RESOLUTION NO. 2016-04
RICE CREEK WATERSHED DISTRICT
BOARD of MANAGERS
APPROVING the CITY of CIRCLE PINES
LOCAL WATER MANAGEMENT PLAN

Manager Walker offered the following resolution and moved its adoption, seconded by Manager Bradley:

WHEREAS pursuant to Minnesota Statutes §103B.231, on January 4, 2010, the Rice Creek Watershed District ("District") adopted, and on November 12, 2014 it amended, its watershed management plan (WMP) detailing the existing physical environment, land use and development in the watershed and providing for water resource management to protect water resources, improve water quality, prevent flooding and otherwise achieve the goals of Minnesota Statutes Chapters 103B, 103D and 103E;

WHEREAS to achieve the policies and purposes of the WMP and pursuant to Minnesota Statutes §103D.341, the District has adopted and implements rules requiring permits for and otherwise regulating land disturbance;

WHEREAS pursuant to Minnesota Statutes §103G.2242 and associated statutes and rules, the District serves as the local government unit (LGU) implementing the Minnesota Wetland Conservation Act (WCA) except within the boundaries of a municipality that has undertaken to fulfill the role of LGU;

WHEREAS the City of Circle Pines ("City") has developed a local water management plan under Minnesota Statutes §103B.235, titled "Water Resource Management Plan for the City of Circle Pines" (January, 2016), that describes the existing and proposed physical environment and land use within the City and sets forth an implementation plan for bringing local water management into conformance with the WMP ("Local Plan");

WHEREAS the Metropolitan Council received a copy of the local plan and provided comments on that plan to the District in accordance with Minnesota Statutes §103B.235, and the District finds that the City has adequately addressed those comments;

WHEREAS Minnesota Statutes §103B.211 and the WMP provide that if the City so elects, and on the District's approval of the Local Plan, the District shall cease to apply its rules within the City boundaries, except as the District and City have agreed;

WHEREAS the WMP further provides that through the Local Plan approval process, the City may assume the role of WCA LGU;
WHEREAS the City elects that the District not apply its rules for stormwater management, erosion and sediment control, floodplain alteration or wetland alteration (District Rules C, D, E and F, respectively) within City boundaries, and further elects to act as the WCA LGU;

WHEREAS pursuant to Minnesota Statutes §103B.235 and the WMP, to approve the Local Plan, the District must find that City ordinances will protect water resources to a degree equivalent to that of the four cited District rules, and further is conditioned on District approval of City inspection and administrative procedures to implement and enforce its official controls, and on a protocol for the District’s periodic review of the City’s regulatory program;

WHEREAS the WMP also states that if the City elects a sole regulatory role, the parties will sign a memorandum of understanding (MOU) to document and clarify the regulatory roles of each party;

WHEREAS draft City ordinances that would amend Section 1350 of the City zoning code and adopt Sections 1370, 1380 and 1390 to that code are attached as Exhibit A hereto; the ordinances would adopt District Rules C, D, E and F by reference; and therefore they would protect water resources to a degree equivalent to those District rules; and

WHEREAS the inspection and administration procedures, data updating protocol and regulatory program review protocol are important to establish a sound framework for ongoing District and City regulatory coordination;

THEREFORE BE IT RESOLVED that the RCWD Board of Managers hereby approves the City’s Local Plan;

BE IT FURTHER RESOLVED that approval is conditioned on the parties’ execution of an MOU conforming to the draft MOU attached as Exhibit B hereto;

BE IT FURTHER RESOLVED that the District will cease to apply Rules C, D, E and F within City boundaries except as stated in the MOU, when the following have occurred:

- The MOU has been fully executed;
- The City has adopted ordinances conforming to Exhibit A and protocols approved by the District administrator; and
- The City has transmitted official copies of the ordinances and protocols to the District, and the District has confirmed receipt.

BE IT FINALLY RESOLVED that the Board President is authorized to execute the MOU, on advice of counsel.
The question was on the adoption of the Resolution and there were 4 yea and 0 nays as follows:

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Upon vote, the Chair declared the resolution passed.

Michael Bradley, Secretary

Dated: January 27, 2016

I, Michael Bradley, Secretary of the Rice Creek Watershed District, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I hereunto set my hand this 27th day of January, 2016.

Michael Bradley, Secretary
City of Circle Pines  
County of Anoka  
State of Minnesota  

ORDINANCE NO. ___  

AN ORDINANCE PROMOTING THE HEALTH, SAFETY AND GENERAL WELFARE OF THE CITIZENS OF CIRCLE PINES MINNESOTA, BY AMENDING THE ZONING ORDINANCE SECTION 1350 STORMWATER MANAGEMENT ORDINANCE  

The City Council of the City of Circle Pines ordains:  

SECTION 1. The City Council of Circle Pines hereby amends Section 1350 Storm Water Management Ordinance of the City of Circle Pines Zoning Code, to read as follows:  

Section 1350-Storm Water Management Ordinance  

1350.01 Findings. The City of Circle Pines hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the City of Circle Pines to provide adequate water, sewage, flood control, and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas which may be affected by unplanned land usage. 

The City of Circle Pines hereby also adopts by reference, and as amended, Rice Creek Watershed District Rule C related to Stormwater Management Plans. The rules and regulations related to the review of Stormwater Management Plans will be reviewed by the Local Governing Unit (LGU) in accordance with Rice Creek Watershed District Rules.  

1350.02 Purpose. The purpose of this ordinance is to promote, preserve and enhance the natural resources within the City of Circle Pines and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land disturbing
and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

1350.03 **Scope and Effect.**

Subd. 1  **Applicability.** Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities must submit a storm water management plan to the City Administrator. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this ordinance. The provisions of section of this ordinance apply to all land, public or private, located within the City of Circle Pines.

Subd. 2 **Variances.** Pursuant to Minnesota Statutes 103B.211, subdivision 1(a)(3), any variance must be approved by the RCWD Board.

1350.04 **Penalty.** Any person, firm or corporation violating any provision of this ordinance shall be fined not less than five dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

1350.05 **Other Controls.** In the event of any conflict between the provisions of this ordinance and the provisions of an erosion control or shoreland protection ordinance adopted by the City Council the more restrictive standard prevails.

1350.06 **Severability.** The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

**SECTION 2.** This ordinance shall be effective upon passage and official publication.

Adopted this ___ day of ______ 2015, by the Circle
Pines City Council.

ATTEST:

James W. Keinath, City Administrator

First Reading:
Second Reading:
Published:

(SEAL)
City of Circle Pines
County of Anoka
State of Minnesota

ORDINANCE NO. ___

AN ORDINANCE PROMOTING THE HEALTH, SAFETY AND GENERAL WELFARE OF
THE CITIZENS OF CIRCLE PINES MINNESOTA, BY ADOPTING ZONING
ORDINANCE SECTION 1380 EROSION AND SEDIMENT CONTROL ORDINANCE

The City Council of the City of Circle Pines ordains:

SECTION 1. The City Council of Circle Pines hereby adopts its
Section 1380 Erosion and Sediment Control as an amendment
to the City of Circle Pines Zoning Code, to read as follows:

1380.00 Erosion and Sediment Control.

1380.01 Regulation
Subd. 1 The City of Circle Pines adopts by reference,
and as amended, Rice Creek Watershed District Rule D
regarding Erosion and Sediment Control.

Subd. 2 The regulation, design, construction activity,
inspection, and final stabilization related to erosion
and sediment control will be reviewed by the Local
Governing Unit (LGU) in accordance with Rice Creek
Watershed District Rule D.

1380.02 Penalty
Subd. 1 Any person, firm or corporation violating any
provision of this ordinance shall be fined not less
than five dollars nor more than five hundred dollars
for each offense, and a separate offense shall be
deemed committed on each day during or on which a
violation occurs or continues.

1380.03 Other Controls.
Subd. 1 In the event of any conflict between the
provisions of this ordinance and the provisions of a
floodplain, wetland, stormwater management, or
shoreland protection ordinance adopted by the City
Council the more restrictive standard prevails.

1380.04 **Severability.**

Subd. 1 The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

**SECTION 2.** This ordinance shall be effective upon passage and official publication.

Adopted this ____ day of _______ 2015, by the Circle Pines City Council.

_________________________
Dave Batholomay, Mayor

ATTEST:

James W. Keinath, City Administrator

First Reading:
Second Reading:
Published:

(SEAL)
City of Circle Pines  
County of Anoka  
State of Minnesota  

ORDINANCE NO. ___

AN ORDINANCE PROMOTING THE HEALTH, SAFETY AND GENERAL WELFARE OF THE CITIZENS OF CIRCLE PINES MINNESOTA, BY ADOPTING ZONING ORDINANCE SECTION 1370 FLOODPLAIN MANAGEMENT ORDINANCE

The City Council of the City of Circle Pines ordains:

SECTION 1. The City Council of Circle Pines hereby adopts its Section 1370 Floodplain Management as an amendment to the City of Circle Pines Zoning Code, to read as follows:

1370.00 Floodplain Management.

1370.01 Regulation

Subd. 1 The City of Circle Pines adopts by reference, and as amended, Rice Creek Watershed District Rule E regarding Floodplain Management.

Subd. 2 The application for the modification or alteration of Floodplain will be reviewed by the Local Governing Unit (LGU) in accordance with Rice Creek Watershed District Rule E.

1370.02 Penalty.

Subd. 1 Any person, firm or corporation violating any provision of this ordinance shall be fined not less than five dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

1370.03 Other Controls.

Subd. 1 In the event of any conflict between the provisions of this ordinance and the provisions of an erosion control, stormwater management, wetland, or shoreland protection ordinance adopted by the City Council the more restrictive standard prevails.
1370.04 Severability.

Subd. 1 The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

SECTION 2. This ordinance shall be effective upon passage and official publication.

Adopted this ___ day of ______ 2015, by the Circle Pines City Council.

______________________________
Dave Batholomay, Mayor

ATTEST:

__________________________
James W. Keinath, City Administrator

First Reading:
Second Reading:
Published:

(SEAL)
City of Circle Pines
County of Anoka
State of Minnesota

ORDINANCE NO. ___

AN ORDINANCE PROMOTING THE HEALTH, SAFETY AND GENERAL WELFARE OF THE CITIZENS OF CIRCLE PINES MINNESOTA, BY ADOPTING ZONING ORDINANCE SECTION 1390 WETLAND MANAGEMENT ORDINANCE

The City Council of the City of Circle Pines ordains:

SECTION 1. The City Council of Circle Pines hereby adopts its Section 1390 Wetland Management as an amendment to the City of Circle Pines Zoning Code, to read as follows:

1390.00 Wetland Management.

1390.01 Regulation

Subd. 1 The City of Circle Pines adopts by reference, and as amended, Rice Creek Watershed District Rule F regarding Wetland Alteration.

Subd. 2 The application for the modification or alteration of wetlands will be reviewed by the Local Governing Unit (LGU) in accordance with Rice Creek Watershed District Rule F and the Wetland Conservation Act (WCA).

1390.02 Penalty.

Subd. 1 Any person, firm or corporation violating any provision of this ordinance shall be fined not less than five dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

1390.03 Other Controls.

Subd. 1 In the event of any conflict between the provisions of this ordinance and the provisions of an erosion control, stormwater management, floodplain, or shoreland protection ordinance adopted by the City Council the more restrictive standard prevails.
1390.04 **Severability.**

Subd. 1 The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

**SECTION 2.** This ordinance shall be effective upon passage and official publication.

Adopted this ____ day of ____ 2015, by the Circle Pines City Council.

__________________________
Dave Batholomay, Mayor

ATTEST:

__________________________
James W. Keinath, City Administrator

First Reading:
Second Reading:
Published:

(SEAL)
MEMORANDUM OF UNDERSTANDING

Between the Rice Creek Watershed District
and the City of Circle Pines
for Local Water Planning and Regulation

This Memorandum of Understanding (MOU) is made by and between the Rice Creek Watershed District, a watershed district with purposes and powers as set forth at Minnesota Statutes Chapters 103B and 103D ("District"), and the City of Circle Pines, a statutory city of the State of Minnesota ("City").

Recitals and Statement of Purpose

WHEREAS pursuant to Minnesota Statutes §103B.231, on January 4, 2010, the District adopted, and on November 12, 2014 it amended, its watershed management plan (WMP) detailing the existing physical environment, land use and development in the watershed and providing for water resource management to protect water resources, improve water quality, prevent flooding and otherwise achieve the goals of Minnesota Statutes Chapters 103B, 103D and 103E;

WHEREAS to achieve the policies and purposes of the WMP and pursuant to Minnesota Statutes §103D.341, the District has adopted and implements rules requiring permits for and otherwise regulating land disturbance;

WHEREAS pursuant to Minnesota Statutes §103G.2242 and associated statutes and rules, the District serves as the local government unit (LGU) for implementation of the Minnesota Wetland Conservation Act (WCA) except within the boundaries of a municipality that has undertaken to fulfill the role of LGU;

WHEREAS the City has developed a local water management plan under Minnesota Statutes §103B.235, titled "Water Resource Management Plan for the City of Circle Pines, Minnesota" and dated January 2016 that describes the existing and proposed physical environment and land use within the City and sets forth an implementation plan for bringing local water management into conformance with the WMP ("Local Plan");

WHEREAS on January 27, 2016, the District Board of Managers conditionally approved the Local Plan by adoption of Resolution 2016-04, which resolution is attached and incorporated herein;

WHEREAS Minnesota Statutes §103B.211 and the WMP provide that at the City's election and on the District's approval of the Local Plan, the District shall cease to apply its rules within the City boundaries, except as the District and City have agreed, and further that the District and City shall agree as to which will act as the WCA LGU;

WHEREAS pursuant to Minnesota Statutes §103B.235 and the WMP, District approval of the Local Plan requires a finding that the official controls of the City will protect water resources to a degree equivalent to that of the District rules, and further is conditioned on District approval of inspection and administrative procedures for the City's effective implementation and enforcement of its official
controls, and on mutual establishment of a framework for the District's periodic review of the City's regulatory program; and

WHEREAS District approval of the Local Plan is conditioned on execution of this MOU setting forth the respective roles and responsibilities of the District and the City in regulating potential water resource impacts within the City;

NOW THEREFORE the parties enter into this MOU in order to document the understanding of the parties as to the roles and responsibilities of each.

Terms

1. The City may exercise all present and future authority it otherwise may possess to issue permits for and regulate activities affecting water resources within the City.

2. The City in its Local Plan commits to adopting ordinances materially identical to those attached hereto as Exhibit A. The District will cease to apply its Rules C (Stormwater Management Plans), D (Erosion and Sediment Control Plans), E (Floodplain Alteration) and F (Wetland Alteration) within municipal boundaries when:

   a. The District has confirmed that the City's ordinances are adopted and in effect; and
   
   b. The District and City have agreed on written protocols for: (i) City procedures to administer and enforce its water resource ordinances, including maintenance of those stormwater practices constructed or installed for compliance with City ordinances pursuant to this MOU and that the City owns or has assumed the obligation to maintain; (ii) City transmission of information to the District regarding changes to the City's hydrology or conveyance systems that the District finds warranted to keep its watershed models and data systems current; and (iii) procedures for District review of City regulatory program implementation.

3. The City shall serve as the WCA LGU within municipal boundaries.

4. The District shall retain its regulatory authority in the following circumstances:

   a. With respect to all District rules other than Rules C, D, E and F;
   
   b. As to work by any public body that the City does not have the legal authority to regulate;
   
   c. If the work requires a variance from City water resource ordinances;
   
   d. If the City, in a specific case or programmatically, requests that the District exercise its regulatory jurisdiction;
   
   e. If, in accordance with Section 8 of the WMP, the District Board of Managers finds that the City is not implementing its Local Plan; or
f. As required for the District to meet its legal obligations under its NPDES municipal stormwater (MS4) permit or any other independent law.

5. The City need not issue a permit for its own work, but shall document its review demonstrating that the work conforms to its water resource ordinances.

6. The District retains approval authority with respect to a comprehensive stormwater management plan under Rule C.5(f).

7. In issuing a permit under its stormwater management or floodplain alteration ordinance, the City shall require the drainage system repair easement set forth at Rules C.10 and E.4, as amended, to be conveyed to the District, which easement shall be subject to prior District review and approval.

8. If the District revises its Rule C, D, E or F in a manner that it considers significant and so advises the City in writing, the City shall revise its own ordinance to maintain equivalent water resource protection. If the District has not approved the City's revision within six months or such other time as the parties may agree, the District may reassume regulatory jurisdiction with respect to the affected rule.

9. The District retains all authority that it may possess under Minnesota Statutes Chapters 103B, 103D and 103E and any other provision of law, except as explicitly reposed in the City under this Agreement.

10. This MOU may be amended only by a writing signed by both of the parties. Otherwise, this MOU will expire, and the District will reassume regulatory jurisdiction under its Rules C, D, E and F, two years after the District’s adoption of its next decennial WMP revision or at such other time as the parties may agree.

IN WITNESS WHEREOF, the parties hereto execute this MOU.

CITY OF CIRCLE PINES

By ____________________________
   Dave Bartholomay, Mayor

Date:

By ____________________________
   Jim Keinath, City Administrator

Date:

RICE CREEK WATERSHED DISTRICT

By ____________________________
   Patricia Preiner, President
   Board of Managers

Date:

Approved as to Form & Execution

By ____________________________
   Its Attorney