

6.0 Waterbody Crossings and Structures

6.1 Policy

It is the policy of the Board of Managers to discourage the use of beds and banks of waterbodies for the placement of bridges, utilities or other structures, and to protect the hydraulic capacity and floodplain of streams and drainage systems.

6.2 Regulation

No person may construct, improve, repair or remove a crossing in contact with or under, conduct horizontal drilling or directional boring under or remove a structure from the bed or bank of any waterbody in the District without first securing a permit from the District. Except that:

6.2.1 No NMCWD permit under this rule is required for activities conducted pursuant to a project-specific permit from the state Department of Natural Resources, but the NMCWD buffer requirements apply to activity that would otherwise require a NMCWD permit.

6.3 Criteria

6.3.1 Construction, improvement, repair or removal of a waterbody crossing in contact with the bed or bank of a waterbody:

- a Must retain adequate hydraulic capacity and assure no net increase in the flood stage of the pertinent waterbody;
- b Must retain adequate navigational capacity pursuant to any requirements of the waterbody's classification by the District;
- c Must not be reasonably likely to significantly adversely affect water quality, change the existing flowline/gradient, or cause increased scour, erosion or sedimentation;
- d Must provide post-project wildlife passage along each bank and riparian area by means that:
 - 1 account for wildlife that are native to the area or may be present; and
 - 2 conform to any requirements imposed by the District's classification of the waterbody; and
- e Must represent the 'minimal impact' solution to a specific need with respect to all other reasonable alternatives, based on analysis of at least two reasonable alternatives, one of which may be not undertaking the proposed work, except that in-kind replacement of utility crossings need not provide an alternatives analysis.

- 6.3.2 Projects involving directional boring or horizontal drilling must provide for minimum clearance of 3 feet below the bed of a waterbody and a minimum setback of 50 feet from any stream bank for pilot, entrance and exit holes.
- 6.3.3 Removal of structures or other waterway obstructions:
 - a Must maintain the original cross-section and bed conditions to the greatest extent practicable;
 - b Must achieve complete removal of the structure, including any footings or pilings that impede navigation; and
 - c Must not involve the removal of a water-level control device.
- 6.3.4 Plans for the work must state that no activity affecting the bed of a protected water may be conducted between March 15 and June 15 on watercourses, or between April 1 and June 30 on all other public water waterbodies, to minimize impacts on fish spawning and migration.
- 6.3.5 A separate permit under District Rule 7.0 is not required for shoreline or streambank stabilization associated with a waterbody crossing or structure, but such stabilization must comply with the criteria 7.3.3c to e.

6.4 Required information and exhibits

The following exhibits must accompany the permit application. Exhibits must be submitted in an electronic format acceptable to the District:

- 6.4.1 Construction plans and specifications, certified by licensed professional engineer.
- 6.4.2 An analysis prepared by a licensed professional engineer or qualified hydrologist showing the effect of the project on hydraulic capacity and water quality.
- 6.4.3 An erosion control and site restoration plan.

6.5 Maintenance

Crossings in contact with the bed or bank of a waterbody must be maintained in good repair at all times to ensure continuing adequate hydraulic and navigational capacity; to assure no net increase in the flood stage; to prevent adverse effects to water quality, changes to the existing flowline/gradient, and increased scour, erosion or sedimentation; and to minimize the potential for obstruction of the waterbody. A declaration or other recordable document stating terms for maintenance of a crossing and approved by the District must be recorded. In lieu of recordation, a public permittee or a permittee without a property interest sufficient for recordation may assume the maintenance obligation by means of a written agreement with the District. The agreement must state that if the ownership of the structure is transferred, the public body will require the transferee to comply with this section.