

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 4. Floodplain Alteration**

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

Revised Section	Revised Language	Current Section	Current Language
1	POLICY. It is the policy of the Board of Managers to: a. Preserve flood storage capacity between the ordinary and 100-year high water elevations of waterbodies to limit flood frequency and severity; b. Limit flood risk for structures built in or adjacent to floodplain; c. Protect streambanks for stability, water quality and ecological values.	1	POLICY. It is the policy of the Board of Managers to: (a) Preserve existing water storage capacity below the 100-year high water elevation of all waterbodies in the watershed to minimize the frequency and severity of high water; (b) Minimize development below the 100-year high water elevation that will unduly restrict flood flows or aggravate known high water problems
2a	APPLICABILITY. A permit is required to fill, excavate or grade within the floodplain of a waterbody.	2	REGULATION. No person shall alter or fill land below the projected 100-year high water elevation of a waterbody without a permit from the District.
2b	For all work requiring a permit under paragraph 2(a), a structure intended for residential, commercial, industrial or institutional occupancy must be constructed so that door and window openings are at least two feet above the 100-year high water elevation of the waterbody.	3f	CRITERIA. All new residential, commercial, industrial and institutional structures shall be constructed such that all door and window openings are at a minimum of two feet above the 100-year high water elevation.
3a	EXCEPTIONS. A permit is not required for soil cultivation, soil amendment, or topsoil or sod addition for ordinary landscaping purposes.	2	REGULATION. A Fast Track permit may be issued for 6 inches or less of organic material to be incorporated into existing soil in preparation for sodding or seeding.
3b	If the floodplain of a waterbasin lies entirely within a municipality, the waterbasin does not outlet during the 100-year event, and the municipality regulates floodplain encroachment, a District permit under this rule is not required.	5	EXCEPTION. If the 100-year high water elevation of a waterbasin is entirely within a municipality, the waterbasin does not outlet during the 100-year event, and the municipality has adopted a floodplain ordinance prescribing an allowable degree of floodplain encroachment, the ordinance governs the allowable degree of encroachment and no permit is required under this rule.
4a	CRITERIA. Any floodplain fill must be offset so there is no loss in flood storage between the ordinary high water and 100-year high water elevations. There may not be net positive fill at any time during the work, unless applicant has demonstrated it is impractical and has obtained District approval of a sequencing plan for which applicant's registered professional engineer has demonstrated that the No-Rise Standard is met.	3a	CRITERIA. Fill shall not cause a net decrease in storage capacity below the projected 100-year high water elevation of a waterbody. The allowable fill area shall be calculated by a professional engineer registered in the State of Minnesota. Creation of floodplain storage capacity to offset fill shall occur before any fill is placed in the floodplain, unless the applicant demonstrates that doing so is impractical and that placement of fill and creation of storage capacity can be achieved concurrently. Any placement of fill prior to creation of floodplain storage capacity will only be allowed upon a demonstration by a registered professional engineer that such work will not aggravate high water conditions.
4b	Offset for fill in a waterbody other than a watercourse is not required if the applicant demonstrates that fill on all riparian properties to the extent proposed by the applicant would meet the No-Rise Standard and not restrict flood flows.	3c	The criteria of paragraph 3(a) does not apply to fill in a waterbody other than a watercourse if the applicant shows that the proposed fill, together with the filling of all other properties on the waterbody to the same degree of encroachment as proposed by the applicant, will not cause high water or aggravate flooding on other properties and will not unduly restrict flood flows.

4c	<p>Fill in a watercourse must meet the following criteria:</p> <ol style="list-style-type: none"> 1. No impervious surface may be placed within the 10-year floodplain or within 25 feet of the watercourse centerline, whichever greater, unless the surface is: (1) no more than 10% of the site 10-year floodplain area; or (2) a linear component of a public roadway or trail. 2. Applicant must meet the No-Rise Standard. 	3d	<p>No new impervious surface may be created within the lesser of the 10-year floodplain or 25 feet of the centerline of a watercourse, except impervious area may be created that is:</p> <ol style="list-style-type: none"> (1) no larger than 10% of the floodplain area of the parcel(s), or (2) the surface is an integral component of a linear public roadway or trail.
4d	<p>Ice ridge grading within a waterbasin must conform to the pre-existing basin cross-section. Soil material may be neither imported into nor removed from the floodplain.</p>	3b	<p>For fill in a watercourse, in addition to the criteria of paragraph 3(a), the fill shall not cause an increase in the 100-year flood elevation.</p>
5	<p>SUBMITTALS.</p> <ol style="list-style-type: none"> a. Site plan showing property lines, delineation of the work area, existing elevation contours of the work area, and ordinary high water (OHW) and 100-year high water elevations. All elevations must be reduced to NGVD (1929 datum). b. Grading plan with proposed elevation changes. c. Preliminary plat, if applicable. d. Professional engineer registered in the State of Minnesota’s determination of the 100-year high water elevation before and after the project and, if paragraph 4(c) applies, of the edge of the 10-year watercourse floodplain. A DNR No-Rise Certificate may be submitted to document conformance with the No-Rise Standard, where applicable. e. Computation by a professional engineer, architect, land surveyor or landscape architect of volumes of floodplain fill and excavation and, if paragraph 4.c applies, of impervious surface area adjacent to a watercourse. f. If not otherwise subject to the District erosion control rule, an erosion control plan conforming to sections 5, Erosion Control Plan, and 9, Maintenance, of that rule. g. If more than 50 cubic yards of fill have been placed, on project completion applicant must submit an as-built survey prepared by a professional engineer, architect, land surveyor or landscape architect documenting locations of floodplain disturbance and the volumes of fill and created flood storage. 	3e	<p>Ice ridge grading within the floodplain must conform to the original cross-section of the lakebed. Approval for ice ridge grading or removal of ice ridge material from the floodplain requires the applicant to demonstrate that the ice ridge resulted from ice action during the previous winter. No additional material may be placed within the floodplain except in accordance with this Rule.</p>
		4	<p>REQUIRED EXHIBITS.</p> <p>The following exhibits shall accompany the permit application. One set - full size; one set - reduced to maximum size of 11"x17".</p> <ol style="list-style-type: none"> (a) Site plan showing property lines, delineation of the work area, existing elevation contours of the work area, ordinary high water elevation (OHW), and 100-year high water elevation. All elevations must be reduced to NGVD (1929 datum). (b) Grading plan showing any proposed elevation changes. (c) Preliminary plat of any proposed land development. (d) Determination by a professional engineer of the 100-year high water elevation before and after the project and the extent of impervious surface within the 10-year floodplain. (e) Computation by a professional engineer of cut, fill and change in water storage capacity resulting from proposed grading. (f) Soil boring results if available. (g) If not otherwise subject to the District Erosion Control Rule, an erosion control plan conforming to sections 5, Erosion Control Plan, and 9, Maintenance, of the Erosion Control Rule. (h) Any project resulting in greater than 50 cubic yards of fill is required to provide an as-built survey upon project completion which documents the location and volume of both fill and compensatory storage.