

# Capitol Region Watershed District Rules

**Adopted 09/06/2006**

**Effective 10/01/2006**

**Revised 11/03/2010**

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## **Certification of Rules**

I, SETH F. JAY, Secretary of the Capitol Region Watershed District Board of Managers, certify that the attached is a true and correct copy of the Rules of the Capitol Region Watershed District having been properly adopted by the Board of Managers of the Capitol Region Watershed District.

Dated: NOV 3, 2010

## **General Policy Statement**

The Capitol Region 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 40.6 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 of the lakes and other water resources throughout the District. The Mississippi River is the principle receiving water for all runoff from the District and is listed by the EPA and MPCA as "impaired". Como Lake, a high priority water resource of the District, is also listed 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 to: 1) 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 Capitol Region 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 is the primary water quality and stormwater runoff management entity within the watershed boundaries, however, cities are also actively involved in water resource management projects and programs.

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 began implementing rules effective October 1, 2006. All developments that did not have municipal approval on or before October 1, 2006 will require a District permit under these Rules. 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 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 of the contractor 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.

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 or political subdivision that submits an application to the District for a permit under these Rules.

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

**Best Management Practices (BMPs).** Measures taken to minimize negative effects on the environment including those documented in the Minnesota Construction Site Erosion and Sediment Control Planning Handbook (MBWSR, 1988); Protecting Water Quality in Urban Areas (MPCA, 2000); and Minnesota Stormwater Manual (MPCA, 2005): as such documents may be amended, revised or supplemented.

**Board or Board of Managers.** The Board of Managers of the Capitol Region 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.

**De Minimis.** An amount so small or minimal in difference that it does not matter or the law does not take it into consideration.

**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.

**District.** The Capitol Region 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 Connections.** 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- storm water 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.
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.

**Illegal Discharge.** Any direct or indirect non-storm water 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, 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.

**Land Disturbance.** Any activity on 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. Road milling/overlay and routine vegetation management activities will not be considered land disturbance.

**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.

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

**Low Floor.** The finished surface of the lowest floor of a structure.

**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, storm water, or other wastes, including special districts under state law or 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 Capitol Region 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 on 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 storm water.

**NURP.** Nationwide Urban Runoff Program developed by the Environmental Protection Agency 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 that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the OHW level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the OHW level is the operating elevation for the normal summer pool. For Public Waters and Public Waters Wetlands the Minnesota 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 and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations, so that same may cause or contribute to pollution; 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: gas stations, petroleum wholesalers, vehicle maintenance and repair, 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 Value Credit.** Wetland replacement credit that can only be used for the portion of wetland replacement required above a 1:1 ratio.

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

**Public Waters 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.

**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 being filled 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 toilets, bathing, laundry, or culinary operations, or the floor drains associated with these sources.

**Special Interest Subwatershed.** An area in which protection or improvement of water quality has been given a high priority.

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

**Storm Drain System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any 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, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**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.** A document which describes the best management practices and activities to be implemented by a person or business 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 receiving water bodies to the maximum extent practicable.

**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, lots.

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

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

**Water Basin.** An enclosed natural 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 definite 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 such other 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 of the political subdivision or the general contractor. Three copies of all supporting materials, including site plans, narratives and hydrologic calculations, shall be submitted with the completed application. One full set, one set reduced to 11"x17", and one electronic set in .pdf format shall be submitted.
- 2. FORMS.** Permit applications must be submitted on the form provided by the District. Applicants may obtain these forms at the District office or Internet Web site.
- 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.

5. **ISSUANCE OF PERMITS.** The Board of Managers 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.
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 being carried on in violation of these Rules.
7. **EXPIRATION.** A permit shall expire and become null and void if the approved activity is not commenced within one year from date of approval by the Board, or if the approved activity is suspended or abandoned for a period of one year, from the date the activity originally commenced. Before an activity delayed one year or more can recommence the permit must be renewed. 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 application. There must be no unpaid fees or other outstanding violations of the permit being renewed. The Board shall consider the application for renewal on the basis of the Rules in effect on the date the application is being considered for renewal.

Any permittee may apply for an extension of time to commence the approved activity under an unexpired permit when the permittee is unable to commence the activity within the time required by these Rules. An application for an extension of a permit must be in writing and state the reasons for the extension. Any plan changes and required fees must be included with the application. There must be no unpaid fees or other outstanding violations of the permit being extended. The application must be received by the District at least 30 days prior to the permit's expiration. The Board shall consider the application 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.

8. **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 District staff. Significant modifications to the approved plans and specifications shall require Board approval
9. **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 Districts entry upon the land for field inspections and monitoring, or for

performing any work necessary to bring the activity into compliance at the permittee expense.

- 10. SUSPENSION OR REVOCATION.** The District may suspend or revoke a permit issued under these Rules wherever the permit is issued in error or on the basis of 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.
- 11. 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. 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 security released. All temporary erosion prevention and sediment control BMPs (such as silt fence) must be removed following approval of a Certificate of Completion before any security 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.
- 12. PERMIT TRANSFERS.** The District may allow the transfer of a permit approval. 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 transferor.
- 13. PERMIT INSPECTION FEES.** The District shall charge the permit processing fees in accordance with a schedule adopted annually 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 of 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.

14. **PERFORMANCE SURETY.** To assure compliance with these Rules, the Board may require the posting of a performance surety where it is shown to be reasonable and necessary under the particular circumstances of any permit application filed with the District. A performance surety will be not be required of the federal government, the State of Minnesota, or a political subdivision of the State of Minnesota.
15. **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 throughout the water resources of the District.
  - (b) Require rate control practices on development to preserve runoff rates at a level that will not cause the degradation of water resources.
  - (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.

(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, and 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 volume retention shall be achieved onsite in the amount equivalent to the runoff generated from one inch rainfall over the impervious surfaces of the development. The required stormwater runoff volume reduction shall be calculated as follows:

**Required Volume (ft<sup>3</sup>) = Impervious surfaces (ft<sup>2</sup>) x 1.0 (in) x 0.9 coefficient x 1/12 (ft/in)**

(1) When using infiltration for volume reduction, the following requirements must be met:

(i) Infiltration volumes and facility sizes shall be calculated using the appropriate hydrological soil group classification and design infiltration rate from Table 1. Select the design infiltration rate from Table 1 based on the least permeable soil horizon within the first five feet below the bottom elevation of the proposed infiltration BMP.

(ii) The applicant may complete double-ring infiltrometer test 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.

<b>TABLE 1--Design Infiltration Rates</b>			
<b>Soil Group</b>	<b>Soil Textures</b>	<b>ASTM Unified Soil Class Symbols</b>	<b>Rate</b>
<b>A</b>	Gravel, sand, sandy gravel, silty gravel, loamy sand, sandy loam	GW, GP	1.63 in/hr
		GM, SW, SP	0.80 in/hr
<b>B</b>	Loam, silt loam	SM	0.60 in/hr
		ML, OL	0.30 in/hr
<b>C</b>	Sandy clay loam	GC, SC	0.20 in/hr
<b>D</b>	Clay, clay loam, silty clay loam, sandy clay, silty clay	CL, CH, OH, MH	0.00 in/hr

Source: *Minnesota Stormwater Manual, November 2005.*

- (iii) The infiltration area shall be capable of infiltrating the required volume within 48 hours for surface and subsurface BMPs.
- (iv) Infiltration areas shall be limited to the horizontal areas subject to prolonged wetting.
- (v) Areas of permanent pools tend to lose infiltration capacity over time and will not be accepted as an infiltration practice.
- (vi) Stormwater runoff must be pretreated to remove solids before discharging to infiltration areas to maintain the long term viability of the infiltration areas.
- (vii) Design and placement of infiltration BMPs shall be done in accordance with the Minnesota Department of Health guidance called "Evaluating Proposed Stormwater Infiltration Projects in Vulnerable Wellhead Protection Areas." (Final version to govern)
- (viii) Specific site conditions may make infiltration difficult, undesirable, or impossible. Some of these conditions are listed in Table 2 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 Table 2.

<b>TABLE 2--Alternative Compliance Site Conditions*</b>		
<b>Type</b>	<b>Specific Site Conditions</b>	<b>Submittal Requirements</b>
Potential Contamination	Potential Stormwater Hotspots (PSHs)	PSH locations and flow paths
	Contaminated Soils	State Permitted Brownfield Documentation, Soil Borings
Physical Limitations	Low Permeability (Type D Soils)	Soil Borings
	Bedrock within 3 vertical feet of bottom of infiltration area	Soil Borings
	Seasonal High Groundwater within 3 vertical feet of bottom of infiltration area	Soil Borings
	Karst Areas	Soil Borings
Land Use Limitations	Utility Locations	Site Map
	Adjacent Wells	Well Locations

\* **Alternative Compliance is allowed for the volume reduction portion of Rule C only.**

(2) **Alternative Compliance Sequencing.** To the maximum extent practicable, the volume reduction standard shall be fully met onsite. If it is not possible because of site conditions listed above, the following **Alternative Compliance Sequencing** steps shall be taken in the order shown:

- (i) First, the applicant shall comply or partially comply with the volume reduction standard to the maximum extent practicable on-site through alternative volume reduction methods as listed in the application guidance materials or as approved by 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.4.
  - 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. When possible, offsite compliance and banking credits shall be achieved in the same drainage area as the project site in the same sub-watershed as the project site.
- (iii) Third, as a last alternative, for the remaining volume reduction required, the applicant shall pay into the District’s Stormwater Impact Fund to cover the cost of implementing equivalent

volume reduction elsewhere in the watershed. The required amount to contribute to the Stormwater Impact Fund will be set by the Board annually.

- 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 will offset the volume reduction that was not achieved on the permitted development.

(3) Excess volume reduction may be banked for use on another project. Excess banked volume reduction amounts shall not exceed the volume of two inches over the total drainage area to the BMP.

(4) If an applicant determines during the course of planning, design or construction of a linear 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.

(d) WATER QUALITY -- Developments shall incorporate effective non-point source pollution reduction BMPs to achieve 90% total suspended solids removal from the runoff generated by a NURP water quality storm (2.5" rainfall). Runoff volume reduction BMPs may be considered and included in the calculations showing compliance with achieving the 90% TSS removal requirement. Water quality calculations, documentation and/or water quality modeling shall be submitted to verify compliance with the standard.

(1) For linear projects utilizing offsite locations, banking credits, or the stormwater impact fund to meet the volume reduction standard;

- (i) If any portion of the development falls within a Special Interest Subwatershed as shown on the map in the application guidance material, the development shall meet the water quality standard

onsite. Offsite or banked BMPs located within the same Special Interest Subwatershed as the development may be considered.

- (ii) If the entire development falls outside of a Special Interest Subwatershed, the water quality standard shall be met onsite to the maximum extent practicable as determined by the District. At a minimum, BMPs shall be placed in each drainage area of a development to remove gross pollutants.

(e) For linear projects, costs specific to satisfying the volume reduction and water quality standards shall not exceed a cost cap which will be set by the Board annually. 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 set by the Board annually and shall be used to determine the cost of the volume reduction and water quality BMPs. The District may contribute the amount above the cap in order to meet the volume reduction and water quality standards or it may allow the applicant to partially comply with the standards when the cap is met.

(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. 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. The recordable executed agreement must be submitted to the District prior to issuance of permit. Public developments will 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 permit application. One set, full size; one set, reduced to 11"x17"; and a copy of all submittals 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 site.
- (d) Proposed and existing stormwater facilities location, alignment, and elevation.
- (e) Delineation of existing onsite wetland, 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.
- (l) Onsite soil borings indicating soil type for purposes of infiltration design.
- (m) For applications proposing infiltration area(s), information shall include identification, description (soil group and texture), 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.
- (n) For applications proposing alternative compliance sequencing, the required exhibits listed in Table 2.
- (o) District Volume Reduction Worksheet.
- (p) All plan sheets shall be signed by a Minnesota licensed professional appropriate for the project.

5. **EXCEPTIONS.**

- (a) Rule C and its requirements will not apply to development less than 1 acre in size for all land uses unless the development:
  - (i) Is part of a common plan of development or sale that will ultimately exceed one acre in size.

- (ii) Is greater than 10,000 square feet and is adjacent to a public water wetland, public water or wetland.
- (b) Rule C and its requirements shall not apply to land disturbing activity or the development of land that post construction creates 100% pervious surfaces unless the land disturbing activity or the development of land alters the drainage boundaries shown in the District's Watershed Management Plan.
- (c) Rule C and its requirements will 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 will not apply to bridges.
- (e) Rule C and its requirements will not apply to annually cultivated land used for farming, research, or horticulture.

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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 water body, 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 parking structures on or adjacent to a project site shall comply with the following flood control and freeboard requirements:

(1) See Table 3 below for freeboard requirements.

<b>Table 3 – Flood control and Freeboard requirements</b>			
<b>Condition</b>	<b>Water Bodies with Piped Outlets and Mississippi River</b>	<b>Water Bodies without Piped Outlets</b>	<b>Subsurface Stormwater Management BMPs</b>
<b>New Habitable Buildings</b>	<ul style="list-style-type: none"> <li>▪ Low floor must be a minimum of 2 feet above the 100-year flood elevation.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Low floor must be a minimum of 5 feet above the 100-year flood elevation.</li> </ul>	<ul style="list-style-type: none"> <li>▪ 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; and</li> <li>▪ Low opening must be a minimum of 2 feet above the 100-year flood elevation or one foot above the emergency overflow elevation.</li> </ul>
<b>Existing Habitable Buildings – Adjacent to and Potentially Affected by Flood Waters</b>	<ul style="list-style-type: none"> <li>▪ Low opening must be a minimum of 2 feet above the 100-year flood elevation.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Low opening must be a minimum of 5 feet above the 100-year flood elevation.</li> </ul>	<ul style="list-style-type: none"> <li>▪ 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; and</li> <li>▪ Low opening must be a minimum of 2 feet above the 100-year flood elevation or one foot above the emergency overflow elevation.</li> </ul>
<b>Underground Parking Structures</b>	<ul style="list-style-type: none"> <li>▪ Low opening must be a minimum of 2 feet above the 100-year flood elevation.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Low opening must be a minimum of 2 feet above the 100-year flood elevation.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Low opening must be a minimum of 2 feet above the 100-year flood elevation or one foot above the emergency overflow elevation.</li> </ul>
<b>Public Roadway</b>	<ul style="list-style-type: none"> <li>▪ Roadway shall not flood when adjacent to stormwater storage basin designed to store the 100-year storm event.</li> <li>▪ Freeboard requirement set by road authority.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Roadway shall not flood when adjacent to stormwater storage basin designed to store the 100-year storm event.</li> <li>▪ Freeboard requirement set by road authority.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Roadway shall not flood when adjacent to stormwater storage basin designed to store the 100-year storm event.</li> <li>▪ Freeboard requirement set by road authority.</li> </ul>

(2) For water bodies without a piped outlet:

- i. The normal water level of a water body without a piped outlet shall be determined by a qualified licensed geologist or hydrogeologist. A ground water 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 water bodies without piped outlets, mottled soils may be considered in establishing a water body'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 water body 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 water body to the next downstream water body and away from buildings.

**4. EXHIBITS.** The following exhibits must accompany the permit application. One set, full size; two sets, reduced to 11" x 17"; and copies of all submittals 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. Study shall be prepared and signed by a Minnesota licensed professional engineer. Study shall include a figure of receiving water bodies downstream of the site.
  - (h) Computation of change in flood storage capacity resulting from proposed grading.
  - (i) Erosion control plan.
  - (j) All plans shall be signed by a Minnesota licensed engineer.
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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 of acreage and values and where possible, strive to enhance the functions and values of existing wetlands within the District.
  - (b) Identify wetland restoration and creation sites to enhance water quality and/or restore natural habitats.
  - (c) Interact with cities in the administration of the Wetland Conservation Act if desired by the cities.
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) Wetlands shall not be drained, filled wholly or in part, excavated, or have sustaining hydrology impacted such that there will be a decrease in the inherent (existing) functions and values of the wetland. Wetland impacts shall be evaluated based on the following principles in descending order of priority: avoid the impact to the wetland, minimize the impact to the wetland, replace the wetland that was impacted. Wetland impacts shall be governed by the *August 5, 2007 Edition of the Wetland Conservation Act*, with the following exceptions:

(1) The de minimis size will be zero.

(2) Flexibility Sequencing will not be allowed.

(3) Public Value Credits can not be used for replacement.

(4) All other WCA non-temporary impact exemptions to wetlands will not be allowed.

(5) All wetland replacements shall be within the District's boundaries.

(b) A minimum buffer of 25 feet of permanent District approved non-impacted vegetative ground cover abutting and surrounding a wetland is required.

**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 local government unit 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. EXHIBITS.** The following exhibits must accompany the permit application. One set, full size; one set, reduced to 11"X17" and a copy of all submittals in electronic .pdf format.

(a) Site plan showing:

(1) Property lines and 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 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 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 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 knowledgeable in wetland identification. 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.**

- (a) Rule E and its requirements will 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 MPCA manual, "Protecting Water Quality in Urban Areas", as amended.
  - (b) Erosion and sediment control measures shall meet the 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 truck washout, chemicals, litter, and sanitary waste at the construction site shall be properly managed and disposed of so they will not have an adverse impact on water quality.
  - (e) Erosion and sediment controls necessary at the beginning of the project shall be installed before commencing the land disturbing activity, and shall not be removed without District approval or until the District has issued a certificate of completion. Applicants may phase installation of erosion and sediment controls provided the phasing plan is included in the approved erosion and sediment control plan.
  - (f) The permittee shall be responsible for proper operation and maintenance of all erosion and sediment controls, and soil stabilization measures, in conformance with Best Management Practices and 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 and has received an approved certificate of completion.

- 4. EXHIBITS.** The following exhibits must accompany the permit application. One set, full size; one set, reduced to 11"x17"; and a copy of all submittals 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 will 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) 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.
  - (f) 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 will 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 will not apply to annually cultivated land used for farming, research, or horticulture.
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## **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 to the District's MS4;
  - (e) Not allow new direct connections to the Trout Brook Interceptor or other components of the District's MS4 if the connection will cause or exacerbate water conveyance 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 is required under this rule for new direct connections and replacement of existing connections to the Trout Brook Interceptor or other components of the District's MS4.
- 3. CRITERIA.**
  - (a) **Connection to the District's MS4 System.**
    - (1) New direct connections and replacement of existing connections will 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 Trout

Brook Interceptor. Enlargement of existing connections is considered a new connection.

(b) **Discharge Prohibitions.**

- (1) **Prohibition of Illegal Discharges.** No person or political subdivision 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 storm water.
- (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.
  - (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.**

- (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 will 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 premises terminated pursuant to this Section, without the prior approval of the District.

(d) **Monitoring of Discharges.**

(1) **Applicability.** This section applies to all facilities that have storm water 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 storm water, 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, then 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 Best Management Practices.**

(1) 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 through the use of 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.**

(1) 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 will 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 storm water, 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 storm water pollution or contamination hazards and the restoration of any affected property;
  - (v) Payment of a fee to cover administrative and remediation costs;
  - (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 will 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 of 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 permit application. One set, full size; one set, reduced to 11"x17"; and a copy of all submittals 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.
- (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 ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, 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 wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, street wash water 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-storm water 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 will 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) The Board of Managers will not consider a variance for Rule C until the applicant has completed all of the steps of the alternative compliance section in Rule C.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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 will 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 insure compliance with these Rules and to protect adjacent property.
- (f) 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.

## Resolution Capitol Region Watershed District

In the matter pertaining to: **Adopting Amended Watershed District Rules**

Board Member Marylyn Deneen introduced the following resolution and moved its adoption, seconded by Board Member Seitu Jones.

**WHEREAS**, The Capitol Region Watershed District (hereinafter "District") is a political subdivision of the State of Minnesota established under the Minnesota Watershed Law, Minnesota Statute 103D; and

**WHEREAS**, Minnesota Statute section 103D.341 mandates that the District adopt rules to accomplish the purposes of the Minnesota Watershed Law and to implement the powers of the Board of Managers; and

**WHEREAS**, the District Board of Managers adopted Rules on September 6, 2006; and

**WHEREAS**, the District convened a Technical Advisory Committee in 2010 to discuss revisions to the adopted Rule; and

**WHEREAS**, the District has submitted propose Rule revisions to the local municipalities, public transportation authorities and Ramsey County for review and comment; and

**WHEREAS**, the proposed Rule revisions have been noticed for review and comment to all public transportation authorities within the District for at least 45 days; and

**WHEREAS**, the proposed Rule revisions have been noticed for review and comment to each municipality affected by the District; and

**WHEREAS**, the proposed Rule revisions have been noticed for public comment and hearing in legal newspapers generally circulated within the District once a week for two successive weeks;

**THEREFORE, BE IT RESOLVED** that the Board of Managers of the Capitol Region Watershed District adopts the response to comments table and amended watershed district Rules;

**BE IT FURTHER RESOLVED** that the adopted amended Rules shall be filed with the Ramsey County recorder;

**BE IT FURTHER RESOLVED** that the adopted amended Rules shall be provided to public transportation authorities that have jurisdiction within the watershed district;

**BE IT FURTHER RESOLVED** that a copy of the adopted amended Rules shall be mailed to each municipality affected by the watershed district.

Vote: Approved/Denied

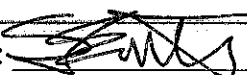
Manager	Yeas*	Nays	Absent	Abstain
Deneen	X			
Jones	X			
Piram	X			
Thienes	X			
Collins	X			
Total	5			

Requested By:	Forrest Kelley
Recommended for	Mark Doneux
Approval:	
Approved by	Kevin Lindsey
Attorney:	
Funding Approved:	n/a

\*Approval must receive minimum of 3 Yeas

Supporting Documentation Incorporated By Reference		
Date	Document	Prepared By
November 3, 2010	Response to Comments	CRWD
November 3, 2010	Final Rules	CRWD

Resolution Adoption Certified By the Board of Managers:

By:  

Date: 11/3/10