



**DATE:** June 8, 2023

**TO:** Technical Advisory Committee and Interested Stakeholders

**FROM:** Elizabeth Hosch, CRWD  
Nicole Maras, RWMWD

**SUBJECT: Rule Amendment Review and Comment Period**

The Ramsey-Washington Metro Watershed District (RWMWD) and Capitol Region Watershed District (CRWD) adopted stormwater management rules effective October 1, 2006. Since then the Technical Advisory Committee (TAC) has routinely convened to review the rules and provide comments on potential amendments to the rules. Preliminary comments were requested from the TAC in Feb-Mar 2023, and a number of items were brought before the TAC at a scheduled Q&A session in May 2023. The attached Draft Rules documents with tracked changes are provided to reflect items previously presented as well as preliminary comments and suggestions given by the TAC to date.

The Districts will now accept further comments on the draft rules during a 45-day comment period which will end July 24, 2023. Please submit comments to: [ehosch@capitolregionwd.org](mailto:ehosch@capitolregionwd.org) or [nicole.maras@rwmwd.org](mailto:nicole.maras@rwmwd.org) by this date.

Each District will hold a public hearing to accept comments on the draft rules. The CRWD public hearing is scheduled for June 28, 2023 at 6:00pm at the CRWD office (595 Aldine St, St. Paul). The RWMWD public hearing is scheduled for June 28, 2023 at 6:30pm at the RWMWD office (2665 Noel Dr, Little Canada) or remotely via Zoom meeting link. Comments provided at either meeting will be shared with the other district, in addition to any written comments submitted during the comment period. A final response to comments will be prepared and distributed to the TAC.

Final rules are expected to go into place late summer or early fall 2023. Linear cost cap and stormwater impact fund rates will be set by resolution effective January 1, 2024.

Please contact Elizabeth or Nicole with any questions through the comment period.

# Ramsey-Washington Metro Watershed District Rules

Adopted 09/06/2006

Revised 06/05/2019

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## Certification of Rules

I, Pamela Skinner, Secretary of the Ramsey-Washington Metro Watershed District Board of Managers, certify that the attached is a true and correct copy of the Rules of the Ramsey-Washington Metro Watershed District having been properly adopted by the Board of Managers of the Ramsey-Washington Metro Watershed District.

Dated: June 5, 2019

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## General Policy Statement

The Ramsey-Washington Metro Watershed District (District) is a political subdivision of the State of Minnesota, established under the Minnesota Watershed Law, Minnesota State Statute 103d. The District is also a watershed management organization as defined under the Minnesota Metropolitan Water Management Program and is subject to its directives and authorizations. Under the Watershed Law and the Metropolitan Water Management Program, the District exercises a series of powers to accomplish its statutory purposes. The District's general statutory purpose as stated in 103d.201 is to conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources.

As required under the Metropolitan Water Management Program, the District has adopted a Watershed Management Plan, which contains the framework and guiding principles for the District in carrying out its statutory purposes. It is the District's intent to implement the Plan's goals and policies in these rules.

Land alteration affects the rate, volume, and quality of surface water runoff which ultimately must be accommodated by the existing surface water systems within the District. The watershed is 65 square miles and highly urbanized.

Land alteration and urbanization has and can continue to degrade the quality of runoff entering the waterbodies of the District due to non-point source pollution. Sedimentation from ongoing erosion processes and construction activities can reduce the hydraulic capacity of waterbodies and degrade water quality. Water quality problems already exist in all the lakes and other water resources throughout the District. The Mississippi River is the principal receiving water for all runoff from the District and is listed by the Environmental Protection Agency (EPA) and Minnesota Pollution Control Agency (MPCA) as "impaired".

Projects that do not address the increased rate or volume of stormwater runoff from urban development can aggravate existing flooding and water quality problems and contribute to or create new ones. Projects which fill floodplain or wetland areas without compensatory storage can aggravate existing flooding by reducing flood storage and hydraulic capacity of waterbodies, and can degrade water quality by eliminating the filtering capacity of those areas.

In these rules the District seeks to protect the public health and welfare and the natural resources of the District by providing reasonable regulation of the District's lands and waters: 1) to reduce the severity and frequency of flooding and high water; 2) to preserve floodplain and wetland storage capacity; 3) to improve the chemical, physical and

biological quality of surface water; 4) to reduce sedimentation; 5) to preserve waterbodies' hydraulic and navigational capacity; 6) to preserve natural wetland and shoreland features; and 7) to minimize future public expenditures to avoid or correct these problems.

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## **Relationship of Ramsey-Washington Metro Watershed District to Municipalities**

The District recognizes that the primary control and determination of appropriate land use is the responsibility of the municipalities. Accordingly, the District will coordinate permit application reviews involving land development with the municipality where the land is located.

The District intends to be active in the regulatory process to ensure that water resources are managed in accordance with District goals and policies. ~~The District intends to begin implementing these rules effective June 5, 2019. All developments that do not have municipal approval on or before June 5, 2019 will require a District permit under these rules.~~ Municipalities have the option of assuming a more active role in the permitting process after the adoption of a local water management plan approved by the District, and by adopting and implementing local ordinances consistent with the approved plan.

The District will also review projects sponsored or undertaken by municipalities and other governmental units, and will require permits in accordance with these rules for governmental projects which have an impact on water resources of the District. These projects include but are not limited to: land development, road, trail, and utility construction and reconstruction.

The District desires to serve as technical advisor to the municipalities in their preparation of local surface water management plans and the review of individual development proposals prior to investment of significant public or private funds. To promote a coordinated review process between the District and the municipalities, the District encourages the municipalities to involve the District early in the planning process.

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## **Rule A: DEFINITIONS**

For the purposes of these rules, unless the context otherwise requires, the following words and terms have the meanings set forth below.

References in these Rules to specific sections of the Minnesota Statutes or Rules include any amendments, revisions or recodification of such sections. References in these Rules to manuals, plans, rules, assessments, modeling methods, technical guidance or District policies shall include any revisions or amendments.

The words “shall” and “must” are mandatory; the word “may” is permissive.

**Adjacent-** An area of land that has a common boundary or edge with a water resource or development.

**Alteration or Alter-** When used in connection with public waters or wetlands, any activity that will change or diminish the course, current, or cross-section of public waters or wetlands.

**Applicant-** Any person, entity, or political subdivision that submits an application to the District for a permit under these Rules.

Approval: Date of RWMWD Board action, including approval with any conditions.

**Atlas 14-** National Oceanic and Atmospheric Administration's (NOAA) precipitation event frequency and magnitude estimates (replaces TP-40).

**Banking Credits-** Volume reduction in excess of the standard requirement for use on subsequent projects that are unable to meet the standard requirement onsite.

**Beltline Interceptor-** That portion of the Beltline Storm Sewer that is owned and operated by the District.

**Best Management Practices (BMPs)-** Measures taken to minimize negative effects on the environment including those documented in the Minnesota Stormwater Manual.

**Board or Board of Managers-** The Board of Managers of the Ramsey-Washington Metro Watershed District.

**Clean Water Act-** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

**Common Plan of Development or Sale-** A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur.

**Compensatory Storage-** Excavated volume of material below the floodplain elevation required to offset floodplain fill.

**Criteria-** Specific details, methods and specifications that apply to all permits and reviews and that guide implementation of the District's goals and policies.

**Critical Duration Storm Event-** Storm duration that produces the largest peak discharge rates within a channel or storm sewer system and the highest water surface elevation within a water body.

**Development-** Any land disturbance, redevelopment affecting land, or creation/replacement of impervious surface, including but not limited to, road and/or parking lot construction or reconstruction.

Disconnected Impervious- Impervious surface that directs runoff to adjacent pervious areas where it can be infiltrated.

**District-** The Ramsey-Washington Metro Watershed District established under the Minnesota Watershed Law, Minnesota Statutes Chapter 103D.

**Drainage Way-** All water conveyance systems including but not limited to storm sewers, ditches, culverts, and open channels.

**Erosion-** The wearing away of the ground surface as a result of wind, flowing water, ice movement, or land disturbance.

**Erosion and Sediment Control Plan-** A plan of BMPs or equivalent measures designed to control runoff and erosion and to retain or control sediment on land during the period of land disturbance in accordance with the standards set forth in these Rules.

**Excavation-** The artificial displacement or removal of soil or other material.

**Fill-** The deposit of soil or other earth materials by artificial means.

**Floodplain-** The area adjoining a watercourse or natural or man-made water body, including the area around lakes, marshes, and lowlands, that is inundated during a 100-year flood.

**Freeboard-** The vertical distance between the regulatory high water elevation calculated by hydrologic modeling and the regulatory elevation on a structure or roadway.

**Gross Pollutants-** Larger particles of litter, vegetative debris, floatable debris, and coarse sediments in stormwater runoff.

**Habitable-** Any enclosed space usable for living or business purposes, which includes but is not limited to: working, sleeping, eating, cooking, recreation, office, office storage, or any combination thereof. An area used only for storage incidental to a residential use is not included in the definition of "Habitable."

**Hazardous Materials-** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**Illicit Connection-** An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including but not limited to: any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a political subdivision; or
2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by a political subdivision.

**Illicit Discharge-** Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Paragraph 5 of Rule G in these Rules.

**Impaired Waters-** A waterbody that does not meet water quality standards and designated uses because of pollutant(s), pollution, or unknown causes of impairment.

**Impervious Surface-** A surface compacted or covered with material so as to be highly resistant to infiltration by runoff. Impervious surface shall include roads, driveways and parking areas, sidewalks or trails greater than three feet wide, whether or not paved, patios, tennis and basketball courts, ~~swimming pools~~, buildings with roofs, covered decks and other structures.

**Infiltration-** A stormwater retention method for the purpose of reducing the volume of stormwater runoff by transmitting a flow of water into the ground through the earth's surface.

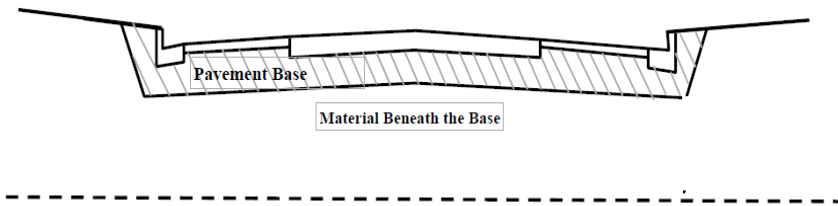
**Infiltration Area-** An area set aside or constructed where stormwater from impervious surface runoff is treated and disposed of into the soil by percolation and filtration, and includes but is not limited to: infiltration basins, infiltration trenches, dry wells, underground infiltration systems, and permeable pavement.

**Iron-Enhanced Sand-** Any Best Management Practices (BMPs) that incorporate filtration media mixed with iron to remove dissolved phosphorus from stormwater.

**Land Disturbance-** Any activity ~~on a property~~ that results in a change or alteration in the existing ground cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include but are not limited to: development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, stockpiling, excavation, and borrow pits. ~~Routine vegetation management and pavement milling/overlay activities that do not disturb the material beneath the pavement base will not be considered land disturbance (see example below). In addition, in-kind catch basin and pipe repair/replacement done in conjunction with a mill/overlay project shall not be considered land disturbance.~~

**Pavement Example:**

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Linear Cost Cap- Maximum required costs specific to satisfying the onsite volume reduction and water quality standards for linear projects

**Linear Project-** Roads, trails, and sidewalks that are not part of a common plan of development or sale.

**Low Floor-** The floor of the lowest enclosed area including the basement. An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area shall not be considered a building's lowest floor.

**Low Opening-** The elevation of the lowest hydraulically connected entry point to a structure such as a door or window.

**Municipal Separate Storm Sewer System (MS4)-** The conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutter, ditches, man-made channels, or storm drains):

1. Owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian organization, or a designated and approved management Agency under section 208 of the Clean Water Act (33 U.S.C § 1288) that discharges to waters of the United States;
2. Designed or used for collecting or conveying stormwater;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR § 122.2.

**Municipality-** Any city wholly or partly within the Ramsey-Washington Metro Watershed District.

**National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit-** A permit issued by the Minnesota Pollution Control Agency that authorizes the discharge of pollutants to waters of the State.

**Non-Point Source Pollution-** Pollution that enters a water body from diffuse origins in the watershed and does not result from discernable, confined, or discrete conveyances.

**Non-Stormwater Discharge-** Any discharge to the storm drain system that is not composed entirely of stormwater.

~~NURP- Nationwide Urban Runoff Program developed by the EPA to study stormwater runoff from urban development.~~

**Ordinary High Water Level (OHW)-** The elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water level is commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For

**Commented [NS7]:** NURP is not referenced elsewhere in RWMWD rules so definition can be deleted



watercourses, the OHW level is the elevation of the top of the bank of the channel. For Public Waters and Public Waters Wetlands, the Minnesota Department of Natural Resources (DNR) determines the OHW.

**Owner-** A person or entity who has legal title to a parcel of land or a purchaser under a contract for deed.

**Parcel-** A parcel of land designated by plat, metes and bounds, registered land survey, auditor's subdivision, or other acceptable means and separated from other parcels or portions by its designation.

**Permittee-** The person or political subdivision in whose name a permit is issued pursuant to these Rules.

**Person-** Any individual, trustee, partnership, unincorporated association, limited liability company or corporation.

**Political Subdivision-** A municipality, county, or other political division, agency, or subdivision of the state.

**Pollutant-** Anything which causes or contributes to pollution. Pollutants may include but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes; yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances and accumulations; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Potential Stormwater Hotspots (PSHs)-** Commercial, industrial, institutional, municipal, or transportation-related operations that may produce higher levels of stormwater pollutants and/or present a higher potential risk for spills, leaks, or illicit discharges. PSHs may include, but are not limited to: gas stations, petroleum wholesalers, vehicle maintenance and repair facilities, auto recyclers, recycling centers and scrap yards, landfills, solid waste facilities, wastewater treatment plants, airports, railroad stations and associated maintenance facilities, and highway maintenance facilities.

**Public Waters-** Any waters as defined in Minnesota Statutes Section 103G.005, Subdivision 15.

**Public Water Wetlands-** Any wetlands as defined in Minnesota Statutes Section 103G.005, Subdivision 15a.

**River Dependent-** An activity or land use that relies on direct access to or use of the Mississippi River.

[Rules- Regulations of the Ramsey-Washington Metro Watershed District intended to conserve the natural resources of the state by land use planning, flood control, and other conservation projects for the protection of the public health and welfare, and the](#)

provident use of the natural resources

**Runoff-** Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**Seasonal High Groundwater-** The highest seasonal elevation in the ground that has soil voids that fill with water.

**Sediment-** Soil or other surficial material transported by surface water as a product of erosion.

**Sedimentation-** The process or action of depositing sediment.

**Sequencing Flexibility-** Deviation from the standard sequencing process as described in MN Rule 8420.0520, Subp. 7a.

**Sewage-** Waste produced by, including but not limited to: toilets, bathing, laundry, culinary operations, or the floor drains associated with these sources.

**Standards-** A preferred or desired level of quantity, quality, or value.

**Storm Drain System-** Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to: roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**Stormwater-** Any surface flow, runoff, or drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Stormwater Impact Fund- RWMWD administered fund into which an applicant may contribute money as a last alternative to providing onsite stormwater treatment per the alternative compliance sequencing outlined in Rule C.

**Stormwater Management Plan-** A plan for the permanent management and control of runoff prepared and implemented in accordance with the standards set forth in these Rules.

**Stormwater Pollution Prevention Plan (SWPPP)-** A document which describes the best management practices and activities to be implemented by a permittee to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or waterbodies to the maximum extent practicable.

Stream- A body of water continuously or intermittently flowing in a channel or watercourse, as a river, rivulet, or brook.

**Structure-** Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including: portable structures, earthen structures, roads, water and storage systems, drainage facilities, and parking lots.

**Subdivision or Subdivide-** The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, or lots.

**Wastewater-** Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

**Water Basin-** An enclosed natural or created depression with definable banks capable of containing water that may be partly filled with public waters.

**Waterbody-** All water basins, watercourses, and wetlands as defined in these Rules.

**Watercourse-** A natural or improved stream, river, creek, ditch, channel, culvert, drain, gully, swale, or wash in which waters flow continuously or intermittently in a defined direction.

**Watershed-** Region draining to a specific watercourse or water basin.

**Wetland-** Land transitional between terrestrial and aquatic systems as defined in Minnesota Statutes Section 103G.005, Subdivision 19.

**Wetland Conservation Act (WCA)-** Minnesota Wetland Conservation Act of 1991.

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## **Rule B: PERMIT PROCEDURAL REQUIREMENTS**

- 1. APPLICATION REQUIRED-** Any person, or political subdivision undertaking an activity for which a permit is required by these Rules shall, prior to commencing work, submit to the District a permit application, engineering design data, plans, specifications, and other applicable information and exhibits as may be required by these Rules. Permit applications shall be signed by the owner or the owner's authorized agent, except for activities of a political subdivision which may be signed by either an authorized agent and submitted online via the District's website.
- 2. FORMS.** Permit applications must be submitted via the form provided by the District. Applicants may obtain and submit these forms online at the District's website: [www.rwmwd.org](http://www.rwmwd.org).
- 3. TIME FOR APPLICATION.** A complete permit application which includes all required exhibits shall be received by the District at least 21 calendar days prior to a regularly scheduled meeting date of the Board of Managers. Late submittals or submittals with incomplete exhibits will be scheduled to a subsequent meeting date.
- 4. ACTION BY BOARD.** The Board of Managers shall approve or deny an application containing all required information, exhibits and fees, in accordance with Minnesota Statutes, Section 15.99, as amended. Conditional approval may be granted to applications with administrative and/or minor plan edits required. Application approval or conditional approval does not authorize work or regulated activity until the permit is issued. An exception to Manager approval may be made for single-lot residential permit applications not requesting a variance.

5. **ISSUANCE OF PERMITS.** The ~~Board of Managers-District~~ shall issue a permit only after the applicant has satisfied all requirements for the permit, has paid all—required District fees, and the District has received any required surety. All activity under the permit shall be done in accordance with the approved plans and specifications unless modifications are approved by the District staff as stated in Rule B.8 Modifications.
6. **COMPLIANCE.** Issuance of a permit based on plans, specifications, or other data shall not prevent the District from thereafter requiring the correction of errors in the approved plans, specifications, and data, or from preventing any activity in violation of these Rules.
7. **EXPIRATION.** A permit shall expire ~~if the and become null and void if the approved-permitted~~ activity is not commenced within one year from date of approval by the Board, or if the ~~approved-permitted~~ activity is suspended or abandoned for a period of one year, from the date the activity originally commenced. Before ~~an~~ activity ~~delayed for one year or more on an expired permit~~ can recommence, ~~the permit must be renewed~~ a new permit application may be required with the associated permit fees, unless alternate arrangements are approved by the District. ~~The Board shall consider the new application on the basis of the Rules in effect on the date the application is received. An application for renewal of a permit must be in writing, and state the reasons for the renewal. Any plan changes and required fees must be included with the renewal request. There must be no unpaid fees or other outstanding violations of the permit being renewed. The Board shall consider the request for renewal on the basis of the Rules in effect on the date the application request is being considered for renewal.~~
8. **EXTENSION.** Any permittee may apply for an extension of time to complete any remaining conditions or commence the approved activity under an unexpired permit application when the permittee is unable to commence the activity within a year from the date of approval as outlined ~~the time required~~ by these Rules. ~~An application request~~ for an extension of a permit approval must be in writing and state the reasons for the extension. Any plan changes and required fees must be included with the extension request. There must be no unpaid fees or other outstanding violations of the permit approval being extended. The ~~application request~~ must be received by the District at least 30 days prior to the permit-approval's expiration. The Board shall consider the ~~application request~~ for an extension on the basis of the Rules in effect on the date the application is being considered. The Board may extend the time for commencing the approved activity for a period not exceeding one year upon finding that circumstances beyond the control of the permittee have prevented action from being taken.
9. **MODIFICATIONS.** The permittee shall not modify the approved activity or deviate from the plans and specifications on file with the District without the prior approval of the District staff. Significant modifications may require Board approval.
10. **INSPECTION AND MONITORING.** After issuance of a permit, the District may perform such field inspections and monitoring of the approved activity as the District deems necessary to determine compliance with the conditions of the permit and these Rules. Any portion of the activity not in compliance shall be

promptly corrected. In applying for a permit, the applicant consents to the District's entry upon the land for field inspections and monitoring, or for performing any work necessary to bring the activity into compliance at the permittee's expense.

**11. SUSPENSION OR REVOCATION.** The District may suspend or revoke a permit issued under these Rules wherever ~~such approval or issuance is the permit is issued in error or~~ based on incorrect information supplied, or in violation of any provision of these Rules, or if the preliminary and final subdivision approval received from a municipality or county is not consistent with the conditions of the permit.

**12. CERTIFICATION OF COMPLETION.** The District shall certify completion of an activity for which a permit has been issued under these Rules and authorize the release of any required surety upon inspection and submittal of information verifying completion of the activity in accordance with the approved plans and conditions of the permit. Verification of stormwater practice functionality such as a flood test or other in-field test or observation shall be conducted in the presence of District staff or other authorized third party or documented in a report submitted to the District before completion can be certified and any surety released. Copies of documents, with evidence of recording where appropriate, that provide for maintenance of structures required by the permit shall be filed with the District before completion can be certified and any surety released. All temporary erosion prevention and sediment control BMPs must be removed following approval of a Certificate of Completion before any surety can be released. No activity may be certified as complete if there are any unpaid fees or other outstanding permit violations. If the District fails to make a determination as to compliance of an activity with the conditions of the permit within 60 days after submittal of the foregoing information verifying completion, the activity shall be deemed complete and any surety shall thereupon be released, unless seasonal conditions prohibit verification of stormwater practice functionality.

**13. PERMIT TRANSFERS.** The District may allow the transfer of a permit. No permit shall be transferred if there are any unpaid fees or other outstanding permit violations. Transfer of a permit does not alter the requirements of the permit or extend the permit term. In the event that a permit is transferred, the original permittee shall remain liable for the permit requirements unless (1) the transferee and transferor submit a Permit Transfer Form to the District or (2) the District approves a new permit for the transferee.

**14. PERMIT PROCESSING FEES.** The District shall charge the permit processing fees in accordance with a schedule adopted by written resolution of the Board of Managers and conforming to Minnesota Statutes 103D.345.

- (a) Applicant must submit the required permit processing fee to the District at the time it submits its permit application.
- (b) The processing fees described above shall not be charged to the federal government, the State of Minnesota, or a political subdivision of the State of Minnesota.

- (c) Any person or political subdivision performing an activity for which a permit is required under these Rules without having first obtained a permit from the District, shall pay, in addition to such fines, court costs or other amounts as may be payable by law as a result of such violation, a field inspection fee equal to the actual cost to the District for field inspections, monitoring, and investigation of such activity, including services of engineering, legal and other consultants. The field inspection fee shall be payable within 10 calendar days after issuance of a statement by the District. No permit shall be issued for the activity if there are any unpaid field inspection fees or other outstanding violations of these Rules.

**15. PERFORMANCE SURETY.** To assure compliance with these Rules, the District will require permit applicants to post a performance surety where the District determines that it is reasonable and necessary under the particular circumstances of any permit application filed with the District. The District shall determine the amount of any performance surety in accordance with a schedule adopted by written resolution of the Board of Managers. A performance surety will not be required of the federal government, the State of Minnesota, or a political subdivision of the State of Minnesota.

**16. OTHER PERMITS AND APPROVALS.** The applicant shall promptly provide the District with copies of all environmental permits and approvals required by other governmental entities, upon request.

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## **Rule C: STORMWATER MANAGEMENT**

1. **POLICY.** It is the policy of the Board of Managers to:
  - (a) Reduce runoff rates to levels that allow for stable conveyance of flow through watersheds in the District.
  - (b) Require rate control practices on development to preserve runoff rates at a level that shall not cause the degradation of the watershed.
  - (c) Limit runoff volumes by utilizing site designs that limit impervious surfaces or incorporate volume control practices such as infiltration.
  - (d) Minimize connectivity of impervious surfaces to the stormwater system.
  - (e) Require the use of effective non-point source pollution reduction BMPs in development projects.
  - (f) Protect and maintain downstream drainage systems to provide permanent and safe conveyance of stormwater. Reduce the frequency and/or duration of potential downstream flooding.
  - (g) Reduce the total volume of stormwater runoff to protect surface water quality and provide recharge to groundwater.

(h) Remove sediment, pollutants, and nutrients from stormwater to protect surface water quality.

2. **REGULATION.** No person or political subdivision shall commence a land disturbing activity or the development of land one acre or greater, unless specifically exempted by Paragraph 5 below, without first obtaining a permit from the District that incorporates and approves a stormwater management plan for the activity or development.

3. **CRITERIA.** Stormwater management plans must comply with the following criteria:

(a) **Hydrograph Method.** A hydrograph method based on sound hydrologic theory shall be used to analyze runoff for the design or analysis of flows and water levels. Reservoir routing procedures and critical duration storm events shall be used for design of detention basins and outlets.

(b) **Runoff Rate.** Runoff rates for the proposed activity shall not exceed existing runoff rates for the 2-year, 10-year, and 100-year critical storm events using Atlas 14 precipitation depths and MSE3 storm distributions, or as approved by the District. Runoff rates may be restricted to less than the existing rates when the capacity of downstream conveyance systems is limited.

(c) **Runoff Volume.** Stormwater runoff shall be retained onsite in the amount equivalent to 1.1 inches of runoff over the new and reconstructed impervious surfaces of the development. The required stormwater runoff volume shall be calculated as follows:

**Required Stormwater Runoff Volume (ft<sup>3</sup>) = Impervious surfaces (ft<sup>2</sup>) x 1.1 (in) x 1/12 (ft/in)**

(1) For infiltration of the required stormwater runoff volume, the following requirements must be met:

(i) Infiltration volumes and facility sizes shall be calculated using the appropriate hydrologic soil group classification and design infiltration rate from the Minnesota Stormwater Manual. Select the design infiltration rate from the Minnesota Stormwater Manual based on the least permeable soil horizon within the first five feet below the bottom elevation of the proposed infiltration BMP.

(ii) The required stormwater runoff storage volume shall be provided below the invert of the low overflow outlet of the BMP.

(iii) Runoff infiltrated during a rain event will not be credited towards the volume reduction requirement.

- (iv) Volume reduction credit shall not exceed the volume of 2.5 inches over the impervious surfaces of the drainage area to the BMP or the volume provided within the BMP, whichever is less.
- (v) The applicant may complete double-ring infiltrometer testing to the requirements of ASTM D3385 or other District approved infiltration test measurements at the proposed bottom elevation of the infiltration BMP. The measured infiltration rate shall be divided by the appropriate correction factor selected from the Minnesota Stormwater Manual. This test must be completed by a licensed soil scientist or engineer.
- (vi) The infiltration area shall be capable of infiltrating all stormwater routed to the system through the uppermost soil surface or engineered media within 48 hours, for surface and subsurface BMPs. Additional flows that cannot infiltrate within the required 48 hours must be allowed to bypass the system through a stabilized discharge point.
- (vii) Infiltration areas shall be limited to the horizontal areas subject to prolonged wetting.
- (viii) Areas of permanent pools tend to lose infiltration capacity over time and shall not be accepted as an infiltration practice.
- (ix) Stormwater runoff must be pretreated to remove solids before discharging to infiltration areas to maintain the long term viability of the infiltration areas. Additional information on sizing and approaches can be found in the Minnesota Stormwater Manual.
- (x) Design and placement of infiltration BMPs shall be done in accordance with the Minnesota Stormwater Manual guidance and requirements.
- (xi) Specific site conditions may make infiltration difficult, undesirable, or impossible. Some of these conditions are listed in Table ~~2~~ 1 and may qualify the applicant for Alternative Compliance Sequencing. The applicant may also submit a request to the District for Alternative Compliance Sequencing for site conditions not listed below. All requests shall indicate the specific site conditions present and a grading plan, utility plan, and the submittal requirement listed in ~~the table below~~ Table 1.

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<p><b>Table 1. Alternative Compliance Site Conditions*</b></p> <p>MPCA has limitations for constructing infiltration BMPs if it will receive discharges from or be constructed in these areas of concern. These conditions will apply to this permit.**</p>
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Type	Specific Site Conditions	Infiltration Requirements
Potential Contamination	Potential Stormwater Hotspots (PSHs)/Industrial Facilities	Prohibited
	Contaminated Soils	Prohibited
	Vehicle Fueling and Maintenance Areas	Prohibited
Physical Limitations	Low Permeability (Type D Soils)	Prohibited- Soil borings required
	Bedrock within 3 vertical feet of bottom of infiltration area	Prohibited- Soil borings required
	Seasonal High Groundwater within 3 vertical feet of bottom of infiltration area	Prohibited- Soil borings required
	Type A soils with infiltration rates greater than 8.3 inches per hour	Restricted without soil amendments
	Karst Areas	Prohibited- Soil borings required
Land Use Limitations	Utility Locations	Concerned- Site Map with detailed utility locations
	Adjacent Wells	Restricted- Well Locations
	<a href="#">Bridges</a>	<a href="#">Concerned- Site Map with detailed bridge restrictions</a>

\*Alternative Compliance is allowed for the volume reduction portion of Rule C only. [Water quality requirements are still required in the form of gross pollutant removal as outlined in C](#)

\*\*Reference the Minnesota Stormwater Manual for more information regarding the MPCA’s “contamination screening checklist” and “higher level of engineering review” for infiltration within a Drinking Water Supply Management Area (DWSMA).

- (2) Stormwater reuse systems shall be allowed at an approved credit as calculated by the Stormwater Reuse Calculator found in the application guidance materials, or other approved calculator.
- (3) **Alternative Compliance Sequencing.** To the maximum extent practicable, the volume reduction ~~requirement standard~~ shall be fully met onsite. If it is not possible because of site conditions listed above, the following **Alternative Compliance** may be achieved by any combination of the sequence below but shall be explored in the order presented.
  - (i) First, the applicant shall comply or partially comply with the volume reduction ~~requirement standard~~ to the maximum extent practicable onsite through alternative volume reduction methods as listed below and in the application guidance materials or as approved by the District. If the applicant meets these requirements, the project is compliant, and no further sequencing steps are necessary.
    - If filtration of the water quality volume is deemed necessary through alternative compliance sequencing,

the “required stormwater runoff volume” shall be multiplied by 1.82 (i.e. 55% filtration credit), and the filtration BMP shall provide this storage volume below the invert of the low overflow outlet of the BMP (perforated drain pipes for filtration will not be considered the low overflow outlet).

- If filtration with iron-enhanced sand is used as a filtration media, the “required stormwater runoff volume to be infiltrated” shall be multiplied by 1.25 (i.e. 80% filtration credit), and the filtration BMP shall provide this storage volume below the invert of the low overflow outlet of the BMP (perforated drain pipes for filtration will not be considered the low overflow outlet). Iron-enhanced media shall include a minimum of 5% of iron filings by weight and shall be uniformly blended with filtration media.
  - Other enhanced filtration media may be considered and credited at the sole discretion of the District.
- (ii) Second, for the remaining volume reduction required to fully meet the standard, the applicant shall comply or partially comply with the volume reduction standard at an offsite location or through the use of qualified banking credits as determined by Rule C – 3.c. 45.
- Volume reduction may be accomplished at another site outside of the project area or through the use of banked credits as long as it yields the same volume reduction benefit and is approved by the District prior to construction. When possible, offsite compliance and banking credits shall be achieved in the same drainage area or sub-watershed as the project site. Projects that propose to construct stormwater BMPs to achieve volume reduction credits may require District permit application, review and approval.
- (iii) Third, as a last alternative, for the remaining volume reduction required, the applicant shall pay into the District’s Stormwater Impact Fund (SIF) to cover the cost of implementing equivalent volume reduction elsewhere in the watershed. The required amount to contribute to the Stormwater Impact Fund shall be set by resolution of the Board.
- Money contributed to the Stormwater Impact Fund from a local government unit shall be spent within that local government unit’s jurisdiction to the extent possible.
  - Money contributed to the Stormwater Impact Fund shall be allocated to volume reduction projects by the District according to the Stormwater Impact Fund

Implementation Plan as approved by the District Board. The volume reduction achieved by these projects shall offset the volume reduction that was not achieved on with the permitted development.

- Linear projects proposing to meet full or partial volume reduction requirements through Stormwater Impact Fund (SIF) contribution shall be assessed at the full SIF rate for the amount of SIF contribution being requested.

(4) Regional Stormwater Treatment Facilities

- (i) For projects within the drainage area of an existing or planned future regional stormwater facility, the sequencing requirements may be waived if it has been determined by RWMWD that the benefits are equivalent or greater than an onsite treatment practice.
- (ii) Applicants must either utilize volume reduction credits or contribute to the Stormwater Impact Fund.

(5) Volume reduction provided in excess of the ~~1.1 inch requirement~~ required treatment volume may be banked for use on another project or used to compensate for under-treated drainage areas within the same project. Volume reduction credits will be calculated based on the physical volume constructed above and beyond the required treatment volume pursuant to Section C.3.c.3.i-iii 'Alternative Compliance Sequencing.' Volume reduction credit shall not exceed the volume of 2.5 inches over the impervious surfaces of the drainage area to the BMP or the volume provided within the BMP, whichever is less.

(6) Transfer of banked volume credits between applicants is allowed. Applicants shall submit a ~~letter-written request~~ to the District outlining the conditions of the transfer and confirming the volume of the transfer. The District must review and approve all credit transfers.

(7) If an applicant determines during the course of planning, design or construction of a project that the required volume reduction cannot be achieved onsite and the applicant does not possess sufficient excess volume reduction credits to offset the volume required, the District may allow the applicant to defer the construction of volume reduction BMPs to a future identified project that the applicant will complete within two years of the date of the permit application. Failure to provide the required volume reduction by that date would obligate the applicant to pay into the Stormwater Impact Fund at the rate applicable at the time payment is made into the fund, unless alternative arrangements are approved by the District. If volume reduction is deferred, rate control requirements must still be met at any given time of the project.

- (d) **Water Quality.** Developments shall incorporate effective non-point source pollution reduction BMPs to achieve 90% total suspended solids (TSS) removal from the disturbed area of the project on an annual basis. Runoff

volume reduction BMPs may be considered and included in the calculations towards compliance with achieving the 90% TSS removal requirement. Water quality calculations, documentation and/or water quality modeling may be requested to verify compliance with the standard. Documentation of 90% TSS removal is not required for projects that achieve compliance through Stormwater Impact Fund contributions.

- (1) Drainage areas that directly discharge to a wetland, river, lake, or stream shall meet the water quality standard onsite, regardless of any alternative compliance being proposed for the project-
  - (2) Costs associated with implementation of gross pollutant removal devices may not be deducted from Stormwater Impact Fund contributions and do not result in adjustments to banked volume credit withdrawals.
- (e) **Linear Projects.** Costs specific to satisfying the onsite volume reduction and water quality requirements standards on linear projects need not exceed a cost cap which will be set by resolution of the Board. The cap shall apply to costs directly associated with the design, testing, land acquisition, and construction of the volume reduction and water quality stormwater BMPs only. Unit costs for construction shall be used to determine the cost of the volume reduction and water quality BMPs, and must be reviewed and approved by the District. The District may contribute an amount above the cap in order to meet the volume reduction and water quality requirements standards or it may allow the applicant to partially comply with the standards when the cap is met. Volume constructed in excess of the required volume to meet the linear cost cap may be deposited into the District's volume reduction bank. If volume reduction is partially achieved due to the cost cap, rate control requirements must still be met at any given time of the project.
- (f) **Maintenance.** All stormwater water management structures and facilities, including volume reduction BMPs, shall be maintained to assure that the structures and facilities function as originally designed. Applicants shall submit a site-specific plan, schedule and narrative for maintenance of the proposed stormwater management BMPs. The maintenance responsibilities must be assumed by either the municipality's acceptance of the required easements dedicated to stormwater management purposes or by the applicant executing and recording a maintenance agreement acceptable to the District. Documentation of the recorded agreement must be submitted to the District prior to issuance of permit. Public developments shall require a maintenance agreement in the form of a Memorandum of Agreement or an approved Local Water Management Plan that details the methods, schedule, and responsible parties for maintenance of stormwater management facilities for permitted development. A single Memorandum of Agreement for each local government unit may be used to cover all stormwater management structures and facilities required herein, including volume reduction BMPs, within the LGU's jurisdiction.

**4. EXHIBITS.** The following exhibits must accompany the online permit application in electronic .pdf format.

- (a) Property lines and delineation of lands under ownership of the applicant.
- (b) Delineation of the drainage areas contributing runoff from off-site, proposed and existing sub-watersheds onsite, emergency overflows, and drainage ways.
- (c) Aerial photo showing the locations of water bodies downstream of the site.
- (d) Proposed and existing stormwater facilities' location, alignment, and elevation.
- (e) Delineation of existing onsite wetlands, marshes, shoreland, and floodplain areas.
- (f) Identification of existing and proposed normal, ordinary high, and 100-year water elevations onsite.
- (g) Identification of existing and proposed site contour elevations with at least a 2-foot contour interval including offsite contours where overflows are directed.
- (h) Construction plans and specifications of all proposed stormwater management facilities, including design details for outlet control structures.
- (i) Stormwater runoff volume and rate analysis for the 2-year, 10-year, and 100-year critical storm events, existing and proposed.
- (j) All hydrologic, water quality, and hydraulic computations completed to design the proposed stormwater management facilities.
- (k) Narrative addressing incorporation of stormwater BMPs, including individual BMP storage volumes and pretreatment method(s) used.
- (l) For non-linear projects, a site-specific plan, schedule, and narrative for ongoing maintenance of the proposed stormwater management BMPs.
- (m) Onsite soil borings within the footprint of the proposed stormwater BMP indicating soil type for purposes of ~~infiltration area design~~ selecting the appropriate design infiltration rates and verifying depth to seasonally high groundwater. Borings should extend a minimum 5 feet below the bottom of the proposed BMP. Number of borings should be in accordance with Minnesota Stormwater Manual recommendations.
- (n) For applications proposing infiltration area(s), information shall include identification, description (soil group and texture), redoximorphic features, and field evaluation of soil permeability in accordance with ASTM 3385 procedure, and delineation of site soils to determine existing and proposed conditions suitable for percolation of stormwater runoff from impervious areas. Field evaluation of soil permeability in accordance with ASTM 3385

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procedure for double ring infiltrometer testing or other approved method is encouraged.

- (o) For applications proposing alternative compliance sequencing, the required exhibits listed in Table 2.1.
- (p) All plan sheets shall be signed by a Minnesota licensed professional appropriate for the project.

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**5. EXCEPTIONS.**

- (a) Rule C and its requirements shall not apply to land disturbing activity or the development of land that creates 100% pervious surfaces post-construction, unless the land disturbing activity or the development of land alters the drainage boundaries shown in the District's Watershed Management Plan.
- (b) Rule C and its requirements shall not apply to development less than 1 acre in size for all land uses unless the development is part of a common plan of development or sale that will ultimately exceed one acre in size. An applicant applying for a new permit under a common plan of development must meet the current Rules at the time of the submittal.
- (c) Rule C and its requirements shall not apply to construction on individual lots within a residential subdivision approved by the District, provided the activity complies with the original common plan of development.
- (d) Rule C and its requirements shall not apply to bridges.
- (e) Rule C and its requirements shall not apply to annually cultivated land used for farming, research, or horticulture.
- (f) Rule C and its requirements shall not apply to routine vegetation maintenance and pavement milling/overlaying activities that do not disturb the material beneath the pavement base and shall not be considered land disturbance (see example below):

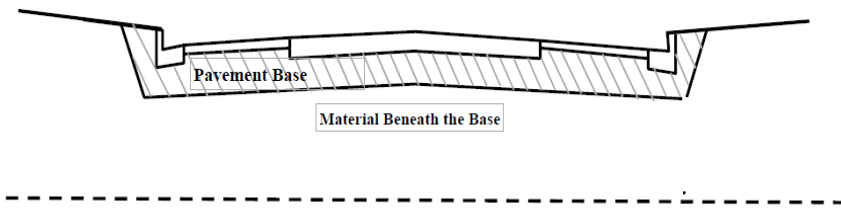
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(g) Rule C and its requirements shall not apply to disconnected impervious that meets-  
that meet the District definition of disconnected impervious, and incorporate all of the  
following-conditionseriteria:

- ~~Not running~~ Sidewalks and trails that are not parallel to, or alongside a roadway
- Maximum sidewalk or trail width of 8'
- Minimum 15' vegetated separation from any storm sewer conveyance including parking lots and ditches
- Maximum ~~2~~-5% slope
- Documented Type A or B soils conducive to infiltration

**Commented [NM12]:** TAC members requested the Districts revise to 10'—this is currently under consideration.

Sidewalks and trails parallel to roadways must still be included in impervious surface calculations.

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## **Rule D: FLOOD CONTROL**

1. **POLICY.** It is the policy of the Board of Managers to:
  - (a) Encourage water quantity controls to ensure no net increase in the impacts or potential for flooding on or off the site and encourage, where practical, controls to address existing flooding problems.
  - (b) Discourage floodplain filling for new non-river dependent developments.
  - (c) Only allow floodplain development in a manner that is compatible with the dynamic nature of floodplains.
2. **REGULATION.** No person or political subdivision shall alter or fill land below the 100-year flood elevation of any waterbody, public water, or public water wetland without first obtaining a permit from the District.
3. **CRITERIA.**
  - (a) Placement of fill within the 100-year floodplain is prohibited unless compensatory storage is provided. Compensatory storage must be provided on the development or immediately adjacent to the development within the affected floodplain.
    - (1) Compensatory storage shall result in the creation of floodplain storage to fully offset the loss of floodplain storage. Compensatory storage shall be created prior to or concurrently to the permitted floodplain filling.

(b) All habitable buildings, roads, and underground parking structures on or adjacent to a project site shall comply with the following flood control and freeboard requirements:

(1) See Table 2 below for freeboard requirements.

<b>Condition</b>	<b>Waterbodies with Piped Outlets and Mississippi River</b>	<b>Waterbodies without Piped Outlets</b>	<b>Subsurface Stormwater Management BMPs</b>
<b>New Habitable Buildings*</b>	Low floor must be a minimum of 2 feet above the 100-year flood elevation.	Low floor must be a minimum of 5 feet above the 100-year flood elevation.	Low floor must be a minimum of 2 feet above the 100-year flood elevation or one foot above the emergency overflow elevation unless flood-proofing measures are constructed with the building.  <b>AND</b> Low opening must be a minimum of 2 feet above the 100-year flood elevation or one foot above the emergency overflow elevation.
<b>Existing Habitable Buildings- Adjacent to and Potentially Affected by Flood Waters</b>	Low opening must be a minimum of 2 feet above the 100-year flood elevation.	Low opening must be a minimum of 5 feet above the 100-year flood elevation.	Low floor must be a minimum of 2 feet above the 100-year flood elevation or one foot above the emergency overflow elevation unless flood proofing measures are constructed with the BMP.  <b>AND</b> Low opening must be a minimum of 2 feet above the 100-year flood elevation or one foot above the emergency overflow elevation.
<b>Underground Parking Structures</b>	Low opening must be a minimum of 2 feet above the 100-year flood elevation.	Low opening must be a minimum of 2 feet above the 100-year flood elevation.	Low opening must be a minimum of 2 feet above the 100-year flood elevation or one foot above the emergency overflow elevation.
<b>Public Roadway</b>	Roadway shall not flood when adjacent to stormwater storage basin designed to store the 100-year storm event. Freeboard requirement set by road authority.		

\*All utilities below the low floor of new manufactured homes must have flood-proofing if located within the 100-year floodplain



(2) For waterbodies without a piped outlet:

- i. The normal water level of a waterbody without a piped outlet shall be determined by a qualified licensed geologist or hydrogeologist. A groundwater analysis using existing or installed monitoring wells on or near the site and soil conditions in the basin shall be used. Ideally, the peak groundwater elevation over a continuous three-year monitoring period shall be considered the normal water level of a basin without a piped outlet, provided soil conditions allow full drainage of recent storm event within 48 hours.
- ii. For existing waterbodies without piped outlets, mottled soils may be considered in establishing a waterbody's normal water level in lieu of groundwater analysis.
- iii. An emergency response plan shall be developed for addressing potential flooding in homes below the overland emergency overflow swale around each waterbody without a piped outlet. The plans shall be adopted by the City and be included in a maintenance agreement for the development.

(3) For underground parking structures:

- i. Underground parking structures shall be flood-protected to minimize impacts from high groundwater during flood events.
- ii. All drainage structures within underground parking shall include an anti-backflow device to prevent stormwater from surcharging into the area.

(4) Emergency overflow swales or areas shall be constructed to convey the peak 100-year discharge from each waterbody to the next downstream waterbody and away from buildings.

**4. EXHIBITS.** The following exhibits must accompany the online permit application in electronic .pdf format.

- (a) Site plan showing the property lines, location, delineation of the work area, existing elevation contours of the work area, ordinary high water elevations, and 100-year flood elevation.
- (b) Bench marks, including datum used, to establish vertical control.
- (c) Grading plan showing any proposed elevation changes including low floor elevations of adjacent buildings and 100-year flood elevations resulting from proposed development.
- (d) Utility plans and details.

- (e) Roadway plans and details.
- (f) Preliminary plat of any proposed land development.
- (g) Stormwater management plan showing all data and computations used in estimating runoff, drainage areas, stormwater storage, and flood elevations for the 2-year, 10-year, and 100-year storm events for both existing conditions and post development conditions. The plan shall be prepared and signed by a qualified professional engineer licensed in the State of Minnesota or a qualified hydrologist. The plan shall include a figure of receiving waterbodies downstream of the site.
- (h) Computation of change in flood storage capacity resulting from proposed grading.
- (i) Erosion control plan.
- (j) All plan sheets shall be signed by a Minnesota licensed professional appropriate for the project.

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**Rule E: WETLAND MANAGEMENT**

- 1. **POLICY.** It is the policy of the Board of Managers to:
  - (a) Manage wetlands to achieve no-net loss in the quantity, quality, and biological diversity of wetlands in the District.
  - (b) Increase the quantity, quality, and biological diversity of wetlands in the District by restoring or enhancing diminished or drained wetlands.
  - (c) Avoid impacts from activities that destroy or diminish the quantity, quality, and biological diversity of District wetlands.
  - (d) Replace affected wetlands where avoidance is not feasible and prudent.
  - (e) Encourage natural vegetation around wetlands to maintain the water quality and ecological functions that wetlands provide.
- 2. **REGULATION.** The regulation of Rule E is as follows:
  - (a) **AUTHORITY UNDER WETLAND CONSERVATION ACT (WCA).**  
The Wetland Conservation Act, as amended, and its implementing rules as set forth in Minnesota Rules Chapter 8420, as amended, are incorporated as part of this rule and shall govern draining, filling, excavating, and other alteration of a wetland ~~in all cases where the District is the local government unit under that Act.~~ The District intends to serve as the Local Government Unit (LGU) responsible for administering WCA, unless another LGU has elected to

assume that role within its jurisdictional area. Wetland impacts shall be governed by the Wetland Conservation Act with the following exceptions:

- (1) Sequencing flexibility shall not be allowed;
- (2) Wetland replacement, where permitted, shall be in accordance with the following prioritization for the location of the replacement wetland (both constructed and banked):
  - (i) Onsite replacement is most preferred;
  - (ii) Within the same subwatershed;
  - (iii) Within the District;
  - (iv) Outside of the District is the least preferred.
- (3) Permanently impacted wetlands shall be replaced through creation of new wetland, restoration of drained wetlands, or expansion of existing wetlands of the same type (Circular 39) at a minimum 2:1 ratio.

**Commented [NS13]:** Not a change in implementation; added for clarification.

- (b) **AUTHORITY UNDER WATERSHED LAW.** The criterion below relates to wetland buffers and water quality and is adopted under the District's watershed authority and applies whether or not the District is the Wetland Conservation Act local government unit (LGU) in the municipality where the wetland is located. ~~No person or political subdivision shall commence a land-disturbing activity or development of land one acre or greater adjacent to a waterbody, unless specifically exempted by Paragraph 5 below, without first obtaining a permit from the District.~~

**Commented [NS14]:** Covered under Rule F

### 3. CRITERIA.

- (a) All stormwater must be treated to the water quality standard outlined in Rule C.d. ~~3.1~~ before discharged to a wetland, regardless of any alternative compliance relevant to the project.
- (b) Wetland delineations and other LGU decisions shall be completed and submitted to the District on existing wetlands on the entire parcel for development.
  - (1) Data sheets shall be submitted with detailed information on field indicators (soils, hydrology, and vegetation) and a summary report.
  - (2) Wetland delineations shall be performed and submitted for review during the normal growing season for this area of the State (May 1 – October 15). Delineations performed outside of this time frame may or may not be permitted by the District. Review and approval shall be dependent on potential wetland impact in relation to the entire

development or project. This decision is at the sole discretion of the District.

- (3) Wetland boundaries shall be staked in the field for review and approval.
- (4) Wetland delineations shall remain valid for five years from District approval. Field verification may be required after the initial approval and within those five years.

(c) Most wWetlands in the District have been classified using MnRAM 3.4 and are identified in the District's Watershed Management Plan. The classifications are used for management of wetlands in the District and to establish required buffer widths. If a MnRAM assessment has not been completed for a wetland, the most stringent classification shall be assumed (Manage A). The following steps shall be followed for challenging of a wetland classification:

- (1) The wetland shall be assessed by a qualified wetland specialist using MnRAM version 3.4 or current version and between the dates of May 1 and October 15.
- (2) MnRAM 3.4 or current version- data completed by the applicant and narrative justification for classification change shall be submitted.
- (3) District staff shall review the data and justification and provide a recommendation to the Board of Managers.
- (4) The District Board of Managers shall approve or deny the classification change request.

(d) Wetland buffers shall be required for all developments adjacent to a wetland whether or not the wetland is located on the same parcel as the proposed development.

- (1) Table 4 outlines the classifications of wetlands and the corresponding no-disturb buffer widths and minimums that must be met:

Wetland Classification	Manage A	Manage B	Manage C
Average Buffer Width	75 feet	50 feet	25 feet
Minimum Buffer Width	37.5 feet	25 feet	12.5 feet

- (2) New and existing ponds constructed for water quantity and quality adjacent to new development shall maintain a 10-foot vegetative buffer from the normal water level.

- (3) Stormwater management BMPs shall not be allowed to be constructed in the buffer area.
- (4) Wetland replacement through mitigation shall be allowed in the buffer area provided mitigation of buffer disturbance is also provided adjacent to wetland replacement. Mitigation wetlands are deemed Manage A with associated required buffer widths.
- (5) A permanent wetland buffer monument shall be installed at each lot line where it crosses a wetland buffer, and where needed to indicate the contour of the buffer, with a maximum spacing of two hundred (200) feet of wetland edge.
- (6) Where acceptable vegetation exists in buffer areas, the retention of such vegetation in an undisturbed state is required unless an applicant receives approval by the District to replace such vegetation. A buffer strip has acceptable vegetation if it:
  - (i) Has a continuous, dense layer of vegetation or overstory of trees and/or shrubs that have been uncultivated or unbroken for at least five consecutive years, or
  - (ii) Is not composed of undesirable plant species (including, but not limited to: reed canary grass, common buckthorn, purple loosestrife, leafy spurge, and noxious weeds), or
  - (iii) Does not have topography that tends to channelize the flow of surface runoff.
- (7) If the District determines the existing buffer to be unacceptable, the applicant shall maintain the minimum buffer in its undisturbed state but may disturb the remainder of the buffer area as long as the buffer area is re-planted with native species and maintained as a native habitat. The buffer planting must be identified on the permit application and the buffer landscaping shall comply with the following standards:
  - (i) Buffer areas shall be planted with a native seed mix approved by the District, with the exception of a one-time planting with an annual nurse or cover crop such as oats or rye for the purposes of temporary erosion control.
  - (ii) The revegetation project shall be performed by a qualified contractor. All methods shall be approved by the District prior to planting or seeding.

- (iii) The seed mix shall be broadcast according to the specifications of the selected mix including date of application. The annual nurse or cover crop shall be applied at a minimum rate of 30 pounds per acre. The seed mix selected for permanent cover shall be appropriate for soil site conditions and yellow tag certified free of invasive species.
- (iv) Native shrubs may be allowed to be substituted for native forbs. All substitutions shall be approved by the District. Such shrubs may be bare root seedlings and shall be planted at eight foot spacing. Shrubs shall be distributed so as to provide a natural appearance and shall not be planted in rows.
- (v) Any groundcover or shrub plantings installed within the buffer area are independent of any landscaping requirements required elsewhere by the municipality or county.
- (vi) Compacted soils in the buffer area shall be loosened to a depth of at least 5" prior to seeding.
- (vii) No fertilizer shall be used in establishing new buffer areas, except on highly disturbed sites when necessary to establish acceptable buffer vegetation and then limited to amounts indicated by an accredited soil testing laboratory.
- (viii) All seeded areas shall be mulched or blanketed immediately in a method approved by the District.
- (ix) Buffer areas (both natural and created) shall be protected by erosion and sediment control measures during construction in accordance with these Rules. The erosion and sediment control measures shall remain in place until the vegetation is established.
- (x) Buffer vegetation shall be actively managed throughout the three-year establishment period. This includes but is not limited to: mowing, overseeding, spot weed control, prescribed burning, and watering.
- (xi) Buffer vegetation shall be established and maintained in accordance with the requirements above. During the first three full growing seasons, the applicant or developer must replant any buffer vegetation that does not survive. The applicant or developer shall specify a method acceptable to the

District for monitoring compliance and verifying establishment of the buffer at the end of the third full growing season.

**4. EXHIBITS.** The following exhibits must accompany the online permit application in electronic .pdf format.

- (a) Site plan showing:
  - (1) Property lines, corners, and delineation of lands under ownership of the applicant.
  - (2) Existing and proposed elevation contours with at least a 2-foot contour interval, including the existing run out elevation and flow capacity of the wetland outlet, and spoil disposal areas. Some circumstances may require a 1-foot contour interval.
  - (3) Area of the wetland portion to be filled, drained, excavated, or otherwise altered.
- (b) Complete delineation of the existing wetland(s), supported by the following documentation:
  - (1) Identification of the delineation method used in accordance with the 1987 Army Corps of Engineers Manual.
  - (2) Identification of presence or absence of normal circumstances or problem conditions.
  - (3) Basin classification using the Cowardin method and Circular 39.
  - (4) Wetland data sheets, or a report, for each sample site, referenced to the location shown on the delineation map. In each data sheet/report, the applicant must provide the reasoning for satisfying, or not satisfying, each of the technical criteria and why the area is or is not a wetland.
  - (5) A delineation map showing the size, locations, configuration, and boundaries of wetlands in relation to identifiable physical characteristics, such as: roads, fence lines, waterways, or other identifiable features.
  - (6) The location of all sample sites and stakes/flags must be accurately shown on the delineation map. Delineations submitted by applicants shall normally be field-verified by District staff.
- (c) A replacement plan, if required, outlining the steps followed for the sequencing process and including documentation supporting the proposed mitigation plan.

~~(d) A wetland functions and values assessment comparison before and after the project.~~

(d) Buffer vegetation management and monitoring plans if necessary.

(e) An Erosion Control Plan.

~~(e) GIS shapefile of the delineation and/or proposed mitigation areas, if applicable.~~

5. **EXCEPTIONS.** Rule E and its requirements shall not apply to annually cultivated land used for farming, research, or horticulture, unless the activity results in draining or filling the wetland.

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## Rule F: EROSION AND SEDIMENT CONTROL

1. **POLICY.** It is the policy of the Board of Managers to require the preparation and implementation of erosion and sediment control plans to control the export of sediment off site, which impacts surface water quality.
2. **REGULATION.** No person or political subdivision shall commence a land disturbing activity of the development of land one acre or greater, unless specifically exempted by this Rule, without first obtaining a permit from the District that incorporates and approves an erosion and sediment control plan for the activity or development.
3. **CRITERIA.** Erosion and sediment control plans shall comply with the following criteria:
  - (a) Erosion and sediment control measures shall be consistent with best management practices, and shall be sufficient to retain sediment onsite as demonstrated in the Minnesota Stormwater Manual.
  - (b) Erosion and sediment control measures shall meet the ~~requirements standards~~ for the General Permit Authorization to Discharge Storm Water Associated With Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Permit Program, Permit MN R100001 (NPDES General Construction Permit), issued by the Minnesota Pollution Control Agency, except where more specific requirements are required.
  - (c) The activity shall be phased when possible to minimize disturbed areas subject to erosion at any one time.
  - (d) All construction site waste, such as discarded building materials, concrete washout, pavement or masonry cutting slurry, chemicals, litter, and sanitary and hazardous waste at the construction site shall be properly managed and disposed of so they shall not have an adverse impact on soil or water quality.

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- (e) All turbid or sediment-laden waters related to dewatering must be discharged to a temporary sediment basin on the project site unless infeasible. Permittees must provide appropriate Best Management Practices (BMPs) to water discharged to a surface water such that the discharge does not adversely affect the receiving water or downstream properties. Permittees must continuously monitor discharge to any surface water to ensure adequate treatment has been achieved. Discharge points must be adequately protected from erosion and scour through accepted energy dissipation methods.
- (f) Use of temporary sediment basins are required where 10 or more acres of disturbed soil drain to a common location, or where 5 or more acres of disturbed soil are located within one mile of and discharge to a special or impaired water. Basin design and construction must comply with NPDES General Permit requirements.
- (g) Erosion and sediment controls required at the beginning of the project shall be installed before commencing the land disturbing activity, and shall not be removed without District approval. Applicants may phase installation of erosion and sediment controls provided the phasing plan is included in the approved erosion and sediment control plan.
- (h) The permittee shall be responsible for proper operation and maintenance of all erosion and sediment controls, and soil stabilization measures, in conformance with the requirements of the NPDES General Construction Permit. The permittee is responsible for the operation and maintenance of temporary erosion prevention and sediment control BMPs at the site over all of the areas of the site that have not been fully stabilized until the District has transferred the permit to another permittee, or until the site has undergone final stabilization as reviewed and approved by the District.

**4. EXHIBITS.** The following exhibits must accompany the online permit application in electronic .pdf format.

- (a) An existing and proposed topographic map which clearly shows contour elevations with at least 2-foot contour intervals on and adjacent to the land, property lines, all hydrologic features, the proposed land disturbing activities, and the locations of all runoff, erosion and sediment controls, and soil stabilization measures.
- (b) Plans and specifications for all proposed runoff, erosion and sediment controls, and temporary and permanent soil stabilization measures.
  - (1) Temporary erosion and sediment control measures, which shall remain in place until permanent vegetation is in place, shall be identified.
  - (2) Permanent erosion and sediment control measures such as emergency overflow swales shall be identified.

- (c) Detailed schedules for implementation of the land disturbing activity, the erosion and sediment controls, and soil stabilization measures.
- (d) Plans and specifications for dewatering methods and outlet of stormwater.
- (e) Plans and specifications for management and containment of all solid and liquid wastes, including hazardous wastes and concrete materials.
- (f) Plans, specifications, and maintenance thresholds for temporary sediment basins if required by the permit.
- (g) Detailed description of the methods to be employed for monitoring, maintaining, and removing the erosion and sediment controls, and soil stabilization measures. The name, address, and phone number of the person(s) responsible shall also be provided.
- (h) For projects over one acre of disturbed area, documentation that the project applicant has applied for a NPDES General Construction Permit shall be submitted as well as the Stormwater Pollution Prevention Plan (SWPPP) prepared for the NPDES permit.

**5. EXCEPTIONS.**

- (a) Rule F and its requirements shall not apply to development less than 1 acre in size for all land uses, unless such development is greater than 1,000 square feet and:
  - (1) Is within the 100-year floodplain; or
  - (2) Is adjacent to a public water wetland, public water or wetland.
- (b) Rule F and its requirements shall not apply to annually cultivated land used for farming, research, or horticulture.

**Rule G: ILLICIT DISCHARGE AND CONNECTION**

- 1. **POLICY.** It is the policy of the Board of Managers to:
  - (a) Regulate the contribution of pollutants to the District’s municipal separate storm sewer system (MS4) by any user;
  - (b) Prohibit Illicit Connections and Discharges to the District’s MS4;
  - (c) Establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Rule;
  - (d) Require a District permit for new direct connections, changes to existing hydrology, and other impacts related to the proper function, access, and maintenance to the District’s MS4 or easements; and

- (e) Prohibit new direct connections or other impacts to the Beltline Interceptor or other components of the District's MS4 if the connection shall cause or exacerbate water conveyance or structural problems in the system, including but not limited to surcharging and flooding.

2. **REGULATION.** This Rule shall apply to all water entering the storm drain system of the District's MS4 generated on any developed and undeveloped lands unless explicitly exempted by the District. A permit and stormwater management plan are required under this rule for new direct connections, replacement of existing connections, changes to existing hydrology, or other impacts to the Beltline Interceptor, or other components of the District's MS4, or its easements.

3. **CRITERIA.**

(a) **Connection to the District's MS4 System.**

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- (1) New direct connections and replacement of existing connections shall be completed using a method that is approved by the District.
- (2) Peak flow rate, the total volume of flow, and the timing of the flow for new connections must be managed to not cause new water conveyance problems or exacerbate existing water conveyance problems in the Beltline Interceptor. Enlargement of existing connections is considered a new connection.

(b) **Discharge Prohibitions.**

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- (1) **Prohibition of Illegal Discharges.** No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

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- (2) **Prohibition of Illicit Connections.** The construction, use, maintenance, or continued existence of illicit connections to the storm drain system without a District permit is prohibited.

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- (i) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (ii) A person is considered to be in violation of this Rule if the person connects a line conveying sewage to the District's MS4, or allows such a connection to continue.

(c) **Suspension of MS4 Access.**

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- (1) **Suspension due to Illicit Discharges in Emergency Situations.** The District may, without prior notice, suspend MS4 discharge access when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the District's MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the District may take such steps as deemed necessary to prevent or minimize damage to the District's MS4 or Waters of the United States, or to minimize danger to persons or the environment.
- (2) **Suspension due to the Detection of Illicit Discharge.** Any person discharging to the District's MS4 in violation of this Rule may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The District shall notify a violator of the proposed termination of its MS4 access. The violator may petition the District for a reconsideration and hearing. A person commits an offense subject to enforcement if the person reinstates MS4 access to facilities terminated pursuant to this Section, without the prior approval of the District.

(d) **Monitoring of Discharges.**

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- (1) **Applicability.** This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
- (2) **Access to Facilities.**
  - (i) The District shall be permitted to enter and inspect facilities subject to regulation under this Rule as often as may be necessary to determine compliance with this Rule. The discharger shall make the necessary arrangements to allow access to representatives of the District.
  - (ii) Facility operators shall allow the District ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
  - (iii) If the District has been refused access to any part of the premises from which stormwater is discharged, the District may seek issuance of a search warrant from any court of competent jurisdiction.
- (e) **Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of BMPs.** The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the

municipal storm drain system or watercourses by these structural and non-structural BMPs. Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required by the District to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

- (f) **Watercourse Protection.** Every person owning property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures shall not become a hazard to the use, function, or physical integrity of the watercourse.
- (g) **Notification of Spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which result or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S., said person shall take all necessary steps to ensure the containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the release. In the event of a release of non-hazardous materials, said person shall notify the District in person or by phone or facsimile no later than the next business day following discovery of the release.
- (h) **Enforcement.**
  - (1) **Notice of Violation.** Whenever the District finds that a person has violated a prohibition or failed to meet a requirement of this Rule, the District may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
    - (i) The performance of monitoring, analyses, and reporting;
    - (ii) The elimination of illicit connections or discharges;
    - (iii) That violating discharges, practices, or operations shall cease and desist;
    - (iv) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
    - (v) Payment of a fine to cover administrative and remediation costs; and/or

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- (vi) The implementation of source control or treatment BMPs.
- (2) **Abatement.** If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work shall be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
- (3) **Appeal of Notice of Violation.** Any person receiving a Notice of Violation may appeal the determination of the District. The notice of appeal must be received within 5 days from the date of the Notice of Violation. Hearing on the appeal before the District Board of Managers shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the District shall be final.
- (4) **Enforcement Measures after Appeal.** If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 3 days of the decision of the District Board of Managers, then representatives of the District are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the District or its agents to enter upon the premises for the purposes set forth above.
- (5) **Cost of Abatement.** The District may assess costs for abatement. Within 30 days after abatement of the violation, the District shall notify the property owner of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
- (6) **Injunctive Relief.** It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Rule. If a person has violated or continues to violate the provisions of this Rule, the District may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- (7) **Violations Deemed a Public Nuisance.** In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Rule is a threat to public health, safety, and welfare, and is declared and deemed a

nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(8) **Relation to Other Rules.** None of the enforcement provisions of this Rule shall abridge or alter the right of the District to seek remedies provided for under Rule H herein.

4. **EXHIBITS.** The following exhibits must accompany the online permit application in electronic .pdf format.

- (a) Property lines and delineation of lands identifying ownership and easements.
- (b) Proposed and existing stormwater facilities' location, alignment and elevation.
- (c) Identification of existing and proposed site contour elevations with at least a 2-foot contour interval.
- (d) Construction plans and specifications of the proposed connection, including design details, connection method, and timing of connection.
- (e) Stormwater runoff volume and rate analysis for the 2-, 10-, and 100-year critical events, existing and proposed conditions.
- (f) Narrative addressing incorporation of stormwater BMPs as otherwise applicable under Rule C-
- (g) On-site soil boring indicating soil type.
- (h) Construction dewatering plan and construction water control and treatment plan.

5. **EXCEPTIONS.**

- (a) The following discharges are exempt from discharge prohibitions established by this Rule: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), street wash water, fire fighting activities, and any other water source not containing Pollutants.
- (b) Discharges specified in writing by the District as being necessary to protect public health and safety.

- (c) Dye testing is an allowable discharge but requires a verbal notification to the District prior to the time of the test.
- (d) Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

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**Rule H: ENFORCEMENT**

- 1. **MISDEMEANOR.** A violation of these Rules, an order, or stipulation agreement made, or a permit issued by the District is a misdemeanor subject to penalties as provided by Minnesota law.
- 2. **METHOD OF ENFORCEMENT.** The District may exercise all powers conferred upon it by Minnesota Statutes Chapter 103D. A rule, order, or stipulation agreement made or a permit issued by the District may be enforced by criminal prosecution, injunction, action to compel performance, restoration, abatement, and other appropriate action.
- 3. **PERMIT REQUIREMENT.** Pursuant to the terms of the permit, the District may issue a cease and desist order when it finds that a proposed or initiated activity or project presents a serious threat of soil erosion, sedimentation, or an adverse effect upon water quality or quantity, or violates any rule of the District.
- 4. **ATTORNEY FEES AND COSTS.** In any civil action arising from or related to these Rules, an order or stipulation agreement made or a permit issued or denied by the District, the court may award the District reasonable attorney fees and costs.
- 5. **ILLICIT DISCHARGE.** In addition to the remedies provided for in this Rule, the enforcement of Rule G shall be governed by Rule G(3)(h).

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**Rule I: VARIANCES**

- 1. **WHEN AUTHORIZED.** The Board of Managers shall have the power to grant variances from these Rules where they find that extraordinary and unnecessary hardships may result from strict compliance with these Rules; provided that such variances shall not have the effect of nullifying the intent and purpose of these Rules and the overall plan of the District as adopted.
- 2. **PROCEDURE.**
  - (a) A written request for a variance shall be submitted to the District at least 12 calendar days prior to a regularly scheduled meeting date of the Board of



Managers stating the exceptional conditions and the peculiar difficulties claimed.

- (b) The request shall be referred to the Board and they shall review the request within 30 days of the date the request was filed with the District.
- (c) In considering requests for variances, the Board shall consider the effect of the proposed variance upon the entire District and the anticipated effect of the proposed variance upon the overall plan of the District as adopted.
- (d) If the Board determines that the special conditions which apply to the structure or land in question are peculiar to such property, and do not apply generally to other land or structures in the District and that the granting of a variance shall not in any way impair or be contrary to the intent of these Rules and the overall plan of the District as adopted, the Board may grant such variances and impose conditions and safeguards to ensure compliance with these Rules and to protect adjacent property.
- (e) Variances may be denied by Motion of the Board and such Motion shall constitute a finding and determination that the conditions required for approval do not exist. No application for a variance which has been denied wholly or in part shall be resubmitted for a period of six months from the date of said denial, except on grounds of new evidence or proof of change of conditions found to be valid by the District.

- 3. **TERM.** The term of a variance shall be concurrent with the associated permit.
- 4. **VIOLATION.** A violation of any condition set forth in a variance shall be a violation of the District rules and shall automatically terminate the variance.

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**Rule J: SEVERABILITY**

If any provision of these Rules is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these Rules shall not be affected thereby.