

Certification Of Rules

I, Andrew J. Cardinal, Sr., Secretary of the Rice Creek Watershed District Board of Managers, certify that the attached is a true and correct copy of the Rules of the Rice Creek Watershed District having been properly adopted by the Board of Managers of the Rice Creek Watershed District.

Dated: August 26, 1998 /s/Andrew J. Cardinal, Sr.

General Policy Statement

The Rice Creek Watershed District (District) is a political subdivision of the State of Minnesota, established under the Minnesota Watershed Law. The District is also a watershed management organization as defined under the Minnesota Metropolitan Surface Water Management Act, and is subject to the directives and authorizations in that Act. Under the Watershed Law and the Metropolitan Surface Water Management Act, the District exercises a series of powers to accomplish its statutory purposes. The District's general statutory purpose is to conserve natural resources through development planning, flood control, and other conservation projects, based upon sound scientific principles.

As required under the Metropolitan Surface Water Management Act, 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 principles and objectives 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 large, 201 square miles, and its outlet, Rice Creek, has limited capacity to carry flows. Flooding problems already occur in the District's urbanized areas along lower Rice Creek and other localized areas.

Land alteration and utilization also can degrade the quality of runoff entering the streams and waterbodies of the District due to non-point source pollution. Lake and stream sedimentation from ongoing erosion processes and construction activities reduces the hydraulic capacity of waterbodies and degrades water quality. Water quality problems already exist in many of the lakes and streams throughout the District.

Projects which increase the rate or volume of stormwater runoff can aggravate existing flooding problems and contribute to new ones. Projects which degrade runoff quality can aggravate existing water quality problems and contribute to new ones. Projects which fill floodplain or wetland areas 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 modification or alteration of the District's lands and waters to reduce the severity and frequency of flooding and high water, to preserve floodplain and wetland storage capacity, to improve the chemical, physical and biological quality of surface water, to reduce sedimentation, to preserve waterbodies' hydraulic and navigational capacity, to preserve natural wetland and shoreland features, and to minimize public expenditures to avoid or correct these problems in the future.

Relationship of Rice Creek Watershed District to Municipalities

The District recognizes that the primary control and determination of appropriate land uses 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 its water resources are managed in accordance with District goals and policies. Municipalities have the option of assuming a more active role in the permitting process after adoption of a local water management plan approved by the District and adoption and implementation of local ordinances consistent with the approved plan.

The District will also review projects sponsored or undertaken by municipalities and other governmental units, and generally will require permits of the contractor for governmental projects impacting water resources of the District. These projects include but are not limited to, land development and redevelopment, road, trail, and utility construction.

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 or townships to contact the District early in the planning process.

Rule A: Definitions

For the purposes of these rules, the following words have the meanings set forth below.

References in these rules to specific sections of the Minnesota Statutes include any amendments, revisions or recodification of those sections.

Beds of protected waters

all portions of protected waters and wetlands located below the ordinary high water level.

Best management practices (BMPs)

measures taken to minimize negative effects on the environment as documented in the Minnesota Construction Site Erosion and Sediment Control Planning Handbook (MBWSR, 1988) and Protecting Water Quality in Urban Areas (MPCA, 1989).

Criteria

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

Detention basin

any natural or man-made depression that stores storm-water runoff temporarily.

Development

any proposal to subdivide land, any land disturbing activity or creation of impervious surface, including but not limited to, municipal road construction or improvement and construction or reconstruction of stormwater conveyance systems, except that plowing as part of an on-going farming operation shall not be considered development.

District

the Rice Creek Watershed District established under the Minnesota Watershed Law, Minnesota Statutes Chapter 103D.

Drainage system

a system of a ditch or tile, or both, to drain property, including laterals, improvements, and improvements of outlets.

Effective impervious area

area of land which is incapable of either infiltrating rainfall or retaining runoff on site for a one-year, twenty-four hour storm.

Equal encroachment

a method of determining the location of encroachment lines so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Excavation

the displacement or removal of sediment or other material.

Floodplain

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

Floodway

the channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains that must be kept free of encroachment so that the 100-year flood may be carried without increasing the 100-year flood elevation by more than 0.5 feet.

Floodway fringe

the area between the floodway and the boundary of the 100-year flood.

Governmental project

projects sponsored or paid for by a governmental agency.

Landlocked basin

a basin that does not have a natural outlet at or below the 100-year flood elevation, as determined by the 100-year ten-day runoff event.

Low floor

the lowest level of a structure, usually the basement or walk-out level.

Major drainageway

any drainageway having a tributary area of 200 acres or greater.

Municipality

any city or township wholly or partly within the Rice Creek Watershed District.

NURP

Nationwide Urban Runoff Program (see Appendix).

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 that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Parcel

any quantity of land capable of being described with such definiteness that its location and boundaries may be established.

Person

any natural person, partnership, unincorporated association, corporation, limited liability company, municipal corporation, state agency, political subdivision of the State of Minnesota.

Public ditch

a county or judicial ditch over which the District has jurisdiction, or a ditch or tile established, constructed, or transferred to the District and over which the District has jurisdiction under Minnesota Statutes Chapters 103D, 103E, or 103B.

Public waters

all waters identified as public waters under Minnesota Statutes section 103G.005, subdivision 15.

Public waters wetlands

all wetlands identified as public waters wetlands under Minnesota Statutes section 103G.005, subdivision 15a.

Redevelopment

any proposal to subdivide or re-subdivide land, any land-disturbing activity or creation of impervious surface on a developed site.

Sedimentation basin

a natural or man-made depression that temporarily stores storm-water runoff for the purpose of allowing a portion of the suspended solids in the runoff to settle out.

Setback

The minimum horizontal distance between a structure or sanitary facility and the ordinary high water mark or between a structure or sanitary facility and a road, highway, or property line.

Shoreland zone

land areas within 1,000 feet of the OHW of a public waters lake or 300 feet of a public waters watercourse.

Standards

a preferred or desired level of quantity, quality, or value.

Subdivision, subdivide

the separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots.

Waterbasin

an enclosed natural depression with definable banks capable of containing water, that may be partly filled with waters of the state.

Watercourse

a channel that has definable beds and banks capable of conducting confined runoff from adjacent land.

Wetland

any area identified as wetlands under Minnesota Statutes section 103G.005, subdivision 19.

Rule B: Permit Procedural Requirements

1. Application Required.

Any person 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 and such other information and exhibits as may be required by these rules. All permit applications must bear the original signature of the landowner, or selected contractor for governmental projects.

2. Forms.

Permit applications must be submitted on the form provided by the District. Applicants may obtain these forms at the District office.

3. Action By Board Of Managers.

The Board of Managers shall act within sixty days of receipt of a complete permit application. A complete permit application includes all required

information, exhibits, fees and surety.

4. Issuance Of Permits.

The Board of Managers will issue a permit only after applicant has satisfied all requirements for the permit, has paid all required District fees, and the District has received any required surety.

5. Permit Term.

Permits are valid for an eighteen month period from the date of issuance unless otherwise suspended or revoked. To extend a permit, the permittee must apply to the District in writing, stating the reasons for extension. Any plan changes, and related project documents must also be included in the extension application. The District must receive this application at least thirty days prior to the permit's expiration date.

6. Permit Assignment.

A permittee may assign a District permit only upon consent by the Board of Managers to the assignment.

Standard. The Board of Managers may grant the assignment of an issued permit if it finds the following conditions have been met:

- (a) The proposed assignee in writing agrees to assume all the terms, conditions and obligations of the permit as originally issued to the permittee.
- (b) The proposed assignee has the ability to satisfy the terms and conditions of the permit as originally issued.
- (c) The proposed assignee is not changing the project as originally permitted.
- (d) There are no violations of the permit conditions as originally issued.
- (e) The Board of Managers has received from the proposed assignee any required surety to secure performance of the assigned permit.

7. Permit Fees.

Revised April 27th, 2005

The District will charge the applicant permit fees in accordance with a fee schedule adopted by written resolution of the Board of Managers and conforming to Minnesota Statutes §103D.345.

Procedure And Payment Of Fee. Applicant must submit the required permit fee to the District at the time it submits its permit application.

Governmental Agencies Exempt. The fees described above will not be charged to the federal government, the State of Minnesota or a political subdivision of the State of Minnesota.

8. Performance Surety.

(a) Policy. It is the policy of the Board of Managers to conserve the District's water resources by assuring compliance with its rules. Requiring a bond or other surety to secure performance of the permit conditions and the District rules is an effective way to conserve the District's water resources.

(b) Performance Surety Requirement. A cash surety in an amount set forth below must be submitted to the District with each permit application for the activities described below:

Description of Activity	Cash Surety Amount
1. Site development with less than 5 acres of disturbed area	\$1,500, \$2,500 if a detention pond is required
2. Site development with less than 10, but greater than 5 acres of disturbed area	\$2,500, \$3,500 if a detention pond is required
3. Site development with greater than 10 acres of disturbed area	\$3,500 + \$250 per additional acre over 10
4. Any alteration of Type III, IV, or V Wetlands	\$3,500
5. Construction of a Public Ditch Crossing	\$2,500 for single-lane road or driveway, \$5,500 for two-lane or greater roadway
6. Grading activity within 100 feet of Rice Creek or a Public Ditch	\$3,500 for parallel distances less than 500 feet \$5,500 for parallel distances 500 feet or greater
7. Construction activity (sewer and water line installation) in or along Rice Creek or any Public Ditch	\$3,500 for parallel distances less than 500 feet \$5,500 for parallel distances 500 feet or greater
8. Wildlife pond construction and shoreland improvement projects	\$250
9. Wetland replacement plans governed by WCA	\$500 + \$10,000 per acre replaced

An applicant may submit a performance bond or an irrevocable letter of credit to the District to secure performance of permit conditions for activities for which the required surety amount as determined above is in excess of \$5,000. The performance bond or letter of credit must be submitted with the permit application.

(c) Form and Contents of Performance Bond or Letter of Credit.

(1) The performance bond or irrevocable letter of credit must be in a form acceptable to the District and from a surety licensed to do business in Minnesota.

(2) The performance bond or irrevocable letter of credit must be in favor of the District and conditioned upon the performance of the party obtaining the performance bond or letter of credit of the activities authorized in the permit, and compliance with all applicable laws,

including the District's rules, the terms and conditions of the permit and payment when due of any fees or other charges required by law, including the District's rules. The performance bond or irrevocable letter of credit must provide that if the performance bond conditions are not met, the District may make a claim against the performance bond or letter of credit.

(d) Release of Performance Surety. Upon written notification from permittee of completion of the permitted project, the District will inspect the project to determine if it is constructed in accordance

with the terms of the permit and District rules. If the project is completed in accordance with the terms of the permit and District rules and the party providing the performance surety does not have an outstanding balance of money owed to the District for the project, including but not limited to unpaid permit fees, the District will release the performance bond or letter of credit, or return the cash surety if applicable.

9. Other Permits And Approvals.

It is the permit applicant's responsibility to secure all permits and approvals that are required by other governmental authorities, and provide the District proof that applicant has submitted these permit applications.

Rule C: Storm-Water Management Plans

1. Policy.

It is the policy of the Board of Managers to:

(a) Manage stormwater and snowmelt runoff on a regional or subwatershed basis and promote natural infiltration of runoff throughout the District to:

- (1) Provide effective water quality treatment and where possible provide such treatment prior to discharge to surface waterbodies and wetlands.
- (2) Ensure that future peak rates of runoff are less than or equal to existing rates.
- (3) Maximize infiltration and control run-off volume increase.

(b) Require stormwater facilities to be constructed on individual sites where regional facilities are not available.

2. Regulation.

A permit and stormwater management plan is required under this rule for new development, redevelopment, or additions to an existing site.

3. Design Criteria For Stormwater Management Plans.

Stormwater management plans must comply with the following criteria:

- (a)** A hydrograph method based on sound hydrologic theory must be used to analyze stormwater runoff for the design or analysis of flows and water levels within and off the project site.
- (b)** Stormwater runoff rates for the proposed project must not exceed pre-project runoff rates for the critical one-year or two-year and 100-year frequency events.
- (c)** Regional detention basins will be utilized to manage peak flow rates and meet water quality objectives where possible. On-site detention basins will be utilized when regional basins are not in place or are not feasible.
- (d)** Analysis of flood levels, storage volumes, and flow rates for waterbodies and detention basins must be based on the range of rainfall and snow melt durations which produces the critical (highest) flood levels and discharges.
- (e)** Detention basins must be designed to provide:
 - (1) An outlet structure to control the 1-year or 2-year & 100-yr frequency events to pre-project peak runoff sites.
 - (2) An identified overflow spillway sufficiently stabilized to convey flows greater than the 100-year critical storm event.
 - (3) Access for future maintenance.
- (f)** Permanent sedimentation and water quality ponds are required and must be designed to provide:
 - (1) Water quality features consistent with NURP criteria and District wet pond criteria (see appendix).
 - (2) A permanent wet pool with dead storage of at least equal to the runoff from a 2.5 rainfall over the area tributary to the pond.
 - (3) An outlet structure capable of preventing migration of floating debris and oils for at least the one-year storm.
 - (4) Access for future maintenance.
- (g)** The proposed project must not adversely affect water levels off the site during or after construction.

(h) Stormwater Management Plans under this rule must conform with approved Municipal Stormwater Management Plans.

(i) Outfall structures within wetlands and public waters and public waters wetlands must incorporate a stilling-basin, surge-basin, energy dissipater, placement of ungrouted natural rock riprap or other devices to minimize disturbance and erosion of natural shoreline and bed resulting from stormwater discharges.

(j) All new residential, commercial, industrial and other habitable or non-habitable structures must be constructed so that the lowest floor elevations are a minimum of two feet above the critical event 100-year high water elevation and are one foot above the overflow elevation of nearby surface waterbodies wetlands and stormwater basins. Within landlocked basins, lowest floor elevations must be at least one foot above the surveyed basin overflow elevation.

(k) Development resulting in the creation of impervious surfaces must explicitly address use of best management practices (BMPs) to first limit the loss of pervious area; and second, to infiltrate runoff which does occur from impervious areas to the extent feasible considering site-specific conditions. BMPs include the use of vegetated swales, pond outlets perched above groundwater levels, use of infiltration systems, roof drainage to pervious areas, minimum of twenty percent pervious surface, use of depressed/casual storage areas, and minimization of the number and width of parking stalls and use of deep-rooted native vegetation, and narrower "rural section" roads.

The goal of these BMPs is to incorporate practices into the design which are capable of infiltrating the impervious surface runoff from the Mpls-St.Paul median storm (0.34 inches) in seventy-two hours. Infiltration volume will be calculated using the appropriate hydrologic soil group classification and saturated infiltration rate from the table below.

Hydrologic Infiltration

Soil Group	Rate	Soil Textures
A	0.50 in/hr	sand, loamy sand, or sandy loam
B	0.25 in/hr	silt loam or loam
C	0.10 in/hr	sandy clay loam
D	0.03 in/hr	clay loam, silty clay loam, silty clay, or clay

Source: *Urban Hydrology for Small Watersheds*, SCS, June 1986.

Infiltration area will be limited to the horizontal areas subject to prolonged wetting.

Areas of permanent pools tend to lose infiltration capacity over time and will not be accepted as an infiltration practice.

(l) Landlocked basins may be provided with outlets only if they:

(1) Retain a hydrologic regime which complies with District Wetland Alteration Rule F.

(2) Provide sufficient dead storage volume to retain back-to-back 100-year, twenty-four-hour rainfalls and runoff.

(3) Do not create adverse downstream flooding or water quality conditions as a result of increased discharge rate or volume, or other factors.

(m) All stormwater management structures and facilities must be properly maintained in perpetuity to assure that they continue to function as originally designed. This maintenance responsibility must be assumed either by the municipality's accepting the required easements dedicated to stormwater management purposes, or by the applicant executing and recording a maintenance agreement acceptable to the District.

4. Required Exhibits.

The following exhibits must accompany the permit application. One set, full size; two sets, reduced to maximum size of 11"x17."

- (a) Property lines and delineation of lands under ownership of the applicant.
- (b) Delineation of the subwatershed contributing runoff from off-site, proposed and existing subwatersheds on-site, emergency overflows, and drainageways.
- (c) Proposed and existing stormwater facilities' location, alignment and elevation.
- (d) Delineation of existing on-site wetland, marshes, shoreland and/or floodplain areas.
- (e) Identification of existing and proposed normal, and ordinary high and 100-year water elevations on-site.
- (f) Identification of existing and proposed site contour elevations related to NGVD, 1929 datum.
- (g) Construction plans and specifications of all proposed stormwater management facilities, including design details for outlet control structures.
- (h) Stormwater runoff volume and rate analyses for the one and 100-year critical events, existing and proposed conditions.
- (i) All hydrologic, water quality, and hydraulic computations completed to design the proposed stormwater management facilities.
- (j) Narrative addressing incorporation of infiltration BMPs.
- (k) Delineation of any ponding or flowage easements or other property interest dedicated to stormwater management purposes.

5. Platting Or Easement Documents.

Applicant must provide platting or easement documents showing sufficient drainage and ponding/flowage easements over hydrologic features such as floodplains, storm sewers, ponds, ditches, swales, wetlands and waterways. Structures and facilities subject to flood damage built within the 100-year

flood will have two feet of freeboard between the lowest floor and the 100-year flood profile.

6. Exceptions.

(a) Rule C and its requirements will not apply to development or redevelopment of individual sites less than 2.5 acres in size for industrial, commercial, and multi-unit residential, and less than five acres in size for single-family residential, unless such development or redevelopment:

- (1) Is within the 100-year floodplain.
- (2) Is within 1,000 feet of a public water or protected wetland.
- (3) Is within 300 feet of Rice Creek, Clearwater Creek, Hardwood Creek, or of a public ditch.

(b) Rule C and its requirements will not apply to construction of single-family detached dwelling on an isolated lot, unless such dwelling:

- (1) Is within the 100-year floodplain.
- (2) Is within 1,000 feet of a public water or protected wetland.
- (3) Is within 300 feet of Rice Creek, Clearwater Creek, Hardwood Creek, or of a public ditch.

(c) Rule C and its requirements will not apply to construction on individual lots within a residential subdivision approved by the District, unless the activity does not comply with the original development plan or has been superseded by state law.

(d) The requirements of paragraph (f) of Section 3 will be modified for redevelopment sites at which less than fifty-percent of the total site area (including any road right-of-way) will be disturbed, such that water quality ponding will be required only for the areas being disturbed.

(e) Subdivision of land which does not propose construction of impervious surfaces or structures will be exempt from the requirements of Section 3 and paragraphs (c), (g), (h), (i) of Section 4. However, a Rule C permit is required when such future development does occur.

(f) Rate control criteria discussed in Section 3 may be waived if the site discharges directly to a water body with large storage capacity (such as a public water) which has a time-to-peak elevation greater than that for an on-site pond and the volume discharged from the on-site pond is negligible, relative to the volume of runoff entering the waterbody.

(g) The requirements of paragraphs (e) and (f) of Section 3 may be waived for sites with total impervious area of less than one acre, if infiltration BMPs have been incorporated into the project to the maximum extent possible.

(h) The requirements of paragraph (j) of Section 3 may be waived for short-duration floods not associated with regulatory (FEMA-FIS) floodplain.

Low floor elevations will not be allowed below the 100-year water level, and the two-foot freeboard requirement would apply to the minimum building opening elevation. Additionally, applicant must submit calculations demonstrating the duration of the flood event was sufficiently brief to prevent saturation of the soil at the low floor.

(i) In cases where structures are proposed below the runout elevation of land-locked basins, the low-floor elevation will be a minimum of two feet above the high water level as determined from an estimate of highwater levels determined from the highest of either the 100-year, ten-day runoff event or back-to-back 100-year, twenty-four-hour rainfalls. Aerial photos, vegetation, soils, and topography will be used to derive a “normal” water elevation for the basin for purposes of computing the 100-year elevation.

Rule D: Erosion Control Plans

1. Policy.

It is the policy of the Board of Managers to prevent erosion of soil into surface water systems by requiring preparation and implementation of erosion control plans for land disturbance activities.

2. Regulation.

A permit and an erosion control plan is required for new development, redevelopment, or additions to an existing site.

3. Design Criteria For Erosion Control Plans.

Erosion Control Plans must comply with the following criteria:

(a) Natural site topography and soil conditions must be considered to reduce erosion and sedimentation during construction and after project completion.

(b) Site erosion and sediment control practices must be consistent with recommendations of the Best Management Practices identified in the Minnesota Pollution Control Agency’s "Protecting Water Quality in Urban Areas," and be sufficient to retain sediment on-site.

(c) Erosion and sediment control measures must be installed prior to land altering activities and routinely inspected and maintained by permittee during the project until final turf and ground cover is established as documented in "Protecting Water Quality in Urban Areas" (MPCA, 1989). Permittee will inspect project sites after every rainfall event exceeding 0.5 inches and implement erosion and sediment control measures addressed as needed. The project must be phased as best possible to minimize disturbed areas and removal of existing vegetation until necessary for project progress. In order to ensure that sediment is retained on-site, the District Inspector may require the permit applicant to provide additional erosion control measures where site conditions warrant.

(d) Silt fences will be removed after all disturbed areas have been permanently stabilized.

4. Required Exhibits.

The following exhibits must accompany the permit application. One set, full size; two sets, reduced to maximum size of 11"x17".

(a) An existing and proposed topographic map which clearly indicates all hydrologic features and areas where grading will expose soils to erosive conditions. The Plan must also indicate the direction of all site runoff.

(b) Tabulation of the construction implementation schedule.

(c) Name, address and phone number of party responsible for maintenance of all erosion control measures.

(d) Identification of all temporary erosion control measures which will remain in place until permanent vegetation is in place. Examples include, but are not limited to: Seeding with perennial vegetation, mulching, sodding, silt fence, erosion control matting, and hay bale filter barriers.

(e) Identification of all permanent erosion control measures such as outfall spillways and riprap shoreline protection, and their location.

(f) For projects over five acres of graded area, documentation that the project applicant has applied for a National Pollutant Discharge Elimination System (NPDES) general permit from the Minnesota Pollution Control Agency (MPCA).

(g) Tabulation of all earthwork cut-and-fill volumes and computation of any floodplain volume and/or wetland area changes.

5. Exceptions.

(a) Rule D and its requirements will not apply to development or redevelopment of individual sites less than 2.5 acres in size for industrial, commercial, and multi-unit residential, and less than five acres in size for single-family residential, unless such development or redevelopment:

(1) Is within the 100-year floodplain.

(2) Is within 1,000 feet of a public water or protected wetland.

(3) Is within 300 feet of Rice Creek, Hardwood Creek, Clearwater Creek, or of a public ditch.

Rule E: Floodplain Alteration

1. Policy.

It is the policy of the Board of Managers to:

- (a) Protect the lives and property values of persons occupying the flood plains.
- (b) Enhance the floodplains' water resource values. Water resource values are defined as those characteristics which promote the natural moderation of floods, maintain the streams' water quality, and provide groundwater recharge.
- (c) Promote the living resource values existing in flood plain areas which include the protection of fish and wildlife resources.
- (d) Enhance the flood plains' significant cultural values, which include preservation of open space, natural beauty, areas for scientific study, outdoor education, and recreation.

2. Regulation.

No person may alter or fill land below the 100-year flood elevation of any public water, public water wetland or other wetlands without first obtaining a permit from the District.

For permitting purposes the District is divided into Flood Plain Management Sector A and Sector B. These sectors aid in applying management principles which reflect the hydrologic importance of flood plain across the District.

3. Criteria For Floodplain Alteration.

Permitting Requirements for Flood Plain Management Sector A

Sector A contains those subwatersheds where the percentage of flood plain to total area is twelve percent or less, and the topography in terms of a generalized slope condition is predominantly greater than twelve percent. Flood Plain Management Sector A includes subwatershed 4, 5, 7, 8, 13a, 14a, 14b, 14c, 14d, 14e, 15b and 16.

- (a) Construction of impervious areas within flood plain areas will not be allowed within the designated groundwater recharge areas for the Prairie du Chien-Jordan formation except for road construction, trails, and other recreational improvements.
- (b) To protect water quality and the conveyance capacity of the flood plain, the District will not permit site development which would involve the outside storage of soluble, toxic, or buoyant materials. Examples of acceptable flood plain uses include open space, golf courses, and parking surfaces located outside of designated recharge areas with less than six inches of flooding occurring over the surface.
- (c) Encroachment within the 100-year flood plain may occur if all the following conditions exist:
 - (1) The flood plain storage volume after encroachment is equal to or greater than the flood plain storage volume prior to encroachment (compensatory storage is required).

- (2) This encroachment does not lie within the floodway and does not result in a violation of the District's Wetland Alteration Rule F.
- (3) Construction or development subject to flood damage will have a minimum floor elevation of two feet above the 100-year flood profile.
- (4) Any structures, facilities, or embankments within the flood plain will be capable of passing the 100-year flood without increasing the elevation of the 100-year flood profile or creating excessive velocities as determined by the District Engineer.

Permitting Requirements for Flood Plain Management Sector B

Sector B contains those subwatersheds where the percentage of flood plain to total area is greater than twelve percent, and the topography is characterized by a general slope condition of predominantly less than twelve percent. Flood Plain Management Sector B includes subwatersheds 1, 2, 3, 6, 9, 10, 11, 12a and 12b.

- (a) Construction of impervious areas will not be allowed within the designated groundwater recharge areas of the Prairie du Chien-Jordan formation except for road construction, trails, and other recreational improvements.
- (b) To protect water quality and the conveyance capacity of the flood plain, the District will not permit site development which would involve the outside storage of soluble, toxic, or buoyant materials. Examples of acceptable flood plain uses include open space, golf courses, and parking surfaces located outside of designated recharge areas with less than six inches of flooding occurring over the surface.
- (c) Encroachment may occur in the flood plain areas of Flood Plain Management Sector B if all the following conditions exist:
 - (1) The encroachment lies within the floodway fringe area of the 100-year flood plain in those areas where floodway has been identified, or in the absence of an established floodway, compensatory (live) storage is excavated.
 - (2) The encroachment does not result in increasing the 100-year flood profile within the floodway portion of the flood plain by more than 0.5-foot or create velocities exceeding 2.5 feet/second or as determined by the District Engineer.
 - (3) The encroachment does not violate the principle of "equal encroachment."
 - (4) The encroachment does not result in violation of the District's Wetland Alteration Rule F.
 - (5) Structures and facilities subject to flood damage built within the 100-year flood will have two feet of freeboard between the lowest floor and the 100-year flood profile.

4. Drainage Easements.

Applicant will provide drainage and flowage/ponding easements over flood plain areas inundated during the 100-year flood and drainage easements within

100 feet from the centerline of Rice Creek, Hardwood Creek, Clearwater Creek, and Ramsey County Ditch #2, within fifty feet of the centerline of county and judicial ditches, or within twenty-five feet of the centerline of any major drainageway of the District.

5. Required Exhibits.

The following exhibits must accompany the permit application. One set, full size; two sets, reduced to maximum size of 11" x 17".

- (a) Site plan showing property lines, delineation of the work area, existing elevation contours of the work area, ordinary high water elevation, and regional flood elevation. All elevations must be reduced to NGVD (1929 datum).
- (b) Grading plan showing any proposed elevation changes.
- (c) Preliminary plat of any proposed land development.
- (d) Determination by a professional engineer or qualified hydrologist of the local 100-year flood elevation before and after the project.
- (e) Computation of change in flood storage capacity resulting from proposed grading.
- (f) Erosion Control Plan.
- (g) Soil boring results if available.

Rule F: Wetland Alteration

1. Policy.

It is the policy of the Board of Managers to:

- (a) Achieve no net loss in the quantity, quality, and biological diversity of Minnesota's existing wetlands.
- (b) Increase the quantity, quality, and biological diversity of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands.
- (c) Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands.
- (d) Replace wetland values where avoidance of activity is not feasible and prudent.

2. Regulation.

No person may fill, drain, excavate or otherwise alter the character of a wetland without first obtaining a permit from the District.

3. Criteria.

(a) The Minnesota Wetland Conservation Act, as amended, and the rules implementing the Wetland Conservation Act as set forth in Minnesota Rules chapter 8420, as amended, are incorporated as part of this rule and govern draining or filling of wetlands within the District.

(b) Excavations in wetlands for the purposes of wildlife enhancement must comply with the criteria described in the General Design Consideration for Wildlife Pond Construction and Wetland Alterations, included in the appendix of these rules.

(c) Wetlands may be used for stormwater storage and treatment only if applicant demonstrates that the excavation will not adversely affect the function and values of the wetland, and will not substantially increase sediment load, tributary area, or water level fluctuations. The District will use the MPCA report, Guidance for Evaluating Urban Stormwater and Snowmelt Runoff Impacts to Wetlands to assist it in evaluating potential impacts.

(d) Other activities which would change the character of a wetland must demonstrate that the quantity, quality and biological diversity of the wetland will not be diminished, as evaluated using a wetlands functions and values assessment system.

(e) For wetland alterations not regulated by WCA, functions and values diminished as a result of the alteration, must be replaced at a ratio of one-to-one.

4. Local Government Unit.

The District intends to serve as the “local government unit” for administration of the Minnesota Wetland Conservation Act, unless a particular municipality in the District has elected to assume that role in its jurisdictional area. Notwithstanding the above, the District will continue to require wetland alteration permits under this rule.

5. Required Exhibits.

The following exhibits must accompany the permit application. One set, full size; two sets, reduced to maximum size of 11"x17".

(a) Site plan showing:

(1) Property lines and corners and delineation of lands under ownership of the applicant.

(2) Existing and proposed elevation contours, including the existing runout elevation and flow capacity of the wetland outlet, and spoil disposal areas.

(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 Manual.

(2) Identification of presence or absence of normal circumstances or problem conditions.

(3) Basin classification using the Cowardian 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 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 will normally be field-verified by District staff. Applicants must leave stakes in the field to aid review of the site. Wetland delineations should be performed during the normal growing season for this area of the State of Minnesota (May 1 - October 15). Delineations performed outside this time frame may or may not be permitted, depending on potential wetland impact in relation to the entire development or project.

(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 project.

(e) An Erosion Control Plan.

6. Exceptions.

Clearing of vegetation, plowing or pasturing in a wetland as part of an existing and on-going farming operation will not require a permit under this rule unless the activity results in draining or filling the wetland.

Rule G: Bridge And Culvert Crossings

1. Policy.

It is the policy of the Board of Managers to preserve the capacity of the present drainage systems to accommodate future needs.

2. Regulation.

No person may construct, improve, repair or alter the hydraulic characteristics of a bridge profile control or culvert structure on a creek, public ditch or major watercourse in the District, without first obtaining a permit from the District.

3. Criteria.

Crossings must:

- (a) Provide equivalent hydraulic capacity as existing condition.
- (b) Retain existing navigational capacity.
- (c) Not adversely affect water quality.
- (d) Represent the “minimal impact” solution to a specific need with respect to all other alternatives.
- (e) Allow for future erosion, scour, and sedimentation considerations.

4. Required Exhibits.

The following exhibits must accompany the permit application. One set, full size; two sets, reduced to maximum size of 11"x17".

- (a) Construction details showing:
 - (1) Existing and proposed flow line (invert) elevations.
 - (2) End details with flared end sections, wingwalls and/or riprap (energy dissipaters).
 - (3) Size and description of structure.

(4) Emergency overflow elevation and route.

(b) Construction schedule.

(c) Narrative describing construction methods.

(d) Erosion Control Plan.

(e) Computations of watershed area, peak flow rates and elevations, and discussion of potential effects on water levels above and below the project area.

5. Exceptions.

(a) Criteria 3(a) may be waived if the applicant can demonstrate with supporting hydrologic calculations: 1) the need for an increase in discharge rate in order to provide for reasonable surface water management in the upstream area, and 2) that the downstream impacts of the increased discharge rate can be reasonably accommodated and will not exceed the existing rate at the municipal boundary.

Rule H: Shoreland Development

1. Policy.

It is the policy of the Board of Managers to promote the adoption of local shoreland ordinances based on Department of Natural Resources regulations.

2. Regulation.

In those cities which have not adopted state-approved shoreland ordinances, the District requires a permit for development, grading or filling within the shoreland zone of public waters lakes and streams.

3. Criteria.

A permit applicant for development, grading or filling within the shoreland zone of public waters lakes and streams must comply with the following setback criteria.

(a) Structure Setback Criteria. The placement of structures on lots is controlled in accordance with the class of public waters as follows:

- (1) For natural environment waters, at least 200 feet from the OHW for lots not served by public sewer and at least 150 feet from the OHW for lots served by public sewer.
- (2) For recreational development waters, at least 100 feet from the OHW for lots not served by public sewer and at least seventy-five feet from the OHW for lots served by public sewer.
- (3) For general development waters, at least seventy-five feet from the OHW for lots not served by public sewer and at least fifty feet from the OHW for lots served by public sewer.

(b) Sanitary Facilities Setback Criteria. Septic tank and soil absorption systems must be set back from the OHW in accordance with the class of public waters as follows:

- (1) For natural environment waters, at least 150 feet.
- (2) For recreational development waters, at least seventy-five feet.
- (3) For general development waters, at least fifty feet.

Soil absorption systems will not be allowed in the following areas:

- (1) Low swampy areas or areas subject to recurrent flooding.
- (2) Where the highest known groundwater table, bedrock, or impervious soil conditions are within four feet of the bottom of the system.
- (3) Where ground slope creates a danger of seepage of the effluent on the surface of the ground.

4. Required Exhibits.

The following exhibits must accompany the permit application. One set, full size; two sets, reduced to maximum size of 11"x17".

- (a) Site plan showing building setback from the ordinary high water elevation.
- (b) Erosion Control Plan.

5. Exceptions.

The requirements of Section 3 and of paragraph (a) of Section 4 above will not apply to boathouses provided they are not used for habitation, and do not

contain sanitary facilities.

Rule I: Drainage Systems

1. Policy.

It is the policy of the Board of Managers to regulate new construction, improvement or repair of public or private drainage systems (open and tiled) for the following purposes:

- (a) To preserve the capacities of drainage systems to accommodate future needs.
- (b) To improve water quality and prevent localized flooding.

2. Regulation.

No drainage system may be constructed, improved or repaired without first obtaining a permit from the District.

3. Criteria.

A permit applicant for construction, improvement or repair of a public or private drainage system must:

- (a) Comply with all federal, state and District wetland protection rules and regulations.
- (b) Demonstrate that such activity will not adversely impact down stream water quality or quantity.
- (c) Provide stable channel and outfall.
- (d) Demonstrate concurrence with regional pond or subdivision drainage plans approved by the District, if applicable.
- (e) Retain a hydrologic regime which complies with District Wetland Alteration Rule F.
- (f) If drainage system is proposed to outlet a landlocked basin, provide sufficient dead storage volume to retain back-to-back 100-year, twenty-four-hour rainfalls and runoff.

4. Required Exhibits.

The following exhibits must accompany the permit application. One set, full size; two sets, reduced to maximum size of 11"x17".

- (a) Map showing location of project and tributary area.
- (b) Existing and proposed cross sections and profile of affected area.
- (c) Description of bridges or culverts required.
- (d) Narrative and calculations describing wetland impacts and affects on water levels above and below the project area.

5. Exceptions.

The Board of Managers may waive the requirement of a permit under this rule for repair to a drainage system if the applicant proposes to repair a tiled system of less than fifty feet in length, and where such repair would not alter the invert of the system.

Rule J: Appropriation Of Public Waters

1. Policy.

It is the policy of the Board of Managers to regulate the appropriation of public waters as follows.

2. Regulation.

A permit from the District is required for the appropriation of water from:

- (a) A public water basin or wetland wholly within Hennepin or Ramsey County which is less than 500 acres in surface area.
- (b) A protected watercourse which has a drainage area of less than 50 square miles.

3. Criteria.

A permit applicant for appropriation of public waters as described above must complete and submit to the District an appropriation checklist. The appropriation checklist form may be obtained from the District office.

Rule K: Enforcement

1. Violation of Rules is a Misdemeanor.

Violation of these rules, a stipulation agreement made, or permit issued by the Board of Managers under these rules, is a misdemeanor subject to a penalty as provided by law.

2. District Court Action.

The District may exercise all powers conferred upon it by Minnesota Statutes Chapter 103D in enforcing these rules, including criminal prosecution, injunction, or action to compel performance, restoration or abatement.

3. Administrative Order.

The District may issue a cease and desist order when it finds that a proposed or initiated 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.

Rule L: Variances

1. Variances Authorized.

The Board of Managers may hear requests for variances from the literal provisions of these rules in instances when their strict enforcement would cause undue hardship because of circumstances unique to the property under consideration. The Board of Managers may grant variances where it is demonstrated that such action will be in keeping with the spirit and intent of these rules.

2. Standard.

In order to grant a variance the Board of Managers must determine that:

(a) Special conditions apply to the structure or land under consideration that do not apply generally to other land or structures in the District.

(b) Because of the unique conditions of the property involved, undue hardship to the applicant would result, as distinguished from mere inconvenience, if the strict letter of the rules was carried out. Economic considerations alone shall not constitute undue hardship if any reasonable use of the property exists under the terms of the District's rules.

(c) The proposed activity for which the variance is sought will not adversely affect the public health, safety, welfare, will not create extraordinary public expense, will not adversely affect water quality, water control, drainage in the District.

(d) The intent of the District's rules is met.

3. Term.

A variance shall expire one year after the date it is granted, unless implemented by applicant within that one year period.

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.

Rule M: Comprehensive Wetland Management Plan

Adopted: January 28, 2004 (<http://www.ricecreek.org/board/agendas-minutes/#200401>)

1. Purpose.

The purpose of this Rule is to implement the "Anoka County Ditch 53-62 Comprehensive Wetland Management Plan dated July 17, 2003 ("CWMP"), approved by the Minnesota Board of Water and Soil Resources and adopted by the Rice Creek Watershed District Board of Managers pursuant to the Wetland Conservation Act (WCA), Minnesota Statutes §103G.2243, in conjunction with continuing maintenance of Anoka County Ditch 53-62 in accordance with Minnesota Statutes Chapter 103E. CWMP provides for full replacement of disturbed wetland, and wetland functions & values, on an area rather than parcel basis. The CWMP aggregates existing and replacement wetland to create a larger, contiguous wetland complex providing ecological functions & values exceeding what would result from a parcel-based application of the WCA. At the same time, it allows developable upland to be aggregated in proximity to existing and planned development infrastructure in a manner that enhances the value of the property for development and facilitates municipal implementation of a comprehensive plan for development and open space protection within the CWMP area. This Rule regulates activity on both developable upland and protected wetland within the CWMP area in order to fully enhance and protect the ecology of the CWMP area without unduly limiting the benefits that it creates for property owners and municipal development. The Technical Evaluation Panel has had the opportunity to review and advise on the groundwater modeling methodology and scope & effect assessment in the CWMP.

2. Applicability.

(a) A Rule M permit is required to:

(i) Fill or excavate in or drain, wholly or partially, a wetland within the CWMP area;

(ii) Create more than 10,000 square feet of impervious surface within the CWMP area; or

(iii) Use motorized equipment to alter land contours within the CWMP area so as to increase or decrease the rate or volume of surface runoff into a wetland within the CWMP area.

(b) For activity subject to this Rule, a separate permit under District Rule B, C, D or F is not required. Other District Rules and the permit requirements of other units of government continue to apply.

3. Submittals.

(a) Except as provided below, an application for a permit under this Rule shall consist of application materials, fees and sureties as required by District Rules B, C, D and F.

(b) A proposal that does not involve subdivision, grading or development of upland within the CWMP area need not submit application materials required by District Rule C.

(c) A proposal that does not involve fill, excavation or draining of a wetland within the CWMP area need not submit application materials required by District Rule F).

(d) On District request, the applicant shall conduct an assessment of protected plant or animal species within the CWMP area.

(e) The application shall include a wetland delineation, wetland type determination, and functional assessments using MNRAM or another approved assessment methodology, and the Technical Evaluation Panel will review on-site wetland delineations, wetland type determinations, and functional assessments, to issue findings and recommendations on these aspects for each project that is proposed, and the District will consider these findings and recommendations in its permit decision.

(f) The application shall include the results of an on-site determination of the existence and location of all ditches.

(g) The applicant shall provide such other submittals as are reasonably requested by the District.

(h) This Rule does not eliminate the need for the applicant to obtain approval for a proposed activity from the U.S. Army Corps of Engineers.

4. Erosion Control.

The requirements of District Rule D apply to activity subject to this Rule. The exceptions of Rule D, section 5, do not apply.

5. Stormwater Management.

The following requirements apply to subdivision, grading or the creation of impervious surface subject to this Rule.

(a) The applicant shall incorporate site design principles and Best Management Practices to minimize impervious surface, maximize on-site surface runoff infiltration, and reduce peak runoff flow rates and off-site pollutant transport.

(b) The requirements of District Rule C apply except as follows:

(i) Rule C, paragraphs 3(k), 6(a), 6(b) and do not apply.

(ii) Rule C, paragraph 6(g), applies but the applicant shall meet the peak flow control standards of paragraph 3(b).

(iii) Notwithstanding Rule C, paragraphs 6(e) and (f), a detention basin is not required provided that the applicant otherwise meets the standards of this section.

(c) Water quality / infiltration BMPs shall be incorporated on a subwatershed basis and are required to meet the following criteria:

(i) BMP volume will retain the 2-year event by providing at least the volume equal to the runoff from a 2.8-inch, 24-hour storm over the tributary area under proposed conditions.

(ii) Infiltration BMPs shall be incorporated in areas with A & B hydrologic soil groups (see District standard plates and design criteria – yet to be created). Pretreatment of stormwater from impervious surfaces (except rooftops) is required before discharge to infiltration BMPs. Up to 20% of the volume required by paragraph 5(c)(i) may be provided by pretreatment features.

(iii) For areas where infiltration is not ideally suited, a minimum of 20% of the volume required by paragraph 5(c)(i) shall be provided by bio-filtration features (see District standard plates and design criteria – yet to be created). The remaining volume required may be provided by water quality BMPs consistent with NURP criteria and District wet pond criteria (see appendix). Areas not ideally suited for infiltration are defined as areas of C or D hydrologic soil groups not routable via a gravity system to onsite A or B hydrologic soil groups, areas with a high groundwater table, or areas where it has been demonstrated that soil contamination is of particular concern.

(d) An increase in wetland bounce or inundation period may not exceed the following for a ten-year precipitation event. Wetland susceptibility class shall be determined with reference to the receiving wetland type resulting from implementation of the CWMP. Where more than one parcel drains to the wetland in question, impact will be determined by assuming the same percentage of peak flow and runoff volume increase for each parcel.

Wetland Susceptibility Class Permitted Bounce Inundation Period

High	Existing	Existing
Moderate	Existing + 0.5 feet	Existing plus 2 days
Slight	Existing + 1.0 feet	Existing plus 14 days

Least-susceptible

No limit

Existing plus 21 days

(e) The property owner shall record a declaration prohibiting the application of phosphorus-containing fertilizer or the storage of plowed snow in a location from which runoff will be conveyed without adequate pretreatment or sheet flow directly into a wetland within the CWMP area.

(f) Soil amendment, excavation or filling pursuant to development within the CWMP area shall not impede groundwater flow.

6. Vegetated Buffer.

As a condition of permit issuance under this Rule, the property owner shall record a declaration in a form approved by the District establishing a 50-foot buffer adjacent to the delineated edge of wetland within the CWMP area. The declaration shall state that on further subdivision of the property, each subdivided lot of record shall meet the monumentation requirement of paragraph 6(b). On public land or right-of-way, in place of recording a buffer may be documented in a written agreement executed with the District. The agreement shall state that if the land containing the buffer is conveyed, the seller must require the buyer to comply with this section.

(a) This section applies only to the central, contiguous wetland area within the CWMP area. It does not apply to wetlands that lack a surface hydrologic connection to the central wetland area.

(b) A buffer shall be indicated by permanent, free-standing markers at the buffer's upland edge, with a design and text approved by the District staff in writing. One marker shall be placed at each lot line, with additional markers at an interval of no more than 200 feet. If a District permit is sought for a subdivision, the monumentation requirement will apply to each lot of record to be created. On public land or right-of-way, the monumentation requirement may be satisfied by the use of markers flush to the ground, breakaway markers of durable material, or a vegetation maintenance plan approved by the District staff in writing.

(c) The buffer width may vary, provided that an average width of 50 feet is achieved, a width of at least 25 feet is achieved at all points, and the buffer provides wetland and habitat protection at least equivalent to a buffer of uniform 50-foot width.

(d) The buffer shall consist of vegetated land, consisting primarily of plant species native to this region, that is not cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, or other actions to maintain or improve buffer quality, each as approved in writing by the District staff. The application shall include a vegetation management plan for District approval.

(e) Established buffer may be disturbed to alter land contours or improve buffer function if the following criteria are met:

(i) An erosion control plan is submitted under which: alterations are designed and conducted to expose the smallest amount of disturbed ground for the shortest time possible; fill or excavated material is not placed to create an unstable slope; mulches or similar materials are used for temporary soil coverage; and permanent natural vegetation is established as soon as possible.

- (ii) Wooded buffer and riparian canopy trees are left intact;
 - (iii) When disturbance is completed, sheet flow characteristics within the buffer are improved; average slope is no steeper than preexisting average slope or 5:1 (horizontal:vertical), whichever steeper; the top 18 inches of the soil profile is uncompacted, has a permeability at least equal to the permeability of the preexisting soil in an uncompacted state and has organic matter content of between five and 15 percent; and habitat diversity and riparian shading are maintained or improved.
 - (iv) A revegetation plan specifies removal of invasive species and establishment of native vegetation suited to the location.
 - (v) A recorded declaration provides that for three years following site stabilization, the property owner shall correct erosion, maintain and replace vegetation, and remove invasive species to establish permanent vegetation according to the revegetation plan.
 - (vi) Disturbance is not likely to result in erosion, slope failure or a failure to establish vegetation due to existing or proposed slope, soil type, root structure or proposed construction methods.
- (f)** Except as provided in this subsection, no above- or below-ground structure or impervious surface shall be placed within the buffer permanently or temporarily.
- (i) A structure may extend or be suspended above the buffer if the impact of any supports within the buffer is negligible, the design allows sufficient light to maintain the species shaded by the structure, and the structure does not otherwise interfere with the protection afforded by the buffer.
 - (ii) A public utility, or a structure associated with a public utility, may be located within a buffer on a demonstration that there is no reasonable alternative that avoids or reduces the proposed buffer intrusion. The utility or structure shall minimize the area of permanent vegetative disturbance.
 - (iii) Stormwater infiltration features may be located within buffer, but NOT within the minimum required buffer width (25 feet).
 - (iv) The buffer may enclose a linear surface no more than 10 feet in width for non-motorized travel if wetland protection will not be measurably reduced. The surface shall not count toward buffer width.
- (g)** Material shall not be excavated from or placed in a buffer, except for temporary placement of fill or excavated material pursuant to duly-permitted work in the associated wetland; or pursuant to paragraph 6(e) of this Rule.

7. Wetland Replacement.

Any activity subject to this Rule that involves fill or excavation in or draining, partial or total, of a wetland within the CWMP area is subject to this section.

- (a) The CWMP is incorporated into this Rule. The specific terms of this Rule will govern but to the extent that a term of this Rule is susceptible to more than one interpretation, the interpretation shall be chosen that best carries out the intent and purposes of the CWMP.
- (b) Wetland impact from fill, excavation or draining shall be replaced at a ratio of one acre of replacement wetland for each acre of wetland impact.
- (c) The location and type of wetland replacement shall be that which best conforms to Map Figure 5 of the CWMP and the following terms:
- (i) No wetland plant community of Natural Heritage Rank B/C or higher (Department of Natural Resources), as shown in the CWMP, Map 1, may be disturbed.
 - (ii) Upland of Natural Heritage Rank B/C or higher may not be excavated for new wetland replacement credit.
 - (iii) Upland of lower quality than Natural Heritage Rank B/C may be converted to wetland for wetland fill replacement.
 - (iv) The property owner may include upland within the replacement area, but upland area will not receive replacement credit.
 - (v) Wetland buffer declared pursuant to section 6 of this Rule will not receive replacement credit.
 - (vi) Actual acres of wetland impact and replacement will be determined using the methodology and the scope and effect parameters detailed in the CWMP.
 - (vii) Actual final site conditions within the CWMP will depend on approved wetland delineations and detailed property information.
- (d) The provisions of the Wetland Conservation Act, Minnesota statutes §103G.221 through §103G.2372, and its implementing rules, Minnesota Rules 8420.0100 et seq., each as amended, shall apply under this Rule except where inconsistent with this Rule or CWMP, or where this Rule specifically provides otherwise. The exceptions contained in Minnesota Rules 8420.0122 are not applicable under this Rule.
- (e) Replacement plans will be evaluated and implemented in accordance with Minnesota Rules 8420.0230 and 8420.0500 through 8420.0630. Notwithstanding, the provisions of this Rule will apply in place of Minnesota Rules 8420.0520, 8420.0540, 8420.0541, 8420.0544, 8420.0546 and 8420.0549, as amended.
- (f) The Technical Evaluation Panel will review the wetland delineation, wetland type determination and functional assessment before the District acts on a permit.
- (g) A road, utility or other structure, other than a structure related to a passive recreational or educational use, may be placed within wetland in the CWMP area only on a showing of compelling need and pursuant to the District's variance procedures.

8. Easement.

As a condition of permit issuance, the property owner shall convey to the District and record, in a form acceptable to the District, a perpetual, assignable easement granting the District the authority to monitor, modify and maintain hydrological and vegetative conditions within CWMP wetland, upland enclosed by CWMP wetland and vegetated buffer, including the authority to install and maintain structures within those areas and reasonable access to those areas each as deemed necessary and convenient by the District to perform authorized activity.

9. Partial Abandonment.

As a condition of permit issuance, the District may require a property owner to petition the District for partial abandonment of a public drainage system pursuant to Minnesota Statutes §103E.805, as amended. A partial abandonment under this section shall not diminish a benefited property owner's right to drainage without the owner's agreement.

10. Approvals.

Following permit issuance, District staff may issue written approvals as required by this Rule for activities within the CWMP area. This delegation of authority to staff does not extend to execution of an agreement in place of buffer declaration under section 6 of this Rule.