

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 14. Variances and Exceptions**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

Key: Blue & bold font - Key language that represents a substantive change from current language Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping) <i>Italics</i> - removed text
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Revised Section	Revised Language	Current Section	Current Language
1	VARIANCES and EXCEPTIONS AUTHORIZED. An applicant may request to be excused from strict compliance with a provision of the District rules. The request must be submitted on a variance or an exception application form maintained by the District. A variance or exception requires a favorable vote of two-thirds of the Board of Managers present and voting.	1	VARIANCES AUTHORIZED. The Board of Managers may hear requests for variances from strict compliance with provisions of the District rules.
		6	SUPERMAJORITY REQUIREMENT. A variance or exception must be approved by a two-thirds majority of managers voting.
2	VARIANCE STANDARD. An applicant for a variance must demonstrate that strict compliance with an identified provision of the District rules is practically difficult, as a result of an unusual feature of the property or its setting. The Board of Managers, in its judgment, will decide whether a practical difficulty has been shown, and whether a variance to relieve this practical difficulty may be granted. The Board’s decision whether to grant a variance will rest on the following: a. the cause of the difficulty, and whether the applicant played a role in creating it; b. whether the proposal reasonably may be modified to avoid the need for a variance, or there otherwise is a practical way to avoid the difficulty; c. the extent to which the applicant seeks to diverge from the rule, and the extent to which the divergence would cause impact to water resources; and d. whether the variance would shift a burden to a neighboring property or to the broader public.	2	STANDARD. To grant a variance, the Board of Managers must determine, based on a showing by the applicant: (a) that because of special conditions inherent to the property, which do not apply generally to other land or structures in the District, strict compliance with a provision of a District rule will cause undue hardship to the applicant or property owner; (b) that the hardship was not created by the landowner, the landowner’s agent or representative, or a contractor. Economic hardship is not grounds for issuing a variance; (c) that granting such variance will not merely serve as a convenience to the applicant, (d) that there is no feasible and prudent alternative to the proposed activity requiring the variance; and (e) that granting the variance will not impair or be contrary to the intent of these rules.
3	EXCEPTION STANDARD. The Board of Managers may grant an exception from a particular water resource standard, specification or management method in the District rules, if it determines that an alternative approach proposed by the applicant would achieve water resource outcomes of the type that the Board intends the standard, specification or method to achieve, and would do so to at least the same degree.	5	EXCEPTIONS. The Board of Managers may grant an exception from a provision of these rules requiring a particular treatment or management method, or setting forth a design specification of such a method, on a determination that the proposed application, with such further conditions as the Board may impose, will achieve a greater degree of water resource protection than would strict compliance with the provision.
4	CONDITIONS. The Board of Managers may place conditions on the granting of a variance or exception as it finds necessary to determine that the standard for the variance or exception has been met.		
5	TERM. A variance or exception has the same term as the underlying permit. Unless it specifically states otherwise, a District action renewing, terminating or transferring a permit has the same effect on an associated variance or exception.	3	TERM. A variance or exception will remain valid only as long as the underlying permit remains valid.
		4	VIOLATION. A violation of any condition of approval of a permit subject to a variance shall constitute grounds for termination of the variance.