land that results in a change in the topography, existing soil cover, or vegetation that may result in accelerated storm water runoff which may lead to soil erosion and movement of sediment. The term does not include normal farming practices as part of an ongoing farming operation.
2. **PERMITTEE** means the applicant for a permit under this Ordinance, or the holder of a permit issued under this Ordinance.
3. **INSPECTOR** means the person or entity appointed and contracted with by the Watab Township Board to perform the duties of the Board as delegated by this Ordinance.

Section 3: Authority.

1. This Ordinance is enacted pursuant to a Storm Water Pollution Prevention Plan (SWPPP) approved by the Minnesota Pollution Control Agency (MPCA). Watab Township is required to be covered by General Permit No: MNR040000 Authorization To Discharge Storm Water Associated With Municipal Separate Storm Sewer Systems Under The National Pollutant Discharge Elimination System/State Disposal System Permit Program, consistent with State and Federal law.
2. Watab Township hereby adopts by reference, the standards set forth in the MPCA's General Permit-Authorization To Discharge Stormwater Associated With Construction Activity Under The National

Pollutant Discharge Elimination System Permit Program (Permit No: MN R100001), also known as the NPDES Phase II Permit, along with any future amendments.

Section 4: Scope.

1. This Ordinance shall become effective upon enactment, and applies to all property within the jurisdictional boundaries of Watab Township.
2. The Watab Township Board adopts the requirements of the NPDES Phase II permit program as promulgated by the MPCA. Any activity requiring an NPDES storm water permit also requires a permit from Watab Township before the activity commences.
3. Unless the Township has determined the activity to be exempt under part 5 of this Section, all proposed land disturbances that are equal to or greater than one (1) acre in size, and including the disturbance of less than one (1) acre that is part of a larger common plan of development or sale that will ultimately disturb greater than one (1) acre, or result in the temporary or permanent placement of or stockpiling of fifty (50) cubic yards or more of soil materials, shall submit to the Township, a copy of their project SWPPP for review and approval.
4. No land disturbance shall be allowed until the Township has approved the project SWPPP and issued a permit under this Ordinance.
5. The following activities are not regulated under this Ordinance and are Exempt;
 - a. Minor land disturbance activities such landscaping, repairs, and maintenance work that are less than one (1) acre in size and not part of a larger common plan of development or sale.
 - b. Land disturbances to construct, install, or maintain public or private utilities that are less than one (1) acre in size and not part of a larger common plan of development or sale.
 - c. All agricultural activities for the production of agricultural, horticultural, or silvicultural crops and livestock production including the installation or maintenance of drainage tile lines and fencing for livestock or other agricultural purposes.
 - d. All wetland activities within or adjacent to a delineated wetland, authorized and performed in conformance with the rules of the Minnesota Wetland Conservation Act.
 - e. Emergency repair work requiring immediate action, provided the disturbed area is limited to the minimum area needed to address the emergency and the area is stabilized in accordance with the Ordinance requirements as soon as possible. Approval will be required for all subsequent or additional work.
 - f. Commercial mining activities including the extraction, crushing, washing, refining or processing of sand, gravel, rock, black dirt, peat and soils and their removal from the site.
 - g. Public drainage systems established under Minnesota Statute Chapter 103D.
6. The Watab Township Board shall be responsible for administration and enforcement of this Ordinance. The Town Board may contract with a private storm water inspector (Inspector) to administer the provisions of this Ordinance. The Inspector must be licensed and insured.
7. Where the standards of this Ordinance differ or conflict with any applicable ordinance, regulation, statute, or rule, the more restrictive standards shall apply.
8. The success and reliability of all Best Management Practices required by the SWPPP, Watab Township Board, or Inspector remain the sole responsibility of the Permittee.

Section 5: Permit Application. The Permittee must provide the following when applying for a permit:

- a. Copy of the SWPPP prepared for the MPCA NPDES Phase II Permit Program;
- b. Copies of permits or permit applications or approvals required by any other governmental entity, including documents sent to the state administered NPDES Phase II Permit program;
- c. A proposed timetable and schedule for completion and installation of all elements of approved erosion control and storm water management plans and a proposed schedule for completion of construction; and
- d. Appropriate fee as set forth in the Watab Township Fee Schedule.

Section 6: Approval Process. The Township Board or Inspector shall determine if the permit application is complete. The Township Board or Inspector shall review the SWPPP for compliance with the standards which are identified in the Minnesota Pollution Control Agency's NPDES Phase II construction site storm water permit. If the SWPPP is found to comply with this Ordinance, the Township Board or Inspector shall issue a permit.

Section 7: Conditions.

1. The SWPPP shall be implemented prior to the start of any land disturbing activity and shall be maintained over the duration of the project. Permanent storm water components of the plan shall be maintained in perpetuity.
2. The design of all Best Management Practices must meet the requirements of this Ordinance and comply with the following technical standards:
 - a. Minnesota Pollution Control Agency's "Storm Water Compliance Assistance Toolkit for Small Construction Operators", or as it is amended;
 - b. The Minnesota Pollution Control Agency's Storm Water Manual.
 - c. Any other technical methodology, providing they are at least as effective and stringent as MPCA best management practices.
3. The Permittee is responsible for successful completion of the SWPPP.
4. The Permittee shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.
5. Application for a permit shall constitute express permission by the Permittee for the Township Board or Inspector to enter the property for purposes of inspection or enforcement.

Section 8: Inspections.

1. Prior to excavation, all perimeter controls must be inspected by the Inspector.
2. The Inspector shall inspect the property to verify compliance with the submitted SWPPP within 10 days of notification of soil stabilization.
3. All NPDES required inspections and maintenance of the permitted site are the responsibility of the owner. The Permittee's inspection records must be made available to Watab Township or the Inspector.

Section 9: Permit Transfer or Modification. Permits may not be transferred or modified without the written consent of the Watab Township Board or the Inspector. Any major modifications to approved plans, construction schedules or alterations to accepted sequencing of land disturbing site activities shall be approved

by the MPCA in a NPDES Permit Transfer/Modification. The Permittee shall submit a copy to Watab Township prior to implementation of said changes.

Section 10: Termination of Coverage. Permittees wishing to terminate coverage under a township permit must submit, to Watab Township, a copy of the Notice of Termination sent to the MPCA. Compliance with a township permit is required until final stabilization of the site is completed and a Notice of Termination is submitted.

Section 11: Storm Water Discharge Design Requirements.

1. Storm water discharge design requirements for Watab Township are the same as those set forth in the NPDES Phase II permit program as promulgated by the MPCA.
2. The identity of the entity responsible for long-term maintenance of the permanent storm water must be submitted to Watab Township.

Section 12: Prohibition of Illicit Discharges. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain or otherwise discharge into the municipal separate storm sewer system any pollutants or waters containing any pollutants, other than storm water. The following discharges are exempt from the prohibition provisions above:

- a. water line flushing or other potable water sources;
- b. landscape irrigation or lawn watering;
- c. diverted stream flows, ground water infiltration to storm drains, and uncontaminated pumped ground water;
- d. foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, and air conditioning condensation;
- e. non-commercial washing of vehicles;
- f. de-chlorinated swimming pools (less than one part per million chlorine);
- g. fire fighting activities; and
- h. any other water source, as determined by the Watab Township Board or the Inspector, that does not contain pollutants.

Section 13: Violations.

1. **Violation is a Misdemeanor.** A violation of this Ordinance, or a permit issued under this Ordinance, is a misdemeanor subject to the maximum penalty provide by Minnesota law.
2. **Enforcement.** The Watab Township Board may exercise all powers conferred upon it by Minnesota Statutes in enforcing this Ordinance.
3. **Court Action.** The Watab Township Board may enforce this Ordinance through court action, including criminal prosecution, injunction, or an action to compel performance, restoration, or abatement. The costs of prosecution or other courts costs, including attorneys' fees, shall be paid by the person found to have caused the violation.
4. **Administrative Order.** The Watab Township Board or Inspector may enforce this Ordinance by issuing a cease and desist order when it finds that an activity violates this Ordinance or any permit issued by Watab Township. Such an administrative order may require additional inspections that may be subject to additional fees.

5. **Order to Show Cause.** The Watab Township Board may require a person entity in violation of this Ordinance, or a permit issued under this Ordinance, to appear at a Watab Township Board meeting to show cause why the violation should be allowed to continue.
6. **Future Permits.** No future permit shall be issued to any person or entity in violation of this Ordinance or a previously issued permit, until the violation has been remedied to the sole satisfaction of the Watab Township Board.
7. **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 Watab Township Board to seek cumulative remedies.

ADOPTION OF ORDINANCE

ADOPTED this ____ day of December, 2009 by the Township Board of the Township of Watab.

IN FAVOR:

OPPOSED:

WATAB TOWNSHIP

Ed Kacures, Chairman

Pat Spence, Clerk