

Chapter 506 Environmental Performance Standards

506.01 Purpose

The purpose of this chapter is to provide regulations of general applicability for property throughout the County, to protect the natural environment, to minimize conflicts among land uses, and to implement the following Rice County Comprehensive Land Use Plan goals.

- A. **Goal 18:** Promote environmentally sensitive erosion control practices.
- B. **Goal 20:** Preserve, protect and improve the surface and underground waters including, but not limited to, rivers, streams, lakes, groundwater and aquifer recharge areas.
- C. **Goal 22:** Protect forest lands by regulating the density of development and by using effective forest management practices, including reforestation.
- D. **Goal 48:** Minimize the potential for air, waters and land contamination and pollution that could result from the development process.

506.02 Applicability

The regulations set forth in this chapter apply to all structures and all land uses, except as otherwise provided in this Ordinance. No permit shall be issued unless provisions are made for meeting applicable environmental performance standards in this chapter.

506.03 Impervious Surface Limitation

Impervious surface coverage of lots must not exceed twenty-five (25) percent of the lot area including structures, roads, driveways and parking areas, except as provided for in the HC, LI, URI and VMU Districts.

506.04 Water Supply and Sewage Treatment

- A. **Water supply standards.** Any public or private water supply for domestic purposes must meet or exceed the water quality standards of the Minnesota Department of Health, Rice County and the Minnesota Pollution Control Agency.
- B. **Sewage treatment standards.** Private or community sewer systems in all districts shall meet or exceed the standards for individual sewage treatment systems in the Rice County Sewage and Waste Water Treatment Ordinance.
- C. **Alternative septic site required.** Each proposed use shall identify two sites approved for septic systems, and these sites shall be protected during construction and preserved in their natural state until their use as a septic system location.
- D. **Compliance inspection required.** A sewage treatment compliance inspection shall be required prior to the issuance of any permit or certificate relating to water usage. The compliance inspection shall determine if the sewage treatment system is in conformance with the Rice County Sewage and Wastewater Treatment Ordinance. Sewage treatment systems shall meet the requirement of §503.02. A.2, before any permit is issued.
- E. **Use of public systems required.** Where available, publicly-owned sewer systems must be used within one (1) year of the date of issuance of a permit under this Ordinance. Existing conforming individual septic systems may be exempted at the discretion of the publicly owned system governing body if the governing body agrees to manage and regularly inspect the individual system. A new individual system shall not be allowed.

506.05 Drainage and Stormwater Management

No land shall be developed and no use shall be permitted that results in water run-off causing flooding or erosion on adjacent property. Such run-off shall be properly channeled into a storm drain, watercourse, ponding area or other suitable facility designed to intercept and store run-off in an amount caused by a 100-year, 24 hour storm event (six inches of rain in 24 hours).

- A. **Drainage plan required.** A drainage plan shall be submitted and approved for all new commercial developments, industrial developments, institutional developments, planned unit developments (PUD), and residential subdivisions.
- B. **Effect on adjacent land.** A proposed development shall not increase the runoff rate of stormwater so as to cause an adverse effect upon adjacent lands.
- C. **Use of natural vegetation and natural features.** Erosion protection measures shall make maximum use of natural in-place vegetation rather than the placing of new vegetation on-site as erosion control facilities. When possible, existing natural drainageways, natural or created wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff.
- D. **Disturbed area standards.** Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities and erosion potential, and that will reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- E. **Constructed features standards.** When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds shall be required. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities. Settling basins to intercept urban runoff shall be sized to a minimum of a 100-year, 24 hour (six inches of rain in 24 hours) storm design.
- F. **Certification by professional.** When constructed facilities are used for stormwater management, documentation must be provided by Rice County Soil and Water Conservation District staff or a professional engineer licensed with the State of Minnesota that they are designed and installed consistent with Federal State and local standards.
- G. **Filtering and settling required.** New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- H. **Easement dedications required.** When a land or easement dedication is a condition of approval for a permit or subdivision, the applicant must provide easements over natural drainage or ponding areas for management of ponding areas, stormwater and significant wetlands.
- I. **Management and maintenance plan required.** A management and maintenance plan shall be submitted and approved for all new commercial developments, industrial developments, institutional developments, planned unit developments (PUD), and residential subdivisions. The management and maintenance plan shall include plans for ownership, management and maintenance of drainage and stormwater control features.

506.06 Environmental Standards

The following environmental standards apply to all uses in any district:

- A. **Hazard.** Every use established, enlarged, or remodeled shall be operated with reasonable precautions against fire and explosion hazards.
- B. **Waste material.** No waste material shall be washed into the public storm system nor the sanitary sewer system without first having received a permit to do so. If said permit is not granted, a method of disposal shall be devised which will not require continuous land acquisition for permanent operation and will not cause a detrimental effect to the adjacent land. Should the waste be of a solid form rather than fluid, the storage area shall be located and fenced so as not to cause a public nuisance.
- C. **Water pollution.** All uses and activities shall conform to water pollution standards and/or controls in effect at the time of the adoption of this Ordinance and those adopted at a later date by

the Minnesota Pollution Control Agency and other agencies and governing bodies which have such powers and controls over the territory of this Ordinance.

- D. **Emissions.** Emission or creation of noise, odors, heat, glare, vibration, smoke and toxic or noxious fumes shall meet local, state and federal standards.
- E. **Lighting.** Lighting shall be shielded and directed away from the public right-of-way and adjacent properties, and shall not exceed one foot candle of illumination at the property line unless specifically approved.
- F. **Noise.** Noise standards shall comply with Minnesota Rules Chapter 7030.
- G. **Compliance.** In order to insure compliance with the performance standards set forth above, the County may require the owner or operator of any permitted or conditional use to conduct investigations and tests needed to demonstrate compliance with the performance standards. Such investigations and tests shall be performed by an independent testing organization selected by the County. All costs shall be borne by the applicant.
- H. **Use of fertilizer, pesticides, or animal wastes.** Use must be done in such a way as to minimize impact on the shore impact zone or a public water by proper application or use of earth or vegetation.

506.07 Erosion and Sedimentation Control Standards

- A. **Wetlands and water bodies.** Wetlands and other water bodies shall not be used as primary sediment traps during or after construction.
- B. **Placement of structures.** All new structures shall be located in such a manner as to minimize the removal of vegetation and alteration of the natural topography.
- C. **Maintenance.** Any and all erosion control, storm water runoff, utility access and similar structures shall be designed to be maintained, cleaned out and otherwise operated without requiring the crossing of private lands with or by the operation of motorized heavy maintenance vehicles and equipment, such as bulldozers, trucks and backhoes on slopes in excess of 8%. As used in this Section, private lands includes any outlots.
- D. **Site suitability.** The applicant shall demonstrate that the types and densities of land use proposed shall be suited to the site and soil conditions and shall not present a threat to the maintenance of water quality, a potential increase in maintenance cost of utilities, parking areas or roads and shall not be subject to problems due to soil limitations including but not limited to soil bearing strength, shrink/swell potential and excessive frost movement.
- E. **Construction fencing.** The applicant shall be required to furnish and install fences wherever the Planning Director determines a hazardous condition may exist or an environmentally sensitive area needs to be protected during construction. The applicant, of his own volition, shall provide fencing wherever a hazardous condition may exist during construction prior to any determination made by the County.
- F. **Construction waste handling.** No cut trees, timber, debris, earth, rock, stones, rubbish or waste materials of any kind shall be buried in any land or left or deposited on any lot or future street without the approval of the County Planning Director.
- G. **Topsoil preservation.** If topsoil is removed from sites or lots during construction it shall be stored and stockpiled for re-spreading over lots and shall not be sold or otherwise removed from the subdivision area unless the removal of excess topsoil is approved by the County.
- H. **Topsoil replacement.** Topsoil shall be re-spread so as to provide at least six (6) inches of cover originally existing on the site or a minimum of four (4) inches of cover if the original cover was less. The site shall also be stabilized by seeding and/or sodding.

506.08 Landscaping Requirements

All required yards for any structure shall either be landscaped or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with natural vegetation, lawn, trees, and shrubs. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining any residential district shall be landscaped with buffer planting screens. Plans of such screens

shall be submitted for approval as part of the site plan and installed prior to issuance of a Certificate of Occupancy.

506.09 Steep Slopes

Slopes in excess of eighteen (18) percent natural grade and over fifty feet (50') in length shall not be graded, excavated, or developed. Slopes from twelve to eighteen (12 - 18) percent natural grade shall only be graded, excavated, or developed according to an approved grading plan providing for stabilization and vegetation after grading as approved by County. Additional steep slope provisions for Shoreland Districts are included in Chapter 516.

506.10 Tree, Forest Land and Natural Vegetation Preservation.

- A. **General standards.** Natural vegetation, including ground cover and trees, shall be preserved and maintained to the greatest extent possible in order to control erosion and runoff, preserve habitat, and maintain a buffer between land uses. The following restrictions shall apply to all development:
 - 1. Structures should be located in such a manner that the maximum number of trees shall be preserved.
 - 2. Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the cutting of trees on the site.
 - 3. Forestation, reforestation or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.
 - 4. The root zone of existing trees shall be preserved and protected during development including grading and contouring, so that the trees are not be adversely affected by the work.
 - 5. Notwithstanding the above, the removal of trees seriously damaged by storms or other natural causes, or diseased trees shall not be prohibited.
 - 6. Residential development shall not disturb or remove more than one-half (1/2) acre, commercial or industrial development no more than one (1) acre of healthy trees for the building pad, out buildings, driveway, septic system, firebreak, well or for any other purpose without first providing a tree replanting plan for the site.
 - 7. A tree inventory shall be carried out by the developer and no more than forty (40) percent of trees with a caliper of six (6) inches or greater at dbh shall be cleared or in any way removed from the site unless replaced with an equal number and variety of trees of at least six (6) inches at dbh (measured four and one-half 4.5 feet above ground level), or an equivalent as determined by the Planning Director.
 - 8. As a mitigating measure, where trees are to be removed, the developer shall prepare a tree planting plan to be approved by the Planning Director. The plan shall be implemented as practical for the season prior to a final occupancy permit is issued.
 - 9. Timing of tree removal shall be such as to minimize tree loss.
- B. **Forest land Management standards.** The harvesting of timber and associated reforestation or conversion of forested use to a nonforested use must be conducted consistent with the following standards:
 - 1. Timber harvesting and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."
 - 2. Forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards:
 - i. Shore and bluff impact zones must not be intensively cleared of vegetation; and

- ii. An erosion and sediment control plan is developed and approved by the local soil and water conservation district before issuance of a conditional use permit for the conversion.

506.11 Shoreland Alterations

Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

- A. **Vegetation alterations.** Alterations of vegetation in Shoreland Districts, Agricultural River and tributary stream shoreland areas, along public drainage ditches, , or the Wild and Scenic River District shall conform to the following standards:
 - 1. **Standards.** Removal or alteration of vegetation is allowed subject to the following standards:
 - a. **Clear-cutting standards.**
 - i. Clear-cutting and intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
 - ii. Intensive vegetation clearing for forest land conversion to another use outside of shore and bluff impact areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district or a Licensed civil engineer.
 - b. **Limited clearing for view.** In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, walkout basement pathways, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - i. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - ii. Along rivers, existing shading of water surfaces is preserved.
 - 2. **Maintenance for safety allowed.** The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or post safety hazards.
 - 3. **Exemptions.** The following activities are exempt from the standards in this Section:
 - a. Vegetation alteration in the minimum amount necessary for the construction of allowed structures and sewage treatment systems
 - b. Vegetation alteration necessary for the construction of permitted roads and parking areas
 - c. Allowed agricultural and forest management uses
- B. **Topographic Alterations/Grading and Filling.** Topographic alterations, including grading and filling in all Districts shall conform to the following standards:
 - 1. **Incorporated in building permits.** Grading and filling and excavations necessary for the construction of structures, sewage treatments systems and driveways under validly issued building permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into an erosion control plan submitted with the application for a permit for construction of structures, sewage treatment systems and driveways.
 - 2. **Exemption.** Public roads are exempt from the standards in this Section.
 - 3. **Grading and filling permits required.** Not withstanding Items 1 and 2 above, a grading and filling permit will be required for:
 - a. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; or

- b. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones except for materials moved due to the excavation of basements.
4. **Permit Process.** Applications for a grading and filling permit shall conform to the following process:
- a. All permit applications must be complete and include:
 - i. An erosion control plan
 - ii. A National Pollution Discharge Elimination System permit if the land disturbance is greater than one (1) acre.
5. **Standards.** The following standards must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
- a. Grading or filling that occurs in any Type 3, 4, or 5 wetland over ten (10) acres in size must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
 - i. sediment and pollutant trapping and retention;
 - ii. storage of surface runoff to prevent or reduce flood damage;
 - iii. fish and wildlife habitat;
 - iv. recreational use;
 - v. shoreline or bank stabilization; and
 - vi. noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
 - b. An erosion control plan must be filed with the permit application. Topographic alterations shall adhere to approved erosion control plans.
 - c. Alterations must be designed and conducted in a manner that ensures that only the smallest amount of bare ground is exposed for the shortest time possible.
 - d. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as weather conditions allow. All exposed soil shall be restored by seeding and mulching within 72 hours of project completion.
 - e. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
 - f. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Natural Resources Conservation Service (NRCS).
 - g. Fill or excavated material must not be placed in a manner that creates an unstable slope.
 - h. Plans to place fill or excavated material on steep slopes must be reviewed by a professional engineer licensed with the State of Minnesota for continued slope stability and must not create finished slopes of thirty (30) percent or greater.
 - i. Fill or excavated material must not be placed in bluff impact zones.
 - j. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner of the Department of Natural Resources.
 - k. Alterations of topography will be allowed only if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
 - l. It is preferred that shoreline areas be maintained in a natural vegetative state. If the applicant proves that the shoreline can not be maintained with natural vegetation, the

placement of natural rock riprap six to thirty inches in diameter, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet. Retaining walls are not allowed in the shore impact zone.ⁱ

- m. Any alteration, removal of topsoil or other construction activity that causes compaction of subsoil shall be remediated prior to replacement of topsoil.
 - n. All land disturbance shall be the minimum time and area needed to complete the project.
 - o. The Director of Planning & Zoning may impose site specific permit requirements that are necessary to protect public health, safety and welfare.
 - p. Grading and filling permits shall remain in effect for one (1) year from the date of approval, provided that all conditions of the permit are adhered to.
6. **Connection to Public Waters.** Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, requires a conditional use permit. Permission for excavations may be given only after the Department of Natural Resources Commissioner has approved the proposed connection to public waters.

506.12 Wetlands Preservation

To the extent possible, all wetlands including marshlands and swamps, shall be retained in their natural state. Alterations to wetlands shall require review from the Rice County Soil and Water Conservation District. The following provisions apply to wetlands in Rice County:

A. Discharges

- 1. No part of any sewage treatment system requiring on-land or in-ground disposal of waste shall be located closer than thirty (30) feet from the wetland boundary, as delineated by a certified wetland specialist, or ordinary high water level unless it is proven by the applicant that no effluent will immediately or gradually reach the wetland because of existing physical characteristics of the site or the system.
- 2. Organic waste which would normally be disposed of at a solid waste treatment site or which would normally be discharged into a sewage treatment system or sewer shall not be directly or indirectly discharged to the wetland.
- 3. Untreated stormwater runoff from construction sites may not be directed to a wetland.

B. Building Constraints

- 1. The lowest floor elevation of buildings used for living quarters or work area, shall be at least three (3) feet above the ordinary high water level.
- 2. Structures shall be setback twenty (20) feet from the wetland boundary, as delineated by a certified wetland specialist.

ⁱ Amended December 2004