

RULES AND REGULATIONS

HIGH ISLAND CREEK WATERSHED DISTRICT

Section 1. INTRODUCTION

The rules and regulations of the High Island Creek Watershed District are to effectuate the purpose of Minnesota Statutes, Chapter 103D, and the authority of the managers therein prescribed. These regulations are deemed necessary to implement and make more specific the law administered by them.

Changes to these rules and regulations may be made by the managers. Any interested person may petition the managers for a change in these rules and regulations.

If any rule or regulation is inconsistent with the provisions of Minnesota Statutes, Chapter 103D, or other applicable law, the provisions of said Chapter 103D or other applicable law shall govern.

Section 2. GENERAL POLICY

It is the intention of the managers that no person shall be deprived or divested of any previously established beneficial use or right, by any rule or regulation of the district, without due process of law, and that all rules and regulations of the district shall be construed according to said intention.

It is the intention of the managers to promote the use of the waters and related resources within the District in a provident and orderly manner so as to improve the general welfare and public health for the benefit of its present and future residents.

If any part of these rules and regulations is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of these rules and regulations.

Section 3. DEFINITIONS

For the purpose of these rules and regulations certain words and terms are herein defined as follows:

- a. "District" means the High Island Creek Watershed District.
- b. "Domestic purposes" refers to the use of water for common household and farm uses.
- c. "Drainage System" means a combination of artificial or altered means of conveying water through drainage ditches, subsurface tile, pumps, and similar means to remove excess surface and subsurface water from land for the purpose

of farming or other beneficial use. Drainage systems include public drainage systems and private drainage systems.

- d. “Drainageway” means an artificial or natural channel which provides a course for water flowing continuously or intermittently.
- e. “Floodplain” means all of the land area along channels and drainageways including the area around lakes, marshes, and lowlands which would become inundated as a result of a flood occurring on the average of once every 100 years.
- f. “General welfare” includes any act or thing tending to improve or benefit or contribute to the safety or wellbeing of the general public or benefit the inhabitants of the district.
- g. “Legal drainage system” means a watershed, county or judicial drainage system established according to either Chapter 103E or Chapter 103D or predecessor statutes.
- h. “Managers” means the District Board of Managers.
- i. “Normal high water mark” means a mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. Commonly it is that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.
- j. “Person” means an individual, firm, partnership, association, or corporation but does not include public or political subdivision.
- k. “Plan” is a map or drawing and supporting data for proposed works.
- l. “Private drainage system” means an individual or mutual drainage system.
- m. “Public Corporation” means a county, town, school district, or a political division or subdivision of the state.
- n. “Public Health” includes any act or thing tending to improve the general sanitary conditions of the district.
- o. The word “shall” is mandatory, not permissive.
- p. “Sub-watershed” means an area drained by a stream, run, brook, creek, river or ditch whether man made or natural, which carries water off surrounding higher ground into a lower stream, run, brook, creek, river or ditch, located within High Island Creek Watershed District.
- q. “Water impoundment structure” means a structure constructed to retain or contain runoff water such as dams, reservoirs, dikes, but does not include pits or dugouts in which the water level is maintained by seepage.

- r. "Wetland" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water and where hydric soils and hydrophytic vegetation are present under normal circumstances. This definition includes public waters wetlands as designated by the Minnesota Department of Natural Resources and wetlands under the jurisdiction of the Wetland Conservation Act.
- s. "Work" or "works" means any construction, maintenance, repairs, or improvements.
- t. Masculine terms (such as "he", "him", or "his") shall include the feminine, and feminine terms shall include the masculine.

Section 4. WORKS PAID BY ASSESSMENT

All works of the District which are to be paid by assessment upon benefitted properties, shall be instituted as prescribed in Minnesota Statutes, Chapter 103D.701. A copy of the law is on file in the District office.

Section 5. PERMITS

Permits are needed so that the managers are kept informed of planned projects, can advise and in some cases provide assistance, and to ensure that developments of the natural resources are orderly and in accordance with the overall plan for the District.

- a. Permits are required for the following types of work:
 - 1. Flood control and drainage work, pursuant to Section 6 of these Rules.
 - 2. Bridge, culvert, drain, and stream crossing work, pursuant to Section 8 of these Rules.
 - 3. Drainage channel work, pursuant to Section 9 of these Rules.
 - 4. Work that may cause erosion and sedimentation, pursuant to Section 11 of these Rules.
- b. All applications for a permit must be submitted on an application form approved by the District, and shall include the following either on the application or as an attachment:
 - 1. All information sought by the application form;
 - 2. A description of the planned project; and

3. Unless only a drainage cleaning is proposed, drawing or plans of the planned project. Drawings or plans are not required to be prepared by an engineer, but they must adequately depict the planned project.
- c. All permits when issued shall be signed by the president and secretary of the Board of Managers or their designates.
- d. No works or use requiring a permit shall be commenced prior to the issuance of the permit.
- e. Unless specified in the permit, works for which a permit is given must be completed within one year. If, due to conditions beyond the control of the applicant, the completion will be extended beyond one year, the applicant may apply for an extension of time, not to exceed one year. The managers further require as a condition of all permits, that they be notified when said improvement is completed.
- f. Application for a permit will be granted or denied within 60 days from the date of the receipt of the application and required data, unless extended by a decision of the District in accordance with Minn. Stat. § 15.99.
- g. If a permit application is refused or granted subject to conditions, or if the application is not acted upon within the requirements of paragraph e, the applicant may within 30 days demand a hearing on the application.
- h. Obtaining a permit from the managers does not relieve the applicant from the responsibility of obtaining any other authorizations required.
- i. Applications for a permit may be filed with the managers at their regular monthly meeting or mailed to High Island Creek Watershed District, c/o Gislason & Hunter LLP, 2700 South Broadway, PO Box 458, New Ulm, Minnesota 55073. or mailed or delivered to the ditch inspector for the District.
- j. Each application must be accompanied by such application fee as from time to time is set by the managers, which may be combined with a field inspection fee. Such fees shall not be charged the federal government, the State of Minnesota, or any political subdivision of the state.
- k. A person may apply for after-the-fact permits. The fee for after-the-fact permits shall be up to \$1,000 plus all other expenses incurred by the District. All cost incurred shall be paid before the permit is issued.

Section 6. FLOOD CONTROL AND DRAINAGE

Every person shall use his land reasonably in disposing of surface water and may deliver into a natural drainageway all the surface water that would naturally drain there, but he may not burden a lower landowner with more water than is reasonable under the circumstances.

Surface water shall not be artificially removed from upper land to and across lower land without adequate provision being made on the lower land for its passage, nor shall the natural flow of surface water be obstructed so as to cause an overflow onto the property of others.

- a. No person or public corporation shall cut an artificial drainageway across a sub-watershed and thereby deliver water into another sub-watershed without a permit from the managers.
- b. No person or public corporation shall divert water to or cast water by any artificial means into any legal drainage system from any land not assessed to said drainage system without complying with the proper statutory procedure therefore and securing a permit from the managers.
- c. No works or alteration shall be undertaken on any private drainage system where the tile size exceeds 8" or where the private drainage system involves more than one landowner without first obtaining a permit from the managers. Prior to granting approval, the managers must determine that the existing drainage system is adequate for the additional area and that the property to be served by the proposed improvement has previously been assessed for the system which the waters would drain, and if such property has not previously been assessed, the permit may be denied pending a petition under Minn. Stat. § 103E.401 to use the existing drainage system as an outlet.
 1. Notwithstanding Section 6(c) herein, no permit shall be required for routine repairs of tile line where the amount of tile repaired or replaced does not exceed 100 linear feet.
- d. It shall be the overall policy of the District to maintain up to a 3/8" drainage coefficient for drainage projects. Exceptions to this include when the drainage system was designed to accommodate smaller or larger coefficients or if mitigation measures are implemented (i.e., stormwater ponds, restored wetlands, etc.) when using larger drainage coefficients.
- e. No wetland or lake shall be drained without a permit from the managers.
- f. No dike may be constructed, altered, repaired or removed without a permit from the managers.
- g. No water impoundment structure for the impoundment of water may be constructed, removed or abandoned without a permit from the managers; nor shall any works be done which would alter the effectiveness of a reservoir without a permit from the managers.
- h. Culvert and tile construction shall conform to the standards of the Soil Conservation Service.

- i. Pumping of waters into the drainageways of the District will be regulated by the issuance of permits by the managers. No pumping shall be allowed which will discharge waters onto the land of another without a permit from the managers.
- j. A permit for work governed by this Section may be issued upon a consideration of the following criteria:
 - 1. Whether downstream capacity exists for the additional water discharged by the proposed drainage system;
 - 2. Whether the proposed work is designed in a way that minimizes the introduction of sediment and pollutants to the drainage system;
 - 3. Whether outlets of the proposed drainage system are designed to minimize erosion, not impede the flow of water, and not cause unreasonable deterioration of the receiving water;
 - 4. Whether the proposed drainage system would drain lands outside the district;
 - 5. Whether the proposed drainage system would impair or promote the general welfare and public health;
 - 6. Where the proposed drainage system otherwise complies with these Rules.

Section 7. RELATED ORDINANCES

The managers will cooperate with public corporations and state and federal agencies in the application of ordinances and rules concerning water and related resources within the district.

- a. In the interest of public health and to prevent pollution to the waters in the District, the applicable county ordinances and rules of the State Board of Health and the Minnesota Pollution Control Agency regarding the disposal of wastes, are by reference hereby adopted as rules and regulations of the District within the limits of the statutory authority granted to the managers.
- b. So that the managers may provide input on changes to rules and regulations affecting water and related resources, the managers encourage that copies of proposed county, municipal and town ordinances relating to surface water drainage, land use zoning, shoreland use and flood plain zoning, as applied to changes within the flood plain be submitted to the managers 30 days prior to the first public hearing date for review and comment.
- c. The managers encourage that ordinances relating to surface water drainage, land use zoning, shoreland use and flood plain zoning be submitted to the managers within 45 days after passage.

Section 8. BRIDGES, CULVERTS, DRAINS AND STREAM CROSSINGS

No bridge, culvert or drain shall be constructed, reconstructed, laid into or across any natural, legal or private drainageway without a permit from the managers. They shall be suitably located, have adequate waterway opening and shall have adequate shoulder and bank protection.

In the event of the destruction of an existing bridge, culvert or drain which is the result of a catastrophe, natural or otherwise, a governmental subdivision may replace such bridge, culvert or drain if an emergency situation is presented without first obtaining a permit from the Board of Managers provided that such replacement structure is identical in water capacity to the original structure.

No pipeline, wire, or cable shall be installed over, within, or under any natural, legal, or private drainageway within the District without a permit from the managers. These shall be suitably located and shall have adequate streambed, bank and shoulder protection and clearance. Permits shall be issued with such conditions as may be deemed appropriate by the managers to protect the best interests of the District.

No livestock shall be permitted in any legal drainage system and may only cross the system at such place that will not cause the livestock to enter the system. Fences or any contrivance deemed acceptable by the board can be used to prevent livestock from crossing ditches.

Section 9. DRAINAGE CHANNELS

Any work done on drainage channels, with either public or private ownership, shall be done in such a manner as to prevent erosion of the channel bank and prevent siltation of drainage channels. Examples of measures which will be required include:

- a. Overland flow of water directly into ditches must be controlled and avoided where possible. Culverts must be used to convey surface runoff from lands above the ditch banks to points of lower elevation within the ditches.
- b. Ditch slopes shall be seeded with an approved mixture to protect against erosion, as soon as possible after they were excavated or disturbed.
- c. Care must be taken when maintaining and repairing ditches to return the banks to their original slopes except as noted herein. Depth and slopes must not be altered without the consent of the Board.
- d. No new ditch construction will be accomplished using flat bottom ditches.

Section 10. ALTERNATION OF NATURAL DRAINAGEWAYS, LAKES AND MARSHES

Management of natural drainageways, lakes, wetlands and their abutting lands should be done in such a way so as to reduce their deterioration and to maximize their value for the general welfare of the District.

- a. No change may be made in the bed, banks, or shores of natural drainageways, lakes, or wetlands without a permit from the managers.
- b. To prevent obstructions in the natural drainageways, landowners shall remove any trees cut along the banks and shall also remove any beaver dam which impairs drainage. The affected landowner shall be given written notice of any such impairment and shall have 10 days to remove the impairment. If not removed within the required time period, the managers may remove the impairment in such manner as they deem appropriate. The managers shall assess the responsible landowner for the cost of removal of cut trees. The managers shall remove any other obstructions in such manner as they deem appropriate. No wastes shall be disposed of directly or indirectly into the drainageways.
- c. Any excavations, grading or filling near any natural drainageway, lake or wetland shall be done in such a manner as to minimize any detrimental effect to them. A permit is required from the managers. This is not to be construed to include maintenance of roadways.

Section 11. EROSION AND SEDIMENTATION

- a. Construction projects requiring the movement of earth such as, but not limited to, subdivision improvements, road and street construction, and ditch channel maintenance and improvements, shall provide for the prevention of erosion during and after construction. The person or public corporation responsible for the work shall submit a permit application to the Board of Managers, together with a plan and/or a description of the construction practices to be utilized to avoid erosion of the soil and sedimentation of the drainageways. Any work within the drainageways such as, but not limited to, cleanouts, culvert relocation, and inlet construction shall provide for the prevention of erosion both during the progress of construction and after the work is completed.
- b. Notwithstanding anything else in this Section, a permit shall not be required for projects requiring the movement of earth in the following circumstances:
 - 1. Construction of single family homes that are not part of a development of multiple single-family homes, so long as such construction is not within 500 feet of a natural lake, stream, or wetland.
 - 2. Construction of agricultural buildings such as barns, shops, grain bins, and similar agriculture-related structures, so long as such construction is not within 500 feet of a natural lake, stream, or wetland.
 - 3. Construction work where less than one quarter of an acre of earth is disturbed, so long as such construction is not within 500 feet of a natural lake, stream, or wetland.

Section 12. ENVIRONMENT ASSESSMENTS

Improvement projects which will affect the quality or quantity of waters discharged into the watercourses of the District must submit adequate statements regarding the effect of the work with the permit application. Items which must be considered include:

- a. Public benefits.
- b. The scope of both the long term and short term impact of the work on the environment.
- c. Adverse impacts which cannot be avoided.
- d. Alternatives to the proposed project and their impacts on the environment.
- e. The relationship of the project to increases in productivity and/or conservation of natural resources.

Major items should include productivity, social and economic values, soil and water conservation, water storage, flood prevention, fish and wildlife, recreational improvements, sedimentations, future maintenance requirements, future land use, and economic costs to others not directly involved in the project.

Section 13. FLOOD PLAIN MANAGEMENT

It is the intention of the managers to serve as advisors to municipal officials in the preparation of the municipal drainage plans and zoning. It is recognized that zoning is a county and municipal responsibility except as otherwise provided by law.

- a. All persons or municipal corporations undertaking improvements to or upon any real property adjacent to permanent watercourses, lakes, and marshes tributary to such water areas will be required to submit engineering data and such other information as may be required to determine the effects which such activities may have on the lands, marshes, lakes and watercourses of the District.
- b. All improvements of every kind and nature on lands within designated shoreline and flood plain areas shall conform to the district flood plain map and to the flood plain and shorelands management standards and criteria. Plans for all improvements within said areas shall be submitted to the managers of the District for comment, review and approval together with such pertinent data as may be required by the managers.

Section 14. ENFORCEMENT

In the event of a violation or a threatened violation of these rules and regulations, the managers may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations as provided for by Minnesota Statutes §§ 103D.545 and 103D.551, which may include a fee of a minimum of \$500, which may be combined with an after-the-fact permit fee in the case of a violation involving the failure to obtain a permit. A violation of these rules and regulations is a misdemeanor subject to the maximum penalty provided by Minnesota law.

Section 15. EFFECTIVE DATE

These rules and regulations shall be in full force and effect from and after April 26, 2021, and for all works commenced prior to that date but not completed within three (3) months of said date.

Section 16. APPEAL

Any party aggrieved by the adoption or enforcement of these rules and regulations or by any order of the managers thereof may appeal in accordance with the appellate procedure and review as provided in Minnesota Statutes, Chapter 103D.

These rules and regulations are adopted pursuant to Minnesota Statutes, Chapter 103D, on this April 26, 2021.



Verne Schlueter, Secretary

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