



Title:	Formalizing District’s Exercise of Regulatory Authority within the City of Chanhassen	
Resolution number:	24-030	
Prepared by:	Name: Maggie Menden Phone: 952-641-4586 mmenden@minnehahacreek.org	
Reviewed by:	Name/Title: Becky Christopher (Policy Director)	
Recommended action:	Formalize District’s Exercise of Regulatory Authority within the City of Chanhassen	
Past Board action:	Res #: 18-094	Title: Approval of Chanhassen Local Water Management Plan
	Res #: 19-030	Title: City of Chanhassen Request to Extend Deadline to Adopt Local Ordinances

Summary:

Under MN Statutes §103B.211, a watershed district can exercise enforcement of its regulations when a Local Government Unit (LGU) either lacks an approved local water plan, has not implemented the program described within it, or chooses not to enforce watershed district regulations. In 2018, the City of Chanhassen (City) amended its local water management plan (LWMP) which stated the City’s intent to assert sole permitting jurisdiction and amend its ordinances with respect to activities subject to MCWD Erosion Control, Floodplain Alteration, Wetland Protection, and Stormwater Management Rules.

In September of 2018, the Minnehaha Creek Watershed District (MCWD) Board approved the City’s LWMP (Resolution 18-094) and allowed 180 days for the city to adopt equally protective ordinances. Due to the turnover of city staff involved in the ordinance updates, the City requested an extension. This was approved by the Board via Resolution 19-030, which gave them until September 7, 2019.

Following additional turnover of staff involved at both the City and District and facing the challenge of conforming its ordinances with the rules of four water management organizations with the City’s boundaries, the City has not amended its stormwater management, floodplain alteration, or wetland protection ordinances to be at least as protective of water resources as the standards set by the MCWD. During this period since 2018, the City has been waiving permitting authority to the MCWD on an individual project basis.

The City has determined that it no longer wishes to exercise sole permitting responsibility except in the area of erosion control, and it has provided the attached letter from the City Administrator concurring in the MCWD’s assertion of regulatory authority with respect to its Stormwater Management, Floodplain Alteration, and Wetland Protection rules. MCWD staff have analyzed the City’s erosion control ordinance and confirmed that the ordinance is as protective of water resources as MCWD’s Erosion Control Rule.

The MCWD and City desire to memorialize their respective roles in implementing water resource protection and management within the City. Therefore, staff requests that the Board formally asserts its regulatory authority within its

boundaries within the City of Chanhassen with respect to its Stormwater Management, Floodplain Alteration, and Wetland Protection rules.

Supporting Documents:

Letter from City of Chanhassen



RESOLUTION

Resolution number: 24-030

Title: Formalizing District's Exercise of Regulatory Authority within the City of Chanhassen

- WHEREAS, in 2017, the Minnehaha Creek Watershed District (MCWD) revised its watershed management plan (WMP) under Minnesota Statutes § 103B.231, which details the existing physical environment, land use and development in the watershed, and establishes a plan to regulate land disturbance within the MCWD to protect water resources, improve water quality, prevent flooding, and otherwise achieve the goals of Minnesota Statutes Chapters 103B and 103D;
- WHEREAS, the MCWD's WMP incorporates the Rules adopted by the MCWD to protect water resources, improve water quality, prevent flooding and otherwise achieve the goals of Minnesota Statutes Chapters 103B and 103D;
- WHEREAS, in 2018, the City of Chanhassen (City) amended its local water management plan which stated the City's intent to retain water resource regulatory authority within the meaning of Minnesota Statutes § 103B.211, subd. 1 (a)(3), and assert sole permitting jurisdiction with respect to activities subject to MCWD Erosion Control; Floodplain Alteration; Wetland Protection, and Stormwater Management Rules;
- WHEREAS, the MCWD's approval of the City's local water management plan on September 13, 2018, by Resolution 18-094, set forth terms for the City to assert sole authority, consisting of adoption of amended City Ordinances and procedures for MCWD approval as equally protective to MCWD rules;
- WHEREAS, at the City's request, on March 14, 2019, by Resolution 19-030, the Board extended the local ordinance adoption deadline to September 7, 2019;
- WHEREAS, since the approval of Resolution 18-094, and in accordance with Minnesota Statutes § 103B.211, the City has authorized the MCWD to review land development activity within the City through the exercise of its regulatory authority on an individual project basis;
- WHEREAS, the City has not amended its stormwater management, floodplain alteration, and wetland protection ordinances to be at least as protective of water resources as the standards set by the MCWD, or received MCWD approval of any such amendments;
- WHEREAS, for reasons including the challenge of conforming its ordinances with the rules of four water management organizations within which the City's boundaries lie, the City has determined that it no longer wishes to exercise sole permitting responsibility except in the area of erosion control;
- WHEREAS, MCWD staff have analyzed the City's erosion control ordinance and compared it with MCWD analogous thresholds and criteria, and the MCWD finds the ordinance is as protective of water resources as MCWD's Erosion Control Rule;
- WHEREAS, the City has provided the attached letter concurring in the assertion of regulatory authority by the MCWD with respect to its Stormwater Management, Floodplain Alteration, and Wetland Protection rules;

WHEREAS, the MCWD and City desire to memorialize their respective roles in implementing water resource protection and management within the City;

WHEREAS, the City is not aware of any land disturbance applications before it that are subject to MCWD rules and for which the MCWD does not presently have an application;

NOW, THEREFORE, BE IT RESOLVED that the MCWD Board of Managers formally asserts its regulatory authority within its boundaries within the City of Chanhassen with respect to its Stormwater Management, Floodplain Alteration, and Wetland Protection rules; and

BE IT FUTHER RESOLVED that the MCWD Board of Managers will not assert its authority under its Erosion Control Rule within the City.

Resolution Number 24-030 was moved by Manager _____, seconded by Manager _____. Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: 5/9/2024

Secretary Date: _____



CITY OF CHANHASSEN

A Community for Life

May 2, 2024

Board of Managers
Minnehaha Creek Watershed District
15320 Minnetonka Blvd
Minnetonka, MN 55345

Subject: City of Chanhassen Request for Assertion of Rule Authority: Stormwater Management, Floodplain Alteration, and Wetland Protection by the Minnehaha Creek Watershed District

To the Board of Managers:

I am writing on behalf of the City of Chanhassen to concur in the assertion of regulatory authority by the Minnehaha Creek Watershed District with respect to its Stormwater Management, Floodplain Alteration, and Wetland Protection rules for property within the District's boundaries within Chanhassen City limits. I wish to clarify that the City of Chanhassen will continue to exercise sole regulatory authority for Erosion and Sediment Control.

As stated in MN Statutes §103B.211, the District shall exercise enforcement of its regulations when the Local Governing Unit (LGU) either lacks an approved local water plan, has not implemented the program described within it, or chooses not to enforce watershed district regulations. The District's approval of the City's local water management plan on September 13, 2018, by Resolution 18-094, set forth terms for the City to assert sole authority, consisting of adoption of amended City Ordinances and procedures for District approval as equally protective to District rules. Presently, the City of Chanhassen has not amended its City Ordinances to be at least as restrictive for regulating Stormwater Management, Floodplain Alteration, and Wetland Protection as the standards set by the District.

Although the City's current Stormwater Management Plan, adopted in 2018, expresses a desire to assume rule authority from local watershed districts, practical obstacles have prevented that. Chanhassen has four distinct water management organizations within its jurisdiction, all of which have recently undergone rule changes. This

complexity makes it challenging for the city to stay abreast of watershed district regulations. Consequently, the City has decided against assuming rule authority from watershed districts, including MCWD, at this time.

The City is not aware of any land disturbance applications before it that are subject to District rules and for which the District does not presently have an application. The City will continue to cooperate with the District by directing development inquiries that the City receives to you and coordinating on such inquiries.

Despite which agency is the rule authority, the City of Chanhassen remains steadfast in its commitment to enhancing local water quality through City Code enforcement and collaborative partnerships with residents and government agencies, including our Watershed District partners.

Sincerely,



Laurie Hokkanen
City Manager
City of Chanhassen

Copy: Joe Seidl, City of Chanhassen Water Resources Engineer
Charles Howley, City of Chanhassen Public Works Director/City Engineer