

RULES AND REGULATIONS
OF THE
BUFFALO CREEK WATERSHED DISTRICT

SECTION 1 INTRODUCTION

The rules and regulations of the Buffalo Creek Watershed District are to effectuate the purposes of the Minnesota Statutes 1990, Chapter 103D and the authority of the Board of Managers therein prescribed. These rules and 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 Board of Managers. Any interested person may petition the Board of Managers for a change in these rules and regulations.

If any rule or regulation is inconsistent with the provisions of the Minnesota Statutes 1990, Chapter 103D, or other applicable law, the provisions of said Chapter 103D, or other applicable law shall govern.

SECTION 2 PURPOSE

- A. To implement the purpose for which the Watershed District was created.
- B. To carry out the policies contained in the District's Water Management Plan.
- C. To coordinated the District's activities with other governmental agencies.
- D. To insure that the water resource is considered, protected and preserved during the urbanization and development of the District.
- E. To insure that future regional water management needs are considered in the development of individual subdivisions, farms and all local water management plans.
- F. To protect the public health, safety and welfare.

SECTION 3 STANDARDS

- A. To aid the Board of Managers in their review process.
- B. To inform the Board of Manager's staff of the criteria on which they should base their review and recommendation.
- C. To inform permit applicants of the criteria against which their proposed project will be reviewed.
- D. To provide guidelines for the implementation of the District's Water Management Plan.

SECTION 4 GENERAL POLICY

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

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

- A. It shall be the function of the Board of Managers to exercise control over proposed improvements only to the extent necessary to protect the waters of the Watershed District from unreasonable impacts which are inconsistent with the policies contained in the Water Management Plan and these rules and regulations.
- B. The Board of Managers shall review permit applications filed with the Minnesota DNR, pursuant to Minnesota Statutes 1990, Chapter 103G.001 as well as other development plans and proposed improvements. The Board of Managers desire to become informed of improvements and land development proposals during the early planning stages. The applicant shall be the primary vehicle for submission of proposed improvements to the Board of Managers.
- C. The Board of Managers will submit to the applicant their comments, recommendations, requirements and all other District actions regarding the proposed improvements.
- D. The Board of Managers will coordinate their review with the applicant and, when appropriate, the applicant will coordinate with the County, Municipal, MN/DNR, MPCA and all other appropriate governmental agencies.
- E. The Board of Managers may charge a fee for field inspections, if one is required. This fee will vary from permit to permit, but the minimum amount will be \$35.00.
- F. The Board of Managers will also charge for after-the-fact permits. The fee for after-the-fact permits shall be \$100.00, plus all other expenses incurred by the Watershed District. All cost incurred shall be paid before the permit is issued.

SECTION 5 DEFINITIONS

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

- A. "Board of Managers" means the District's Board of Mangers.
- B. "District" means the Buffalo Creek Watershed District.
- C. "Domestic Purpose" refers to the use of water for common household and farm uses.
- D. "Drainage" means an artificial or natural channel which provided a course for water flowing continuously or intermittently, into a lake, stream or river.
- E. "Floodplain" means all of the land area, oblong channels and drainageways, including the area around lakes, marshes, wetlands and lowlands which would become inundated as a result of 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 well being 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 103D or 106.
- H. "Marsh" means lowland or wetland.
- 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 natural vegetations 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" means a narrative accompanied by a map or drawing with supporting data for proposed work.
- L. "Private Drainage System" means an individual or mutual drainage system.
- M. "Public Corporation" means a County, Township, Municipality, School District or any other political division or subdivision of the State of Minnesota.
- N. "Public Health" includes any act or thing tending to improve the general sanitary conditions of the District as it pertains to the waters 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 manmade or natural, which carries water off surrounding higher ground into a lower stream, run, brook, creek, river or ditch located within Buffalo Creek Watershed District.
- Q. "Water Impoundment Structure" means a manmade structure designed to retain or contain runoff water, such as dams, reservoirs and dikes, but does not include pits or dugouts in which the water level is maintained by seepage.
- R. "Work" or "Works" means any construction, maintenance, repairs or improvements to the Watershed District.
- S. "Drainageway" or "Waterway" means any natural or artificial channel which provides a course for water flowing either continuously or intermittently.
- T. "Floodway" means the channel and those areas of the floodplain which are reasonably required to efficiently carry and discharge the flood waters of a river, stream, ditch, natural waterway or lakes.
- U. "Flowage Easement" means an easement held in public ownership to reserve an area along a waterway or around a storage site for passage or retention of waters, construction of drainage improvements and maintenance.
- V. "Minimum Building Elevation" is the elevation of the lowest finished floor of a building.

SECTION 6 WORK PAID BY ASSESSMENTS

All works of the District which are to be paid by assessments, upon benefited properties, shall be instituted as prescribed in Minnesota Statutes 1990, Chapter 103D.601, .605 and .611. A copy of the law is on file in the District office.

SECTION 7 PERMITS

Permits are needed so that the board of Managers are kept informed of planned projects, can advise, in some cases, provide assistance and to insure that developments of the natural resources are orderly and in accordance with the Water Management Plan of the District.

Permits are required for any water related projects in the Watershed District. Such projects shall include the following:

- Tiling
 - Waterways
 - Ditching
 - Water Withdrawal/Discharge
 - Underground Storage Tanks – (Petroleum Product – tanks 1,000 gal. or larger).
 - Watercourse Clean Out
 - Wetland Modification
 - Stream, Creek, River Projects
 - Dams, Dikes and Crossings
 - Wastewater Lagoons
 - Ponding / Berming
 - Any alterations that could affect the quality and quantity of the District's water resources
 - Any underground Construction
- A. All permits when issued shall be signed by the President and Secretary of the Board of Managers or their designates.
- B. No works or use requiring a permit shall be commenced prior to the issuance of the permit.
- C. 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 project completion time extends beyond one year, the applicant can apply for an extension of time. The times extension cannot exceed one year. The Board of Managers further require, as a condition of all permits, that they or their designated be notified when said improvement is complete.
- D. Application for a permit will be granted or denied by the Board of Managers, after receipt of the application and all required data, and reviewal by staff.
- E. If a permit application is refused or granted subject to conditions, or if the application is not acted upon within the requirements of Paragraph D. the applicant may, within 30 days, demand a hearing on the application.
- F. Obtaining a permit from the Board of Managers does not relieve the applicant from the responsibility of obtaining any other additional authorization required.

- G. Applications for permits may be filed with the Board of Managers at their regular monthly meeting or by mailing to:
 - Buffalo Creek Watershed District
 - P.O. Box 55
 - Glencoe, Minnesota 55336
- H. A complete plan shall accompany the application, and the Board of Managers may request additional information.
- I. Permit application forms can be obtained from any of the board of managers of the Watershed District.
- J. Permit costs. Refer to Page 2 of these rules and regulations and Section 103D.345 of the Minnesota Statutes 1990, Chapter 103D.

SECTION 8 RELATED ORDINANCES

The Board of Managers will cooperate with public corporations, state and federal agencies in the application of ordinances and rules concerning waters and related resources within the Watershed District.

- A. In the interest of the public health and to prevent pollution to the waters in the Watershed District, the applicable county, municipal or township ordinances and rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency regarding the disposal of wastes are, by reference, hereby adopted as part of the Watershed District's rules and regulations and are within the limits of the statutory authority grant to the Board of Managers.
- B. All county, municipal, township or state ordinances relating to surface water drainage, land use zoning, shoreland use and floodplain zoning are, by reference, hereby adopted as part of the Watershed District's rules and regulations.
- C. All changes in ordinances relating to surface water drainage, land use zoning, shoreland use and floodplain zoning prior to adoption by the Public Corporation shall be submitted to the Board of Managers of the Watershed District for review and comments.

SECTION 9 FLOOD CONTROL AND DRAINAGE

Every person shall use their land reasonably in disposing of surface and subsurface waters. All waters that would naturally drain there may be turned into a natural drainageway, but may not burden a lower landowner with more water than is reasonable under the circumstances.

Surface water shall not be artificially transported from upper land to an across lower land, without adequate provision being made on the lower land for its passage. The natural flow of surface water may not be obstructed so as to cause an overflow onto property of others.

Copies of existing governmental ordinances relating to surface water drainage, floodplains, and shorelands shall be filed with the Watershed District. To provide for coordinated management of surface waters, developers of land shall submit, to the governmental unit or Watershed District, a Surface Water Drainage Plan which is in

conformity with the requirements of the governmental unit or Watershed District's Drainage Plan. In the absence of a drainage plan, the developer of land adjacent to lakes, watercourse, marshes, and wetland areas which are directly tributary to such water areas must file a drainage plan with the District and obtain the Board's approval of the drainage plan prior to commencement of any land improvement.

- A. No person or public corporation shall cut an artificial drainageway across a subwatershed and thereby deliver water into another subwatershed without a permit from the Watershed District.
- 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 Board of Managers.
- C. No works or alterations 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 Watershed District. Prior to granting approval, the Board of Managers must determine that the existing drainage system is adequate for the additional area being added, and that the property to be served by the proposed improvement has previously been assessed for the system in which the waters would drain. The private system shall be required to comply with discharge, velocity and water quality standards set by the Board of Managers before obtaining permission for the outlet. The Board of Managers will determine the benefits to be assessed to the private system for the outlet.
- D. No marsh or wetland shall be drained without a permit from the Watershed District.
- E. No dike shall be constructed, altered, repaired or removed without a permit from the Watershed District.
- F. No water impoundment structure for the impoundment of water shall be constructed, removed or abandoned, nor shall any works be done which would alter the effectiveness of the impoundment area without a permit from the Watershed District.
- G. Culverts and tile construction shall conform to the standards of the Soil Conservation Service.
- H. Pumping of water into the drainageways of the District will be regulated by the issuance of permits by the Board of Managers. No pumping may be allowed which will discharge waters onto the land of others without a permit from the Manager.
- I. Work within any floodway shall comply with the District's Floodplain Management Policy Manual.

SECTION 10 BRIDGE, CULVERTS, DRAINS, AND STREAM CROSSINGS

- A. No bridge, culvert or drain shall be constructed, reconstructed, laid into or across any natural, legal or private drainageway without a permit from the

Board of Managers. They shall be suitably located, have adequate waterway openings and shall have adequate shoulder and protection.

- B. In the event of the destruction of an existing bridge, culvert, or drain which is the result of a catastrophe, natural or otherwise, a public corporation 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 as the original structure.
- C. No pipeline, wire or cable shall be installed over, within or under any natural, legal or private drainageway within the Watershed District without a permit from the Board of Managers. These shall be suitably located and shall have adequate streambed, bank and shoulder protection and clearance.
- D. Livestock must be prevented from crossing the ditches or any waterways in the Watershed in an unrestricted manner. Fences or any contrivance deemed acceptable by the Board can be used to prevent livestock from crossing ditches and any waterways.

SECTION 11 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 banks and prevent siltation of the 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 land 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, within seven (7) days of excavation.
- 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. New ditch construction must conform to the requirements of the Soil and Water Conservation Service.

SECTION 12 ALTERATION OF NATURAL DRAINAGEWAYS, LAKES AND MARSHES

Management of natural drainageways, lakes, marshes 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 changes may be made in the bed, banks or shores of natural drainageways, lakes or marshes without a permit from the Board of Managers.
- B. To prevent obstructions in the natural drainageways, landowners shall remove any trees cut along the banks. No waste, trash, rubbish or refuse shall be disposed of directly or indirectly into the drainageways.

- C. Any excavation, grading or filling near any natural drainageway, lake or marsh shall be done in such a manner as to minimize any detrimental affect to them. A permit is required from the Board of Managers. This is not to be construed to include maintenance of roadways.

SECTION 13 EROSION AND SEDIMENTATION

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 process of construction and after the work is completed.

Underground agricultural drainage system, either public or private, shall utilize porous, non-open intakes in all areas where surface water may enter the system. Open intakes shall be used only on high ground and constructed so that the only purpose will be to prevent air locking of the drainage system. Public and private underground stormwater drainage systems within a municipality shall provide for the construction of desilting facilities.

All work done in the Watershed District must provide sediment and erosion control by following the District's Sediment and Erosion Control Policy, found in the District's policy manual.

SECTION 14 ENVIRONMENTAL ASSESSMENTS

Improvement projects which will affect the quality or quantity of waters discharging into the watercourses and bodies of waters 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 benefit;
- 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; and
- 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, sedimentation, future maintenance requirements, future land use and economic costs to others not directly in the project.

SECTION 15 FLOODPLAIN MANAGEMENT

It is the mission of the Board of Managers to serve as advisors to public corporation officials in the preparations of the public corporation drainage plans and zoning. It is recognized that zoning is a public corporation responsibility, except as otherwise provided by law.

- A. All persons or public corporations undertaking improvements to or upon any real property adjacent to permanent watercourses, lakes or marshes tributary to such water areas will be required to obtain a permit from the Board of managers and submit engineering data and such other information as may be required to determine the affects 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 floodplain areas shall require a permit from the Board of Managers and conform to the District Floodplain Map and to the floodplain and shorelands management standards and criteria. Plans for all improvements within said areas shall be submitted to the Board of Managers of the District for review and approval, together with such pertinent data as may be required by the Board of Managers.
- C. As part of the District's Floodplain Management Plan, all individual projects that deal with stormwater runoff must follow the District's Stormwater Management Policy.

SECTION 16 PENALTIES

In the event of a violation or a threatened violation of these rules and regulations, the Board of Managers may institute appropriate actions or proceedings to prevent, correct or abate such violations or threatened violations as provided for by Minnesota Statutes 1990, Chapter 103D.545.

SECTION 17 EFFECTIVE DATE

These rules and regulations shall be in full force and effect from and after May 25, 1993, and for all works commenced prior to that date but not completed within three (3) months of said date. These rules and regulations stand in lieu and in place of the rules and regulations adopted by the Board of Managers of the Buffalo Creek Watershed District of September 24, 1974.

SECTION 18 APPEAL

Any party aggrieved by the adoption or enforcement of these rules and regulations, or by any other of the Board of Managers thereof, may appeal in accordance

with the appellate procedure and review as provided in Minnesota Statutes 1990, Chapter 103D.

These rules and regulations are adopted pursuant to Minnesota Statutes 1990, Chapter 103D, on this 25th day of May, 1993.

Larry Phillips Sec.
Larry Phillips, Secretary