

**MINNEHAHA CREEK WATERSHED DISTRICT  
BOARD OF MANAGERS**

**REVISIONS  
PURSUANT TO MINNESOTA STATUTES §103D.341**

**Adopted January 13, 2005**

**RULE D: WETLAND PROTECTION**

1. POLICY. It is the policy of the [Board of Managers](#) to:

(a) achieve no net loss in the quantity, quality, and biological diversity of Minnesota's existing wetlands;

(b) increase the quantity, quality, and biological diversity of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands;

(c) avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of wetlands;

(d) minimize direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of wetlands;

(e) rectify the impact of any such activity by repairing, rehabilitating, or restoring the affected wetland environment;

(f) reduce or eliminate the impact of such activity over time by preservation and maintenance operation during the life of the activity;

(g) compensate for the impact on the wetlands by restoring a wetland;

(h) compensate for the impact on the wetlands by replacing or providing substitute wetland resources or environments.

2. AUTHORITY UNDER WETLAND CONSERVATION ACT AND WATERSHED LAW.

(a) The [Wetland Conservation Act](#), as amended, and its implementing rules as set forth in Minnesota Rules chapter 8420, as amended, specifically including sequencing requirements, are incorporated as a part of this rule and shall govern draining and filling in wetlands in all cases where the District is the local government unit under that Act. Wetland replacement, where permitted, shall occur in the same subwatershed as the associated wetland impact.

(b) Sections 3 and 4, below, are adopted under the District's watershed authority and applies whether or not the District is the Wetland Conservation Act local government unit in the municipality where the excavation is to occur.

3. EXCAVATION. Excavation in wetlands is subject to the following requirements.

(a) Excavation is governed by the substantive and procedural standards, criteria and requirements set forth in the Wetland Conservation Act, as amended, and the rules implementing the Wetland Conservation Act as set forth in Minnesota Rules chapter 8420, as amended, with the exception that replacement for excavation not subject to the Wetland Conservation Act shall be at the ratio of 1 acre of replaced wetland for each acre of excavated wetland.

(b) Excavations in wetlands for the purposes of wildlife enhancement must comply, in addition, with the criteria described in the DNR publication "Excavated Ponds for Waterfowl" (1992).

(c) Excavation shall be deemed self-replacing if an applicant demonstrates that the wetland to be excavated is degraded; the proposed activity would increase the wetland's function and value, as determined using the current version of the Minnesota Routine Assessment Method or other method approved by the District; and the enhanced wetland function and value are likely to be preserved.

(d) The application shall identify spoils placement on upland and specify how the deposited materials will be stabilized and vegetated.

(e) Wetland replacement, where permitted, shall occur in the same subwatershed as the associated wetland impact.

4. BUFFER

(a) Any activity for which a permit is required under District Rule C (Floodplain Alteration), D (Wetland Protection), G (Waterbody Structures) or N (Stormwater Management) must provide for a buffer of the following width adjacent to each wetland and public waters wetland:

<b>Size of Wetland</b>	<b>Width of Buffer Zone</b>
0 - 1 acre	16.5 feet
1 - 2.5 acres	20 feet
2.5 - 5 acres	25 feet

> 5 acres	35 feet
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(b) The buffer is required:

(1) On that part of the wetland edge that is downgradient from the land disturbance; and

(2) Around each wetland that will be disturbed.

(c) A buffer shall be documented by declaration or other recordable instrument approved by the District and recorded in the office of the county recorder or registrar before activity under the MCWD permit commences. A buffer on public land or right-of-way may be documented in a written agreement executed with the District in place of a recorded instrument. The agreement shall state that if the land containing the buffer is conveyed, the public body shall require the buyer to comply with this subsection.

(d) Buffer vegetation shall not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality, each as approved by District staff or when implemented pursuant to a written agreement executed with the District. Pesticides and herbicides may be used in accordance with Minnesota Department of Agriculture rules and guidelines. No new structure or hard surface shall be placed within a buffer. No fill, debris or other material shall be excavated from or placed within a buffer.

5. REQUIRED EXHIBITS. The following exhibits shall accompany the [Combined Joint Notification \(CJN\) form](#). One set - full size; one set - reduced to a maximum size of 11"x17".

(a) Site plan showing:

(1) Property lines and corners and delineation of lands under ownership of the applicant;

(2) Existing and proposed elevation contours; including the existing runout elevation and flow capacity of the wetland outlet;

(3) Area of the wetland portion to be filled.

(b) Complete delineation of the existing wetland(s), including data sheets with detailed information on field indicators (soils, hydrology and

vegetation) and summary report. Wetland delineations should be performed during the normal growing season for this area of the State (May 1 - October 15). Delineations performed outside of this time frame may or may not be permitted, depending on potential wetland impact in relation to the entire development or project. Wetland boundaries shall be staked in the field.

(c) Identification and area of the total watershed area presently contributing stormwater runoff to the wetland.

(d) A replacement plan, if required, outlining the steps followed for the sequencing process and including documentation supporting the proposed mitigation plan. A description of the nature and amount of the proposed fill material and details of the annual monitoring plan must also be included.

(e) Wetlands proposed to be excavated for wildlife ponds must also submit a cross section and construction specifications which include the following design criteria:

(1) Ponds should be irregular shaped and a minimum size of 2500 square feet

(2) Pond depth not to exceed 5 feet and to have an undulating bottom

(3) Ratios of basin side slopes ranging from 3:1 to 10:1 (horizontal:vertical)

(4) The spoil disposal site must be identified and found not to be below the OHW of a public water or public water wetland, wetland subject to the Wetland Conservation Act of 1991, or floodplain. However, fill may be placed in a wetland subject to the Wetland Conservation Act to the extent permitted in Minnesota Statutes 103G.2241, subd, 10.

(5) Vegetation restoration plan which includes the disturbed area being seeded to native grasses for a minimum of 150 feet around the dugout

(6) The reserved organic soils should be spread over the entire excavated area to encourage and support plant growth

(f) Information showing whether the subject wetland is protected by either the State or municipality or both.