

# Yellow Medicine River Watershed District Rules and Regulations

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## *Mission Statement:*

*The Mission of the Yellow Medicine River Watershed District is to provide and organized means for proper management and protection of the water resources in the Yellow Medicine River Watershed. To carry out all the responsibilities of the Minnesota Watershed Act as set forth in Minnesota Statute, Chapter 103D. To carry forth all activities and powers given under the Minnesota Drainage code in Minnesota Statute, Chapter 103E. The District will encourage the wise use of the Natural Resources within its boundaries and promote the improvement of the health and welfare of its citizens.*

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## Section 1.0 Introduction

The Yellow Medicine River Watershed District was established by Order of the Minnesota Water Resources Board on August 26, 1971.

### 1.01 Statutory Policy

Minnesota Statute 103D.201, subdivision 1: To conserve the natural resources of the State by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources, the establishment of watershed districts is authorized under this chapter.

### 1.02 Statutory Authority to Adopt Rules

Minnesota Statute, 103D.341, subdivision 1: The managers must adopt rules to accomplish the purposes of this chapter and to implement the powers of the managers.

### 1.03 Short Title

These rules shall be known and may be cited as the "Yellow Medicine Watershed District Rules."

### 1.04 Jurisdiction

The jurisdiction of these Rules shall include all of the area, incorporated, and unincorporated, including both land and water, within the territory of the Yellow Medicine River Watershed District. The Board recognizes that in the management of land use primary control rests with county, city, and town.

### 1.05 Adoption or Amendment of these Rules

**Subdivision 1.** Minnesota Statutes 103D.341, Subdivision 2: Rules of the Watershed District must be adopted or amended by a majority vote of the managers, after public notice and hearing. Rules must be signed by the Secretary of the Board of Managers and recorded in the Board of Managers' official minutes.

**Subd. 2.** Prior to adoption, the proposed rule or amendment to the rule must be submitted to the Board of Water and Soil Resources for review and comment. The board's review shall be considered advisory. The board shall have 45 days from receipt of the proposed rule or amendment to the rule to provide its comments in writing to the watershed district. Proposed rules or amendments to the rule shall also be noticed for review and comment to all public transportation authorities that have jurisdiction within the watershed district at least 45 days prior to adoption. The public transportation authorities have 45 days from receipt of the proposed rule or amendment to the rule to provide comments in writing to the watershed district.

**Subd. 3.** For each county affected by the Watershed District, the managers must publish a notice of hearing and adopted rules in one or more legal newspapers published in the county and generally circulated in the Watershed District. The managers must also provide written notice of adopted or amended rules to public transportation authorities that have jurisdiction within the watershed district. The managers must file adopted rules with the county recorder of each county affected by the Watershed District and the Board of Water and Soil Resources.

**Subd. 4.** The managers must mail a copy of the rules to the governing body of each municipality affected by the Watershed District.

**Subd. 5.** Minnesota Statute 103D.341, Subdivision 3: A rule or resolution that affects land or water within the boundaries of a city is not effective within the city's boundaries until the governing body of the city is notified.

**Subd. 6.** Each rule adopted by the Board of Managers shall have the full force and effect of law.

## **1.06 Inconsistent Provisions**

If any rule or rules herein contained are inconsistent with the provisions of the water law of the State of Minnesota as established by Minnesota Statutes Chapters 103A, 103B, 103C, 103D, 103E, 103F, and 103G, or other applicable state or federal law, then such state or federal law shall govern.

## **1.07 Scope.**

It is not intended by these rules to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or with private restrictions placed upon property by covenant, deed, or other private agreement.

## **1.08 Severability**

The provision of these rules shall be severable and invalidity of any section, paragraph, subdivision, or any other part thereof shall not make invalid any other section, subsection, paragraph, subparagraph, subdivision, or any part thereof.

## **1.09 Rights of Appeal**

Any parties believed to be adversely affected by the adoption or enforcement of a rule or any action of the Board of Managers rising out of and pursuant to the adoption or enforcement of a rule may appeal from the rules or any action taken thereon in accordance with the appellate procedure and review provided in Minnesota Statutes 103D.535 and 103D.537.

## **1.10 Due Process of Law**

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

## Section 2.0 More Restrictive Rules and Regulations

### 2.01 Adoption of Water Law

The Board of Managers of the Yellow Medicine River Watershed District expressly adopts by reference all of the water law of the State of Minnesota, as contained in Minnesota Statutes, Chapter 103A, 103B, 103C, 103D, 103E, 103F, and 103G, as amended. The District reserves the right to impose rules which are more restrictive than those contained in the water law of the State of Minnesota.

### 2.02 Applicable Rules

The provisions of the following agencies and statutes that are more restrictive than these Rules of the Watershed District shall apply provided said statute, rule, regulation, code, or ordinance applies in whole or in part to any of the purposes for which a Watershed District may be formed according to Minnesota Statute 103D.201, as amended, or applies to any of the powers and duties of the Managers listed in Minnesota Statute 103D.335, as amended.

**Subdivision 1.** The applicable rules of the Minnesota Board of Water and Soil Resources, Department of Health, Pollution Control Agency, Department of Natural Resources, Environmental Quality Board, Department of Agriculture, United States Environmental Protection Agency, United States Army Corps of Engineers, and other state and federal agencies vested with jurisdiction over water use and policy affecting public waters within the Watershed District.

**Subd. 2.** The Rules of Lincoln, Lyon and Yellow Medicine Counties' Soil and Water Conservation Districts and all soil and water conservation district laws imposed by Minnesota Statutes, Chapter 103C, as amended.

**Subd. 3.** Any zoning, sanitation, and subdivision ordinances of Lincoln, Lyon and Yellow Medicine Counties.

**Subd. 4.** Any ordinances, rules, or regulations of any towns and townships and cities existing in part or in whole within the confines of the Yellow Medicine River Watershed District.

**Subd. 5.** The Watershed Law, Minnesota Statutes Chapter 103D, as amended.

**Subd. 6.** The Minnesota Environmental Rights Law, Minnesota Statutes Chapter 116B, as amended.

**Subd. 7.** The State Environmental Policy, Minnesota Statutes, Chapter 116D, as amended.

**Subd. 8.** The Minnesota Wetland Conservation Act of 1991, as amended.

**Subd. 9.** The law regarding Waters of the State, Minnesota Statutes Chapter 103G, as amended.

## Section 3.0 Definitions

For purposes of these Rules, certain words and terms are herein defined as followed. In the absence of a definition hereinafter, the definition 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 content makes such meaning repugnant thereto. Certain terms or words used herein shall be interpreted as follows: the word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.

- 3.01 **Best Management Practices** shall mean a technique or series of techniques which has been effective in maintaining or improving water quality by controlling agricultural, urban, or construction related runoff, erosion, and sedimentation.
- 3.02 **Board of Managers** shall mean the Board of Managers of the Yellow Medicine River Watershed District.
- 3.03 **Board.** When not referring to the Board of Managers, Board shall mean the Board of Soil and Water Resources.
- 3.04 **Conditional Use** is a land use or development that would not ordinarily be allowed under existing rules or ordinances, but may be allowed with appropriate controls or conditions.
- 3.05 **Department of Natural Resources or DNR** shall mean the Minnesota Department of Natural Resources.
- 3.06 **Diversion** shall mean a channel constructed across the slope with a supporting ridge on the lower side.
- 3.07 **Fill** shall mean any material placed or intended to be placed on the bed or shoreland of a body of water or watercourse or wetland.
- 3.08 **General Welfare** shall include any act or anything tending to improve or benefit or contribute to the safety or well being of the general public or benefit the inhabitants of the Watershed District. General Welfare shall be synonymous with "Public Welfare" or "Public Benefit".
- 3.09 **Impervious Surface** shall mean a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include, but are not limited to, rooftops, sidewalks, patios, storage areas, and roads, streets, driveways, and parking lots constructed of concrete, asphalt, or compacted soils.
- 3.10 **MPCA** shall mean the Minnesota Pollution Control Agency.
- 3.11 **Parties** shall mean any individual, firm, partnership, association, corporation, landowner, developer, public or political subdivisions, or governmental subdivisions.
- 3.12 **Plan** shall mean a map, drawing, report, photograph or other similar supportive exhibit for a proposed work project.
- 3.13 **Public Health** shall mean any act or thing or condition that tends to improve the general sanitary or environmental conditions of the Watershed District.

- 3.14 **Private Drainage System** shall mean drainage tile, catchment basins, ditches, diversions, lift stations, or culverts, owned by any individual, firm, partnership, association or corporation, installed for the purpose of agricultural land drainage, but does not include the same owned by public or political subdivisions or governmental subdivisions. A private drainage system shall also include reshaping or removing soils, whether or not deposited by erosion, to cause, enhance, or speed the flow of water across agricultural land.
- 3.15 **Public Drainage System** shall mean drainage tile, catchment basins, ditches, diversions, lift stations, or culverts, owned and maintained by public or political subdivisions or governmental subdivisions, installed for the purpose of agricultural land drainage.
- 3.16 **Rip Rap** shall mean natural rock or concrete (with no exposed rerod) of at least 12 inches in diameter or larger. It may not be installed more than five feet waterward of the Ordinary High Water Mark. It must conform to the natural alignment of the shore and not obstruct the flow of water. The finished slope may be permitted to have exposed concrete.
- 3.17 **Runoff** is water, including nutrients, pollutants, and sediments carried by water that is discharged from land surface to a water body.
- 3.18 **Shore Impact Zone.** The shore impact zone boundary is a line parallel to and 50 feet from the ordinary high water level.
- 3.19 **Terrace** shall mean an earthen embankment, a channel, or a combination ridge and channel constructed across the slope.
- 3.20 **Watercourse** shall mean any channel having definable beds and banks capable of conducting generally confined runoff from adjacent lands. During floods water may leave the confining beds and banks but under low and normal flows water is confined within the channel. A watercourse may be perennial or intermittent.
- 3.21 **Watershed of Yellow Medicine River Watershed District** shall mean waters of the state as defined in Minnesota Statutes, Chapter 103G.005 Subd. 17, as amended, that are located within the boundary of the Yellow Medicine Watershed District.
- 3.22 **Watershed District** shall mean the legally established agency named and referred to as the Yellow Medicine Watershed District; when the word "district" appears without capitalization, it shall mean the land contained within the boundary of the Yellow Medicine Watershed District.
- 3.23 **Waterway** shall mean a natural or constructed grass channel that is shaped or graded to required dimensions and established in suitable vegetation for the stable conveyance of runoff.
- 3.24 **Wetland** shall mean all wetlands, as defined in the Corps of Engineers 1987 Wetland Delineation Manual.

## Section 4.0 Permit Requirements

### 4.01 Actions Requiring Permits

The following actions shall not be commenced before the issuance of a permit by the Yellow Medicine River Watershed District Board of Managers.

- Subdivision 1.** The installation of new or improvement of existing public and private drainage systems, excluding normal maintenance.
- Subd. 2.** The installation of agricultural best management practices that require land alteration including surface tile intakes, terraces waterways and diversions.
- Subd. 3.** The installation of new surface tile intakes and catch basins.
- Subd. 4.** The disposal of snow within the shore impact zone of steams, lakes, creeks and rivers.
- Subd. 5.** The creation of one acre or more of impervious surface.
- Subd. 6.** The creation of an artificial drainageway across a watershed and thereby delivering water into another subwatershed.
- Subd. 7.** The diversion of water by any artificial means into any public drainage system from land not assessed into said drainage system, and the excavation, shaping, removal of soils, fence lines, or other natural or artificial structures affecting the flow of water into any public drainage system from land not assessed into said drainage system.
- Subd. 8.** The alteration, removal, or reconstruction of any private or legal drainage system without a permit from the managers.
- Subd. 9.** The draining or alteration of natural waterways, streams, lakes, marshes or wetlands, including the bed, banks or shores.
- Subd. 10.** The construction, alteration, repair or removal of a dike.
- Subd. 11.** The alternation, construction, removal or abandonment of a reservoir or impoundment of water.
- Subd. 12.** The construction, reconstruction, repair or replacement of a bridge, culvert or drain laid in, to, or across any natural, legal or private drainageway.
- Subd. 13.** The construction of “new feedlots” or the expansion of “existing feedlots”, as those terms are defined by the MPCA within the shore impact zone.
- Subd. 14.** The performance of other actions that may adversely affect ground water or surface water quality or quantity with the Watershed District.

### 4.02 Permit Conditions:

- Subdivision 1.** Drainage Tiles. A permit for drainage tile will normally be issued provided the tile has a noneroding outlet and no other adverse or water conservation or water management concern exists, such as, but not limited to the following:

- (A) The burdening of a lower or downstream landowner with more water than is reasonable under the circumstances.
- (B) The failure to make adequate provision for the passage of water across the property of a lower or downstream landowner.
- (C) The obstruction of a natural waterway, so as to cause an overflow onto the property of others.
- (D) If the additional drainage caused by the installation of the tile will exceed the capacity of the ditch, waterway, watercourse, private drainage system or public drainage system into which the tile directly or indirectly outlets.

**Subd. 2. Alteration of Watercourses.** A permit for channelization of watercourses and lakeshore alterations will, at a minimum, require that the exposed banks be mulched and seeded and that all spoil piles be seeded.

**Subd. 3. Best Management Practices.** A permit for agricultural best management practices that have not been designed by the Natural Resource Conservation Service or Soil and Water Conservation District will, at a minimum, require that measures are taken to minimize the erosion of soil and deposition of sediment.

**Subd. 4. Snow Disposal.** A permit for disposal of snow within a shoreland impact zone may be issued provided the disposal conditions will not pollute surface water or ground water and no other adverse conservation or water management concerns exist.

**Subd. 5. Impervious Surfaces.** A permit for creation of impervious surface will, at a minimum, require the submission of plans utilizing standards and procedures for controlling runoff rates, nutrients, and sediments as described by Minnesota Pollution Control Agency. Wetlands may be incorporated to reduce the rate of runoff and improve the quality of discharge.

**Subd. 6. Manure Storage Facilities.** A permit for a manure storage facility shall make adequate provision for leakage and perimeter tiles. A public or private drainage system shall not be used as an outlet for a perimeter tile.

### 4.03 Permit Procedure Requirements

**Subdivision 1.** The Board of Managers shall act upon an application for a permit within 60 days of the next regular board meeting.

**Subd. 2.** If a permit application is refused or if granted subject to conditions, the applicant may, within thirty days thereafter, demand a hearing on the application.

**Subd. 3.** Obtaining a permit from the Board of Managers does not relieve the applicant from the responsibility of obtaining any other authorization required.

**Subd. 4.** After-the-fact permits for any action by a landowner for which a permit is required by not obtained prior to taking that action, including but not limited to unpermitted drainage, and any disturbance of the 16.5 foot buffer strip on watershed drainage ditches, or any greater buffer strip required by law, easement, permit or agreement

with the watershed or other person or entity, will be subject to a fee of not less than \$250.00 or exceeding \$750.00 as determined by the Watershed's Board of Managers. In determining the after-the-fact permit fee the board will consider the severity of the permit infraction, any prior infractions by the landowner, and the landowner's willingness to correct the lack of compliance with permitting requirements in a timely manner after notice to the landowner. If the landowner fails to make a permit application after written notice from the Watershed District of a permit requirement violation within 30 days after notice of violation is sent to the landowner by US mail, properly addressed with postage affixed to the notice or some similarly reliable method of notification, and fails to otherwise cooperate in making any changes necessary to the installed drainage to bring it into compliance with any Watershed Rules, drainage law, or permit requirements, an additional fee of \$100.00 per month or any fraction of a month shall be added to the after-the-fact permit fee application. In addition to the permit fee, all other costs incurred by the Yellow Medicine Watershed District to resolve the violation shall be charged to the landowner. Nothing in this provision requires the Board of Managers to issue a permit to a landowner who does not meet permitting criteria, or limits the Yellow Medicine Watershed's ability or remedies to require removal or blockage of drainage installed which is not permitted or installed in violation of permit conditions.

**Subd. 5.** Unless otherwise specified in the permit, works for which the permit is issued shall be completed within one year or an extension must be requested.

## **Section 5.0 Enforcement Powers of Board Managers**

**Subdivision 1.** Any provision of Minnesota Statutes Chapters 103A, 103B, 103C, 103D, 103E, 103F, and 103G, as amended, these Rules, or any order issued by the Board of Managers of the Watershed District may be enforced by criminal prosecution, injunction, action to compel performance, restoration, abatement, and other appropriate action.

**Subd. 2.** Any violation of the provisions of Minnesota Statutes Chapter 103D, these Rules, or any order, stipulation, or agreement made by the Board of Managers of the Watershed District is a misdemeanor in accordance with Minnesota Statutes 103D.545.

**Subd. 3.** If the Rules are violated, the Board of Managers may issue cease and desist orders and pursue either restoration, corrective measures, and/or damages through either civil or criminal court proceedings.

**Subd. 4.** Any parties contracting to perform services regulated by these Rules shall be responsible for ascertaining that all permits have been obtained and the work performed complies with all requirements of these Rules. Contractors in violation shall be subject to all sanctions or penalties, criminal or civil, imposed by these Rules.

**Subd. 5.** 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, the Department of Natural Resources, Board of Soil and Water Resources, or the Minnesota Department of Health as appropriate; 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.

## **Section 6.0 Adoption or Amendment**

These Rules of the Yellow Medicine River Watershed District shall be adopted or amended by a majority vote of the Board of Managers, after public notice and hearing. Rules must be signed by the secretary of the Board of Managers and recorded in the Board of Managers official minute book, pursuant to Minnesota Statutes 103D.341, Subdivision 2.

## **Section 7.0 Variances**

### **7.01 Variances Authorized.**

The Board of Managers may hear requests 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.

### **7.02 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.

### **7.03 Term.**

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

### **7.04 Violation.**

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

## Section 8.0 Effective Date

**Subdivision 1.** Rules and Amendments of the Rules of the Yellow Medicine River Watershed District previously approved by the Board of Managers are hereby rescinded.

**Subd. 2.** The new Rules of the Yellow Medicine River Watershed District shall be effective upon adoption by majority vote of the Managers, after public notice and hearing and publication of the adopted Rules in at least one legal newspaper published in Lincoln, Lyon and Yellow Medicine Counties and generally circulated in the Watershed District.

**Subd. 3.** Upon adoption, the Managers must file the adopted Rules with the County Recorder of each county affected by the Watershed District and to the governing body of each municipality affected by the Watershed District.

**Subd. 4.** These Rules Adopted according to Minnesota Statutes 103D.341 are hereby effective this 10th day of August, 2015.

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Corey Hoffman, Secretary