

4 Rule C: Floodplain and Drainage Alteration Rule

4.1 POLICY

It is the District's policy to

- A. regulate alterations within the floodplain and drainageways within the watershed to provide flood protection to natural resources, permanent structures, and private lands, in accordance with Minnesota Statutes 103F;
- B. preserve existing water storage capacity below the 100-year high-water elevation of all public waters, wetlands subject to the Wetland Conservation Act, and public drainage systems subject to Minnesota's buffer law in the watershed to minimize the frequency and severity of high water; and
- C. minimize development below the Federal Emergency Management Agency (FEMA) 100-year flood elevation that will unduly restrict flood flows or aggravate known high water problems.

4.2 REGULATION

A Municipal or Individual Project permit is required for any alteration to or filling of land below the 100-year flood elevation of any wetland, public water, or landlocked subwatershed (as identified by municipalities) in accordance with state-approved floodplain management and shoreland ordinances.

4.3 EXCEPTIONS

A floodplain and drainage alternation permit is not required if all of the following conditions exist:

- A. The 100-year flood elevation of a waterbody is entirely within a municipality.
- B. The water basin is landlocked.
- C. The municipality has adopted a floodplain ordinance regulating floodplain encroachment.
- D. The proposed project is entirely within the water basin drainage area.

4.4 CRITERIA

All permitted projects under this rule shall be subject to the following criteria and shall be completed in accordance with state-approved floodplain management and shoreland ordinances:

- A. Placement of fill below the 100-year flood elevation is prohibited unless documentation prepared by a professional engineer shows that the proposed fill will not cause a rise in the 100-year flood elevation of the waterbody.
 - i. A no rise certification to the 0.00-foot by a professional engineer satisfies this requirement.
 - ii. Compensatory storage may be used to offset proposed fill in the floodplain, but does not take the place of a no rise certification. If used, the compensatory storage shall be created before the proposed fill is placed in the floodplain, unless the permit applicant demonstrates that doing so is impractical and that placement of fill and creation of compensatory storage can be achieved concurrently.

- B. All new residential, commercial, industrial, and institutional structures shall be constructed such that the lowest floor of the lowest enclosed area (including basement or crawl space) is at a minimum of two (2) feet above the 100-year high water elevation, unless they have protection through floodproofing or by another approved construction technique.
- C. No permanent structure, except for FEMA and National Flood Insurance Program approved structures and uses, may be constructed in the floodway.
- D. No person shall install or remove a crossing, or other artificial means to remove or drain surface water, create artificial pond areas, or obstruct the natural flow of waters without demonstrating that the activity has no adverse impact on upstream or downstream landowners or water quality, habitat, or fisheries.
- E. Temporary placement of fill within the floodway for river dredge, including facilities for such activity, shall be allowed when it is conducted in agreement with the United States under the Rivers and Harbors Act and it meets requirements of the LGU.

Temporary placement of fill, other than in Section 4.4.E, is not allowed without prior approval by the District.

4.5 REQUIRED INFORMATION AND EXHIBITS

The following exhibits must accompany the permit application (one hardcopy set of plans [11 inches by 17 inches] and one set as electronic files in a format acceptable to the District):

4.5.1 Narrative

A cover letter and narrative that includes the following:

- A. Total project area and locations of proposed floodplain or drainage alterations.
- B. An explanation of existing and proposed conditions
- C. The name, address, and telephone number(s) of all property owners
- D. The name, address, and telephone number(s) for all contractors undertaking land-disturbing activities as part of the proposed project
- E. The property owner's signature
- F. A statement granting the District and its authorized representatives' access to the site for inspection purposes

4.5.2 Site Plan:

A site plan showing the following information:

- A. Property lines
- B. Delineation of the work area
- C. Existing elevation contours of the work area
- D. Proposed elevation contours

- E. Ordinary high water level or normal water elevation and existing and proposed 100-year flood elevations determined by a professional engineer. All elevations must reference the North American Vertical Datum of 1988 (NAVD88).

4.5.3 Floodplain Fill Calculations

Determination by a professional engineer of the 100-year flood elevations for the parcel before and after the project, including:

- A. Tabulation of cut, fill, and compensatory storage resulting from the proposed activity.
- B. Tabulation and documentation of the change in water storage capacity and conveyance resulting from proposed activity in a format acceptable to the District.
- C. A no-rise certification, including supporting hydraulic modeling files or calculations, workmaps, and reports.

4.5.4 Erosion and Sediment Control Plan

An erosion and sediment control plan including the following:

- A. Topographic maps of existing and proposed conditions that clearly indicate all hydrologic features and areas where grading will expose soils to erosive conditions as well as the flow direction of all runoff (single-family home construction or reconstruction projects may comply with this provision by providing satellite imagery or an oblique map acceptable to the District)
- B. Tabulation of the construction implementation schedule for all projects, except construction or reconstruction of a single-family home
- C. Name, address, and phone number of the individual responsible for inspection and maintenance of all erosion and sediment control measures
- D. Temporary erosion and sediment control measures that will remain in place until vegetation is established
- E. All final erosion control measures and their locations
- F. Staging areas, as applicable
- G. Delineation of any floodplain and/or wetland area changes
- H. Documentation of the project's NPDES Construction Stormwater Permit status, if applicable

4.5.5 Easements

Documentation that drainage and flowage easements over all land and facilities below the 100-year flood elevation, if required by the municipality with jurisdiction, have been conveyed and recorded. For public entities, this requirement may be satisfied by a written agreement executed with the District in lieu of a recorded document. The agreement must state that, if the land within the 100-year floodplain is conveyed, the public body will require the buyer to comply with this subsection.