

**BY-LAWS**  
**OF**  
**AGASSIZ WATER USERS DISTRICT**

**ARTICLE I**

**Section 1.** Agassiz Water Users District is established for the specific purpose of operating a rural water distribution system in the manner as provided in NDCC 61-35-02.

**ARTICLE II**

**NAME AND LOCATION**

**Section 1.** Agassiz Water Users District is the successor in interest of Agassiz Water Users, Inc., a non-profit corporation of the State of North Dakota pursuant to a Certificate of Corporation issued by the Secretary of the State of North Dakota on the 2<sup>nd</sup> day of June, 1971.

**Section 2.** Said Agassiz Water Users, Inc. operated as such non-profit corporation until the 1<sup>st</sup> Day of January, 2000 when the North Dakota State Engineer, in pursuance to the North Dakota Century Code 61-35-07, dissolved the non-profit corporation, Agassiz Water Users, Inc., and created the Agassiz Water Users District pursuant to the provision of North Dakota Century code 61-35-02.

**Section 3.** The details related to dissolution of the Agassiz Water Users, Inc., and the creation of Agassiz Water Users District is recited in the formal document of the Office of the State Engineer. This document is known as the Matter of the establishment of Agassiz Water Users District which contains:

- a.** The Findings of Fact, Conclusions, and Administrative Order No. 99-8, signed therein by the North Dakota State Engineer, David A Sprynczynatyk, on the 29<sup>th</sup> day of October 1999.
- b.** A copy of the foregoing Findings of Fact, Conclusions, and Administrative Order is incorporated into the within By-laws of the Agassiz Water Users District and is made a part of these By-laws.

**Section 4.** The principle office of this District shall be located in the City of Gilby, County of Grand Forks, State of North Dakota.

**ARTICLE III**

**FISCAL YEAR**

The Fiscal year of the District shall begin on the 1<sup>st</sup> day of January of each year.

**ARTICLE IV**  
**MEMBERSHIP**

**Section 1.** Every person (which word as used herein includes any legal entity) who is a record owner of a fee or undivided fee interest, or having a substantial possessory interest, in a property served by the water system may become a member of the district upon signing such applications and agreements for the purchase of water as may be provided and required by the district, and upon the payment of such connection fee as may be imposed by the board of Directors, provided that only one membership at a time may be held for each property served. A single membership may be issued to all persons owning or having a substantial possessory interest in the property. Only one membership may be held with respect to property at one time. The Board of Directors shall cause to be issued appropriate certificates of membership, provided that membership shall not be denied because of the applicant's race, color, creed, or national origin. Membership may be denied if capacity of the district's water system is exhausted by the need of its existing members, or if the proposed use of the applicant is such that it would interfere with existing uses previously authorized by the Board of Directors.

- (1)** Before membership is allowed to one or more persons claiming such an interest, the district will endeavor to obtain the application for membership from the owner of such property.
- (2)** Where membership is granted to one or more persons having a substantial possessory interest, the district as a condition to the membership may require such applicant to post such collateral or bond as the directors determine necessary to fully protect the district from any additional risk that may be involved to the district by reason of the lack of legal ownership in the applicant.

**Section 2.** Each member shall have only one membership for each property served, regardless of the number of service connections he may obtain to serve his property. Each membership certificate shall represent one vote. When more than one person holds the interest in a property served, the vote shall be exercised by the person in whose name the certificate is registered or by such person as the several persons may designate, but in no event shall more than one vote be cast with respect to any property.

**Section 3.** Membership shall be transferable, but the transfer will be effective only when noted on the books of the district. Such transfer will be made only to a person who obtains a qualifying interest in the property. A member will transfer his membership in the district to his successor in interest as part of the transaction whereby he disposed of his interest to said property. The secretary, upon request, will make note of such transfer upon the records of the district but need not issue a new certificate to the successor in interest of the previous existing member.

**Section 4.** When membership in the corporation is not transferred, it shall terminate upon disposition or other termination of the member's interest in the property, regardless of whether or not the certificate is surrendered to the corporation. Membership also may be terminated by action of the Board of Directors where the use of the property is changed so as to materially increase the amount of water consumed to the prejudice of other existing member or to the prejudice of the orderly operation of the system.

**Section 5.** The termination of the membership of any member shall not disqualify for membership any other person who has or obtains an interest in the property of the terminated member and who otherwise meets the requirement of these By-laws.

**Section 6.** In the event a member's property interest is divested other than by voluntary means, such member's membership will pass to the trustee, receiver, executor, or the like who will be entitled with in person or through a designated representative to exercise all of the rights incident to such membership, by subject to such duties and liabilities also applicable to the membership. The trustee, receiver, executor, or the like, may terminate such membership by written notice to such effect delivered or mailed to the secretary of the district. Upon the final disposition of such property rights, the owner thereof shall be entitled to him by the original member as set forth in sections 4, above.

**Section 7.** Upon the transfer of a membership, the district will not look to the successor in interest for the payment of any past due amounts. The district will seek collections only from the individual who incurred such charges or assessments or from the property itself if a judgment lien had been duly perfected against such property.

## **ARTICLE V**

### **MEMBERSHIP CERTIFICATES**

**Section 1.** Membership in the district shall be represented by membership certificates. Such certificates shall represent the right to use and enjoy the benefits of the district's water supply system upon the payment of necessary assessments, if any and of reasonable charges based upon such use, provided such use and enjoyment are consistent with the rules, regulations, and contracts affecting the same as may from time to time be prescribed by the Board of Directors.

**Section 2.** A membership certificate shall be issued to each holder of full paid membership, and bear on its face the following statements:

The membership certificate is issued and accepted in accordance with and subject to the conditions and restrictions stipulated in the By-laws of the District and By-laws and Amendments to the said of Agassiz Water Users District.

**Section 3.** Following January 1, 2000, new membership certificates shall not be required of all members of the former non-profit corporation. The newly formed water district herein, shall recognize that all membership certificates of Agassiz Water Users, Inc. shall be in force and effect in the Agassiz Water Users District, the successor legal entity.

## **ARTICLE VI**

### **MEETING OF MEMBERS**

**Section 1.** The Annual Meeting of the members of this district shall be held at the City of Manvel, County of Grand Forks, State of North Dakota, at 7:00 o'clock PM, on the third Wednesday of April, each year. The place, day and time of the annual meeting may be changed to any other convenient place, day and time in the County by the board of Directors giving notice thereof to each member not less than ten (10) days in advance thereof.

**Section 2.** Special meeting of the members be called at any time by the action of the Board of Directors and such meetings must be called whenever a petition requesting such meeting is signed by at least ten percent of the members and presented to the secretary or to the Board of Directors. The purpose of every special meeting shall be stated in the notice thereof, and no business shall be transacted thereat except such as is specified in the notice.

**Section 3.** Notice of meetings of members of the district, both regular and special, shall be given by notice mailed by first class mail to each member of record, directed to the address shown upon the books of the district, not less than ten (10), nor more than forty (40) days prior to such meeting. Such a notice shall state the nature, time, place and purpose of the meeting, but no failure or irregularity of notice of any annual meeting, regularly held, shall affect any proceedings taken thereat.

**Section 4.** The presence at a meeting of the members entitled to cast in their own right or by proxy – ten percent (10%) of the total number of votes shall constitute a quorum. All proxies shall be in writing and filed with the secretary. Such proxies may be general or restrictive. Proxies shall be revocable and shall not be valid beyond 11 months, nor after termination of the membership by cessation of the member's interest in the property.

**Section 5.** Directors of this district shall be elected at the annual meeting of the members as provided in Article VIII 1. No cumulative voting shall be allowed.

**Section 6.** The order of business at the regular meeting and so far as possible at all other meetings shall be:

1. Calling to order and proof of quorum.
2. Proof of notice of meeting.
3. Reading and action on any unapproved minutes.

4. Reports of officers and committees.
5. Election of directors.
6. Unfinished business.
7. New business
8. Adjournment.

## **ARTICLE VII**

### **DIRECTORS AND OFFICERS**

**Section 1.** The Board of Directors of this district shall consist of 7 members, all of whom shall be members of the district. Each director shall serve for a term of three years. Three (3) directors shall be elected at the first Annual Meeting of the Members. Two (2) directors shall be elected at the second Annual Meeting of the Members, and two (2) directors shall be elected at the third Annual Meeting of the Members.

**Section 2.** The Board of Directors shall meet within ten (10) days after the annual election of directors and shall elect a president and vice-president from among themselves and a secretary-treasurer who need not be a member of the Board of Directors, each of whom shall hold office until the next annual meeting and until the election and qualification of his successor unless soon removed by death, resignation or for cause.

**Section 3.** If the office of any director becomes vacant by reason of death, resignation, retirement disqualification or otherwise, except by removal from office, a majority of the remaining directors, though less than a quorum shall, by a majority vote, choose a successor who shall hold office until the next regular meeting of the members of the district, at which time the members shall elect a director for the unexpired term of terms, provided that in the call of such regular meeting a notice of such election shall be given.

**Section 4.** A majority of the Board of Directors shall constitute a quorum at any meeting of the board. The affirmative vote of the majority of the directors as a meeting at which a quorum is present shall be the act of the Board. The monthly meeting of the Board of Directors shall be held at the District Office in Gilby, and 9:00 o'clock AM on the third Wednesday of each month.

**Section 5.** Compensation of officers may be fixed at any regular or special meeting(s) of the members of the District. Directors shall receive no compensation for their service as such, excepting that officers and directors shall be compensated for any out-of-pocket expenses they may incur in connection with any services or travel required of them, subject to the approval of the Board of Directors at large.

**Section 6.** Officers and Directors may be removed from office in the following manner: Any member, officer or director may present charges against a director or officer or director may present charges against a director by filing them in writing with the secretary of the district. If presented by a member, the charges must be

accompanied by a petition signed by ten percent of the members of the district. Such removal shall be voted on at the next regular or special meeting(s) of the members and shall be effective if approved by a vote of a majority of those voting if a quorum is present. The director of officer against whom such charges have been presented shall be informed, in writing, of such charges at least twenty days prior to the meeting, and shall have the opportunity at such meeting to be heard in person or by counsel and to present witnesses; and the person or persons presenting such charges against him shall have the same opportunity. If the removal of a director is approved, such action shall also vacate any other office held by the removed director in the district. A vacancy in the board thus created shall immediately be filled by a vote of a majority of the members present and voting at such meeting. A vacancy in any office thus created shall be filled by the Board of Directors from among their number so constituted after the vacancy in the Board has been filled.

**ARTICLE VIII**  
**DUTIES OF DIRECTORS**

**Section 1.** The Board of Directors, subject to restrictions of law, and these by-laws, shall exercise all of the powers of the district, and, without prejudice to or limitation upon their general powers, it is hereby given, full power and authority in respect to the matters as hereinafter set forth to be exercised by resolution duly adopted by the Board:

- a. To approve membership applications and to cause to be issued appropriate certificates of membership. The Board may make binding commitments to issue membership certificates and to permit the connection of properties to the system in the future in cases involving proposed construction or may issue such certificates prior to the commencement of the proposed construction.
- b. To select and appoint all officers, agents, or employees of the district, remove such agents or employees of the district, prescribe such duties and designate such powers as may not be inconsistent with these By-laws, fix their compensation and pay for faithful services.
- c. To borrow from any source, money, goods or services and to make and issue notes and other negotiable or nonnegotiable instruments evidencing indebtedness of the district; to make and issue mortgages, deeds of trust, pledges of revenue, trust agreements, security agreements and financing statements, and other instruments evidencing a security interest in the assets of the district; and, to do every act and thing necessary to effectuate the same.
- d. To prescribe, adopt and amend, from time to time, such equitable uniform rules and regulations as, in its discretion, may be deemed essential or convenient for the conduct of the business and affairs of the

corporation and the guidance and control of its officers and employees, and to prescribed adequate penalties for the breach thereof.

- e. To order, at least once each year, an audit of the books and accounts of the district by a competent public auditor or accountant. The report prepared by such auditor shall be submitted to the members of the district at their annual meeting, together with a proposed budget for the ensuing year. Copies of such audits and budgets shall be submitted to such parties as may be required by other agreements.
- f. To fix and alter the charges to be paid by each member for services rendered by the corporation to the member, including connections fees where such are deemed to be necessary by the directors, and to fix and alter the method of billing, time of payment, manner of connection, and penalties for late or non-payment of same. The Board may establish one or more classes of users. All charges shall be uniform and nondiscrimination within each class of users.
- g. To require all officers, agents and employees charged with responsibility for the custody of any of the funds of the district, and it shall be mandatory upon the directors to so require.
- h. To select one or more banks to act as depositories of the funds of the district and to determine the manner of receiving, depositing, and disbursing the funds of the corporation and the form of checks and the person or persons by whom the same shall be signed, with the power to change such banks and the person or persons signing checks and the form thereof at will.
- i. To levy assessments against the members of the district in such manner and upon such proportionate basis as the directors deem equitable and to enforce collection of such assessments by the suspension of water service or other legal methods. The Board of Directors shall have the option to suspend the service of any member who has not paid such assessments within 30 days from the date the assessment was due, provided the district must give the member at least 15 days written notice at the address of the member on the books of the district of its intention to suspend such service if the assessment is not paid. Upon payment of such assessments, any penalties applicable thereto, and a reconnection charge, if one is in effect, service will be promptly restored to such a member.

## **ARTICLE VIII**

### **DUTIES OF OFFICERS**

**Section 1.** Duties of President. The President shall preside over all meetings of the District and the Board of Directors, call special meetings of the Board of Directors, perform all acts and duties usually performed by an executive and presiding officer, and sign all membership certificates and such other papers of the district as he may be authorized or directed to sign by the Board of Directors, provided the Board of Directors may authorize

any person to sign any or all checks, contracts and other instruments in writing on behalf of the district. The President shall perform such other duties as may be prescribed by the Board of Directors.

**Section 2.** Duties of vice President. In the absence of disability of the president, the vice-president shall perform the duties of the president, provided, however, that in case of death, resignation or disability of the president, the Board of Directors may declare the office vacant and elect his successor.

**Sections 3.** Duties of the Secretary-Treasurer. The Secretary-Treasurer shall keep a complete record of all meetings of the district and of the Board of Directors and shall have general charge and supervision of the books and records of the corporation. He shall attest the president's signature on all membership certificates and other papers pertaining to the corporation, unless otherwise directed by the Board of Directors. He shall serve, mail, or deliver all notices required by law and by these by-laws and shall make a full report of all matters and business pertaining to his office to the members at the annual meeting or at such other time or times as the Board of Directors may require. He shall keep the membership certificate records of the district, and complete and attest all certificates issued. He shall keep a proper membership certificate records, showing the name of each member of the district and date of issuance, surrender, transfer, termination, cancellation, or forfeiture. He shall make all reports required by law and shall perform such other duties as may be required of him by the district of the board of directors. Upon the election of this successor, the Secretary-Treasurer shall turn over to him all books and other property belonging to the district that he may have in his possession. He shall also perform such duties with respect to the finances of the district as may be prescribed by the board of directors.

## **ARTICLE X**

### **BENEFITS AND DUTIES OF MEMBERS**

**Section 1.** The District shall install, maintain, and operate a main distribution pipeline or lines from the source of the water supply and service lines from the main distribution pipeline or lines to the property line of each member of the corporation, at which points, designated as delivery points, meters to be purchased, installed, owned and maintained by the district shall be placed. The cost of the service line or lines from the main distribution pipeline or lines of the corporation to the property line of each member shall be paid by the district. The District also may purchase and install a cutoff valve in each service line from its main distribution line or lines, such cutoff valve to be owned and maintained by the District and to be installed on some portions of the service lined owned by the District. The District shall have the sole and exclusive right to use of such cutoff valve. However, the provisions of this section shall not be construed to require the acquisition or installation of meters of cutoff valves where the directors determine under the circumstances of the system and the nature of



the membership that the use of either or both of such devices is impractical, unnecessary to protect the system and the rights of the membership, and/or economically not feasible.

**Section 2.** Each member will be required at his own expense, to have a dug a ditch for the connection of the service line or lines from the property line of the member to his dwelling or other portion of his premises, and to purchase and have installed, the portion of the service line or lines from his property line to the place of use on his premises. The member will maintain such portions of such service line or lines which shall be owned by the member, at his own expense. The corporation may, if the Board of Directors so determines, purchase the pipe for and install such portion of such service line or lines, the cost of which will, however, be paid by the individual members. In addition, each member shall pay such connections charge, if any, as may have been imposed by the Board of Directors before such member will be entitled to receive water from the system.

**Section 3.** Each member may be permitted to have additional service lines from the corporation's water system in the discretion of the Board of Directors upon proper application therefor and the tender of payment not to exceed the then existing connection charge. The approval by the Board of Directors of additional service lines to an existing member may be made conditional upon such provisions as the Board of Directors determines necessary to protect the interest of other members and to allow for the orderly expansion and extension of the system to serve other property that may need service along the distribution lines of the system. Each service line shall connect with the corporation's water system at the nearest available place to the place of desired use by the member if the corporation's water system has sufficient capacity to permit the delivery of water through a service line at the point without interfering with the delivery of water through a prior service line. If the corporation's water system is inadequate to permit the delivery of water through a service line installed at such place without interfering with the delivery of water through a prior service line, then such service line shall be installed at such places designated by the District.

**Section 4.** Each member may be permitted to purchase from the district, pursuant to such agreement as may from time to time be provided and required by the district, such water as is needed by him for domestic, commercial, agricultural, industrial, or other purposes as a member may desire, subject, however, to the provisions of these by-laws and to such rules and regulations as may be prescribed by the Board of Directors. Each member shall be entitled to have delivered to him through his service lines only such water as may be necessary to supply the needs of each member, including his family, business, agricultural or industrial requirements. The water delivered through each service line may be metered separately and the charges for such water may be determined separately, irrespective of the number of service lines owned by a meter.

**Section 5.** In the event the total water supply shall be insufficient to meet all of the needs of the members or in the event there is a shortage of water, the district may prorate the water available among the various members

on such basis as is deemed equitable by the Board of Directors, and may also prescribe a schedule of hours covering use of water for commercial, agricultural or industrial purposes by particular members and require adherence thereto or prohibit the use of water for commercial, agricultural or industrial purposes, provided, that is at any time the total water supply shall be insufficient to meet all the needs of all of the members for domestic, livestock, commercial, agricultural or industrial purposes, provided, that if at any time the total water supply shall be insufficient to meet all the needs of all of the members for domestic, livestock, commercial, agricultural or industrial purposes, the District must first satisfy all of the reasonable needs of the members for domestic purposes before supplying water for livestock purposes and must satisfy all of the needs of all of the members for domestic and livestock purposes before supplying any water for commercial or industrial purposes; and, provided further, that where a member had more than one service line, the corporation may cut off the flow of water to the nondomestic service lines until such time as the supply of water from the system is sufficient to meet the needs of all of the members for domestic, livestock and garden purposes. During such periods of shutoff of additional service lines, there shall be no minimum fee charged to the members having such additional service lines and the cost, if any, of resuming the flow of water to such additional service lines shall be borne by the corporation.

**Section 6.** The Board of Directors shall, prior to the beginning of each calendar year, determine the flat minimum monthly rate to be charge each member during the following calendar year for a specified quantity of water, such flat minimum monthly rate to be payable irrespective of whether any water is used by a member during any month, the amount of additional charges, if any, for additional water which may be supplied the members, and the amount of penalty for late payments, and shall fix the date for the payment of such charges. A member to be entitled to the delivery of water shall pay such charges at the office designated by the corporation at or prior to the dates fixed by the Board of Directors. The failure to pay water charges duly imposed shall result in the automatic imposition of the following penalties.

- a. Nonpayment within ten days from the due date will be subject to a penalty of ten (10) percent of the delinquent account, which percent may be changed at the discretion of the Board of Directors.
- b. Nonpayment within thirty days from the due date will result in the water being shut off from the member's property without any notice thereof to such delinquent member. Upon the payment by the delinquent member of past due water charges, penalties thereon, any reconnection charge, such member shall be entitled to resumption of the water supply. During the time of such suspensions of water to a member, such member shall have no right to vote in the affairs of the district.

**Section 7.** The Board of Directors shall be authorized to require each member to enter into water users agreements which shall embody the principles set forth in the foregoing provisions of these By-laws.

**ARTICLE XI**

**DISTRIBUTION OF SURPLUS FUNDS**

It is not anticipated that there will be any surplus funds or net income to the district as the end of the fiscal year after provisions are made for the payment of the expenses of operation and maintenance and the funding of the various reserves for depreciations, debt retirement, and other purposes, including those required by the terms of any borrowing transaction. In the event there should exist such surplus funds or net income, they may be placed in an existing or new reserve account to be used for the early retirement of any outstanding indebtedness or be used for the improvement and/or extension of the district facilities as the Board of Directors may determine to be in the best interest of the district and to the extent not otherwise provided for by any contractual arrangement. The occurrence in subsequent fiscal years of surplus funds or net income above the requirement of the district as above mentioned, including if any, a reserve for improvements and extension of the facilities, shall be taken into consideration by the Board of Directors in determining the water rates to be charged the members.

**ARTICLE XII**

**AMENDMENTS**

These By-laws may be repealed or amended by a vote of a majority of the members present at any regular meeting of the District, or at any special meeting of the District called for that purpose. The members shall not have the power to change the purposes of the District so as to decrease its rights and powers under the laws of the state, or to waive any requirement of bond or other provision for the safety and security of the property and funds of the district or its members, or so to amend the By-laws as to effect a fundamental change in the policies of the District.

**ARTICLE XIII**

**DISSOLUTION**

In the event the District herein, Agassiz Water Users District, should cease operations for the purposes for which it was created, for any reason, and should no longer operate a water distribution system, for any reason, so that the purposes for which it was created, cease to exist; and should that even occur, and should the said Agassiz Water Users District then have in its possession, any remaining assets of any kind and description, including money on deposit, securities of any kind, and possess and own any personal property or chattels, and

own any real estate, or interest in real estate, including easements of rights-of-way, and own any other property such as underground pipes, water wells or any property of any kind and description; all such property described above shall then be disposed of in accordance with NDCC 61-35-02.

We certify that the foregoing By-laws were duly adopted by the members on the 22nd day of March 2000, that the same are in full force and effect and have not been amended.

Given under our hands, this 21<sup>st</sup> day of August 2019.

AGASSIZ WATER USERS DISTRICT

\_\_\_\_\_  
Eric Stanislowski, President

ATTEST:

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Diane McDonald, Secretary-Treasurer