

MINNEHAHA CREEK WATERSHED DISTRICT

DRAFT RULE REVISIONS

August 2009

Definitions:

Watercourse means any channel having definable beds and banks capable of conducting generally confined runoff from adjacent lands, or any channel included in the District's inventory of first order streams. During floods water may leave the confining beds and banks but under low and normal flows water is confined within the channel. A watercourse may be perennial or intermittent.

RULE G: WATERBODY CROSSINGS & STRUCTURES

1. POLICY. It is the policy of the Board of Managers to:
 - (a) Discourage the use of beds and banks of waterbodies for the placement of roads, highways, and utilities;-
 - (b) Preserve the ecological integrity of the riparian and aquatic environment, including wildlife and fisheries habitat, and recreational water resources;-
 - (c) Encourage improvement of wildlife passage and habitat, especially for larger projects involving culverts and public right of way in or near natural corridors.

2. REGULATION. No person shall place a road, highway, utility or associated structure in contact with the bed or bank of any waterbody, including alteration of a waterbody to enclose it within a pipe or culvert, within the District without first securing a permit from the District.

3. CRITERIA. Use of the bed or bank:
 - (a) Shall meet a demonstrated public benefit- for projects involving crossings or structures in public waters, and meet a demonstrated specific need for all other projects;

 - (b) Shall retain adequate hydraulic capacity and assure no net increase in the flood stage of the pertinent waterbody;

 - (c) Shall retain adequate navigational capacity pursuant to any requirements of the waterbody's classification by the District;

 - (d) Shall preserve aquatic and upland wildlife passage along each bank and within the waterbody as follows: by means that:
 - (i) account for wildlife that are native to the site or may be present, and
 - (ii) are approved by a qualified wildlife biologist.

- (i) Where there is sufficient **waterbody depth and width of public right of way**, **waterbody** crossings shall provide a minimum of four (4) feet from the bottom of the **bed** to the inside height of the structure; provide a natural shelf at least two (2) feet wide on both sides above the bankfull elevation, graded to connect to the streambank on both the upstream and downstream ends;
- (ii) Where the **waterbody** depth or the width of public right **does not allow for wildlife passage described** paragraph (i), **waterbody** crossings shall provide for offset multiple culverts that: match bankfull width; extend the culvert to the toe of the side slope; are set on the channel slope; bury the primary culvert at least one-sixth (1/6) of the vertical culvert height; place the offset culvert invert between six (6) to twelve (12) inches above the primary culvert; and align the culverts with the **waterbody**;
- ~~(i)~~(iii) Where the **waterbody** is not wide enough or is too steep to accommodate multiple culverts without impacting hydraulic capacity, the crossing shall utilize a single culvert and meeting the requirements of paragraph (ii) with a shelf insert above bankfull height, unless such a crossing or structure will impact hydraulic capacity.

(e) Shall not adversely affect water quality;

(f) Shall represent the "minimal impact" solution to a specific need with respect to all other reasonable alternatives, including, but not limited to vegetation or bioengineering for bank stabilization, structural bank stabilization (riprap, retaining walls), acquisition of additional easements, or installation of upstream controls to manage flow. 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 ; and

(g) Shall provide for minimum clearance of 3 feet below the bed of a waterbody, and a minimum setback of 100 feet from any stream bank for pilot, entrance, and exit holes, for projects involving horizontal directional drilling.

(h) Shall provide for a second redundant pipe for any new sanitary sewer pipe crossing a waterbody.

4. REQUIRED EXHIBITS. The following exhibits shall accompany the permit application. One set - full size; one set - reduced to maximum size of 11"x17".

(a) Construction plans and specifications.

(b) Analysis prepared by a professional engineer or qualified hydrologist showing the effect of the project on hydraulic capacity and water quality.

(c) An erosion control and restoration plan.

(d) The written approval required by paragraph 3(d).

(e) Information necessary to evaluate impacts under paragraph 3(f), including at least two alternative designs that minimize or avoid the proposed impact(s), and such other information as determined by District staff in consultation with the applicant.

5. MAINTENANCE. A declaration or other recordable instrument stating terms for maintenance of hydraulic and navigational capacity and approved by the District shall be recorded in the office of the county recorder or registrar before activity under the MCWD permit commences. 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 public body shall require the transferee to comply with this subsection.