



## Agenda

### Vermillion River Watershed Planning Commission

November 17, 2021 – 4:00 p.m., In-person and Teleconference via Zoom

1. Call to Order
2. Roll Call
3. Audience Comments on Items Not on the Agenda  
*(please limit audience comments to five minutes)*
4. Approval of Agenda Action
5. Approval of Minutes from the October 13, 2021 Meeting Action
6. Business Items
  - a. Presentation of Riparian Landowner Survey Report Information
  - b. Final Draft VRWJPO Budget Action
  - c. Wetland Health Evaluation Program Action
  - d. Meeting Schedule 2022 Action
  - e. Model Ordinance Update Information
  - f. Vermillion River Watershed Planning Commission Member Terms and Status Information
7. Updates
  - a. Chairperson's Report
  - b. Staff Updates
8. Adjourn Action

**Please note**, the November 17, 2021 Watershed Planning Commission meeting will take place **in-person** in Conference Room A at the Extension and Conservation Center, 4100 220<sup>th</sup> Street West, Farmington Minnesota **and via teleconference** on the web-based application, Zoom.

Join Zoom Meeting

<https://dakotacountymn.zoom.us/j/98024454197?pwd=RGlgYi9LVXNKSOFDQ3NUI3BBMFNoUT09>

Meeting ID: 980 2445 4197

Passcode: 239091

One tap mobile

+16513728299,,98024454197#,,,,\*239091# US (Minnesota)

Dial by your location



+1 651 372 8299 US (Minnesota)  
Meeting ID: 980 2445 4197  
Passcode: 239091  
Find your local number: <https://dakotacountymn.zoom.us/j/98024454197>

#### Other Information

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Next Meeting Date: **January 12, 2022** at 4:00 p.m.

Please confirm your attendance by **contacting Mark Zabel at [mark.zabel@co.dakota.mn.us](mailto:mark.zabel@co.dakota.mn.us)**  
You will be notified if the meeting is cancelled due to an anticipated lack of quorum.



# Minutes

## Vermillion River Watershed Planning Commission Meeting

October 13, 2021 – 4:00 p.m.  
In-person and Zoom Videoconference

### WPC Members in Attendance

Mark Henry      Chuck Clanton  
Josh Borton      James Kotz  
Ken Betzold      Carolyn Miller  
Andy Riesgraf

### Staff in Attendance

Mark Ryan, VRWJPO  
Brita Moore-Kutz, VRWJPO  
Travis Thiel, VRWJPO  
Paula Liepold, Dakota County

### Others in Attendance

Curt Coudron, Dakota County SWCD

### 1. Call to Order and Pledge of Allegiance

The meeting was called to order by Vice-chair Betzold at 4:00 p.m.

### 2. Roll Call

All members present except Tony Wotzka and Stephen Hamrick.

### 3. Audience Comments on Items Not on the Agenda

None.

### 4. Approval of Agenda

Chair Henry asked for approval of the agenda.

*Motion by Commissioner Borton, second by Commissioner Betzold, to approve the agenda. The agenda was unanimously approved by a 7-0 vote.*

### 5. Approval of Minutes

Chair Henry requested any adjustments to the minutes as presented. Upon hearing none, Chair Henry called for a motion to approve the minutes of the August 11, 2021, meeting of the WPC.

*Motion by Commissioner Clanton, second by Commissioner Kotz, to approve the minutes of the August 11, 2021, meeting, as distributed. The minutes were approved by a 5-0 vote. Commissioners Henry and Miller abstained.*

## 6. Business Items

### a. VRWJPO Draft CIP Plan Document and Project Information

Mark Ryan described an initiative by the VRWJPO to develop long term planning for Capital Improvements as requested by the Vermillion River Watershed Joint Powers Board (VRWJPB). The VRWJPB is requesting this to plan for long term expenditures on CIP especially for larger scale projects. Two challenges that are encountered is one, we don't know that we will have budget for all projects, and two, funding for many of our projects comes through grants and we cannot anticipate availability of applicable grant funding. What is being presented is a draft format outlining CIP for a five-year period. Mark presented a table showing the five-year CIP Plan showing projects broken out by subwatershed and showing the expected year of implementation/ expenditure. Some amounts shown are estimates to guide identifying future projects. Mark referred to grant applications for 2022 shown in the table for \$841,500 that are pending from Clean Water Fund (CWF) Competitive Grant funding through the Minnesota Board of Water and Soil Resources (BWSR). Mark described the Watershed Based Implementation Fund Grant through BWSR that is Clean Water Funds allocated to the Vermillion River watershed area every two years through the life of the Legacy Amendment and assumptions for those funds in the CIP Plan. Commissioner Clanton asked if staff are relatively assured of the revenues identified in the Draft CIP Plan. Mark Ryan responded that the projected revenues are not guaranteed and so there is some uncertainty associated with those numbers. Commissioner Clanton suggested color coding to identify the levels of uncertainty. Commissioner Kotz asked if there was a certain time of year when grants are open for application. Mark and Travis Thiel responded that we generally look to apply to two grant opportunities and those generally happen at two different times, CWF Competitive late Summer and Conservation Partners Legacy (CPL) which has two application periods, late Summer and Winter. Commissioner Kotz asked if those grants were all related to the Legacy funding. Travis replied that all CWF is Legacy funding through the Clean Water portion and CPL is also Legacy funding through the Outdoor Heritage portion. Travis described the CPL grant application for East Lake for Carp and Goldfish control. Commissioner Clanton asked if the VRWJPO ever applies for Federal Funding such as Section 319 funds through the Federal Clean Water Act. Mark and Travis identified that the VRWJPO has not recently applied for Federal Grant funds in part due to higher match requirements.

Mark then opened a second attachment (B) which outlined project expenditures by subwatershed, the amount of that project funding that came directly from VRWJPO funds, and what was identified for target expenditure in the Vermillion River Watershed Plan Implementation Section. Commissioner Clanton asked what the Watershed Plan column represented for expenditures. Mark commented that the column represents the planned target expenditures for the 10-year duration of the Plan. The Project Costs column reflects the expenditures to date (i.e. the first five years of the Plan). Mark noted that the diminishing amounts in Watershed Plan column reflect the priority applied to those subwatersheds going from upstream to downstream applying the concept that improvements upstream would support improvement going downstream. Mark went on to describe some of the challenges encountered in implementing projects in different areas of the watershed. Commissioner Clanton asked where the watershed was split between the Upper, Middle, and Lower Mainstem. Mark called up a map showing the division. Commissioner Miller asked why more attention isn't being paid to the Upper Mainstem such as stream restorations or other projects. Mark responded that Scott WSCD is pursuing an updated subwatershed assessment through WBIF funding. Mark also identified that some of the challenges in that area are in coordination and cooperation with private landowners in that area as much of the ditches and waterways are privately owned. Commissioner Miller expressed her hope that there will be opportunities for restorations in that area especially providing a

return toward a more naturalized environment. Curt Coudron asked if the plan accounts for grant funding or other dollars for CIP. Mark responded that the Plan does not include grant funding due to its uncertainty. Travis added that the Plan does identify the overall funding need and then identified what is a reasonable target for expenditures. Grant funding allows an acceleration of targeted expenditure. Travis was asking for input from the Watershed Planning Commission members on where priorities should be set for future CIP. Mark also asked for input on how we can overcome barriers that might be impacting getting projects in certain areas. Commissioner Henry asked if there is any interest or planning for reestablishing meanders in the South Branch. This may be possible if working with a willing partner. That type of work would require an easement if done with a CPL grant. Commissioner Kotz asked to review how subwatershed priorities were set. Travis described the consideration for watershed improvement overall based on subwatershed position and the potential impact to downstream areas.

## **7. Updates**

### **a. Chairperson's Report**

Chair Henry reported that he had a conversation with a fisherman from Winona who was fishing near a bridge on the South Branch. Commissioner Henry asked why he might be fishing here. The fisherman told him that he fishes all over southeast Minnesota and the largest trout he has caught has been out of the Vermillion River.

Commissioner Henry is seeing more cover crop applied in the watershed.

### **b. Staff Updates**

Brita Moore-Kutz reported tabling at the Dakota County Fair and at the State Fair with Metro Watershed Partners promoting the Adopt-A-Drain Program. Brita is tabling with Confluence of Stewards in Fridley with Freshwater (Society) and recruiting Stewards for the program in the Vermillion River Watershed. WPC member Kotz and Riesgraf are certified Stewards through the program. Brita will be at the City of Lakeville's "A Day Without Water" at the City's Water Treatment Plant providing information about protecting water. Brita will be speaking with the Farmington Rotary Club about volunteer opportunities in the watershed in general, but particularly in Farmington. Brita will be attending the Minnesota Water Resources Conference along with other VRWJPO staff and several Dakota County staff as well. The Fall VRWJPO Newsletter is out. Brita is developing an RFQ for interpretive signs for select projects. Brita was at Whitetail Woods taking some pictures with there open house. The VRWJPO is beginning to explore the development of their own volunteer program(s).

Commissioner Clanton mentioned an Agricultural Chemical Reduction Effort meeting scheduled for Monday.

Mark Ryan opened a map/ air photo showing Erickson Park where a water quality improvement project is being implemented. A portion of the park is being converted to a wet pond that bounces up to an overflow to a sand filter filtration basin during significant runoff events.

Mark Ryan reported to the WPC on Open Meeting Law requirements under Section M.S. 13D.02. Since the Emergency Declaration on the COVID-19 Pandemic in Minnesota has been lifted, attendance remotely by interactive technology is limited to only qualified participants as identified in the Statute.

**8. Adjourn**

*Motion by Commissioner Betzold, second by Commissioner Clanton, to adjourn the meeting at 5:11 p.m.  
The motion passed on an 7-0 vote.*

DRAFT

**6a. Presentation of the Report on the University of Minnesota Riparian Landowner Survey**

Meeting Date: 11/17/2021  
Item Type: Information  
Contact: Mark Zabel  
Telephone: 952-891-7011  
Prepared by: Mark Zabel



**PURPOSE/ACTION REQUESTED**

- Presentation of the Report on the University of Minnesota Riparian Landowner Survey

**SUMMARY**

The Vermillion River Watershed Joint Powers Organization (VRWJPO) contracted with the University of Minnesota (UM) to complete a riparian landowner survey in 2010. The purpose of the survey was to evaluate attitudes and behaviors associated with aquatic resources and their conservation. The VRWJPO contracted with the UM in 2020 to repeat the survey to assess changes that may have occurred over the 10 years between surveys and to obtain information that the VRWJPO can apply as we engage people in implementing our conservation mission.

Amit Pradhananga, Research Associate at the UM Department of Forest Resources - Center for Changing Landscapes, and team leader on this project will present the survey and its findings.

# Executive Summary

This report describes a social science-based assessment of landowner conservation behavior in the Vermillion River Watershed of present-day Minnesota. The study was conducted by the Center for Changing Landscapes, University of Minnesota (UMN), in collaboration with the Vermillion River Watershed Joint Powers Organization (VRWJPO). The purpose of this study was to understand landowner values, attitudes, and behaviors associated with water resources and conservation practices. Study findings will assist water resource professionals in land use planning and evaluating program outcomes. Data were collected through a self-administered mail survey of a random sample of 1000 landowners who live within the Vermillion River Watershed in present-day Minnesota. Overall, 253 landowners completed and returned the survey for a response rate of 24.5%.

## Key Findings

- Landowners surveyed place a high value on clean water and view themselves as environmental stewards. Most landowners also feel a personal obligation to do whatever they can to prevent water pollution and use conservation practices.
- Most landowners draw links between water pollution and its impacts on public health and quality of life, and believe that water resources in Minnesota need better protection. Most landowners also agree that conservation practices protect aquatic life and contribute to quality of life in their community.
- Landowners believe that streamside buffers help to improve water quality but were unsure whether buffers reduce land values.
- Landowners feel a sense of personal as well as collective responsibility to protect water and believe that it is important to protect and restore Minnesota's waters for various values and uses.
- On average, the most trusted individuals or organizations were family, the county's Soil and Water Conservation District, MN Department of Natural Resources, local watershed management organization, and a University of Minnesota Extension agronomist/ag advisor.
- The most widely used conservation practices among landowners were minimizing use of fertilizers/pesticides on lawns and gardens, pollinator friendly plantings, and native plants or shrubs in their yards.
- Only half of the landowners surveyed feel obligated to engage in civic actions (e.g., work with other community members to protect the environment or talk to others about conservation practices). Less than half of the landowners surveyed intend to take civic actions to protect water resources.
- A comparison of 2011 and 2021 respondents indicates that landowners' engagement in civic actions has increased. However, levels of engagement remain generally low.
- Overall, compared with 2011 landowners, those surveyed in 2021 place more responsibility on landowners and local government for water quality protection.
- Compared with 2011 landowners, those surveyed in 2021 agree to greater extent that the effects of water pollution on public health are worse than we realize.



**6b. Recommend Adoption of the Vermillion River Watershed Joint Powers Organization 2022 Final Draft Budget and Watershed Management Tax District Levy**

Meeting Date: 11/17/2021  
Item Type: Regular-Action  
Contact: Mark Zabel  
Telephone: 952-891-7011  
Prepared by: Mark Zabel  
Reviewed by: N/A

N/A



**PURPOSE/ACTION REQUESTED**

- Recommend adoption of the Vermillion River Watershed Joint Powers Organization 2022 Final Draft Budget and Watershed Management Tax District Levy

**SUMMARY**

The proposed Vermillion River Watershed Joint Powers Organization (VRWJPO) 2022 Final Draft Budget (included as Attachment – VRWJPO Final Draft 2022 Budget ) is \$1,942,600 including cash reserves, Clean Water Fund grants, and Watershed Based Implementation Fund grants. The draft VRWJPO 2022 Budget recommends a Watershed Management Tax District Levy of \$1,000,000; \$32,500 in the Scott County portion of the watershed and \$967,500 in the Dakota County portion of the watershed. This amount is unchanged from the overall Watershed Management Tax District levy compared to 2021. The draft budget reflects recommendations from VRWJPO staff, partners, and items from the implementation section of the Watershed Plan.

An approved 2022 budget will remain “draft” until such time as the Vermillion River Watershed Joint Powers Board (VRWJPB) approves a budget and the Dakota County and Scott County Boards approve the Watershed Management Tax District Levy in December of 2021.

**RESOLUTION**

**6b. Recommendation to Adopt the Vermillion River Watershed Joint Powers Organization 2021 Final Draft Budget and Watershed Management Tax District Levy**

**WHEREAS**, the Vermillion River Watershed Joint Powers Organization requires a budget and the subsequent levy to implement the programs and projects described in its Watershed Management Plan; and

**WHEREAS**, the Vermillion River Watershed Planning Commission has reviewed and discussed the VRWJPO 2022 Final Draft Budget and Vermillion River Watershed Management Tax District Levy.

**NOW, THEREFORE, BE IT RESOLVED**, that the Vermillion River Watershed Planning Commission hereby recommends approval of the VRWJPO 2022 Final Draft Budget totaling \$1,942,600 and recommends a Vermillion River Watershed Management Tax District Levy of \$1,000,000 (\$32,500 in the Scott County portion of the watershed and \$967,500 in the Dakota County portion of the watershed).

## VRWJPO Draft 2022 Budget

<u>Category</u>	<u>Budget Items</u>	<u>2022 Draft Budget Amount</u>	<u>Budget % of Total</u>	<u>2021 Revised Budget Amount</u>	<u>Budget % of Total</u>
<b>EXPENSES</b>					
<b>Administration and Operations</b> <b>-2170020000</b>	1 Dakota County VRW Staff	\$180,500	9.3%	\$180,500	7.2%
	2 Scott County VRW Staff	\$15,000	0.8%	\$15,000	0.6%
	3 Other Dakota County Staff Time	\$12,000	0.6%	\$12,000	0.5%
	4 Legal Support	\$25,000	1.3%	\$25,000	1.0%
	5 Miscellaneous Expenses (per diems, mileage, postage, etc.)	\$6,000	0.3%	\$6,000	0.2%
	6 Training, Conferences, and Certifications	\$2,000	0.1%	\$2,000	0.1%
<b>Subtotal Administrative</b>		<b>\$240,500</b>	<b>12.4%</b>	<b>\$240,500</b>	<b>9.6%</b>
<b>Research and Planning</b> <b>-2170020130</b>	1 Dakota SWCD Incentive Program Policy Assistance	\$1,600	0.1%	\$1,600	0.1%
	2 Scott County Staff	\$2,000	0.1%	\$2,000	0.1%
	3 VRW Staff	\$12,000	0.6%	\$12,000	0.5%
	4 Conservation Attitudes and Behaviors Survey	\$0	0.0%	\$50,000	
<b>Subtotal Research and Planning</b>		<b>\$15,600</b>	<b>0.8%</b>	<b>\$65,600</b>	<b>2.6%</b>
<b>Monitoring and Assessment</b> <b>-2170020230</b>	1 Vermillion River Monitoring Network in Dakota Co.				
	1a Staff Time for Sample Collection, Equipment Installation, Maintenance, Downloading	\$39,000	2.0%	\$39,000	1.6%
	1b Data analysis, database management, data reporting, FLUX modeling, reporting	\$17,000	0.9%	\$17,000	0.7%
	1c Water Quality Sample Analysis and QA/QC samples	\$19,000	1.0%	\$19,000	0.8%
	1d Equipment and Supplies	\$8,000	0.4%	\$8,000	0.3%
	2 Vermillion River Monitoring Network in Scott Co	\$9,800	0.5%	\$9,800	0.4%
	3 USGS Cost Share for Blaine Ave. Station	\$8,900	0.5%	\$8,900	0.4%
	4 DNR Flow Gaging Assistance	\$9,700	0.5%	\$9,700	0.4%
	5a Biological and Habitat Assessments	\$7,000	0.4%	\$7,000	0.3%
	5b Electrofishing	\$16,000	0.8%	\$16,000	0.6%

## VRWJPO Draft 2022 Budget

<u>Category</u>	<u>Budget Items</u>	<u>2022 Draft Budget Amount</u>	<u>Budget % of Total</u>	<u>2021 Revised Budget Amount</u>	<u>Budget % of Total</u>
	6 Monitoring Programs Review and Evaluation	\$15,000	0.8%	\$15,000	0.6%
	7 General GIS support (Dakota SWCD)	\$5,000	0.3%	\$5,000	0.2%
	8 Nitrate Treatment Practice Sampling	\$1,000	0.1%	\$1,000	0.0%
	9 Iron Enhanced Sand Filter Performance Sampling	\$2,000	0.1%	\$2,000	0.1%
<b>Subtotal Monitoring and Data Analysis</b>		<b>\$157,400</b>	<b>8.1%</b>	<b>\$157,400</b>	<b>6.3%</b>
<b>Public Communications and Outreach</b>	1 Communication and Outreach Staff	\$100,000	5.1%	\$110,000	4.4%
	2 Vermillion River Watch Program	\$6,000	0.3%	\$6,000	0.2%
	-2170020330 3 Vermillion River Stewards	\$0	0.0%	\$20,000	0.8%
	4 Scott County Outreach Efforts	\$2,250	0.1%	\$2,050	0.1%
	5 Vermillion River Watershed Projects Signage and Map Updates	\$5,000	0.3%	\$5,000	0.2%
	6 Newsletter, Mailings, Website, General Communication Materials	\$10,000	0.5%	\$10,000	0.4%
	7 Landscaping for Clean Water Workshop Program (Dakota SWCD)	\$30,400	1.6%	\$30,400	1.2%
	8 K-12 Classroom Presentations (Dakota SWCD)	\$4,000	0.2%	\$4,000	0.2%
	9 Watershed Tours	\$0	0.0%	\$1,500	0.1%
	10 Local Standards/ Ordinance and Turf/ Salt Workshops	\$3,500	0.2%	\$3,500	0.1%
<b>Subtotal Public Outreach and Communication</b>		<b>\$161,150</b>	<b>8.3%</b>	<b>\$192,450</b>	<b>7.7%</b>
<b>Regulation</b>	1 Scott SWCD Assistance with Plan Review	\$900	0.0%	\$900	0.0%
	-2170020530 2 Engineering Assistance and Review	\$35,000	1.8%	\$45,000	1.8%
	3 VRW Staff Local Program Assistance	\$20,000	1.0%	\$20,000	0.8%
<b>Subtotal Regulation</b>		<b>\$55,900</b>	<b>2.9%</b>	<b>\$65,900</b>	<b>2.6%</b>
<b>Coordination and Collaboration</b>	1 Coordination VRW Staff	\$32,000	1.6%	\$32,000	1.3%
	2 Wetland Health Evaluation Program Cost Share	\$0	0.0%	\$3,000	0.1%
	-2170020531 3 Children's Water Festival Support	\$600	0.0%	\$600	0.0%

## VRWJPO Draft 2022 Budget

<u>Category</u>	<u>Budget Items</u>	<u>2022 Draft Budget Amount</u>	<u>Budget % of Total</u>	<u>2021 Revised Budget Amount</u>	<u>Budget % of Total</u>
	4 Watershed Partners	\$5,000	0.3%	\$5,000	0.2%
	5 Master Water Stewards	\$5,000	0.3%	\$5,000	0.2%
<b>Subtotal Coordination and Collaboration</b>		<b>\$42,600</b>	<b>2.2%</b>	<b>\$45,600</b>	<b>1.8%</b>
<b>Land and Water Treatment</b>					
	1 Cost Share Programs in Dakota County (SWCD)	\$80,000	4.1%	\$80,000	3.2%
<b>Capital Improvement Projects</b>	2 Cost Share Programs in Scott County (SWCD)	\$31,300	1.6%	\$41,300	1.7%
<b>-2170920130</b>	3 Cost-share	<b>\$213,750</b>	11.0%	\$125,000	5.0%
	4 WBIF match	\$0	0.0%	\$0	0.0%
<b>Subtotal Capital Improvement Projects</b>		<b>\$325,050</b>	<b>16.7%</b>	<b>\$246,300</b>	<b>9.9%</b>
<b>Maintenance</b>	1 Past projects maintenance/ repair	<b>\$40,000</b>	2.1%	\$25,000	1.0%
<b>-2170920130</b>	2 CIP construction oversight, maintenance/ repair staff costs	\$25,000	1.3%	\$25,000	
<b>Subtotal Maintenance</b>		<b>\$65,000</b>	<b>3.3%</b>	<b>\$50,000</b>	<b>2.0%</b>
<b>Feasibility/Preliminary Studies</b>	1 Preliminary Design, Technical Assistance and Marketing for Capital Improvements (Dakota SWCD)	\$40,000	2.1%	\$40,000	1.6%
<b>-2170020631</b>	2 Preliminary Design, Technical Assistance and Marketing for Capital Improvements	\$150,000	7.7%	\$200,000	8.0%
<b>Subtotal Feasibility/Preliminary Studies</b>		<b>\$190,000</b>	<b>9.8%</b>	<b>\$240,000</b>	<b>9.6%</b>
<b>Irrigation Audit and Cost Share Program</b>	1 Irrigation Audits	\$5,000	0.3%	\$5,000	0.2%
<b>2170020431</b>	2 Irrigation Cost-Share	\$5,000	0.3%	\$5,000	0.2%
<b>Subtotal Irrigation Audit and Cost Share</b>		<b>\$10,000</b>	<b>0.5%</b>	<b>\$10,000</b>	<b>0.4%</b>
<b>CWF Grant (BWSR) Middle Creek Highview</b>	1 Middle Creek Restoration	\$0	0.0%	\$370,000	14.8%
<b>-2170020852</b>	2 VRWJPO cash match	\$0	0.0%	\$50,000	2.0%

VRWJPO Draft 2022 Budget

				2022		2021	
Category		Budget Items		Draft Budget Amount	Budget % of Total	Revised Budget Amount	Budget % of Total
Subtotal CPL Grant Middle Creek/ Pinnacle Reserve				\$0	\$0	\$420,000	16.8%
CWF Grant (BWSR) Erickson							
Park Stormwater Improvement	1	Erickson Park Stormwater Improvement		\$0	0.0%	\$114,300	4.6%
-2170020841	2	VRWJPO cash match		\$0	0.0%	\$50,000	2.0%
Subtotal CWF Grant Erickson Park Stormwater Improvement				\$0	\$0	\$164,300	6.6%
CWF Grant (BWSR) Aronson							
Park Stormwater Reuse	1	Aronson Park Stormwater Reuse Project		\$0	0.0%	\$10,000	0.4%
-2170020843	2	VRWJPO cash match		\$0	0.0%	\$0	0.0%
Subtotal CWF Grant Aronson Park Stormwater Reuse				\$0	\$0	\$10,000	0.4%
CWF Grant (BWSR) Webster							
Wetland Restoration	1	Webster Wetland Restoration		\$0	0.0%	\$67,000	2.7%
-2170020844	2	VRWJPO cash match		\$0	0.0%	\$0	0.0%
Subtotal CWF Grant Webster Wetland Restoration				\$0	0.0%	\$67,000	2.7%
CWF Grant (BWSR) Technical							
Assistance and Cost Share	1	Technical Assistance and Cost Share (TACS)		\$17,700	0.9%	\$17,700	0.7%
-2170020845	2	VRWJPO cash match		\$1,800	0.1%	\$1,800	0.1%
Subtotal CWF Grant Technical Assistance and Cost Share Program				\$19,500	1.0%	\$19,500	0.8%
CWF Grant (BWSR) Imminent							
Health Threat Septic Upgrades	1	Imminent Health Threat Septic Upgrades		\$8,000	0.4%	\$8,000	0.3%
-2170020846	2	VRWJPO cash match		\$0	0.0%	\$0	0.0%
Subtotal CWF Grant Imminent Health Threat Septic Upgrades				\$8,000	0.4%	\$8,000	0.3%
2020-2023 WBIF Grant (BWSR)							
North Creek Stabilization	1	North Creek Stabilization		\$288,700	14.9%	\$168,750	
-2170020853	2	VRWJPO cash match		\$50,000	2.6%	\$18,750	

VRWJPO Draft 2022 Budget

Category		Budget Items		2022 Draft Budget Amount	Budget % of Total	2021 Revised Budget Amount	Budget % of Total
Subtotal 2020-2023 WBIF Grant North Creek Stabilization				\$338,700	17.4%	\$187,500	7.5%
2020-2023 WBIF Grant (BWSR)							
Farmington Direct Drainage	1	Farmington Direct Drainage Assessment		\$13,400	0.7%	\$13,300	
-2170020854	2	VRWJPO cash match		\$3,330	0.2%	\$3,330	
Subtotal 2020-2023 WBIF Grant Hastings/ Farmington Direct Drainage Assessment				\$16,730	0.9%	\$16,630	0.7%
2020-2023 WBIF Grant (BWSR)							
Hastings Direct Drainage	1	Hastings Direct Drainage Assessment		\$26,700	1.4%	\$13,300	
-2170020855	2	VRWJPO cash match		\$3,330	0.2%	\$3,330	
Subtotal 2020-2023 WBIF Grant Hastings/ Farmington Direct Drainage Assessment				\$30,030	1.5%	\$16,630	0.7%
2020-2023 WBIF Grant (BWSR)							
Ravenna Basins Restoration	1	Ravenna Basins Restoration		\$59,000	3.0%	\$29,500	
-2170020856	2	VRWJPO cash match		\$26,000	1.3%	\$6,000	
Subtotal 2020-2023 WBIF Grant Ravenna Basins Restoration				\$85,000	4.4%	\$35,500	1.4%
2020-2023 WBIF Grant (BWSR)							
Rosemount Anti-Icing	1	Rosemount Anti-Icing		\$0	0.0%	\$15,000	
-2170020857	2	VRWJPO cash match		\$0	0.0%	\$0	
Subtotal 2020-2023 WBIF Grant Ravenna Basins Restoration				\$0	0.0%	\$15,000	0.6%
CWF Grant (BWSR)							
	1	WBF Grant Admin		\$17,700	0.9%	\$23,700	0.9%
-2170020848							
Subtotal WBF Grant Admin				\$17,700	0.9%	\$23,700	0.9%
Subtotal of Expenditures				\$1,778,860	91.6%	\$2,297,510	92.0%

VRWJPO Draft 2022 Budget

<u>Category</u>	<u>Budget Items</u>	2022		2021	
		<u>Draft Budget</u>	<u>Budget %</u>	<u>Revised Budget</u>	<u>Budget %</u>
		<u>Amount</u>	<u>of Total</u>	<u>Amount</u>	<u>of Total</u>
Cash Reserve		\$163,740	8.4%	\$200,390	8.0%
TOTAL Annual Expenses		\$1,942,600	100.0%	\$2,497,900	100.0%

VRWJPO Draft 2022 Budget

Category	Budget Items	2022 Draft Budget Amount	Budget % of Total	2021 Revised Budget Amount	Budget % of Total
REVENUE					
	CIP Reserve	\$146,000	7.5%	\$205,900	8.2%
	CIP Reserve Grant Match	\$84,000	4.3%	\$101,800	4.1%
	Fund Balance from Underspending in Previous Year	\$456,000	23.5%	\$336,000	13.5%
	CWF Grant (BWSR)	\$0	0.0%	\$370,000	14.8%
	CWF Grant WBIF (BWSR) 2019-2021	\$0	0.0%	\$218,100	8.7%
	CWF Grant WBIF (BWSR) 2020-2023	\$243,600	12.5%	\$243,600	9.8%
	Fees for Permitting Activities	\$1,000	0.1%	\$2,500	0.1%
	Dakota County Levy	\$967,500	49.8%	\$966,650	38.7%
	Scott County Levy	\$32,500	1.7%	\$33,350	1.3%
	Investment Earnings	\$12,000	0.6%	\$20,000	0.8%
	TOTAL Annual Revenue	\$1,942,600	100.0%	\$2,497,900	100.0%



Vermillion River Watershed Management Tax District  
Estimated Pay 2022 Taxes \* (Dakota County)

Attachment B

Residential Property

Market	Tax	Proposed 2022 Levy								2021 Actual	2020 Actual	2019 Actual	2018 Actual	2017 Actual	2016 Actual	2015 Actual	2014 Actual	2013 Actual	2012 Actual	2011 Actual	2010 Actual	2009 Actual
Value	Capacity	\$300,000	\$400,000	\$500,000	\$750,000	\$967,500	\$1,000,000	\$1,250,000	\$1,500,000	\$966,650	\$966,000	\$912,900	\$887,900	\$861,700	\$821,140	\$817,500	\$858,900	\$831,600	\$868,000	\$964,700	\$1,047,905	\$1,138,839
Rate		0.0728%	0.1135%	0.1542%	0.2559%	0.3444%	0.3577%	0.4594%	0.5612%	0.3450%	0.3990%	0.4030%	0.4290%	0.4490%	0.4490%	0.4660%	0.5450%	0.5430%	0.5410%	0.5550%	0.5660%	0.4068%
Various Values																						
\$150,000	1,263	\$0.92	\$1.43	\$1.95	\$3.23	\$4.35	\$4.52	\$5.80	\$7.09	\$4.36	\$5.04	\$5.09	\$5.42	\$5.67	\$5.67	\$5.88	\$6.88	\$6.86	\$6.83	\$7.01	\$7.15	\$5.14
\$170,514	1,486	\$1.08	\$1.69	\$2.29	\$3.80	\$5.12	\$5.32	\$6.83	\$8.34	\$5.13	\$5.93	\$5.99	\$6.38	\$6.67	\$6.67	\$6.93	\$8.10	\$8.07	\$8.04	\$8.25	\$8.41	\$6.05
\$185,000	1,644	\$1.20	\$1.87	\$2.53	\$4.21	\$5.66	\$5.88	\$7.55	\$9.23	\$5.67	\$6.56	\$6.63	\$7.05	\$7.38	\$7.38	\$7.66	\$8.96	\$8.93	\$8.89	\$9.12	\$9.31	\$6.69
\$190,000	1,699	\$1.24	\$1.93	\$2.62	\$4.35	\$5.85	\$6.08	\$7.80	\$9.53	\$5.86	\$6.78	\$6.85	\$7.29	\$7.63	\$7.63	\$7.92	\$9.26	\$9.22	\$9.19	\$9.43	\$9.61	\$6.91
\$200,000	1,808	\$1.32	\$2.05	\$2.79	\$4.63	\$6.23	\$6.47	\$8.30	\$10.14	\$6.24	\$7.21	\$7.28	\$7.75	\$8.12	\$8.12	\$8.42	\$9.85	\$9.82	\$9.78	\$10.03	\$10.23	\$7.35
\$210,000	1,917	\$1.39	\$2.17	\$2.95	\$4.90	\$6.60	\$6.86	\$8.81	\$10.76	\$6.61	\$7.65	\$7.72	\$8.22	\$8.61	\$8.61	\$8.93	\$10.45	\$10.41	\$10.37	\$10.64	\$10.85	\$7.80
\$225,000	2,080	\$1.51	\$2.36	\$3.21	\$5.32	\$7.16	\$7.44	\$9.56	\$11.67	\$7.18	\$8.30	\$8.38	\$8.92	\$9.34	\$9.34	\$9.69	\$11.34	\$11.29	\$11.25	\$11.54	\$11.77	\$8.46
\$250,000	2,353	\$1.71	\$2.67	\$3.63	\$6.02	\$8.10	\$8.41	\$10.81	\$13.20	\$8.12	\$9.39	\$9.48	\$10.09	\$10.56	\$10.56	\$10.96	\$12.82	\$12.77	\$12.73	\$13.06	\$13.32	\$9.57
\$275,000	2,625	\$1.91	\$2.98	\$4.05	\$6.72	\$9.04	\$9.39	\$12.06	\$14.73	\$9.06	\$10.47	\$10.58	\$11.26	\$11.79	\$11.79	\$12.23	\$14.31	\$14.25	\$14.20	\$14.57	\$14.86	\$10.68
\$291,300	2,803	\$2.04	\$3.18	\$4.32	\$7.17	\$9.65	\$10.02	\$12.88	\$15.73	\$9.67	\$11.18	\$11.30	\$12.02	\$12.58	\$12.58	\$13.06	\$15.28	\$15.22	\$15.16	\$15.56	\$15.86	\$11.40
\$308,000	2,985	\$2.17	\$3.39	\$4.60	\$7.64	\$10.28	\$10.68	\$13.71	\$16.75	\$10.30	\$11.91	\$12.03	\$12.80	\$13.40	\$13.40	\$13.91	\$16.27	\$16.21	\$16.15	\$16.57	\$16.89	\$12.14
\$325,000	3,170	\$2.31	\$3.60	\$4.89	\$8.11	\$10.92	\$11.34	\$14.56	\$17.79	\$10.94	\$12.65	\$12.78	\$13.60	\$14.23	\$14.23	\$14.77	\$17.28	\$17.21	\$17.15	\$17.59	\$17.94	\$12.90
\$350,000	3,443	\$2.50	\$3.91	\$5.31	\$8.81	\$11.86	\$12.31	\$15.82	\$19.32	\$11.88	\$13.74	\$13.87	\$14.77	\$15.46	\$15.46	\$16.04	\$18.76	\$18.69	\$18.62	\$19.11	\$19.49	\$14.01
\$375,000	3,715	\$2.70	\$4.22	\$5.73	\$9.51	\$12.80	\$13.29	\$17.07	\$20.85	\$12.82	\$14.82	\$14.97	\$15.94	\$16.68	\$16.68	\$17.31	\$20.25	\$20.17	\$20.10	\$20.62	\$21.03	\$15.11
\$400,000	3,988	\$2.90	\$4.52	\$6.15	\$10.21	\$13.74	\$14.26	\$18.32	\$22.38	\$13.76	\$15.91	\$16.07	\$17.11	\$17.90	\$17.90	\$18.58	\$21.73	\$21.65	\$21.57	\$22.13	\$22.57	\$16.22
\$425,000	4,250	\$3.09	\$4.82	\$6.55	\$10.88	\$14.64	\$15.20	\$19.53	\$23.85	\$14.66	\$16.96	\$17.13	\$18.23	\$19.08	\$19.08	\$19.81	\$23.16	\$23.08	\$22.99	\$23.59	\$24.06	\$17.29
\$450,000	4,500	\$3.27	\$5.11	\$6.94	\$11.52	\$15.50	\$16.10	\$20.67	\$25.25	\$15.53	\$17.96	\$18.14	\$19.31	\$20.21	\$20.21	\$20.97	\$24.53	\$24.44	\$24.35	\$24.98	\$25.47	\$18.31
\$475,000	4,750	\$3.46	\$5.39	\$7.32	\$12.16	\$16.36	\$16.99	\$21.82	\$26.66	\$16.39	\$18.95	\$19.14	\$20.38	\$21.33	\$21.33	\$22.14	\$25.89	\$25.79	\$25.70	\$26.36	\$26.89	\$19.32
\$500,000	5,000	\$3.64	\$5.67	\$7.71	\$12.80	\$17.22	\$17.88	\$22.97	\$28.06	\$17.25	\$19.95	\$20.15	\$21.45	\$22.45	\$22.45	\$23.30	\$27.25	\$27.15	\$27.05	\$27.75	\$28.30	\$20.34

*Estimated TCAP (as of 08/16/2021)	245,684,638
Pay 2021 Median Value: 291,300	
Pay 2022 Median Value: 308,000	

WHAT IF TAX COMPARISON PAY 2021 vs Pay 2022

FISCAL YEAR 2021			
8,368,832 GROSS TAX CAPACITY		\$	33,350 FINAL CERTIFIED LEVY
(9,016) 10% KV TRANS LINE (-)			
(411,066) FISCAL DISPARITY (-)		\$	(3,287) FISCAL DISPARITY (-)
7,948,750 NET TAX CAPACITY		\$	30,063 TAX LEVY OR SPREAD LEVY
Tax Rate		0.378%	
FISCAL YEAR 2022			
8,734,251 GROSS TAX CAPACITY		\$	32,500 PROPOSED LEVY OR CERTIFIED LEVY
(15,335) 10% KV TRANS LINE (-)			
(467,451) FISCAL DISPARITY (-)		\$	(3,475) FISCAL DISPARITY (-)
8,251,465 NET TAX CAPACITY		\$	29,025 TAX LEVY OR SPREAD LEVY
as of 8/25/2021		Tax Rate 0.352%	

RESIDENTIAL IMPACTS

										Pay 2021	Pay 2022			Median & Average Values			
	% Value Range Inc/Dec	# of affected Properties	Average Market Value 2021	Average Market Value 2022	Value Exclusion 2021	Taxable Market Value 2021	Value Exclusion 2022	Taxable Market Value 2022	Taxable % Chg 21-22	Net Payable 2021	Net Payable 2022	Net Inc/Dec 2021 vs 2022	Net Difference % Change	2021 Median Values	2022 Median Values	2022 Average Values	2022 Value % Change
Elko New Mrkt City 1500	+15.01+%	12	\$ 301,300	\$ 346,495	\$ 10,123	\$ 291,177	\$ 6,055	\$ 340,440	16.92%	\$ 11.01	\$ 11.98	\$ 0.96	8.740%	\$ 307,400	\$ 316,300	\$ 311,000	2.9%
	+10.01-15.00%	81	\$ 301,300	\$ 338,963	\$ 10,123	\$ 291,177	\$ 6,733	\$ 332,229	14.10%	\$ 11.01	\$ 11.69	\$ 0.67	6.118%				
	+5.01-10.00%	289	\$ 301,300	\$ 323,898	\$ 10,123	\$ 291,177	\$ 8,089	\$ 315,808	8.46%	\$ 11.01	\$ 11.11	\$ 0.10	0.873%				
	+0.01-5.00%	1016	\$ 301,300	\$ 308,833	\$ 10,123	\$ 291,177	\$ 9,445	\$ 299,387	2.82%	\$ 11.01	\$ 10.53	\$ (0.48)	-4.372%				
	No Change	17	\$ 301,300	\$ 301,300	\$ 10,123	\$ 291,177	\$ 10,123	\$ 291,177	0.00%	\$ 11.01	\$ 10.24	\$ (0.77)	-6.995%				
	-0.01-5.00%	78	\$ 301,300	\$ 293,768	\$ 10,123	\$ 291,177	\$ 10,801	\$ 282,967	-2.82%	\$ 11.01	\$ 9.95	\$ (1.06)	-9.617%				
	-5.01-10%	3	\$ 301,300	\$ 278,703	\$ 10,123	\$ 291,177	\$ 12,157	\$ 266,546	-8.46%	\$ 11.01	\$ 9.38	\$ (1.64)	-14.862%				
	-10.01-15%	2	\$ 301,300	\$ 263,638	\$ 10,123	\$ 291,177	\$ 13,513	\$ 250,125	-14.10%	\$ 11.01	\$ 8.80	\$ (2.21)	-20.107%				
	-15.01+	2	\$ 301,300	\$ 256,105	\$ 10,123	\$ 291,177	\$ 14,191	\$ 241,914	-16.92%	\$ 11.01	\$ 8.51	\$ (2.50)	-22.730%				
New Market Twp 1152	+15.01+%	12	\$ 472,000	\$ 542,800	\$ -	\$ 472,000	\$ -	\$ 542,800	15.00%	\$ 17.85	\$ 19.47	\$ 1.62	9.064%	\$ 452,300	\$ 463,200	\$ 484,200	2.4%
	+10.01-15.00%	18	\$ 472,000	\$ 531,000	\$ -	\$ 472,000	\$ -	\$ 531,000	12.50%	\$ 17.85	\$ 18.95	\$ 1.10	6.158%				
	+5.01-10.00%	63	\$ 472,000	\$ 507,400	\$ -	\$ 472,000	\$ -	\$ 507,400	7.50%	\$ 17.85	\$ 17.91	\$ 0.06	0.345%				
	+0.01-5.00%	900	\$ 472,000	\$ 483,800	\$ -	\$ 472,000	\$ -	\$ 483,800	2.50%	\$ 17.85	\$ 17.02	\$ (0.83)	-4.670%				
	No Change	50	\$ 472,000	\$ 472,000	\$ -	\$ 472,000	\$ -	\$ 472,000	0.00%	\$ 17.85	\$ 16.60	\$ (1.25)	-6.995%				
	-0.01-5.00%	81	\$ 472,000	\$ 460,200	\$ -	\$ 472,000	\$ -	\$ 460,200	-2.50%	\$ 17.85	\$ 16.19	\$ (1.66)	-9.320%				
	-5.01-10%	4	\$ 472,000	\$ 436,600	\$ -	\$ 472,000	\$ -	\$ 436,600	-7.50%	\$ 17.85	\$ 15.36	\$ (2.49)	-13.970%				
	-10.01-15%	16	\$ 472,000	\$ 413,000	\$ -	\$ 472,000	\$ 70	\$ 412,930	-12.51%	\$ 17.85	\$ 14.53	\$ (3.33)	-18.634%				
	-15.01+	8	\$ 472,000	\$ 401,200	\$ -	\$ 472,000	\$ 1,132	\$ 400,068	-15.24%	\$ 17.85	\$ 14.07	\$ (3.78)	-21.169%				
County Wide		45,815	\$ 339,400	\$ 358,100	\$ 6,694	\$ 332,706	\$ 5,011	\$ 353,089	6.13%	\$ 12.58	\$ 12.42	\$ (0.16)	-1.297%	\$ 303,800	\$ 321,400	\$ 358,100	5.8%

**6c. Recommendation to Execute Joint Powers Agreement with Dakota County for Participation in the Wetland Health Evaluation Program**

Meeting Date: 11/17/21  
Item Type: Regular-Action  
Contact: Mark Zabel  
Telephone: 952-891-7011  
Prepared by: Paula Liepold



**PURPOSE/ACTION REQUESTED**

- Recommend execution of a joint powers agreement with Dakota County for participation in the Wetland Health Evaluation Program

**SUMMARY**

The Dakota County Environmental Resources Department coordinates the Wetland Health Evaluation Program (WHEP), a program consistent with the outreach and communication goals of the Vermillion River Watershed Joint Powers Organization (VRWJPO). WHEP, a collaborative program of Dakota County, partner cities in the Vermillion River Watershed and the County, the North Cannon River Watershed Management Organization, the Minnesota Pollution Control Agency, and a consulting firm, directly engages community members in learning about and evaluating wetland resources. Trained volunteers monitor macroinvertebrates and vegetation at wetlands selected by the participating communities and organizations to determine the overall health of each wetland. Local government units (LGUs) select two to four wetlands they would like evaluated and one wetland within each LGU is cross-checked for quality control.

The proposed Joint Powers Agreement is a multiple year agreement that allows the VRWJPO to participate in the WHEP program by selecting wetlands, forming a team, and providing funding to support the team. Program participation is determined annually. The VRWJPO staff requests that the Vermillion River Watershed Planning Commission (WPC) recommend the Vermillion River Watershed Joint Powers Board execute a Joint Powers Agreement with Dakota County for WHEP.

**JOINT POWERS AGREEMENT  
BETWEEN DAKOTA COUNTY AND THE  
VERMILLION RIVER WATERSHED JOINT POWERS ORGANIZATION  
FOR THE WETLAND HEALTH EVALUATION PROGRAM**

The parties to this Agreement are the County of Dakota, a political subdivision of the State of Minnesota (County) and the Vermillion River Watershed Joint Powers Organization (VRWJPO), a watershed management body consisting of Dakota and Scott Counties (VRWJPO) governed by the Vermillion River Watershed Joint Powers Board (VRWJPB). This Agreement is made pursuant to the authority conferred upon the parties by Minn. Stat. § 471.59.

**NOW, THEREFORE**, in consideration of the mutual promises and benefits that the County and the VRWJPO shall derive from this Agreement, the County and the VRWJPO hereby enter into this Agreement for the purposes stated herein.

**SECTION 1  
PURPOSE**

The purpose of this Agreement is to facilitate the analysis of wetlands located within the Vermillion River Watershed through the Dakota County Wetland Health Evaluation Program (WHEP), which is coordinated and managed by the County, to obtain data and other information to assist both parties in performing their responsibilities under the Minnesota Wetland Conservation Act.

**SECTION 2  
TERM**

Notwithstanding the date of the signatures of the parties, the term of this Agreement shall commence on January 1, 2022, and shall continue in full force and effect until December 31, 2026, unless earlier terminated by law or according to the provisions of this Agreement.

**SECTION 3  
COOPERATION**

The parties agree to cooperate and use their reasonable efforts to ensure prompt implementation of the various provisions of this Agreement and to, in good faith, undertake resolution of any dispute in an equitable and timely manner.

**SECTION 4  
EXERCISE OF POWERS**

The parties to this Agreement agree that the County shall administer the funds collected hereunder and disburse these funds for expenses incurred by WHEP.

**SECTION 5  
POWERS AND DUTIES OF THE COUNTY**

- 5.1 The County shall administer the WHEP funds on behalf of the VRWJPO.
- 5.2 The County shall serve as fiscal agent for the funds collected hereunder. The County shall establish and maintain such funds and accounts as may be required by generally accepted accounting practices.
- 5.3 The County may apply for and accept gifts, grants, loans and money, other property or assistance from federal or state agencies or any other person to carry out the WHEP in Dakota County.
- 5.4 The County may use funds to hire and retain a monitoring coordinator, a non-profit agency, consulting firms and such other personnel as may be needed to provide the services contemplated under this Agreement. Notwithstanding the foregoing, the parties agree that WHEP is a volunteer-based program

and that data collection shall be performed solely by volunteers trained by the County. All volunteers participating in the WHEP shall be considered agents of the County and not agents of the VRWJPO.

## **SECTION 6 FUNDING**

On or before March 31 each year of the term of this Agreement, the County shall provide to the VRWJPO a complete WHEP fee schedule for that calendar year, including an itemization of the fee for analyzing each wetland and the fee for performing a quality assurance recheck to enable the VRWJPO to evaluate whether to participate in the WHEP for that year. If the VRWJPO elects to participate in the WHEP for that year, the VRWJPO shall notify the County and the County shall provide the services described herein. On or about July 1 of each year that the VRWJPO elects to participate, the County shall submit an invoice to the VRWJPO for the WHEP fees for that year and the VRWJPO shall remit payment to the County within 30 days after receipt of such invoice.

## **SECTION 7 WHEP TIMELINE**

The parties agree to the following timeline for each year of the term of this Agreement:

Spring	The County shall provide a WHEP fee schedule to the VRWJPO and the VRWJPO shall notify the County if the VRWJPO elects to participate in the WHEP for that calendar year and identify the specific wetlands to be analyzed.
Late Spring and Summer	Trained volunteers shall collect data regarding the quantity and variety of plants and insects within each VRWJPO designated wetland. A consultant hired by the County shall conduct a quality assurance recheck on one of the wetlands.
Fall	The consultant hired by the County shall compile and analyze the data collected for all wetlands within the VRWJPO under the WHEP and prepare a written report on the same.
Winter	The County shall deliver to the VRWJPO the consultant's written report and the data collected for all wetlands analyzed within the Watershed.

## **SECTION 8 INDEMNIFICATION**

Each party to this Agreement shall be liable for the acts of its officers, employees or agents and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party, its officers, employees or agents. The provisions of the Municipal Tort Claims Act, Minn. Stat. ch. 466 and other applicable laws govern liability of the County and the VRWJPO. The provisions of this section shall survive the expiration or termination of this Agreement.

## **SECTION 9 AUTHORIZED REPRESENTATIVES AND LIAISONS**

- 9.1 Authorized Representatives. The following named persons are designated the Authorized Representatives of the parties for purposes of this Agreement. These persons have authority to bind the party they represent and to consent to modifications, except that the authorized representative shall have only the authority specifically or generally granted by their respective governing boards. Notice required to be provided pursuant to this Agreement shall be provided to the following named persons and addresses unless otherwise stated in this Agreement, or in a modification of this Agreement:

TO THE COUNTY: Georg Fischer or successor, Director  
Environmental Resources Department  
14955 Galaxie Avenue  
Apple Valley, MN 55124

TO THE VRWJPO: Mike Slavik or successor, Chair  
Vermillion River Watershed Joint Powers Organization  
14955 Galaxie Avenue  
Apple Valley, MN 55124

In addition, notification to the County regarding termination of this Agreement by the other party shall be provided to the Office of the Dakota County Attorney, Civil Division, 1560 Highway 55, Hastings, Minnesota 55033.

- 9.2 Liaisons. To assist the parties in the day-to-day performance of this Agreement and to ensure compliance and provide ongoing consultation, a liaison shall be designated by the County and the VRWJPO. The parties shall keep each other continually informed, in writing, of any change in the designated liaison. At the time of execution of this Agreement, the following persons are the designated liaisons:

County Liaison  
Paula Liepold, or successor  
Telephone: (952) 891-7117  
Email: paula.liepold@co.dakota.mn.us

VRWJPO Liaison  
Mark Zabel, or successor  
Telephone: 952-891-7011  
Email: mark.zabel@co.dakota.mn.us

## **SECTION 10 TERMINATION**

Either party may terminate this Agreement at any time upon 90 days written notice to the other party.

## **SECTION 11 GENERAL PROVISIONS**

- 11.1 Compliance with Laws/Standards. The VRWJPO and the County agree to abide by all federal, state or local laws, statutes, ordinances, rules and regulations now in effect or hereafter adopted pertaining to this Agreement or to the facilities, programs and staff for which either party is responsible.
- 11.2 Excused Default – Force Majeure. Neither party shall be liable to the other party for any loss or damage resulting from a delay or failure to perform due to unforeseeable acts or events outside the defaulting party's reasonable control, providing the defaulting party gives notice to the other party as soon as possible. Acts and events may include acts of God, acts of terrorism, war, fire, flood, epidemic, acts of civil or military authority, and natural disasters.
- 11.3 Contract Rights Cumulative Not Exclusive.
- A. All remedies available to either party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. The rights and remedies provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
- B. Waiver for any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be construed to be modification for the terms of this Agreement unless stated to be such in writing and signed by authorized representatives of the County and the VRWJPO.
- 11.4 Records Retention and Audits. Each party's bonds, records, documents, papers, accounting procedures and practices, and other records relevant to this Agreement are subject to the examination, duplication, transcription and audit by the other party, the Legislative Auditor or State Auditor under Minn. Stat. § 16C.05, subd. 5. If any

funds provided under this Agreement use federal funds these records are also subject to review by the Comptroller General of the United States and his or her approved representative. Following termination of this Agreement, the parties must keep these records for at least six years or longer if any audit-in-progress needs a longer retention time.

- 11.5 Modifications. Any alterations, variations, modifications, or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing and signed by the authorized representatives of the County and the VRWJPO.
- 11.6 Assignment. Neither party may assign any of its rights under this Agreement without the prior written consent of the other party. Said consent may be subject to conditions.
- 11.7 Government Data Practices. For purposes of this Agreement, all data on individuals collected, created, received, maintained or disseminated shall be administered consistent with the Minnesota Government Data Practices Act, Minn. Stat. ch. 13.
- 11.8 Minnesota Law to Govern. This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of Minnesota, without giving effect to the principles of conflict of laws. All proceedings related to this Agreement shall be venued in Dakota County, Minnesota. The provisions of this section shall survive the expiration or termination of this Agreement.
- 11.9 Merger. This Agreement is the final expression of the agreement of the parties and the complete and exclusive statement of the terms agreed upon and shall supersede all prior negotiations, understandings, or agreements.
- 11.10 Severability. The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement unless the part or parts that are void, invalid or otherwise unenforceable shall substantially impair the value of the entire Agreement with respect to either party.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date(s) indicated below.

APPROVED AS TO FORM:

**DAKOTA COUNTY**

/s/ \_\_\_\_\_  
Assistant County Attorney/Date  
KS-21-438-011  
County Board Res. No. \_\_\_\_ - \_\_\_\_\_

By \_\_\_\_\_  
Georg Fischer or successor, Director  
Environmental Resources Department  
Date of Signature: \_\_\_\_\_

**VERMILLION RIVER WATERSHED JOINT  
POWERS ORGANIZATION**

By \_\_\_\_\_  
Mike Slavik or successor, Chair  
Date of Signature: \_\_\_\_\_

**6d. Approve the 2022 Vermillion River Watershed Planning Commission Meeting Dates**

Meeting Date: 11/17/2021  
Item Type: Regular-Action  
Contact: Mark Zabel  
Telephone: 952-891-7011  
Prepared by: Mark Ryan  
Reviewed by: N/A

N/A



**PURPOSE/ACTION REQUESTED**

- Approve the 2022 Vermillion River Watershed Planning Commission (WPC) meeting dates

**SUMMARY**

In 2021, the WPC meetings were held on the second Wednesday of each month at 4:00 p.m. after being changed from a 3:30 pm start time. Meetings started out as strictly online videoconference due to the COVID-19 pandemic and eventually transitioned to hybrid meetings with the in-person meetings taking place in Conference Room A or Conference Rooms 1 and 2 of the Dakota County Extension and Conservation Center. It is proposed that the 2022 WPC meetings continue the same schedule as 2021. Due to the Thanksgiving Holiday and because the Joint Powers Board (JPB) meets on December 1, 2022, the November meeting is scheduled for the third Wednesday of the month. Traditionally, there is no December meeting of the WPC.

The 2022 VRWPC proposed meeting schedule is as follows:

- January 12
- February 9
- March 9
- April 13
- May 11
- June 8
- July 13
- August 10
- September 14
- October 12
- November 16

**EXPLANATION OF FISCAL/FTE IMPACT**

None

**RESOLUTION**

**6d. Approve the 2022 Vermillion River Watershed Planning Commission Meeting Dates**

**WHEREAS**, the Vermillion River Watershed Planning Commission (VRWPC) is required by its Bylaws to hold regular meetings; and

**WHEREAS**, regularly scheduled meetings of the VRWPC are required to complete its business in a timely and responsible manner.



**NOW, THEREFORE, BE IT RESOLVED**, that in calendar year 2022, the VRWPC will meet on the second Wednesday of the month (except in November and December) at 4:00 p.m., according to the following schedule:

- January 12
- February 9
- March 9
- April 13
- May 11
- June 8
- July 13
- August 10
- September 14
- October 12
- November 16

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**6e. Model Ordinance Update for Implementation of the Vermillion River Watershed Joint Powers Organization Standards**

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Meeting Date: 11/17/2021  
Item Type: Information  
Contact: Mark Ryan  
Telephone: 952-891-7596  
Prepared by: Mark Ryan



**PURPOSE/ACTION REQUESTED**

- Model Ordinance Update for Implementation of the Vermillion River Watershed Joint Powers Organization Standards

**SUMMARY**

The Vermillion River Watershed Joint Powers Organization (VRWJPO) updated its watershed Standards, a document of regulatory requirements for the watershed, during the last Vermillion River Watershed Management Plan (the Watershed Plan) update in 2016 and then amended the Standards in 2019 based on feedback from watershed communities. From 2018 to 2020, communities in the watershed also updated local comprehensive plans including Local Water Management Plans. Many of the townships and small cities in the watershed elected to adopt the Watershed Plan by reference rather than write individual Local Water Management Plans. Part of implementing the Watershed Plan includes implementing the VRWJPO Standards through local ordinances (unless a community has agreed to have the VRWJPO operate a local permitting program).

After the last round of comprehensive planning, many of the townships and small cities combined to create the Water Resources Management Ordinance for the Dakota County Rural Collaborative (2010 Update). With the updates to the VRWJPO Standards in 2016 and 2019, there are now some portions of the ordinance that are outdated. In addition, some larger communities may have additional requirements for stormwater brought on by the Municipal Separate Storm Sewer System (MS4) permitting program of the Minnesota Pollution Control Agency.

In response to the need for communities to update their ordinances, the VRWJPO has created an updated Model Ordinance for local communities to modify and/or adopt to ensure that local requirements match the latest version of the VRWJPO Standards. A copy of the model ordinance is provided as an attachment. VRWJPO staff will be reaching out to local community staff about ordinances at the end of 2021 and beginning of 2022 and will offer to answer questions upon request.

# **Water Resources Management Model Ordinance**

**2021 UPDATE**

**Applicable to the Communities of the Vermillion River  
Watershed**

Drafted by the Vermillion River Watershed Joint Powers Organization (VRWJPO) to assist with ordinance updates after the 2018-19 Comprehensive Planning Process (2040 Comprehensive Plans) and the 2019 The VRWJPO Standards

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ORDINANCE NO. \_\_\_\_\_

**CITY OR TOWNSHIP**,  
**DAKOTA COUNTY, MINNESOTA**

**AN ORDINANCE ESTABLISHING  
WATER RESOURCES  
MANAGEMENT PERMIT  
REQUIREMENTS AND  
PERFORMANCE STANDARDS**

The Board of Supervisors of \_\_\_\_\_ Township (the “Community”) ordains as follows:

**SECTION 1. TITLE**

This ordinance shall be known as the “Water Resources Management Ordinance” except as referred to herein as “this Ordinance.”

**SECTION 2. PURPOSE**

The purpose of this Ordinance is to protect the public health, safety, and welfare through the effective management of water resources in this Community. It is intended that the requirements, regulations, and performance standards of this Ordinance will:

- Implement the Vermillion River Watershed Management Plan as adopted by reference in the Dakota County Collaborative Comprehensive Plan or Community-level comprehensive plan,
- Protect and preserve the function and value of water resources,
- Prevent unregulated land disturbance activities which may harm water resources,
- Protect wetland functions consistent with the Wetland Conservation Act,
- Reduce harmful effects of erosion and sedimentation,
- Reduce property damage by seasonal flooding,
- Improve surface and groundwater quality.

**SECTION 3. SCOPE AND AUTHORITY**

3.01 Scope. The terms, standards, and regulations of this Ordinance shall apply within the portion of the Community located within the Vermillion River Watershed. No land shall be subdivided or disturbed, except in compliance with the terms, standards, and regulations set forth herein.

3.02 Authority. The Community shall act as the Local Governmental Unit (LGU) for the permitting and enforcement of this Ordinance, except as otherwise specifically provided herein.

3.03 Referral to Vermillion River Watershed Joint Powers Organization (VRWJPO). Prior to the approval of a permit involving any following conditions, the Community must forward land alterations plans to the VRWJPO for review and comment:

- Variances from this Ordinance that affect surface water or impact surface water/groundwater interactions,
- Diversions,
- Intercommunity flows (upon request of adjoining communities),
- Land disturbance area of 40 acres or more, and
- Projects that are adjacent to or appear to impact a watercourse or unique natural resources.

3.04 General Plan Submittal Requirements. In addition to the plan submittal requirements identified by the Community for the various permit applications in this Ordinance, any permit submittal requiring review by the VRWJPO in Section 3.03 above shall include electronic files or two sets of plans (preferred 11" X 17") for referral by the Community to the VRWJPO.

## **SECTION 4. DEFINITIONS**

4.01 Application and Interpretation. Except as otherwise provided or clearly implied by context, all terms shall be given their commonly accepted definition. Unless specifically defined herein, terms used in this Ordinance shall have the same definition as provided in Minn. Stat. § Chs. 103B and 103D and Minn. R. Ch. 8410 as may be amended, and if not defined there, shall have common usage meaning. The words "shall" and "must" are mandatory, while the words "may" or "should" are permissive.

4.02 Definitions. For the purposes of this Ordinance, the following terms, words, and phrases have the meaning stated below. Terms, words, or phrases not defined in this Ordinance shall have a dictionary or customary meaning.

- A. Agricultural Activity – The use of land for the growing, production, and wholesale distribution or retail sale of field crops, livestock, and livestock products for income production, including but not limited to the following:
1. Field crops, including but not limited to, barley, beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers
  2. Livestock, including but not limited to, dairy and beef cattle, goats, sheep, hogs, horses, poultry, game birds and other animals, including deer, rabbits and mink
  3. Livestock products, including but not limited to, milk, butter, cheese, eggs, meat, fur, and honey
  4. Trees, shrubs, bushes, and plants for wholesale distribution
  5. Sod farming
  6. Orchards
- B. Agricultural Preserve – A land area created and restricted according to Minnesota Statutes Ch. 473H to remain in agricultural use.
- C. Applicant – A person or entity, or representative thereof, that applies for a building

permit, subdivision approval, or a permit to allow land-disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's direction.

- D. Bankfull Channel Width – The channel width of a stream, creek, or river at bankfull stage.
- E. Bankfull Stage – The water level in a stream channel, creek, or river where the flow just begins to leave the main channel and enter the connected floodplain.
- F. Base Flood Elevation – The elevation of a surface water resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.
- G. Best Management Practices (BMPs) – Techniques proven to be effective in controlling runoff, erosion and sedimentation, including those documented in the Minnesota Stormwater Manual (MPCA 2005 as amended in online Wiki format) and other sources approved by the VRWJPO as such sources may be amended, revised, or supplemented.
- H. Board – The Board of Supervisors or Town Board of a township.
- I. BWSR – Minnesota Board of Water and Soil Resources.
- J. Buffer – An area of natural, minimally maintained, vegetated ground cover abutting or surrounding a watercourse, public waters wetland, or wetland.
- K. Commercial Use Development – The development of property for use as a commercial business or office.
- L. Community – A city or township as defined in Minnesota Statutes 462.352, subdivision 2, and “the Community” shall mean the community adopting this Ordinance.
- M. Community Building Inspector – The Building Inspector or Building Official hired by the Community to implement and enforce the provisions of this Ordinance.
- N. Community Engineer – The registered professional Engineer hired by the Community to implement and enforce the provisions of this Ordinance.
- O. Community – A city or town as defined in Minnesota Statutes 462.352, subdivision 2, and “this Community” shall mean the community adopting this Ordinance.
- P. Compensatory Storage – Excavated volume of material below the floodplain elevation required to offset floodplain fill.
- Q. Council – The City Council of a city.
- R. County – Dakota County.
- S. Dakota SWCD or SWCD – The Dakota County Soil and Water Conservation District.
- T. Dead Storage – The volume of space located below the overflow point of a basin, pond or landlocked basin.
- U. Developer – A person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a subdivision or land disturbance activity.
- U. Drain or Drainage – Any method for removing or diverting water from water bodies, including excavation of an open ditch, installation of subsurface drainage tile, filling, diking, or pumping.



- V. Easement – A strip of privately-owned land which is legally described and encumbered for use by another party or public entity for a specific purpose described in an easement document, recorded by Dakota County.
- W. Erosion – The wearing away of the ground surface as a result of wind, flowing water, ice movement or land disturbing activities.
- X. Erosion and Sediment Control Plan – A plan of BMPs or equivalent measures designed to control runoff and erosion and to retain or control sediment on land during the period of land disturbing activities with standards. Erosion and Sediment Control Plans are intended to be simpler plans illustrating or describing the placement of erosion and sediment control BMPs that do not require the detail of Stormwater Pollution Prevention Plans (SWPPPs) that are required under State permits.
- Y. Excavation – The artificial removal of soil or other earth material.
- Z. Fill – The deposit of soil or other earth materials by artificial means.
- AA. Filtration – A process by which stormwater runoff is captured, temporarily stored, and routed through a filter bed, vegetated strip, or buffer to improve water quality and slow down stormwater runoff.
- BB. Floodplain – The area adjacent to a waterbody that is inundated during a 100-year flood.
- CC. Floodplain Storage – The volume of space available for flood waters within the floodplain.
- DD. Fragmentation - The breaking up of an organism's habitat into discontinuous chunks.
- EE. Grassed Waterway - A natural or constructed channel that is shaped or graded to required dimensions and established in suitable vegetation for the stable conveyance of runoff. (Minnesota NRCS Conservation Practice Standard Code 412, October 2017, as amended from time to time).
- FF. Green Acres – Real property or real estate that qualifies as agricultural property having agricultural use under the Minnesota Agricultural Property Tax Law, Minnesota Statutes Section 273.111.
- GG. Hydric Soil - A soil that formed under conditions of saturation, flooding or ponding long enough during the growing season to develop anaerobic conditions in the upper horizon.
- HH. Hydrophytic Vegetation – Plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
- II. Industrial Use Development – The development of property for industrial use as identified by the Standard Industrial Classification (SIC) codes or the North American Industry Classification System (NAICS code).
- JJ. Infiltration – A stormwater retention method for the purpose of reducing the volume of stormwater runoff by transmitting water into the ground through the earth's surface.
- KK. Impervious Surface – 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 at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

- LL. Infrastructure – The system of public works for a county, state, or Local Government Unit, including, but not limited to, structures, roads, bridges, culverts, sidewalks, stormwater management facilities, conveyance systems and pipes, pump stations, sanitary sewers and interceptors, hydraulic structures, permanent erosion control and stream bank protection measures, water lines, gas lines, electrical lines and associated facilities, and phone lines and supporting facilities.
- MM. Land Disturbing Activity (Land Disturbance) –Any activity on property that results in a change or alteration in the existing ground cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, stockpiling, excavation and borrow pits. The use of land for new and continuing agricultural activities and routine vegetation management activities shall not constitute a land disturbing activity under this Ordinance. For example, clearing of trees for agricultural field crops or pasture, management of trees on woodlands or wooded lots, and natural area restoration activities would not constitute a land disturbing activity under these Standards.
- NN. Landlocked Basin – A water basin one acre or more in size that does not have a natural outlet at or below the existing 100-year flood elevation as determined by the 100-year, 10-day snowmelt runoff event.
- OO. Local Governmental Unit (LGU) – All cities, counties, and townships lying in whole or part within the Vermillion River Watershed.
- PP. Lot – A parcel of land platted or described by metes and bounds, registered land survey, or other accepted means and separated from other parcels or portions by said description, for the purpose of sale, lease, or separation thereof, as recorded by Dakota County.
- QQ. Lot of Record – Any lot that legally existed prior to the adoption date of the original Water Resources Management Ordinance on \_\_\_\_\_, 2009.
- RR. Meander – A sinuous bend of a river, stream, or creek.
- SS. Meander Belt – The area between lines drawn tangential to the extreme limits of fully developed meanders.
- TT. Minimum Impact Alignment – Is the alignment for a proposed road, street, utility, path or access that creates the smallest area of impact to a buffer, waterway, or floodplain. For activities that cross a buffer, watercourse, or floodplain, the minimum impact alignment is one that crosses perpendicular, or near perpendicular, to the longitudinal orientation of the buffer, watercourse, or floodplain as reasonable to serve to intended purpose of the improvement.
- UU. MPCA – Minnesota Pollution Control Agency.
- VV. Municipality – A city or township.
- WW. Native Vegetation – Plant species that are indigenous to Minnesota, or that expand their range into Minnesota without being intentionally or unintentionally introduced by human activity and are classified as native in documentation referenced by MN Rules 8420.0112.

- XX. Natural Retention or Detention – Retention or detention storage of rainwater and runoff that occurs due to the natural landscape and is not artificially constructed.
- YY. New Development – The construction of any public or private improvement project, infrastructure, structure, street or road that creates more than 1 acre of new or additional impervious surface or, the subdivision of land.
- ZZ. Noxious Weeds – A noxious weed as defined in MN Rules 1505.0751.
- AAA. NPDES – National Pollutant Discharge Elimination System.
- BBB. NRCS – United States Department of Agriculture Natural Resource Conservation Service.
- CCC. Ordinary High Water Level (OHWL) – The boundary of water basins, watercourses, public waters, and public waters wetlands as set by the Minnesota Department of Natural Resources.
- DDD. Outlot – A parcel of land shown on a subdivision plat as an outlot, as designated by Dakota County, and designated alphanumerically, (for example – Outlot A.). Outlots are used to designate one of the following: Land that is part of the subdivision but is to be subdivided into lots and blocks at a later date; land that is to be used for a specific purpose as designated in a developer’s agreement or other agreement between the Local Governmental Unit and the developer; or for a public purpose that may have restricted uses such as a buffer.
- EEE. Person – The word “person” includes individual, firm, company, corporation, partnership, trust and other legal entities.
- FFF. Plat – The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes Chapter 505.
- GGG. Pre-development Condition – The land use on a site that existed in 2005.
- HHH. Public Waters – Public Waters means water resources as defined in Minn. Stat. § 103G.005, subd. 15.
- III. Public Waters Wetland – Any public waters wetland as defined in Minn. Stat. § 103G.005, subd. 15a.
- JJJ. Recreational Use Development - Any development of land for recreational use, including but not limited to, parklands, sporting facilities, golf courses, and other commercial or public facilities designed and used to provide recreational opportunities to the public.
- KKK. Redevelopment – The rebuilding, repair, or alteration of a structure, land surface, road or street, or facility that creates less than 1 acre of new impervious surface, and disturbs, replaces, or alters more than 1 acre of existing impervious surface. Note: for the purposes of this Ordinance, if an activity creates more than 1 acre of new or additional impervious surface, the activity is considered new development and exceptions in this Ordinance for redevelopment do not apply to the increased (new) impervious surface exceeding 1 acre.
- LLL. Right-Of-Way (ROW) – A strip of land occupied or intended to be occupied by a street, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm

- sewer main, or another special use, and dedicated to public use by the recording of the plat on which such right-of-way is established.
- MMM. Runoff – Rainfall, snowmelt, irrigation, or otherwise discharged water flowing over the ground surface.
- NNN. Rural Preserves – Class 2a or 2b property that had been assessed under Minnesota Statutes 2006, section 273.111, or that is part of an agricultural homestead under Minnesota Statutes, section 273.13, subdivision 23, paragraph (a).
- OOO. Sediment – Soil or other surficial material transported by surface water as a product of erosion.
- PPP. Sedimentation – The process or action of depositing sediment.
- QQQ. Sinuuous – The curving patterns of a river, stream, or creek.
- RRR. Soil – The unconsolidated mineral and organic material on the immediate surface of the earth. For the purposes of this Ordinance, stockpiles of sand, gravel, aggregate, concrete or bituminous materials are not considered “soil” stockpiles.
- SSS. Stewardship Plan – A conservation plan completed for agricultural land and activities accepted by the Dakota County SWCD or the VRWJPO.
- TTT. Stormwater - Under Minnesota Rule 7077.0105, subpart 41b, stormwater means “precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff and drainage.” According to the Federal Code of Regulations under 40 CFR 122.26 [b][13], stormwater means “stormwater runoff, snow melt runoff and surface and drainage.” Stormwater does not include construction site dewatering.
- UUU. Stream Type – One of numerous stream types based on morphology defined by Rosgen, D., 1996, *Applied River Morphology*.
- VVV. Stormwater Pollution Prevention Plan (SWPPP) – A plan for stormwater discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.
- WWW. Structure – Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, water and storage systems, drainage facilities and parking lots.
- XXX. Subdivision – The separation of an area, lot, or tract of land under single ownership into two or more parcels, tracts, or lots.
- YYY. USDA – United States Department of Agriculture.
- ZZZ. VRWJPO – Vermillion River Watershed Joint Powers Organization.
- AAAA. Watercourse – Intermittent and perennial streams as shown on Map 1 attached to this Ordinance.
- BBBB. Wet Detention Facility – A permanent man-made structure for the temporary storage of runoff that contains a permanent pool of water.
- CCCC. Wetland – Any wetland as defined in Minn. Stat. § 103G.005, subd. 19.
- DDDD. Wetland Conservation Act (WCA) – The Minnesota Wetland Conservation Act of 1991,

as amended.

EEEE. Wetland Type – A wetland type or type as defined by Minnesota Rules 8420.0111.

## **SECTION 5. EROSION AND SEDIMENT CONTROL**

5.01 Erosion and Sedimentation Control Plan. No person shall commence a land disturbing activity meeting or exceeding the thresholds provided below, unless exempted, without submitting an Erosion and Sedimentation Control Plan to the Community Engineer or the Community Building Inspector. No building permit or land disturbing activity shall be authorized until the Community approves this plan. At a minimum the erosion prevention and sedimentation standards must conform with Best Management Practices (BMPs) defined in this Ordinance.

Criteria for requiring a permit with less than one (1) acre of disturbance are as follows:

- A. Land disturbing activities on slopes greater than six percent.
- B. Greater than 100 cubic yards of imported or stockpiled material.
- C. New public or private roads or driveways greater than 125 feet in length.
- D. Land disturbing activities greater than 10,000 square feet of land if commercial, industrial, or recreational use development.
- E. Filling, draining, or altering of natural or artificial stormwater storage, retention, or watercourses.
- F. Land disturbing activities located within 150 feet of wetlands identified on or adjacent to the land disturbing activities.
- G. Land disturbing activities that could reasonably be expected to deliver sediment to adjacent properties, wetlands, or water resources.

Exemptions for preparing an Erosion and Sedimentation Control Plan include the following:

- A. Minor land disturbing activities such as home gardens, repairs, and maintenance work.
- B. Construction, installation, and maintenance of individual sewage treatment systems, other than those on steep slopes (e.g., 6 percent or greater), or on riparian lots within a Shoreland District.
- C. Construction, installation, and maintenance of public utility lines or individual service connections unless the activity disturbs more than 1 acre, in which case the requirements in Section 5.02 apply.
- D. Installation of any fence, sign, telephone or electric poles, or other kinds of posts or poles.
- E. Emergency activity necessary to protect life or prevent substantial harm to persons or property.
- F. All maintenance, repair, resurfacing and reconditioning activities on impervious surfaces, which do not involve land-disturbing activities outside of the existing impervious surfaces.
- G. Construction of any structure on an individual lot in a subdivision with an approved

SWPPP, so long as any land disturbing and stormwater management activity complies with the approved plan.

5.02 Stormwater Pollution Prevention Plan (SWPPP). No person shall commence a land disturbing activity one acre or more in area without submitting an SWPPP to the Community Engineer for review and approval. The applicant is required to obtain a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) construction stormwater permit from the Minnesota Pollution Control Agency (MPCA). No building permit or land disturbing activity shall be authorized until the Community Engineer approves this plan and a permit is issued by the MPCA. The SWPPP shall contain all components required to meet the requirements of the NPDES General Construction Permit issued by the MPCA, August 1, 2018, as amended. All modifications or amendments to a SWPPP must be reviewed and approved by the Community Engineer and the MPCA.

5.03 Construction Erosion and Sediment Control Criteria. Land disturbances shall be governed by the following minimum construction erosion control standards:

- A. Erosion and sediment control measures shall be consistent with Best Management Practices (BMPs) and shall be sufficient to retain sediment on site.
- B. All temporary erosion and sediment controls shall be installed on all down gradient perimeters before commencing the land disturbing activity and left in place and maintained as needed until removed per Community approval after the site had been stabilized. All permanent erosion control measures shall be installed and operational per the design and as required by the Community prior to the removal of temporary controls.
- C. Erosion and sediment controls shall meet the standards for the General Permit Authorization to Discharge Storm Water Associated With Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Permit Program Permit MN R100001 (NPDES General Construction Permit) issued by the Minnesota Pollution Control Agency, August 1, 2018, as amended for projects disturbing more than 1 acre.
- D. Permanent cover of the site must be completed in accordance with the NPDES General Construction Permit requirements.
- E. All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a 10-year frequency storm without erosion.
- F. If the activity creates more than 1 acre of disturbed area, and the activity is taking place on a site where soils are currently disturbed (e.g., a tilled agricultural site that is being developed), areas that will not be graded as part of the development and areas that will not be stabilized according to the timeframes specified in the NPDES General Construction permit Part IV.B.S, shall be seeded with a temporary or permanent cover before commencing the proposed land disturbing activity.

(Section 5.04 was added by the Rural Collaborative engineer in the 2010 version; these are good requirements but more detailed than what is in the VRWJPO Standards and therefore would be up to the Community to keep)

5.04 Minimum Stormwater Pollution Prevention Measures and Related Inspections. These minimum control measures are required where bare soil is exposed. Due to the diversity of

individual construction sites, each site will be individually evaluated. Where additional control measures are needed, they will be specified at the discretion of the Community Engineer. The Community Engineer reserves the right to receive comments from the Dakota County Soil and Water Conservation District (SWCD) or the VRWJPO. The Community will determine what action is necessary to prevent excessive erosion from occurring on the site. If the following conditions are not met as outlined below, the MPCA will be notified for lack of compliance, fines may be levied, and prosecution for non-compliance with this Ordinance will be pursued.

- A. All grading plans and building site surveys must be reviewed by the Community for effectiveness of erosion control measures in the context of the site topography and drainage.
- B. The stormwater pollution prevention plan's measures, the limit of disturbed surface and the location of buffer areas shall be marked on the approved grading plan, and identified with flags, stakes, signs etc. on the development site before work begins.
- C. Sediment control measures must be properly installed by the builder before construction activity begins. Such structures may be adjusted during dry weather to accommodate short-term activities, such as those that require the passage of very large vehicles. As soon as this activity is finished or before rainfall, the erosion and sediment control structures must be returned to the configuration specified by the Community. Sufficient erosion control structures must be in place before a footing inspection will be done.
- D. Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel.
- E. If a stormwater pollution prevention plan involves directing some or all of the site's runoff, the applicant or its designated representative shall obtain from adjacent property owners any necessary easements or other property interests concerning the flowing of such water.
- F. Land disturbing activities should be phased or scheduled to minimize the amount of exposed soil at any time to lessen the potential for erosion and sedimentation.
- G. Generally, sufficient silt fence or other sediment control device will be required to hold all sheet flow runoff generated at an individual site, until it can either infiltrate or seep through the device's pores.
- H. For soil stockpiles greater than 10 cubic yards the toe of the pile must be more than 25 feet from a road, drainage channel or stormwater inlet. If such stockpiles will be left for more than 7 days; they must be stabilized with mulch, vegetation, tarps or other means. If left for less than 7 days, erosion from stockpiles must be controlled with silt fences or rock check dams.
  - 1. If for any reason a soil stockpile of any size is located closer than 25 feet from a road, drainage channel or stormwater inlet, and will be left for more than 7 days, it must be covered with tarps or controlled in some other manner
- I. All sand, gravel or other mining operations taking place on the development site shall have a National Pollutant Discharge Elimination System General Stormwater permit for industrial activities and all required Minnesota Department of Natural Resources permits.
- J. Temporary rock construction entrances will be required wherever vehicles enter and exit a site, according to specifications required by the Community Engineer. Slash mulch, 4"-

10", may be used in lieu of rock if approved by the Community Engineer.

- K. Parking is prohibited on all bare lots and all temporary construction entrances, except where street parking is not available.
- L. Streets must be cleaned and swept whenever tracking of sediments occurs and before sites are left idle for weekends and holidays. Regular sweeping must occur on paved roads at least once a week, unless notified by the Community, in which case sweeping will need to occur within 24 hours of being notified by the Community.
- M. Water (impacted by the construction activity) removed from the site by pumping must be treated by temporary sedimentation basins, geotextile filters, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls. Such water shall not be discharged in a manner that causes erosion or flooding of the site, receiving channels, adjacent property or a wetland.
- N. Catch Basins and sediment ponds must be cleaned prior to acceptance by the Community.
- O. Roof drain leaders. All newly constructed and reconstructed buildings must route roof drain leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The discharge rate shall be controlled so that no erosion occurs in the pervious areas.
- P. At a minimum, SWPPP inspections shall be done weekly and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours by the applicant or the applicant's representative in accordance with the MPCA permit for sites that disturb 1 acre or more of land.
- Q. Follow-up inspections must be performed by the Community on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the developer and/or builder to maintain proper erosion and sediment control at all sites.
  - 1. In cases where cooperation is withheld, construction stop orders may be issued by the Community, until erosion and sediment control measures meet specifications. A second erosion and sediment control/grading inspection must then be scheduled and passed before the final inspection will be done.
- R. The NPDES permittee shall inspect all stormwater management facilities during construction in accordance with the NPDES permit requirements. A copy of the inspection records shall be given to the Community.

#### 5.05 Required Submittals

- A. Erosion and Sediment Control Plan. Project plans shall include the following:
  - 1. Project site plan, construction sketch, or aerial photo information showing the extent of the project proposed for a property or properties. This should include all proposed structures, accesses, impervious surfaces, and areas where grading and construction activities are to occur.
  - 2. Proposed erosion and sediment control measures for how soil loss will be mitigated from the site. In the absence of this information, the proposed control measures can be provided as markups and comments by Community representatives or the Community Engineer that instruct the landowner/project applicant what is required for construction.



3. Notes or descriptions on how the disturbed area will be stabilized with seeding, landscaping, etc. to ensure that bare soils are no longer present after completion. For agricultural areas, returning to cropland is acceptable for final stabilization/cover.

- B. Stormwater Pollution Prevention Plan. Project site plans including a SWPPP that shall contain all components required to meet the requirements of the NPDES General Construction Permit issued by the MPCA, August 1, 2018, as amended.

## **SECTION 6. STORMWATER MANAGEMENT**

6.01 Application of Ordinance. No person or political subdivision shall commence a land disturbing activity for “new development” or “redevelopment” (per Section 4: Definitions, ZZ. or KKK.), unless specifically exempted below, without first obtaining a permit from the Community incorporates and approves a SWPPP and the stormwater management requirements below.

6.02 Post Construction Water Quality Criteria. Land disturbances shall be governed by the following minimum post construction water quality standards:

- A. Post construction stormwater runoff quality measures shall meet the standard for the General Permit Authorization to Discharge Storm Water Associated With Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Permit Program Permit MN R100001 (NPDES General Construction Permit) issued by the Minnesota Pollution Control Agency, June 25, 2018, as amended; except where more specific requirements are provided in paragraphs B, C, D, and E below.
- B. Infiltration/filtration options described under Runoff Volume Control Standard B, are the preferred approach to satisfying the water quality treatment requirements of the NPDES General Construction Permit in areas that drain to the trout stream portions of the Vermillion River and its tributaries where such areas do not first drain to a waterbody with 10 or more acres of open water.
- C. Ponds with permanent wet pools are allowed in areas tributary to the trout stream portions of the Vermillion River and its tributaries where such areas do not first drain to a waterbody with 10 or more acres of open water, if the applicant demonstrates:
1. No net increase in the temperature of the discharge for the 2-year 24-hour event with the use of alternative technologies and has met the Volume Control requirements of these Standards; or
  2. That the wet pond is designed for zero discharge for the 2-year, 24-hour storm; or
  3. That the Volume Control requirements of these Standards are met and the following measures are used to the extent practical in order of decreasing preference:
    - a. The wet pond is designed with a combination of measures such as shading, filtered bottom withdrawal, vegetated swale discharges, or constructed wetland treatment cells that will limit temperature increases.
    - b. Additional volume control measures and credits are used beyond that required to meet the Runoff Volume Standards as a means of limiting the frequency and duration of discharges from the pond.
- D. The water quality control volumes necessary to meet the NPDES General Construction Permit that are satisfied using infiltration or filtration technologies (filtration only on

Type C and D soils) can count toward the Volume Control requirements of this Ordinance.

- E. Ponds with overflows or outlets located below the seasonally high water table are allowed only where it can be demonstrated that there is a reasonable need for such an outlet to control seepage damage to existing structures.
- F. Redevelopment projects are required to incorporate water quality BMPs to the extent practical.

6.03 Runoff Temperature Control Criteria. Land disturbances shall be governed by the following minimum runoff temperature control standards:

- A. Post construction runoff criteria for controlling temperature increases relies on the establishment of buffers as specified in Section 8; the prioritization of temperature sensitive BMPs such as infiltration and filtration, and the designation of temperature sensitive wet pond design approaches in the Post Construction Water Standards above; and the control of runoff volume increases and the use of credits with the Runoff Volume Control Standards below. No additional specific temperature criteria are incorporated since these standards emphasize approaches sensitive to runoff temperature. However, since these other standards allow flexibility, and in some cases waivers, permit applications involving the creation of one or more acres of new impervious surface in the trout stream portions of the Vermillion River and its tributaries, where such areas do not first drain to a waterbody with 10 or more acres of open water:
  - 1. Must include a narrative description of the temperature sensitive practices incorporated.
  - 2. The Community may limit or deny waivers, or may require additional runoff temperature BMPs, if the Community or the VRWJPO finds that the site design does not minimize the potential for runoff temperature increases.

6.04 Peak Runoff Rate Control Criteria. Land disturbances shall be governed by the following minimum runoff rate control standards:

- A. A hydrograph method based on sound hydrologic theory will be used to analyze runoff for the design or analysis of flows and water levels. Modeling shall use the current applicable modeling standards (e.g., Atlas-14 for precipitation amounts, as amended or replaced).
- B. Runoff rates for proposed activities, and development shall
  - 1. Apply land cover conditions existing in 2005 as the baseline for existing conditions in runoff calculations.
  - 2. Not exceed existing runoff rates for the 1-year, 10-year, and 100-year critical duration storm events.
  - 3. Be implemented such that peak runoff rate controls keep future peak flood flows for the Vermillion River 100-year, 4-day event from increasing above existing conditions peak flows.
  - 4. Not exceed the existing rate for the VRWJPO Intercommunity Flow study goal flow value for the Community.
- C. Detention basins with permanent wet pools are allowed in area's tributary to the trout

stream portions of the Vermillion River provided Post Construction Water Quality Standard 5.04 C. above is met.

6.05 Runoff Volume Control Criteria. Land disturbances shall be governed by the following minimum runoff volume control standards:

- A. New development must incorporate volume control practices into the design sufficient to prevent an increase in the runoff volume for the 2-year 24-hour storm above pre-development conditions, unless waived in accordance with Runoff Volume Control Standard G. below. Determination of the necessary control volume to achieve this standard shall be calculated on a site-by-site basis for each individual proposal.
- B. The water quality control volumes necessary to meet the NPDES General Construction Permit that are satisfied using infiltration or filtration technologies (filtration only on Type C and D soils) can count toward the Volume Control requirements of this Ordinance.
- C. When using infiltration for volume control, infiltration volumes and facility sizes shall be calculated using appropriate site information and applying design criteria from the Minnesota Stormwater Manual.
- D. Constructed infiltration facilities, such as infiltration basins and trenches:
  - 1. Can only be used if there is pretreatment of stormwater runoff designed to protect the infiltration system from clogging with sediment and to protect groundwater quality,
  - 2. Cannot be used within 400 feet of a municipal or other community supply well or within 100 feet of a private well unless specifically allowed by an approved wellhead protection plan,
  - 3. Cannot be used for runoff from fueling and vehicle maintenance areas and industrial areas with exposed significant materials,
  - 4. Cannot be used on areas with less than 3 feet vertical separation from the bottom of the infiltration system and the seasonal high ground water table, and
  - 5. Cannot be used in Type D soils.
- E. Infiltration areas must be fenced or otherwise protected from disturbance before the land disturbing activity starts.
- F. Volume control amounts may be waived by the Community for sites with predominately Type C and D soils, or where a shallow water table prevents construction of infiltration systems, provided the following are met in order of decreasing preference:
  - 1. Infiltration volumes and facility sizes shall be calculated using appropriate site information and applying design criteria from the Minnesota Stormwater Manual.
  - 2. Underdrains are used to promote filtration instead of infiltration.
- G. Vegetation used in conjunction with infiltration systems must be tolerant of urban pollutants, and the range of soil moisture conditions anticipated.

(Sections 6.06-6.07 were added by the Rural Collaborative engineer in the 2010 version; these are good requirements but more detailed than what is in the VRWJPO Standards and therefore would be up to the Community to keep)

6.06 Minimum Design Standards for Stormwater Drainage Facilities. Stormwater drainage

facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall insure drainage at all points along streets and provide positive drainage away from buildings. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to protect against surface erosion and siltation of surface water, and to prevent the discharge of excess runoff onto adjacent properties.

- A. All storm sewer shall be designed to convey the 10-year critical duration storm event according to methods of accepted engineering practice subject to approval by the Community Engineer.
- B. A map identifying all of the individual drainage areas, and storm sewer design sheets identifying drainage area, runoff coefficient, time of concentration, intensity, runoff, slope, diameter, length, and capacity of the pipe, velocity within the pipe and invert elevations shall be submitted with the plans. All normal and high water levels of existing and proposed stormwater ponds, wetlands, lakes, streams and rivers shall be included on the plans.
- C. If required by the Community Engineer, 100-feet of 4-inch perforated drain tile shall be installed at all low point catch basins located within Community right-of-way. The drain tile shall be connected to proposed storm sewer facilities.
- D. Catch basins shall have a minimum depth of 3.5-feet.
- E. All stormwater pollution control management facilities must be designed to minimize the need for maintenance, to provide easy vehicle and personnel access for maintenance purposes and be structurally sound. These facilities must have a plan of operation and maintenance that ensures continued effective removal of the pollutants carried in stormwater runoff. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purpose.

6.07 Minimum Design Standards for Stormwater Wet Detention Facilities. All stormwater detention basins that do not discharge directly into the Vermillion River or its tributaries shall be designed in accordance with the Walker Method for Wet Detention Basins. The following standards shall be utilized.

- A. The permanent pool shall be equal to or greater than the runoff from a 2.5-inch rainfall for fully developed watershed conditions.
- B. The average pond depth obtained by dividing the permanent pool volume by the permanent pool area shall be a minimum of 3 feet.
- C. Side slopes shall be a maximum of 3:1 above the normal water level (NWL) and a maximum of 3:1 below the NWL with a 10:1 bench located below the NWL.
- D. Pond inlets and outlets shall be located so as not to encourage plug flow.
- E. A 20-foot minimum easement adjacent to a public road shall be provided to all ponds so Community maintenance crews have access to the pond.
- F. Concrete outlet structures shall be provided for all stormwater basins in accordance with Community standards or a standard approved by the Community Engineer.
- G. The lowest opening for all structures adjacent to stormwater ponds, wetlands, lakes or other water ways shall be at least 3 feet above the 100-year high water elevation.

- H. The lowest opening in any structure adjacent to stormwater ponds, wetlands, lakes or other water ways shall be at least 2 feet above the emergency overflow elevation. A minimum freeboard of 1 foot is required between the 100-year flood elevation and the emergency overflow elevation.
- I. The minimum floor elevation for all structures adjacent to land-locked stormwater ponds, wetlands, lakes or other water ways shall be at least 2 feet above the back to back 100-year flood elevation.
- J. A phasing plan for the construction of new and/or temporary detention basins shall be submitted to the Community Engineer for approval. Detention basins shall be constructed prior to other construction. The detention basins shall be cleared of sediment by the contractor at the end of the project. Infiltration basins shall not be constructed until the end of the project to eliminate unnecessary compaction of the soils.

6.08 Permanent Maintenance of Stormwater Facilities. All stormwater management structures and facilities shall be maintained in perpetuity to assure that the structures and facilities function as originally designed. The responsibility for maintenance shall be assumed either by the city, township, or county with jurisdiction over the structures and facilities; or by the applicant, their successors, or assigns entering into a maintenance agreement with the Community.

6.09 Stormwater Easements and Covenants. The applicant for stormwater permits shall establish, in a form acceptable to the Community, temporary and permanent drainage and utility easements, or dedicated outlots, for ponding, flowage, and drainage purposes over hydrologic features such as waterbodies and public stormwater basins. The easements, or outlots, shall include the right of reasonable access for inspection, monitoring, maintenance, and enforcement purposes. The Community may require that the land be subjected to restrictive covenants or a conservation easement or other easement, in form acceptable to the Community, to prevent the future expansion of impervious surface and the loss of infiltration capacity.

6.10 Waivers. The Community may waive on-site runoff rate, water quality, and runoff volume standards, consistent with the Collaborative Local Water Management Plan, and provided the off-site stormwater facilities are capable of meeting the other requirements in this Section.

6.11 Trading. Consistent with criteria established by or approved by the VRWJPO, the Community may consider off-site pollutant trading on a case-by-case basis. Any proposed trade must document conditions whereby the proposed offsite facility or practice provides a benefit that directly offsets any potential pollutant increase to the stream resulting from the proposed development. The responsibility for maintenance shall be addressed according to Section 8.4 of these standards. Any proposed off-site trade must be approved by the VRWJPO before implementation.

6.12 Required Submittals. All construction activities required to meet Stormwater Management requirements shall submit a stormwater management memo or plan that covers the following design components at a minimum:

- A. The following additional information shall be submitted along with the SWPPP.
  - 1. Drainage maps for the existing and proposed conditions.

2. A detailed breakdown of existing and proposed curve numbers.
3. Map identifying soil types.
4. A drainage report, certified by a professional engineer, identifying existing and proposed peak runoff rates and volumes flowing off-site to adjacent watersheds for the 2, 10 and 100-year events.
5. All calculations and information used in determining peak discharge rates and volumes utilizing the Soil Conservation Service TR-55/TR-20, or other approved programs/models.
6. First floor and lowest opening elevations for all existing and proposed buildings.
7. Delineation of existing wetlands, as defined in the Wetland Conservation Act.
8. Lakes, streams, shoreland and floodplains shall also be shown on the plans.
9. Locations of the normal and high water elevations for all water bodies on the plans.
10. Locations of any well locations within 500 feet of the site.
11. Additional details required in the VRWJPO Rules for any land disturbance required to be referred to the VRWJPO for review.

## **SECTION 7. WETLAND MANAGEMENT**

7.01 Wetland Alteration Approval Required. No person or political subdivision shall drain, fill, excavate, or otherwise alter a wetland or public waters wetland without completing a wetland application provided by the Minnesota Board of Water and Soil Resources (BWSR), consistent with the requirements of the Wetland Conservation Act (WCA). The application may be referred to the technical evaluation panel appointed by the Community, BWSR, and the Dakota County SWCD for technical findings and recommendations prior to any action on the application by the Community. The Community is the LGU for all WCA review and permitting.

7.02 Wetland Determinations and Delineations. The Community shall refer to all maps and resources available in determining whether a land disturbing activity may impact a wetland. The Community has the authority and responsibility to carefully evaluate all potential wetland impacts. In instances when a potential wetland area is not illustrated on any maps or other resources and its existence is questioned, the Community shall contact the Dakota County SWCD and request a determination as to whether a wetland may in fact exist. If the SWCD determines that a wetland may exist, the Community shall require the person proposing the land disturbing activity to conduct a field evaluation and delineation of the potential wetland. The SWCD shall approve the evaluation and delineation. The Community shall reimburse the SWCD for its determination and evaluations, according to fees established by the SWCD. Nothing shall prevent the Community from requiring the person engaged in a land disturbing activity to reimburse the Community for its out-of-pocket expenses incurred in the wetland determination and delineation procedure.

7.03 Wetland Management Priorities. The Community establishes the following priorities in managing wetlands:

- A. Work to achieve no net loss of wetlands.
- B. Replace lost wetlands in the same subwatershed whenever possible.
- C. Provide equal or greater functions and values for lost wetlands at the replacement ratios dictated by the WCA.

- D. Avoid direct or indirect wetland disturbance in accordance with State and Federal requirements and approved local wetland management plans.
- E. Limit the use of high-quality wetlands for stormwater management where other alternatives exist.
- F. Prevent direct discharge of stormwater runoff facilities into wetlands.
- G. Avoid fragmentation of natural areas and corridors when feasible and mitigate when unavoidable.

#### 7.04 Wetland Alteration/Mitigation Standards.

- A. Any drainage, filling, excavation, or other alteration of a public waters wetland or wetland shall be conducted in compliance with Minnesota Statutes Section 103G.245, the WCA, Minnesota Rule Chapter 8420, Minnesota Rule Chapter 7050.0186, and regulations established herein.
- B. In order to preserve WCA exemption or no loss determination, projects involving excavation in Types 1, 2, 6, and 7 wetlands must demonstrate a beneficial purpose, such as habitat or water quality improvements, and minimize loss of wetland function as determined by the LGU.
- C. A high quality (or equivalent value) public waters wetland or wetland, as determined using the Minnesota Routine Assessment Method (MNRAM 3.0 as amended) or other state accepted functional assessment method for vegetative diversity, may not be used for stormwater management and treatment unless the use will not adversely affect the function and public value of the wetland and other alternatives do not exist.
- D. Wetland replacement/mitigation siting must follow the priority order below:
  - 1. Mitigation on-site.
  - 2. Mitigation within the same minor subwatershed as established by the Minnesota Department of Natural Resources for the “1979 Watershed Mapping Project” pursuant to Minnesota Laws 1977, chapter 455, section 33, subdivision 7, paragraph (a).
  - 3. Mitigation within the VRWJPO boundary.
  - 4. Mitigation within Dakota County.
- E. Transportation projects shall pursue wetland mitigation projects to the extent practical using the standards above; however, this does not preclude the use of the BWSR Replacement Program.
- F. When seeking to achieve wetland mitigation through the acquisition of wetland credits through Wetland Banking (Minnesota Rules part 8420.0522), replacement credits are required to occur within the Vermillion River Watershed for wetland impacts occurring in the Vermillion River Watershed as long as there are wetland bank replacement credits available from a wetland bank within the Vermillion River Watershed.

#### 7.05 Required Submittals. When wetlands are present on a new development or redevelopment site, the following information shall be submitted to the community:

- A. Maps showing delineated boundaries of wetlands located on or adjacent to the subject property. Boundaries shall be established by a field wetland delineation in accordance

with Wetland Conservation Act (WCA) approved methods. In some cases, particularly those where wetlands are intended to be avoided, the WCA LGU may be able to work with a contracted partner (e.g., the Dakota SWCD) to delineate the wetland boundaries based on a field visit or available mapping data.

- B. Construction plans showing the project boundaries and location of the project relative to on-site wetlands.
- C. For sites with impacts to wetlands, submittals needed to satisfy the needs of the WCA permit program will be required by the Community. This includes, but is not limited to, a full “Joint Application for Activities Affecting Water Resources in Minnesota” and complete wetland delineation reports.

## **SECTION 8. WETLAND AND WATERWAY BUFFERS**

8.01 Wetland and Waterway Protection. It is a stated purpose of this Ordinance to protect and preserve the function and value of water resources in the Community. The provisions of this Section identify requirements for land preservation adjacent to wetlands and waterways for the purpose of protecting the function and value of water resources.

8.02 Buffers Required. A buffer of land adjacent to wetlands, public waters wetlands, and major waterways shall be established according to the requirements of this Section and encumbered by permanent easement or other formal mechanism, as described in Section 8.06, for all lots of record created after the adoption date of the original Water Resources Management Ordinance on \_\_\_\_\_, 2010, except as follows:

- A. A division of land exempt from local subdivision regulation as defined in Minnesota Statutes.
- B. A court-ordered division of land that precludes the Community from establishing these regulations.
- C. A division of land, where the resulting lots qualify for Green Acres or Rural Preserves agricultural tax classification.
- D. An authorized division of land enrolled in an Agricultural Preserve.

8.03 Structure Setbacks in Lieu of Buffers. All structures approved after the adoption date of the original Water Resources Management Ordinance, \_\_\_\_\_, 2009, shall comply with a setback standard equal to the minimum buffer widths prescribed in Section 8.04 and Section 7.05 of this Ordinance, in areas where buffers have not been established.

8.04 Wetland Buffer Criteria and Dimensions. For all wetlands and public waters wetlands requiring buffers according to this Ordinance, a wetlands delineation shall be required and a wetlands functional assessment using the Minnesota Routine Assessment Method (MNRAM 3.0 as amended) or other state accepted functional assessment method for vegetative diversity shall be completed by the person required to establish the buffer, unless such assessment has been completed by the Dakota County SWCD. The functional assessment shall be consistent with standards established or recommended by the SWCD. Buffer dimensions shall be established, based on the value of wetlands, identified as follows:



<b>Buffer Dimension</b>	<b>Exceptional Quality (Preserve)</b>	<b>High Quality (Manage 1)</b>	<b>Medium Quality (Manage 2)</b>	<b>Low Quality (Manage 3)</b>
Average Width	50 feet	40 feet	30 feet	25 feet
Minimum Width	30 feet	30 feet	25 feet	16.5 feet

8.05 Major Waterways Buffer Criteria and Dimensions. Major Waterways in the Community are identified by the VRWJPO, as illustrated on Map 1, October 26, 2006, attached to this Ordinance as Appendix A. At any point in time that Map 1 is updated and formally adopted by the VRWJPO, and the updated map of Major Waterways is formally transmitted to the Community by the VRWJPO, the Community shall replace Map 1 with the updated map. For all Major Waterways requiring buffers according to this Ordinance, required buffers shall meet the following dimensions, based upon the following classifications of the waterways:

<b>Waterway Classification</b>	<b>Buffer Dimensions and Standards</b>
Conservation Corridor	Lower Reach (Vermillion River downstream of Biscayne Avenue): 150-foot average, 100-foot minimum, measured from the edge of the meander belt of the river
Conservation Corridor	Upper Reach (Vermillion River upstream of Biscayne Avenue and South Branch Vermillion River): 150-foot average, 100-foot minimum, measured from the edge of the meander belt of the river
Aquatic Corridor Principal Connector	100-foot average, 65 feet minimum, measured from the edge of the meander belt of the river
Aquatic Corridor Principal Connector with Trout Stream Designation	100-foot minimum, no averaging, measured from the edge of the meander belt of the river
Aquatic Corridor Tributary Connector	50-foot average, 35-foot minimum: plus 2 feet for every 1 percent of slope,
Water Quality Corridor	30-foot average, 20-foot minimum where there is a flow path for concentrated surface runoff, measured from the center line of the flow path

8.06 Buffer Standards. The following standards shall apply to all buffers established in this Section.

- A. Where acceptable natural vegetation exists in buffer areas, the retention of such vegetation in an undisturbed state is required unless approval to replace such vegetation is received. A buffer has acceptable vegetation if it:
  1. Has a continuous, dense layer of perennial grasses that has been uncultivated or

- unbroken for at least 5 consecutive years, or
  - 2. Has an overstory of trees and/or shrubs that has been uncultivated or unbroken for at least 5 consecutive years, or
  - 3. Contains a mixture of the plant communities in 1 and 2 above that has been uncultivated or unbroken for at least 5 years.
- B. Buffers shall be staked and protected in the field prior to construction unless the vegetation and the condition of the buffer are considered inadequate. Existing conditions vegetation will be considered unacceptable if:
- 1. Physical condition of the buffer tends to channelize the flow of surface water, or
  - 2. Vegetative cover is less than 90%.
- C. Where buffer vegetation and conditions are unacceptable, or where approval has been obtained to replant, buffers shall be replanted and maintained according to the following standards:
- 1. Buffers shall be planted with a native seed mix approved by the State of Minnesota, NRCS, or the Dakota SWCD, with the exception of a one-time planting with an annual nurse or cover crop. Plantings of native forbs and grasses may be substituted for seeding. All substitutions must be approved by the Community. Groupings/clusters of native trees and shrubs, of species and at densities appropriate to site conditions, shall also be planted throughout the buffer area.
  - 2. The seed mix and planting shall be broadcast/installed according to State of Minnesota, NRCS, or Dakota SWCD specifications. The selected seed mixes and plantings for permanent cover shall be appropriate for the soil site conditions and free of invasive species.
  - 3. Buffer vegetation (both natural and created) shall be protected by erosion and sediment control measures during construction.
  - 4. During the first five full growing seasons, except where the Community has determined vegetation establishment is acceptable, the owner or applicant must replant buffer vegetation where the vegetative cover is less than 90%. The owner or applicant must assure reseeding or replanting if the buffer changes at any time through human intervention or activities.
- D. Where a buffer is required, the Community shall require the protection of the buffer under a conservation easement, or include the buffer in a dedicated outlot as part of platting and subdivision approval, except where the buffer is located in a public transportation right-of-way. Buffers shall also be monumented to clearly designate the boundaries of all new buffers within new residential subdivisions. A monument shall consist of a post and a buffer strip sign approved by the LGU.
- E. Alterations, including building, storage, paving, routine mowing, burning, plowing, introduction of noxious vegetation, cutting, dredging, filling, mining, dumping, grazing livestock, agricultural production, yard waste disposal, or fertilizer application are prohibited within any buffer. Periodic mowing or burning, or the use of fertilizers and pesticides for the purpose of managing and maintaining native vegetation is allowed with approval of the Community. Noxious weeds may be removed and mechanical or spot herbicide treatments may be used to control noxious weeds, but aerial or broadcast spraying is not acceptable. Prohibited alterations would not include plantings that enhance the natural vegetation or selective clearing or pruning of trees or vegetation that

are dead, diseased or pose similar hazards, or as otherwise clarified in Standard F.

- F. The following activities shall be permitted within any buffer, and shall not constitute prohibited alterations:
1. The following activities are allowed within both the minimum and average buffer width areas:
    - a. Use and maintenance of an unimproved access strip through the buffer, not more than 10 feet in width, for recreational access to the major waterway or wetland and the exercise of riparian rights.
    - b. Structures that exist when the buffer is created.
    - c. Placement, maintenance, repair, or replacement of public roads and utility and drainage systems that exist on creation of the buffer or are required to comply with any subdivision approval or building permit obtained from the Community, so long as any adverse impacts of public road, utility, or drainage systems on the function of the buffer have been avoided or minimized to the extent practical.
    - d. Clearing, grading, and seeding is allowed if part of an approved Wetland Replacement Plan, or approved Stream Restoration Plan.
    - e. A multipurpose trail through an area protected by conservation easement or in a dedicated outlot is allowed, provided it is designed and constructed to minimize erosion and new impervious surfaces, maintains an absolute minimum distance of at least fifteen feet as measured from the edge of the trail nearest the water resource to the wetland or public waters wetland edge, the bank of the watercourse, or the meander belt, and averages at least one-half the total VRWJPO identified buffer width. Where needed to cross the watercourse, the minimum impact alignment shall be used. The area between the trail and the water resource must be maintained in perennial vegetation in an undisturbed state excepting regular required maintenance of the buffer. Boardwalks and pedestrian bridges associated with a multipurpose trail must be approved by the Community or the VRWJPO.
    - f. The construction of underground utilities such as water, stormwater, and sanitary sewers and pipelines provided the minimum impact alignment is used, the area is stabilized in accordance with Standard 8.06B above, and setbacks established in the Floodplain Alterations Standard 9.03D are met.
  2. The following activities are allowed within those portions of the average buffer width that exceed the minimum buffer width:
    - a. Stormwater management facilities, provided the land areas are stabilized in accordance with Standard 8.06B above, and alterations prohibited in Standard 8.06E above are upheld.
    - b. The area of shallow vegetated infiltration and biofiltration facilities, and water quality ponds not to exceed 50 percent of the pond area, adjacent to wetlands and major waterways may be included in buffer averaging provided the facilities do not encroach into the minimum buffer width, and the land areas are stabilized in accordance with Standard 8.06C above, and alterations prohibited in Standard 8.06E above are upheld.

#### 8.07 Exceptions.

- A. The Buffer Standards do not apply to any wetland or public waters wetland with an

applicable exemption listed under the WCA, and to those portions of wetlands that will be filled under approved wetland replacement plans per the WCA.

- B. Community Comprehensive Wetland Management Plans which prescribe required buffer widths shall be compliant with standards set by the VRWJPO; applicable ordinances governing widths, restrictions, allowable uses, and monumentation must meet or exceed the requirements set by the VRWJPO.
- C. The Buffer Standards for Water Quality Corridors do not apply to lots of record as of the date of the published VRWJPO Rules, October 8, 2007, that are less than one acre in size.
- D. The Buffer Standards do not apply to existing outlots that received preliminary plat approval in the two year period (or more if the preliminary plat approval was extended by the Community) preceding the date of the published VRWJPO Rules, October 8, 2007.
- E. Where a stream meandering project has been completed, the buffer width shall be established by the Community and shall be no less than the minimum.
- F. The Buffer Standards do not apply to lots created that are enrolled in Green Acres, Rural Preserves, Agricultural Preserves, or similar agricultural or rural preservation programs controlling or limiting the potential for future lot subdivision or development, as part of the subdivision process. In areas where land use zoning provides for agricultural zoning with one building eligibility per every quarter of a quarter section (40 acres) of property, the buffer requirement will not be exercised until such time as the land use zoning is changed to an alternate use zoning or a higher density of residential building eligibilities. At that time, the buffer requirement will be fully implemented. For all properties seeking a permit under this exemption, the permit will require that structure setbacks are met which allow the future implementation of the buffer requirement with no impact to permanent structural elements. This exemption does not include transfer of building eligibilities for purposes of clustering.

8.08 Required Submittals. When buffers are established as required in Section 8.02, the following information shall be submitted to the community:

- A. Construction plans and specifications showing the delineated wetland edge, buffer strip location(s), the location of buffer monuments and the location of any temporary fencing required.
- B. A narrative description of each buffer strip identifying its current condition.
- C. A legal description and drawing of each buffer strip, signed forms for conservation easements; or record of an administrative land split, preliminary plat or final plat demonstrating that the buffer area is contained in a dedicated outlot.
- D. A landscaping and vegetation management plan according to Criteria 3 below, including a compliance monitoring and certification plan and a cost estimate, for buffer strips with unacceptable vegetation as defined by Criteria 2 below or where grading in a buffer strip is proposed.

## **SECTION 9. FLOODPLAIN ALTERATION**

9.01 Floodplain Alteration Approval Required. No person or political subdivision shall alter or fill land, or build a structure or infrastructure below the 100-year base flood elevation of any major waterway, public waters, public waters wetland, or other wetland without first obtaining a

permit from the Community or Dakota County, acting as the LGU. Where Dakota County has floodplain management jurisdiction, the provisions of this Section and Dakota County Ordinance No. 50 Shoreland and Floodplain Management Ordinance shall apply.

9.02 Floodplain Management Priorities. The Community establishes the following priorities in managing floodplains:

- A. Protect the natural function of the floodplain storage areas from encroachment.
- B. Manage floodplains to maintain critical 100-year storage volumes.
- C. Limit floodplain alterations in order to obtain “no net loss” of floodplain storage, including the preservation, restoration, and management of floodplain wetlands.
- D. Require compensatory storage for new developments within the floodplain.

9.03 Floodplain Management Standards. Land disturbing activities in or near the 100-year critical flood elevation shall be subject to the following standards.

- A. Floodplain alteration or filling shall not cause a net decrease in flood storage capacity below the projected 100-year critical flood elevation unless it is shown that the proposed alteration or filling, together with the alteration or filling of all other land on the affected reach of the waterbody to the same degree of encroachment as proposed by the applicant, will not cause high water or aggravate flooding on other land and will not unduly restrict flood flows.
- B. Where 100-year flood critical elevations have been established, all new structures shall be constructed with the low floor consistent with the minimum elevations as specified in State of Minn. R. Ch. 6120 Shoreland and Floodplain Management, and Dakota County Ordinance No. 50 Shoreland and Floodplain Ordinance, as applicable.
- C. Projects involving development, redevelopment, or the subdivision of land, shall establish flood storage, flowage, and drainage easements over areas below the 100-year critical flood elevation of any public water, public waters wetland, or wetland.
- D. Setbacks for floodplain alterations, fill, and new underground utilities, such as water, sanitary and storm sewers and interceptors, gas lines, phone lines, and pipelines; shall be established and used along major waterways. These setbacks shall be established as follows: (the exception is for utilities that need to reach or cross the major waterway, provided the minimum impact alignment is used)
  - 1. Where a major waterway has a sinuous flow pattern and a meander belt can be identified, the setback for new underground utilities shall be setback 15 feet from the outer edge of the meander belt.
  - 2. Where a sinuous flow pattern and meander belt are not readily identifiable because of past channel alterations and/or the geomorphology of the channel, the setback established for new underground utilities shall provide for the potential for restoration and a sinuous flow pattern as follows:
    - a. Where there are existing encroachments that limit full restoration of the stream to the meander widths appropriate for the stream type, the setback shall be 15 feet from the reasonably achievable restoration width for the meander belt given the

existing encroachments.

- b. Where full restoration is possible, the setback shall be 15 feet from a meander belt width established along the stream reach that has a width 10 times the bankfull channel width. An assessment of the stream type may be completed, and meander belt widths established according to the stream type, in place of using the above 10x formula. Note: the 1999 Vermillion River Assessment Report, as amended, available at the Dakota County SWCD or the Dakota County offices of the VRWJPO, provides assessment of stream type for many reaches of the Vermillion River.
  3. Where buffers are required, above ground encroachments, alterations, and fill shall be consistent with the prohibited and allowed uses and widths specified in the Buffer Standard.
- E. Projects that alter floodplain boundaries, such as bridge crossings and regional ponds that increase upstream high water levels are allowed provided that:
1. The applicant submits easements or other documentation in a form acceptable to the LGU or the VRWJPO demonstrating and recording the consent of the owner of any land affected by the increased high water levels,
  2. The action is consistent with other portions of these Standards; and Local, State and Federal Regulations, and
  3. The upstream impacts, riparian impacts and habitat impacts of the proposed action are analyzed and no detrimental impacts result, or adverse impacts are mitigated.

9.04 Required Submittals. For any permit required in this Section, the following information shall be submitted to the Community and/or Dakota County:

- A. Site plan showing boundary lines, delineation and existing elevation contours of the work area, ordinary high-water level, and 100-year critical flood elevation. All elevations shall be referenced to NGVD, 1929 datum.
- B. Grading plan showing any proposed elevation changes.
- C. Draft preliminary plat of any proposed subdivision.
- D. Determination by a registered professional engineer of the 100-year critical flood elevation before and after the proposed activity.
- E. Computation of the change in flood storage capacity as a result of the proposed alteration or fill.
- F. Erosion control and sediment plan, or Stormwater Pollution Prevention Plan, which complies with the Stormwater Management Rule.
- G. Soil boring results if available.

## **SECTION 10. DRAINAGE ALTERATION**

10.01 Drainage Alteration Approval Required. No person or political subdivision shall artificially drain surface water, or obstruct or divert the natural flow of runoff so as to affect a drainage system, or harm the public health, safety, or general welfare of the Community, without first obtaining a permit from the Community.

10.02 Drainage System Priorities. The Community establishes the following priorities in managing existing drainage systems:

- A. Use existing natural retention and detention areas for stormwater management to maintain or improve existing water quality.
- B. Manage stormwater to minimize erosion.
- C. Allow outlets from landlocked basins, provided such outlets are consistent with State and Federal regulations, and the downstream impacts, riparian impacts, and habitat impacts of such outlets have been analyzed and no detrimental impacts result.
- D. Mitigate and reduce the impact of past increase in stormwater discharge on downstream conveyance systems.
- E. Address known flooding/erosion problems that cross jurisdictional boundaries and address other boundary issues and the diversion/alteration of watershed flows in local water plans.
- F. Address gully erosion problems in the watershed.
- G. Maximize upstream floodwater storage.

10.03      Drainage Alteration Standards. Land disturbing activities affecting existing drainage systems shall be subject to the following standards.

- A. Outlets from landlocked basins with a tributary drainage area of 100 acres or more will be allowed, provided such outlets are consistent with other portions of these Standards, State and Federal regulations, and the downstream impacts, riparian impacts, and habitat impacts of such outlets have been analyzed and no detrimental impacts result. The analysis and determination of detrimental impacts shall:
  - 1. Use a hydrograph method based on sound hydrologic theory to analyze runoff for the design or analysis of flows and water levels,
  - 2. Ensure a hydrologic regime consistent with the Peak Runoff Rate Control Standards and the Runoff Volume Control Standards of this Ordinance,
  - 3. Ensure the outlet does not create adverse downstream flooding or water quality conditions, or materially affect stability of downstream major waterways,
  - 4. Maintain dead storage within the basin to the extent possible while preventing damage to property adjacent to the basin,
  - 5. Ensure that the low floors of new structures adjacent to the basin are set consistent with the Floodplain Alterations Standards, and
  - 6. Ensure that proposed development tributary to the land-locked basin has incorporated runoff volume control practices to the extent practical.
- B. Artificial drainage, flow obstruction, and diversions involving waterways, public waters, public water wetland, wetlands with drainage areas of 640 acres or more will be allowed provided such alterations or diversions are consistent with other portions of these Standards, State and Federal regulations, and the downstream impacts, riparian impacts and habitat impacts of such alterations or diversions have been analyzed and no detrimental impacts result. Proposals for drainage alterations and diversions shall demonstrate that:
  - 1. There is a reasonable necessity for such drainage alteration or diversion to improve or protect human health and safety, or to improve or protect aquatic resources;
  - 2. Reasonable care has been taken to avoid unnecessary injury to upstream and downstream land;

3. The utility or benefit accruing to the land on which the drainage will be altered reasonable outweighs the gravity of the harm resulting to the land receiving the burden; and
  4. The drainage alteration or diversion is being accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonable carrying capacity, or in the absence of a practicable natural drain, a reasonable and feasible artificial drainage system is being adopted.
- C. Drainage alterations, diversions, and landlocked basin outlets shall be provided with stable channels and outfall.

**10.04 Exceptions.**

- A. No permit shall be required where it is demonstrated that the proposed drainage alteration or diversion does not cause off-site erosion, sedimentation, flooding, or other damage.
- B. The Community may waive the requirements regarding upstream and downstream flooding impacts if the applicant submits easements or other documentation in form acceptable to the Community, demonstrating and recording the consent of the owner of any burdened land to the proposed alteration.

**10.05 Required Submittals.** For any permit required in this Section, the following information shall be submitted to the Community, the VRWJPO, and Dakota County if the LGU:

- A. Map showing location of proposed alteration and tributary area.
- B. Existing and proposed cross sections and profile of affected drainage area.
- C. Description of bridges or culverts required.
- D. Narrative and calculations verifying compliance with the above criteria.

**SECTION 11. APPLICATIONS, PERMIT FEES, ESCROWS, AND SURETY**

**11.01 Applications.** All requests for approvals required by this Ordinance shall be made on application forms or by procedures prescribed by the Community, and reviewed and acted upon through procedures established by the Community, and according to timeframes established by state law.

**11.02 Permit Fees.** All requests for approvals required in this Ordinance shall be obligated to pay applicable permit fees established by the Community and review procedure fees, including the reimbursement of out-of-pocket expenses incurred by the Community in the review and approval process. Out-of-pocket expenses include but are not limited to consulting fees, other agency review fees, public hearing publications, mailings, and similar expenses.

**11.03 Escrow Fund.** The Community may require a cash escrow fund, in amounts established by the Community, for the anticipated out-of-pocket expenses incurred by the Community identified in Section 10.02 above. A person seeking approvals from the Community shall be obligated to pay all out-of-pocket expenses regardless of the existence of an escrow fund or the amount required in an escrow fund.

**11.04 Financial Surety.** The Community may require cash, a letter of credit, performance bond, or other surety, in a form and amount determined by the Community, to guarantee



satisfactory completion of any land disturbing activities and to protect the public health, safety and welfare.

## **SECTION 12. APPEALS AND VARIANCES**

Appeals for the interpretation of any provision of this Ordinance and variances from the literal application of the provisions in this Ordinance may be appropriate in certain circumstances. The appeals and variance procedures to consider interpretations or relief from the provisions of this Ordinance shall follow the procedures and requirements, and shall require the same findings and considerations for granting appeals or variances, as are prescribed in the Community Zoning Ordinance. In addition to the Community's appeals and variance procedures, written notification shall be made by the Community to the VRWJPO of any proposed appeal or variance proceeding no later than at the time notice of the proceeding is delivered to the official newspaper for publication. The Community must take into consideration any comments from the VRWJPO before acting on any appeal or variance.

## **SECTION 13. AMENDMENTS**

Amendments to this ordinance may be initiated by petition of any person or by direction of the Community. Any consideration for an amendment to this Ordinance shall require a public hearing, including publication of the public hearing according to law. The public hearing may be held by the Planning Commission or the governing body, as determined by the Community. Prior to action on any amendment to this Ordinance by the governing body, the Community must forward a notice of the public hearing to the VRWJPO at the time notice of the proceeding is delivered to the official newspaper for publication. The Community must review and consider any comments from the VRWJPO prior to acting on any amendment.

## **SECTION 14. ABROGATION AND STRICTER PROVISIONS**

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where any provision of this Ordinance conflicts with a provision of other Community ordinances, the stricter provisions shall prevail.

## **SECTION 15. VIOLATIONS AND PENALTIES**

**15.01 Civil Remedy.** In the event of a violation of this Ordinance, the Community may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations, and the Community Attorney may institute such action.

**15.02 Criminal Remedy.** Any person, who violates any of the provision of this Ordinance or who fails to comply with any provision of this Ordinance or who makes any false statement in any document submitted under this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law. Each day that a violation continues shall constitute a separate offense.

## **SECTION 16. SEVERABILITY**

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or

invalid by a court of law, the remainder of this Ordinance shall not be affected and shall remain in full force.

**SECTION 17. REPEAL AND REPLACEMENT**

This Ordinance repeals and replaces Ordinance No.\_\_\_\_\_, adopted on\_\_\_\_\_, 2009.

**SECTION 18. EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Adopted this \_\_\_\_ day of \_\_\_\_\_ 2010 by the Board of Supervisors of \_\_\_\_\_ Township, MI

**ATTEST:**

\_\_\_\_\_  
\_\_\_\_\_, Chair

\_\_\_\_\_  
\_\_\_\_\_, Clerk

Official summary published in the \_\_\_\_\_ on \_\_\_\_\_, 2021.

**APPENDIX A**

**Map 1 – Stream Classifications and Buffer Standards**

**6f. Vermillion River Watershed Planning Commission Member Terms and Status**

Meeting Date: 11/17/2021  
Item Type: Information  
Contact: Mark Zabel  
Telephone: 952-891-7011  
Prepared by: Mark Zabel



**PURPOSE/ACTION REQUESTED**

- Presentation on the current member terms and their status coming at the end of the calendar year

**SUMMARY**

Members of the Vermillion River Watershed Planning Commission (WPC) are appointed to serve three-year terms by the Vermillion River Watershed Joint Powers Board (JPB). Appointed members of the WPC are eligible to serve two consecutive terms. Members are sometimes appointed to an open incumbent seat on the WPC completing the previous incumbent's existing term. In such cases fulfilling the previous incumbent term is not counted as a term of the newly appointed member thus retaining their eligibility to serve up to two full three-year terms in addition to completing the previous incumbent term.

There are nine citizen members appointed to the WPC, eight from Dakota County and one from Scott County. Requirements to be eligible to serve on the WPC stipulate commission members must be, and remain, residents of the watershed and the County from which they are appointed. WPC members terms are staggered such that three members' terms expire at the end of any given calendar year. When the three members' terms expire those with remaining eligibility must reapply to the VRWJPB for appointment if they wish to continue to serve. Seats for those whose eligibility is completed become vacant and open for a new appointee. Members who complete their eligibility can return to the WPC by applying to a future open seat but are not allowed to continue in their existing position.

At the end of this calendar year, 2021, terms for Tony Wotzka, Carolyn Miller, and Ken Betzold are expiring (see Attachment – WPC Term Spreadsheet). Tony Wotzka and Carolyn Miller have eligibility to serve an additional term. Ken Betzold has served to the end of his eligibility. We would like to recognize Ken (current vice-Chair) and his service to the VRWJPO and Dakota County during his tenure on the WPC. Ken was first appointed on August 28<sup>th</sup>, 2014. His perspective as a farmer and conservationist is well appreciated on the WPC.

## WPC MEMBER TERMS

	Previous Incumbent Term End	1st Term Appointment Date	1st Term Expiration Date	2nd Term Expiration Date*	Eligibility Ends**
Ken Betzold	12/31/2015	8/28/2014	12/31/2015	12/31/2018	12/31/2021
Mark Henry	12/31/2013	2/27/2014	12/31/2016	12/31/2019	12/31/2022
Chuck Clanton	12/31/2016	7/23/2015	12/31/2016	12/31/2019	12/31/2022
Andrew Riesgraf	12/31/2020	1/28/2021	12/31/2023	12/31/2026	12/31/2026
James Kotz	12/31/2020	1/28/2021	12/31/2023	12/31/2026	12/31/2026
Tony Wotzka	12/31/2015	3/26/2016	12/31/2018	12/31/2021	12/31/2024
Carolyn Miller	12/31/2018	2/23/2017	12/31/2018	12/31/2021	12/31/2024
Joshua Borton	12/31/2019	7/27/2017	12/31/2019	12/31/2022	12/31/2025
Steve Hamrick	12/31/2017	6/25/2020	12/31/2020	12/31/2023	12/31/2026

\*If a member chooses to continue serving on the VRWPC for a second term, this would be his or her term end date

\*\* When appointed to finish out the term of an existing position on the WPC, the appointee is eligible to finish that term and serve two full three year terms in addition.

Eligibility reflects the full period that could be served by a current incumbent or an appointee to a currently vacant position.