

Rules for the Shell Rock River Watershed District
 Freeborn County Courthouse, P.O. Box 1147, 411 South Broadway
 Albert Lea, MN 56007
 Adopted February 13, 2007

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ARTICLE I: ADMINISTRATION

1.00 INTRODUCTION

The Shell Rock River Watershed District was established under the authority of Minnesota Statutes, Chapter 103D, the Watershed Act, on June 25, 2003. The District's primary purpose is improvement of water quality within the watershed. The District's boundary is shown in Figure 1.

1.10 District Mission

The District's mission is to implement reasonable and necessary improvements to water-related and other natural resources of the District. Many water-related issues are being addressed by one or more local, state and federal government agencies. The District will review current levels of enforcement, funding and labor available to fully achieve stated goals. The District may increase the extent or pace of implementation by providing the necessary leadership, and assist with funding, volunteer support, and services necessary.

1.20 Purpose

These Rules are intended to support the purpose of the District and the powers of the Managers under the Minnesota Watershed Act, Minnesota Statutes, Chapter 103D. District Rules serve to protect and enhance water quality within its jurisdiction; ensure that proper decisions are made for managing streams, rivers, wetlands, lakes, groundwater, and related land resources; and accomplish the purposes of the District.

1.30 Statutory Policy

Minnesota Statute 103D.201, subdivision 1: To conserve the natural resources of the State by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of natural resources, the establishment of watershed districts is authorized under the chapter. Minnesota Statute 103D.341, subdivision 1: The managers must adopt rules to accomplish the purposes of this chapter and to implement the powers of the managers.

1.40 Jurisdiction

The jurisdiction of these Rules includes all the area, incorporated and unincorporated, including both land and water, within the territory of the Shell Rock River Watershed District (Figure 1).

1.50 General Policy

It is the District's intent to use these Rules as a management tool in providing wise management of the district's water resources. The overall water management goal of the District is to ensure that development, use, control, and conservation of the district's water resources are done in a manner most beneficial to the general welfare of its present and future residents.

The District intends that no person be deprived or divested of any previously established beneficial uses or rights by any District Rule without due process.

1.60 Interrelation with Other Units of Government

Policy Statement

It is the stated intention of the managers to cooperate with all federal, state, and local units of government and their respective agencies in conserving natural water resources for the common good of the public. Also, the District will act as a coordinating agency for said governmental units and agencies in the development and carrying out of policies, procedures and regulations concerning water and related resources within the district.

1.61 Coordination

The District will coordinate the administration of its Rules with all involved federal, state, and local governmental units (LGUs) and agencies having jurisdiction in the District.

Whenever Freeborn County or another LGU within the district considers development or redevelopment plans that affect 1 acre or more of land in the district, the county or LGU must forward to the District a copy of:

- All preliminary plats
- Accompanying storm water drainage plans and calculations
- Accompanying grading and erosion control plans

The District may provide recommendations to the county, cities and townships on the site's suitability for the proposed land use based on soil and water conditions. The District may also comment on or list requirements for water quality or other natural resource protection.

1.62 Information Sharing

The District requires all cities and townships within the district, Freeborn County, Freeborn County Soil and Water Conservation District, State of Minnesota agencies, Farm Service Agency, Natural Resources Conservation Service, and other U.S. Department of Agriculture agencies to share information for District plans, studies, projects and programs. This information includes, but is not limited to:

- Acts of contamination including but not limited to:
 - Spills of untreated sewage
 - Flooding of sewage systems or lift stations
 - Spills of petrochemicals
 - Flooding of fertilizer stockpiles or manure heaps and feedlots
 - Significant erosion of land
 - And other similar happenings
- Information on abandoned wells
- Landfills or dumps in operation or that have been closed
- Generation of hazardous waste or byproducts in geologically sensitive areas
- Installation, abandonment and removal of Individual Sewage Treatment Systems (ISTS)
- Wastewater treatment data provided to the Minnesota Pollution Control Agency

- Conservation programs, such as location of filter strips, drain replacements, holding ponds, etc.

Any LGU within the District must inform the District of any emergency bypass of sanitary sewer to storm sewer outlets or water resources through written notice that includes quantity and extent of the bypass.

1.63 Review of Local Ordinances

The District requires the county and other LGUs to submit proposed ordinances relating to drainage, flood plains, shoreland, or any other water/land-use topic to the District for review and comment.

(A) The District must receive the proposed ordinance 30 days prior to the LGU's first public hearing.

(B) If the LGU adopts the ordinance, it must submit the final law to the District within 30 days of its effective date.

1.70 Inconsistent Provisions

If any District Rule is inconsistent with Minnesota Statutes Chapter 103D or other applicable laws of the State of Minnesota, the provisions of Chapter 103D or other applicable law will govern.

1.80 Severability

If any part of these Rules is declared invalid by a court of competent jurisdiction, such declaration will not affect the validity of these Rules as a whole, but only the part declared invalid.

1.90 Appeals

Any person aggrieved by the adoption or enforcement of these Rules may appeal under the appellate procedures and review provided in Minnesota Statutes, Chapter 103D.537.

2.00 PROCEDURES FOR ADOPTING RULES AND AMENDMENTS

The following procedures will apply to rule adoption and rule amendments:

(A) Any district property owner may propose rules or amendments to the Board. The Board may appoint a District subcommittee to review and provide recommendations to the full Board on the proposed rule.

(B) Property owners must submit their proposed rules or amendments in writing to the District. The proposed rules or amendments will then be available to the public at the District Office.

(C) Minnesota Statute 103D.341, subdivision 2 provides: Rules of the Watershed District must be adopted by a majority vote of the managers, after public notice and hearing. The Board will determine the time, date, and location of the public hearing. The Board must give notice of the hearing by publication in a legal newspaper of general circulation in the county.

(D) After a majority vote to adopt the proposed rules or amendments, the District will submit the rules or amendments to the Minnesota Board of Soil and Water Resources for review.

(E) 1. After public hearing and a majority vote of the Managers, the District President and Secretary must sign the rules and record them in the Board official minute book.

2. The District must file adopted rules with the County Recorder and Auditor-Treasurer.

3. In accordance with Minnesota Statute 103D.341, the District must also send a copy of the rules by certified mail to the governing body of each city within the district. The rules take effect within a city's boundaries when the city's governing body is notified of the rule.

4. The rules then carry the full force of law.

(F) The District will forward the adopted rules or amendments to each of the following persons or agencies:

- Freeborn County Board of Commissioners
- Township Board Clerks
- City Clerks
- Albert Lea Port Authority
- Board of Water and Soil Resources
- Minnesota Department of Natural Resources
- Minnesota Pollution Control Agency
- Minnesota Department of Health
- Freeborn County Soil and Water Conservation District
- All Zoning and Planning Boards in the district

3.00 VARIANCES

3.10 Variances Authorized

The District may hear requests for variances from the literal provisions of these Rules in instances where strict enforcement would cause undue hardship because of circumstances unique to the property under consideration and having made public notice of such hearings. The District may grant variances, with conditions, where it is demonstrated that such action will keep the spirit and intent of these Rules. The District may assess all costs of variances to the petitioner.

“Hardship” as used in connection with the granting of a variance means:

- The property in question cannot be put to a reasonable use under the conditions allowed by these Rules.
- The plight of the landowner is due to circumstances unique to the property and not created by the landowner.
- The variances, if granted, will not adversely affect the essential character of the locality and other adjacent land.
- Economic considerations alone will *not* constitute a hardship if a reasonable use for the property exists under the terms of these Rules.

3.20 Standard

To grant a variance, the District will determine:

- A) That the land or structure in question presents special circumstances.
- B) The variance does not impair or contradict these Rules.

3.30 Term

A variance will become void one year after it is granted, unless used.

3.40 Violation

A violation of any condition set forth in a variance will be a violation of the District Rules, and may be cause for termination of the variance.

4.00 ENFORCEMENT POWERS OF MANAGERS

4.10 Manner of Enforcement

Any provision of these Rules or any order or stipulation agreement made, or any permit issued by the Board of the District may be enforced by:

- Criminal prosecution
- Injunction pursuant to Section 103D.545, Subdivision 2 of the Minnesota Statutes
- Action to compel performance, restoration, abatement and other appropriate action; or

Any violation of these Rules or of any order or stipulation agreement made, or violation of any permit issued by the Board of the watershed district is a misdemeanor in accordance with Section 103D.545, Subdivision 1 of the Minnesota Statutes. All costs and attorney fees in pursuing an enforcement action pursuant to these Rules may be recovered by the District in a civil action of any court of competent jurisdiction.

4.11 Fines

Upon notice from the District that an individual or their property is in violation of these Rules, the District may impose a fine or fines until such violation is cured.

4.20 Notification Regarding Violations

The District, at its discretion, may file notification of a violation or threatened violation of any part of these Rules by any person, government unit or governmental agency with the Pollution Control Agency, or the Minnesota Department of Health.

However, such notification will not preclude any right of the District to prevent or continue to prevent any act now allowed or any action required to be performed by these Rules, nor will it prevent simultaneous actions to be taken against any violator by the District, the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, the Minnesota Department of Health, the courts or any other person or authority having jurisdictional power or interest to take such action.

4.30 Power of Rules

The Board may provide a procedure whereby the District can do the work to bring a property into compliance with these Rules and assess the cost thereof against the affected property as a special assessment. Such procedure will be applicable only in the absence of county or municipal ordinances for the regulation of these items listed herein.

4.40 Contractor's Liability

Any individuals, firms, corporations, limited liability companies, partnerships, associations or other entities contracting to perform services regulated by these Rules shall be responsible for ascertaining that all permits herein required have been obtained and that the work performed complies with all requirements of the Rules. Contractors in violation shall be subject to all sanctions or penalties, criminal or civil, imposed by these Rules.

4.50 Due Process of Law

No person shall, under these Rules, be deprived or divested of any previously established beneficial uses or rights without due process of law.

5.00 PUBLIC MEETINGS, HEARINGS AND RECORDS

5.10 Meetings

All meetings of the District, whether regular or special, will be open to the public and will be held at a time, date and place as determined from time to time by the managers.

5.20 Hearings

Any member of the public may request a public hearing on the approval of a permit. Notice of a public hearing will be given as required by statute. Testimony given and received at such public hearings may be recorded and witnesses may be sworn as required by statute or at the discretion of the board.

5.30 Waiver of Hearing

Unless required by statute, the Board in its discretion may waive a public hearing on any application for a permit and make its order granting or refusing such application. If said application is refused or granted subject to conditions, the applicant may, within 30 days, demand a hearing on the application.

5.40 Records

The records of the District will be public records as required by state statute and will be open to the public for inspection to that extent required. It is the stated intention of the Board to cooperate with all persons, government units and governmental agencies in the promotion of the conservation of the natural resources of the district and to share information with the public for the common good.

6.00 EFFECTIVE DATE

The provisions of these Rules will become effective upon passage by the Board.

7.00 ADOPTION

These Amendments are hereby adopted pursuant to Minnesota Statutes Chapter 103D, on the __13__ day of _February_, 2007.

FOR THE BOARD OF MANAGERS,
SHELL ROCK RIVER WATERSHED DISTRICT

Chairman_____

Secretary_____

8.00 REQUIREMENTS FOR DISTRICT PERMITS

The Board intends to rely on the permitting processes of other government units until such time as the Board determines a District permitting process is necessary.

The requirements for obtaining permits for certain uses of water or for performing certain works within the district are intended for effectuating the purposes and intent of the Minnesota Watershed Act and not as an inhibition to development or to the free use of property.

8.10 Actions Requiring District Review and Comment

(A) When applying for a DNR and/or MPCA permit related to water resources, property owners and government units must submit a copy of the permit application to the District for review and comment. Submission to the District must be at the same time as submission to the DNR and/or MPCA.

(B) Projects requiring the movement of earth or the removal of vegetation or topsoil *on 1 acre or more of land* must submit erosion and storm water control plans to the District for review and comment. See Section 11.10 Erosion Control Methods for further requirements.

ARTICLE II: EROSION AND STORM WATER CONTROL

9.00 EROSION CONTROL: AGRICULTURAL AND RURAL LANDS

Policy Statement

Soil erosion – from farmland, degraded banks, uncontrolled runoff, and other activities – adversely affects water resources in the Shell Rock River Watershed District. Eroded soil leads to siltation of aquatic habitat and degrades water quality. Eroded soil also diminishes the capacity of drainage systems, lakes, rivers and water control structures.

The District's intent is to establish, with SWCD, NRCS and other agencies, all necessary and reasonable Best Management Practices to achieve its erosion control goal. As stated in the District's Water Management Plan, the goal is to "Conserve top soil in the District and hold soil on the land." The District will achieve this goal through the Rules below.

The District will implement these Rules by:

- Education first
- Notification second
- Then enforcement, if necessary

9.10 Erosion Control Methods

(A) All drainageways therein must be constructed to reasonably minimize soil erosion, giving due consideration to:

- The intended capacity of the drainageway
- Depth, width and elevation of the drainageway
- Character of the soils through which the drain passes

(B) Sloping lands abutting drainageways, lakes, ponds or reservoirs must be used in such a manner so as to provide reasonable control of sediment.

(C) Land owners and farm operators shall implement all Best Management Practices and programs available to them, including but not limited to:

- Reinvest in Minnesota
- Conservation Reserve Program
- Wetland Reserve Program
- Conservation Reserve Enhancement Program

10.00 EROSION CONTROL: SHORELAND AND URBAN LANDS

Policy Statement

Soil erosion – from lawns, degraded banks, uncontrolled runoff, and other activities – adversely affects water resources in the Shell Rock River Watershed District. Eroded soil leads to siltation of aquatic habitat and degrades water quality. Eroded soil also diminishes the capacity of drainage systems, lakes, rivers and water control structures.

The District’s intent is to establish all necessary and reasonable Best Management Practices to achieve its goal, as stated in the District’s Water Management Plan, “Control and prevent erosion along lakeshore and restore severely damaged shoreline areas.” The District will achieve this goal through the following Rules.

The District will implement these Rules by:

- Education first
- Notification second
- Then enforcement, if necessary

10.10 Erosion Control Methods

(A) Public and private shoreland owners, including those in urban areas, must provide sediment and runoff controls, as defined by the Minnesota Pollution Control Agency manual, “Protecting Water Quality in Urban Areas (MPCA 2000 or as revised).” These controls include:

- Filter strips
- Terraces
- and other Best Management Practices

(B) All shoreland modifications, repairs and restoration must comply with the applicable laws.

11.00 LAND ALTERATION

Policy Statement

Soil erosion and storm water runoff adversely affect water resources in the Shell Rock River Watershed District.

Eroded soil leads to siltation of aquatic habitat and degrades water quality. Eroded soil also diminishes the capacity of drainage systems, lakes, rivers and water control structures.

Storm water runoff from paved surfaces, developed areas and other activities can change both water quality and quantity, affecting water resources physically, chemically and biologically. Polluted runoff containing oil, grease, chemicals, nutrients, metals, litter, and pathogens, for example, can severely reduce water quality. If left unmanaged, runoff stresses district streams, ages district lakes, and degrades and eliminates district wetlands.

The District's intent is to establish all necessary and reasonable Best Management Practices to achieve its erosion control goal, as stated in the District's Water Management Plan, "Conserve topsoil in the District and hold soil on the land."

In addition, the District's intent is to establish all necessary and reasonable Best Management Practices to achieve its goals outlined in the District's Water Management Plan:

- "Obtain measurable storm water runoff quality improvement by seeking opportunities to improve the quality of storm water runoff."
- "To minimize contaminant contributions to surface waters from road maintenance activities."
- "Maintain efficient system and reduce transport of sediment, nutrients and pesticides into the surface waters through the drainage systems."

The District will implement these Rules by:

- Education first
- Notification second
- Then enforcement, if necessary

11.10 Erosion Control Methods

The following rules apply to any construction project that requires the movement of earth or the removal of vegetation or topsoil on 1 acre or more of land. These projects include, but are not limited to:

- Residential, commercial and industrial development and improvements
- Road construction (city, township, county, state and federal)
- Ditch or channel construction and maintenance and similar improvements
- Retrofitting of the above

(A) All projects must provide for the prevention of erosion by wind and water both during and after construction:

1. When applying for building permits, the person or government unit responsible for the work must submit copies of the permit applications, including erosion and storm water runoff control plans, to the District.
2. Before any work begins, the District must have an opportunity to review and comment on the erosion and storm water runoff control plans. The District will review and comment on such plans within 10 days of receiving complete permit applications and plans for erosion and storm water runoff control.
3. Storm water runoff plans must include snow removal, dumping and retention methods.
4. A work schedule and timetable for erosion and storm water control measures must accompany the time schedule for construction.

(B) Individuals, developers and government units carrying out the erosion control measures and all subsequent owners of the property involved shall effectively maintain all erosion control features.

(C) The District requires the following practices:

1. The property owner and operator must conduct work in or near public waters and drainage systems so as to minimize increases in suspended solids and turbidity of runoff or receiving waters.
2. Materials used in erosion prevention, such as riprap, must be non-polluting under any foreseeable conditions and must be installed consistent with good engineering practices and in such a way to assure effectiveness and permanence.
3. The District must be notified within 1 working day of any harmful disturbance to public waters or drainageways.
4. The property owner and operator must prevent spoils from entering public waters or drainageways.

11.20 New or Upgraded Inlets to Watercourses and Culvert and Bridge Approaches

It is the policy of the District that new or upgraded inlets to watercourses and culvert and bridge approaches must have adequate vegetation or other means of protection in order to minimize pollution of water. Other means of protection refer to Best Management Practices as defined in Minnesota Pollution Control Agency manual "Protecting Water Quality in Urban Areas (MPCA 2000 or as revised)."

11.30 Storm Water Control Methods

For Storm Water Management Standards, please refer to Appendix A of these Rules.

(A) The District supports the Minnesota Pollution Control Agency in its administration of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System (SDS):

1. All construction activity that disturbs 1 acre or more of land in the District must have the applicable NPDES and SDS permits.
2. All industry must have the applicable NPDES and SDS permits unless exempted by the MPCA.

(B) When deemed feasible by the Board, any development or redevelopment that will create 1 acre or more of impervious surface must provide adequate water retention devices to maintain predevelopment runoff rates. These devices must:

- Minimize off-site runoff
- Maximize flow over vegetated areas
- Minimize off-site discharge of pollutants
- Encourage natural filtration

(C) The District strongly recommends cleaning paved parking lots and streets four times a year, and mandates twice a year. This rule applies to both public and private land.

(D) The District may require retrofitting of paved surfaces according to the quantity and quality of their runoff.

(E) The District prohibits the storing, piling, or disposal of snow on the ice of public waters or within the shore impact zone.

11.31 Municipal Drainage Plans

(A) The city of Albert Lea must have the applicable NPDES, SDS and Municipal Separate Storm Sewer Systems (MS4s) permits.

(B) The Board may, at its discretion, require each municipality within the district to amend its present municipal drainage plan, or if it has none, to prepare one in accordance with District guidelines for the same for the management and transportation of surface water resulting from urban development.

(C) Municipalities must establish temporary storage areas or retention basins throughout developed areas where feasible to maximize upstream storage and to reduce peak flows, erosion damage and construction costs.

(D) Municipalities must use natural vegetation to reduce erosion in waterways between developed land and retention basins.

(E) Municipalities must use wide, shallow grass waterways, where feasible, as overflow channels from retention basins to form an aboveground drainage network.

(F) In any proposed development, municipalities must consider detaining storm water from a natural drainage area within that same area. Many tracts are amenable to this concept and whole developments may be handled by this method.

ARTICLE III: WETLANDS AND FLOODPLAINS

12.00 WETLANDS

Policy Statement

A wetland has mostly wet soil, is saturated with water either above or just below the surface, and is covered with plants that have adapted to wet conditions. Wetlands provide many benefits, including erosion control, fisheries and wildlife habitat, flood control, and natural filtration.

The District will identify priority wetlands and will use easements or fee titles to purchase the rights for restoration or preservation from willing sellers through federal, state and local funding partnerships. The District's goal is to "preserve existing rural and urban wetlands, and encourage their restoration and enhancement," as stated in the District's Water Management Plan.

The District discourages any development or disturbance of a wetland.

12.10 Modification of Wetlands

(A) Any draining of, filling in, excavation of, or other activity in a wetland must have the applicable permits, letters of permission, or other approval as required by law, from the Minnesota DNR, Minnesota PCA, local units of government, and/or Army Corps of Engineers.

(B) The District supports the Minnesota DNR Public Waters Permit Program (MN DNR PWPP) for public waters wetlands.

(C) The District supports the Minnesota Wetland Conservation Act.

13.00 FLOODPLAINS

Policy Statement

The natural floodplain is an important part of any water system. It affects storm runoff, water quality, vegetative diversity, wildlife habitat, and aesthetic qualities of rivers and lakes. The least amount of alteration to the natural system is usually the most ecologically sound development decision. For those reasons, the District promotes and ensures sound land use development in floodplain areas in order to promote the health and safety of the public, minimize loss of life, and reduce economic losses caused by flood damages.

The District's goal is to "minimize flood damage to property and preserve the function of the floodplain," as stated in the District's Water Management Plan. Thus, the District discourages any development in floodplains, except for allowed uses.

13.10 Modification of Floodplains

(A) The District supports municipal, county and state laws regulating floodplains.

(B) Any plan and permit application for development or disturbance of a floodplain must be submitted for District review and comment if:

1. The plat includes land abutting any lake or stream within the district; or
2. The plat is not covered by existing city or county floodplain regulations

(C) Before any work begins, the District must have an opportunity to review and comment on the project. The District will review and comment on such projects within 30 days of receiving copies of complete permit applications.

ARTICLE IV: POLLUTION CONTROL

14.00 POLLUTION CONTROL

Policy Statement

To abate the pollution of water resources, the District has the power and authority to impose certain preventive and remedial measures to promote the public health and general welfare, to promote safety and sanitation, and to improve the quality of waters in the district for general use.

14.10 Individual Responsibility

(A) No person shall pollute the water of the District by placing or permitting to be placed or deposited upon any district waters, or ice of district water any:

- Sewage
- Industrial wastes
- Garbage
- Or other waste

(B) The District prohibits the placement or deposit of sewage, industrial wastes, garbage and other wastes on any private or public land from which contaminants may be carried into lakes or watercourses of the District.

(C) This section exempts properly operated municipal sewage or solid waste disposal facilities that are subject to Minnesota Pollution Control Agency rules (Minnesota Rules, Chapter 7050).

14.20 Individual Sewage Treatment Systems (ISTS)

Policy Statement

Effluent from Individual Sewage Treatment Systems, such as septic tanks, can have an extraordinary impact on public health, surface water, ground water, and fish and wildlife habitat. The District intends to cooperate and support Freeborn County in the regulation of onsite sewage disposal systems to provide for sanitation and public health.

As stated in its Water Management Plan, the District's goals are to, "Support measures to upgrade ISTS systems" and "Inventory non-conforming sewage systems and develop a program to upgrade improperly installed systems."

The District will achieve these goals by implementing the following Rules by:

- Education first
- Notification second
- Then enforcement, if necessary

14.21 Requirements for Individual Sewage Systems

(A) Individual sewage treatment systems such as drainfields, septic tanks, sewage lagoons and similar disposal facilities shall be allowed only when municipal collection facilities are not available, and then only when a permit is issued by the municipality, county or other proper governing authority. Such system may be subject to review by the District at its discretion.

(B) No surface discharge shall be permitted from an individual system either directly or by seepage to the surface of the ground.

(C) The design of any individual system shall be in conformance with the current Rules of the Minnesota Pollution Control Agency, the Minnesota Department of Health, these Rules and all other regulations, laws, ordinances and policies of any other governmental subdivision or agency having proper jurisdictional authority.

(D) Residential clusters that have municipal wastewater treatment available to them must take the necessary steps to connect to this municipal wastewater treatment facility.

14.30 Urban Fertilizer Use Restricted

Policy Statement

Excess algae is a major problem in the district's water resources. Algae, fueled by phosphorus, lowers oxygen levels and darkens the water. Thus, algae has a devastating affect on fish populations. Because most soils in Minnesota have adequate phosphorus, adding more phosphorus in fertilizer is not needed and is not beneficial to lawns. Healthy lawns can be maintained with phosphorus-free fertilizers.

The District implements the following Rules to achieve the goal of "Improve use of nutrients, reducing negative effects on water quality," as stated in its Water Management Plan.

The District will implement these Rules by:

- Education first
- Notification second
- Then enforcement, if necessary

14.31 Restrictions on Application of Phosphorus Fertilizers

(A) No person shall apply a fertilizer containing the plant nutrient phosphorus to turf within the District except under the following conditions:

1. A tissue, soil or other test by a laboratory or method approved by the Minnesota Commissioner of Agriculture and performed within the last three years indicates that the level of available phosphorus in the soil is insufficient to support healthy turf growth;
2. Newly established turf via seed or sod procedures and only during the first growing season;
3. Fertilizer containing phosphorus is used on a golf course under the direction of a person licensed, certified or approved by an organization with an ongoing training program approved by the Minnesota Commissioner of Agriculture.

(B) Fertilizer with phosphorus shall not be applied to any established natural buffer zones below the Ordinary High Water level, as designated by the Minnesota Department of Natural Resources, of any water body or within ten feet of any wetland or water resources.

(C) No person shall apply a fertilizer to impervious areas within drainage ditches or waterways.

(D) Application of phosphorus fertilizer authorized under this section must not exceed rates recommended by the University of Minnesota and approved by the Minnesota Commissioner of Agriculture.

14.32 Restrictions on Sale of Phosphorus Fertilizer

No person, firm, corporation, franchise or commercial establishment shall sell or display for sale within the District any fertilizer containing any amount of phosphorus or other compound containing phosphorus, such as phosphate, unless:

(A) Phosphorus-free fertilizer is also available for sale;

(B) Phosphorus-free fertilizer and fertilizer with phosphorus are separately displayed with each display being clearly marked as to whether or not the fertilizer contains phosphorus;

(C) Displays of phosphorus-free fertilizer are of equal size and prominence; and

(D) A sign or brochure is on prominent display next to any fertilizer display containing the District's rule concerning the use of fertilizer with phosphorus.

14.40 Agricultural Wastes

(A) No one may operate a feedlot in violation of LGU and MPCA regulations.

(B) No one may accumulate agricultural wastes where surface runoff can carry the wastes to any lake or stream.

14.50 Discharges from Municipal and Industrial Waste Water Treatment Facilities

Policy Statement

Because of the potential hazard to public health and water resources, the District is concerned about any discharge of wastewater into storm sewers and surface waters. Thus, the District adopted the following goals in its Water Management Plan:

- “Continue with improvements of the city of Albert Lea Wastewater Treatment Facility System [and Infrastructure] to assure excellent treatment and minimize the need for emergency bypass of wastewater.”
- “Obtain measurable water quality improvement in the public utilities of small communities.”

14.51 Requirements for Municipal and Industrial Waste Water Treatment Facilities

(A) Pursuant to M.S. 103D.335, Subdivision 14 and 16 the board or its designate shall have the right to enter upon any lands of the district for the purposes of inspection, monitoring and testing the quantity and quality of the discharge, and shall have the right to install whatever hydrological recording and testing devices it may deem necessary.

(B) The District must report any violation it finds immediately to the discharger and to the Agency for appropriate action. Should the discharger fail to abate the violation in a reasonable period of time, the board may, at its discretion, require the discharger to appear at a special meeting to show cause why the violation should not be abated, pursuant to its authority under Minnesota Statute 103D.545.

15.00 ASSESSMENT AND IMPACT

15.10 Powers of the Watershed District Described

The District has the power and authority to require any person, government unit or governmental agency to submit an assessment or statement of the impact of any construction, improvement or act on the water-related natural resources of the district or to require that such person, government unit or agency submit a statement that the construction, improvement or act will have no adverse impact on the water resources of the district.

In the determination of impact, the person, government unit or agency submitting the statement and the District in reviewing the statement must consider, as a minimum, the following factors:

(A) Existing facilities and their deficiencies

(B) Description of proposed project

(C) Alternatives to the proposed project, including the alternative of doing nothing

(D) The consequences of each alternative action

(E) Inventory assessment and probable project impact on:

1. Geology, soils and topography
2. Agricultural and nonagricultural land resources
3. Surface and groundwater resources
4. Climatology
5. Biological resources, flora and fauna
6. Natural amenity resources

(F) Probable unavoidable adverse effects of project and methods of minimizing same, regarding:

1. Erosion control, sedimentation, wind and water
2. Biological resources
3. Water resources
4. Land resources
5. Pollution of any nature

(G) Short-term versus long-term benefits and productivity

(H) Irreversible commitments of resources

15.20 Responsibility of Applicant

(A) The submission of an assessment or impact statement will *not* relieve the person, government unit or agency of any other requirement by any federal, state or local subdivision or agency.

(B) The submission and acceptance of conditions will *not* make the District liable for any act performed or not performed by the person, government unit or agency.

(C) The submission and acceptance of conditions will *not* prevent the District from making any other requirement or enforcing any statute, ordinance, law or these Rules.

(D) The submission and acceptance of conditions will *not* prevent the District from petitioning the Minnesota Environmental Quality Council to require an Environmental Assessment or Impact Statement from such person, government unit or agency.

APPENDIX A: STORM WATER MANGEMENT STANDARDS

When development is proposed, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, and waterways must be used. Treatment and detention methods should be based upon the manual “Protecting Water Quality in Urban Areas (MPCA 2000 or as revised)”.

Downstream or Off Site Facilities

Regional or other facilities may be utilized to fulfill the site’s requirements.

Alternatives

The District may allow alternatives to these Rules on a determination that the proposed application will achieve an equal or greater degree of water resource protection than would strict compliance with the standards.

1. Rate Control

The District requires rate control for sites in the NPDES Phase II rules (1 acre or more).

- a. Peak Rates.** The peak rates shall not increase from existing conditions.
 - 1) The two-year event is 2.9 inches.
 - 2) The 10-year event is 4.4 inches.
 - 3) The 100-year event is 6.3 inches.
 - 4) The District, at its discretion, may increase the hydrologic parameters (for example SCS Curve Numbers or larger actual storm events) used in analysis.

- b. Conveyance**
 - 1) At a minimum, the storm sewer conveyance system shall be designed for a 10-year, 24-hour storm event. Deviations should ensure public and structure safety and are the responsibility of the landowner.
 - 2) At a minimum, the pond outlet structure, emergency overflow structure and drainage route shall be designed for a 100-year, 24-hour storm event consistent with standards used by the cities, townships, counties, state, and federal agencies in planning for the flood protection of homes and public facilities.
 - 3) It is important to ensure than an acceptable overland drainage route is available when the 100-year storm event is exceeded.

- c. Freeboard Design Standard** – The following table gives the freeboard criteria for structure and roadway elevations.

Condition	Water Bodies with Outlets	Landlocked Water Bodies
New Road Construction (low point in roadway)	No lower than the 100-yr flood level. For flowing Channels Passing Through Roadways -No lower than the 50-yr flood level.	1 foot above the 100-year flood level
Existing Roadways (low point in roadway)	No lower than 18 inches below 100-yr flood level. For Flowing Channels Passing Through Roadways -No lower than 50-yr flood level.	No lower than 18 inches below 100-yr flood level.
New Construction	A) Low opening of building- i. Minimum of 2 feet above 100-yr flood level for water bodies (including wetlands) with no separate emergency overflow. ii. Minimum of 3 feet above 100-yr flood level for water bodies (including wetlands) with no separate emergency overflow. B) Low floor elevation is a minimum of 1-foot above 100-yr flood level.	Minimum of 5 feet above 100-yr flood elevation, or 3 feet above back to back 100-yr events, whichever is greater.
Existing Structures – (low floor elevation and/or low opening of building)	Must be a minimum of 2 feet above the 100-yr, 24-hr storm event.	Minimum of 5 feet above 100-yr flood elevation or 3 feet above back to back 100-year events, whichever is greater.

d. Pond Side Slopes – Pond side slopes shall be 3 feet horizontal to 1 foot vertical (3:1) or flatter above the safety bench, and provide a bench at the normal water level of 10 feet horizontal to 1 foot vertical (10:1) or flatter for safety considerations. Slopes below the bench shall be 2 feet horizontal to 1 foot vertical (2:1) or flatter. Deviations should ensure public and structure safety and are the responsibility of the landowner.

- e. **Maintenance and Access** – All public and private owned storm water management facilities shall provide an unobstructed, 10 foot wide access path with 8 feet horizontal to 1 foot vertical (8:1) for the purpose of conducting inspections and maintenance. An agreement shall be in place regarding maintenance responsibilities before, during, and after completion of development. If facilities are to be privately maintained, an agreement providing for long-term maintenance is required. Deviations should ensure public and structure safety and are the responsibility of the landowner.
- f. **Neighboring Properties** – The responsible party shall provide evidence of easements concerning water flow if a plan involves redirecting concentrated runoff from the site.
- g. **Creeks and Streams** – Discharge directly to creeks, streams, County ditches and river channels shall utilize energy dissipaters to prevent erosion in the receiving water.

2. **Water Quality Standards**

Water quality treatment is required for sites that are in NPDES Phase II rules:

- a. **Maintenance of Storm Water Facilities** – All storm water facilities shall be maintained in proper condition consistent with the performance standards for which they were originally designed. All settled materials from ponds, sumps, grit chambers, and other devices, including settled solids, shall be removed and properly disposed of when the dead pool volume falls below design volume. No storm water facilities may be approved unless a maintenance plan is provided that defines who will conduct the maintenance, the type of maintenance and the maintenance intervals.
- b. **Design Criteria** - Water quality ponding design criteria shall be based upon the manual “Protecting Water Quality in Urban Areas (MPCA 2000 or as revised).” Treatment requirements can be met by showing removal of total suspended solids specified by MPCA rules and by limiting discharge to 5.66 cubic feet per second (cfs) per acre of treatment for a 1.25-inch event, *or* by providing NURP treatment volume.

APPENDIX B: DEFINITIONS

For the purposes of these Rules, certain words and terms are defined as follows. In the absence of a definition hereinafter, the definitions established for the State of Minnesota by statute or by case law will apply to these Rules. Certain terms or words used herein will be interpreted as follows: the words “shall” or “will” are mandatory, not permissive.

ADMINISTRATOR means Administrator of the Shell Rock River Watershed District.

ANIMAL MANURE means poultry or other animal excreta or a mixture of animal excreta with feed or other materials, including animal manure used as fertilizer.

ANIMAL WASTE means animal manure that is stored, transported, or disposed of as an unwanted waste material and which poses a potential pollution hazard to land, air or waters of the State. This definition excludes animal manure used as fertilizer. This definition includes animal carcasses or compost.

BEST MANAGEMENT PRACTICES means a technique or series of techniques that have been proven effective in maintaining or improving water quality by controlling agricultural, urban, or construction related runoff, erosion, and sedimentation.

BOARD OR BOARD OF MANAGERS means the Board of Managers of the Shell Rock River Watershed District.

BUFFER STRIP (FILTER STRIP) means an area adjacent to the shores of water bodies that help prevent contaminants from entering the water.

BWSR means Board of Water and Soil Resources, the governing body of Minnesota watershed districts.

CLUSTER (residential) means five or more single-family homes within a ½ mile radius.

CONDITIONAL USE means a land use or development that would not ordinarily be allowed under existing rules or ordinances, but may be allowed with appropriate controls or conditions.

COUNTY means the Freeborn County government unit.

DEPARTMENT OF NATURAL RESOURCES or DNR means the Minnesota Department of Natural Resources.

DEVELOPMENT means an explicit presentation, as in a drawing or plan, for a proposed change of the form of a land surface to convert land into an area suitable for residential, business, or recreational purposes, and to act to develop the land with necessary utilities and other appurtenances.

DISTRICT means the Shell Rock River Watershed District.

DOMESTIC WATER USE means use of water for common household or farm use.

DRAINAGE SYSTEM

PRIVATE DRAINAGE SYSTEM means drainage tile, catchment basins, ditches, diversions, lift stations, or culverts, owned by any individual, firm, partnership, association or corporation, installed for the purpose of agricultural land drainage, but does not include the same owned by public or political subdivisions or government units.

PUBLIC DRAINAGE SYSTEM means drainage tile, catchment basins, ditches, diversions, lift stations, or culverts, owned and maintained by public or political subdivisions or government units, installed for the purpose of all land drainage.

DRAINAGEWAY means any natural or artificial channel that provides a course for the flow of water, whether that flow is continuous or intermittent.

DRAWDOWN means lowering the water level of public waters.

DREDGING means removing sediment, silt or other deposits from public waters.

DIVERSION means a channel constructed across the slope with a supporting ridge on the lower side.

EROSION means the wearing away of land surfaces by the action of wind or water.

FILL means any material placed or intended to be placed on the bed or shoreland of public waters, watercourse or wetland.

FERTILIZER means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does *not* include animal and vegetable manures that are not manipulated, marl, lime, limestone and other products exempted by Rule by the Minnesota Commissioner of Agriculture.

FILTER STRIP (BUFFER STRIP) means a vegetated area adjacent to the shores of water bodies that help prevent contaminants from entering the water.

FLOODPLAIN means the land adjoining lakes and rivers that is covered by the “100-year” or “regional” flood. This flood is considered to be a flood that has a 1 percent chance of occurring in any given year.

FSA means Farm Service Agency.

GENERAL WELFARE means any benefit or contribution to the safety or well-being of the general public or inhabitants of the District. "General Welfare" is synonymous with "Public Welfare" or "Public Benefit."

GOVERNMENT UNIT means any legally constituted political subdivision having the powers of establishing governing policies, the authority to levy taxes, and having duly elected or appointed officials that form a governing body. Such government units include the United States of America, the State of Minnesota, the County of Freeborn, and all cities and townships within the District.

GOVERNMENTAL AGENCY means any legally constituted body performing in an advisory or support capacity to a duly-elected body. Such agencies include the U.S. Department of Agriculture, Minnesota Board of Water and Soil Resources, Minnesota Department of Natural Resources, Minnesota Pollution Control Agency, and Minnesota Department of Health.

HAZARDOUS BYPRODUCTS and HAZARDOUS WASTE, under Minnesota Statutes, section 116.06, subdivision 11, means any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may:

- (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
- (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

HORIZONTAL DISTANCE is the standard unit of measure unless otherwise specified.

ICE RIDGE means the ridge comprised of soil, sand and/or gravel often found in the shore impact zone near the ordinary high water mark of lakes, usually caused by wind-driven ice or ice expansion.

IMPAIRED WATERS means lakes and streams that fail to meet water-quality standards designed to protect them from pollution. The federal Clean Water Act requires states to assess all their waters for impairments and publish updated lists of them every two years.

IMPERVIOUS SURFACE means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and a faster flow than prior to development. Examples include, but are not limited to, rooftops, sidewalks, patios, storage areas, roads, streets, driveways, and parking lots constructed of concrete, asphalt, or compacted soils.

INDIVIDUAL SEWAGE TREATMENT SYSTEM (ISTS) means a sewage treatment system, or part thereof, serving a dwelling, other establishment, or group thereof, which uses subsurface soil treatment and disposal.

LEGAL DRAINAGE SYSTEM means a system established and administered under Minnesota Statute 103E.

LOCAL UNIT OF GOVERNMENT (LGU) means units of government other than federal or state.

MANAGERS means the Managers of the Shell Rock River Watershed District acting as a board and not as individuals, unless specifically stated to the contrary.

MANURE MANAGEMENT PLAN means a plan developed for the agronomic application of animal waste.

MARSH or MARSHLAND means a type of wetland that is a shallow depression formed by retreating glaciers. A marsh provides excellent habitat and breeding grounds for migratory birds. Also called prairie pothole.

MDH means Minnesota Department of Health.

MPCA means the Minnesota Pollution Control Agency.

MUNICIPAL SEWAGE TREATMENT SYSTEM means a sewage treatment system operated by a local government unit.

NPDES means National Pollutant Discharge Elimination System.

NRCS means Natural Resources Conservation Service.

ORDINARY HIGH WATER MARK means the boundary of water basins, water courses, public waters and wetlands as defined in Minnesota Statute 103G.005, Subdivision 14 (1991).

OVERALL PLAN means the governing plan of the District, otherwise known as the “Water Management Plan.”

PERMIT, WATERSHED DISTRICT means the permit document issued by the District for the purposes of permitting the applicant or permit holder to perform work in the District.

PERSON means any individual, firm, partnership, association, or corporation, including public or political subdivisions or government units.

PLAN means a map, drawing, report, photograph or other similar supportive exhibit for a proposed work project.

PRIVATE DRAINAGE SYSTEM means drainage tile, catchment basins, ditches, diversions, lift stations, or culverts, owned by any individual, firm, partnership, association or corporation, installed for the purpose of agricultural land drainage, but does not include the same owned by public or political subdivisions or government units.

PUBLIC DRAINAGE SYSTEM means drainage tile, catchment basins, ditches, diversions, lift stations, or culverts, owned and maintained by public or political subdivisions or government units, installed for the purpose of all land drainage.

PUBLIC HEALTH means any improvement to the general sanitary or environmental conditions of the District.

PUBLIC WATERS means a body of water capable of substantial public use. This definition includes any body of water with the potential to aid or support fish, wildlife and water quality protection; flood water retention; and any type of recreational pursuit or water supply purpose. This definition includes lakes, ponds, rivers and streams listed in the Public Waters Inventory of Minnesota Statute 103G.201 (1991).

RIP RAP means natural rock or concrete (with no exposed re-rod) of at least 12 inches in diameter or larger.

RUNOFF means water, including nutrients, pollutants, and sediments carried by water, discharged from land surface to a water body.

SEPTAGE means contents removed from septic systems or holding tanks.

SERVICE of sewage disposal systems and/or individual sewage treatment systems means repairing, cleaning, installing, pumping, or discharging the contents of such systems into a disposal area.

SEWAGE means human or animal sanitary sewage or waste (liquid, solid, or both), agricultural livestock waste, and household or commercial waste.

SHORE IMPACT ZONE means land located between the ordinary high water level of a public water and a line parallel to and 1/2 the structure setback from it. *Exception:* On property used for agricultural purpose, the shore impact zone boundary is a line parallel to and 50 feet from the ordinary high water level.

SHORELAND means land located within the following distances from public waters:

- (A) one thousand (1,000) feet from a normal high water mark of a lake
- (B) three hundred (300) feet from a river or stream bank

STORM WATER means precipitation runoff, storm water runoff, snowmelt runoff, and surface runoff and drainage.

STORM SEWER means a system of pipe installed specifically for transporting surface and/or underground water from one location to another. This system may include flumes, spillways, open channels or other drainage not continuously made of pipe.

SWAMP means shrubby or forested wetland found along the edges of lakes, rivers, and streams.

SWCD means Soil and Water Conservation District.

TERRACE means an earthen embankment, channel, or combination ridge and channel constructed across the slope.

TURF means non-crop land planted in closely mowed, managed grasses including, but not limited to, residential and commercial residential property, private golf courses, and property owned by federal, state or local units of government, including parks, recreation areas and public golf courses.

TOTAL MAXIMUM DAILY LOADING (TMDL) means the calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's source.

URBAN means characteristic of or relating to a city.

USDA means the U.S. Department of Agriculture.

WATER BASIN means a contiguous land area greater than 2 acres of Types 2, 3, 4, and 5 wetlands as defined in Minnesota Statutes 103G.222 (Wetland Conservation Act).

WATER SEDIMENT POND means a pond designed for allowing nutrients to settle out of flowing water.

WATERS OF SRRWD means waters of the state as defined in Minnesota Statutes 103.005, Subdivision 17 (1991) as well as wetlands defined in Minnesota Statutes 103G.222 that occur within the boundary of the Shell Rock River Watershed District.

WATERSHED District means the legally established agency named and referred to as the Shell Rock River Watershed District when the first letters are capitalized. When the first word "District" appears without capitalization, it means the lands gathered within the governmental unit, the Shell Rock River Watershed District, as established by the Minnesota Board of Water and Soil Resources.

WATERWAY means a natural or constructed grass channel that is shaped or graded to required dimensions and established in suitable vegetation for the stable conveyance of runoff.

WETLAND means all wetlands, as defined in Minnesota Statutes 103G.222 (Wetland Conservation Act).

ZONING ORDINANCE means the set of rules that affect the use of land or water, requiring a permit from the applicable governing body.