MINNEHAHA CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

9. DREDGING RULE
PURSUANT TO MINNESOTA STATUTES §103D.341

Adopted April 11, 2024
Effective April 29, 2024

1. POLICY. It is the policy of the Board of Managers to:

a. Protect surface waters, backwater areas and wetlands next to or hydrologically connected to lakes to maintain stable shoreline; support vegetative diversity and integrity; and protect riparian and aquatic habitat;

b. Minimize impacts from dredging in biologically productive and ecologically sensitive littoral zones to protect water quality and prevent invasive species proliferation;

c. Recognize riparian rights of property owners while protecting public water resources.

d. Preserve the natural appearance of shoreline areas.

2. APPLICABILITY.

a. A District permit is required to dredge within the bed, or below the top of bank, of a public water or public waters wetland, except that a permit is not required to install, maintain or remove a utility structure when that work is subject to a permit under the Waterbody Crossings & Structures Rule.

b. A permit applicant is responsible to obtain all required approvals from other public agencies including the Minnesota Department of Natural Resources (DNR) and, for dredging in Lake Minnetonka, the Lake Minnetonka Conservation District (LCMD). An applicant who has obtained a District permit under this rule may qualify to operate under DNR General Permit No. 2001-6009, in place of an individual DNR permit.

c. Navigational dredging in Lake Minnetonka must meet the standards of the DNR, MCWD and LMCD Dredging Joint Policy Statement (April 1993), which is an attachment to this rule and incorporated by reference. Certain terms of the Joint Policy Statement are incorporated directly into this rule, below.

d. Maintenance dredging by a public agency may qualify for an expedited general permit pursuant to section 7 of this rule.

3. PERMITTED DREDGING.

a. Dredging is permitted only for one of the following purposes:

1. To maintain an existing public or private channel to dimensions the District previously has approved;

2. To implement or maintain a legal right of navigational access;

3. To remove sediment that is a source of nutrients or other pollutants;

4. To improve the wildlife or fisheries resources of surface waters; or

5. By a public entity, for a public purpose.

b. In evaluating an application under paragraph 3.a.1, the District will review evidence of historic dredging, including how recently the original dredging or subsequent maintenance occurred and the extent of recent navigational use.

c. In evaluating an application under paragraph 3.a.2., the District will apply principles of riparian rights to determine whether the navigation sought is reasonable. This includes considering:

1. The ecological sensitivity of the affected waterbody or wetland;

2. The size, draft, speed, motorized status and other characteristics of watercraft historically used or proposed to be used in the area to be dredged;

3. The size and restrictiveness of existing channels and bridge openings that may affect navigation; and

4. The availability of other means to gain access, such as extending docks; purchasing, renting or leasing shore moorings; or anchoring watercraft away from shore moorings.

d. The applicant may not dredge:

1. To offset floodplain fill, or otherwise above the ordinary high-water level or into the upland next to the waterbody;

2. Where the dredging would create a channel to connect backwater areas for navigation, or extend riparian rights to non-riparian land;

3. Where the dredging would alter the natural shoreline or streambank;

4. Where the dredging may affect the hydrology of an adjacent resource; or

5. Where the dredged area contains a slope steeper than 3:1 (H:V) in a marina or channel, or 10:1 (H:V) near residential lakeshore.

4. STANDARDS.

a. The application must consider other ways to achieve the purpose of dredging such as dock extension, aquatic nuisance plant removal without dredging, less extensive dredging in another area of the public water, or agreement with a neighboring property. The applicant must show that the proposed dredging is the means to resolve their need that has least impact. Impact to a Preserve wetland or other ecologically sensitive area must be minimal. For the purpose of this paragraph, "impact" means effect on water quality, ecology, groundwater protection, flood management and all other beneficial uses of water resources as described at Minnesota Statutes §103B.201.

b. If dredging is to remove sediment that was transported into the waterbody, and if the sediment source is readily identifiable and within the applicant's control, the plan must remedy the cause of sediment transport.

c. Dredging is limited to the minimum dimensions necessary to achieve the purpose. Maximum dredging width for navigation is 15 feet, unless a wider channel better protects water resources. Maximum dredging depth for navigation is as follows, except that the District may consider deeper dredging in accordance with paragraph 3.b, above:

    1. Within Lake Minnetonka: 924.6' for individual channels and mooring spaces, 923.6' for multiple user channels and mooring/maneuvering areas, and 921.6' for public channels maintained by Hennepin County.

    2. Within other waterbodies: Four feet below the ordinary high water elevation.

d. Side slopes within dredged areas are to be 3:1 (horizontal to vertical), unless the District finds that substrate conditions warrant a steeper or gentler slope.

e. Dredging may not occur between April 1st and June 30th, except that the District may allow dredging in a public water wetland during this period if the applicant is able to show that fish spawning does not occur in the wetland.

f. The application must identify a spoil disposal site. The site must not be below the OHW of a public water or wetland, in a floodplain absent flood storage replacement, or within 50 feet of any drinking water well. The applicant must place and stabilize all spoils so that they will not be transported by reasonably expected high water or runoff.

5. HYDRAULIC DREDGING.

In addition to the standards of section 4, above, hydraulic dredging is subject to the following standards:

a. Dikes must be of compacted earth and not exceed 5.5 feet in height at any point, with a minimum four-foot- wide top and side slopes not steeper than 2:1 (H:V). An alternative design is permitted but must be certified by a professional engineer registered in

Minnesota. If the spoil containment has no outlet, it must have four times the calculated volume of solid material to be removed, and a minimum freeboard of one foot above the projected water surface elevation.

b. The applicant must provide a copy of: (i) the Minnesota Pollution Control Agency (MPCA) spoils disposal permit or notification, and (ii) any sediment analysis performed.

c. The applicant must submit a restoration plan that shows how they will retain sediments on site during operations, and how they will restore and revegetate the site. The plan must show final grades.

d. Discharge from a spoil containment must meet MPCA turbidity and total suspended solids standards applicable to the receiving water. The applicant must monitor at least weekly and promptly forward results to the District.

6. SUBMITTALS.

The following must accompany the permit application. On written approval from District staff, the applicant may omit or modify specific items.

a. Site plan showing property lines, delineation of the work area, existing elevation contours of the adjacent upland area, ordinary high water elevation, and 100-year high water elevation (if available). All elevation must be reduced to NGVD (1929 datum).

b. Profile, cross sections and topographic contours showing existing and proposed elevation and side slopes in the work area. Topographic contours must be at intervals of no more than 1.0 foot.

c. For hydraulic dredging:

1. Cross section of the proposed dike.

2. Stage/storage volume relationship for the proposed spoil containment.

3. Detail of any proposed outlet structure, with size, description and invert elevation.

4. Stage/discharge relationship for any proposed outlet structure from the spoil containment.

5. Site plan with the locations of any proposed outlet structure and emergency overflow from the spoil containment.

d. Site plan with the proposed location of floating silt curtains.

e. Support data:

1. Description and volume computation of material to be removed.

2. Description of equipment to be used.

3. Construction schedule.

4. Location map of spoil containment.

5. Erosion control plan for containment.

6. Restoration plan for any proposed permanent on-site spoil containment with final grades, removal of control structure, and a description of site restoration and revegetation.

f. Where dredging is to remove sediment that is a source of nutrients or other pollutants, or where it may cause increased seepage or result in subsurface drainage, the applicant must submit at least two soil boring logs extending at least two feet below the proposed work elevation.

7. GENERAL PERMIT.

a. A public applicant may obtain a general permit to remove non-native sediments at a stormwater conveyance outfall into a public water or public water wetland. In place of the submittals listed in section 6, above, the applicant must submit the following:

1. Location of dredging and estimated volume of dredged material.

2. Basis to determine dredging depth, in the form of approved plans or post-dredge elevation data from prior dredging, core samples establishing the native bed elevation, or a narrative describing other method to determine dredging depth.

b. An application under this section is not subject to section 6 or 8 of the District's procedural Requirements Rule. When the District has confirmed in writing receipt of the applicant's submittal, the general permit is deemed granted and dredging may occur as described.

c. A permittee operating under a general permit must conduct activity in accordance with the following terms:

1. The permittee may remove only sediment identified as non-native material accumulated due to stormwater runoff or erosion.

2. Dredging may not materially change the elevation or contour of the bed of the affected waterbody.

3. Silt curtain must be used to contain sediment.

4. Disturbed bank or upland, including vegetation, must be restored to its prior condition.

8. FAST-TRACK PERMIT.

a. An applicant dredging to maintain an existing navigational channel or access may obtain an expedited permit. In place of the submittals listed in section 6, above, the applicant must submit prior District-approved plans establishing channel dimensions, along with an erosion control and restoration plan. The application is not subject to section 6 or 8 of the District's Procedural Requirements Rule.

b. The District may withhold fast-track approval if an application raises considerations that, in the judgment of District staff, should be addressed through ordinary permit review.

9. FINANCIAL ASSURANCE. A bond, letter of credit or cash escrow in accordance with the District's Financial Assurances Rule is a condition of permit issuance.