

# Wild Rice Watershed District Rules

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# **Wild Rice Watershed District Rules**

## **SECTION 1 - INTRODUCTION AND GENERAL POLICY**

**Adopted: June 14, 2017**

**Effective: June 14, 2017**

- A. The rules of the Wild Rice Watershed District are to effectuate the purposes of Minnesota Statutes, Chapter 103D and the authority of the Managers therein described. These rules are deemed necessary to implement and make more specific the law administered by them.
- B. If any part of these rules is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of these rules.
- C. Changes to these rules may be made by the Managers. Any interested person may petition the Managers for a change in these rules.
- D. If any rule 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.
- E. The Managers accept the responsibility with which they are charged as a governing body. While the Managers have no intention to usurp the authority or responsibilities of other agencies or governing bodies, neither will they shirk their responsibilities. The Managers will cooperate to the fullest extent feasible with persons, groups, state and federal agencies and other governing bodies.
- F. 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 of the District, without due process of law, and that all rules of the District shall be construed according to said intention.
- G. 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 general welfare and public health for the benefit of its present and future residents.

# **Wild Rice Watershed District Rules**

## **SECTION 2 - ADOPTION OF RULES**

**Adopted: June 14, 2017**

**Effective: June 14, 2017**

The Managers shall comply with the following steps in adopting rules.

- A. A copy of the proposed rules shall be submitted to each Manager at least thirty (30) days before its adoption by the Managers.
- B. The proposed rules shall be adopted by a majority vote of the Managers, after public notice and hearing.
- C. The original copy of the rules shall be kept in the files of the District and in addition, copies shall be prepared for distribution to the County Auditors, County Commissioners, Town Board Chairpersons in the District, City Council Chairpersons, and other interested persons as requested.
- D. Every rule adopted by the Managers shall have the force and effect of law.

# Wild Rice Watershed District Rules

## SECTION 3 - DEFINITIONS

Adopted: June 14, 2017

Effective: June 14, 2017

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

- A. **Dike** means an embankment for controlling or holding back water.
- B. **District** means the Wild Rice Watershed District.
- C. **Managers** means the District Board of Managers.
- D. **Person** means an individual, firm, partnership, association or corporation, but does not include public or political subdivisions.
- E. **Private drainage way** means a drainage way other than a legal drainage way.
- F. **Political Subdivision** means a county, town, school district or a political division or subdivision of the State.
- G. **Public Health** includes any act or thing tending to improve the general sanitary conditions of the District.
- H. **General Welfare** includes any act or thing tending to improve, benefit or contribute to the safety or wellbeing of the general public or benefit the inhabitants of the District.
- I. **Work or Works** means any construction, maintenance, repairs or improvements.
- J. **Shall** is mandatory, not permissive.
- K. **Drainage way** means any artificial or natural channel which provides a course for water flowing continuously or intermittently. A drainage way includes incidental tiled sections.
- L. **Legal Drainage System** means a drainage way under the jurisdiction of the drainage authority pursuant to Minnesota Statutes chapter 103D or 103E.
- M. **Private Drainage System** means an individual or mutual drainage system.
- N. **Plan** is a map or drawing with supporting data for proposed work.
- O. **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 on the landscape. Commonly it is that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.
- P. **Wetlands** means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface of the land or is covered by shallow water. For the purposes of definition, wetlands must have the following three attributes: 1. Have a predominance of hydric soils; 2. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydroponic vegetation typically adapted for life in saturated soil conditions; and 3. Under normal circumstances support a prevalence of such vegetation.

# Wild Rice Watershed District Rules

## SECTION 4 - PERMITTING PROCEDURES, FEES AND FINANCIAL ASSURANCES RULE

**Adopted: June 14, 2017**

**Effective: June 14, 2017**

1. **POLICY.** The District permit requirement is not intended to delay or inhibit development. Rather permits are needed so that the managers are kept informed of planned projects, can advise and in some cases, provide assistance, and can ensure that land disturbing activity and development occurs in an orderly manner and in accordance with the overall plan for the District. All interpretations of these rules and permit decisions under these rules will incorporate and be consistent with District purposes set forth in Minnesota Statutes section 103D.201.
  
2. **PERMIT REQUIREMENT.** Any person or agency of the State of Minnesota or political subdivision undertaking an activity for which a permit is required by the District rules must first submit a permit application. The application must be submitted on the form provided by the District or the substantial equivalent, and must include all exhibits required by the applicable District rule(s). Application forms are available on the District web site at [www.wildricewatershed.org](http://www.wildricewatershed.org).
  - A. All permits when issued shall be signed by the Chair and Secretary of the Board of Managers or designates.
  - B. No land disturbing activity, use, or other work requiring a permit shall be commenced prior to the issuance of a permit.
  - C. Permit application forms may be completed and filed at the District's office, mailed, or electronically communicated to: Wild Rice Watershed District, 11 East 5th Avenue, Ada, MN 56510.
  - D. Permits must be on file at the district's office at least ten (10) days prior to the regular monthly meeting to be considered at that meeting.
  - E. The Managers further require as a condition of all permits, that they be notified when said permitted activity is completed.
  - F. Application for a permit will be acted upon within sixty (60) days from the date the Managers receive the application and/or required data.
  - G. A plat or drawing shall accompany the application. Additional information, as deemed necessary by the Managers, may be required before processing the application for permitting.

- H. Permit decisions will be made by the Board of Managers, except as may be delegated to staff or the District engineer by written resolution. The Board will review a staff permit decision on the applicant's request. The District may approve or deny an application and may impose reasonable conditions on approval. Conditions may include, consistent with the rules, requirements for financial assurances and maintenance agreements or declarations, and may require that these documents be properly executed or recorded before permit issuance.
- I. A permit is valid for two years from the date the permit is approved, with or without conditions, unless specified otherwise or the permit is suspended or revoked.
- J. To renew or transfer a permit, the permittee must notify the District in writing prior to the permit expiration date and provide an explanation for the renewal or transfer request. The District may impose different or additional conditions on a renewal or deny the renewal in the event of a material change in circumstances, except that on the first renewal, a permit will not be subject to additional or different requirements solely because of a change in District rules. New or revised rule requirements will not be imposed on renewal of a permit where the permittee has made substantial progress toward completion of the permitted work. If the activities subject to the permit have not substantially commenced, no more than one renewal may be granted. An applicant wishing to continue to pursue a project for which permit approval has expired must reapply for a permit from the District and pay applicable fees.
- K. A permittee may assign a permit to another party only upon approval of the District, which will be granted if:
  - i. the proposed assignee agrees in writing to assume responsibility for compliance with all terms, conditions and obligations of the permit as issued;
  - ii. there are no pending violations of the permit or conditions of approval; and
  - iii. the proposed assignee has provided any required financial assurance necessary to secure performance of the permit.

The District may impose different or additional conditions on the transfer of a permit or deny the transfer if it finds that the proposed transferee has not demonstrated the ability to perform the work under the terms of the permit as issued. Permit transfer does not extend the permit term. The District may suspend or revoke a permit issued under these rules wherever the permit is issued based on incorrect information supplied to the District by the applicant,

- L. A permit applicant consents to entry and inspection of the subject property by the District and its authorized agents at reasonable times as necessary to evaluate the permit application or determine compliance with the requirements of a District permit or rule(s).
  - M. A District permit is permissive. Obtaining a permit from the District does not relieve the applicant from responsibility to comply with any procedures or approvals that may be required by Minnesota Statutes chapter 103E or other ditch law, nor does it relieve the applicant from responsibility for obtaining authorizations required, if any, by other regulatory bodies or property owners where the activity occurs.
3. **GENERAL PERMITS.** The District may issue district-wide general permits, approving certain routine activities or specific classes of projects where a standard design has been approved by the District, as long as the work is conducted in compliance with applicable District rule requirements.
- A. Each District-wide permit will be subject to such specific requirements as the Board may establish.
  - B. A hearing will be held before any District-wide permit is issued or renewed.
4. **RECONSIDERATION.**
- A. Before a permit decision is final for the purpose of appeal under Minnesota Statutes §103D.537, an applicant may request that the Board of Managers reconsider its decision. To request reconsideration, the applicant must file at the District's office a Notice of Reconsideration on a form provided by the District that includes concurrence in an extension of the time for District permit action under Minnesota Statutes §15.99, together with the specific findings or consideration for which reconsideration is requested, along with any additional submittals or argument supporting applicant's request.
  - B. The District will give the applicant due notice of when the Board of Managers will reconsider the permit decision. The District will not take longer than 60 days from its receipt of the Notice of Reconsideration to issue a final decision including reconsideration, unless a further extension is approved by the applicant, or is permissible under Minnesota Statutes §15.99, i.e., if more information is timely requested by the District on the reconsideration, then the 60 days starts over per Minn. Stat. §15.99 upon receipt of such information.
  - C. District costs incurred for reconsideration are permit administration costs for which an applicant may be responsible under Section 5 of this rule.

5. **PERMIT FEE.** The District may charge applicants a permit fee in accordance with state law and a schedule maintained by the Board of Managers to ensure that permit fees cover the District's actual costs of administering and enforcing permits. Fees also will cover actual costs related to field inspections of permitted projects, such as investigation of the area affected by the proposed activity, analysis of the proposed activity, services of consultants and any required monitoring of the proposed activity. Costs of monitoring an activity authorized by permit may be charged and collected as necessary after issuance of the permit. The fee provided for in this rule will not be charged to any agency of the United States or of any governmental unit or political subdivision of the State of Minnesota.
6. **FINANCIAL ASSURANCE.** The managers, at their discretion, may require an applicant to file a bond, letter of credit or other escrow deposit in a form approved by the District as a condition of permit issuance. The amount of the financial assurance required will be set in accordance with a schedule established and maintained the Board of Managers by resolution. When the permitted activities are certified as having been completed in compliance with the District permit and rules, the financial assurance will be released.
  - A. If the District determines that the permitted activities have not been completed in compliance with the permit and District rules, the Board of Managers may determine that the assurance is forfeited and the District may use the funds to take such actions the District deems necessary to bring the subject property into compliance with the permit and District rules, to prevent or mitigate harm to protected resources or other property, to abate or restore damages, or otherwise to ensure conditions in compliance with an applicable District permit and/or the District rules.
    - i. If financial assurance funds prove insufficient to complete necessary work, the District may complete the work and assess the permit holder and/or property owner for any excess costs.
  - B. No financial assurance will be required of any agency of the United States or of any governmental unit or political subdivision of the State of Minnesota. The District may require that the District be named as a beneficiary in the financial assurance of the agency's contractor.



# Wild Rice Watershed District Rules

## SECTION 5 - DRAINAGE AND FLOOD MITIGATION

**Adopted: June 14, 2017**

**Effective: June 14, 2017**

1. **POLICY.** It is the policy of the Board of Managers to promote the use of the waters and related resources within the District in a provident and orderly manner to improve the general welfare and public health for the benefit of the District's present and future residents.

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

Surface water shall not be artificially removed from upper lands to and across lower land without adequate provisions 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 other.

. It is the policy of the Board of Managers to promote the sound construction and management of subsurface tile drainage systems in order to minimize downstream flooding and maximize soil storage and agricultural productivity.

Further, it is the policy of the Board of Managers to regulate new construction, improvement, repair and maintenance of legal and private drainage ways for the following purposes:

- A. To preserve the capacities of drainage systems to accommodate future needs.
- B. To improve water quality and prevent localized flooding.
- C. To prevent the loss of drainage capacity.
- D. To avoid drainage conditions that cause or aggravate erosion or sedimentation of downstream drainage ways or water bodies.
- E. To ensure that parties responsible for accumulation of debris, soil and sediment in drainage ways maintain those drainage ways.

### 2. **REGULATION.**

- A. No person or public corporation shall allow an artificially or naturally created obstruction on their property to impede the flowage within a waterway or cause an impoundment to be created on adjoining property.
- B. No person or public corporation shall cut an artificial drainageway across a subwatershed without a permit from the Managers.
- C. No person or public corporation shall divert or case water by any artificial means into any legal drainage system from lands not assessed to said drainage system without complying with the proper statutory procedure therefore and securing a permit from the Managers.

- D. No landowner or occupant nor any contractor or equipment operator shall undertake to construct or improve any private or legal drainage system without obtaining a permit from the Managers.
- E. No landowner, occupant, nor any contractor or equipment operator shall undertake the construction, alteration or removal of any dike without a permit from the Managers.
- F. No landowner, occupant nor any contract or equipment operator shall undertake the construction, removal or abandonment of any reservoir for the impoundment of water; nor shall any works be done that would alter the effectiveness of a reservoir without a permit from the Manager.
- G. Any plat that includes land abutting upon any project, river or stream within the District shall be submitted to the Managers for their approval to insure the protection of the bed, banks and shore of said project, river or stream from improper encroachment for the purpose of preventing erosion, pollution and alleviating damage by flooding.
- H. To control and alleviate soil erosion and the siltation of the watercourses of the District.
  - a. All watercourses therein shall be constructed with a side slope as determined by proper engineering practice, so as to reasonably minimize soil erosion, giving due consideration to the intended capacity of the watercourses, its depth, width and elevation, and the character of the soils through which the drain passes.
  - b. Water inlets, culvert openings and bridge approaches shall have adequate shoulder and bank protection in order to minimize soil erosion. Plans and specifications relating to matters covered in this section shall be submitted to the Managers for their consideration and approval prior to construction and installation of any of the foregoing works.
- I. No landowner or occupant shall destroy all or any portion of the required sixteen and one-half foot (16.5') grass strip on ditch systems where they have previously been established. Where grass strips have been partially or completely destroyed, landowners will be required to restore the destroyed area to the original specifications at their own expense. If not restored, after receiving proper notice with a reasonable, attainable restoration date, the necessary work will be performed by the District and the costs subsequently collected with the landowner's real estate taxes in the following year.
- J. In the interest of sanitation and public health and to prevent the pollution of waters of the district, all septic tanks and drainfields which outlet directly or indirectly into the waters of the District shall be constructed and maintained in accordance with the rules and recommendations of the State Board of Health and the Minnesota Pollution Control Agency. No septic tank or other waste disposal facility shall outlet into any project, river, stream or public or private drainage system. No refuse, garbage or obnoxious materials may be dumped in or within fifty feet (50') of any project, river, stream or public or private drainage system within the District, or be placed in such a

manner as to be potentially cast into these same systems by flowing water.

- K. To preserve the same for beneficial use, no wetland may be filled or drained without a permit from the Managers.
- L. No repair or alteration of any legal drainage system shall be done without a permit from the Managers. Copies of plans and specifications for the repair or alteration of any legal drainage system, shall be submitted and approved by the Managers before construction may begin. Repairs of an emergency nature on a legal drainage system by a political subdivision may be undertaken without a permit, however, the District must be notified of the proposed work and a reason given for the emergency nature of the action.
- M. No construction of new or improvements to existing private drainage systems shall be undertaken without first filing plans and specifications with a permit application and being authorized by the receipt of an approved permit for the intended work from the Managers.
- N. No irrigation project, public or private, serving an area in excess of five (5) acres, shall be constructed without a permit from the Managers.
- O. The requirements of this rule are in addition to other applicable laws and procedures, including those of Minnesota Statutes chapter 103E. This rule is to provide for management of waters in the public interest and does not displace in whole or part any private legal rights a property owner or other person may have with respect to the use and drainage of waters.
- P. A contractor or equipment operator is responsible to ascertain whether a permit is required by this rule and, if so, that it has been obtained.
- Q. No person shall install, alter, or construct any subsurface tile drainage system without obtaining a permit from the Watershed District
- R. The Sections above notwithstanding, no permit from the District is required:
  - i. To perform maintenance on an existing drainage way or field drain, so long as the work does not remove clay or virgin soils or alter the original alignment, depth or cross-section of the drainage way;
  - ii. To repair or replace up to 500 lineal feet of tile within a private drainage way without altering the system invert;
  - iii. To disturb surface soils in the course of ordinary cultivation or other agricultural activity.

## **Wild Rice Watershed District Rules**

## SECTION 6 - RELATED ORDINANCES

**Adopted: June 14, 2017**

**Effective: June 14, 2017**

1. **POLICY.** The Managers will cooperate with public corporations and state and federal agencies in the application of ordinances and/or rules concerning water and related resources within the District.
  - A. In the interest of public health and to prevent pollution of the waters of the District, the applicable county ordinances and rules of the appropriate state agencies regarding the disposal of wastes, are by references hereby adopted as rules of the District within the limits of statutory authority granted to the watershed districts.
  - B. Copies of proposed county, municipal, and/or town ordinances relating to surface water drainage, land use zoning, shoreland regulations and flood plain zoning, as applied to changes within the flood plain shall be submitted to the Managers thirty (30) days prior to the first public hearing date for review and comment.
  - C. Ordinances relating to surface water drainage, land use zoning, shoreland regulation and flood plain zoning shall be submitted to the Managers within forty-five (45) days after passage.
  - D. The adoption of "Rules" by the Board of Water and Soil Resources governing the implementation of the 1991 Minnesota "Wetland" law are hereby adopted by reference for the purposes of carrying out duties as may be directed by cooperating county boards.

# Wild Rice Watershed District Rules

## SECTION 7 – ALTERATION OF NATURAL DRAINAGEWAYS AND WETLANDS

**Adopted: June 14, 2017**

**Effective: June 14, 2017**

1. **POLICY.** Management of natural drainageways and wetlands and their abutting lands should be done in such a manner so as to reduce their deterioration and to maximize their value for the general welfare of the District.
  - A. No artificial change may be made in the beds, banks, or shores of natural drainageways 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. No wastes shall be disposed of directly or indirectly into the drainageways.
  - C. No excavations, grading, or filling near any drainageway shall be done in such a manner so as to minimize any detrimental effect to them. A permit is required from the Managers for construction activity within any drainageway.

# Wild Rice Watershed District Rules

Pursuant to authority granted by Minnesota Statutes section 103D.341

## SECTION 8 – ENFORCEMENT RULE

**Adopted: June 14, 2017**

**Effective: June 14, 2017**

**1. MANNER OF ENFORCEMENT.** In the event of a violation or threatened violation of a District rule, permit, order or stipulation, or a provision of Minnesota Statutes chapter 103D, the District may take action to prevent, correct or remedy the violation or any harm to water resources resulting from it. Enforcement action includes but is not limited to injunction; action to compel performance, abatement or restoration; and prosecution as a criminal misdemeanor in accordance with Minnesota Statutes sections 103D.545 and 103D.551.

**2. INVESTIGATION OF NONCOMPLIANCE.** The District's authorized representatives may enter and inspect a property in the watershed to determine the existence of a violation or threatened violation as described in section 1, above.

**3. ADMINISTRATIVE COMPLIANCE ORDER.** The District may issue a preliminary compliance order without notice or hearing when it finds a violation or threatened violation as described in section 1, above, and that the violation or threatened violation presents a serious threat of adverse effect on water resources. A preliminary compliance order may require that the property owner or responsible contractor cease the land-disturbing activity; apply for an after-the-fact permit; and take corrective or restorative action. A preliminary compliance order is not effective for more than ten days. The Board of Managers by resolution may delegate to District staff the authority to issue preliminary compliance orders.

**4. BOARD HEARING.** After due notice and a hearing at which evidence may be presented, the Board of Managers shall make findings. If the Board finds a violation as described in section 1, above, it may issue a compliance order of indefinite duration that may require the property owner or responsible contractor to cease land-disturbing activity; apply for an after-the-fact permit; take corrective or restorative action; reimburse the District for costs under Minnesota Statutes section 103D.345, subdivision 2; and/or be subject to any other remedy within the District's authority. A compliance order may supersede a preliminary order or may be issued without a prior preliminary order.

**5. LIABILITY FOR ENFORCEMENT COSTS.** To the extent provided for by Minnesota Statutes section 103D.345, subdivision 2, a property owner or responsible contractor is liable for investigation and response costs incurred by the District under this rule, including but not limited to the costs to inspect and monitor compliance, engineering and other technical analysis costs, legal fees and costs, and administrative expenses.

**6. CONTRACTOR LIABILITY.** Any individual, firm, corporation, partnership, association or other legal entity contracting to perform work subject to one or more District rules will be responsible to ascertain that the necessary permit has been obtained and that the work complies with the permit, rules and statutes and any applicable District orders or stipulations. A contractor that, itself or through a subcontractor, engages in an activity constituting a violation or threatened violation under section 1, above, is a responsible contractor for purposes of this rule.