

**CITY OF RICE LAKE
ST. LOUIS COUNTY
STATE OF MINNESOTA**

ORDINANCE NO. 46

**ORDINANCE REGULATING THE PLACEMENT OF OBSTRUCTIONS
WITHIN THE CITY’S RIGHT-OF-WAY**

The City Council for the City of Rice Lake, St. Louis County, Minnesota hereby ordains:

Section 1. Authority.

As the road authority, the City Council has broad authority to regulate what occurs within the City’s road rights-of-way. This authority is found in Minnesota Statutes § 365.10, Subd. 17, a variety of sections in Chapters 160, 164, 165, 169, 222, 237, 368, and other chapters as well as the City’s police powers.

Section 2. Purpose.

The City Council finds that placement and installation of rocks and other man-made obstructions in the public road rights-of-way by the owners and occupants of abutting property creates potential safety hazards for motorists, bicyclists and pedestrians; impedes, hinders or interferes with the free and safe passage and parking of vehicles; and renders snow removal and roadway maintenance more difficult. The City Council determines it in the best interests of the City and its residents to prohibit these obstructions and hold property owners responsible for removal of the obstructions.

The purpose of this ordinance is also to promote the public safety, the general welfare of the community and to enforce the goals and policies of The City of Rice Lake. This ordinance applies to the placement of any obstructions within the City’s road right-of-way including, but not limited to, violations of Minnesota Statute §160.2715 or other relevant Minnesota State Statutes.

Section 3. Definitions.

For purposes of this Ordinance, the following definitions shall apply:

- (a) “Man-Made Obstruction” means an object, structure, rock, planting, post, barrier, wall, fence, excavation, obstacle or other impediment that has been installed, erected, constructed, located or placed in the public right-of-way that creates a potential safety hazard for motorists, bicyclists or pedestrians using the road; or that impedes, hinders or interferes with the free and safe passage or parking of vehicles using the road; or that interferes with or impedes storm water drainage or causes soil erosion; or that renders snow removal and roadway maintenance more difficult and is not an original feature of the land. “Man-Made Obstruction” does not include utility structures and installations located pursuant to permit or

approval, nor does it include signs, traffic control devices, structures, or other installations located in the public road right-of-way by public authorities or their agents and contractors. For purposes of this Ordinance a “Man-Made Obstruction” shall include any violation of Minnesota Statute §160.2715 or other relevant Minnesota State Statutes.

- (b) “Public Road Right-of-Way” means the area of land reserved by law, public ownership, easement, dedication or public use for the operation and maintenance of a public road under the City’s road jurisdiction, including the traveled portion of the road, shoulders and the remaining area on both sides of the road extending to the outer boundaries of the right-of-way.

Section 4. Man-made Obstructions Prohibited in Public Road Rights-of Way.

In addition to the prohibitions contained in Minnesota Statute §160.2715 and other relevant state statutes, no person shall place or cause to be placed a man-made obstruction within any City road right-of-way without a permit or approval from the City Council. This prohibition includes, but is not limited to, the following:

- (a) Rocks, boulders or other man-made obstructions shall not exceed four (4) inches in total height, and shall not be located closer than three (3) feet from the edge of the road pavement;
- (b) Placement of fill or creation of a berm or wall;
- (c) Planting, cultivation or growing of plants, trees, bushes, gardens, landscaping or crops, except for grass, flowers and plants landscaped and maintained so that they do not create a potential safety hazard and do not reduce corner clearances or diminish visibility of or by road users;
- (d) Placing fences, posts, barriers, ditches, signs, advertising devices or other decorative or preventative materials;
- (e) Excavation or alteration of ditches, grade, contour, embankment or road drainage; or
- (f) Mailboxes may be located within the City road right-of-way in accordance with U.S. Postal Service regulations provided the mailbox conforms to the requirements contained in Minn. Stat. § 169.072; Minn. R. Chap. 8818 and any other relevant state statutes and rules. All other mailboxes are prohibited without a permit or approval from the City Council regardless of the date the mailbox was installed.
- (g) Plowing, throwing or placing snow onto the travelled portion of the right of way (including shoulders), or plowing snow across the travelled portion of the right of way.

Section 5. Violation.

- (a) In the event of a violation of this ordinance, the City Council may institute appropriate actions or proceedings, including requesting injunctive relief to prevent, restrain, correct or abate such violations. Should the City determine to correct or abate such violations as provided in Section 6, the property owner shall be invoiced for all of the City's costs which shall be paid within 30 days of the date of the invoice, should the property owner not reimburse the City within said time, the City shall be authorized to certify said unreimbursed costs to the County Auditor for payment with the owner's property taxes pursuant to Minn. Stat. § 366.012 or other relevant statute.
- (b) Further, each day of violation of this ordinance shall be deemed a misdemeanor for which the City may bring prosecution. In the event of a successful prosecution, then the prosecution costs may be added to any fines or penalties imposed by the Court, all as provided by statute. The maximum penalty shall be the same as the maximum penalty provided by Minnesota law for misdemeanor violations.
- (c) In the discretion of the City, the matter may also be forwarded to the St. Louis County Sheriff's Department, so that a citation can be issued to violator based on Minnesota Statute § 160.2715 or other relevant statute.

Section 6. Removal of Man-made Obstructions.

- (a) A man-made obstruction in the public road right-of-way, which the City in its sole discretion determines to be an immediate safety hazard, may, without notice or liability for damages, be abated or removed by the City.
- (b) A man-made obstruction in the public road right-of-way which the City does not determine to be an immediate safety hazard may be abated or removed by the City without liability for damages after: (i) written notice of violation is served on the person responsible for the obstruction notifying that person of the obstruction, the corrective action required, and that the City may abate or remove the obstruction at the person's expense if the person does not do so within the time specified in the notice; and (ii) the person responsible for the obstruction fails to abate or remove the obstruction within the time specified in the notice.
- (c) Upon abatement or removal of a man-made obstruction by the City, the City may bill the City's actual cost of abatement or removal, plus cost of administration, to the person responsible for the obstruction. The billed amount, if not paid within thirty (30) days, shall be added to the property tax roll and shall constitute a lien against the responsible person's property which shall be collected and enforced in the same manner as general property taxes pursuant to Minnesota Statute § 366.012 or any other relevant statute. This cost recovery shall be in addition to any penalty or legal or equitable remedy the City may seek or receive for the violation of this Ordinance.

Section 7. Abutting Property Owner.

For purposes of this Ordinance, the owner or occupant of the property abutting the public road right-of-way, according to the property tax roll, is presumed to be responsible for any man-made obstructions in the abutting public road right-of-way unless the evidence or circumstances indicate a different responsible party.

Section 8. Separability.

It is hereby declared to be the intention that the several provisions of this ordinance are separable in accordance with the following: If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.

Section 9. Repealer.

All regulatory provisions contained in other City ordinances, which conflict with the provisions of this Ordinance, are hereby repealed.

Section 10. Effective date.

This ordinance shall be in full force and effect from and after its passage and publication.

Adopted by the City Council of The City of Rice Lake this 23rd day of April, 2018.

John Werner, Mayor

Joan Jauss, Clerk