



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting

Wednesday, March 16, 2022

Agenda Item

Item 6. E. – Watershed Management Plan

Prepared By

Linda Loomis, Administrator

Summary.

In February 2020, the LMRWD adopted rules to implement its Comprehensive Watershed Management Plan. Since the adoption of rules it has become apparent that modifications to the rules were necessary.

A red-lined version of the rules was provided to the Board between the February and March Board meetings. Young Environmental Consulting Group has prepared a Technical Memorandum dated March 9, 2022, which details the process to revise rules and includes a red-lined version of the proposed revisions for the record.

Staff is asking for Board to authorize initiation of the rule amendment process.

Attachments

Technical Memorandum dated March 9, 2022 – Lower Minnesota River Watershed District Rule Revision Proposal

Recommended Action

Motion to authorize initiation of the rule amendment process

Technical Memorandum

To: Linda Loomis, Administrator
Lower Minnesota River Watershed District

From: Katy Thompson, PE, CFM
Della Schall Young, CPESC, PMP

Date: March 9, 2022

Re: Lower Minnesota River Watershed District (LMRWD) Rule Revision
Proposal

On October 24, 2018, the LMRWD adopted its amended state-approved Watershed Management Plan. The plan established management standards that form the foundation of the District's rules. The rules were developed as required by Minnesota Statute 103D to provide a legal basis for the District to regulate projects not regulated by municipalities (e.g., project within unincorporated areas and MnDOT rights-of-way).

On February 19, 2020, the LMRWD Board of Managers adopted the following rules: administrative and procedural, erosion and sediment control, floodplain and drainage alteration, stormwater management, and steep slopes. Since the implementation of the rules, the LMRWD, through its technical consultant, Young Environmental Consulting Group (Young Environmental), has worked with municipalities to update their respective official controls to administer the rules. However, during the transition period until their official controls are modified, the LMRWD has been issuing permits per the rules. After more than a year of implementing the rules and fielding questions, it is apparent that clarifying modifications to the rules are required.

Below are the suggested modifications for consideration, the rule revision process, and Young Environmental's recommended next steps.

Suggested Modifications

Attached is the redlined version of the rules highlighting the suggested changes; they were also shared with the Board via email on March 1, 2022.

Rule Revision Process

The process to amend the LMRWD rules is outlined in MS 103D.341 and summarized below:

- The draft rules must be submitted to the LMRWD Board of Managers and all public transportation authorities in writing for review and comment, allowing a minimum of 45 days for review.
- The draft rules and public hearings must be announced in at least one newspaper within each county.
- Any comments received during the public notice and 45-day review period will be collected and summarized by staff.
- The draft rules will be finalized and must be adopted by a majority vote of the LMRWD managers.
- The final rules must be filed with each county recorder and mailed to each governing body of each municipality within the District.

Recommendations

With the managers' approval, Linda Loomis, administrator; Young Environmental, technical consultant; and Rinke Noonan, legal counsel, will initiate the rules amendment process with the Minnesota Board of Water and Soil Resources. Barring any unforeseen issues, we hope to have the public hearing in April or May 2022 and the final document to the managers for final approval in July 2022.

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8
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Lower Minnesota River Watershed District

Rules

February 19, 2020

[Revised Draft February 22, 2022](#)

10 [Table of Contents](#)

11 **1 Rule A: Administrative and Procedural Requirements Rule~~2-11-1~~**

12 1.1 Municipal (LGU) Permit.....~~2-11-1~~

13 1.2 Individual Permit.....~~2-51-3~~

14 **2 Rule B: Erosion and Sediment Control Rule~~3-12-1~~**

15 2.1 Policy.....~~3-12-1~~

16 2.2 Regulation~~3-12-1~~

17 2.3 Exceptions~~3-12-1~~

18 2.4 Criteria.....~~3-12-1~~

19 2.5 Required Information and Exhibits~~3-42-4~~

20 **3 Rule C: Floodplain and Drainage Alteration Rule~~4-13-1~~**

21 3.1 Policy.....~~4-13-1~~

22 3.2 Regulation~~4-13-1~~

23 3.3 Exceptions~~4-13-1~~

24 3.4 Criteria.....~~4-13-1~~

25 3.5 Required Information and Exhibits~~4-23-2~~

26 **4 Rule D: Stormwater Management Rule~~5-14-1~~**

27 4.1 Policy.....~~5-14-1~~

28 4.2 Regulation~~5-14-1~~

29 4.3 Exceptions~~5-14-1~~

30 4.4 Criteria.....~~5-24-2~~

31 4.5 Required Information and Exhibits~~5-54-5~~

32 **5 Rule E: Shoreline and Streambank Alteration Rule (Reserved).....~~6-15-1~~**

33 **6 Rule F: Steep Slopes Rule.....~~7-16-1~~**

34 6.1 Policy.....~~7-16-1~~

35 6.2 Regulation~~7-16-1~~

36 6.3 Exceptions~~7-16-1~~

37 6.4 Criteria.....~~7-26-2~~

38 6.5 Required Information and Exhibits~~7-26-2~~

39 **7 Rule G: Water Appropriations Rule (Reserved)~~8-17-1~~**

40 **8 Rule H: Water Crossing Rule (Reserved).....~~9-18-2~~**

41 **Table of Figures**

42 **Figure 1 Lower Minnesota River Watershed District—High Value Resources Area Overlay**

43 **District Map**

44 **Figure 2 Lower Minnesota River Watershed District—Steep Slopes Overlay District Map**

45 1 Definitions

46 Regarding these Rules, unless the context otherwise requires, the following terms are defined below.
47 References in these Rules to specific sections of the Minnesota Statutes or Minnesota Rules include
48 amendments, revisions, or recodifications of such sections. The words “shall” and “must” indicate a
49 mandatory rule, and the word “may” indicates a permissive rule. The following definitions and
50 acronyms apply to the District rules and accompanying guidance materials.

51 **Abstractions:** Removal of stormwater from runoff by such methods as infiltration; evaporation; or
52 transpiration by vegetation; and capture and reuse, such as capturing runoff for use as irrigation water.

53 **Agricultural Activity:** The use of land for the growing and/or production of agronomic, horticultural, or
54 silvicultural crops, including nursery stock, sod, fruits, vegetables, flowers, cover crops, grains, [forestry](#)
55 [activities](#)~~Christmas trees~~, and grazing.

56 **Alteration or Alter:** When used in connection with public waters or wetlands, is any activity that will
57 change or diminish the supply, course, current, or cross section of [an existing drainage way](#), -public
58 waters or wetlands, [or a District overlay district](#).

59 [Appropriations: For the purposes of these Rules, “appropriations” means the withdrawal, removal, or](#)
60 [transfer of water from its source, regardless of how the water will be used.](#)

61 **Atlas 14:** Precipitation frequency estimates released by the National Oceanic and Atmospheric
62 Administration’s National Weather Service Hydrometeorological Design Studies Center. The
63 information supersedes precipitation frequency estimates in Technical Paper No. 40 (1961), National
64 Weather Service HYDRO-35 (1977), and Technical Paper No. 49 (1964).

65 **Base Flood Elevation:** The computed elevation to which floodwater is anticipated to rise during the
66 base flood. Base flood elevations are shown on flood insurance rate maps (FIRMs) and on the flood
67 profiles.

68 **Best Management Practices, ~~or~~ (BMPs):** Structural or nonstructural methods used to treat runoff,
69 including, [but not limited to](#), such diverse measures as ponding, street sweeping, filtration through a rain
70 garden, and infiltration to a gravel trench.

71 **Bioengineering:** Various shoreline and stream bank stabilization techniques using aquatic vegetation
72 and native upland plants along with techniques such as willow wattling, brush layering, and willow
73 posts.

74 **Buffer Zone:** An area consisting of perennial vegetation, excluding invasive plants and noxious weeds,
75 adjacent to a waterbody that protects water resources from runoff pollution; stabilizes soils, shores, and
76 banks; and protects or provides riparian corridors.

77 [Channel: A perceptible natural or artificial depression, with a defined bed and banks that confines and](#)
78 [conducts water flowing either continuously or periodically.](#)

79 **Compensatory Storage:** Excavated volume of material below the [100-year](#) floodplain elevation
80 required to offset floodplain fill.

81 **Conditional Approval:** Approval of a District permit application that requires the applicant to provide
82 further information or plan changes, or meet other stated conditions, prior to the District issuance of the
83 permit. See Rule A.

84 **Construction Activity:** Disturbance to the land that results in a change in the topography, existing soil
85 cover (both vegetative and nonvegetative), or existing soil topography that may result in accelerated
86 stormwater runoff, leading to soil erosion and the movement of sediment into surface waters or drainage
87 systems.

88 **Conveyance System:** The drainage facilities, both natural and manmade, which collect, contain, and
89 provide for the flow and treatment of surface and stormwater from multiple properties the highest points
90 on the land down to a receiving water. The natural elements of the conveyance system include swales
91 and small drainage courses, streams, rivers, lakes, and wetlands. The humanmade elements of the
92 conveyance system include gutters, ditches, pipes, channels, and retention/detention facilities.

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

95 **Crossing:** Any crossing over a water conveyance either supported by a structural span or culvert.

96 **Development:** The construction of any public or private improvement project, infrastructure, structure,
97 street, or road or the subdivision of land. Normal farming practices part of an ongoing farming operation
98 shall not be considered development.

99 **Dewatering:** The removal of water for construction activity.

100 **District:** The Lower Minnesota River Watershed District (LMRWD) established under the Minnesota
101 Watershed Law, Minnesota Statutes Chapter 103D.

102 **Drain or Drainage:** Any method for removing or diverting water from waterbodies, including
103 excavation of an open ditch and installation of subsurface drainage tile, filling, diking, or pumping.

104 **Dredging:** The removal of sediment or other materials from the beds, banks, or shores of a waterbody
105 by means of hydraulic suction, mechanical excavation or any other means.

106 **Easement:** The perpetual right to use another owner's land for a specified use, which may be granted
107 for the purpose of constructing and maintaining walkways, roadways, subsurface sewage treatment
108 systems, utilities, drainage, driveways, and other uses.

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

111 **Erosion and Sediment Control Plan:** A plan of BMPs or equivalent measures designed to control
112 runoff and erosion and to retain or control sediment on land during the period of land-disturbing
113 activities in accordance with the applicable Rule.

114 **Excavation:** The intentional removal or displacement of soil, sediment, vegetation, or other earth
115 material.

116 **Existing Conditions:** Site conditions at the time of application consideration by the LGU or District
117 before any of the work has commenced, except that, when impervious surfaces have been fully or
118 partially removed from a previously developed parcel but no intervening use has been legally or
119 practically established, “existing conditions” denotes the parcel’s previously established developed use
120 and condition.

121 **FEMA:** Federal Emergency Management Agency.

122 **Fen or Calcareous Fens:** Rare and distinctive wetlands characterized by a substrate of nonacidic peat
123 and dependent on a constant supply of cold, oxygen-poor groundwater rich in calcium and magnesium
124 bicarbonates.

125 **Fill:** Any rock, soil, gravel, sand, debris, plant cuttings, or other material placed onto land or into water.

126 **Filtration:** A series of processes that physically removes constituents from stormwater.

127 **Floodplain:** The area adjacent to a waterbody that is inundated ~~during by the~~ 100-year flood elevation.

128 **Floodway:** The channel of ~~the river or stream~~ a watercourse, the bed of waterbasins and the adjacent
129 land that must remain free from obstruction so that the 100-year flood can be conveyed downstream.

130 **Fully Reconstructed:** The reconstruction of an existing impervious surface that involves site grading
131 and subsurface excavation so that soil is exposed. Mill and overlay and other resurfacing activities are
132 not considered fully reconstructed.

133 **Groundwater-Dependent Natural Resource (GDNR):** A feature with surface emergence of
134 groundwater at a spring or seepage area, sufficiently mineral rich to support a plant community or
135 aquatic ecosystem.

136 **Groundwater Recharge:** The replenishment of groundwater storage through infiltration of surface
137 runoff into subsurface aquifers.

138 **High Value Resources Area, ~~or~~ (HVRA):** Portion of land (or a watershed) that contributes direct
139 surface runoff to a trout water and/or fen within the ~~Lower Minnesota River Watershed District~~ District.
140 Those areas within the District but not contained within the HVRA are referred to as General areas.

141 **Hot Spot:** A point source or potential pollution-generating land use, such as a gas station or chemical
142 storage facility.

143 **H:V:** ~~horizontal:vertical.~~

144 **Impervious Surface:** A constructed or compacted hard surface that either prevents or retards the entry
145 of water into the soil and causes water to run off the surface in greater quantities and at an increased rate
146 of flow than before development. Examples include rooftops, sidewalks, patios, driveways, parking lots,
147 storage areas, concrete, asphalt, and gravel roads or other areas of compacted ~~gravel~~ surfaces.

148 **Infiltration:** A passage of water into the ground through the soils.

149 **Infrastructure:** The system of public works for a county, state, or municipality, including but not
150 limited to structures, roads, bridges, culverts, and sidewalks; stormwater management facilities,

151 conveyance systems, and pipes; pump stations, sanitary sewers, and interceptors; hydraulic structures,
152 permanent erosion control, and stream bank protection measures; water lines, gas lines, electrical lines,
153 and associated facilities; and phone lines and supporting facilities.

154 **Land-Disturbing Activity:** Any change of the land surface ~~to including~~ but not limited to: removing
155 vegetative cover, excavating, fill, grading, stockpiling soil, and constructing any structure that may
156 cause or contribute to increases in the flow of water off of a property, eroding erosion downstream, or
157 moving sediment into water bodies. Land use for new and continuing agricultural activities shall not
158 constitute a land-disturbing activity under these Rules.

159 **Landlocked Basin:** A water basin ~~localized depression~~ that does not have a natural outlet at or below
160 ~~the its~~ 100-year flood elevation.

161 **Linear Project:** Construction or reconstruction of a public road, sidewalk, or trail or construction,
162 repair, or reconstruction of a utility or utilities that is not a component of a larger contemporaneous
163 development or redevelopment project. A linear project does not include ancillary structures or facilities.

164 **Local Government Unit (LGU):** The municipality or other public body within the Lower Minnesota
165 River Watershed District and subject to these Rules ~~Entity such as a city or county.~~

166 **Local Water Plan (LWP):** A plan adopted by each municipality pursuant to Minnesota Statutes
167 103B.235.

168 ~~MNDOT: Minnesota Department of Transportation.~~

169 ~~MPCA: Minnesota Pollution Control Agency.~~

170 ~~MPCA General Construction Permit~~ **Construction Stormwater General Permit:** The Ggeneral
171 Ppermit Authorization to Discharge StormwWater Associated with Construction Activity under the
172 National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS)Permit
173 Program, Permit MN-R100001 (also known as the NPDES General Construction Permit or NPDES
174 Permit), issued by the Minnesota Pollution Control Agency (MPCA) on, August 1, 2018, and as
175 amended.

176 **Municipality:** Any city or township wholly or partly within the Lower Minnesota River Watershed
177 District.

178 **Natural Vegetation:** Any combination of ground cover, understory, and tree canopy that, although
179 human activity may have altered it, continues to stabilize soils, retain and filter runoff, provide habitat,
180 and recharge groundwater.

181 ~~NAVD: North American Vertical Datum.~~

182 ~~Nested: A hypothetical precipitation distribution whereby the precipitation depths for various durations~~
183 ~~within a storm have the same exceedance probabilities. This distribution maximizes the rainfall~~
184 ~~intensities by incorporating selected short duration intensities within those needed for longer durations~~
185 ~~at the same probability level. As a result, the various storm durations are “nested” within a single~~
186 ~~hypothetical distribution. Nested storm distribution (or frequency based hyetograph) development must~~

187 ~~be completed using the most recent applicable National Weather Service reference data (e.g., Atlas 14),~~
188 ~~in accordance with~~

- 189 ~~a. the alternating block methodology, as outlined in Chapter 4 of the *HEC-HMS (Hydrologic*~~
190 ~~*Engineering Center Hydrologic Modeling System) Technical Reference Manual (USACE,*~~
191 ~~2000);~~
- 192 ~~b. methods in HydroCAD;~~
- 193 ~~c. methods established by the Natural Resources Conservation Service; or~~
- 194 ~~d. otherwise as approved by the District.~~

195 ~~Reference: US Army Corps of Engineers. 2000. *Hydrologic Modeling System: HEC-HMS Technical*~~
196 ~~*Reference Manual.*~~

197 ~~**Nondegradation:** For purposes of these rules, nondegradation refers to the regulatory policy stated in~~
198 ~~Minnesota Administrative Rules 7050.0185, and as amended.~~

199 ~~**NOT:** Notice of Termination.~~

200 ~~**NPDES:** National Pollutant Discharge Elimination System.~~

201 ~~**Official Controls:** Defined and enacted policies, standards, maps and other criteria which control the~~
202 ~~physical development of the LGU and are the means of translating into ordinances all or any part of the~~
203 ~~general objectives of the comprehensive plan.~~

204 ~~**Ordinary High Water Level (OHWL):** Ordinary high water level, as defined by the Minnesota~~
205 ~~Department of Natural Resources, means the boundary of water basins, watercourses, public waters,~~
206 ~~and public or waters wetlands, and the OHWL is an elevation delineating indicating the highest water~~
207 ~~level maintained for a sufficient period of time to leave evidence upon the landscape, commonly the~~
208 ~~point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;~~
209 ~~For watercourses, the OHWL is the elevation of the top of bank of the channel bank; and For~~
210 ~~reservoirs basins and flowages, the OHWL is the operating elevation of the normal summer pool.~~

211 ~~**Outfall:** A constructed point source where water discharges to a receiving water.~~

212 ~~**Overlay District:** A district established by Lower Minnesota River Watershed District rules/regulations~~
213 ~~that may be more or less restrictive than the primary District's rules/regulations. Where a property is~~
214 ~~located within an overlay district, it is subject to the provisions of both the primary rules/regulations and~~
215 ~~those of the overlay district.~~

216 ~~**Owner:** Any individual, firm, association, partnership, corporation, trust, or other legal entity having~~
217 ~~proprietary interest in the land.~~

218 ~~**Parcel:** A lot of record in the office of the county recorder or registrar or that otherwise has a defined~~
219 ~~legal existence.~~

220 ~~**Person:** Any individual, trustee, partnership, unincorporated association, limited liability company, or~~
221 ~~corporation.~~

222 **Pervious:** Surfaces that are readily penetrated or permeated by rainfall or runoff resulting in infiltration
223 of surface water to the groundwater.

224
225 **Pollutant:** Anything that causes or contributes to pollution. Pollutants may include, but are not limited
226 to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid
227 wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects,
228 ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides,
229 herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens;
230 dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a
231 building or structure; and noxious or offensive matter of any kind.

232 ~~**Practical Difficulties:** As defined in Minnesota Statutes section 462.357, subdivision 6.~~

233 **Professional Engineer:** a licensed engineer registered under the laws of the state of Minnesota.

234 **Public Drainage System:** Any drainage system as defined in Minnesota Statutes 103E.005, subdivision
235 12.

236
237 **Public Project:** Land development or redevelopment or other land-disturbing activity conducted or
238 sponsored by a federal, state, or local governmental entity, for which a permit from the Lower
239 Minnesota River Watershed District, or its designee is required.

240 **Public Waters:** Waters as defined in Minnesota Statutes 103G.005, subdivision 15, and included in the
241 public waters inventory.

242 **Qualified Professional:** A person, compensated for her/his service, possessing the education, training,
243 experience, or credential to competently perform or deliver the service provided.

244 **Reconstruction:** Removal of an impervious surface such that the underlying structural aggregate base is
245 effectively removed and the underlying native soil exposed. The following do not constitute
246 “reconstruction” for the purposes of these rules: impervious surface mill, reclamation, overlay, or paving
247 of an existing rural section gravel road.

248 **Redevelopment:** Any construction or improvement performed on sites where the existing land use is
249 commercial, industrial, institutional, or residential.

250 **Regional System:** A surface water storage or conveyance system used at a regional scale.

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

252 **Seasonally Saturated Soils:** The highest known seasonal elevation of groundwater, or seasonal high
253 water table, as indicated by redoximorphic features such as mottling within the soil.

254 **Sediment:** The solid mineral or organic material that is in suspension, is being transported, or has been
255 moved from its original location by erosion and deposited at another location.

256 ~~**Sedimentation:** The process or action of depositing sediment.~~

257 Semi-Pervious: Land cover or surfaces which include both pervious and impervious features that allow
258 for some infiltration, but are directed to a conveyance system, such as synthetic turf and capped or lined
259 systems at landfills.

260 **Shoreland District:** ~~Shoreland a~~ Areas regulated by a local municipal or county shoreland ordinance or
261 by Minnesota Statutes 103F. Generally, a shoreland district consists of land located within a floodplain,
262 within 1,000 feet of the ordinary high-water level of a public water or public waters wetland, or within
263 300 feet of a stream or river.

264 **Shoreline:** The lateral measurement along the contour of the ordinary high water level of waterbodies
265 other than watercourses, the top of the bank of the channel of watercourses, and the area waterward
266 thereof.

267 Single-Family Home: A free-standing residential building designed for and to be occupied as a single-
268 dwelling unit on its own land.

269 **Site:** A contiguous area of land under common ownership, designated and described in official public
270 records and separated from other lands, see Parcel.

271 **Standard:** A preferred or desired level of quantity, quality, or value.

272 **Steep Slope:** A natural topographic feature having average slopes of 18 percent or greater measured
273 over a horizontal distance of 25 feet or more.

274 **Steep Slopes Overlay District (SSOD):** ~~A district-subarea within the District~~ containing steep slopes
275 ~~areas~~ established by Lower Minnesota River Watershed District ~~rules/regulations~~ Watershed
276 Management Plan that is subject to the provisions of ~~both the primary rules/ regulations and those of the~~
277 overlay district these Rules.

278 Storage System: The drainage facilities, both natural and manmade, which collect, contain, and provide
279 for the flow and treatment of surface and stormwater from multiple properties the highest points on the
280 land down to a receiving water. The natural elements of the storage system include lakes and wetlands.
281 The humanmade elements of the storage system include retention or detention facilities.

282 **Stormwater:** Water discharged to natural and artificial conveyance or holding systems resulting from
283 precipitation, including rainfall and snowmelt.

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

287 ~~Subsurface Sewage Treatment System, or SSTS: A sewage treatment system or part thereof serving a~~
288 ~~dwelling, other establishment, or group thereof and using sewage tanks followed by soil treatment and~~
289 ~~disposal or using advanced treatment devices that discharge below final grade. A subsurface sewage~~
290 ~~treatment system includes holding tanks and privies.~~

291 **Subwatershed:** A portion of land (or a watershed) contributing runoff to a particular point ~~of discharge.~~

292 **Surface Water:** All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage
293 systems, ~~waterways~~water basins, watercourses, and irrigation systems regardless of whether natural or
294 artificial, public or private.

295 ~~**Thalweg:** A line following the lowest points of a valley, river, stream, or creek bed.~~

296 ~~**Total Phosphorus (TP):** Total phosphorus~~A measure of all forms of phosphorus, dissolved or
297 particulate, in a given water sample or flow.

298 **Trout Waters:** Lakes or streams that currently support or historically have supported a population of
299 stocked or naturally ~~produced~~ occurring trout.

300 ~~**Total Suspended Solids (TSS):** Total suspended solids~~Refers to the dry-weight of waterborne particles,
301 that are not dissolved and can be trapped by a filter, in a given water sample or flow.

302 **Waterbody:** All surface waters, watercourses, and wetlands as defined in these ~~Policies~~Rules.

303 ~~**Water Basin:** An enclosed depression with definable banks capable of containing water.~~

304 ~~**Watercourse:** A channel that has definable beds and banks capable of conducting confined runoff from~~
305 ~~adjacent land.~~

306 **Watershed:** A region draining to a specific watercourse or water basin.

307 **Wellhead Protection Plan:** A document that provides for the protection of a public water supply,
308 submitted to the Minnesota Department of Health, that is implemented by the public water supplier and
309 complies with (a) the wellhead protection elements specified in the 1986 amendments to the Federal
310 Safe Drinking Water Act, United States Code, title 42, chapter 6A, subchapter XII, part C, section 300h-
311 7 (1986 and as subsequently amended) and (b) Minnesota Rules parts 4720.5200 to 4720.5290.

312 **Wetland:** Any land as defined in Minnesota Statutes 103G.005, subdivision 19.

313 **2 Rule A: Administrative and Procedural Requirements Rule**

314 Minnesota Statutes 103D.341 requires the Lower Minnesota River Watershed District (District) to adopt
315 rules. Pursuant to Minnesota Statutes chapter 103D, on October 24, 2018, the District adopted its Board
316 of Water and Soil Resources–approved watershed management plan (Plan). The Plan establishes
317 management standards that form the foundation of these Rrules.

318 These RRules are primarily applied by a local governmental unit (LGU) under a Municipal (LGU)
319 Permit (Section 1.1) or by the District through an Individual Permit (Section 1.2)

320 Implementation by municipalities or LGUs of these Rrules is required on all projects within their
321 jurisdiction and by the District on projects within unincorporated and ungoverned areas of the Fort
322 Snelling Historic District, ~~and~~ on Minnesota Department of Transportation (MnDOT) right-of-way, and
323 within municipalities that have not obtained a Municipal Permit.

324 **2.1 MUNICIPAL (LGU) PERMIT**

325 The Mmunicipal (LGU) PPermit allows local municipalities to issue permits and manage actions as the
326 primary permitting authority and allows the District to act in the event the LGUs are unable to permit.

327 2.1.1 Policy

328 It is the policy of the District to:

- 329 A. Rrecognize that control and determination of appropriate land use is the responsibility of LGUs;
- 330 B. Hhold LGUs to the requirement of Minnesota Statutes section 103G.235, subdivision 1, that each
331 adopt the official controls necessary to bring local water management into conformance with the
332 Plan;
- 333 C. Ppresent minimum threshold requirements and allow LGUs to adopt more restrictive
334 requirements;
- 335 D. Rrecognize that the authorities and procedures that LGUs use in implementing these Rrules will
336 not be identical and that, therefore, some LGUs may occasionally need language and procedures
337 that vary from the language and procedures outlined herein; and
- 338 E. Coordinate with and provide a MMunicipal PPermit to all LGUs with compliant local controls.

339 2.1.2 Regulation

340 All Those LGUs that wish to~~must~~ obtain a municipal permit must highlighting how they intend to
341 implement and enforce these RRules through official controls, in accordance with Minnesota Statutes
342 103B.235, ~~on or before May 1, 2020.~~

343 2.1.3 Application

344 The District established these Rules on February 2020 and all LGUs were required to submit their A
345 LGU must submit an application packets to the District to obtain a Mmunicipal PPermit under these
346 RRules on or before February 7, 2020, with the intent of LGUs receiving their Municipal Permits before
347 the implementation deadline of May 1, 2020. All Municipal Permit applications thereafter will follow

348 the timeline below. The submitted permit application must address how the LGU’s official controls
349 adhere to these ~~Rules~~. LGUs are encouraged to contact the District ~~on or before January 1, 2020, to~~
350 ~~begin beginning~~ this process; this allows for nonbinding, informal review of the official controls
351 ~~conform with the District’s rules before the May 1, 2020, implementation deadline.~~

- 352 A. ~~The municipal permit application packets are due on or before February 7, 2020.~~ The District has
353 up to 60 business days to take action on a submitted permit application that is considered
354 complete.
- 355 B. The ~~municipal permit~~ may be applied for using application forms ~~can be obtained from the~~
356 ~~District office or downloaded on~~ the District website at www.lowermnrivewd.org/.
- 357 C. The ~~municipal permit~~ applications must be signed by the City Administrator, a licensed
358 professional engineer under the laws of the state of Minnesota (professional engineer), or
359 designated City staff upon authorizing action of the LGU’s governing board or council.
- 360 D. All ~~municipal permit~~ application packets must include a completed application form and all
361 required exhibits. These documents must be electronically submitted to the District in .pdf
362 format. Compliance with these specifications will be used to determine whether the municipal
363 permit application is complete. The District will not act on an incomplete ~~municipal permit~~
364 application and will notify LGUs within 15 business days of receiving the application if it is not
365 complete.

366 2.1.4 Municipal Permit Approval, Renewal and Assignment

- 367 A. Approval. Municipal ~~P~~permit approval is valid for five calendar years from the approval date,
368 with or without conditions, unless otherwise specified. This does not include suspended or
369 revoked municipal permits. Substantive changes, such as updates to these Rules and LGU
370 official controls that affect the specific standards identified in the Plan, require a new municipal
371 permit application.
- 372 B. Renewal. To renew ~~or assign~~ a municipal permit, the original permittee must notify and provide
373 an explanation to the District, in writing, at least 60 days before the expiration date.
- 374 C. Assignment. When approved by the District, the permittee may assign a municipal permit to
375 another LGU; ~~however the assignment of a permit does not extend the term.~~ Approval may be
376 granted if:
- 377 i. ~~The proposed assignee~~ current permittee first notifies and provides an explanation to the
378 District, in writing, before the permit expiration date.
- 379 ii. The proposed assignee agrees in writing to assume responsibility for compliance of all
380 terms and conditions of the municipal permit as issued; and
- 381 iii. a At the time of the request, there are no pending violations of the municipal permit or
382 conditions of approval.

383 iv. If the District finds that the proposed assignee has not demonstrated the ability to fulfill
384 the municipal permit terms, it may impose new or additional conditions or deny the
385 permit renewal or assignment. ~~The assignment of a permit does not extend the term.~~

386 D. Amendments. When approved by the District, the permittee may modify its municipal permit,
387 however amendment of a permit does not extend the term. Approval may be granted if:

388 i. The current permittee first notifies and provides an explanation to the District, in writing,
389 before the permit expiration date.

390 ii. The proposed assignee agrees in writing to assume responsibility for compliance of all
391 terms and conditions of the municipal permit as issued; and

392 iii. At the time of the request, there are no pending violations of the municipal permit or
393 conditions of approval.

394 iv. If the District finds that the proposed assignee has not demonstrated the ability to fulfill
395 the municipal permit terms, it may impose new or additional conditions or deny the
396 permit renewal or amendment.

397 2.1.5 Audit Process

398 The District reserves the right to conduct periodic audits and/or inspections of LGU programs, project
399 approvals, issued municipal permits, and other processes to assess conformance with the municipal
400 permit, the standards identified in the Plan, and these Rules.

401 2.1.6 Enforcement

402 LGUs are responsible for implementing and enforcing local water plans (~~LWPs~~) covering their
403 jurisdictions. To avoid unnecessary duplication of permitted programs, the District anticipates providing
404 oversight to confirm that LWPs, including these Rules and local controls, are properly implemented and
405 enforced. Oversight will include spot checks of municipal projects and program audits. If the LGU is
406 found noncompliant, the District will work with the LGU to correct the issue. However, if problems
407 persist, the District may revoke or suspend the municipal permit and require individual permits, issued
408 by the District, for all activities covered by these Rules. The District may also pursue remedies as
409 provided by law to ensure compliance with these Rules.

410 The District will not be responsible for liabilities, costs, and damages caused by the LGU's lack of
411 proper implementation.

412 2.1.7 Suspension or Revocation

413 The District may revoke or suspend an issued municipal permit if it was issued based upon inaccurate
414 information provided by the permittee, the permittee has not demonstrated the ability to fulfill the terms,
415 or the permittee fails an audit.

416 2.1.8 Variance

417 It is the District's policy to allow LGUs to grant variances and issue conditional use permits according
418 to processes for such actions contained in existing local controls, except for the professional certification

419 requirement for steep slopes. At least thirty days before municipal consideration of a variance or
420 conditional use permit request, the District shall be notified of the requested action and be allowed to
421 provide comment on the requested action. Variances that would circumvent the intent and purposes of
422 these ~~R~~ules shall not be granted.

423 2.1.9 Permits Subject to Rule F: Steep Slope Rule

424 Upon showing, to the satisfaction of the District, that the LGU has enacted and is following official
425 controls necessary to meet the intent of these ~~R~~ules, the District may issue an exception to the rule for
426 projects with land-disturbing activities that require a municipal grading, building, parking lot, or
427 foundation permit that impact less than 50 cubic yards or less than 5,000 square feet of surface area or
428 vegetation. The exception, if issued, will be documented in the ~~M~~municipal ~~p~~Permit, wherein the LGU
429 must agree: (1) that it will enforce its official controls; (2) that the exception will terminate if the LGU
430 amends its official controls such that they no longer meet the intent of these ~~R~~ules; and (3) that the
431 LGU will provide notice to the District of all permits issued under the exception.

433 **2.2 INDIVIDUAL PERMIT**

434 The Individual Permit allows the District to act as regulatory body in those areas not regulated by a
435 municipality with an approved Municipal Permit. These generally include unincorporated and
436 ungoverned areas of the Fort Snelling Historic District, Minneapolis-St. Paul International Airport, and
437 on MnDOT right-of-way.

438 2.2.1 Policy

439 An individual permit is required for projects proposed by the MnDOT and all projects occurring in the
440 Fort Snelling Historic District unincorporated area of the District (i.e., where there is no LGU exercising
441 official controls).

442 Except where a ~~m~~Municipal pPermit has been issued and remains in effect (i.e., has not been revoked or
443 suspended), a person undertaking an activity for which these Rrules require a permit must obtain the
444 required permit from the District before commencing the regulated activity.

445 2.2.2 Application

446 An application must be submitted to the District to obtain a permit for all projects subject to these
447 Rrules. Applicants are strongly advised to contact the District early in the project development process.
448 This will allow for a nonbinding, informal review to assess conformity with District rules.

449 Complete pPermit applications are due 20 business days before the monthly board meeting to be
450 considered at that board meeting. The District will act on permit applications in a manner consistent
451 with Minnesota Statutes section 15.99.

452 A. Application forms can be obtained from the District office or downloaded on the District website
453 at www.lowermnriverwd.org/.

454 B. The project/property owner must sign all permit applications.

455 C. All permit application packets must include a completed application form, all required exhibits,
456 and a check (if applicable). These documents can be electronically submitted to the District in
457 .pdf format. Applicable fees should be mailed to the District office. See the District website for
458 the most current fee schedule. Compliance with these required exhibits outlined in the
459 applicable Rules specifications will be used to determine whether an application is complete.

460 C.D. The District will not act on an incomplete permit application. If the application is not
461 complete, the District will notify applicants within 15 business days of receiving it.

462 D.E. Any entity undertaking emergency activity immediately necessary to protect life or
463 prevent substantial physical harm to persons or property must submit an application within 30
464 days of commencing the work. The emergency activity must be brought into compliance with
465 District rules in a timely manner.

466 2.2.3 Administrative Review and Approval

467 It is administratively burdensome for the Board to review every Individual Permit application.
468 Therefore, the District Administrator and Engineering/Technical Consultant shall review all applications

469 and make recommendations for approval or denial, including proposed conditions. Certain Individual
470 Permit applications may be reviewed and approved administratively by the District Administrator with
471 concurrence of the Engineering/Technical Consultant.

472 A. The following Individual Permit applications may be approved administratively, provided all
473 required, local permits have been secured:

474 i. Rule B: Erosion control permit applications under Rule B that involve the disturbance of
475 less than 10,000 square feet of surface area or vegetation or the excavation of less than
476 100 cubic yards of earth within the HVRA or SSOD Overlay Districts, as shown on the
477 Lower Minnesota River Watershed District Overlay District Maps (Figures 1 and 2).

478 ii. Rule C: No administrative approval authorized.

479 iii. Rule D: Stormwater permit applications under Rule D, including development,
480 redevelopment, and drainage alternations (including roads) creating new impervious
481 areas of less than 20,000 square feet within the HVRA Overlay District, as shown on the
482 Lower Minnesota River Watershed District—High Value Resources Area Overlay
483 District Map (Figure 1).

484 iv. Rule F: Steep Slope area permit applications under Rule F, including land-disturbing
485 activities that involve the excavation of less than 100 cubic yards of earth or displacement
486 or removal of less than 10,000 square feet of surface area or vegetation within the Steep
487 Slopes Overlay District, as shown on the Lower Minnesota River Watershed District—
488 Steep Slopes Overlay District Map (Figure 2)

489 B. The District Administrator may work with consultants on the administrative review of a permit.

490 C. If a permit meets the administrative approval requirements but the District Administrator
491 determines that administrative approval is inappropriate due to an unusual circumstance, the
492 permit application shall be brought before the Board for approval.

493 D. All administratively approved permits shall be deemed issued when signed by the District
494 Administrator, or other Board-designated staff or consultant, and all conditions of the permit
495 have been satisfied.

496 E. The District Administrator shall provide reports to the Board of all administratively approved
497 permits.

498 F. District Staff may not deny a permit. District Staff must instead bring the permit application
499 before the Board with a recommendation to deny the permit application including proposed
500 written reasons for denial.

501 2.2.32.2.4 Conditional Approval

502 The District may conditionally approve an application; however, it will not issue the permit until the
503 applicant has met all approval conditions. The applicant must demonstrate clear intent to comply with
504 these Rules and all conditional approval requirements that the District has outlined. All conditions must

505 be met within twelve (12) months from the date conditional approval was granted. If conditions are not
506 satisfied within the specified period~~After this timeframe~~, the conditional approval will expire and the
507 applicant will be required to reapply for a permit and pay applicable permit fees. For conditionally
508 approved permits, the permit term does not begin until all conditions have been met and the permit has
509 been issued.

510 2.2.42.2.5 Reconsideration

511 An applicant aggrieved by the District's decision regarding a permit application may file a notice of
512 reconsideration.

- 513 A. A notice of reconsideration must be filed with the District within 10 business days of the board
514 meeting at which the original decision was made. The notice must include a statement
515 identifying the specific conditions and findings to be reconsidered.
- 516 B. The District will schedule a reconsideration of the matter by the Board of Managers. The
517 applicant will receive a notice of the reconsideration date at least 20 business days in advance.
- 518 C. The applicant may supplement existing permit exhibits with additional documentation and
519 submit all additional exhibits to the District no later than 10 business days before the date of the
520 reconsideration.
- 521 D. In accordance with Minnesota Statutes section 103D.345, subdivision 2, an applicant will
522 assume the analytical costs incurred by the District while conducting a reconsideration. Costs
523 will not be recovered when the applicant is a local, state, or federal governmental body.
- 524 E. Once an applicant has filed a notice for reconsideration, the underlying permit decision will be
525 suspended until the Board of Managers issues a final decision on the reconsideration.
- 526 F. The District's decision on the reconsideration constitutes the final decision on the application.

527 2.2.52.2.6 Appeal

528 Pursuant to Minnesota Statutes section 103D.537, an applicant may appeal a permit decision or order
529 made by the Board of Mmanagers by a declaratory judgment action brought under Minnesota Statutes
530 chapter 555. An applicant must file an appeal of a permit decision or order within 30 days of the Board
531 of Mmanagers' decision. An applicant may request a meeting with the dispute resolution committee of
532 the Board of Water and Soil Resources to informally resolve a dispute before initiating a declaratory
533 judgment action.

534 2.2.62.2.7 Permit Renewal and Assignment

535 Permit approval is valid for one calendar year from the date the permit was approved, with or without
536 conditions, unless otherwise specified. This does not include suspended or revoked permits. To renew or
537 assign permit approval, the original permittee must ~~notify and~~ provide notification, an explanation of the
538 requested action, ~~document~~documentation of plan changes, and provide supporting information to the
539 District, in writing, at least sixty (60) days prior to~~before~~ the permit expiration date. The District may
540 impose different or additional conditions on the permit renewal or deny the renewal in the event of a

541 ~~material change in circumstances if there is a significant change in the work proposed.~~ The first renewal
 542 request will not be subject to new or additional requirements solely because of a change in the District's
 543 rules where substantial progress has been made toward the completion of the permitted project.

544 Applicants wishing to continue projects for which permit approval has expired must reapply for a permit
 545 and pay associated fees. All District rules in effect at the time of the reapplication will apply.

546 2.2.8 Permit Assignment

547 When approved by the District, the permittee may assign a permit to another party. Approval may be
 548 granted if, all of the following conditions are met:

549 A. ~~¶~~The proposed assignee agrees in writing to assume responsibility for compliance with all terms,
 550 ~~and~~ conditions and obligations of the permit as originally issued to the permittee; ~~and~~

551 A. ~~The proposed assignee has the ability to satisfy the terms and conditions of the permit as~~
 552 ~~originally~~ issued;

553 B.

554 B.C. ~~A~~at the time of the request, there are no current or pending violations of the permit or
 555 conditions of approval as originally issued; and

556 C.D. ~~¶~~The proposed assignee has provided any required financial assurance necessary to
 557 complete the permitted project.

558 If the District finds that the proposed assignee has not demonstrated the ability to fulfill the permit
 559 terms, it may impose new or additional conditions or deny the permit assignment. The assignment of a
 560 permit does not extend the term of the permit.

561 2.2.9 Permit Amendments

562 Permits may be amended after approval but before the initiation of work or construction activities. The
 563 permittee must notify the District of proposed amendments as soon as possible. The District reserves the
 564 right to review and adjust any financial sureties as part of the amendment process. Permits may not be
 565 amended after the initiation of work, in this case applicants must reapply for a District permit.

566 2.2.72.2.10 Suspension or Revocation

567 The-District staff may ~~revoke or~~ suspend an issued permit if the permit was issued based upon
 568 inaccurate information provided by the permittee, or the permittee has failed to meet the requirements of
 569 a conditional approval. A special meeting of the Board of Managers may be called to revoke an issued
 570 permit or recommend other enforcement actions under section 2.2.15.

572 2.2.82.2.11 Variance

573 The Board of Managers may consider a request for a variance from compliance with these Rules. To
 574 grant a variance, the applicant must demonstrate the following:

575 ~~A.~~ Practical Difficulties.

576 A. “Practical difficulties” is a legal standard set forth in ~~law~~ [Minnesota Statutes Section 462.357](#),
577 [Subdivision 6](#) that regulatory authorities must apply when considering applications for variances.
578 It is a three-factor test and applies to all requests for variances. To constitute practical
579 difficulties, all three factors of the test must be satisfied:-

- 580 i. The applicant proposes to use the property in a reasonable manner. This factor means that
581 the applicant would like to use the property in a particular reasonable way but cannot do
582 so under the regulatory rule. It does not mean that the land cannot be put to any
583 reasonable use whatsoever without the variance. Activities causing environmental
584 degradation, creating increased risk of damage to property or public or private
585 infrastructure, or unable to be certified as suitable for site conditions may not be
586 considered reasonable.
- 587 ii. The applicant’s problem is caused by circumstances unique to the property and are not
588 caused by the applicant. The uniqueness generally relates to the physical characteristics
589 of the particular piece of property, that is, to the land and not to personal characteristics
590 or preferences of the landowner.
- 591 iii. The variance, if granted, will not alter the locality’s essential character. Under this factor,
592 consider whether the resulting structure or land modification will be out of scale, out of
593 place, or otherwise inconsistent with the surrounding area.

594 B. Additional Considerations

- 595 i. The activity for which the variance is sought will not adversely affect water resources,
596 flood levels, or drainage in the District.
- 597 ii. A better natural resource protection or enhancement can be achieved by the proposed
598 project if a variance is approved.

599 C. Term and Revocation. A variance granted by the District remains valid as long as the activity for
600 which the variance was granted remains consistent with the conditions of the underlying permit.
601 A variance may be revoked if the activity for which the variance was granted is abandoned.

602 ~~2.2.92.2.12~~ After-the-Fact Permits

603 Any work requiring a permit that is performed without a permit is subject to enforcement and restoration
604 under Minnesota Statutes 103D. The District may grant an after-the-fact permit in certain situations. The
605 work sought to be permitted by an after-the-fact permit must have been capable of receiving a permit
606 before the work was performed or must be capable of correction to meet the intent or performance
607 standards of these Rules. Because an after-the-fact permit will require increased investigation of the
608 conditions of the unauthorized work, an increased inspection fee may be required before processing the
609 after-the-fact permit. After-the-fact inspection fees [may be incurred and will be the sole responsibility of](#)
610 [the applicant](#) ~~are found District website at www.lowermnriverwd.org/.~~

611 If the work does not qualify for a permit, no after-the-fact permit shall be issued, and corrective actions
612 may be sought pursuant to Minnesota Statutes 103D.545 and 103D.551. Before considering an after-the-
613 fact permit application, the District may require that the property be returned to the condition that
614 existed before the unpermitted work was performed.

615 A. Completed Work

616 If, after inspection, the unauthorized work is found to comply with these Rules or the performance
617 standards herein, the after-the-fact permit shall be issued to the applicant without further cost. If,
618 after inspection, the unauthorized work is found not to comply with these Rules or the performance
619 standards herein, further inspection and permit processing may be required, including additional
620 inspection fees. An after-the-fact permit may require correction work and be subject to additional
621 conditions.

622 B. Incomplete Work

623 For work in progress, work must cease and the work site must be stabilized until a permit is issued.
624 Standard administrative procedures shall apply to the application, except for increased inspection
625 fees as described above. For any portion of work completed that does not meet performance
626 standards herein, deficiencies must be corrected as a condition of permit issuance.

627 C. Emergency Work

628 An after-the-fact permit may be required after emergency work. If the work is deemed an emergency
629 and otherwise performed in compliance with these Rules or the performance standards herein, the
630 after-the-fact permit shall be issued to the applicant without cost. If the work is deemed an
631 emergency but is not otherwise performed in compliance with these Rules or the performance
632 standards herein, the after-the-fact permit shall be issued to the applicant without any increased cost,
633 rather than that required for a before-the-fact permit. If the work is not deemed an emergency, the
634 standard after-the-fact permit requirements will apply. In all cases, an after-the-fact permit may
635 include conditions to correct any damage caused by the emergency work.

636 D. Enforcement

637 The District may pursue remedies as provided by law to ensure compliance with an issued permit,
638 variance, or permit condition.

639 ~~2.2.102.2.13~~ 2.13 Permit and Inspection Fees

640 A. Policy

641 It is the determination of the Board of Managers that:

- 642 i. charging a minimal permit application fee will increase public awareness of and
643 compliance with District permitting requirements and will reduce enforcement and
644 inspection costs;
- 645 ii. the public interest will benefit from inspection by District staff of certain large-scale
646 projects in locations presenting particular risk to water resources to provide the Board of

647 Managers with sufficient information to evaluate compliance with District rules and
648 applicable law; and

649 iii. from time to time, persons perform work requiring a permit from the District without a
650 permit, and persons perform work in violation of an issued District permit. The Board of
651 Managers determines that its costs of inspection and analysis in such cases will exceed
652 costs incurred where an applicant has complied with District requirements.

653 B. Requirement

654 The District will charge applicants permit and inspection fees in accordance with a schedule that will
655 be maintained and revised from time to time by resolution of the Board of Managers to ensure that
656 permit fees cover the District’s actual costs of administrating and enforcing permits and the actual
657 costs related to field inspections of permitted projects, such as investigation of the area affected by
658 the proposed activity, analysis of the proposed activity, services of a consultant, and any required
659 subsequent monitoring of the proposed activity. Costs of monitoring an activity authorized by permit
660 may be charged and collected as necessary after permit issuance. The fee schedule may be obtained
661 from the District office or the District’s website at <http://lowermnriverwd.org/>. A permit applicant
662 must submit the required permit fee to the District at the time it submits the relevant permit
663 application. The fee provided by this rule will not be charged to any agency of the United States or
664 any governmental unit or political subdivision of the State of Minnesota.

665 ~~2.2.11~~ 2.2.14 Financial Assurances

666 A. Policy

667 It is the District’s policy to protect and preserve the water resources within the District by requiring
668 financial performance assurances with a permit application. Such assurances will ensure adequate
669 adherence to District rules when performing authorized activities.

670 B. Requirement

671 The District may require a performance bond, letter of credit, or other financial assurance in a form
672 approved by the District for an activity permitted under these Rules. A financial assurance will not
673 be required of any agency of the United States or any governmental unit of the State of Minnesota.

674 C. Criteria

675 Financial assurances required pursuant to this rule must be issued in compliance with the following
676 District criteria:

- 677 i. The financial assurance must be a performance bond, letter of credit, cash deposit, or
678 other form acceptable to the District. Commercial financial assurances must be from an
679 issuer licensed and doing business in the State of Minnesota.
- 680 ii. Any bond issued under this section shall be executed by such sureties as are named in the
681 list of “Companies Holding Certificates of Authority as Acceptable Sureties on Federal
682 Bonds and as Acceptable Reinsuring Companies,” as published in Circular 570

(amended) by the Financial Management Service, Surety Bond Branch, US Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

- iii. Financial assurances must be issued in favor of the District and are contingent upon the applicant's compliance with the issued permit and payment of District fees. The financial assurance must state that, in the event of financial assurance conditions not being met, the District may make a claim against it. If the District makes a claim against a financial assurance, the full amount of the financial assurance required must be restored within 20 business days.
- iv. The financial assurance must be effective for a minimum of three years from the date it was issued. The District may require the financial assurance to [be extended or](#) remain in place until all project components are stabilized and verified to be functioning to permitted specifications. The financial assurance must contain a provision that it may not be released without the District's consent.
- v. The permit applicant must submit the financial assurance. The financial assurance principal may be the landowner or the individual or entity undertaking the proposed activity.
- vi. Financial assurance will be released only under the terms of section [2.2.13.D-2.H.4](#)
- vii. No interest will be paid on financial assurances held by the District.
- viii. The District Board of Managers will set the amount of financial assurances by resolution. Financial assurance amounts are set to cover potential liabilities to the District, including but not limited to the following:
 - a. Field inspections and monitoring
 - b. Maintaining and implementing erosion and sediment control and other protections as the permit requires
 - c. Planting and establishing buffer area
 - d. Remediation of damages resulting from noncompliance with the permit or for which the permittee is otherwise responsible

D. Financial Assurance Release

Once the District has received written notification of project completion, it will promptly inspect the project to determine whether the project was constructed in accordance with the issued permit and District rules. If the project is found in compliance, all practices and project components are stabilized, all practices and project components are verified to be functioning to permitted specifications, all required documentation has been submitted and approved by the District, and all permit fees have been paid, the District [Board of Managers](#) will [authorize the](#) release [of](#) the financial assurance.

Further, upon written notice, a portion of the assurance may be released if the District finds that the entire amount is not needed to ensure compliance. After inspection, the District will determine what portion, if any, of the financial assurance can be released. If a portion of the financial assurance is not released, the District will notify the permittee of the outstanding compliance matters to address.

E. Financial Assurances by Rule

Financial assurance required for a particular permit will include a 10 percent contingency and a 30 percent administrative costs in addition to the amounts calculated according to the criteria found in section [1.2.11.3.h.2.2.14.C.viii](#) . No financial assurance is required for a project undertaken by or for a resident owner on a single-family home site requiring only a permit under Erosion and Sediment Control, unless the Board of Managers determines that the project presents a significant risk of damage to water resources from erosion. See the fee schedule policy on the District’s website for additional information.

[2.2.15 Enforcement](#)

A. Investigation of Noncompliance

District staff, agents, and contractors may enter and inspect a property within the watershed to determine if a violation of permit conditions or District rules has occurred.

B. Informal Resolution of Noncompliance

Before initiating formal proceedings (see below), the District and its staff shall attempt to informally resolve incidences of noncompliance (i.e., by voluntary corrective actions or after-the-fact permitting).

C. Board Hearing; Administrative Compliance Order

The District will provide the permittee or landowner with reasonable notice when a compliance hearing will take place. An opportunity to be heard by the Board of Managers will be allotted at the compliance hearing, during which the permittee or landowner can address the finding of probable violation. At the hearing’s conclusion, the District may issue a compliance order.

D. District Court Enforcement

The District Board of Managers may seek judicial enforcement of an order and recovery of associated legal costs and fees, as provided by Minnesota Statutes chapter 103D.

E. Liability for Enforcement Costs

The permittee or owner of a property subject to the District’s enforcement action will be liable for associated costs incurred by the District. Such costs include but are not limited to inspection and monitoring, engineering, technical analysis, and legal and administrative expenses.

[2.2.16 Permit Close-Out](#)

[Upon written notification from permittee of the completion of the permitted project and submittal of actual “as-built” plans for any stormwater management practices or improvements located on site after](#)

755 final construction is completed, the District will inspect the project to determine if it is constructed in
756 accordance with the terms of the permit and District Rules. Final inspection compliance includes, but is
757 not limited to, confirmation that all erosion and sediment control BMPs and stormwater management
758 features have been constructed or installed as designed and are functioning properly. The District may
759 return a portion of the surety if it finds that a portion of the surety is no longer warranted to assure
760 compliance with District Rules per section 2.2.14.D. Upon determination that the project is complete,
761 the District will notify the permittee, surety, and municipality that the individual permit has been closed
762 out.

763 **3 Rule B: Erosion and Sediment Control Rule**

764 **3.1 POLICY**

765 It is the District's policy to

- 766 A. minimize erosion and sediment transport to lakes, streams, fens, and the Minnesota River;
- 767 B. retain or control sediment on land and during land-disturbing activities;
- 768 C. prevent resource degradation and loss or damage to property from erosion and sedimentation;
- 769 D. protect receiving water bodies, wetlands, and storm sewer inlets; and
- 770 E. require the preparation and implementation of erosion and sediment control plans to control
- 771 runoff and erosion.

772 **3.2 REGULATION**

773 A ~~m~~Municipal or Individual Project District erosion and sediment control permit must be obtained for
774 any land-disturbing work in overlay districts or other areas within the watershed as defined below:

- 775 A. General: Land-disturbing activities of one (1) acre or more
- 776 B. HVRA: Land-disturbing activities that involve the displacement or removal of 5,000 square feet
- 777 or more of surface area or vegetation or the excavation of 50 cubic yards or more of earth within
- 778 the HVRA Overlay District, as shown on the Lower Minnesota River Watershed District—High
- 779 Value Resources Area Overlay District Map (Figure 1)

780 **3.3 EXCEPTIONS**

781 An erosion and sediment control permit is not required for the following land-disturbing activities:

- 782 A. Minor land-disturbing activities, such as home gardens contained within a residential lot,
- 783 landscape repairs, and maintenance work
- 784 B. Installation of any fence, sign, telephone or electric poles, or other kinds of posts or poles
- 785 C. Emergency activity necessary to protect life or prevent substantial harm to persons or property
- 786 D. All maintenance, repair, resurfacing, and reconditioning activities of existing road, bridge, and
- 787 highway systems that do not involve land-disturbing activities outside of the existing surfaced
- 788 roadway
- 789 E. Agricultural activity

790 **3.4 CRITERIA**

791 Permit approval for activities that meet the general threshold must demonstrate that the implementation
792 of their erosion and sediment control will meet the following criteria:

793 3.4.1 Erosion and Sediment Control

794 Erosion and sediment control ~~plan~~during and after the proposed activities that provides the following:

- 795 A. Protection of natural topography and soil conditions
- 796 B. Temporary erosion and sediment control practices consistent with the Minnesota Pollution
- 797 Control Agency’s “Protecting Water Quality in Urban Areas,” as amended or updated, and the
- 798 “Minnesota Stormwater Manual,” as amended or updated
- 799 C. Minimization of the disturbance’s intensity and duration
- 800 D. Provide adequate stabilization measures on slopes of 3:1 (H:V) or steeper
- 801 E. Protection of all stormwater conveyance systems during construction activities
- 802 F. Final site stabilization measures

§303 3.4.2 Waste Management

804 All waste generated by project activities will be properly managed and disposed of to avoid adverse
 805 impacts on water quality.

806 3.4.13.4.3 Site Stabilization

- 807 A. Establish sediment control BMPs on all downgradient perimeters of the site and downgradient
- 808 areas of the site that drain to any surface water, including curb and gutter systems, locate
- 809 sediment control practices upgradient of any buffer zones, install sediment control practices
- 810 before any upgradient land-disturbing activities begin and must keep the sediment control
- 811 practices in place until permanent vegetative cover is established.
- 812 B. All soil surfaces that are compacted during construction and remain compacted upon
- 813 construction completion must be decompacted. Decompaction can be achieved through soil
- 814 amendment and/or ripping to a depth of 18 inches. All decompaction measures should be
- 815 completed before final stabilization.
- 816 C. All temporary erosion and sediment control BMPs must be maintained until construction is
- 817 completed and permanent vegetative cover is established, where appropriate, to a consistent,
- 818 uniform density of 70 percent of its expected final growth.
- 819 D. When final stabilization is achieved, all temporary erosion and sediment control BMPs must be
- 820 removed from the project site.
- 821 E. All disturbed areas must be finally stabilized within 14 days of completing land-altering
- 822 activities.

§23 3.4.23.4.4 Inspection and Maintenance during Construction

824 The permit holder is responsible for inspecting and maintaining the project site until final stabilization is
 825 complete, including ensuring to ensure that all erosion and sediment control measures are effective.

826 F. Inspection

- 827 A. Routine inspections shall be conducted at least once every seven (7) days during active
- 828 construction and within 24 hours after a rainfall event greater than 0.5 inch in 24 hours by the
- 829 owner or the owner’s representative. Following a rainfall inspection, the next inspection shall be

830 conducted within seven (7) days. The inspection schedule will be modified for the following
831 conditions:

- 832 i. Where parts of the construction site have permanent cover, but work remains on other
833 parts of the site, inspections shall be reduced to once per month.
- 834 ii. Where construction sites have permanent cover on all exposed soil areas and no
835 construction activity is occurring anywhere on the site, monthly inspections shall be
836 performed for 12 months (except during frozen ground conditions). After the 12th month
837 of permanent cover and no construction activity, inspections may cease until construction
838 activity resumes or sooner if notified by the District or the LGU.
- 839 iii. Where frozen ground conditions have resulted in suspension of work, the inspection and
840 maintenance schedule shall resume within 24 hours after runoff occurs at the site or upon
841 resuming construction, whichever comes first.

842 B. Routine inspections shall include the following:

- 843 i. All areas disturbed by construction activity and areas used for storage of materials
844 exposed to precipitation
- 845 ii. Discharge locations, inaccessible locations, and nearby downstream locations where
846 inspections are practicable
- 847 iii. Locations where vehicles enter or exit the site for evidence of off-site sediment tracking

848 C. Records for each inspection and maintenance activity shall be kept on file with the owner and
849 shall contain the following information:

- 850 i. Date and time of inspection
- 851 ii. Name, title, and qualifications of person(s) conducting inspection
- 852 iii. Date, duration, and amount of all rainfall events that produce more than 0.5 inch of rain
853 in a 24-hour period and whether any discharges occurred
- 854 iv. Inspection findings, including corrective action recommendations and implementation
855 dates
- 856 v. Locations of the following:
 - 857 a. Sediment discharges or other pollutants from the site
 - 858 b. BMPs that need to be maintained
 - 859 c. BMPs that have failed to operate as designed or have proven inadequate for a
860 particular location
 - 861 d. Needed BMPs that did not exist at the time of inspection
- 862 vi. Documented changes to the erosion and sediment control plan
- 863 vii. Inspector's signature

864 D. The owner shall keep an inspection log with the erosion and sediment control plan for a period of
865 three (3) years following the completion of the project and filing of the Notice of Termination
866 (NOT).

867 3.4.33.4.5 Maintenance

868 All maintenance conducted during construction must be recorded in writing, and these records must be
869 kept. All nonfunctional BMPs must be repaired, replaced, or supplemented with functional BMPs within
870 24 hours after discovery or as soon as field conditions allow access, unless another period is specified
871 below. Maintenance will include the following:

- 872 A. Excess sediment behind silt fences and biorolls shall be removed and properly disposed of when
873 sediments reach one third the height of the structure. Such sedimentation shall be corrected by
874 the next business day following discovery.
- 875 B. Construction site vehicle exit locations shall be inspected for evidence of off-site sediment
876 tracking onto paved surfaces. Tracked sediment will be removed from all paved surfaces within
877 24 hours of discovery or, if applicable, within a shorter time.
- 878 C. Surface waters, including drainage ditches and conveyance systems, shall be inspected for
879 evidence of erosion and sediment deposition. Evidence of erosion and/or sediment deposition
880 will be addressed within seven (7) calendar days.
- 881 D. Infiltration areas shall be maintained to ensure that no compaction or sedimentation occurs.
- 882 E. Construction entrances shall be maintained daily.
- 883 F. Turf shall be maintained until final stabilization is established.

884 The maintenance of temporary erosion and sediment controls and implementation of additional controls
885 shall be performed as soon as possible and before the next storm event, whenever practicable. All
886 remaining temporary erosion and sediment controls and accumulated sediments from silt fences will be
887 removed within 30 days of achieving final stabilization at the site.

888 **3.5 REQUIRED INFORMATION AND EXHIBITS**

889 The following exhibits must accompany the permit application (one hardcopy set of plans [11 inches by
890 17 inches] and one set as electronic files in a format acceptable to the District):

891 3.5.1 Narrative

892 A cover letter and narrative that includes the following:

893 A. Total project area and area of proposed disturbance. If within the HVRA, the narrative must
894 include the excavated volume, in addition to the total area disturbed.

895 B. An explanation of existing and proposed conditions

896 ~~G.C.~~ The name, address, and telephone number(s) of all property owners

897 ~~H.D.~~ The name, address, and telephone number(s) for all contractors undertaking land-
898 disturbing activities as part of the proposed project

899 ~~I.E.~~ The property owner's signature

900 ~~J.F.~~ A statement granting the District and its authorized representatives' access to the site for
901 inspection purposes

902 ~~K.G.~~ Designation of an individual who will remain liable to the District for performance under
903 this Rule from the time the permitted activities commence until vegetative cover is established
904 and the District has certified satisfaction with erosion and sediment control requirements

905 3.5.2 Erosion and Sediment Control Plan

906 An erosion and sediment control plan that includes the following:

- 907 A. Topographic maps of existing and proposed conditions that clearly indicate all hydrologic
908 features and areas where grading will expose soils to erosive conditions as well as the flow
909 direction of all runoff (single-family home construction or reconstruction projects may comply
910 with this provision by providing satellite imagery or an oblique map acceptable to the District)
- 911 B. Tabulation of the construction implementation schedule for all projects except construction or
912 reconstruction of a single-family home
- 913 C. Name, address, and phone number of the individual responsible for inspection and maintenance
914 of all erosion and sediment control measures
- 915 D. Temporary erosion and sediment control measures that will remain in place until vegetation is
916 established
- 917 E. All final erosion control measures and their locations
- 918 F. Staging areas, as applicable
- 919 G. Delineation of any floodplain and/or wetland area changes
- 920 H. Documentation of the project's NPDES Construction Stormwater Permit status, if applicable

921 **4 Rule C: Floodplain and Drainage Alteration Rule**

922 **4.1 POLICY**

923 It is the District's policy to

- 924 A. regulate alterations within the floodplain and drainageways within the watershed to provide flood
925 protection to natural resources, permanent structures, and private lands, in accordance with
926 Minnesota Statutes 103F;
- 927 B. preserve existing water storage capacity below the 100-year high-water elevation of all public
928 waters, wetlands subject to the Wetland Conservation Act, and public drainage systems subject
929 to Minnesota's buffer law in the watershed to minimize the frequency and severity of high water;
930 and
- 931 C. minimize development below the Federal Emergency Management Agency (FEMA) 100-year
932 flood elevation that will unduly restrict flood flows or aggravate known high water problems.

933 **4.2 REGULATION**

934 A ~~m~~Municipal or ~~District~~ Individual Project permit is required for any alteration to or filling of land
935 below the 100-year flood elevation of any wetland, public water, or landlocked subwatershed (as
936 identified by municipalities) in accordance with state-approved floodplain management and shoreland
937 ordinances.

938 **4.3 EXCEPTIONS**

939 A floodplain and drainage alternation permit is not required if all of the following conditions exist:

- 940 A. The 100-year flood elevation of a waterbody is entirely within a municipality.
- 941 B. The water basin is landlocked.
- 942 C. The municipality has adopted a floodplain ordinance regulating floodplain encroachment.
- 943 D. The proposed project is entirely within the water basin drainage area.

944 **4.4 CRITERIA**

945 All permitted projects under this rule shall be subject to the following criteria and shall be completed in
946 accordance with state-approved floodplain management and shoreland ordinances:

- 947 A. Placement of fill below the 100-year flood elevation is prohibited unless documentation prepared
948 by a professional engineer shows that the proposed fill will not cause a rise in the 100-year flood
949 elevation of the waterbody.
 - 950 i. A no rise certification to the 0.00-foot by a professional engineer satisfies this
951 requirement.
 - 952 ii. Compensatory storage may be used to offset proposed fill in the floodplain, but does not
953 take the place of a no rise certification. If used, the compensatory storage shall be created
954 before the proposed fill is placed in the floodplain, unless the permit applicant
955 demonstrates that doing so is impractical and that placement of fill and creation of
956 compensatory storage can be achieved concurrently.

- 957 B. All new residential, commercial, industrial, and institutional structures shall be constructed such
958 that the lowest floor of the lowest enclosed area (including basement or crawl space) is at a
959 minimum of two (2) feet above the 100-year high water elevation, unless they have protection
960 through floodproofing or by another approved construction technique.
- 961 C. No permanent structure, except for FEMA and National Flood Insurance Program approved
962 structures and uses, may be constructed in the floodway.
- 963 D. No person shall install or remove a culvert crossing, or other artificial means to remove or drain
964 surface water, create artificial pond areas, or obstruct the natural flow of waters without
965 demonstrating that the activity has no adverse impact on upstream or downstream landowners or
966 water quality, habitat, or fisheries.
- 967 E. Temporary placement of fill within the floodway for river dredge, including facilities for such
968 activity, shall be allowed when it is conducted in agreement with the United States under the
969 Rivers and Harbors Act and it meets requirements of the LGU.
- 970 F. Maintenance activities to restore design conditions require a permit. If the original design was
971 not previously permitted by LMRWD, documentation must be provided that demonstrates the
972 original design did not increase in the 100-year flood elevation.

973 Temporary placement of fill, other than in Section 4.4.E, is not allowed without prior approval by the
974 District.

975 **4.5 REQUIRED INFORMATION AND EXHIBITS**

976 The following exhibits must accompany the permit application (one hardcopy set of plans [11 inches by
977 17 inches] and one set as electronic files in a format acceptable to the District):

978 4.5.1 Narrative

979 A cover letter and narrative that includes the following:

- 980 A. Total project area and locations of proposed floodplain or drainage alterations.
- 981 B. An explanation of existing and proposed conditions
- 982 C. The name, address, and telephone number(s) of all property owners
- 983 D. The name, address, and telephone number(s) for all contractors undertaking land-disturbing
984 activities as part of the proposed project
- 985 E. The property owner's signature
- 986 E.F. A statement granting the District and its authorized representatives' access to the site for
987 inspection purposes

988 4.5.2 Site Plan:

989 A site plan showing the following information:

- 990 A. Property lines
- 991 B. Delineation of the work area

992 C. Existing elevation contours of the work area

993 ~~C.D. Proposed elevation contours~~

994 ~~D.E. Ordinary high water level or normal water elevation and existing and proposed 100-year~~
995 ~~flood elevations determined by a professional engineer. (a)All elevations must reference the~~
996 ~~North American Vertical Datum of NAVD 1988 (NAVD88) datum).~~

997 ~~4.5.1 Grading plan showing proposed elevation changes~~

998 ~~4.5.2 Preliminary plat of proposed land development~~

999 ~~4.5.3 Determination by professional engineer of the 100 year flood elevations for the parcel before and~~
1000 ~~after the project~~

1001 4.5.3 Floodplain Fill Calculations

1002 Determination by a professional engineer of the 100-year flood elevations for the parcel before and after
1003 the project, including:

1004 A. ~~Tabulation~~ Computation by a professional engineer of cut, fill, and compensatory storage
1005 resulting from the proposed activity.

1006 B. ~~Tabulation~~ and documentation of the change in water storage capacity and conveyance resulting
1007 from proposed activity in a format acceptable to the District.

1008 ~~E.C. A no-rise certification, including supporting hydraulic modeling files or calculations,~~
1009 ~~workmaps, and reports.~~

1010 4.5.4 Erosion and Sediment Control Plan

1011 An erosion and sediment control plan including the following:

1012 A. Topographic maps of existing and proposed conditions that clearly indicate all hydrologic
1013 features and areas where grading will expose soils to erosive conditions as well as the flow
1014 direction of all runoff (single-family home construction or reconstruction projects may comply
1015 with this provision by providing satellite imagery or an oblique map acceptable to the District)

1016 B. Tabulation of the construction implementation schedule for all projects, except construction or
1017 reconstruction of a single-family home

1018 C. Name, address, and phone number of the individual responsible for inspection and maintenance
1019 of all erosion and sediment control measures

1020 D. Temporary erosion and sediment control measures that will remain in place until vegetation is
1021 established

1022 E. All final erosion control measures and their locations

1023 F. Staging areas, as applicable

1024 G. Delineation of any floodplain and/or wetland area changes

1025 H. Documentation of the project's NPDES Construction Stormwater Permit status, if applicable

1026 ~~4.5.4 Soil boring information, if requested by the municipal or District engineer~~

1027 4.5.5 Easements

1028 Documentation that drainage and flowage easements over all land and facilities below the 100-year
1029 flood elevation, if required by the municipality with jurisdiction, have been conveyed and recorded. For
1030 public entities, this requirement may be satisfied by a written agreement executed with the District in
1031 lieu of a recorded document. The agreement must state that, if the land within the 100-year floodplain is
1032 conveyed, the public body will require the buyer to comply with this subsection.

1033 **5 Rule D: Stormwater Management Rule**

1034 **5.1 POLICY**

1035 It is the District's policy to

- 1036 A. manage new development, redevelopment, and drainage alternations by requiring each
 1037 development or land-disturbing activity to manage its stormwater effectively, either on- or off-
 1038 site;
- 1039 B. promote and encourage a reduction in runoff rates to encourage infiltration and to promote
 1040 groundwater recharge;
- 1041 C. encourage infiltration and stormwater storage in the District's upland areas;
- 1042 D. maximize groundwater recharge as a means of maintaining drinking water supplies, preserving
 1043 base flows in streams and water levels in fens, and limiting discharges of stormwater to
 1044 downstream receiving waters;
- 1045 E. protect and maintain existing groundwater flow, promote groundwater recharge, and improve
 1046 groundwater quality and aquifer protection;
- 1047 F. require that property owners control the rate and volume of stormwater runoff originating from
 1048 their property so that surface water and groundwater quantity and quality is protected or
 1049 improved, soil erosion is minimized, and flooding potential is reduced; and
- 1050 G. protect and improve natural resources within the watershed to prevent further degradation.

1051 **5.2 REGULATION**

1052 A ~~Municipal or District~~ Permit that incorporates an approved stormwater management plan or an
 1053 Individual Project Permit is required under this rule prior to the commencement of any activities to
 1054 which this rule applies. The District may review a stormwater management plan at any point in the
 1055 development of a regulated project and encourages project proposers to seek the District's early review
 1056 of plans.

1057 The requirements of this rule apply to any land-disturbing activity that will involve the following:

- 1058 A. General: Development, redevelopment, reconstruction, and drainage alterations ~~(including roads)~~
 1059 creating new impervious areas greater than one (1) acre
- 1060 B. HVRA: Development, redevelopment, reconstruction, and drainage alternations ~~(including~~
 1061 ~~roads)~~ creating new impervious areas greater than 10,000 square feet in an HVRA Overlay
 1062 District, as shown on the Lower Minnesota River Watershed District—High Value Resources
 1063 Area Overlay District Map (Figure 1)

1064 **5.3 EXCEPTIONS**

1065 A stormwater management permit is not required for ~~The requirements of this rule do not apply to~~ the
 1066 following activities:

- 1067 A. Construction or remodeling on a single-family homesite consistent with a subdivision,
1068 development, or redevelopment plan implemented in accordance with a District permit issued
1069 after May 1, 2020, and an approved erosion control prevention and sediment control plan
- 1070 B. Rehabilitation of paved surfaces, [such as impervious surface mill, reclamation, overlay, or](#)
1071 [paving of an existing rural section gravel road, where the underlying structural aggregate base is](#)
1072 [not removed.](#)
- 1073 C. Trails, sidewalks, and retaining walls that do not exceed 10 feet in width and are bordered down
1074 gradient by a pervious area extending at least half the trail width
- 1075 D. Land-disturbing activities that do not involve creation of new impervious surface, reconstruction
1076 of existing impervious surface, or grading that materially alter stormwater flow at a site
1077 boundary

1078 **5.4 CRITERIA**

1079 Permit approval for activities that meet the [general regulation](#) thresholds must demonstrate that the
1080 implementation of their stormwater management plan will meet the following criteria:

1081 5.4.1 [Rate Control](#)

1082 Stormwater runoff rate from development, redevelopment, and drainage alterations shall not exceed the
1083 existing runoff rates for the 1 or 2-year, 10-year, and 100-year 24-hour events using [NOAA Atlas 14](#)
1084 [values, as amended, and using a nested rainfall](#) distribution [\(e.g. MSE 3\)](#).

1085 [5.4.2 Volume Reduction](#)

1086 [To the maximum extent practicable, volume control shall be fully met on-site. Site conditions may make](#)
1087 [infiltration undesirable or impossible. The owner must make soil corrections and/or investigate other](#)
1088 [locations on the site for feasible infiltration locations. Infiltration of stormwater must avoid areas of](#)
1089 [contaminated soil.](#)

1090 [If the permittee claims that infiltration is not feasible or allowed on-site, sufficient supporting](#)
1091 [documentation must be provided with the permit application. Filtration technologies are an acceptable](#)
1092 [alternative for types C and D soils and other sites where infiltration is infeasible given the criteria above](#)
1093 [in section 5.4.2.C below.](#)

- 1094 A. General: For projects that create one (1) acre or more of new impervious surface on sites without
1095 restrictions (such as factors that prevent attainment of the performance goal, like shallow depth
1096 to bedrock, presence of contaminated soils, and lack of access because utilities are present
1097 [*Minnesota Stormwater Manual*, 2019]), the post-construction stormwater runoff volume
1098 retained on-site shall be equivalent to one (1) inch of runoff from [the new and/or reconstructed](#)
1099 [impervious surfaces or the MPCA's Construction General Permit ~~abstraction~~-volume reduction](#)
1100 requirements (as amended), whichever is greater.
- 1101 B. HVRA: Projects that create new impervious areas greater than 10,000 square feet in an HVRA
1102 Overlay District have the following volume requirements:

- i. New development: For new, nonlinear developments that create 10,000 square feet or more of new impervious surface on sites without restrictions, the post-construction stormwater runoff volume retained on-site shall be equivalent to 1.0 inch of runoff from [new and/or reconstructed](#) impervious surfaces.
- ii. Redevelopment: Nonlinear redevelopment projects on sites without restrictions that create 10,000 square feet or more of new and/or fully reconstructed impervious surfaces shall capture and retain on-site 1.1 inches of runoff from the new and/or fully reconstructed impervious surfaces.
- iii. Linear projects: Linear projects on sites without restrictions that create 10,000 square feet or greater of new and/or fully reconstructed impervious surfaces shall capture and retain the larger of the following:
 - a. 0.55 inch of runoff from the new and fully reconstructed impervious surfaces
 - b. 1.1 inches of runoff from the net increase in impervious area

~~To the maximum extent practicable, volume control shall be fully met on site. Site conditions may make infiltration undesirable or impossible. The owner must make soil corrections and/or investigate other locations on the site for feasible infiltration locations. Infiltration of stormwater must avoid areas of contaminated soil.~~

C. Infiltration practices are not allowed in the following areas:

- i. Areas that receive discharges from vehicle fueling and maintenance facilities
- ii. Areas with less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock
- iii. Areas that receive discharges from industrial facilities that are not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the MPCA
- iv. Areas where infiltrating stormwater will mobilize high levels of contaminants in soil or groundwater
- v. Areas of predominately Hydrologic Soil Group D (clay) soils, unless allowed by an LGU with a current NPDES/SDS Municipal Separate Storm Sewer Systems (MS4) permit
- vi. Areas within 1,000 feet up gradient or 100 feet down gradient of active karst features, unless allowed by an LGU with a current MS4 permit
- vii. Areas within a Drinking Water Supply Management Area (DWSMA), as defined in Minnesota Administrative Rules 4720.5100, subpart 13., unless allowed by an LGU with a current MS4 permit
- viii. Areas where soil infiltration rates are more than 8.3 inches per hour, unless soils are amended to slow the infiltration rate below 8.3 inches per hour or as allowed by an LGU with a current MS4 permit
- ix. Areas within the [LMRWD-District](#) Steep Slopes Overlay District (See Rule F)

~~If the permittee claims that infiltration is not feasible or allowed on-site, sufficient supporting documentation must be provided with the permit application. Filtration technologies are an acceptable alternative for types C and D soils and other sites where infiltration is infeasible given the criteria above.~~

5.4.25.4.3 Water Quality

- A. General: Projects that create one (1) acre or more of new impervious surface shall have no net increase from existing conditions in total phosphorus (TP) and total suspended solids (TSS) to receiving waterbodies.
- B. HVRA: Projects that create new impervious areas greater than 10,000 square feet in an HVRA Overlay District have the following water quality requirements:
 - i. Total phosphorus and total suspended solids: All projects shall have a net decrease TP and TSS to receiving waterbodies from existing conditions. For new development projects, the decrease in TP and TSS shall be 60 percent and 80 percent, respectively, from existing conditions.
 - ii. Buffer zone: An undisturbed buffer zone of 100 linear feet from trout waters shall be maintained at all times, both during construction and as a permanent feature after construction, except where a water crossing, or other encroachment is necessary to complete the project.
 - a. Exceptions: The replacement of existing impervious surfaces within the buffer zone is allowed provided that the use of additional or redundant BMPs minimizes all potential water quality, scenic, and other environmental impacts of the activity. Buffer encroachments (circumstance and reason) and minimization activities must be documented.
 - iii. Temperature controls: Permanent stormwater management facilities shall be designed to minimize any increase in the temperature of trout waters receiving waters resulting from the 1 and 2-year 24-hour precipitation events. This includes all tributaries of designated trout streams within the Public Land Survey System (PLSS) section where a trout water is located. Projects that discharge to trout waters must minimize the impact using one or more of the following measures, in order of preference:

- 1168 a. Minimize new impervious surfaces
- 1169 b. Minimize the discharge from connected impervious surfaces by discharging to
- 1170 vegetated areas or grass swales and using other nonstructural controls
- 1171 c. Use infiltration or other volume reduction practices to reduce stormwater runoff
- 1172 in excess of pre-project conditions (up to the 2-year, 24-hour precipitation event)
- 1173 d. Design an appropriate combination of measures, such as shading, filtered bottom
- 1174 withdrawal, vegetated swale discharges, or constructed wetland treatment cells,
- 1175 that will limit temperature increases when incorporating ponding. Also, design the
- 1176 pond to be drawn down in 24 hours or less.
- 1177 e. Use other methods that will minimize any increase in trout water temperature
- 1178 iv. [Diffusion of runoff: stormwater discharge points in the HVRA shall incorporate BMPs to](#)
- 1179 [diffuse stormwater entering the HVRA and avoid concentrated discharges.](#)

1180 5.4.35.4.4 Maintenance and Easement

1181 The permittee is responsible for developing and adhering to a maintenance plan for the permitted
1182 project, including the acquisition of all necessary easements.

- 1183 A. All stormwater management structures and facilities must be designed for maintenance access
- 1184 and properly maintained in perpetuity so that they continue to function as designed.
- 1185 B. A maintenance plan shall identify and protect the design, capacity, and functionality of on-site
- 1186 and off-site stormwater management facilities; specify the methods; and schedule responsible
- 1187 parties for maintenance for every stormwater management facility.
- 1188 C. The maintenance agreement shall be recorded with the applicable county (Carver, Dakota,
- 1189 Hennepin, Scott, or Ramsey) as part of the LGU or other development approval process. The
- 1190 District may require that stormwater management structures and facilities be publicly dedicated
- 1191 or placed in a conservation easement, giving rights of enforcement to an LGU, the District, or
- 1192 other appropriate public authority.
- 1193 D. A public entity assuming a maintenance obligation may submit a written executed agreement in
- 1194 lieu of the recorded maintenance agreement.

1195 5.4.45.4.5 Alternative Measures

1196 At sites where infiltration is infeasible, an applicant must comply with the NPDES General Construction
1197 Permit, issued by the MPCA, August 1, 2018, as amended.

1198 5.4.6 Regional Facilities

1199 [Off-site stormwater management facility approved under a prior permit or approval by an entity other](#)
1200 [than the District may not be used without prior District approval. Applicants wishing to use a regional](#)
1201 [facility to meet their stormwater management requirements are encouraged to discuss the plan with](#)
1202 [District staff early in the permitting process.](#)

1203 **5.5 REQUIRED INFORMATION AND EXHIBITS**

The following exhibits must accompany the permit application (one hardcopy set of plans [11 inches by 17 inches] and one set as electronic files in a format acceptable to the District):

5.5.1 Narrative

A cover letter and narrative that includes the following:

A. An explanation of existing and proposed conditions including:

- i. Total amount of disturbance proposed by project, both in terms of surface area (square feet) and volume (cubic feet)
- ii. Total amount of existing impervious surfaces, proposed new impervious surfaces, and fully-reconstructed impervious surfaces proposed by the project.

B. The name, address, and telephone number(s) of all property owners

C. The name, address, and telephone number(s) for all contractors undertaking land-disturbing activities as part of the proposed project

D. The signature of the property owner

E. A statement granting the District and its authorized representative's access to the site for inspection purposes

F. Designation of an individual who will remain liable to the District for performance under this rule from the time the permitted activities commence until vegetative cover is established and the District has certified its satisfaction with erosion and sediment control requirements.

5.5.2 Stormwater Modeling

Stormwater management system modeling in a form acceptable to the District that utilizes the most recent applicable precipitation reference data (e.g., Atlas 14), for example, HydroCAD, SWMM, MIDS calculator, or P8.

5.5.3 Site Plan

A site plan showing the following:

- A. Property lines and delineation of lands under ownership of the applicant
- B. Existing and proposed elevation contours
- C. Identification of existing and proposed normal and ordinary high- and 100-year water elevations on-site.

5.5.4 Stormwater Management Plan

A stormwater management plan that includes, at a minimum, the following:

- A. Proposed and existing stormwater facility locations, alignment, and elevation
- B. Delineation of existing wetlands, marshes, shoreland, and/or floodplain areas on-site or to which any portion of the project parcel drains; except where a project will not alter or change the hydrology of a wetland, the plan need only identify the wetland.

- 1238 C. Geotechnical analysis, including soil borings, at all proposed stormwater management facility
 1239 locations
- 1240 D. If infiltration of runoff is proposed, data must be submitted showing the following:
- 1241 i. No evidence of groundwater or redoximorphic soil conditions within three (3) feet of the
 1242 bottom of the facility, practice, or system
 - 1243 ii. Soil conditions within five (5) feet of the bottom of any stormwater treatment facility,
 1244 practice, or system
 - 1245 iii. If requested by the engineer, site-specific infiltration capacity of soils at the bottom of the
 1246 facility, practice, or system. In addition, the District engineer may require submission of a
 1247 phase I environmental site assessment and/or other documentation to facilitate analysis
 1248 by the District of the suitability of the site for infiltration.
- 1249 E. If filtration of runoff is proposed due to site constraints listed in Section 5.4.2.C, the application
 1250 must include a discussion why filtration was selected and provide an exhibit documenting all
 1251 active karst features, DWSMA, contamination, soils, and any other infiltration-limiting features.
- 1252 E.F. Construction plans and specifications for all proposed stormwater management facilities,
 1253 including design details for outlet control structures
- 1254 F.G. Stormwater runoff volume and rate analyses for the 2-, 10-, and 100-year 24-hour critical
 1255 events, existing and proposed conditions, using Atlas 14 nested distribution
- 1256 G.H. All hydrologic, water quality, and hydraulic computations completed to design the
 1257 proposed stormwater management facilities
- 1258 H.I. Narrative addressing incorporation of retention BMPs
- 1259 I.J. Platting or easement documents showing sufficient drainage and ponding/flowage easements
 1260 over hydrologic features, such as floodplains, storm sewers, ponds, ditches, swales, wetlands,
 1261 and waterways, if required by the municipality with jurisdiction
- 1262 J.K. Documentation of the project’s NPDES Construction Stormwater Permit status, if
 1263 applicable
- 1264 K.L. If a stormwater harvest and reuse practice is proposed to meet applicable requirements,
 1265 the following materials must be submitted:
- 1266 i. An analysis using a stormwater reuse calculator or equivalent methodology approved by
 1267 the District engineer
 - 1268 ii. Documentation of the adequacy of soils, storage capacity, and delivery systems
 - 1269 iii. Delineation of green space area to be irrigated, if applicable
 - 1270 iv. A detailed irrigation or usage plan showing compliance with the District’s volume-
 1271 retention requirements.

1272 5.5.5 Off-Site Stormwater Facilities

1273 If off-site stormwater or regional conveyance systems are proposed, the applicant must provide
1274 documentation demonstrating that the applicant holds the legal rights necessary to discharge to any
1275 off-site stormwater facility/facilities used for compliance, that the proposed design is in compliance with
1276 the original off-site stormwater facility design assumptions and capacity, and that the facility/facilities
1277 are subject to a maintenance document satisfying the requirements of this ~~R~~Rule

1278 5.5.6 Erosion and Sediment Control Plan

1279 An erosion and sediment control plan complying with the District's Erosion and Sediment Control Rule,
1280 including the following:

- 1281 A. Topographic maps of existing and proposed conditions that clearly indicate all hydrologic
1282 features and areas where grading will expose soils to erosive conditions as well as the flow
1283 direction of all runoff (single-family home construction or reconstruction projects may comply
1284 with this provision by providing satellite imagery or an oblique map acceptable to the District)
- 1285 B. Tabulation of the construction implementation schedule for all projects, except construction or
1286 reconstruction of a single-family home
- 1287 C. Name, address, and phone number of the individual responsible for inspection and maintenance
1288 of all erosion and sediment control measures
- 1289 D. Temporary erosion and sediment control measures that will remain in place until vegetation is
1290 established
- 1291 E. All final erosion control measures and their locations
- 1292 F. Staging areas, as applicable
- 1293 G. Delineation of any floodplain and/or wetland area changes

1294 5.5.7 Maintenance

1295 A maintenance plan and applicable maintenance agreements (note that in many cases a municipal
1296 stormwater agreement may be acceptable in lieu of a separate agreement with the District).

1297 **6 Rule E: Shoreline and Streambank Alteration Rule (Reserved)**

1298 **7 Rule F: Steep Slopes Rule**

1299 **7.1 POLICY**

1300 It is the District’s policy to

- 1301 A. protect water quality down gradient of steep slopes from sediment, nutrients, bacteria, and other
- 1302 contaminant pollutant loadings;
- 1303 B. maintain stability of steep slopes, shorelines, and other areas prone to erosion;
- 1304 C. sustain and enhance the biological and ecological functions of noninvasive vegetation on steep
- 1305 slopes as outlined in the Lower Minnesota River Watershed District Vegetation Management
- 1306 Plan;
- 1307 D. minimize impacts to and preserve the natural character and topography of steep slopes;
- 1308 E. protect properties and waterbodies adjacent to steep slopes from erosion, sedimentation,
- 1309 flooding, and other damage; and
- 1310 F. promote public safety by requiring certification from qualified individuals before land-disturbing
- 1311 activities and other changes to land on steep slopes.

1312 **7.2 REGULATION**

1313 A ~~Municipal or Individual Project District~~ permit must be obtained for the following activities within

1314 the Steep Slopes Overlay District, as shown on the Lower Minnesota River Watershed District—Steep

1315 Slopes Overlay District Map (Figure 2):

- 1316 A. Land-disturbing activities that involve the excavation of 50 cubic yards or more of earth or
- 1317 displacement or removal of 5,000 square feet or more of surface area or vegetation within the
- 1318 Steep Slopes Overlay District, as shown on the Lower Minnesota River Watershed District—
- 1319 Steep Slopes Overlay District Map (Figure 2)
- 1320 B. Activities requiring municipal/LGU permits for grading, building, parking lot, and foundations
- 1321 permits-construction that result in a net increase in impervious surface within or stormwater
- 1322 runoff within to the Steep Slopes Overlay District, as illustrated on Figure 2

1323 **7.3 EXCEPTIONS**

1324 A steep slopes permit is not required for the following activities:

- 1325 A. New impervious areas associated with driveway widenings that drain to the street where a
- 1326 municipal storm sewer system manages runoff water
- 1327 B. Maintenance, repair, or in-kind replacement of existing structures, public roads, utilities, and
- 1328 drainage systems within the Steep Slopes Overlay District
- 1329 C. Disturbances that are part of an approved LWP-local water plan to repair, grade, or reslope
- 1330 existing steep slopes that are eroding or unstable to establish stable slopes and vegetation
- 1331 D. Native plantings that enhance natural vegetation of steep slopes

- 1332 E. Selective removal of noxious, exotic, or invasive vegetation, using locally recognized methods to
1333 control and/or minimize their spread
- 1334 F. Pruning of trees or vegetation that are dead or diseased or pose a public hazard and removal of
1335 vegetation in emergency situations from steep slopes
- 1336 G. Maintenance of existing lawns, landscaping, and gardens
- 1337 H. Agricultural and forestry activities

1338 **7.4 CRITERIA**

1339 All permitted projects under the Steep Slopes Rule must comply with the following regulations:

1340 7.4.1 Land-Disturbing Activities

1341 Land-disturbing activities as regulated in this section may occur within the Steep Slopes Overlay District
1342 provided that a qualified professional/professional engineer registered in the state of Minnesota certifies
1343 the area's suitability for the proposed activities, structures, or uses resulting from the proposed activities
1344 and that the following requirements are addressed:

- 1345 A. Minimum erosion and sediment control BMPs include site stabilization and slope restoration
1346 measures to ensure the proposed activity will not result in:
 - 1347 i. adverse impacts to adjacent and/or downstream properties or water bodies;
 - 1348 ii. unstable slope conditions; and
 - 1349 iii. degradation of water quality from erosion, sedimentation, flooding, and other damage.
- 1350 B. Preservation of existing hydrology and drainage patterns.
- 1351 C. Land-disturbing activities may not result in any new water discharge points on steep slopes or
1352 along the bluff.

1353 7.4.2 Soil Saturation-Type Features

1354 Stormwater ponds, swales, infiltration basins, or other soil saturation-type features shall not be
1355 constructed within a Steep Slopes Overlay District.

1356 **7.5 REQUIRED INFORMATION AND EXHIBITS**

1357 The following exhibits must accompany the permit application (one hardcopy set of plans [11 inches by
1358 17 inches] and one set as electronic files in a format acceptable to the District):

1359 7.5.1 Narrative

1360 A cover letter and narrative that includes the following:

- 1361 A. Total amount of disturbance proposed by project, both in terms of surface area (SF) and volume
1362 (CY)
- 1363 B. An explanation of existing and proposed conditions
- 1364 D-C. _____ The name, address, and telephone number(s) of all property owners

1365 ~~E.D.~~ _____ The name, address, and telephone number(s) for all contractors undertaking land-
1366 disturbing activities as part of the proposed project

1367 ~~F.E.~~ _____ The signature of the property owner

1368 ~~G.F.~~ _____ A statement granting the District and its authorized representatives' access to the site for
1369 inspection purposes

1370 ~~H.G.~~ _____ Designation of an individual who will remain liable to the District for performance under
1371 this rule from the time the permitted activities commence until vegetative cover is established
1372 and the District has certified its satisfaction with erosion and sediment control requirements

1373 ~~I. An explanation of existing and proposed conditions~~

1374 7.5.2 Erosion and Sediment Control Plan

1375 An erosion and sediment control plan including the following:

- 1376 A. Topographic maps of existing and proposed conditions that clearly indicate all hydrologic
1377 features and areas where grading will expose soils to erosive conditions as well as the flow
1378 direction of all runoff (single-family home construction or reconstruction projects may comply
1379 with this provision by providing satellite imagery or an oblique map acceptable to the District)
- 1380 B. Tabulation of the construction implementation schedule for all projects, except construction or
1381 reconstruction of a single-family home
- 1382 C. Name, address, and phone number of the individual responsible for inspection and maintenance
1383 of all erosion and sediment control measures
- 1384 D. Temporary erosion and sediment control measures that will remain in place until vegetation is
1385 established
- 1386 E. All final erosion control measures and their locations
- 1387 F. Staging areas, as applicable
- 1388 G. Delineation of any floodplain and/or wetland area changes
- 1389 H. Documentation of the project's NPDES Construction Stormwater Permit status, if applicable

1390 7.5.3 Stormwater Modeling

1391 Stormwater management system modeling in a form acceptable to the District and that uses the most
1392 recent applicable precipitation reference data (e.g., Atlas 14), for example, HydroCAD, SWMM, MIDS
1393 calculator, or P8 for all discharge locations and clearly demonstrates no changes to existing drainage
1394 patterns, rates, and volumes.

1395 7.5.4 Site Plan

1396 A site plan showing the following:

- 1397 A. Property lines and delineation of lands under ownership of the applicant
- 1398 B. Existing and proposed elevation contours

- C. Identification of existing and proposed normal and ordinary 100-year and high water elevations on-site

7.5.5 Stormwater Management Plan

A stormwater management plan, including, at a minimum:

- A. Proposed and existing stormwater facilities location, alignment, and elevation
- B. Delineation of existing wetlands, marshes, shoreland, and/or floodplain areas on-site or to which any portion of the project parcel drains; except that where a project will not alter or change the hydrology of a wetland, the wetland need only be identified on the plan.
- C. Geotechnical analysis, including soil borings, at all proposed stormwater management facility locations
- D. If infiltration of runoff is proposed, data must be submitted showing the following:
 - i. No evidence of groundwater or redoximorphic soil conditions within three (3) feet of the bottom of the facility, practice, or system
 - ii. Soil conditions within five (5) feet of the bottom of any stormwater treatment facility, practice, or system
 - iii. If requested by the engineer, site-specific infiltration capacity of soils at the bottom of the facility, practice, or system. In addition, the District engineer may require submission of a phase I environmental site assessment and/or other documentation to facilitate analysis by the District of the suitability of the site for infiltration.
- E. Construction plans and specifications for all proposed stormwater management facilities, including design details for outlet control structures
- F. Stormwater runoff volume and rate analyses for the 2-, 10-, and 100-year 24-hour critical events, existing and proposed conditions, using Atlas 14 nested distribution
- G. All hydrologic, water quality, and hydraulic computations completed to design the proposed stormwater management facilities
- H. Narrative addressing incorporation of retention BMPs
- I. Platting or easement documents showing sufficient drainage and ponding/flowage easements over hydrologic features, such as floodplains, storm sewers, ponds, ditches, swales, wetlands, and waterways, if required by the municipality with jurisdiction
- J. Documentation of the project’s NPDES Construction Stormwater Permit status, if applicable
- K. If a stormwater harvest and reuse practice is proposed to meet applicable requirements, submission of:
 - i. ~~a~~An analysis using a stormwater reuse calculator or equivalent methodology approved by the District engineer;
 - ii. ~~De~~documentation of the adequacy of soils, storage capacity, and delivery systems;

- iii. Delineation of green space area to be irrigated, if applicable; and
- iv. A detailed irrigation or usage plan showing compliance with the District volume-retention requirements.

7.5.6 Off-Site Stormwater Facilities

If off-site stormwater or regional conveyance systems are proposed, the applicant must provide
documentation that the applicant holds the legal rights necessary to discharge to any off-site
stormwater facility/facilities used for compliance, that the proposed design is in compliance with the
original off-site stormwater facility design assumptions and capacity constraints, and that the
facility/facilities are subject to a maintenance document satisfying the requirements of this Rule

7.5.7 Maintenance

For any structural stormwater BMPs that may be constructed as part of the proposed activities, the
applicant must provide a maintenance plan and applicable maintenance agreements (note that in many
cases a municipal stormwater agreement may be acceptable in lieu of a separate agreement with the
District).

7.5.8 Certification

Construction plans and specifications certifying construction on the steep slope by a registered
professional engineer. The certification must indicate that the slope is suitable to withstand proposed
construction.

1453 **8 Rule G: Water Appropriations Rule (Reserved)**

1454 **9 Rule H: Water Crossing Rule (Reserved)**

1455
1456

**Figure 1 Lower Minnesota River Watershed District—High Value Resources Area Overlay
District Map**

Figure 2 Lower Minnesota River Watershed District—Steep Slopes Overlay District Map