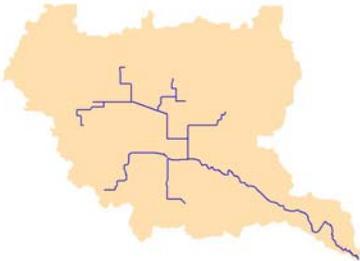


**Turtle Creek
Watershed
District**



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Turtle Creek Watershed District Rules

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Adopted
May 18, 2004

RULES: Turtle Creek Watershed District

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1. INTRODUCTION

The Turtle Creek Watershed District was established under the authority of Minnesota Statutes, Chapter 103D, the Watershed Act, in November 1968. The District's boundary is shown on the map on page 11.

1.1 Purpose

These rules are intended to effectuate the purposes of the District and the powers of the Managers under the Minnesota Watershed Act, Minnesota Statutes, Chapter 103D.

1.2 General Policy

It is the Managers' intent to use these rules as a management tool in carrying out their responsibility to provide wise and provident management of the District's water resources. The overall water management goal of the District is to ensure that development, use, control, and conservation of the District's water resources is done in a manner that is most beneficial to the general welfare of its present and future residents.

It is the intention of the Managers that no person shall be deprived or divested of any previously established beneficial uses or rights by any District rule without due process of the law.

1.2 A. Coordination with Other Units of Government

It is the intention of the Managers to coordinate the administration of their rules by all interested federal, state, and local governmental units and agencies having jurisdiction in the District.

The Board of Managers request that each county and city having territory in the District, forward to the District, a copy of all preliminary plats and accompanying drainage and grading plans whenever all or part of such plans affect land within the District. The District may provide recommendations to the county and cities on the site's suitability for the proposed land use based on soil and water conditions.

1.2 B. Review of Local Ordinances

A. The board of Managers request that a copy of any proposed county, municipal, or township ordinance relating to drainage, flood plains, shoreland, or to any other water related topic be submitted to the Managers at least 30 days prior to the first public hearing for District review and comment; and, in addition, any such ordinance be submitted to the Managers within 30 days of its effective date.

1.3 Procedures for Adopting Rules and Amendments

The following procedures shall apply to rule adoption and rule amendments:

- A. Any District property owners may propose rules or amendments to the Board of Managers.
- B. A copy of the proposed rules or amendments shall be submitted to each Manager.
- C. The Managers shall accept or reject the proposed rules or amendments based on a majority vote of the Managers.
- D. Before adopting any proposed rules or amendments, the Managers shall hold a public hearing on them. The Managers shall determine the time, date, and location of the public hearing; and they shall give notice by publication in a legal newspaper of general circulation in each county with territory in the District.
- E. After public hearing, a majority vote of the Managers, and upon being signed by the District's President and Secretary, the proposed rules or amendments are deemed adopted.
- F. The adopted rules or amendments shall become effective and, thereafter, have the full affect and force of law, after publication in a legal newspaper of general circulation in each a county having territory in the District.

- G. A copy of adopted rules or amendments shall be forwarded to each of the following persons: the County Auditor of each county having territory in the District, the County Commissioners, the Township Board Clerk, the City Clerk, the Regional Development Commission Chairman, the commissioner of the Minnesota Department of Natural Resources Board, the Executive Director of the Minnesota Pollution Control Agency, the Commissioner of the Minnesota Department of Health, NRCS Office, SWCD, County Extension Agent, all Zoning and Planning Boards in the district, and the Administrator of the Minnesota Environmental Quality Board.

1.4 Consistence with County, State, and Federal Law

If any District rule is inconsistent with county, state and federal law, the provisions of county, state, and federal law shall govern.

1.5 Severability

If a court of competent jurisdiction declares any part of these rules invalid, such declaration shall not affect the validity of these rules as a whole, but only the part declared invalid.

1.6 Rights to Appeal

Any person aggrieved by the adoption or enforcement of these rules may appeal under the appellate procedures and review provided in Minnesota Statutes, Chapter 103D.

1.7 Variances

A. Variances Authorized

The Board of Managers may hear request for variances from the literal provisions of these rules in instances where their strict enforcement would cause undue hardship because of circumstances unique to the property under consideration and having made public notice of such hearings. The Board of Managers may grant variances where it is demonstrated that such

action will be in keeping with the spirit and intent of these rules.

B. Standard

In order to grant a variance, the Board of Managers shall determine that the special conditions, which apply to the structure or land in question, do not apply generally to other land or structures in the district, that, in granting of such variance, will not merely serve as a convenience to the applicant and that the variance will not impair or be contrary to the intent of these rules.

C. Term

A variance shall become void after one year after it is granted, unless used.

D. Violation

A violation of any condition set forth in a variance shall be a violation of the district rules. The Mangers shall ask the variance applicants to appear in front of the Board to show cause why the variance should not be terminated.

2. Definitions

For the purposes of these rules, certain words and terms are herein defined as follows. In the absence of a definition hereinafter, the definitions established for the State of Minnesota by statute or by case law shall apply to these rules unless clearly in conflict, clearly inapplicable, or unless the context makes such meaning repugnant thereto:

BOARD OR BOARD OF MANAGERS shall mean the Board of Managers of the Turtle Creek River Watershed District.

DEPARTMENT OF NATURAL RESOURCES or **DNR** shall mean the Minnesota Department of Natural Resources.

DISTRICT shall mean the Turtle Creek Watershed District.

DRAINAGEWAY shall mean any natural or artificial channel that provides a course for the flow of water, whether that flow is continuous or intermittent.

GENERAL WELFARE shall include 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. General Welfare shall be synonymous with "Public Welfare" or "Public Benefit".

MANAGERS shall mean the Managers of the Turtle Creek Watershed District acting as a board and not as individuals, unless specifically stated to the contrary.

NPDES shall mean National Pollutant Discharge Elimination System.

NORMAL HIGH WATER MARK shall mean that elevation where the level of water in a water basin has been maintained for a sufficient period of time to leave evidence upon the landscape: commonly that elevation where there natural vegetation changes from predominantly aquatic to predominantly terrestrial.

PERMIT, WATERSHED DISTRICT shall be the permit document issued by the Watershed District for the purposes of permitting the applicant or permit holder to perform work in the District.

PERSON shall mean any individual, firm, partnership, association, or corporation, including public or political subdivisions or governmental subdivisions.

SHORELAND shall mean land located within the following distances from public waters: (1) one thousand (1,000) feet from a normal high water mark of a lake; (2) three hundred (300) feet from a river or stream bank.

NRCS shall mean the Natural Resource Conservation Service as a branch of the United States Department of Agriculture.

SWCD shall mean Soil and Water Conservation District.

WATER BASIN means an enclosed natural depression with definable banks, capable of containing water that may be partly filled with waters of the state and is discernible on aerial photographs.

WATER COURSE shall mean any drainage way including natural and artificial watercourses.

WATERSHED DISTRICT shall mean the legally established agency named and referred to as the Turtle Creek Watershed District when the first letters are capitalized. When the first word 'District' appears without capitalization, it shall mean the lands gathered within the governmental unit, the Turtle Creek Watershed District, as established by the Minnesota Board of Water and Soil Resources (BWSR).

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. For purposes of this definition, wetlands must have the following three attributes:

1. a predominance of hydric soils,
2. soils that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
3. under normal circumstances, a prevalence of such hydrophytic vegetation.

'SHALL' AND 'MAY', as used in these rules, shall be construed to indicate a mandatory and a permissive state or condition, respectively.

3. PERMIT REQUIREMENTS

The Managers find that a permit program is needed to help ensure wise development and conservation of the District's water resources in accordance with the overall plan.

3.1 Actions Requiring a District Permit

- A. Work in any watercourse or water basin, whether or not open water is present at the time of the work, including but not limited to excavation, filling, tile drainage, dredging, and the placement of structures in ditches within the jurisdiction of the District.
- B. Work in the Right of way of any legal drainage system within the jurisdiction of the District.
- C. Construction, removal or abandonment of reservoir for the impoundment of water.
- D. Construction, reconstructed and maintenance work of bridge, culverts or drains.
- E. Diversion of water into a different sub-watershed or into a county or private drainage system.
- F. Any work to restrict the normal or natural drainage of land or to enlarge wetlands that will cause flooding of adjacent land or public or private roadways.
- G. Construction or repair of any ditch/berm along a watercourse.
- H. Development.

3.2 General Permit Procedures

- A. The landowner/operator and/or contractor shall be responsible for acquiring all required permits
- B. Applicants obtain and complete a permit application form, which is available by contacting any Manager.

- C. An application form is sent or delivered to any Manager or to the monthly meeting of the Watershed District. The Managers shall act on all permit applications within 30 days of receiving the application and required plans for project.
- D. The Managers review the permit application and assess the impact that the proposal would have on the District's water resources. Managers may approve the work, disapprove the work, approve the work with conditions, or, based on their preliminary assessment, may require that the applicant appear at a Board meeting to explain the proposal and may decide to review the site or may require that a technical analysis of the proposed work be done to better gauge its potential impacts.
- E. If the Managers determine that a technical analysis is required, the District may assess the reasonable costs of such analysis to the applicant.
- F. If a permit is denied, the Managers shall state the reasons for such denial to the applicant or in the minutes.
- G. If a permit is issued, the applicant shall abide by all the terms and conditions in the permit, or the Managers may withdraw the permit. Subject to these rules, the President or Secretary or the designees must sign each permit issued.
- H. No work requiring a permit shall commence until a permit, signed by the President and Secretary of the Board of Managers or their designees, is issued. If required by the Managers, the applicant shall file a bond or approved escrow deposit with the District before issuance or reissuance of a permit, in an amount set by the Managers and conditioned on performance by the applicant of authorized activities in conformance with the terms and conditions of the permit. If the work is not performed in accordance with the conditions and specifications of the permit, the Managers may complete the work, using the forfeited funds from the bond or escrow account. If the bond or escrow account funds are insufficient, the permit holder may be assessed for the balance. Unused funds shall be returned to the applicant.
- I. Unless otherwise specified in the permit and unless the Board extends time, work for which the permit is given must be completed within one year or else a new permit is required.
- J. If the Managers determine that it is necessary to monitor any work authorized by permit, the District shall pay such monitoring costs.
- K. Any District landowner may, within ten days of action by the Board, request a public hearing on the action the Managers have taken on a permit application. The Managers shall give notice of such a hearing by a publication in a legal newspaper of general circulation in each county having territory in the District.
- L. Obtaining a district permit does not relieve the applicant from the responsibility of obtaining any other needed permits from any other governmental units or agencies. The District will endeavor to inform the applicant of permits which may be required. The District will not be responsible if the applicant fails to obtain any required permits.

4. CRITERIA FOR REVIEWING PERMIT APPLICATIONS

The Managers will use the general criteria listed below in assessing the impact of proposals requiring a District permit. The criteria will also be used by the Managers to help determine the conditions that may be placed on permits. The Managers may also consider other factors in the review of the permit application.

4.1 Drainage

- A. Surface and subsurface water shall not be artificially moved from upper land 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 artificially obstructed so as to cause and overflow onto the property of others.
- B. All drainage projects shall have written permission from the adjoining down stream landowner. Should applicant not be able to acquire signature, a permit shall be granted only if the applicant shows there is no adverse impact to the adjoining downstream landowner by submitting an engineer or technical report.
- C. Impoundments, that include contracts and/or permanent easements for wetland restorations, are required to have permission from the adjoining upstream and downstream landowners. Should the applicant not be able to acquire signature, a permit shall be granted only if the applicant shows there is no adverse impact to the adjoining upstream and downstream landowner by submitting an engineer or technical report
- D. Every person shall use his land reasonably in disposing of surface water and may turn into a water course all the surface water that would naturally drain there; but he may not artificially discharge into a water course more water than it has capacity to carry nor burden the lower land

owner with more water than is reasonable under the circumstances.

- E. Areas, that have a significant value to the District in recharging ground water, as wildlife habitat, as settling basins, or which serve other important conservation purposes, shall be preserved to the extent practicable.
- F. Temporary water detention schemes using natural or artificial holding ponds, underground storage, or other methods, shall be incorporated into any new or revised storm water drainage plans whenever, in the judgment of the Managers, the proposed plan could cause increased flooding or pollution of the receiving water course or basin.
- G. Copies of plans and specifications for the repair of any public drainage system for the construction, improvement and repair of any private drain shall be filed with the managers and no work shall be undertaken without a permit from the managers.

4.2 Work in Water Courses and Water Basins

- A. Waterway openings in new or reconstructed crossings shall have a capacity that is compatible with the existing structure.
- B. Side inlets shall be constructed wherever possible, so as to protect water courses from serious erosion and increased flooding.

4.3 Flood Plain and Shoreland

- A. The District hereby adopts, by reference, the 'Statewide Standards and Criteria for Management of Floodplain Areas', Minnesota Statutes 104.01 to 104-08, and the 'Statewide Standards and Criteria for Management of Shoreland Areas of Minnesota', Minnesota Statute 105.

The Board of Managers request that all plats and plans for work, any part of which are within any designated

floodplain or shoreland, be submitted to the Managers to insure the protection of bed, banks and shore and said lakes and streams from improper encroachment for the purpose of preventing pollution and alleviating damage from flood waters. The Managers intend to review these plans and provide comments and recommendations to all cities and counties within the District.

- B. The Managers encourage all landowners to retain non-agricultural land for wildlife habitat purposes. The Managers may cooperate with private and public efforts to develop improved fish and wildlife habitat in the District.

4.4 Design Criteria and Drainage Plans and Storm Water Systems

- A. Storm water drainage shall be discharged through marshlands, swamps, retention basins or such other treatment facilities as may be adequate for purpose prior to entering the receiving bodies of public waters.
- B. Diversion of storm water through wetlands shall be considered for existing or planned surface drainage wherever marshlands and swamps occur naturally and are feasible as receiving bodies.
- C. Wetlands passing storm waters shall have adequate outlets.
- D. Temporary storage areas or retention basins scattered throughout develop areas shall be constructed where feasible to maximize upstream storage and to reduce peak flows, erosion damage and construction costs.
- E. Natural vegetation shall be used to reduce erosion in waterways between developed land and retention basins.
- F. Wide, shallow grass waterways, where feasible, shall be used as overflow channels from retention basins to form an above ground drainage network.

- G. In any proposed development, the possibility shall be considered of detaining storm water from a natural drainage area within that same area. Many tracts are amenable to this concept and whole developments may be handled by this method.
- H. If major facilities for temporary storage are necessary, they shall be designed for no less than a 25 year storm.

4.5 Erosion and Sedimentation

Runoff of needed moisture from sloping lands, eroding and carrying with it sediment from those lands from the banks of drainage-ways constitutes a serious problems. It shall be the policy of the Managers to encourage the use of the Turtle Creek Watershed Engineer and the Natural Resource Conservation Service for the adaptation of proper land use practices and other methods to help reduce said erosion and sedimentation.

- A. All watercourses, including grass waterways therein shall be constructed with a side slope and berm as determined by NRCS Standard and Specifications, so as to reasonably minimize land and soil erosion, giving due consideration to the intended capacity of the watercourse, it's depth, width and elevation and the character of the soils through which the drain passes.
- B. Sloping lands abutting drainage ways, lakes, ponds, or reservoirs shall be used in such a manner so as to provide reasonable control of sediment.
- C. Individuals or developers carrying out the erosion control measurers with a permit, and all subsequent owners of the property involved, shall effectively maintain all erosion control features.
- D. Conditions placed on any permit granted pursuant to this regulation shall comply with the MPCA/EPA NPDES Phase II

The Managers encourage plans and specifications relating to the matters

covered by this paragraph shall be submitted for consideration and approval prior to construction and installation of any of the foregoing works.

4.6 Water Quality

- A. No refuse, garbage, untreated wastes, or other pollutants shall be dumped or discharged directly into any water course or water basin, or placed in a location where run-off waters would carry them into any water course of water basin.
- B. All trees and brush cut from watercourses and the rights of way of drainage systems shall be removed and properly disposed of.
- C. All new or reconstructed sewage and solid waste disposal systems shall conform to minimum state standards. Efforts should be made to exceed minimum state standards.

5. ENFORCEMENT POWERS OF MANAGERS

5.1 Manner of Enforcement

Any provisions of these rules, any order or stipulation agreement made, or any permit issued by the Board of Managers of the Watershed District may be enforced by criminal prosecution, by injunction pursuant to Section 103D of the Minnesota Statutes, by action to compel performance, restoration, abatement, and other appropriate action.

5.2 Notification Regarding Violations

The Watershed District, at its discretion, may file notification of a violation or threatened violation of any part of these rules by any person, governmental subdivision, or governmental agency with the Pollution Control Agency or the Minnesota Department of Health; however, such notification shall not preclude any right of the Watershed District to prevent or continue to prevent any act not allowed or any action required to be performed by these rules, nor shall it prevent simultaneous actions to be taken against any violator by the Watershed District, the Department of Natural Resources, the Minnesota Pollution Control Agency, the Minnesota Department of Health, the courts, or any other person or authority having jurisdictional powers or interest to take such action.

5.3 Contractors' Liability

Any individuals, firms, corporations, partnerships, associations, or other entities contracting to perform services regulated by these rules shall perform all work in compliance with the conditions and specifications of the permit and the rules. Contractors in violation shall be subject to all sanctions or penalties, criminal or civil, imposed by these rules.

5.4 Due Process of Law

No person shall, under these rules, be deprived or divested of any previously established beneficial use or rights without due process of law.

6. PUBLIC MEETINGS, HEARING, AND RECORDS

6.1 Meetings

All meetings of the Watershed District, whether regular or special, shall be open to the public and shall be held at a time, date, and place, as determined from time to time by the Managers.

6.2 Hearings

Notice of a public hearing shall be given as required by statute. Testimony given and received at such public hearings may be recorded, and witnesses may be sworn as required by statute or at the discretion of the Board.

6.3 Waiver of Hearing

Unless required by statute, the Managers, in their discretion, may waive a public hearing on any application for a permit and make their order granting or refusing such application. If said application is refused or granted subject to conditions, the applicant may, within 10 days, demand a hearing on the application.

6.4 Records

The records of the Watershed District shall be public records, as required by state statute and shall be available to the public for inspection to that extent required. It is stated intention of the Board of Managers to cooperate with all persons, governmental subdivisions, and government agencies in the promotion of conservation of the natural resources of the District and to share information with the public for the common good.

7. EFFECTIVE DATE

The provision of these rules shall become effective upon the passage by the Board of Managers and the publication in a legal newspaper of general circulation in Freeborn and Mower Counties

8. ADOPTION

These rules are hereby adopted pursuant to Minnesota Statute Chapter 103D, on the _____ day of _____, 2004, for the Board of Managers of the Turtle Creek Watershed District.

