

**MINNEHAHA CREEK WATERSHED DISTRICT
BOARD OF MANAGERS**

**6. WATERBODY CROSSINGS & STRUCTURES RULE
PURSUANT TO MINNESOTA STATUTES § 103D.341**

**Adopted XXXXX
Effective XXXX**

- 1. POLICY.** It is the policy of the Board of Managers to:
 - a. Limit the encroachment of roadways and other infrastructure on the beds and banks of waterbodies;
 - b. Preserve the ecological and recreational integrity of the riparian and aquatic environment; and
 - c. Preserve wildlife passage and habitat.

- 2. REGULATION.** One may not place a roadway, bridge, boardwalk, utility, conveyance, or associated structure below the top of bank of a waterbody; place any such structure beneath a waterbody; or enclose any part of a waterbody within a pipe or culvert; without first securing a permit from the District.

- 3. CRITERIA.** Use of the bed or bank must:
 - a. Serve a public purpose, for projects in public waters, and meet a demonstrated specific need for all other projects.
 - b. Retain adequate hydraulic capacity. A project in a watercourse may not increase upstream or downstream flood stage.
 - c. Preserve navigational capacity.
 - d. Preserve aquatic and upland wildlife passage along each bank and within the waterbody. Where preservation is incompatible with function, passage must be replicated by incorporation of a culvert, shelf or other means properly designed for the ecological setting.
 - e. Be designed so that the structure does not promote erosion or scour, or otherwise affect bed or bank stability, or water quality, within the waterbody. Where the work is

installation or replacement of a stormwater outlet structure, this criterion does not examine pollutant load associated with the stormwater discharge.

- f. Be the “minimal impact” solution to the specific need. The applicant must consider, as applicable, rerouting to avoid a crossing, designing a crossing to avoid disturbance below top of bank, limiting multiple crossings of a meandering waterbody, installing upstream controls to manage stream flow, vegetation or bioengineering for bank stabilization, structural bank stabilization (riprap, retaining walls), and avoiding encroachment for non-water-dependent uses. The term “minimal impact” shall refer to all resources protected under the purposes of the District set forth at sections 103B.201 and 103D.201 of the Minnesota Statutes.
- g. For a subsurface crossing, provide for minimum clearance of three feet below the bed of a waterbody, and a minimum setback of 100 feet from any stream bank for pilot, entrance, and exit holes associated with horizontal directional drilling. Where the bed elevation is indeterminate, including but not limited to a subsurface wetland crossing, the District will specify a minimum clearance as necessary to protect the water quality and ecology of the waterbody. The setback may be reduced if the applicant demonstrates that it is infeasible to meet a wider setback, and on the basis of an erosion control plan and other appropriate measures that will preserve streambank integrity and prevent sediment movement.
- h. For a sanitary sewer crossing, incorporate automatic valves, diversions, redundant pipes, double encasement, or other features to avoid sanitary discharge to a surface water in the event of a line failure.

4. EXCEPTIONS.

- a. The Board of Managers may waive the requirements of this rule on a finding that a waterbody is significantly altered from a natural state, that it is degraded, and that the proposed application would provide ecological restoration and a greater degree of resource protection than would conformance to this rule.
- b. Riprap placed below a culvert or outfall for energy dissipation purposes if the riprap complies with [MnDOT Standard Plates 3133, 3134, and 3139](#) and appropriate erosion and sediment controls are utilized.

5. REQUIRED EXHIBITS. The following exhibits must accompany the permit application.

- a. Construction plans and specifications.
- b. Analysis, by a professional engineer or qualified hydrologist, of the effect of the project on hydraulic capacity and water quality.

- c. An erosion control plan that includes measures for site restoration and permanent stabilization.
 - d. Information necessary to evaluate conformance to paragraph 3(f), including at least two alternative designs that minimize or avoid the proposed impact, and such other information as District staff reasonably may request.
- 6. FAST-TRACK PERMIT.** A public applicant may obtain a fast-track permit to replace a structure within a waterbody with a structure of substantially equal hydraulic and, as applicable, navigational capacity. The public notice under section 6 of the Procedural Requirements Rule and the requirements of paragraphs 3(f) do not apply if the applicant is fast-track eligible.
- 7. MAINTENANCE.** A declaration or other recordable instrument in a form acceptable to the District, providing for maintenance of hydraulic and navigational capacity in perpetuity, must be recorded in the office of the county recorder or registrar before a permit will issue. In lieu of recordation, a public permittee, or a permittee without a property interest sufficient for recordation, may assume the maintenance obligation by means of a written agreement with the District. The agreement shall state that if the ownership of the structure is transferred, the permittee will require the transferee to comply with this subsection.