

RULE A - DEFINITIONS

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

References in these Rules to specific sections of the Minnesota Statutes or Rules include amendments, revisions or recodifications of such sections.

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

Agricultural Activity - the use of land for the production of agronomic, horticultural or silvicultural crops, including nursery stock, sod, fruits, vegetables, flowers, cover crops, grains, Christmas trees, and grazing.

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.

Best Management Practices or BMPs - techniques proven to be effective in controlling runoff, erosion and sedimentation including those documented in the Minnesota Construction Site Erosion and Sediment Control Planning Handbook (BWSR, 1988); Protecting Water Quality in Urban Areas (MPCA, 2000); Minnesota Urban Small Sites BMP Manual (Metropolitan Council 2001); and Minnesota Stormwater Manual (MPCA, 2014): as such documents may be amended, revised or supplemented.

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

Compliance Agreement - an agreement required pursuant to Paragraph 7 of Rule B to assure compliance with these Rules.

County - Scott County, Minnesota.

Dead Storage - the permanent pool volume of a water basin, or the volume below the runout elevation of a water basin.

Detention Basin - any natural or manmade depression for the temporary storage of runoff.
Development - the construction of any structure on or the subdivision of land.

District - the Prior Lake-Spring Lake Watershed District.

Drain or Drainage - any method for removing or diverting water from waterbodies, including excavation of an open ditch, installation of subsurface drainage tile, filling, diking or pumping.

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

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 disturbing activities in accordance with the standards set forth in Rule E.

Excavation - the artificial removal of soil or other earth material.

Fill - the deposit of soil or other earth material by artificial means.

Floodplain - the area adjacent to a waterbody that is inundated during a 100-year flood.

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, whether or not paved, sidewalks greater than 3 feet wide, patios, tennis and basketball courts, swimming pools, covered decks and other structures. Open decks with joints at least ¼ inch wide, areas beneath overhangs less than 2 feet wide, and sidewalks 3 feet or less wide shall not constitute impervious surfaces under these Rules.

Land Disturbing Activity - any change of the land surface to include removing vegetative cover, excavation, fill, grading, stockpiling soil, and the construction of any structure that may cause or contribute to erosion or the movement of sediment into waterbodies. The use of land for agricultural activities shall not constitute a land disturbing activity under these Rules.

Landlocked Basin - a basin other than Prior Lake that is one acre or more in size and does not have a natural outlet at or below the 100-year flood elevation as determined by the 100-year, 10- day runoff event.

Low Floor - the finished surface of the lowest floor of a structure.

Managers - the board of managers of the District.

MnDOT - the Minnesota Department of Transportation.

Municipal Separate Storm Sewer System (MS4) - the Prior Lake Outlet Channel, which is operated by the District and is designed and used to convey water from the outlet for Prior Lake.

Municipality - any city or township wholly or partly within the 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.

NRCS - the Natural Resource Conservation Service.

NURP - the Nationwide Urban Runoff Program developed by the Environmental Protection Agency to study stormwater runoff from urban development.

Ordinary High Water Level or OHW - the boundary of waterbodies and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Owner - the owner of a parcel of land or the purchaser under a contract for deed.

Parcel - a parcel of land designated by plat, metes and bounds, registered land survey, auditors subdivision or other accepted 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.

Prior Lake Outlet Channel - a watercourse improved and maintained by the District to provide an outlet for Prior Lake.

Public Health and General Welfare - are defined in Minnesota Statutes, section 103D.011, subdivisions 23 and 24.

Public Waters - any waters as defined in Minnesota Statutes, section 103G.005, subdivision 15.

Public Waters Wetland - any wetland as defined in Minnesota Statutes, section 103G.005, subdivision 15a.

Redevelopment - the rebuilding, repair or alteration of a structure, land surface or facility for which over 50 percent of the parcel involved is disturbed by a land disturbing activity.

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

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

Sedimentation - the process or action of depositing sediment.

Shoreland Protection Zone - land located within a floodplain, within 1,000 feet of the OHW of a public water or public waters wetland, or within 300 feet of the Prior Lake outlet channel.

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

Stormwater Management Plan - a plan for the permanent management and control of runoff prepared and implemented in accordance with the standards set forth in Rule D.

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 a parcel of land into 2 or more parcels.

SWCD - the Scott Soil and Water Conservation District.

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 - any natural or improved stream, river, creek, ditch (including Scott County Ditch 13), channel, culvert, drain, gully, swale or wash in which waters flow continuously or intermittently in a definite direction.

Water Resources Management Plan - the watershed management plan for the District adopted and implemented in accordance with Minnesota Statutes, section 103B.231.

Watershed - a 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 or WCA - the Minnesota Wetland Conservation Act of 1991.

RULE B - PROCEDURAL REQUIREMENTS

1. **APPLICATION REQUIRED.** Any person, or political subdivision, undertaking an activity for which a permit is required by these Rules shall first submit to the District for review a permit application, 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 the owner or the general contractor.
2. **FORMS.** Permit applications shall be submitted on forms provided by the District. Forms are available at the District office.
3. **ACTION BY MANAGERS.** The managers shall approve or deny within 60 days after receipt of an application containing all required information, exhibits and fees, and complete under Minnesota Statutes, Section 15.99. Failure of the managers to deny an application within 60 days is approval of the application. If the managers deny an application, they must state in writing the reasons for the denial at the time they deny the application. If the District receives an application not containing all required information, exhibits and fees, the 60 day limit starts over if the District sends notice within 10 business days after receipt of the application telling the applicant what information is missing. If a state or federal law or court order requires a process to occur before the managers act on an application, or if an application requires prior approval of a state or federal agency, the deadline for the managers to approve or deny is extended to 60 days after completion of the required process or the required prior approval is granted. The managers may extend the initial 60-day period by providing written notice of the extension to the applicant. The notice shall state the reasons and anticipated length of the extension, and may not exceed 60 days unless approved by the applicant. To the extent inconsistent with these Rules, the provisions of Minnesota Statutes, Section 15.99, shall apply.
4. **CONFORMITY WITH SUBDIVISION PLAN.** The managers will consider permit applications for subdivisions before preliminary approval is received from the municipality or county. The District shall furnish a copy of the approved permit to the municipality or county. The preliminary and final subdivision approval obtained from the municipality and county shall be consistent with the conditions of the permit approved by the District. The applicant shall furnish to the District copies of the resolutions granting preliminary and final subdivision approval within 30 days after adoption by the municipality or county.
5. **SUBMITTAL.** A complete permit application with all required information and exhibits shall be filed with the District at least 14 calendar days prior to the scheduled meeting date of the managers. Late or incomplete submittals will be scheduled to a subsequent meeting date.
6. **NOTIFICATION.** The District shall mail notice of the permit application to the owners of land within 500 feet of the described activity, and to the municipality or county with jurisdiction over the activity, at least 7 days prior to the scheduled meeting date of the managers at which the application will be considered. The names and addresses of the owners to be notified shall be obtained by the applicant from a licensed abstractor and furnished to the District with the permit application. The permit application will not be processed until the list of owners has been submitted. Neither the failure to give mailed notice to any owner nor any defect in the notice shall invalidate an action by the managers on a permit application.

7. **CONDITIONS.** A permit may be approved subject to reasonable conditions to assure compliance with these Rules. The conditions may include a requirement that the permittee and owner, including any mortgagee, enter into an agreement with and in form acceptable to the District to (a) specify responsibility for the construction and future maintenance of approved structures, (b) document other continuing obligations of the permittee or owner, (c) grant reasonable access to the proper authorities for inspection, monitoring and enforcement purposes, (d) affirm that the District or other political subdivisions can require or perform necessary repairs or reconstruction of such structures, (e) require indemnification of the District for claims arising from issuance of the permit or construction and use of the approved structures, and (f) reimburse the reasonable costs incurred to enforce the agreement. Permits and agreements may be filed for record to provide notice of the conditions and continuing obligations.
8. **ISSUANCE OF PERMITS.** The managers will issue a permit only after the applicant has satisfied all requirements of these Rules, paid all required fees, and submitted to the District any required security. When the District issues a permit where plans are required, the District shall endorse in writing or stamp the plans and specifications as “approved.” All activity under the permit shall be done in accordance with the approved plans and specifications, one set of which shall be kept on the site of the activity at all times while the authorized work is in progress.
9. **VALIDITY.** 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 thereunder in violation of these Rules.
10. **EXPIRATION.** A permit shall expire and become null and void if the approved activity is not commenced within 180 days after approval by the managers, or if the approved activity is suspended or abandoned at any time after the activity is commenced for a period of 180 days. Before the activity can recommenced, 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 managers shall consider the application for renewal on the basis of the Rules in effect on the date the application is considered.

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 managers shall consider the application for an extension on the basis of the Rules in effect on the date the application is considered. The managers may extend the time for commencing the approved activity for a period not exceeding 180 days upon finding that circumstances beyond the control of the permittee have prevented action from being taken. No permit may be extended more than once.

11. **MODIFICATIONS.** The permittee shall not modify the approved activity or plans and specifications on file with the District without the prior approval of the managers.

12. **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 entry upon the land for field inspections and monitoring, or for performing any work necessary to bring the activity into compliance. The cost of the District for field inspections and monitoring, including services of consultants, shall be payable by the permittee as provided in Paragraph 4 of Rule K.
13. **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 the municipality or county is not consistent with the conditions of the permit.
14. **CERTIFICATION OF COMPLETION.** The District will certify completion of an activity for which a permit has been issued under these Rules and authorize the release of any required security 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 establish easements or provide for maintenance of structures required by the permit shall be filed with the District before completion can be certified and any security 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.
15. **PERMIT TRANSFERS.** Transfer of a permit without a plan change may be administratively approved upon receipt of a permit application from the transferee with the applicable fees and any required surety. Transfer of a permit with plan changes shall be processed as a new permit application under these Rules. No permit may be transferred if there are any unpaid fees or other outstanding permit violations. Permit transfer does not release the original permittee from liability under the permit or extend the permit term.
16. **OTHER PERMITS.** The applicant shall secure all environmental permits and approvals required by other governmental entities, and promptly provide the District with copies of such permits and approvals after issuance.
17. **ADMINISTRATION OF RULES.** The District Administrator shall administer and enforce these Rules under the direction and control of, and subject to the powers expressly reserved to, the managers. At any time within 5 days after a decision or determination by the District Administrator interpreting or applying these Rules, the applicant, permittee or any other person or political subdivision with an interest in the decision or determination, may appeal to the managers. The managers shall, at a regular or special meeting, consider and affirm, reverse or remand the decision or determination that is on appeal.
18. **REGULAR MEETINGS.** Regular meetings of the managers are held on the second Tuesday of each month at 7:30 p.m., unless notice of a different date or time is given.
19. **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.

RULE C - GENERAL STANDARDS

1. **POLICY.** It is the policy of the managers to protect the water resources of the District by requiring that all activities within the District comply with minimum standards for the protection of water quality and the environment.
2. **REGULATION.**
 - (a) All land disturbing activities, whether requiring a permit under these Rules or otherwise, shall be undertaken in conformance with best management practices and in compliance with the standards and criteria in these Rules.
 - (b) No person shall conduct land disturbing activities without protecting adjacent property and waterbodies from erosion, sedimentation, flooding or other damage.
 - (c) Land disturbing activities shall be planned and conducted to minimize the extent of disturbed area, runoff velocities and erosion potential, and to reduce and delay runoff volumes. Erosion and runoff controls, consistent with best management practices, shall be properly installed before commencing land disturbing activities, and sufficient to retain sediment on-site. Erosion and runoff controls shall be regularly inspected and maintained. Disturbed area within 100 feet of a waterbody, storm sewer inlet or road shall be stabilized if work within the area ceases or will be suspended for more than 7 days on slopes greater than 3:1, or 14 days on slopes ranging from 3:1 to 10:1, or 21 days for flatter slopes. Vegetation shall be installed over the disturbed areas promptly if the land disturbing activity ceases or is suspended, and upon completion.
 - (d) When possible, existing natural watercourses and vegetated soil surfaces shall be used to convey, store, filter and retain runoff before discharge into public waters or a stormwater conveyance system.
 - (e) When possible, runoff from roof gutter systems shall discharge onto lawns or other pervious surfaces to promote infiltration.
 - (f) Use of fertilizer and pesticides in the shoreland protection zone shall be done so as to minimize runoff into public waters by the use of earth material, vegetation, or both.
 - (g) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference shall be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.
 - (h) Whenever the District determines that any land disturbing activity has become a hazard to any person, or endangers the property of another, adversely affects water quality or any waterbody, increases flooding, or otherwise violates these Rules, the owner of the land upon which the land disturbing activity is located, or other person or agent in control of such land, upon receipt of written notice from the District, shall within the time period specified therein repair or eliminate such condition. The owner of the land upon which a land disturbing activity is located shall be responsible for the cleanup and any damages from sediment that has eroded from such land. The District may require the owner to obtain a permit under these Rules before undertaking any repairs or restoration.

RULE D - STORMWATER MANAGEMENT

1. POLICY. It is the policy of the managers to:

- (a) Require that peak runoff rates not exceed existing conditions and the capacity of downstream conveyance facilities or contribute to flooding.
- (b) Manage subwatershed discharge rates and flood storage volumes to be consistent with the goals of the water resources management plan.
- (c) Control runoff rates by the use of regional or on-site detention or infiltration facilities where feasible.
- (d) Review stormwater management structures based on the 100-year critical storm event for the drainage area.
- (e) Route runoff to water treatment ponds or other acceptable facilities before discharging into waterbodies.
- (f) Promote the use of natural waterbodies for storing runoff and improving water quality and other amenities.
- (g) Promote natural infiltration of runoff.
- (h) Minimize the amount of directly connected impervious surface created by the development, preserve the infiltration capacity of the soil, and incorporate infiltration practices into the design where feasible.

2. REGULATION.

- (a) No person or political subdivision shall commence a land disturbing activity or the development or redevelopment of land, unless specifically exempted by Paragraph 9 below, without first obtaining a permit from the District that incorporates and approves a stormwater management plan for the activity, development or redevelopment.
- (b) Where the District has Memorandum of Agreements with municipalities for Local Water Planning and Regulation, the municipalities will comply with MS4 Permit requirements for Post-Construction Stormwater Management.

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

- (a) A hydrograph method based on sound hydrologic theory will be used to analyze runoff for the design or analysis of flows and water levels.
- (b) 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 necessary for the public health and general welfare of the District.
- (c) Where a project creates one or more acres of new impervious surface, the stormwater runoff volume shall be retained on site in the amount equivalent to 1.0 inches of runoff over the new impervious surface. For a project that creates less than one acre of new impervious, the stormwater runoff volume shall be retained on site in the amount equivalent to 0.5 inches of runoff over the new impervious.

- (i) Development that creates impervious surfaces must explicitly address the use of best management practices to limit the loss of pervious area, and meet the volume reduction standards to the extent feasible considering site-specific conditions.
 - 1) Volume reduction techniques considered shall include infiltration, reuse and rainwater harvesting, canopy interception and evapotranspiration, and/or additional techniques included in the *Minnesota Stormwater Manual*, as amended. High priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques, followed by water quality ponding BMPs.
 - 2) The District may approve alternative BMPs instead of infiltration, provided that the proposed BMPs meet the requirements of the NPDES General Construction Permit, as amended.
- (ii) BMPs shall be designed and installed in accordance with generally accepted design practices and guidance contained in the Minnesota Pollution Control Agency's *Minnesota Stormwater Manual*, as amended.
- (d) Infiltration features shall include the following design considerations:
 - (i) The infiltration area shall be capable of infiltrating the required volume within 48 hours for surface and subsurface BMPs.
 - (ii) Infiltration areas will be limited to the horizontal areas subject to prolonged wetting.
 - (iii) Areas of permanent pools tend to lose infiltration capacity over time and will not be accepted as an infiltration practice.
 - (iv) Stormwater runoff must be pretreated to remove solids before discharging to infiltration areas to maintain the long term viability of the infiltration areas.
- (e) Regional detention basins shall be utilized to manage peak flow rates and runoff volumes, and meet water quality objectives when feasible. On-site detention basins, infiltration facilities, and permanent sedimentation and water quality ponds will be utilized for land disturbing activities exceeding one acre when regional basins are not in place or feasible. A waiver may be granted for special circumstances described in Paragraphs 4(a) and 4(b) below.
- (f) The applicant will provide water quality BMPs sized to infiltrate and/or retain the runoff volume generated on the site by the 2 year, 24-hour event under the developed condition for all points where discharges leave a site. For that portion of the 2 year, 24-hour event runoff volume that is not required to be infiltrated under paragraph (c), water quality BMPs or additional infiltration will be incorporated. The order of preference for water quality BMPs is biofiltration, filtration, wetland treatment system, extended detention, and wet detention in accordance with NURP standards.
- (g) Analysis of flood levels, storage volumes and flow rates for waterbodies and detention basins shall be based on the range of rainfall and snow melt durations producing the critical flood levels and discharges.
- (h) Landlocked water basins may be provided with outlets that:

- (i) Retain a hydrologic regime complying with Rules F and G;
 - (ii) Provide sufficient dead storage to retain back-to-back 100-year, 24-hour rainfalls and runoff above the highest anticipated groundwater elevation and prevent damage to property adjacent to the basin; and
 - (iii) Do not create adverse downstream flooding or water quality conditions, or materially affect stability of downstream water courses.
- (i) Detention basins shall be designed to provide:
- (i) An outlet structure to control the 2-year, 10-year and 100-year critical storm events to predevelopment runoff rates;
 - (ii) An identified overflow spillway sufficiently stabilized to convey a 100-year critical storm event;
 - (iii) A normal water elevation above the OHW of adjacent waterbodies; and
 - (iv) Access for future maintenance.
- (j) Permanent sedimentation and water quality ponds shall be designed to the Wet Pond Design Standards set forth on Appendix A to these Rules and provide:
- (i) Water quality features consistent with NURP criteria and best management practices;
 - (ii) A permanent wet pool with dead storage of at least the runoff from a 2.5-inch storm event;
 - (iii) A normal water elevation above the OHW of adjacent waterbodies;
 - (iv) An outlet skimmer to prevent migration of floatables and oils for at least the one year storm event; and
 - (v) Access for future maintenance.
- (k) Unless a municipality or the county has adopted an ordinance prescribing a minimum low floor elevation, which ordinance shall govern, any new residential, commercial, industrial and other habitable structures shall be constructed with the following low floor elevation:
- (i) In the case of a land-locked basin, the low floor elevation shall be at least 3 feet above the surveyed basin overflow or three feet above the high water level of the basin as determined from an estimate of high water levels using the higher of either the 100-year, 10-day runoff event and back-to-back 100-year, 24-hour rainfalls under full build-out conditions. Aerial photographs, vegetation, soils and topography shall be used to derive a “normal” water elevation for the basin to compute the 100-year elevation.
 - (ii) In all other cases, the low floor elevation shall be at least 2 feet above the critical event 100-year high water elevation and three feet above the overflow elevation of nearby waterbodies and stormwater basins.

4. WAIVERS.

- (a) The managers may waive the on-site runoff rate and water quality control design

criteria in Paragraphs 3(a), 3(b), 3(d), 3(e), 3(f), 3(h), and 3(i) above, if a municipality has an approved local water management plan which provides for off-site stormwater facilities capable of controlling and treating runoff.

- (b) The design criteria in Paragraphs 3(b), 3(c), 3(d), 3(e), and 3(i) above may be waived for sites with total new impervious surface of less than one acre, or for sites with land disturbing activities less than one acre; if volume control, runoff rate control, and water quality BMPs have been incorporated to the maximum extent possible.
5. EXHIBITS. The following exhibits shall accompany the permit application (one set full size, and two sets reduced to a maximum size of 11" x 17"):
- (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 watercourses.
 - (c) Proposed and existing stormwater facilities location, alignment and elevation.
 - (d) Delineation of existing on-site wetland, marsh, shoreland and floodplain areas.
 - (e) For applications proposing infiltration as a stormwater management practice, identification, description, permeability and approximate delineation of site soils in both existing and proposed as-developed condition.
 - (f) Existing and proposed ordinary high and 100-year water elevations on-site.
 - (g) Existing and proposed site contour elevations at 2 foot intervals, referenced to NGVD, 1929 datum.
 - (h) Construction plans and specifications of all proposed stormwater management facilities, including design details for outlet controls.
 - (i) 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 made in designing the proposed stormwater management facilities.
 - (k) Narrative addressing incorporation of infiltration BMPs.
 - (l) Delineation of any ponding, flowage or drainage easements, or other property interests, to be dedicated for stormwater management purposes.
6. MAINTENANCE. All stormwater management structures and facilities shall be maintained in perpetuity to assure that the structures and facilities function as originally designed. The responsibility for maintenance shall be assumed either by the municipality or county with jurisdiction over the structures and facilities, or by the applicant entering into a compliance agreement with the District.
7. EASEMENTS. The applicant shall establish in form acceptable to the District temporary and perpetual easements for ponding, flowage and drainage purposes over hydrologic features such as waterbodies and stormwater basins. The easements shall include the right of reasonable access for inspection, monitoring, maintenance and enforcement purposes.
8. COVENANTS. The District may require that the land be subjected to restrictive covenants or a conservation easement, in form acceptable to the District, to prevent the

future expansion of impervious surface and the loss of infiltration capacity.

9. EXCEPTIONS. No permit or stormwater management plan shall be required under this Rule for the following land disturbing activities:
 - (a) Minor land disturbing activities such as home gardens, repairs and maintenance work.
 - (b) Construction, installation and maintenance of individual sewage treatment systems.
 - (c) Construction, installation and maintenance of public utility lines or individual service connections unless the activity disturbs more than one acre, in which event Paragraph 9(e) below shall apply.
 - (d) Construction of any structure on an individual parcel in a subdivision with a stormwater management plan approved by the District, so long as any land disturbing activity complies with the approved plan.
 - (e) Development or redevelopment of, or construction of a structure on, an individual parcel with a land disturbing activity that does not cause off-site erosion, sedimentation, flooding or other damage, and disturbs:
 - (i) Less than 10,000 square feet in the shoreland protection zone; provided that, if a municipality or county with jurisdiction has adopted an ordinance requiring stormwater management consistent with this Rule D that also regulates the activity, such ordinance shall govern the activity. Where the municipality or county with jurisdiction regulates the activity, the exemption shall increase from 10,000 square feet to one acre, at which point this Rule shall apply in addition to the municipal or county regulation for land disturbing activities greater than one acre; or
 - (ii) Less than one acre outside of the shoreland protection zone.
 - (f) Installation of any fence, sign, telephone or electric poles, or other kinds of posts or poles.
 - (g) Emergency activity necessary to protect life or prevent substantial harm to persons or property.
 - (h) All land disturbing activities not required by this Rule to obtain a permit or have an approved stormwater management plan shall nevertheless be conducted in full compliance with Rule C.

RULE E - EROSION AND SEDIMENT CONTROL

1. **POLICY.** It is the policy of the managers to require the preparation and implementation of erosion and sediment control plans to control runoff and erosion and to retain or control sediment on land during land disturbing activities.
2. **REGULATION.** No person or political subdivision shall commence a land disturbing activity or the development or redevelopment of land, unless specifically exempted by Paragraph 7 below, without first obtaining a permit from the District that incorporates and approves an erosion and sediment control plan for the activity, development or redevelopment.
3. **CRITERIA.** Erosion and sediment control plans shall comply with the following criteria:
 - (a) Natural site topography and soil conditions shall be used to control runoff and reduce erosion and sedimentation during construction and after completion of the land disturbing activity.
 - (b) Erosion and sediment control measures shall be consistent with the standards of the General Permit Authorization to Discharge Stormwater 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 apply, including:
 - (i) Phasing to minimize disturbed areas subject to erosion at any one time.
 - (ii) Implementation of BMPs to minimize the discharge of sediment and other pollutants.
 - (iii) Dewatering activities shall be discharged in a manner that does not cause nuisance conditions.
 - (iv) Proper storage and disposal of all construction site projects, materials or wastes.
 - (v) Site inspections and records of rainfall events.
 - (vi) Proper maintenance of all BMPs.
 - (vii) Management of solid and hazardous wastes on each project site
 - (viii) Final stabilization upon completion of the construction activity
 - (ix) Provisions for the use of temporary sediment basins to control runoff and provide treatment during construction, when applicable.
 - (c) All erosion and sediment controls 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 pursuant to Paragraph 14 of Rule B.
4. **EXHIBITS.** The following exhibits shall accompany the permit application (one set full size, and two sets reduced to a maximum size of 11" x 17"):
 - (a) An existing and proposed topographic map showing contours 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, dewatering methods, and temporary and permanent soil stabilization measures.
 - (c) Detailed schedules for implementation of the land disturbing activity, the erosion and sediment controls, and soil stabilization measures.
 - (d) Detailed description of the methods to be employed for monitoring, maintaining and removing the erosion and sediment controls, and soil stabilization measures.
 - (e) Soil borings if requested by the District.
 - (f) For projects over one acre of disturbed area, documentation that the permittee has applied for the NPDES General Construction Permit from the Minnesota Pollution Control Agency (MPCA) shall be submitted, in addition to the Stormwater Pollution Prevention Plan (SWPPP) prepared for the NPDES Permit.
 - (g) Other project site-specific submittal requirements as may be required by the District.
5. **CONSTRUCTION ACTIVITY REQUIREMENTS.** Any activity subject to a permit under this Rule must conform to the standards of the NPDES General Construction Permit, as amended, regarding construction site erosion and sediment control.
6. **INSPECTION.** The permittee shall be responsible for inspection of all erosion and sediment control measures until final soil stabilization is achieved.
7. **MAINTENANCE.** 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, as amended. The permittee shall, at a minimum, inspect and maintain all erosion and sediment controls and soil stabilization measures daily during construction, weekly thereafter until vegetative cover is established, and after every rainfall event exceeding 0.5 inches.
8. **SECURITY.** Any bond or other security required in accordance with Rule L shall be maintained until final soil stabilization and removal of erosion and sediment controls, and the payment of all fees and other amounts due the District.
9. **EXCEPTIONS.** No permit or erosion control plan shall be required under this Rule for the following land disturbing activities:
- (a) Minor land disturbing activities such as home gardens, repairs and maintenance work.
 - (b) Construction, installation and maintenance of individual sewage treatment systems.
 - (c) Construction, installation and maintenance of public utility lines or individual service connections unless the activity disturbs more than one acre, in which event Paragraph 7(e) below shall apply.
 - (d) Construction of any structure on an individual parcel in a subdivision with an erosion and sediment control plan approved by the District, so long as any land disturbing activity complies with the approved plan.
 - (e) Development and redevelopment of, or construction of a structure on, an individual parcel with a land disturbing activity that does not cause off-site erosion, sedimentation, flooding or other damage, and disturbs:
 - (i) In the shoreland protection zone, an area less than 10,000 square feet; provided that, if a municipality or county with jurisdiction has adopted an ordinance requiring

stormwater management consistent with this Rule E that also regulates the activity, such ordinance shall govern the activity, and the exempt area shall increase from 10,000 square feet to one acre (at which point this Rule shall apply in addition to the municipal or county regulation); or

- (ii) Outside of the shoreland protection zone, an area of less than one acre.
- (f) Installation of any fence, sign, telephone or electric poles, or other kinds of posts or poles.
- (g) Emergency activity necessary to protect life or prevent substantial harm to persons or property.
- (h) All land disturbing activities not required by this Rule to obtain a permit or have an approved erosion and sediment control plan shall nevertheless be conducted in full compliance with Rule C. All drainage alterations not required by this Rule to obtain a permit shall nevertheless be conducted in full compliance with Rule C.

RULE F - FLOODPLAIN ALTERATION

1. **POLICY.** It is the policy of the managers to:
 - (a) Preserve existing water storage capacity below the 100-year critical flood elevation on all waterbodies in the District to minimize the frequency and severity of high water.
 - (b) Minimize development in the floodplain which will unduly restrict flood flows or aggravate known high water problems. Require compensatory storage for unavoidable floodplain fill.
2. **REGULATION.** No person or political subdivision shall alter or fill land below the 100-year critical flood elevation of any public waters, public waters wetland or other wetland without first obtaining a permit from the District.
3. **CRITERIA.**
 - (a) Floodplain alteration or filling shall not cause a net decrease in flood storage capacity below the projected 100-year critical flood elevation unless it is shown that the proposed alteration or filling, together with the alteration or filling of all other land on the affected reach of the waterbody to the same degree of encroachment as proposed by the applicant, will not cause high water or aggravate flooding on other land and will not unduly restrict flood flows.
 - (b) All new structures shall be constructed with the low floor at a minimum of two feet above the 100-year critical flood elevation.
 - (c) A land disturbing activity within a floodplain may require a District permit under Rules D and E.
 - (d) An activity that alters or fills a wetland within a floodplain may require a permit under Rule G.
4. **EXHIBITS.** The following exhibits shall accompany the permit application (one set full size, and two sets reduced to a maximum size of 11" x 17"):
 - (a) Site plan showing boundary lines, delineation and existing elevation contours of the work area, ordinary high water level, and 100-year critical flood elevation. All elevations shall be referenced to NGVD, 1929 datum.
 - (b) Grading plan showing any proposed elevation changes.
 - (c) Preliminary plat of any proposed subdivision.
 - (d) Determination by a registered professional engineer of the 100-year critical flood elevation before and after the proposed activity.
 - (e) Computation of the change in flood storage capacity as a result of the proposed alteration or fill.
 - (f) Erosion control and sediment plan which complies with Rule E.
 - (g) Soil boring results if available.
5. **EXCEPTIONS.** If a municipality or county has adopted a floodplain ordinance which prescribes an allowable degree of floodplain encroachment, the applicable ordinance shall govern the allowable degree of encroachment and no permit will be required under this Rule F.

RULE G - WETLAND ALTERATION

1. **POLICY.** It is the policy of the managers to:
 - (a) Achieve no net loss in the quantity, quality and biological diversity of wetlands in the District.
 - (b) Increase the quantity, quality and biological diversity of wetlands in the District by restoring or enhancing diminished or drained wetlands.
 - (c) Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of District wetlands as determined using the Minnesota Routine Assessment Method (MnRam) for Evaluating Wetland Functions Version 2.0.
 - (d) Replace affected wetlands where avoidance is not feasible and prudent.
2. **REGULATION.** No person or political subdivision shall drain, fill, excavate or otherwise alter a wetland without first obtaining the approval of a wetland replacement plan from the local government unit with jurisdiction over the activity.
3. **CRITERIA.**
 - (a) Any drainage, filling, excavation or other alteration of a wetland shall be conducted in compliance with Minnesota Statutes, section 103G.245, the wetland conservation act, and regulations adopted thereunder.
 - (b) A wetland may be used for stormwater storage and treatment only if the use will not adversely affect the function and public value of the wetland as determined by the local government unit.
 - (c) Other activities which would change the character of a wetland shall not diminish the quantity, quality or biological diversity of the wetland.
 - (d) A land disturbing activity within a wetland may require a District permit under Rules D and E.
 - (e) An activity within a wetland that alters or fills a floodplain may require a District permit under Rule F.
4. **LOCAL GOVERNMENT UNIT.** The District intends to serve as the local government unit for administration of the wetland conservation act, unless a particular municipality in the District has elected to assume that role in its jurisdictional area.

RULE H - BRIDGE AND CULVERT CROSSINGS

1. **POLICY.** It is the policy of the managers to regulate crossings of watercourses for driveways, roads and utilities to maintain channel profile stability and conveyance capacity.
2. **REGULATION.** No person or political subdivision shall construct, improve, repair or alter a driveway, road or utility across the Prior Lake outlet channel or a watercourse with a tributary area in excess of 100 acres without first obtaining a permit from the District.
3. **CRITERIA.** Crossings shall:
 - (a) Retain adequate hydraulic capacity, which for any crossing over the Prior Lake outlet channel shall be based on the hydraulic model for the outlet channel.
 - (b) Retain adequate navigational capacity.
 - (c) Not adversely affect water quality.
 - (d) Represent the "minimal impact" solution to a specific need with respect to all reasonable alternatives.
 - (e) Allow for future erosion, scour, and sedimentation considerations.
 - (f) Require a permit under Rules D and E if part of a land disturbing activity or subdivision.
4. **EXHIBITS.** The following exhibits shall accompany the permit application (one set full size, and two sets reduced to a maximum size of 11" x 17"):
 - (a) Construction plans and specifications.
 - (b) Analysis prepared by a registered professional engineer showing the effect of the project on hydraulic capacity and water quality.
 - (c) An erosion and sediment control plan which complies with Rule E.
5. **MAINTENANCE.**
 - (a) The maintenance, reconstruction and stabilization of any public crossing shall be the responsibility of the political subdivision with jurisdiction over the crossing.
 - (b) The maintenance, reconstruction and stabilization of any private crossing shall be the responsibility of the owner of the crossing.
 - (c) If a crossing over the Prior Lake outlet channel is determined by the District to be causing significant erosion of the outlet channel cross-section or profile, the District may order the owner of the crossing to make necessary repairs or modifications to the crossing and outlet channel. If the owner of the crossing fails to make the necessary repairs or modifications after notice from the managers, the District may repair, modify or remove the crossing or repair or modify the outlet channel. The owner shall pay the cost of the District to repair, modify or remove the crossing and outlet channel within 10 days after issuance of a statement by the District. The amounts payable to the District under this Rule H shall be collectable in the same manner as fees under Rule K.
 - (d) As a condition to the approval of a permit under this Rule H, the District may require the applicant and owner to enter into a compliance agreement with the District.

RULE I - DRAINAGE ALTERATIONS

1. **POLICY.** It is the policy of the managers that surface water may be drained only in a manner which does not unreasonably burden upstream or downstream land.
2. **REGULATION.** No person or political subdivision shall artificially drain surface water, nor obstruct or redirect the natural flow of runoff, so as to affect a drainage system established under Minnesota Statutes, chapter 103E, or the public health and general welfare of the District, without first obtaining a permit from the District.
3. **CRITERIA.** The applicant for a drainage alteration shall:
 - (a) Describe the overall environmental impact of the proposed drainage alteration and demonstrate that:
 - (i) There is a reasonable necessity for such drainage alteration;
 - (ii) Reasonable care has been taken to avoid unnecessary injury to upstream and downstream land;
 - (iii) The utility or benefit accruing to the land on which the drainage will be altered reasonably outweighs the gravity of the harm resulting to the land receiving the burden; and
 - (iv) The drainage alteration is being accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonable carrying capacity, or in the absence of a practicable natural drain, a reasonable and feasible artificial drainage system is being adopted.
 - (b) Provide a hydraulic design which complies with Rules F and G, and if the alteration involves a landlocked basin, the alteration must comply with Rule D3(f) for outlets from landlocked basins.
 - (c) Provide a stable channel and outfall.
 - (d) Obtain a permit under Rules D and E if the drainage alteration is part of a land disturbing activity or a development or redevelopment of land.
4. **EXHIBITS.** The following exhibits shall accompany the permit application (one set full size, and two sets reduced to a maximum size of 11" x 17"):
 - (a) Map showing location of proposed alteration and tributary area.
 - (b) Existing and proposed cross sections and profile of affected drainage area.
 - (c) Description of bridges or culverts required.
 - (d) Narrative and calculations verifying compliance with Paragraph 3(a) and 3(b) above.
5. **EXCEPTIONS.**
 - (a) No permit shall be required under this Rule for the alteration of drainage in connection with the use of land for agricultural activities.
 - (b) The managers may waive the requirement of Paragraph 4(d) above if the applicant submits easements or other documentation in form acceptable to the District evidencing the consent of the owner of any burdened land to the proposed alteration. Such easements or other

documentation shall be filed for record and evidence thereof submitted to the District.

- (c) All drainage alterations not required by this Rule to obtain a permit shall nevertheless be conducted in full compliance with Rule C.

RULE J - BUFFER STRIPS

1. **POLICY:** Natural vegetation around watercourses and wetlands is integral to maintaining the water quality and ecological functions these resources provide. Vegetative buffers reduce the impact of surrounding development and land use on watercourse and wetland functions by stabilizing soil to prevent erosion, filtering sediment from runoff, and moderating water level fluctuations during storms. Buffers provide essential habitat for wildlife. Requiring buffers recognizes that watercourse and wetland quality and function are related to the surrounding upland.
2. **DEFINITIONS:** For the purposes of this Rule J, unless the context otherwise requires, the following words and terms shall have the meanings set forth below. Words and terms not defined in this Rule shall have the meanings set forth in Rule A.

Buffer Strip - an area of natural, unmaintained, vegetated ground cover abutting or surrounding a watercourse or wetland.

Watercourse - any natural or improved stream, river, creek, ditch (including Scott County Ditch 13), channel or other waterway with a tributary area in excess of 50 acres.

Wetland - any wetland as defined in Minnesota Statutes, section 103G.005, subdivision 19; and any public waters wetland as defined in Minnesota Statutes, section 103G.005, subdivision 15a.

3. **GENERAL PROVISIONS:**

- (a) This Rule shall apply to all lands containing watercourses or wetlands and lands within the buffer strips required by this Rule. Watercourses and wetlands shall be subject to the requirements established herein and other applicable federal, state and local ordinances and regulations.
- (b) This Rule does not apply to any wetland with a surface area equal to or less than the area of wetland impact allowed without replacement as de minimis under the Wetland Conservation Act.
- (c) An applicant shall determine whether any watercourse or wetland exists on land or within the applicable buffer strip on adjacent land, and shall delineate the boundary for any wetland on the land. An applicant shall not be required to delineate wetlands on adjacent property, but must review available information to estimate the wetland boundary.
- (d) Documentation identifying the presence of any watercourse or wetland on the applicant's land, including wetland delineation and buffer strip vegetation evaluation, must be provided to the District with a permit application.
- (e) Wetland and buffer strip identifications and delineations shall be prepared in accordance with state and federal regulations.

4. **STANDARDS:** The following standards apply to all lands that contain or abut a watercourse or wetland:

- (a) Best management practices shall be followed to avoid erosion and sedimentation during land disturbing activities.
- (b) When a buffer strip is required the applicant shall, as a condition to issuance of a permit:

- (i) Submit to the District for its approval a conservation easement for protection of approved buffer strips. The easement shall describe the boundaries of the watercourse or wetland and buffer strips, identify the monuments and monument locations, and prohibit any of the alterations set forth in Paragraph 5(e) below and the removal of the buffer strip monuments within the buffer strip or the watercourse or wetland;
 - (ii) File the approved easement for record and submit evidence thereof to the District; and
 - (iii) Install the wetland monumentation required by Paragraph 7 below.
- (c) All open areas within the buffer strip shall be seeded or planted in accordance with Paragraph 8 below. All seeding or planting shall be completed prior to removal of any erosion and sediment control measures. If construction is completed after the end of the growing season, erosion and sediment control measures shall be left in place and all disturbed areas shall be mulched for protection over the winter season.

5. BUFFER STRIPS.

- (a) For any parcel created or redeveloped after the effective date of this Rule J, a buffer strip shall be maintained around the perimeter of all watercourses or wetlands. The buffer strip provisions of this Rule shall not apply to any parcel of record as of the date of this Rule until such parcel is subdivided or redeveloped. The District does, however, strongly encourage the use of buffer strips on all parcels in the District.
- (b) Buffer strips shall be a minimum of 20 feet wide with an average width of 30 feet, measured from the ordinary high water level of the watercourse or wetland.
- (c) Buffer strips shall apply whether or not the watercourse or wetland is on the same parcel as a proposed development.
- (d) Buffer strip vegetation shall be established and maintained in accordance with Paragraph 8 below. Buffer strips shall be identified within each parcel by permanent monumentation in accordance with Paragraph 7 below.
- (e) Subject to Paragraph 5(f) below, alterations including building, storage, paving, mowing, plowing, introduction of noxious vegetation, cutting, dredging, filling, mining, dumping, grazing livestock, agricultural production, yard waste disposal or fertilizer application, are prohibited within any buffer strip. Noxious vegetation, such as European buckthorn, purple loosestrife and reed canary grass, may be removed as long as the buffer strip is maintained to the standards required by the District. Alterations would not include plantings that enhance the natural vegetation or selective clearing or pruning of trees or vegetation that are dead, diseased or pose similar hazards.
- (f) The following activities shall be permitted within any buffer strip, and shall not constitute prohibited alterations under Paragraph 5(e) above:
 - (i) Use and maintenance of an unimproved access strip through the buffer, not more than 20 feet in width, for recreational access to the watercourse or wetland and the exercise of riparian rights;
 - (ii) Placement, maintenance, repair or replacement of utility and drainage systems that exist on creation of the buffer strip or are required to comply with any subdivision approval or building permit obtained from the municipality or county, so long as any adverse impacts of utility or drainage systems on the function of the buffer strip have been avoided or minimized to the extent possible; and

- (iii) Construction, maintenance, repair, reconstruction or replacement of existing and future public roads crossing the buffer strip, so long as any adverse impacts of the road on the function of the buffer strip have been avoided or minimized to the extent possible.

6. ALTERNATE BUFFER STRIPS.

- (a) Because of unique physical characteristics of a specific parcel, narrower buffer strips may be necessary to allow a reasonable use of the parcel; and in combination with other best management practices may provide equivalent water quality treatment performance. The District will permit an alternative buffer width if any one or more of the following conditions is met:
 - (i) The proposed activity, development or redevelopment of land will not increase runoff volumes for the 5-year critical storm event, not including the 10-day snow melt event, that is discharged to the watercourse or wetland; or
 - (ii) The applicant demonstrates that a combination of best management practices to be incorporated with the proposed activity, development or redevelopment of land will provide storm water quality treatment performance equivalent to a 30-foot buffer; or
 - (iii) The dominant wetland type, as determined by methods acceptable under the Minnesota Wetland Conservation Act, is a low quality Type 1 or 2 Wet Meadow, where low quality is defined as having a highly impacted vegetative community such that reed canary grass comprises more than 40 percent cover, and/or European buckthorn, if present, comprises greater than 30 percent cover, and/or vegetation was frequently (at least three of the past five years) removed by cropping.
- (b) The use of alternative buffer strips will be evaluated as part of the review of a stormwater management plan under Rule D. Where alternative buffer strip standards are approved, the width of the buffer strips shall be established by the managers based on a minimum width of 16 feet. Alternative buffer strips must be in keeping with the spirit and intent of this Rule. The District may require maintenance agreements, restrictive covenants or easements, in form acceptable to the District, to cover best management practices used to justify the alternative standard, to assure maintenance in perpetuity and that best management practices continue to function as originally designed.

7. MONUMENTATION: A monument shall be required at each parcel line where it crosses a buffer strip and shall have a maximum spacing of 200 feet along the edge of the buffer strip. Additional monuments shall be placed as necessary to accurately define the edge of the buffer strip. A monument shall consist of a post and a buffer strip sign. The signs shall be obtained from the District and include warnings about disturbing or developing the buffer strip. The signs shall be 5 inch wide x 7 inch vertical, have a brown field with white lettering, and shall be securely mounted on a post to a minimum height of 4 feet above grade.

8. VEGETATION:

- (a) Where acceptable natural vegetation exists in buffer strip areas, the retention of such vegetation in an undisturbed state is required unless an applicant receives approval to replace such vegetation. A buffer strip has acceptable natural vegetation if it:
 - (i) Has a continuous, dense layer of perennial grasses that has been uncultivated or unbroken for at least 5 consecutive years; or

- (ii) Has an overstory of trees and/or shrubs that has been uncultivated or unbroken for at least 5 consecutive years; or
 - (iii) Contains a mixture of the plant communities described in Subparagraphs 8(a)(i) and (ii) above that has been uncultivated or unbroken for at least 5 years.
- (b) Notwithstanding the performance standards set forth in Paragraph 8(a), the managers may determine existing buffer strip vegetation to be unacceptable if:
- (i) It is composed of undesirable plant species including but not limited to common buckthorn, purple loosestrife, leafy spurge or noxious weeds; or
 - (ii) It has topography that tends to channelize the flow of runoff; or
 - (iii) For some other reason it is unlikely to retain nutrients and sediment.
- (c) Where buffer strips are not vegetated or have been cultivated or otherwise disturbed within 5 years of the permit application, such areas shall be replanted and maintained. The buffer strip plantings must be identified on the permit application. The buffer strip landscaping shall comply with the following standards:
- (i) Buffer strips shall be planted with a seed mix approved by MnDOT, NRCS or SWCD, with the exception of a one-time planting with an annual nurse or cover crop such as oats or rye.
 - (ii) The seed mix shall be broadcast according to MnDOT, NRCS or SWCD specifications of the selected mix. The annual nurse or cover crop shall be applied at a minimum rate of 30 pounds per acre. The MnDOT or NRCS seed mix selected for permanent cover shall be appropriate for soil site conditions and free of invasive species. MnDOT, NRCS or SWCD approved mixtures appropriate for specific soil and moisture conditions can be used to meet these requirements.
 - (iii) Native shrubs may be substituted for native forbs. All substitutions must be approved by the District. Such shrubs may be bare root seedlings and shall be planted at a minimum rate of 60 plants per acre. Shrubs shall be distributed so as to provide a natural appearance and shall not be planted in rows.
 - (iv) Any groundcover or shrub plantings installed within the buffer strip are independent of any landscaping required elsewhere by the municipality or county.
 - (v) Grasses and forbs shall be seeded or planted by a qualified contractor. The method of application shall be approved by the District prior to planting or seeding.
 - (vi) No fertilizer shall be used in establishing new buffer strips, except on highly disturbed sites when necessary to establish acceptable buffer strip vegetation and then limited to amounts indicated by an accredited soil testing laboratory.
 - (vii) All seeded areas shall be mulched immediately with clean straw at a rate of 1.5 tons per acre. Mulch shall be anchored with a disk or tackifier.
 - (viii) Buffer strips (both natural and created) shall be protected by erosion and sediment control measures during construction in accordance with Rule E. The erosion and sediment control measures shall remain in place until the area crop is established.
- (d) Buffer strip vegetation shall be established and maintained in accordance with the requirements found in this Paragraph 8. During the first two full growing seasons, the

owner must replant any buffer strip vegetation that does not survive. The owner shall be responsible for reseeding and/or replanting if the buffer strip changes at any time through human intervention or activities. At a minimum the buffer strip must be maintained as a “no mow” area.

RULE K - FEES

1. **POLICY.** The managers find that it is in the public interest to require applicants to pay the cost of administering and reviewing permit applications, and inspecting approved activities to assure compliance with these Rules, rather than using the District's annual administrative levy for such purposes.
2. **APPLICATION.** Each application for the issuance, transfer or renewal of a permit under these Rules shall be accompanied by an application fee of \$10.00 to defray the cost of recording and processing the application.
3. **REVIEW.** An applicant for the issuance, transfer or renewal of a permit under these Rules shall pay a review fee equal to the actual cost of the District for the review and analysis of the proposed activity, including services of engineering, legal and other consultants. The District may require a deposit based on a good faith estimate of the cost to review an application at the time of filing. The review fee shall be payable upon issuance of a statement after consideration of the application by the managers. No permit may be issued until the review fee has been paid.
4. **INSPECTION.** A permittee shall pay a field inspection fee equal to the actual cost of the District for field inspections and subsequent monitoring of the permitted activity, including services of engineering, legal and other consultants. The District may require a deposit based on a good faith estimate of the cost to inspect and monitor a proposed activity at the time the application is filed. Additional field inspection fees shall be payable within 10 days after issuance of a statement if continued inspection and monitoring of an activity is required. A permit may be revoked, or a certificate of completion withheld, if the field inspection fee is not fully paid.
5. **FAILURE TO OBTAIN PERMIT.** Any person or political subdivision performing any 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 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.
6. **RECOVERY.** The fees provided for in these Rules may be recovered by the District in any legal proceeding authorized by law.
7. **AGENCIES EXEMPT.** The fees in Paragraphs 2, 3 and 4 above shall not be charged to the federal government, the state, or a political subdivision.

RULE L - SECURITY

1. **POLICY.** It is the policy of the managers to protect and conserve water resources by requiring a bond or other security to assure compliance with these Rules.
2. **REQUIREMENT.** The managers may require a deposit of cash, a performance bond, an irrevocable letter of credit or other security with the District as a condition to the issuance of a permit under these Rules.
3. **AMOUNT.** The amount of the security shall be set by the managers as the amount the managers deem necessary to cover the following potential liabilities to the District:
 - (a) Post permit field inspection, monitoring and related fees authorized under Minnesota Statutes, section 103D.345;
 - (b) The cost of maintaining and implementing erosion and sediment control required by the permit;
 - (c) The cost of completing buffer strip landscaping in accordance with Paragraph 10(a) of Rule J; and
 - (d) The cost of remedying damage resulting from noncompliance with the permit or these Rules or for which the permittee is otherwise responsible.
4. **FORM AND CONDITIONS.**
 - (a) A performance bond or letter of credit must be in a form acceptable to the District and from a bank or surety licensed to do business in Minnesota.
 - (b) The security shall be in favor of the District and conditioned upon the applicant's performance of the authorized activity in compliance with the permit and applicable laws, including these Rules, and the payment when due of any fees or other charges authorized or required by the permit, and these Rules.
 - (c) The security shall be issued for a minimum term of one year. Security with a shorter term may be deposited with the District provided it is replaced at least 30 days before its expiration.
 - (d) The District shall be authorized to make a claim or draw against the security after any default by the permittee under the permit or these Rules, or if the permittee fails to replace any security at least 30 days before its expiration.
5. **POLITICAL SUBDIVISIONS.** The general contractor for activities of a political subdivision shall provide any security required by the permit and these Rules.
6. **RELEASE.** Any security may be released by the District pursuant to Paragraph 14 of Rule B.

RULE M - VARIANCES

1. **WHEN AUTHORIZED.** The managers may grant variances from the literal provisions of these Rules. A variance shall only be granted when in harmony with the general purpose and intent of the Rules in cases where strict enforcement of the Rules will cause undue hardship, and when the terms of the variance are consistent with the District's water resources management plan and Minnesota Statutes, chapter 103D.
2. **HARDSHIP.** "Hardship" as used in connection with the granting of a variance means the land in question cannot be put to a reasonable use if used under the conditions allowed by these Rules; the plight of the applicant is due to circumstances unique to the land and not created by the applicant; and the variance, if granted, will not adversely affect the essential character of the locality and other adjacent land. Economic considerations alone shall not constitute a hardship if a reasonable use for the land exists under the terms of these Rules. Conditions may be imposed in the granting of a variance to insure compliance and to protect adjacent land and the public health and general welfare of the District.
3. **PROCEDURE.** An application for a variance shall describe the practical difficulty or particular hardship claimed as the basis for the variance. The application shall be accompanied with such surveys, plans, data and other information as may be required by the managers to consider the application.
4. **TERM.** A variance shall expire one year after it is granted, unless used by the applicant within the one-year period.
5. **VIOLATION:** A violation of any condition imposed in the granting of a variance shall be a violation of these Rules and shall automatically terminate the variance.

RULE N - APPEALS

1. INTERESTED PARTY. For the purposes of this Rule N, “interested party” means a person or political subdivision with an interest in the pending subject matter.
2. APPEALS. An interested party may appeal a rule, permit decision or order made by the managers by a declaratory judgment action brought under Minnesota Statutes, Chapter 555.
3. PROCEDURES. The decision on appeal must be based on the record made in the proceeding before the managers. An appeal of a permit decision or order must be filed within 30 days of the managers’ decision.

RULE O - ENFORCEMENT

1. MISDEMEANOR. A violation of these Rules, a stipulation agreement made or permit or order issued by the managers pursuant to these Rules, is a misdemeanor subject to a penalty as provided by law.
2. ACTIONS. The District may exercise all powers conferred upon it by Minnesota Statutes, chapter 103D, in enforcing these Rules, or a stipulation agreement made or permit or order issued by the managers under these Rules, including criminal prosecution, injunction, or an action to compel performance, restoration or abatement, or other appropriate action.
3. ADMINISTRATIVE ORDER. 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 flooding, erosion, sedimentation, an adverse effect upon water quality, or otherwise violates these Rules.
4. ATTORNEYS' FEES AND COSTS. In any civil action arising from or related to these Rules, an order or a stipulation agreement made or a permit issued or denied by the managers under these Rules, the court may award the prevailing party reasonable attorneys' fees and costs.

RULE P – Illicit Discharge

1. **POLICY.** It is the policy of the managers to prohibit illicit discharges to the Prior Lake Outlet Channel.
2. **DEFINITIONS:** For the purposes of this Rule P, unless the context otherwise requires, the following words and terms shall have the meanings set forth below. Words and terms not defined in this Rule shall have the meanings set forth in Rule A.

Illicit Connection – an illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4 system, including, but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the system and any connections to the system from indoor drains and sinks, regardless of whether said drain or connection has been previously allowed, permitted, or approved by political subdivision.
2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 system that has not been documented in plans, maps, or equivalent records and approved by a political subdivision.

Illicit Discharge – any discharge to the MS4 that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from firefighting activities.

Non-Stormwater Discharge – any discharge to the MS4 system that is not composed entirely of stormwater.

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.

Stormwater – means stormwater runoff, snow melt runoff, and surface runoff and drainage (Minn. R. 7090.0080, subp.12.).

3. **REGULATION.**
 - (a) No person or political subdivision shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the Prior Lake Outlet Channel any pollutants or waters containing any pollutants, other than stormwater, unless specifically exempted by Paragraph 3 below.
 - (b) The construction, use, maintenance or continued existence of illicit connections to the Prior Lake Outlet Channel is prohibited.
 - (i) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law, rule, or practices applicable or prevailing at the time of connection.
 - (ii) A person is considered to be in violation of this ordinance if the person connects a

line conveying sewage to the Prior Lake Outlet Channel, or allows such a connection to continue.

- (iii) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system.
 - (iv) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the District requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the District.
4. **SUSPENSION OF MS4 ACCESS.** The District may, without prior notice, suspend MS4 discharge access when such suspension is necessary:
- (a) **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.
 - (b) **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 may issue an administrative order or pursue other enforcement action as provided in the District's Rule O to compel performance, restoration, abatement, and other appropriate action.
5. **MONITORING OF DISCHARGES.** This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
- (a) **Access to Facilities.** The District shall gain consent or obtain a search warrant to enter buildings subject to regulation under this Rule to determine compliance with this Rule. The discharger shall make the necessary arrangements to allow access to representatives of the District.
 - (b) **Access to Records.** The District may examine and copy records that must be kept under the conditions of an NPDES Permit to discharge stormwater or that concern the performance of any duties as defined by state or federal stormwater laws.
 - (c) 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.
6. **WATERCOURSE PROTECTION.** Every person owning property, through which a watercourse passes, shall keep and maintain that part of the watercourse within the property

free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

7. NOTIFICATION OF SPILLS. It is the duty of every person to notify the District immediately of the discharge, accidental or otherwise, of any substance or material under its control which, if not recovered, may cause pollution of the Prior Lake Outlet Channel, and the responsible person shall recover as rapidly and as thoroughly as possible such substance or material and take immediately such other action as may be reasonably possible to minimize or abate pollution.
8. ENFORCEMENT. In addition to pursuing enforcement actions as provided in the District's Rule O, the District may utilize the following measures to enforce the provisions of this rule:
 - (a) 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, analysis and/or reporting;
 - (ii) The elimination of illicit connections or discharges;
 - (iii) That violating discharges, practices or operations will cease and desist;
 - (iv) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (v) Payment of District costs of administrative and remediation;
 - (vi) The implementation of source control or treatment BMPs.
 - (b) Enforcement Measures. If a violation is not corrected pursuant to the Notice of Violation and subsequent District order, the District may seek enforcement of the Rule requirements and/or order through criminal prosecution, injunction, action to compel performance, restoration, abatement, and other appropriate action. The District may avail itself of any and all measures necessary to abate the violation and/or restore the property.
9. EXCEPTIONS. The following materials may be discharged to the Prior Lake Outlet Channel operated by the District:
 - (a) Stormwater from a Municipal Separate Storm Sewer System connected to the Prior Lake Outlet Channel operated by the District, as specified in the Joint Powers Agreement / Memorandum of Agreement that governs the operation of the Prior Lake Outlet Channel.
 - (b) Discharges from public waters, including Prior, Pike, and Dean lakes.
 - (c) The following minor discharges:
 - (i) Water line flushing
 - (ii) Landscape irrigation
 - (iii) Diverted stream flows
 - (iv) Rising ground waters
 - (v) Uncontaminated ground water infiltration

- (vi) Uncontaminated pumped ground water
 - (vii) Discharges from potable water sources
 - (viii) Foundation drains
 - (ix) Air conditioning condensation
 - (x) Irrigation water
 - (xi) Springs
 - (xii) Water from crawl space pumps
 - (xiii) Footing drains
 - (xiv) Lawn watering
 - (xv) Individual residential car washing
 - (xvi) Flows from riparian habitats and wetlands
 - (xvii) Dechlorinated swimming pool discharges
 - (xviii) Street wash water
- (d) Discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), 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 a permit has been received from the District under all applicable rules.
- (e) Discharges or flow from firefighting, and other discharges specified in writing by the Prior Lake Watershed District as being necessary to protect public health and safety.
- (f) Dye testing is an allowable discharge, but requires a verbal notification to the District prior to the time of the test.