



Renville

COUNTY

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Drainage System Repair and Maintenance Policy

The following policy is intended to supplement Minn. Stat. ch. 103E to streamline the administrative processes within Renville County regarding inspections, maintenance, repairs, and operation of public drainage systems in Renville County. This policy shall not apply to any “Joint Drainage System” (i.e., multi-county drainage system), unless specifically adopted by the applicable Joint Drainage Authority. If there are any discrepancies between this policy and Minn. Stat. ch. 103E, the statutes shall govern.

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General Information:

Minn. Stat. ch. 103E regulates the repair of drainage systems. Repair is defined in Minn. Stat. § 103E.701 subd. 1:

[To] restore all or a part of a drainage system as nearly as practicable to the same hydraulic capacity as originally constructed and subsequently improved, including resloping of ditches and leveling of spoil banks if necessary to prevent further deterioration, realignment to original construction if necessary to restore the effectiveness of the drainage system, and routine operation that may be required to remove obstruction and maintain the efficiency of the drainage system.

'Repair' also includes:

- (1) incidental straightening of a tile system resulting from the tile-laying technology used to replace tiles; and
- (2) replacement of tiles with the next larger size that is readily available, if the original size is not readily available.

All decisions regarding repairs to the public drainage systems are the responsibility of the Drainage Authority and shall only be delegated as consistent with this policy. In Renville County, the Drainage Authority consists of all five county commissioners serving on the Board of Commissioners ("Board"). Once a drainage system is established, the Drainage Authority has an affirmative duty to maintain the system and any required permanent strips of perennial vegetation acquired under ch. 103E. The drainage systems are to be inspected on a regular basis.

Definitions:

Drainage Authority: The Renville County Board of Commissioners.

Drainage Inspector: The Drainage Systems Manager or designee. This individual serves as liaison to the Drainage Authority and should be contacted with any questions concerning this policy, as well as petitions to be considered by the Drainage Authority.

1.) Inspection Policy

The Drainage Inspector will be responsible for ensuring drainage systems are inspected on a regular basis, at least once every five years. If a violation of the permanent strip of perennial vegetation requirement in § 103E.021 is found, the drainage system will be inspected annually at the location where the violation occurred until one year after the violation is corrected. As used in this section, a violation occurs if there is less permanent growth of perennial vegetation at the time of inspection than the width lawfully acquired and established consistent with ch. 103E.

Open ditches shall be inspected for obstructions that impede water, such as trees, beaver dams, and other foreign or natural debris. Inspection under this section does not require, nor rely upon, any hydrologic or hydraulic engineering.

Covered drainage systems shall be visually inspected at the outlet and each inlet point for clogs or obstructions. The surface path of the covered drainage system shall also be visually inspected for blow-out points. An inspection pass does not require, nor rely upon, televising the pipe unless deemed necessary by the Drainage Inspector.

Inspection Reports

A written report of each drainage system inspection shall be created by the Drainage Inspector and become part of the drainage system record. The report shall list the location and nature of any necessary maintenance, repairs, and violations of the permanent strip of perennial vegetation requirement in Minn. Stat. § 103E.021 found at the time of inspection. The Drainage Inspector shall include an estimated cost of the necessary repairs or maintenance on the report. When maintenance or repairs are warranted and authorized pursuant to this policy, the Drainage Inspector shall make inspections of the work in progress and a final inspection after the work has been completed to ensure the maintenance and repairs have been made in a satisfactory manner. The Drainage Inspector shall submit the written inspection reports to the Board to be reviewed and ratified annually.

2.) Private Crossing Repair, Improvement, Installation & Removal

Private crossings currently existing on drainage systems may or may not have been constructed as part of the drainage system. Upon a request to repair or improve an existing crossing, the Drainage Inspector shall first determine:

- (1) Whether the crossing was established as part of the drainage system;
- (2) Whether the crossing constitutes an obstruction of the drainage system; and
- (3) Whether the crossing could be eliminated by consolidation.

Crossings Established as Part of the Drainage System

If the Drainage Inspector determines the crossing was established as part of the drainage system, the Drainage Inspector shall investigate the request to repair, replace, or improve the crossing. There are many areas in the county where tracts of land would be land-locked if not for the installation of culvert crossings over open drainage ditches. Existing crossings may be too narrow to accommodate modern farm equipment or have deteriorated pipe materials. Older crossings with reinforced concrete pipe (RCP) may consist of multiple sections of pipe, which were not tied together. This leads to separation over time and, potentially, failure of the crossing. In relation to these issues, the following policies pertain:

- (a) On RCP crossings that require only that sections be tied and/or relayed to grade to make the crossing useable, the drainage system will pay for labor to perform such work. The Drainage Inspector will arrange for and observe this work to ensure the crossing does not present an obstruction to the hydraulic capacity of the drainage system.
- (b) Where landowners/operators wish to add sections of RCP and widen the crossing, the landowner/operator is responsible for all related costs. The work must be coordinated through the Drainage Inspector so that the Drainage Inspector may observe the work. The Drainage Inspector will inspect the work post-installation to ensure the crossing does not present an obstruction to the hydraulic capacity of the drainage system.

Increasing the width or capacity of an existing crossing or culvert that is part of the drainage system may be an improvement, and not a repair, and must only be approved under the procedures for an improvement in Minn. Stat., ch. 103E.

The Drainage Authority reserves the right to use alternative measures to maintain a landowner's right of access, including but not limited to, replacement of a bridge or culvert with another suitable material, or obtaining an alternative legal right-of-way.

A landowner wishing to remove a private field crossing constructed as part of the drainage system must submit a written request and receive permission from the Drainage Inspector prior to removal. As a condition to the permission authorizing removal of the crossing or culvert, the landowner must execute and record a Field Crossing Removal Agreement on the property to acknowledge that the crossing or culvert shall no longer be part of the drainage system and releasing the Drainage Authority of any obligation to maintain or reconstruct the private crossing.

Crossings Not Constructed as Part of the Drainage System

If the Drainage Inspector determines the crossing is not part of the drainage system and constitutes an obstruction, the Drainage Inspector shall make a report and present such findings to the Board. If the Board determines that the drainage system has been obstructed, including by the installation of bridges or culverts of insufficient capacity, the Board shall notify the person or public authority responsible for the obstruction as soon as possible and direct the responsible party to remove the obstruction or show the Board why the obstruction should not be removed. The Board shall set a time and location in the notice for the responsible person to appear before the Board.

A landowner wishing to repair, construct, or modify a private crossing or culvert over a drainage system must submit a written request and receive permission from the Drainage Inspector prior to repair, construction, or modification in accordance with the terms of this section. The Drainage Inspector shall set the width, depth, and size of the crossing or culvert and shall inspect the crossing or culvert after construction. The Drainage Inspector may seek the advice of a licensed engineer to determine if the proposed crossing or culvert will impair the hydraulic capacity of drainage system. The landowner shall be responsible for the costs of design, including engineers' costs, if necessary, and all other costs incurred by the Drainage Authority as a result of the private crossing request. Private crossings not built as part of the drainage system are the responsibility of the landowner. If a private crossing not built as part of the drainage system must be removed or repaired by the Drainage Authority, the costs may be charged to the landowner.

In addition, the landowner must observe the following requirements:

- (a) All costs incurred by the Drainage Authority in repairing an existing culvert or crossing, installing an additional culvert, or in widening or extending the crossing or culvert must be paid by the landowners requesting the repair or improvement.
- (b) Any new culvert must be bedded properly and installed at the as constructed and subsequently improved elevation of the drainage system.
- (c) All materials used in the installation must be of the same or better quality than the original construction.

- (d) The flow under the crossing or through the culvert, to the extent practicable, must remain the same as the original flow characteristics.
- (e) The landowner responsible for constructing the crossing or culvert shall be responsible for all repairs or maintenance caused by improper installation.
- (f) If at some future date an extended crossing or culvert is replaced as a repair, the landowners shall be responsible for replacement of the extended portion of the crossing or culvert.
- (g) As a condition to the permission authorizing installation of the crossing or culvert, the landowner must execute and record a restriction on the property to acknowledge that the crossing or culvert shall not be part of the drainage system and subjecting the property, and any additional real estate added thereto, to ongoing operations and maintenance of the culvert.

The Drainage Authority reserves the right to remove, at the landowner's expense, any improperly constructed crossing or culvert, extension of a crossing or culvert, or any crossing or culvert installed without prior approval from the Drainage Inspector. The Drainage Authority has no obligation to grant permission for installing or modifying a crossing or culvert. To the extent possible, the Drainage Authority will require the consolidation of crossings and culverts.

3.) Highway Bridges and Culverts

Pursuant to Minn. Stat. § 103E.701, subd. 4(a) & 103E.525, subd. 2, highway bridges and culverts constructed on a drainage system established on or after March 25, 1947 must be maintained by the road authority charged with the duty of maintenance.

4.) Drop Inlet Structures

The Drainage Authority desires to promote erosion control measures within the drainage system to reduce the frequency and cost of ditch repairs. At the discretion of the Drainage Authority, the Drainage Authority will provide a drop inlet structure, 40 feet of plastic dual wall pipe, and either a 20 foot steel outlet pipe or Schedule 40 PVC Drain Pipe through the open channel bank wall at locations where preexisting erosion problems are present and have been documented. Equipment, any other required materials, and labor expenses will also be paid by the drainage system. Any additional materials requested by the landowner shall be the responsibility of the landowner. The Drainage Authority will work with local agencies to use available cost share programs.

5.) Private Outlet Pipe

In order to continue to encourage private landowners to control bank wall erosion along open public drainage channels from failed private drainage outlet pipes, the Drainage Authority will offer the following option to private tile outlet owners: the first 20 feet of drainage outlet pipe will be provided to the property owner at no cost; it will instead be paid by the drainage system. The owner of the failed outlet pipe shall be responsible for all installation cost of the new pipe.

6.) Field (tile) Intakes

Public drainage system funds will not be used to install or make repairs to field tile intakes.

7.) Repair Projects

Maintenance and repair costs may be paid for with the maintenance funds established by the Board for the drainage system. If a maintenance or repair cost exceeds the allocated fund amount, the outstanding balance may be assessed the following year. The assessed amounts will be in addition to any assessments that are necessary to replace the maintenance fund.

Tile repairs consist of repairing washouts, outlet pipes, and segments of tile which have been plugged or have collapsed. Generally, the replacement of tile segments should parallel the original alignment of the tile system. Tile should be replaced with regard to existing hydraulic capacity, as significant increases in capacity are considered an improvement of the original drainage system. However, Minn. Stat. § 103E.701 does allow replacement of obsolete tile sizes with the next largest (available) size. The type of tile material used should also be considered with regard to depth of cover available, grade, location of trees, and soil type.

Repair Authorization

Maintenance and repairs may be requested by benefited landowners of the drainage system to the Drainage Inspector. The Drainage Inspector shall inspect the area where maintenance or repair is requested, shall document the inspection by creating an Inspection Report conforming to the requirements in Section 1.) of this policy, and shall categorize the request as “minor maintenance” or “major repairs.” “Minor maintenance” is any repair estimated to cost less than \$40,000. “Major repair” is any repair estimated to cost \$40,000 or more.”

Minor maintenance will be done on a request basis at the discretion of the Drainage Inspector. When minor maintenance is warranted and authorized pursuant to this policy, the Drainage Inspector shall make inspections of the work in progress and a final inspection after the work has been completed to ensure the maintenance has been made in a satisfactory manner. The Drainage Inspector shall submit all final Inspection Reports to the Board to be reviewed and ratified annually.

Repairs costing \$40,000 or more shall be brought to the full Drainage Authority for approval before any work is done. In the case of an emergency maintenance or repair costing \$40,000 or more, the Drainage Inspector may seek approval from the commissioner of the district where the work is being done to proceed, and later seek Drainage Authority ratification of the repair.

Notwithstanding the foregoing, maintenance or repairs that cost more than the greater of:

- (a) 20 percent of the benefits of the drainage system;
- (b) \$1,000 per mile of open ditch in the ditch system; or
- (c) The dollar amount requiring the solicitation of sealed bids under Minn. Stat. § 471.345, subd. 3

must be submitted to the Drainage Authority by petition under the procedures laid out in Minn. Stat. § 103E.715.

Scope of Work

All maintenance and repair requests will be reviewed to determine the appropriate limits of work that will return the drainage system to proper operating condition. Accordingly, work may extend downstream and upstream of an area that a request for repair occurs.

For maintenance or repairs initiated by the public, by the Drainage Inspector through an Inspection Report, or the Drainage Authority, the following rules will apply:

- (a) **Maintenance or Repairs costing less than \$40,000.** Maintenance or repairs which are estimated to cost less than \$40,000 may be completed by hiring labor through direct negotiation.
- (b) **Maintenance or Repairs costing more than \$40,000 but less than \$175,000.** For maintenance or repairs which are estimated to cost more than \$40,000 but less than the amount requiring the solicitation of sealed bids under section 471.345, subdivision 3, the Drainage Authority may give notice of and hold a public hearing on the repair levy before ordering the levy of an assessment for repairs. At its discretion, the Drainage Authority may provide formal notice to all benefited landowners and hold a public hearing, or the Drainage Authority may elect to direct the Drainage Inspector to organize an informal gathering of landowners to explain the details of the proposed maintenance or repair. After the hearing or informal meeting, the Drainage Inspector will prepare a proposal describing the work proposed and will solicit price quotes for the work from two or more contractors deemed capable of performing the work (based on past performance, familiarity, and judgement). Quotes will be reviewed at and considered for approval by the Drainage Authority at its next meeting.
- (c) Sealed bids shall be solicited by public notice for repairs estimated to cost more than the dollar amount requiring the solicitation of sealed bids under Minn. Stat. § 471.345, subd. 3. The opened bids will be reviewed and a successful bidder selected at a Drainage Authority meeting.

Informational/Policy Letter

To provide the public with information regarding ongoing construction in their area, an informational letter may be sent to landowners on a particular drainage system by the Drainage Inspector. This letter is usually specific to the ditch being repaired, which explains the estimated starting date, name of contractor, and description of the work being performed.

8.) Vegetation Control

The intent of vegetation control is primarily to prevent growth of any type of tree, brush, non-herbaceous vegetation or noxious weed within the ditch or its right-of-way as a method to reduce the frequency and cost of future maintenance and repairs. The Drainage Inspector may conduct an annual review of County Ditch Systems and after review will present a spraying program to the Drainage Authority for approval if the cost of spraying is greater than \$40,000.

Approved Chemicals

Any application of pesticide to a drainage system must be performed by a person certified by the Minnesota Department of Agriculture. This applies to contracted pesticide applicators, employees of the County, and landowners/operators spraying portions of the ditch adjacent to their property. The law requires that certified applicators are used anytime a “restricted use product” is applied, which encompasses most pesticides. Use of certified applicators also helps to ensure that the applicator is properly trained in selecting the appropriate pesticide, proper application of pesticides, and other protection measures. Certification also requires that the applicator be insured or bonded.

In addition to state certification, applicators should explicitly agree to comply with Minnesota Statutes, ch. 18B and all other laws and regulations. Specifically, an applicator should agree to apply the pesticide only in accordance with its label and in a manner that does not endanger the public, crops, livestock, or wildlife. The applicator should also agree not to fill containers directly from a public water or rinse containers in public water.

Only Minnesota Department of Ag approved chemicals will be applied to eliminate trees and brush within the ditch bank and within the 16.5 foot right-of-way. If a landowner sprays any of their own ditch with the drainage system, they also must use only approved chemicals for such an application.

Tree Growth

No person shall plant trees within the right-of-way of a drainage system or the permanent, perennial, vegetative buffer lawfully acquired and established through drainage proceedings.

No person shall plant trees within the easement area or right-of-way lawfully acquired and established on each side of the center line of a drainage tile line.

Tree Removal

Trees that need to be removed from a drainage system will be removed in a manner that will reduce erosion. Trees will be piled, burned, and buried when dry.

The landowner may have the option to remove all trees and brush in a drainage system right-of-way at the landowner's own expense and liability if the landowner notifies the Drainage Inspector of such request before maintenance or a repair contract is awarded. Landowners shall be liable for damage caused to the public drainage system by removal of trees and brush in the drainage system's right-of-way. If, upon inspection, the removal of the trees and brush is not performed to the Drainage Inspector's satisfaction, the Drainage Inspector may order the physical removal of trees or brush, or that chemical applications be utilized.

Mowing

The Board or Drainage Inspector may, if cost effective, consider using a mower to control weeds along a drainage system to prevent possible contamination of the water from spray. Mechanical removal of vegetation within the ditch system shall be kept to a minimum amount of material to facilitate water movement.

9.) Beaver Dam Removal

When beaver dams are reported or discovered, a trapper will be retained to remove the problem beaver. In order to be compensated, trappers will be responsible for providing the Drainage Inspector with the number of beaver trapped, along with their tails and documented information about where they were trapped. It is the trapper's responsibility to contact the DNR for appropriate approval for trapping beavers out of season, and to retain a valid trapper's license. The Drainage Authority will annually set the rate of payment for the removal of beaver. After the beaver have been removed, the Drainage Inspector may hire a contractor to remove the beaver dam(s) by mechanical means, if possible.

10.) Additional Drainage by Using Ditches and New Tile

Adding Drainage within the Drainage System

Landowners on the benefited property list are allowed to add drainage to the system from any acres that have been assessed benefits. It is the landowner's responsibility to find out if there are other rules or permits needed in their watershed. (Ex. Buffalo Creek Watershed, High Island Watershed)

Adding Drainage from Outside the Drainage System

Minn. Stat. ch. 103E prohibits any person from using a public drainage system as an outlet to drain land that is outside of the benefited area without first obtaining express permission from the Drainage Authority by filing a petition under Minn. Stat. § 103E.401. A municipality wishing to bring water into a drainage system can also petition for an outlet in accordance with Minn. Stat. § 103E.411.

11.) Drainage System Improvements

All improvements to a drainage system or drainage system outlet will follow Minn. Stat. §§ 103E.215 or 103E.221. Signed petitions and bonds will be required per Minn. Stat. § 103E.202. Petitioners will be required to pay all costs and expenses that may be incurred if the improvement proceedings are dismissed. Petitioners shall pay their own legal expenses. After contract for construction of a drainage project is awarded, petitioners may submit a claim for reasonable compensation for services actually performed by the petitioners' attorney.

12.) Removal of Property or Abandonment

Removal of property from the benefited area of drainage system, partial abandonment, or abandoning a drainage system will follow Minn. Stat. §§ 103E.805, 103E.806, or 103E.811. If the property is removed from the system, it shall not be liable for future repairs or improvements of the drainage system. The order removing property from a drainage system does not discharge the property's liability for existing drainage liens or from costs incurred on account of the drainage system before the date of the order.

13.) Drainage System Repair Funds

Pursuant to Minn. Stat. § 103E.735, the Drainage Authority may establish a maintenance repair fund for each of the drainage systems. The repair fund for each of the drainage systems may not exceed 20 percent of the most recent benefit determination, or \$100,000, whichever is greater. The Drainage Authority will be responsible for maintaining a reasonable balance in each account to allow for the payment of most repairs without borrowing funds from another account. The Drainage Inspector, in consultation with the County Auditor-Treasurer, will recommend annual assessments to the Drainage Authority for each drainage system. If land has drainage system benefits when it is sold and is assessed into the drainage system, the purchaser, even if it is a government entity or State or Federal Government, will be responsible for paying future assessments to the extent allowed by law.

14.) Permanent Strips of Perennial Vegetation

The Drainage Authority will follow the guidelines laid out in Minn. Stat. § 103E.021 in regard to permanent grass strips. In cases where Minn. Stat. § 103E.021 does not apply, the County will follow the Renville County Buffer Ordinance.

15.) Miscellaneous Drainage System Issues

Livestock

Livestock will not be allowed in a drainage ditch except to cross at approved locations. If livestock must cross a ditch, the preferred method is to have them cross at an installed crossing to prevent the livestock from entering the water. Livestock may be watered from a ditch but the access to the amount of ditch must be controlled. Livestock will be allowed to graze along the ditch banks for short periods of time. Owners wishing to graze the spoils and slopes must contact the Drainage Inspector to work out a rotation for the livestock to be allowed to graze.

Manure and Feedlot Runoff

All manure and feedlot runoff will follow the regulations set in Renville County Land Use Ordinance Chapter Eight, Feedlot and Manure Management Regulations.

Fences

No permanent fence may be installed closer than 16.5 feet from the crown of the spoils. If a fence was installed prior to the adoption of this policy and that fence is within the right-of-way of the drainage system or within the permanent, perennial, vegetative buffer acquired by drainage proceedings, the Drainage Inspector may do one of the following:

- (a) Provide the contractor with authority to remove the fence during the next maintenance or repair in the area; or
- (b) Direct the landowner to install a gate that will provide contractors with access to the drainage system right-of-way, permanent strip of perennial vegetation, and adjacent parcels.

Erosion-Pollution

If erosion areas are discovered, proper measures shall be taken to correct the problem. If erosion is discovered due to water entering the system over the spoil's bank, then a drop inlet pipe structure should be installed to drop water in the bottom of the ditch. See [Drop Inlet Structures](#).

**No Septic Systems will be allowed to discharge into a drainage system.*

Rock and Debris

Rock or debris will not be allowed to be dumped within the in-slope of a drainage ditch, or anywhere in the 16.5 foot buffer. Landowners will not be allowed to pile rock in the 16.5 foot buffer. The Drainage Authority shall have access to the entire system for repair and maintenance.

16.) Drainage System Finances

County drainage systems are established as standalone financial entities. Funding for drainage projects comes from the landowners benefitted by the system.

Drainage System Assessments

The Drainage Authority shall meet annually to discuss future maintenance and repairs, and to evaluate any necessary assessments to be imposed. The Drainage Inspector, in coordination with the County Auditor-Treasurer, will arrange the meeting and distribute any requisite notices.

The cost of any necessary large repairs will be evaluated and considered for purposes of determining the following year's assessment. Following the annual meeting and/or before the end of the current calendar year, the Drainage Inspector will work in coordination with the County Auditor-Treasurer to prepare annual assessment recommendations for Drainage Authority approval, and work with the Finance Coordinator to schedule adoption of the following year's assessments.

The County Auditor-Treasurer will assess all applicable parcels accordingly and post collected assessments to applicable parcels. The County Auditor-Treasurer shall maintain all records of applicable parcels for each system, and balances in each account.

Insufficient Funds

Annually, the Finance Coordinator will determine if any transfers are needed from the general fund to cover any negative drainage system fund balances and will provide the County Board with this information. The Board may transfer funds from the general fund to the applicable drainage system account(s). In accordance with Minn. Stat. § 103E.655, the money transferred, plus interest, must be reimbursed from the proceeds of the drainage system account; the interest rate will be established by the Board. Following Board approval to transfer such funds, the Finance Coordinator will process the request. The motion shall include the full amount of the transfer requested, applicable interest rate, and term for repayment. These transfers shall be processed and posted to ensure that drainage system accounts are not in a negative balance at year's end.

Drainage System Liens

If a loan made to a drainage system is expected to be paid back over the course of more than one year, or if bonds are issued for the payment of drainage system expenses, a lien may be considered. In such circumstances, the County Auditor-Treasurer shall certify the drainage lien statement and record with the County Recorder on each tract of property. Before establishment and recording of the drainage lien statement, the County Auditor-Treasurer shall provide notice to the affected landowners showing the total principal and interest due on each individual parcel, along with available options for pre-payment.

Each drainage lien shall include interest. The interest rate on a drainage lien must be set by the County Board, but may not exceed the rate determined by the State Court Administrator for Judgments under Minn. Stat. § 549.09. The interest and installment due must be entered on the tax lists for the year.

After recording the drainage lien, the County Auditor-Treasurer shall maintain a drainage lien record for each lien showing the amount of unpaid lien remaining on each parcel. Once a drainage lien with accumulated interest is paid, the County Auditor-Treasurer shall issue a Certificate of Payment, and record the certificate with the County Recorder. This may be done as a blanket drainage lien release for all parcels, or on an individual basis following a landowner request.

Reporting

The Finance Coordinator will send an Integrated Financial Systems (IFS) report of monthly activity on each drainage system account to the Drainage Inspector and County Auditor-Treasurer.

The Auditor-Treasurer's Office shall maintain the ditch account balances and make account and loan balances available upon request.

17.) Apportioning Benefits after Subdivision of Land

Minn. Stat. § 103E.631 provides the process for a person who has an interest in property that has a drainage lien attached to petition the Drainage Authority to apportion the lien among specified portions of the tract when the principal and interest on the property is not in default. Occasionally, land benefited by a drainage system is proposed to be subdivided when no drainage lien is presently attached. Apportioning the benefits among specified portions of the tract concurrent with the tract being subdivided allows for the orderly and accurate levy of future maintenance and repair assessments. The following process will be utilized to apportion drainage liens and drainage benefits among specified portions of a tract.

- (1) When a tract of benefited land is proposed to be subdivided, the County Auditor-Treasurer, with the assistance of the Drainage Inspector, will review the drainage system records and propose an apportionment of benefits among specified portions of the tract that reasonably represents the benefits received by each portion of the parcel. The County Auditor-Treasurer shall prepare a Notice of Proposed Apportionment of Drainage System Benefit and send the notice via certified mail to the owners of the sub-divided property.
- (2) The Notice of Proposed Apportionment of Drainage System Benefit shall propose an apportionment of the drainage lien or benefits as determined by the County Auditor-Treasurer, in consultation with the Drainage Inspector. Any owner of the sub-divided property who disagrees with the proposed Apportionment may petition the drainage authority for an apportionment under Minn. Stat. § 103E.631 within 30 days of the date of the notice.
- (3) If a petition for apportionment is received by the Drainage Authority, the Drainage Authority will, by order, set a time and location for a public hearing on the petition and give notice of the public hearing by personal service to the occupants of the tract and all parties having an interest in the tract as shown by the records in the County Recorder's office. Service shall be made at least ten days before the hearing. If personal service cannot be made to all interested persons, notice may be given by publication. The petitioner shall pay the costs for service or publication. The Drainage Authority shall hear all related evidence and, by order, apportion the benefits or lien. If a lien is apportioned, a certified copy of the order will be recorded in the County Recorder's office and filed with the County Auditor-Treasurer. The apportionment order of the benefits or lien will become part of the drainage system records.
- (4) If a petition for apportionment is not received by the Drainage Authority within 30 days of the date of the notice, the County Auditor-Treasurer shall revise the benefits on record with the system or record an order apportioning the recorded drainage lien consistent with the proposed apportionment, as appropriate.