

## **RULES OF THE NORTH FORK CROW RIVER WATERSHED DISTRICT**

ADOPTED February 14, 1989 North Fork Crow River Watershed District Board of Managers

### **1. INTRODUCTIONS**

The North Fork Crow River Watershed District was established under the authority of Minnesota Statutes, Chapter 112, The Watershed Act, on May 10, 1985. The District's primary purpose is conservation of the quality and quantity of water within the watershed. The District's boundary is shown on Map 1 on the last page.

#### **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 11.2.

#### **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.

##### **1.2A 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.

##### **1.2B Review of Local Ordinances**

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 time, date and location of the public hearing shall be determined by the Managers; 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 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 Regional Development Commission Chairman,
- the Executive Secretary of the Minnesota Water Resources Board,
- 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,
- SCS 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 Count State and Federal Law**

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

#### **1.5 Severability**

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

#### **1.6 Appeals**

Any person aggrieved by the adoption or enforcement of these rules may appeal under the appellate procedures and review provided in Minnesota Statutes, Chapter 112.

#### **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 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 of 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 Managers 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 North Fork Crow River Watershed District

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

DISTRICT shall mean the North Fork Crow River Watershed District.

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

MANAGERS shall mean the Managers of the North Fork Crow River Watershed District acting as a board and not as individuals, unless specifically stated to the contrary.

NPDES shall mean National Pollutant Discharge Elimination System.

ORDINARY HIGH WATER LEVEL 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 the 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 the ordinary high water elevation of public waters:

- (1) Land within 1000 feet from the ordinary high water mark of a lake, pond, or flowage; and
- (2) land within 300 feet of a river or stream or the landward side of the flood plain delineated by ordinance on such a river or stream, whichever is greater.

SCS shall mean Soil Conservation Service as a branch of the United States Department of Agriculture.

SWCD shall mean Soil and Water Conservation District.

WATER BASIN shall mean all protected wetlands and Lakes identified in the Protected Waters Inventory for each county.

WATER COURSE shall mean any drainageway that has a drainage area greater than 320 acres, including natural and artificial water courses.

NORTH FORK CROW RIVER WATERSHED DISTRICT OR WATERSHED DISTRICT shall mean the legally established agency named and referred to as the North Fork Crow River 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 North Fork Crow River Watershed District, as established by the Minnesota Water Resources Board. "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 water course or water basin, whether or not open water is present at the time of the work-- including but not limited to excavation, filling, dredging, and the placement of structures. In the case of agriculture drainage, a permit is required for: a. Surface or open ditch drainage of a drainage area greater than 160 A.'s b. Tile drainage of a drainage area greater than 320 A.'s.
- B. Construction, installation or alteration of any water control structure in any water course or water basin that is of greater or lesser capacity than is reasonable considering the upstream and water control structures.
- C. Work in the right of way of any legal drainage system within the jurisdiction of the District.
- D. Diversion of water into a public drainage system from land not assessed for the public system.
- D.I Diversion of water from a drainage area of larger than 40 acres into a different sub watershed.
- E. 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.
- F. Cultivating any area that is closer than one rod from the top edge of any water course that is part of a public drainage system.
- G. The land owner shall be responsible for acquiring all required permits.
- H. At the discretion of the Board of Managers, any permit required by Section 3.1, A through F. may be waived if a similar permit is required by another State Agency, County, or City; and provided that the approval of the Managers or their designee is obtained by the State, County or City prior to issuance of their permit.

#### **3.2 General Permit Procedures**

- A. Applicant obtains and completes a permit application form, which is available by contacting any Manager.
- B. Application form is sent or delivered to any Manager. The Managers shall act on all permit applications within 30 days of receiving the application and all data required in accordance with Sections 3.2, C, D and G.
- C. 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 the applicant to 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.
- D. The Board of Managers may accept the engineering and technical analysis set forth by the following agencies: MPCA, SCS, DNR and EPA. If the Board of Managers determine that additional technical analysis is required, they may seek the analysis and assess the reasonable costs to the applicant. Costs in excess of \$100.00 will not be incurred without notifying applicant.
- E. If a permit is issued, the applicant shall abide by all the terms and conditions in the permit or the permit may be withdrawn by the Managers. Subject to these rules, each permit issued must be signed by the President and Secretary or the designees.
- F. If a permit is denied, the Managers shall] state the reasons for such denial to the applicant.
- G. 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.

- H. Unless otherwise specified in the permit or unless time is extended by the Board, work for which the permit is given must be completed within one year or else a new permit is required.
- I. If the Managers determine that it is necessary to monitor any work authorized by permit, such monitoring costs shall be paid by the District.
- J. 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. Notice of such a hearing shall be given by the Managers by a publication in a legal newspaper of general circulation in each county having territory in the District.
- K. 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 water shall not be artificially moved from upper land 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 artificially obstructed so as to cause an overflow onto the property of others.

B. 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.

C. 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.

D. 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.

#### **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 nearest crossings upstream or downstream in the water course or their planned placement and follow District Engineer recommendations.

B. Side inlets shall be constructed, wherever possible, so as to protect water courses from serious erosion and increased flooding.

#### **4.3 Flood Plain Shoreland, and General Land Development**

A. The District hereby adopts, by reference, the Shoreland and Flood-plain Management, Minnesota Rules, Chapter 6120. 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. The Managers intend to review these plans and provide comments and recommendations to all cities and counties with the District.

B. The Managers encourage all land owners 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 Erosion and Sedimentation**

Run-off of needed moisture from sloping lands, eroding and carrying with it sediment from those lands and from the banks of drainageways constitutes a serious problem. It shall be the policy of the Managers to encourage the use of the SWCD Engineer and the adaptation of proper land use practices and other methods to help reduce said erosion and sedimentation. To control and alleviate soil erosion and siltation of the drainageways and lakes of the District:

A. All drainageways therein shall be constructed so as to reasonably minimize soil erosion, giving the due consideration to the intended capacity of the drainageway, its depth, width and grade, and the character of the

soils through which the drain passes.

B. Sloping lands abutting drainageways, 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 measures, with 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 include, but not be limited to, the following:

(1) Work in or near public waters and drainage systems shall be conducted so as to minimize increases in suspended solids and turbidity of run-off or receiving waters.

(2). Materials used in erosion prevention, such as riprap, shall be non-polluting under any foreseeable conditions and shall be installed consistent with good engineering practices and in such a way to assure effectiveness and permanence.

(3) Fill material shall be non-polluting.

(4) Spoils shall be prevented from entering public waters or drainageways.

#### **4.5 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 or water basin

B. All trees and brush cut from water courses 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.

D. The Managers may test the quality of any discharge under NPDES permit for compliance with permit conditions. Violations will be reported to the Minnesota Pollution Control Agency; and if the discharger fails to comply with the NPDES permit conditions within a reasonable time, the Managers may require the discharger to appear at a District meeting to show cause why the violation should be allowed to continue.

### **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 enforced by criminal prosecution, by injunction pursuant to Section 112.43, subdivision 2, of the Minnesota Statutes, by action to compel performance, restoration, abatement, and other appropriate action Any violation of these rules, or any order of stipulation agreement made, or a violation of any permit issued by the Board of Managers of the Watershed District is a misdemeanor in accordance with Section 112.89 of the Minnesota Statutes.

## **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 now 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 Powers of Rules**

Pursuant to Chapter 112.43, Subdivision 1 (17), the Managers shall have a limited authority to adopt rules to control encroachments, the changing of land contours, the placement of fill and structures of any type, to prevent the placement of encumbrances or obstructions, and to require the land owner to remove such fill, structures, encumbrances, or other obstructions and to restore the previously existing land contours and vegetation. The Managers may, by ordinance, provide a procedure whereby the Watershed District can do the work required and access the cost thereof against the affected property by a special assessment. Such ordinance shall be applicable only in the absence of county or municipal ordinances for the regulation of these items listed above herein.

## **5.4 Contractor's 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.

## **5.5 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, HEARINGS 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 the stated intention of the Board of Managers to cooperate with all persons, governmental subdivisions, and governmental 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**

After completion of the required public hearing the provisions 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 Stearns, Meeker, Pope and Kandiyohi Counties.

**8. ADOPTION**

These rules are hereby adopted pursuant to Minnesota Statute Chapter 112, on the 14th day of February, 1989, by the Board of Managers of North Fork Crow River Watershed District.

BY: Chairman

BY: Secretary

Permit Form

PERMIT NO. \_\_\_\_\_

Application for permit: to work in the North Fork Crow River Watershed District.

(Print or Type Applicant's Name)

(Applicant's mailing address or box number)  
(City) (State) (Zip Code)  
(Area Code) (Telephone No.)

Applies pursuant to North Fork Crow River Watershed District rules and regulations and other applicable statutes for a permit to work in the watershed, named above, in accordance with all data, maps, plans and any other information submitted herewith and made a part hereof.

**A. PROPOSAL**

- 1. It is proposed to: Construct Fill or Install Repair Excavate Abandon e Improve Restore Remove Other
- 2. The following: Dam Dike Road Shore or bank protection Shoreline Channel ne Ditch Bridge Culvert Tile Beach Irrigate Wetland Other

**B. SITE**

- 1. County Town or Township Section Subdivision 1/4 Section n or Lot Meeker Pope Kandiyohi hi Stearns

2. or Legal Description.

C. JUSTIFICATION: PURPOSE OR BENEFITS D. ENVIRONMENTAL IMPACT

1. Anticipated changes in water and related land resources:

2. Unavoidable but anticipated detrimental effects:

3. Alternatives to the action proposed:

E. PROJECT SITE DATA

1. Describe the proposed work in detail:

2. Attach an ASCS photograph appropriately marked:

3. If applicable attach a county ditch map outlining which county ditch the proposed work will affect.

4. Attach any other information which would be helpful in reviewing this permit.

F. EASEMENTS

Attach all necessary easements required for the proposed work.

G. OTHER PERMITS

Attach copies of other permits which have been approved that would be required to complete the proposed project.

H. AGREEMENT

Applicant agrees to use BMP for erosion and sediment control during construction activities. Applicant hereby declares that all information submitted herewith and statements made herein are true and correct representation of the facts and that the filing of this application and information with the Board of Managers of the North Fork Crow River Watershed District is evidence of the correctness thereof.

Dated this \_ day of , 19 \_

Signed: (Applicant) (Lessee)

Action by Board of Managers of North Fork Crow River Watershed District Permit granted.

Permit granted subject to the following conditions:

Held for additional information.  
Permit denied.

NORTH FORK CROW RIVER WATERSHED DISTRICT

By: (President) (Secretary)

Dated this day of day of \_, 19

Copies to the following:

North Fork Crow River Watershed District (Secretary)

North Fork Crow River Watershed District (Engineer)

North Fork Crow River Watershed District (Attorney)

Applicant County Auditor County Soil Conservation Service