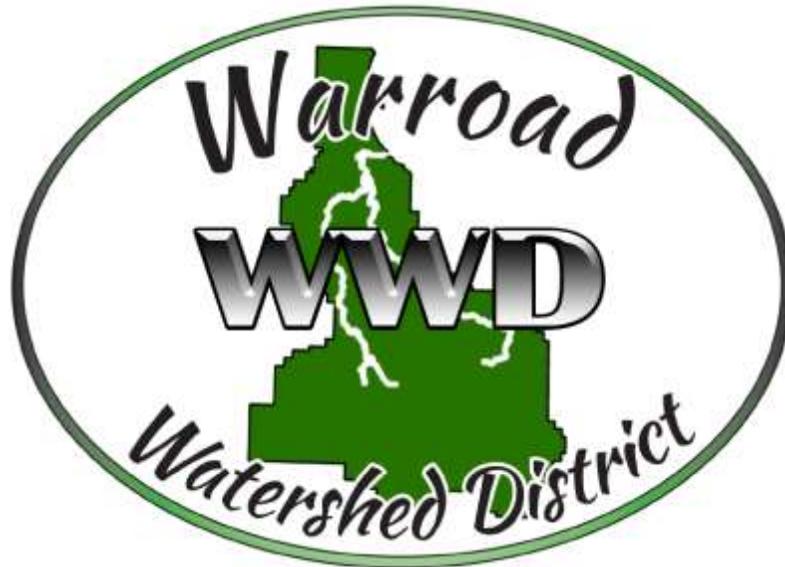


WARROAD WATERSHED DISTRICT

Amended Rules



Adopted: January 23, 2025

**WARROAD WATERSHED DISTRICT
DISTRICT RULES**

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FOR QUESTIONS, COMMENTS, OR FURTHER INFORMATION:

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- A Rules Guidance Document has also been adopted by the Board of Managers and is available upon request.

**WARROAD WATERSHED DISTRICT
DISTRICT RULES**

**PERMITTING PROCEDURES, FEES AND
FINANCIAL ASSURANCES RULE**

**Adopted January 23, 2025
Effective February 27, 2025**

1. **POLICY.** The District permit requirement is not intended to delay or inhibit development. Rather permits are needed so that the managers are kept informed of planned projects, can advise and in some cases provide assistance, and can ensure that land disturbing activity and development occurs in an orderly manner and in accordance with the overall plan for the District. All interpretations of these rules and permit decisions under these rules will incorporate and be consistent with District purposes set forth in Minnesota Statutes section 103D.201.

2. **PERMIT REQUIREMENT.** Any person or agency of the State of Minnesota or political subdivision undertaking an activity for which a permit is required by the District rules must first submit a permit application. The application must be submitted on the form provided by the District or the substantial equivalent, and must include all exhibits required by the applicable District rule(s). Application forms are available on the District web site at www.warroadwatershed.org.
 - A. All permit applications must bear the original signature of the landowner and identify all agents, contractors or subcontractors engaged in activities for which the permit is required.
 - B. No land-disturbing activity to which a District permit requirement applies may be commenced prior to the issuance of the District permit.
 - C. Permit decisions will be made by the Board of Managers. The District may approve or deny an application and may impose reasonable conditions on approval. Conditions may include, consistent with the rules, requirements for financial assurances and maintenance agreements or declarations, and may require that these documents be properly executed or recorded before permit issuance.
 - D. A permit is valid for one year from the date the permit is approved, with or without conditions, unless specified otherwise or the permit is suspended or revoked.
 - E. To renew or transfer a permit, the permittee must notify the District in writing prior to the permit expiration date and provide an explanation for the renewal or transfer request. The District may impose different or additional conditions on a renewal or deny the renewal in the event of a material change in circumstances,

except that on the first renewal, a permit will not be subject to additional or different requirements solely because of a change in District rules. New or revised rule requirements will not be imposed on renewal of a permit where the permittee has made substantial progress toward completion of the permitted work. If the activities subject to the permit have not substantially commenced, no more than one renewal may be granted. An applicant wishing to continue to pursue a project for which permit approval has expired must reapply for a permit from the District and pay applicable fees.

- F. A permittee may assign a permit to another party only upon approval of the District, which will be granted if:
- 1) the proposed assignee agrees in writing to assume responsibility for compliance with all terms, conditions and obligations of the permit as issued;
 - 2) there are no pending violations of the permit or conditions of approval; and
 - 3) the proposed assignee has provided any required financial assurance necessary to secure performance of the permit.

The District may impose different or additional conditions on the transfer of a permit or deny the transfer if it finds that the proposed transferee has not demonstrated the ability to perform the work under the terms of the permit as issued. Permit transfer does not extend the permit term. The District may suspend or revoke a permit issued under these rules wherever the permit is issued on the basis of incorrect information supplied to the District by the applicant,

- G. As authorized by statutes section 103D.335, subd. 14, the managers or their agents may enter lands inside or outside the watershed district to make surveys and investigations to accomplish the purposes of the watershed district. A permit applicant consents to entry and inspection of the subject property by the District and its authorized agents at reasonable times as necessary to evaluate the permit application or determine compliance with the requirements of a District permit or rule(s).
- H. A District permit is permissive. Obtaining a permit from the District does not relieve the applicant from responsibility to comply with any procedures, authorizations or approvals required by other law or regulatory body. Obtaining a permit from the District does not confer any rights to harm or cause damage to others.

3. GENERAL PERMITS. The District may issue district-wide general permits, approving certain routine activities or specific classes of projects where a standard design has been approved by the District, as long as the work is conducted in compliance with applicable District rule requirements. Each District-wide permit will be subject to such specific requirements as the Board may establish.

4. RECONSIDERATION.

- A. Before a permit decision is final for the purpose of appeal under Minnesota Statutes §103D.537, an applicant may request that the Board of Managers reconsider its decision. The applicant must submit a notice of reconsideration that includes concurrence in an extension of the time for District permit action under Minnesota Statutes §15.99. The notice must be submitted within 10 days of the permit decision and at least one day before the date by which a permit decision must be rendered under §15.99. Within 10 days of submitting the notice, the applicant must in writing enumerate for the District the specific findings or conditions for which reconsideration is requested, along with any additional submittals or argument supporting applicant's request.
- B. The District will give the applicant due notice of when the Board of Managers will reconsider the permit decision. The Board of Managers will adopt findings on reconsideration. The District will not take longer than 120 days to issue a final decision including reconsideration, unless a further extension is approved by the applicant.
- C. The permit decision is final if an applicant fails to timely file notice under paragraph 4.A, if the applicant otherwise waives the right of reconsideration, or if the Board of Managers is unable to reconsider the permit decision before the expiration of the District's time for review under §15.99. Otherwise, the Board of Managers' decision on reconsideration is the final decision.
- D. District costs incurred for reconsideration are permit administration costs for which an applicant may be responsible under Section 5 of this rule.

5. PERMIT AND INSPECTION FEES. The District will charge applicants permit and inspection fees in accordance with state law and a schedule maintained by the Board of Managers to ensure that permit fees cover the District's actual costs of administering and enforcing permits and the actual costs related to field inspections of permitted projects, such as investigation of the area affected by the proposed activity, analysis of the proposed activity, services of a consultant, and any required subsequent monitoring of the proposed activity. Costs of monitoring an activity authorized by permit may be charged and collected as necessary after permit issuance. The fee schedule may be obtained from the District office or the District's website at www.warroadwatershed.org. A permit applicant must submit the required permit fee to the District at the time it submits the relevant permit application. The fee provided by this rule will not be charged to any agency of the United States or any governmental unit or political subdivision of the State of Minnesota.

6. FINANCIAL ASSURANCE. The managers, at their discretion, may require an applicant to file a bond, letter of credit or other escrow deposit in a form approved by the District

as a condition of permit issuance. The amount of the financial assurance required will be set in accordance with a schedule established and maintained the Board of Managers by resolution. When the permitted activities are certified as having been completed in compliance with the District permit and rules, the financial assurance will be released.

- A. If the District determines that the permitted activities have not been completed in compliance with the permit and District rules, the Board of Managers may determine that the assurance is forfeited and the District may use the funds to take such actions the District deems necessary to bring the subject property into compliance with the permit and District rules, to prevent or mitigate harm to protected resources or other property, to abate or restore damages, or otherwise to ensure conditions in compliance with an applicable District permit and/or the District rules.
 - i. If financial assurance funds prove insufficient to complete necessary work, the District may complete the work and assess the permit holder and/or property owner for any excess costs.
- B. No financial assurance will be required of any agency of the United States or of any governmental unit or political subdivision of the State of Minnesota. The District may require that the District be named as a beneficiary in the financial assurance of the agency's contractor.

**WARROAD WATERSHED DISTRICT
DISTRICT RULE**

SURFACE DRAINAGE AND FLOOD MITIGATION

**Adopted January 23, 2025
Effective February 27, 2025**

1. POLICY. It is the policy of the Board of Managers to promote the use of the waters and related resources within the District in a provident and orderly manner to improve the general welfare and public health for the benefit of the District's present and future residents. Further, it is the policy of the Board of Managers to regulate new construction, improvement, repair and maintenance of legal and private drainage ways for the following purposes:

- A. To preserve the capacities of drainage systems to accommodate future needs.
- B. To improve water quality and prevent localized flooding.
- C. To prevent the loss of drainage capacity.
- D. To avoid drainage conditions that cause or aggravate erosion or sedimentation of downstream drainage ways or waterbodies.
- E. To ensure that parties responsible for accumulation of debris, soil and sediment in drainage ways maintain those drainage ways.

2. REGULATION

- A. A permit must be obtained from the District before undertaking any of the following:
 - i. Excavation of a new drainage way located within any public right of way.
 - ii. Work below the top of bank of an existing private drainage way within any public right of way that disturbs soil or alters the dimensions or hydraulic profile of the channel.
 - iii. Constructing, installing or altering a road or utility crossing beneath or over a legal drainage way.
 - iv. Constructing, altering or removing a dike which alters the flow of water.
- B. Section A notwithstanding, no permit from the District is required to:
 - i. Construct, establish or maintain a private drainage way or field drain, as long as the private drainage way is located outside of any public right of way.
 - ii. Install, repair, or replace subsurface tile drainage.
 - iii. Perform emergency work on any private drainage way located within a public right of way to avoid substantial property damage due to flooding, subsidence or other cause, in which case the District must be notified of

the work and the reasons for emergency action, as soon as possible. If at all possible, efforts to notify the District should be made before performing any emergency work. Any emergency work performed without the District's and governmental roadway authority's permission is performed at the owners own risk.

- iv. Disturb surface soils in the course of ordinary cultivation or other agricultural activity.
 - v. Add a crossing or perform maintenance on a culvert in a public right-of-way that is already permitted by the appropriate city, county, state or federal entity.
- C. The requirements of this rule are in addition to other applicable laws and procedures, including those of Minnesota Statutes chapter 103E. This rule is to provide for management of waters in the public interest and does not displace in whole or part any private legal rights a property owner or other person may have with respect to the use and drainage of waters.
- D. A contractor or equipment operator is responsible to ascertain whether a permit is required by this rule and, if so, that it has been obtained.
3. SURFACE DRAINAGE. The following criteria apply to applications under this rule other than those for the construction, alteration or removal of a dike:
- A. An applicant may use their land reasonably in disposing of surface water and may collect the natural surface drainage into a drainage way.
 - B. An applicant may not dispose of or alter the flow of surface water so as to unreasonably burden another landowner with surface flow.
 - C. Surface water will not be artificially directed from upper land to and across lower land without adequate provision on the lower land for its passage.
 - D. Surface water will not be artificially directed into a legal drainage system from land not assessed to that system.
 - E. Temporary storage and retention basins on the parcel or parcels proposed to be drained will be used to the extent feasible for upstream storage and to limit peak flows, prevent erosion and avoid increased demand on public drainage systems.
 - F. Erosion and downstream siltation will be controlled by the following means:
 - i. All work involving exposed or stockpiled soil or materials subject to erosion will conform to an erosion and sediment control plan approved by the District.
 - ii. Open drainage ways will be stabilized with vegetation above the low water mark or other best management practices to reduce channel erosion.
 - iii. To reduce sediment transport, where feasible drainage will be discharged

through marsh lands, swamps, retention basins or other treatment facilities prior to release into the receiving public water. Where feasible, a retention basin will overflow to a wide, shallow grassed waterway.

- iv. Drainage ways will be constructed with side slopes designed in accordance with proper engineering practice to minimize erosion, giving due consideration to the intended capacity of the drainage way; its depth, width and elevation; and the character of the soils to be drained.
- v. Water inlets, culvert openings and bridge approaches must have adequate shoulder and bank protection to minimize land and soil erosion.
- vi. Channels and outfalls must be designed to be stable.
- vii. Consideration for establishment and maintenance of a grass filter strip 16.5 feet in width where possible on each side of a new drainage way and on each side of an existing drainage way which is subject to work for which a permit is required by this rule.

G. The proposed activity may not adversely affect downstream water quality or quantity.

4. DIKES. The following criteria apply to the construction, alteration or removal of a dike:

- A. The dike may not unreasonably restrict flow onto downgradient property.
- B. The dike may not be constructed or maintained within the 100-year floodplain unless plans and specifications, signed by a registered engineer, are submitted showing that:
 - i. The work will not impede 100-year flood flows outside of the delineated retention area, or raise the 100-year flood level or increase flood peak downstream;
 - ii. Overflow sections are designed to handle overtopping during major floods without significant erosion or risk of failure and without sandbagging or other manual measures before or during a flood; and
 - iii. The capacity of pumping facilities to remove surface water stored behind a dike is consistent with criteria of the Minnesota Hydrology Guide.
- C. Operational procedures must prohibit pumping when the dike is overtopped during a rain or snow-melt event until downstream flood peaks have occurred.
- D. Outlet drainage must be sized to the applicable capacity in the Minnesota Hydrology Guide (Curve 1) for agricultural drainages, or other technical specifications established by the District.
- E. A permit to construct or maintain an agricultural dike will be conditioned on the applicant's granting the District the right in perpetuity to:
 - i. Install and maintain traps/gates to restrict or eliminate outflow from the diked area during and after overtopping flood events; and
 - ii. Enter on the subject property to operate traps/gates during and after an overtopping flood event.

5. EXHIBITS. The following exhibits may be requested to accompany the permit application.
 - A. Map showing location of project and tributary area.
 - B. Plans and specifications for the project.
 - C. Existing and proposed cross sections and profile of affected area.
 - D. Description of bridges or culverts required.
 - E. Narrative and calculations of hydrology and hydraulics describing wetland impacts and effects on water levels above and below the project area.
 - F. List of owners of properties benefitted or affected by the proposed work.
 - G. Such other submittals as the District reasonably may require to evaluate whether the proposed activity meets the standards of this rule.

DEFINITIONS

“Dike” means a man-made permanent structure designed to block, impede, detain, or retain the flow of water. The material shall be non-combustible or non-degradable.

“Drainage way” means an open channel to conduct the flow of water. A drainage way includes incidental tiled sections.

“Legal drainage way” means a drainage way under the jurisdiction of the drainage authority pursuant to Minnesota Statutes chapter 103E.

“Private drainage way” means a drainage way other than a legal drainage way.

“Improve” has the meaning set forth at Minnesota Statutes §103E.215, subdivision 2.

“100-year Floodplain” means the area within and adjacent to a watercourse or water basin, as those terms are defined in Minnesota Statutes chapter 103G, that is inundated during the 24-hour precipitation event with a recurrence interval of 100 years.

**WARROAD WATERSHED DISTRICT
DISTRICT RULE**

Pursuant to authority granted by Minnesota Statutes section 103D.341

ENFORCEMENT RULE

**Adopted January 23, 2025
Effective February 27, 2025**

1. **MANNER OF ENFORCEMENT.** In the event of a violation or threatened violation of a District rule, permit, order or stipulation, or a provision of Minnesota Statutes chapter 103D, the District may take action to prevent, correct or remedy the violation or any harm to water resources resulting from it. Enforcement action includes but is not limited to injunction; action to compel performance, abatement or restoration; and prosecution as a criminal misdemeanor in accordance with Minnesota Statutes sections 103D.545 and 103D.551.

2. **INVESTIGATION OF NONCOMPLIANCE.** The District's authorized representatives may enter and inspect a property in the watershed to determine the existence of a violation or threatened violation as described in section 1, above.

3. **ADMINISTRATIVE COMPLIANCE ORDER.** The District may issue a preliminary compliance order without notice or hearing when it finds a violation or threatened violation as described in section 1, above, and that the violation or threatened violation presents a serious threat of adverse effect on water resources. A preliminary compliance order may require that the property owner or responsible contractor cease the land-disturbing activity; apply for an after-the-fact permit; and take corrective or restorative action. A preliminary compliance order is not effective for more than ten days.

4. **BOARD HEARING.** After due notice and a hearing at which evidence may be presented, the Board of Managers shall make findings. If the Board finds a violation as described in section 1, above, it may issue a compliance order of indefinite duration that may require the property owner or responsible contractor to cease land-disturbing activity; apply for an after-the-fact permit; take corrective or restorative action; reimburse the District for costs under Minnesota Statutes section 103D.345, subdivision 2; and/or be subject to any other remedy within the District's authority. A compliance order may supersede a preliminary order or may be issued without a prior preliminary order.

5. **LIABILITY FOR ENFORCEMENT COSTS.** To the extent provided for by Minnesota Statutes section 103D.345, subdivision 2, a property owner or responsible contractor is liable for investigation and response costs incurred by the District under this rule, including but not limited to the costs to inspect and monitor compliance, engineering and other technical analysis costs, legal fees and costs, and administrative expenses.

6. **CONTRACTOR LIABILITY.** Any individual, firm, corporation, partnership, association or

other legal entity contracting to perform work subject to one or more District rules will be responsible to ascertain that the necessary permit has been obtained and that the work complies with the permit, rules and statutes and any applicable District orders or stipulations. A contractor that, itself or through a subcontractor, engages in an activity constituting a violation or threatened violation under section 1, above, is a responsible contractor for purposes of this rule.