

Special Meeting Agenda



Date: Friday, March 28, 2025
Time: 08:30 AM
Location: Wells Fargo Building, Second Floor Meeting Room
211 Holmes St. West, Detroit Lakes MN

Action Items in bold face

08:30 AM – Verification of Quorum & Call Meeting to Order

1. Consider Agenda Additions & Approve Agenda

2. Approve Consent Agenda

- 2.1. February 12, 2025 Regular Board Meeting Minutes
- 2.2. Administrator’s Report (including the Ditch Inspector’s Report)

3. Public Comment – May address the Board for up to 3 minutes per speaker.

4. Rules/Permitting Report

5. Treasurer Report

- 5.1. Approve March 2025 Bills
- 5.2. Approve March 2025 Fund Transfer
- 5.3. January-February 2025 Revenue & Expense Report; Grants Received/Expended
- 5.4. CD Renewal

6. Grant Program Funding Requests

- 6.1. Best Management Practices (BMP) Applications
 - 6.1.1. East Shore Drive Boulevard Native Planting - City of Detroit Lakes
- 6.2. Environmental Service Projects
 - 6.2.1. City of Detroit Lakes Boys & Girls Club – Boy Scout Pollinator Planting
- 6.3. Education – Field Trips
 - 6.3.1. Lincoln Education Center – Sucker Creek Trip

7. Project Updates

- 7.1.1. Rice Lake Project
- 7.1.2. Willow Street Pond Feasibility Study
- 7.1.3. Buck’s Mill Dam Modification
- 7.1.4. Campbell Creek Streambank Restoration.

Stantec – Campbell Creek Restoration Contract Amendment #2 - Wetland Delineation and Permitting

8. Unfinished Business

9. New Business

9.1. Draft Revised Water Management Rules

- 9.1.1. Discussion on Comments and Responses to Revised Rules
- 9.1.2. Action

9.2. 2025 PRWD Work Plan and 2024 Year in Review

9.3. 2025 Monitoring Plan

9.4. Draft 2024 Financial Audit by Clasen & Schiessl CPAs

9.5. Minnesota Lakes and Rivers – Shoreland Stewardship Outreach Campaign – Leighton Broadcasting – Sponsorship Request

9.6. Administrator Review Process

Special Meeting Agenda



10. Reports

- 10.1. Attorney – Lukas Croaker
- 10.2. Engineer – Moore Engineering

11. Upcoming meetings and events

- 11.1. Regular Managers Meeting – April 16, 2025 at 8:30 AM

12:30 PM Adjournment

A Zoom link request may be made by contacting the office by 3:30 PM on 03/27/2025 at 218-846-0436 or by emailing prwdinfo@arvig.net

Manager Kral attending electronically at 26463 Paradise Point Rd, Detroit Lakes, MN

Manager Okeson attending electronically at 101 East Sioux Road, Pharr, TX

Manager Busker attending electronically at 117 Jefferson Ave, Eufaula, OK 74432

Regular Meeting Minutes

Date:	Wednesday, February 12, 2025
Location:	Wells Fargo Building, Second Floor Meeting Room 211 Holmes St. West, Detroit Lakes MN
Managers Present:	Rick Michaelson, Charles Jasken, Laurie Olson, Dennis Kral (via IT), Orrin Okeson (via IT), Chris Jasken, Scott Busker (via IT)
Managers Absent:	None
Staff:	Administrator Guetter, Office Coordinator Bach
Consultants	Lukas Croaker (Ohnstad Twichell), Garrett Monson (Moore Engineering), Chad Engles (Moore Engineering)
Others:	Birch Burdick (via IT - Melissa-Sallie Lake Improvement Association), Phil Hansen (Becker County Commissioner), Scott Walz (Meadowland Surveying), Jon Olson (Apex Engineering), Shawn King (City of Detroit Lakes), Kyle Vareberg (Becker County Planning & Zoning)

1. **Call to Order – The Regular Managers’ meeting was called to order by President Michaelson at 08:31 AM.**
2. Introduction of New Board Member – Scott Busker
3. Approval of the Agenda
 - 3.1. Remove 12.1 - 2025 Work Plan and 2024 Year in Review; add 12.4 Personnel Committee under New Business. Guetter updated on the hiring status of the Water Resource Coordinator position. **Motion to approve the February 12,2025 Meeting Agenda with the removal of 12.1 2025 Workplan and addition of 12.4 Personnel Committee (Charles Jasken, Olson), Roll Call Vote: AYES: Michaelson, Olson, Chris Jasken, Charles Jasken, Kral, Okeson, Busker. NAYS: None. Motion carried.**
4. Public Hearing on Draft Revised Water Management Rules
 - 4.1. The purpose of this hearing is to receive comments on the proposed changes to the District’s rules, noting the watershed’s focus and mission is on water quality, and we are nearing the completion of the revision process. President Michaelson asked for comments from the Managers and none were given.
 - 4.2. District Attorney Croaker stated over the past year, the District has been working on the rules’ revision and has held several informal meetings to provide opportunities throughout this process to engage stakeholders including contractors, representatives from the City of Detroit Lakes, Becker County, and road authorities. The District is officially engaging in the rules adoption process as outlined in MN Stat. § 103D.341. Attorney Croaker outlined the steps taken in the rule adoption process: (1) provided proposed rules to road authorities (MN DOT, Becker County, Otter Tail County, Townships – Burlington, Detroit, Erie, Holmesville, Lake Eunice, Richwood, Lakeview, Candor (Otter Tail County), City of Detroit Lakes, and Board of Water and Soil Resources (BWSR) on December 23, 2024. The public road authorities and BWSR were notified that they had 45 days from the receipt of the proposed rules to provide written advisory comments to the District. Attorney Croaker said the second step is to hold a public hearing which is occurring now. This hearing was noticed two times and published in the local newspapers of affected areas (Frazee

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Forum published January 21 and 28, 2025 and Detroit Lakes Tribune published January 25 and February 1, 2025) and posted on the District’s website and at the office. The next steps are to adopt and certify the proposed revised rules; publish legal notice of the adoption of the revised rules in the local newspaper of affected areas; file the adopted revised rules with each county recorder (Becker and Otter Tail); and provide written notice of the adopted revised rules to each public transportation authority within the District and to the City of Detroit Lakes. Attorney Croaker noted the following written comments were received within the 45-day comment period and were sent to the Managers prior to the hearing:

- 4.2.1. BWSR letter, dated January 30, 2025, received via email on January 30, 2025 complimenting the District’s efforts with engaging the public above and beyond statutory requirements.
 - 4.2.2. City of Detroit Lakes letter, dated February 10, 2025, received via email February 11, 2025.
 - 4.2.3. Jon Olson and Scott Walz draft rules comment notations received via email February 7, 2025.
- 4.3. District Engineer Monson gave a brief overview of the revision process which included reviewing the watershed’s purpose, goals, and objectives as outlined in the Otter Tail 1W1P Water Management Plan. The proposed rules’ revision is consistent with the plan and provides opportunities to partner with agencies on a local, regional, and state level. Engineer Monson noted most comments received were positive. There were some extensive comments and his recommendation to the Managers is to direct the engineer and staff to compile responses to the comments and update the draft rules addressing spelling and grammatical errors, adding definitions, providing clarification where appropriate, and schedule a special meeting for more in-depth discussion on the comments and proposed rules.
- 4.4. President Michaelson opened the public hearing at 8:58 AM and asked for any members of the public who wish to comment do so at this time. Comments from public:
- 4.4.1. Scott Walz, Meadowland Surveying and Jon Olson. Mr. Walz made comments relating to policy, permitting procedures, and enforcement process. Mr. Olson provided written comments at the meeting which summarized and organized his earlier emailed comment notations by rule chapter. He requested that the District provide written responses to comments prior to the District taking action on the proposed rules.
 - 4.4.2. Jon Olson and Shawn King, representing the City of Detroit Lakes: reviewed the City of Detroit Lakes February 10, 2025 letter and requested the District’s written responses to the comments.
 - 4.4.3. Kyle Vareberg, Becker County Planning and Zoning and Erie Township Supervisor: as a township supervisor and local road authority, Mr. Vareberg concurred with comments concerning linear projects to exclude full-depth reclamation from stormwater requirements. From a Planning and Zoning perspective, review the needs for 15% lot coverage thresholds triggering residential storm water permits and certain exhibit criteria (surveys, wetland delineations, etc.). He recommended a definition for retaining walls.
 - 4.4.4. Phil Hansen, Becker County Commissioner: recommended modifying criteria for repair or replacement of existing retaining wall sections.
 - 4.4.5. Birch Burdick, Melissa /Sallie Lake Improvement Association: did not have any comments on the rules. He expressed appreciation for the work over the past year by the District and complimented the Managers for working with the City of Detroit Lakes and Becker County.

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- 4.5. President Michaelson closed the public hearing at 9:32 AM. The Managers thanked the members of the public who provided comments and attended meetings over this past year. Managers directed Engineer Monson, along with legal counsel and staff, to compile the public comments and District responses. A special meeting is scheduled for Wednesday, February 26, at 8:30 AM for the purpose of: (1) reviewing comments; (2) reviewing the District's responses to comments, (3) further discussion on rule sections where needed, (4) review updated proposed rules, and (5) potentially adopt the updated proposed rules.

5. Approve Consent Agenda
Motion to approve the Consent Agenda including the January 15, 2025 Regular Board Meeting Minutes and February 2025 Administrator's Report (Kral, Charles Jasken), Roll Call Vote: AYES: Michaelson, Olson, Chris Jasken, Charles Jasken, Kral, Okeson, Busker. NAYS: None. Motion carried.

6. Public Comment – None

7. Rules/Permitting Report. Engineer Monson reviewed the rules report. He is meeting with Mr. Solmon in the afternoon and the Smith Living Trust review response was sent to the applicant. Engineer Monson clarified after the rules are adopted, there will still be a need to review permitting operational policies, processes, and procedures separate from the rules. **Motion to approve the February 2025 Rules Report, (Chris Jasken, Scott Busker), Roll Call Vote: AYES: Michaelson, Olson, Chris Jasken, Charles Jasken, Kral, Okeson, Busker. NAYS: None. Motion carried.**

8. Treasurer Report
Approve February 2025 Bills, February 2025 Funds Transfer, January-December 2024 R&E Report and January 2025 R&E Report. The bills, transfer amount, and R&E reports were reviewed by Treasurer Charlie Jasken.
 - 8.1. **Motion to approve February 2025 Claims (Checks 015359-015369; EFT2667-EFT2673, EFT2679-EFT2680) in the amount of \$ 62,996.41 (attached hereto) and the February 2025 Fund Transfer from Savings to Checking in the amount of \$82,000, (Charles Jasken, Chris Jasken), Roll Call Vote: AYES: Michaelson, Olson, Chris Jasken, Charles Jasken, Kral, Okeson, Busker. NAYS: None. Motion carried.**
 - 8.2. **Motion to approve the January-December 2024 R&E Report and January 2025 R&E Report, (Charles Jasken, Olson), Roll Call Vote: AYES: Michaelson, Olson, Chris Jasken, Charles Jasken, Kral, Okeson, Busker. NAYS: None. Motion carried.**

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9. Grant Program Funding Requests

- 9.1. District BMP Cost Share Program – no applications received.
- 9.2. District Education Mini-Grant – no applications received.

10. Unfinished Business – none

11. Project Updates

- 11.1. Rice Lake Wetland Restoration – Easement work is in process by PRWD with two completed and one more in the process.
- 11.2. Willow Street Pond Feasibility Study – The designs are in process and will be discussed with the City of Detroit Lakes.
- 11.3. Buck's Mill Dam Modification – PRWD held 30% design meetings with Mn DNR, Becker County, and the Townships.
- 11.4. Campbell Creek Streambank Restoration – A virtual update meeting with the landowners is scheduled for March 4, 2025 to review 30% design plans and to receive their input. The meeting will be noticed as a special meeting.

12. New Business

- 12.1. 2025 Work Plan & Year in Review – Removed from agenda.
- 12.2. 2025 AIS Treatment Contracts PLM State Contract Pricing. **Motion to accept the 2025 AIS Treatment contracts for Flowering Rush and Curly-Leaf Pondweed with Professional Lake Management for Detroit, Curfman, North Floyd, Melissa, Sallie lakes, (Olson, Chris Jasken) Roll Call Vote: AYES: Michaelson, Olson, Chris Jasken, Charles Jasken, Kral, Okeson, Busker. NAYS: None. Motion carried.**
- 12.3. 2025 Minnesota Watersheds Delegate Selection. **Motion to designate Laurie Olson and Chris Jasken as delegates, with Charles Jasken as an Alternate, to the MN Watersheds Special Meeting to be held on March 21, 2025 in St. Cloud, MN (Chris Jasken, Charles Jasken), Roll Call Vote: AYES: Michaelson, Olson, Chris Jasken, Charles Jasken, Kral, Okeson, Busker. NAYS: None. Motion carried.**
- 12.4. 2025 Personnel Committee. Historically, the personnel committee (comprised of 3 managers) performed the Administrator review and recommended a wage adjustment to the Board of Managers and assisted with personnel policy updates as needed. Attorney Croaker will consult with their employment law department and will provide the Managers with performance review documents and procedures. **Motion to designate a personnel committee consisting of Managers Laurie Olson, Chris Jasken, and Scott Busker, (Michaelson, Okeson). Roll Call Vote: AYES: Michaelson, Olson, Chris Jasken, Charles Jasken, Kral, Okeson, Busker. NAYS: None. Motion carried.**

13. Reports

- 13.1. District Attorney – Lukas Croaker. Nothing further to report.
- 13.2. District Engineer – Garrett Monson. Nothing further to report.

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14. Upcoming meetings and events

- 14.1. February 26, 2025 – Special Meeting Workshop for Rules at 8:30 AM
- 14.2. March 5, 2025 – Special Meeting - Campbell Creek Virtual Update Meeting with Landowners
- 14.3. March 19, 2025 – March Regular Meeting
- 14.4. March 21, 2025 – MN Watersheds Special Meeting, St. Cloud (Olson, Chris Jasken – delegates)

15. Meeting Adjournment. **Motion to adjourn the meeting at 10:54 AM (Chris Jasken, Olson). Roll Call Vote: AYES: Michaelson, Olson, Chris Jasken, Charles Jasken, Kral, Okeson, Busker. NAYS: None. Motion carried.**

Respectfully Submitted,

Chris Jasken, Secretary

Meeting Approved

DISTRICT ADMINISTRATOR'S MONTHLY REPORT
MARCH 21, 2025

1) Surface Waters Protection and Enhancement

- a) Capital Improvement Projects/Structural and Non-Structural Practices
- i) **Rice Lake Capital Improvement Project (CIP).** Phase 2- Lower Structure. The Friesen's flowage easement was signed and we are working on signing the last easement. Easements will be filed with the Becker County recorder.
 - ii) **Campbell Creek Project (MPCA 319 Funding/Otter Tail 1W1P).** A landowner update meeting was held on via IT on March 5th. Stantec reviewed 30% design, asked for input, and answered questions. Landowners thanked the District and Stantec for keeping them informed. Manager Kral attended the meeting. Guetter and Bach met with Scott Schroeder, MPCA who is our contact with the MPCA 319 grant. Project technical status and financial reimbursement procedures were reviewed. We will be submitting project reimbursement expenses in March. This round of grant funding is secure, but there are no guarantees for the 2nd round of EPA 319 funding. An early pre-application permit meeting with Stantec, Becker SWCD/BWSR (Wetland Conservation Act), US Army Corps of Engineers was held on February 13th. The EAW will be finalized this week and will be submitted to the EQB this week and will be published in the April 1st EQB Monitor. The EAW will be posted on the District website, noticed in the newspaper, and will notify required federal, state, and local government agencies. The 30-day public comment period will end May 1st. After the comment period, the District will have until May 31st to issue the "negative EIS need" declaration resolution. Stantec will prepare the final RGU EAW review document "Response to Comment and Record of Decision" which includes all comments and responses, a summary of EAW findings, decision statements, and final manager board resolution. At next week's March meeting, the Stantec contract amendment #2 (wetland delineation and additional permitting actions) will be considered for approval.
 - iii) **Little Floyd Lake Rock Arch Rapids (MN DNR funding)** –A reimbursement request was submitted on 2/13/2025. Funds in the amount of \$15,090.65 were received on 3/3/2025. We are currently in a holding pattern until the final project inspection and closeout occurs in Spring 2025.
 - iv) **Bucks Mill Dam Modification (MN DNR, Get out More, Federal).** On 2/17/2025, a reimbursement request in the amount of \$143,225.74 was submitted and funds were received on 3/3/2025. The EAW will be finalized shortly and will be posted on the EQB Monitor and follow the same process as outlined in the above Campbell Creek Project section. The MN DNR followed up with the landowners and Lake View Township for interest in road abandonment and removing the river crossing, however after further exploration, this alternative was ruled out. MN DNR secured additional project funding in the amount of \$800,000 for construction. Permits will be drafted after 60% design stage (WCA, USACE 404, MN DNR public waters, MPCA 401, MN DNR dam safely, MPCA NPDES SWPPP, Becker County, Lake View TWP, PRWD). The next stakeholder engagement will be scheduled in Spring 2025.

2) Becker County Drainage Systems 11, 12, 13 and 14

- a) **Ditch 11** – No activity to report.
- b) **Ditch 12** – No activity to report.
- c) **DITCH 13 (Little Floyd Lake to Big Detroit)**
 - i) Open Work Orders
 - (1) d13-24-06 - Jackson Avenue –Blockage removal pending.
- d) **DITCH 14 and BRANCH 1 (HWY 10 to St. Clair Lake to Pelican River)** – No activity to report.

3) WATER MANAGEMENT RULES – see enclosed monthly report.

- a) **Rules Revision Process.** The February special meeting to review the comments, responses to comments, and updated rules was cancelled (due to illness). The regular March meeting and the proposed revised rules review and potential adoption was combined into one special meeting to be held on Friday, March 28, at 8:30 AM. The next steps in the process are to review the comments & responses to the comments, review proposed updates to the draft revised rules, adopt and certify the proposed revised rules; publish legal notice of the adoption of the revised rules in the local newspaper of affected areas; file the adopted revised rules with each county recorder (Becker and Otter Tail); provide written notice of the adopted revised rules to each public

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transportation authority within the District and to the City of Detroit Lakes. Once the revised rules are adopted, they will be signed by the District Secretary and filed at the office. We will then update the website, supplemental information, and materials. Guetter requested Moore Engineering staff to start development of updated permit applications forms for the anticipated rule adoption and review maintenance agreements for stormwater practices.

4) HABITAT PROTECTION AND MANAGEMENT

a) **River/Stream Connectivity – Barriers to Fish Movement.**

i) Buck's Mill and Little Floyd Lake –see reports under Capital Projects.

5) Aquatic Invasive Species Prevention and Management.

a) **Invasive Aquatic Plant Management Grant** –Grant applications will be submitted to Becker SWCD's Aquatic Invasive Species Grants within the month (after Baranek arrives!).

b) **CLP Research (Mankato State)** –No further updates. We will treat CLP sites, monitor, and report.

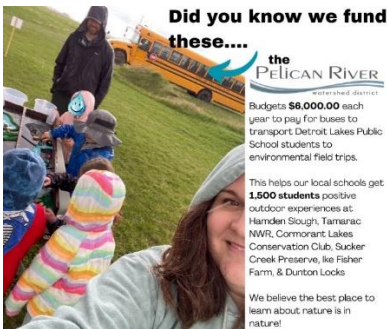
6) EDUCATION AND OUTREACH (Website, Social Media, and Workshops)

a) **Local Media/Mailings.**

i) Bach appeared on KDLM's Hodge Podge on 2/20/2025 and discussed intern hiring and what we found regarding the history of the purchase of Dunton Locks with a bonus side discussion about the change of the name of Lake Sallie. Sometime between 1977 and 1979 PRWD records show a change from Lake Sally to Lake Sallie. The KDLM crew and Bach asked if anyone has any insight into the reason for the change to get in touch with PRWD!

b) **Social Media Posts**

i) (Facebook & Instagram) – Facebook Followers – 232 (last month 229), Instagram Followers – 21 (last month 16)

Date	Description	Engagement
2/14/2025	Happy Valentines Day. "When a girl likes to fish, you know she's the reel deal."	1 like, 0 comments, 0 shares
2/18/2025	Master Gardner Presentation announcement.	0 likes, 0 comments, 0 shares
2/21/2025	PRWD funds transportation for DL Public Schools Environmental Field Trips. 	0 likes, 0 comments, 1 share
2/25/2025	Detroit Lakes Tribune Story Share – "DNR Significantly Funds the Future of Fish, Detroit Lakes Area Stands to Benefit." Featured information about Buck's Mill	0 likes, 0 comments, 0 shares
2/27/2025	Quality Baits, Detroit Lakes report on ice conditions.	0 likes, 0 comments, 0 shares
3/4/2025	BWSR Plant of the Month: Pearly Everlasting	0 likes, 0 comments, 0 shares
3/5/2025	Reshare – Intern Post	1 like, 0 comments, 0 shares

ii) **Ottertail 1W1P Education and Outreach Group** – See 1W1P Section.

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- iii) **Signs for Incentive Programs** – Bach will continue to work on this project with the goal of having signs ready for staking in the spring.
- iv) MN Lakes and Rivers sponsorship request was included in the board packet for the 3/28/2025 meeting. This sponsorship will result in a series of videos for social media in the summer of 2025 that relate to lake stewardship, shoreline health and habitat. A sponsorship at the Silver Level (\$2,000) is proposed which will include a small logo at the end of each video. Funds for this sponsorship may come from the OT1W1P Education Fund (\$1500) and Utility Fund (\$500).
- v) **Website Updates**
Our Work section planned updates.

Section	Status
Little Floyd Lake Dam Modification	Complete and Posted
Buck's Mill Dam Modification	Complete and Posted
Campbell Creek	Complete and Posted
Ottertail 1W1P	Pending
Cost Share Program	Pending
AIS Management	Drafted
CLP Research	Complete and Posted
Education	Complete and Posted
Drainage Systems	Pending
Rice Lake Wetland Restoration	Complete and Posted

7) DISTRICT OPERATIONS/ADMINISTRATION.

a) **Grant Oversight -**

- i) *Campbell Creek Watershed Restoration (MPCA Section 319 Small Watersheds Focus Group C Grant Funding)* Grant Progress report accepted for the February 1, 2025 report date. The next report date is August 1, 2025. A reimbursement request will be submitted by the end of the month.
- ii) *BWSR Clean Water Rice Lake Project – Phase 1 & Phase 2. MN DNR.* –The next report date is June 30, 2025.
- iii) *MN DNR – Conservation Partners Legacy Grant (Little Floyd Outlet)* – No updates since last report. Next Report date is at project close or 12/31/2025, whichever is earlier.
- iv) *Otter Tail 1W1P Implementation Grant* – On January 30, 2025, Guetter and Bach submitted reimbursement requests for Grant C23-4546 \$27,751.20 (Project Development: Willow Study - \$7,801.20; Education Workshops, Baseline Knowledge, Gap analysis - \$ 19,950.00); Grant C25-0116 \$25,010.88 (Project Development: Public engagement \$9,789.75, GIS Viewer - \$5,221.13; Regulation Ordinance/Enforcement – Draft Rules \$10,000). Total reimbursement request - \$ 52,762.08. The reimbursement funds were received on 2/19/2025.
- v) *Buck's Mill Dam Modification MN DNR* –Guetter and Bach submitted a reimbursement request for funds expended to date on 2/17/2025. Funds were received (\$143,225.74) on 3/3/2025. Next report date is 12/31/2025.

b) **Otter Tail River 1W1P Partnership – WEBSITE: <https://www.eotswcd.org/ot1w1p/>**

- i) 1W1P Grant – Feasibility Study West Area (“Willow Pond”) Stormwater Treatment. A meeting with the City of DL to review costs for alternatives will take place the week of April 7th
- ii) **OTW Policy (Charlie Jasken) & TAC Committees (Guetter).** The Policy Committee meeting is scheduled for Thursday, March 27, in Otter Tail. The next TAC meeting is on May 5th.
- iii) **OTW Education/Outreach Committee** – Bach attended the meeting of the OT Education group on February 20th to review plans for 2025. Focus for spring is to finalize the shoreline booklet and get copies printed for all offices. Also discussed was the difference in reporting deadlines for Watersheds vs. SWCD organization vs. 1W1P groups. SWCDs and 1W1P groups are required to submit all projects to eLink by Feb 1 each year, where Watersheds report annual work to BWSR by June 30. It was discussed that the Watershed groups can submit their annual reports after completion and they will be

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counted towards the next years' Feb 1 reporting date to assure the WD efforts are captured and contribute to the 1W1P goals as a whole.

- c) **2025 Water Resource Technician Internships** –Interviews for the qualified applicants began on 3/14/2025. Two individuals have been selected and offered internships. Seth Torgerson of Audubon, MN has accepted to date.
- d) **Water Resource Coordinator Job Opening** – Joshua Beranek was offered the position and has accepted! Mr. Beranek will start with the District by the end of the month, pending housing.
- e) **2024 Financial Audit** – The 2024 financial audit by Clasen & Schiessl CPAs is wrapping up. The final draft has been completed and at the April meeting the auditor will review the audit and present for approval by the Managers. The auditor will file the required reports with the State Auditor's office. An updated engagement for services proposal for financial years 2025, 2026, 2027 (3-years) will be provided after the tax season for managers' consideration.
- f) **2024 Annual Report**– Nearing completion and will be presented at the April meeting.
- g) **2025 Work Plan** – The 2025 Work Plan will be presented to the Managers at the March 28, 2025 Regular Board Meeting.
- h) **MN Watersheds Special Meeting of Membership**– There will be a special meeting of the Minnesota Watersheds membership on Friday, March 21 at the Park Event Center in Waite Park. The purpose of the meeting is to consider changes to the bylaws that would allow for an earlier resolutions process, combining the Legislative and Resolutions Committees, and creating an opportunity for the membership to vote on the legislative priorities. Managers Chris Jasken and Olson are representing the district as voting delegates, with Charlie Jasken as the alternate.
- i) **MN Watersheds Legislative Event and MAWA Meeting** - The MN Watersheds Legislative Event and MAWA meeting was held in St. Paul, MN from February 18-20, 2025, with Administrator Guetter in attendance. The Administrator meeting had speakers covering family paid leave, earned sick and safe leave, future update to the MN Stormwater Manual. Legislative event included updates by the MN Watersheds Lobbyists, MPCA Assistant Commissioner, DNR Commissioner, and BWSR Executive Director. Uncertainty of federal funding and policies, projected budget shortfalls, inflation forecasts, Clean Water Funds, Lessard-Sams Outdoor Heritage Funds were the main topics of discussion. Minnesota Watersheds legislative priorities for 2025 are chloride and streamlining state agency (MN DNR, MPCA) permitting processes for public waters work permits and threatened and endangered species. There have been numerous discussions with MN DNR, but no resolution to date. I am not aware of any legislation to date. [HF793 Hollins/SF492 Putman](#). Certified salt applicator program established, liability limited, and report required.
- j) **Dunton Storage Shed**. Guetter and Charlie Jasken followed up with the Becker County Commissioners to discuss potential options (moving door to the north, re-build in the north area of the park, etc.).
- k) **Personnel Committee**. Attorney Croaker will be reviewing performance evaluation criteria and process at the March board meeting.

8) DATA COLLECTION AND MONITORING PROGRAM

8.1 2025 Monitoring Plan/Budget –The plan/budget will be reviewed at the March 28th meeting.

8.2 The 2024 monitoring Report – Nearing completion.

DISTRICT ADMINISTRATOR'S MONTHLY REPORT

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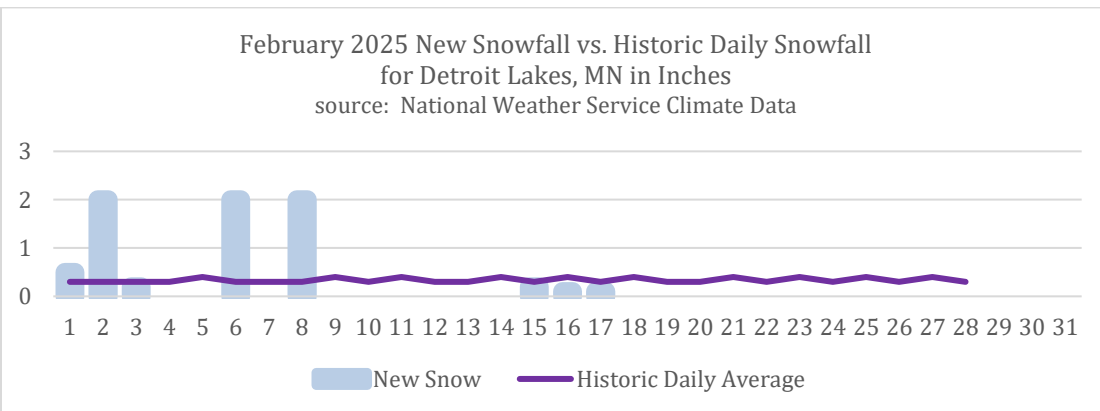
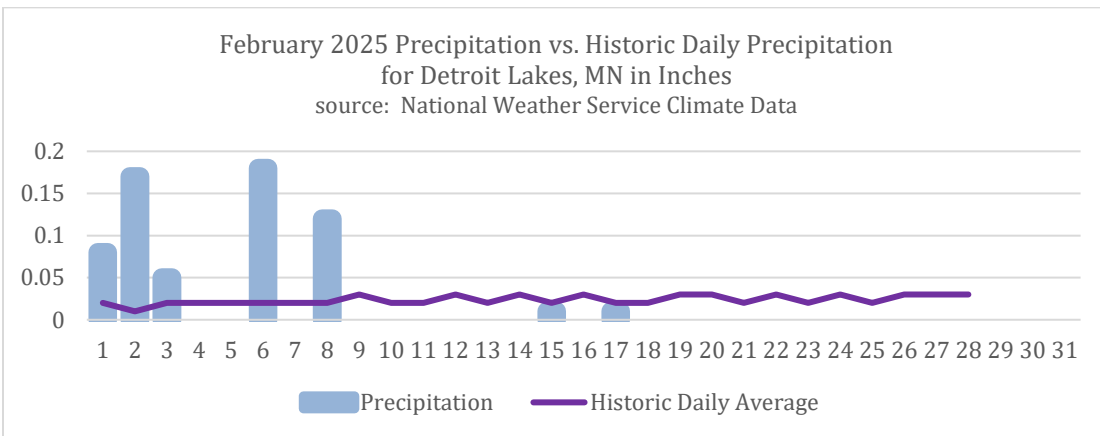
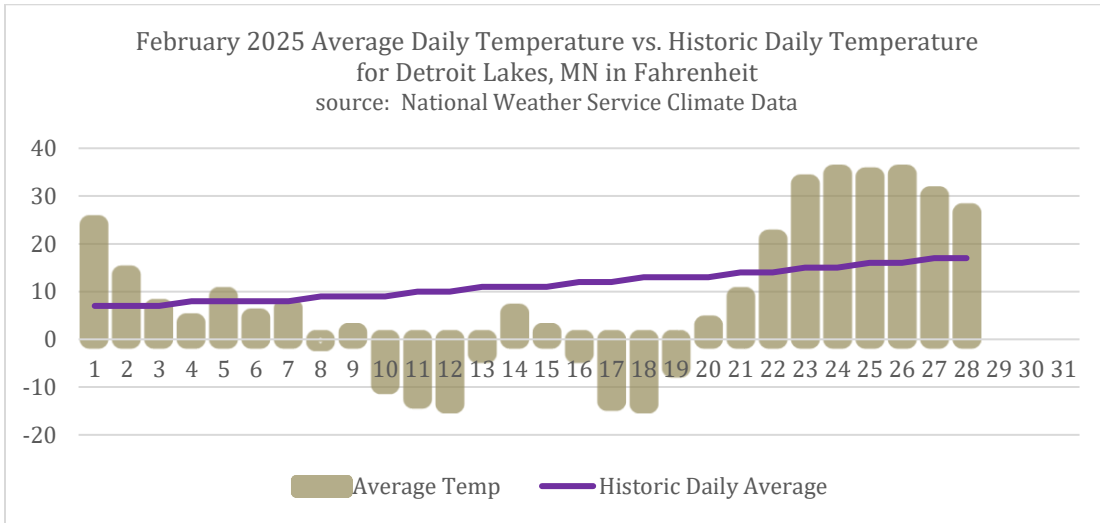
February Weather

a. Detroit Lakes, MN – National Weather Service Data

There were wide temperature ranges in February from -26°F to 45°F. There were 10 days that were at or above the historical average and 18 days were cooler than normal historical averages. A total of 0.62 inches of precipitation fell on Detroit Lakes in February including 7.1 inches of new snow.

Warmest Day High Temp(s): 45°F, 2/23/2025
Coldest Day Low Temp (s): -26°F, 2/12/2025
Monthly Average Temp: 8.1°F

Daily Average High Temp: 18.2°F
Daily Average Low Temp: -2°F
Days with Significant Precipitation: 0
Total Precipitation for month: 0.62 inches

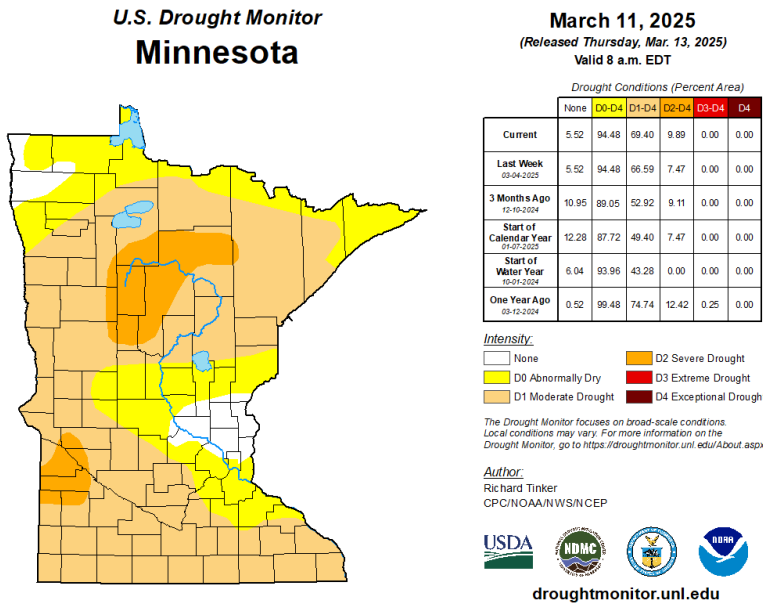


DISTRICT ADMINISTRATOR'S MONTHLY REPORT

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c. Minnesota Drought Report

The drought situation across Minnesota deteriorated in February and March. The month began with 49 percent of the state in at least moderate drought. As of March 11, the moderate drought had increased to 69 percent. Becker County saw little change month over month with the majority of the county (including all of the Pelican River Watershed District) in Moderate Drought and the far eastern portion of the county in Severe Drought. Soils are frozen with frost depth reported in Otter Tail county at 70 inches (MNDOT, <https://www.dot.state.mn.us/loadlimits/frost-thaw/ottertail.html>).



d.

State-Wide Preliminary Climate Summary for February 2025 – University of Minnesota

Average monthly temperatures for February were cool, from 3°F to 5°F below normal in most areas of the state. About two-thirds of the days brought cooler than normal readings, and the number of subzero nights ranged from 11 in southern counties to as much as 20 nights in the north. Minnesota reported the coldest temperature in the nation on six mornings this month. Temperatures ranged from -41°F at Ely on the 17th to 59°F at Fairmont on the 23rd and at Winnebago on the 24th. Many southern and western climate stations reported afternoon high temperatures in the 50s F during the last week of the month. Milan (Chippewa County) reported a new record daily high temperature of 55°F on the 23rd and Hastings Dam (Dakota County) reported a new record daily high temperature of 51°F on the 25th. In contrast, earlier in the month when subzero temperatures prevailed 50 Minnesota climate stations reported setting new daily low minimum temperature records.

In terms of precipitation, the February pattern was mixed with about half of the state climate stations reporting below normal amounts for the month and approximately half reported above normal amounts. Most areas of southern Minnesota reported less than half an inch of precipitation, while several climate stations in the northeast reported over 1 inch. Monthly snowfall ranged from under 5 inches in much of southern Minnesota to over 16 inches in the northeast. Within the state climate station network, there were over 30 new daily precipitation and daily snowfall records reported during the month. By the end of the month there was little or no snow cover over the southern two-thirds of the state, but in the northeastern counties snow cover still ranged from 10 to 20 inches.

Winds gusted to 30 mph or greater on 7 to 10 days and contributed to numerous Cold Weather Advisories issued by the National Weather Service. Maximum wind gusts of 50 mph or greater were reported on February 6th and February 28th. Current outlooks favor a warmer and drier than normal first half of March, so it is likely that Minnesota will continue to lose snow cover and dry out as we move towards the equinox.

Pelican River Watershed District

Claims Paid - February 2025

	Date	Num	Amount
*Guetter, Tera	2/14/2025	EFT2667	75
		Employee Expenses Total:	\$ 75.00
Bremer Bank	2/24/2025	EFT2679	23.5
Loffler Companies, Inc.	2/26/2025	EFT2680	176.91
		Vendor Expenses - Autopay Total:	\$ 200.41
Lakes Computer, Inc.	2/26/2025	EFT2668	210
Moore Engineering, Inc	2/13/2025	EFT2669A	2545.88
Moore Engineering, Inc	2/18/2025	EFT2673	47838.15
Ohnstad Twichell, P.C.	2/26/2025	EFT2670	2164
Stantec Consulting Services Inc.	2/26/2025	EFT2671	1199
Wells Fargo-Office Lease	2/26/2025	EFT2672	1338.57
		Vendor Expenses - EFT Total:	\$ 55,295.60
Bank of America	2/26/2025	15368	555.43
Becker SWCD	2/13/2025	15359	1675
City of Detroit Lakes	2/13/2025	15360	250
Column Software PBC	2/13/2025	15361	85.28
Frazee-Vergas Forum	2/13/2025	15362	73.92
League of MN Cities	2/13/2025	15363	4329
Loffler	2/13/2025	15364	186.05
Office of MNIT Services	2/26/2025	15369	66.63
Premium Waters, Inc.	2/13/2025	15365	13.72
Ramstad, Skoyles, Winters & Bakken P.A.	2/13/2025	15366	150
Verizon	2/13/2025	15367	40.37
		Vendor Expenses - Check Total:	\$ 7,425.40
		Bills Total:	\$ 62,996.41
		EFT2663-EFT2664, EFT2665-EFT2666, EFT2674-EFT2675, EFT2678, EFT2681-	
Payroll, Taxes, & Benefits Total	2/28/2025	EFT2683	\$ 18,968.39

Rules Report – March 2025

PERMITS ISSUED

No.	Name/Address	Description
25-05	Scott Kjos 24608 Co Hwy 22	Impervious Surface: > 10,000 square feet impervious in the Shoreland District.

PERMITS IN PROCESS

- **Smith Living Trust**

PERMITS APPLICATIONS – ENGINEER REVIEWS IN PROCESS

- **BTD**
- **City of Detroit Lakes – Pickle Ball Courts**
- **Becker County – Dunton Locks**
- **Menards**

VIOLATION Report

- **Solmon, Marty:** 12044 Cty Rd. 17: A meeting was held on 2/12/2025 with Engineer Monson, Owen Reding (Becker SWCD Shoreland Tech), and Mr. Solomon. A draft remediation plan may include a combination of a shoreline buffer and a raingarden. Plans are in the design phase by Becker SWCD.
- **Koenig, Justin & Amy:** 236 Shorewood Drive: Shore Impact Zone and Stormwater Mitigation. District is coordinating with the City of Detroit Lakes on the remediation plan. The City issued a Notice of Violation on March 3, 2025. Mr. Koenig contacted the District and a meeting was held on March 14, 2025 and he reviewed potential practices for the storm water plan.

MEETING COMMENTS

- **City of Detroit Lakes – City Council**
 - February 6, 2025 – Work Session – no comments. Permit expected for West Lake Drive Phase III Road, Trail, & Beachfront Improvements.
 - February 11, 2025 – no comments
 - March 11, 2025 – no comments. Permit expected for Shorewood Drive Street Improvements.
- **City of Detroit Lakes – Planning Commission**
 - February 27, 2025 – no comments.
 - March 27, 2025 – no comments. Permits expected for Menards (in process) and Marty’s Acres.
- **City of Detroit Lakes – Development Authority**
 - No meetings scheduled since last report.
- **Becker County Commissioners**
 - March 4, 2025 – no comments.
 - March 18, 2025 – no comments.
- **Becker County – Planning and Zoning**
 - February 26, 2025 – no comments
- **Becker County – Board of Adjustment**
 - February 13, 2025 – no comment. Permits expected from: Jamie & Kaley Steidl - 12434 Lois Ln Detroit Lakes, MN 56501 for Residential Stormwater Management > 25% Impervious



PELICAN RIVER WATERSHED DISTRICT

2025 REVISED RULES

Adopted: March 28, 2025



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CHAPTER 1. GENERAL POLICY STATEMENT AND INTRODUCTION

The Pelican River Watershed District (the “District”) is a political subdivision of the State of Minnesota, established under Minn. Stat. Chapter 103D, cited as the “Watershed Law.” Under the Watershed Law, the District exercises a series of powers to accomplish its statutory purposes. Under Chapter 103D the District’s general statutory purpose is to conserve natural resources through development planning, sediment and erosion control, and other conservation projects, based upon sound scientific principles. In order to accomplish its statutory purpose, the governing body of the District, the Board of Managers, is required to adopt a series of rules, cited as the 2024 Revised Rules of the PRWD (the “Rules”).

The District, as part of the Otter Tail River One Watershed One Plan process, has adopted a Comprehensive Watershed Management Plan (the “Plan”), which contains the framework and guiding principles for the District in carrying out its statutory purposes. It is the District’s intent to implement the Plan’s principles and objectives in the Rules.

Land alteration affects the volume, and quality of surface water runoff which ultimately must be accommodated by the existing surface water systems within the District. The District was established in 1966 in response to concerns about regional lake health. Lake health and contributing factors continue to be the primary focus of the District.

Land alteration and utilization also can degrade the quality of runoff entering the streams and waterbodies of the District due to non-point source pollution. Lake and stream sedimentation from ongoing erosion processes and construction activities reduces the hydraulic capacity of waterbodies and degrades water quality. Water quality problems already exist in many of the lakes and streams throughout the District.

Projects which increase the rate or volume of stormwater runoff can decrease downstream hydraulic capacity. Projects which degrade runoff quality can aggravate existing water quality problems and contribute to new ones. Projects which fill floodplain or wetland areas can aggravate existing flooding by reducing flood storage and hydraulic capacity of waterbodies and can degrade water quality by eliminating the filtering capacity of those areas.

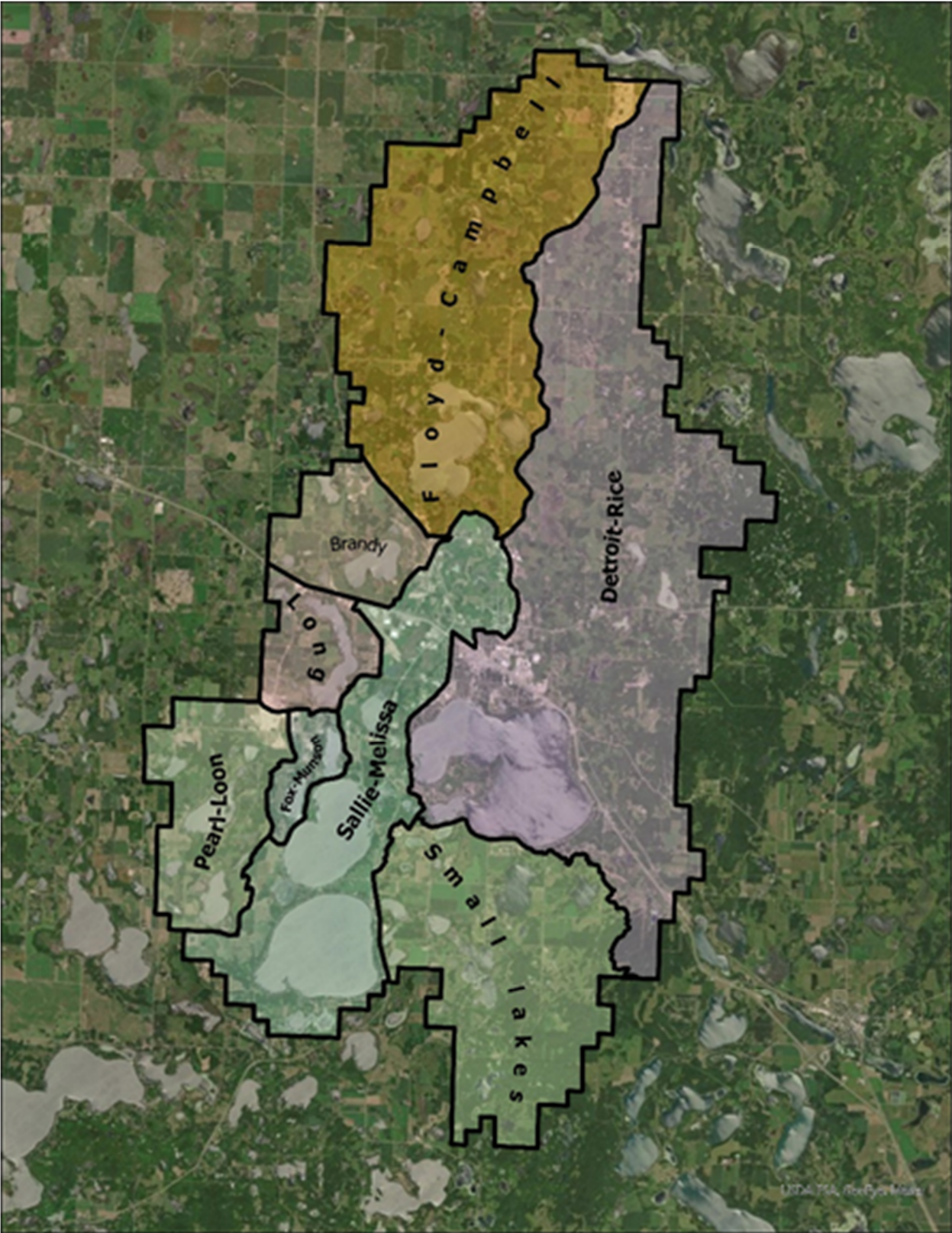
Under the Rules, the District seeks to protect the public health and welfare and the natural resources of the District by providing reasonable regulation of the modification or alteration of the District’s lands and waters to reduce the severity and frequency of flooding and high water; to preserve floodplain and wetland storage capacity; to improve the chemical, physical, and biological quality of surface water; to reduce sedimentation; to preserve waterbodies’ hydraulic and navigational capacity; to preserve natural wetland and shoreland features; and to minimize public expenditures to avoid or correct these problems in the future.

CHAPTER 2. RELATIONSHIP OF WATERSHED DISTRICT TO BECKER COUNTY AND CITY OF DETROIT LAKES

The District recognizes that the primary control and determination of appropriate land uses is the responsibility of Becker County (the “County”) and the City of Detroit Lakes (the “City”). Accordingly, the District will coordinate permit application reviews involving land development only after it is first demonstrated that the application has been submitted to the County or the City, where the land is located.

It is the intention of the managers to ensure that development of land within the District proceeds in conformity with the Rules, in addition to conforming with the development guides and plans adopted by the County and the City. The District will exercise control over development by its permit program described in the Rules to ensure the maintenance of stormwater management features; protect public waters, wetlands, and groundwater; and protect existing natural topography and vegetative features in order to preserve them for present and future beneficial uses. The District will review and permit projects sponsored or undertaken by other governmental units, and will require permits in accordance with the Rules for governmental projects which have an impact on water resources of the District. These projects include but are not limited to, land development and road, trail, and utility construction. The District desires to serve as technical advisors to the municipal officials in the preparation of local surface water management plans and the review of individual development proposals prior to investment of significant public or private funds.

To promote a coordinated review process between the District and local governments, the District encourages these entities to involve the District early in the planning process. The District's comments do not eliminate the need for permit review and approval if otherwise required under the Rules. The District intends to coordinate with each local government to ensure that property owners and other permit applicants are aware of the permit requirements of both bodies. By coordinating, the District and local governments also can avoid duplication, conflicting requirements, and unnecessary costs for permit applicants and taxpayers.



CHAPTER 3. GENERAL PROVISIONS AND CITATION

- 3.1 **Statutory Policy.** The 2024 Revised Rules of the Pelican River Watershed District (the “Rules”), as provided by Minn. Stat. § 103D.341, subd. 1, and as amended from time to time, are to effectuate the purposes of Minn. Stat. Chapters 103D and 103E and the authority of the Managers therein described. The Rules are deemed necessary to implement and make more specific the law administered by the Pelican River Watershed District (the “District”). Each rule adopted by the District shall have the full force and effect of law.
- 3.2 **General Policy; Other Rules Superseded.** It is the intention of the Managers with the implementation of the Rules to promote the use of the waters and related resources within the District in a provident and orderly manner so as to improve the general welfare and public health for the benefit of present and future residents. The Rules shall supersede all previous rules adopted by the District.
- 3.3 **Short Title.** The Rules shall be known and may be cited as the “Pelican River Watershed District Rules”.
- 3.4 **Jurisdiction.** The jurisdiction of the Rules includes all of the area, incorporated and unincorporated, including both land and water, within the territory of the District.
- 3.5 **Adoption or Amendment of Rules.** Changes to the Rules may be made by the Managers on their own prompting or following the petition of any interested person according to the procedure set forth in Minn. Stat. § 103D.341, subd. 2, as may be amended from time to time. An amendment or rule shall be adopted by a majority vote of the Managers.
- 3.6 **Inconsistent or More Restrictive Provisions.** If any rule is inconsistent with or less restrictive than the provisions of Minn. Stat. Chapters 103D or 103E, or other applicable law, the provisions of Minn. Stat. Chapters 103D or 103E, or other applicable law, shall govern.
- 3.7 **Severability.** The provisions of the Rules are severable, and invalidity of any section, paragraph, subdivision, or any other part thereof, does not make invalid any other section, paragraph, subdivision, or any part thereof.
- 3.8 **Due Process of Law.** A person shall not be deprived or divested of any previously established beneficial use or right, by any rule of the District, without due process of law, and all rules of the District shall be construed accordingly.
- 3.9 **Cooperation with Other Agencies or Governing Bodies.** The Managers accept the responsibility with which they are charged as a governing body and will cooperate to the fullest extent with persons, groups, state and federal agencies, and other governing bodies, while acting in accordance with their own statutory authority and responsibilities.
- 3.10 **Appeals.** Any person aggrieved by the adoption or enforcement of the Rules or any action of the District arising out of or pursuant to the adoption or enforcement of a rule may appeal from the Rules or any action taken thereon in accordance with the appellate procedure and review provided in Minn. Stat. §§ 103D.535 and 103D.537, as amended from time to time.

CHAPTER 4. DEFINITIONS AND INTERPRETATION

4.1 **Definitions.** For the purposes of the Rules, certain words and terms are defined as follows. In the absence of a definition hereinafter, the definitions established for the State of Minnesota by statute or by case law apply to the Rules unless clearly in conflict, clearly inapplicable, or unless the content makes such meaning contrary thereto. Additionally, if words or phrases are not defined therein, they shall be interpreted to give them the same meaning they have in common usage and to give the Rules their most reasonable application.

Alteration: Activity that results in disturbance to a site's underlying soils or established vegetation that's not part of routine maintenance.

Best Management Practices (BMP): Measures taken to minimize negatives effects on the environment including those documented in the Minnesota Stormwater Manual.

Bluff: A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- A. Part or all of the feature is located in a shoreland area;
- B. The slope must drain toward the waterbody;
- C. The slope rises at least twenty-five feet (25') above the ordinary high-water level; and
- D. The grade of the slope, from the toe of the bluff to a point twenty-five feet (25') or more above the ordinary high water level, averages thirty percent (30%) or greater (see Figure 1), except that an area with an average slope of less than eighteen percent (18%) over a distance of at least fifty feet (50') shall not be considered part of the bluff (see Figure 2).

Figure 1. Illustration of Bluff

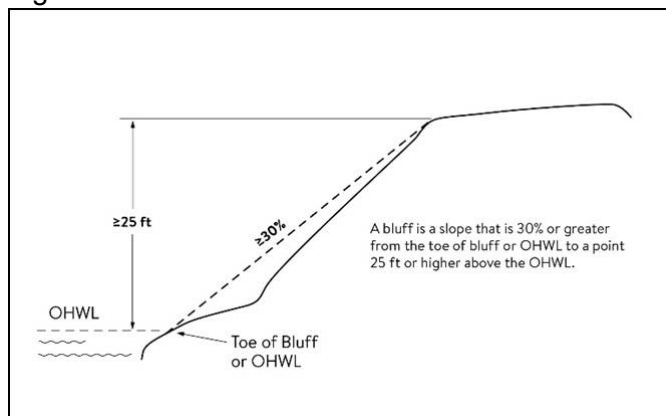
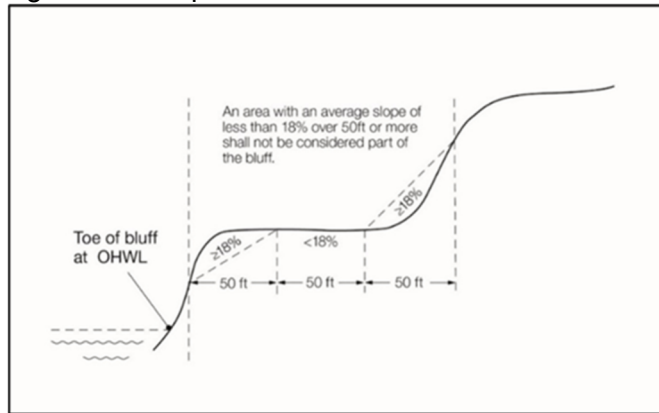
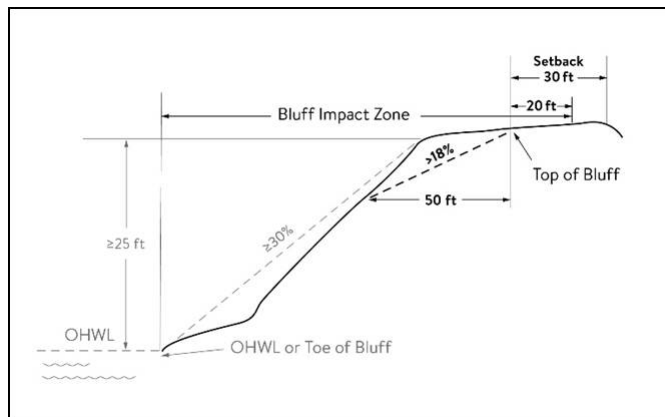


Figure 2. Exception to Bluff



Bluff impact zone: A bluff and land located within twenty feet (20') of the top of a bluff (see Figure 3).

Figure 3. Bluff Impact Zone and Top of Bluff



Bluff, Toe of: The lower point of a fifty-foot (50') segment with an average slope exceeding eighteen percent (18%) or the ordinary high water level, whichever is higher.

Bluff, Top of: For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the highest point of a fifty-foot (50') segment with an average slope exceeding eighteen percent (18%). See Figure 3.

Board of Managers (Board and/or Managers): The governing body of the Pelican River Watershed District.

Buffer: An area consisting of perennial vegetation, excluding invasive plants and noxious weeds.

Buffer Law: Minn. Stat. § 103F.48, as amended.

BWSR: Board of Water and Soil Resources of Minnesota.

Commissioner: Commissioner of the Minnesota Department of Natural Resources.

Conditional Uses: Traditionally non-approved practices that may be allowed, with written approval from the District, to best meet the intent of the rule.

DNR: The Minnesota Department of Natural Resources.

Direct Watershed: Region draining to a specific lake, stream, or river.

District: The Pelican River Watershed District established under the Minnesota Watershed Law, Minn. Stat. Chapter 103D.

Drainage Authority: The public body having jurisdiction over a drainage system under Minn. Stat. Chapter 103E.

Emergency Overflow (EOF): A primary overflow to pass flows above the design capacity around the principal outlet safely downstream without causing flooding.

Emergent Vegetation: Aquatic plants that are rooted in the water but have leaves, stems, or flowers that extend above the water's surface.

Ice Pressure Ridges: The ridge, comprised of soil, sand and/or gravel, often found in the Shore Impact Zone near the Ordinary High-Water Level of lakes, and caused by wind driven ice or ice expansion.

Impervious Surface: Constructed hard surface (gravel, concrete, asphalt, pavers, etc.) 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.

Intensive Vegetation Clearing: The removal of all or a majority of the trees or shrubs in a contiguous patch, strip, row, or block.

Landowner: The holder of the fee title or the holder's agents or assigns.

Linear Project: A road, trail, or sidewalk project that is not part of a common plan of development.

Low Floor Elevation (LFE): The elevation of the lowest floor of a habitable or uninhabitable structure, which is often the elevation of the basement floor or walk-out level.

Licensed Professional: A professional licensed in the State of Minnesota with the necessary expertise in the fields of hydrology, drainage, flood control, erosion and sediment control, and stormwater pollution control to design and certify stormwater management devices and plans, erosion prevention and sediment control plans, and shoreland alterations including retaining walls. Examples of registered professionals may include professional engineers, professional landscape architects, professional geologists, and professional soil engineers who have the referenced skills.

MPCA: The Minnesota Pollution Control Agency.

Minnesota Stormwater Manual: The MPCA's online manual for stormwater management including design guidance and referenced regulations.

Natural Rock Riprap: Natural uncut course stone, non-angular, non-concrete, free of debris that may cause siltation or pollution. Stones must average more than six inches (6") but less than thirty inches (30") in diameter.

New Development Areas: Surface construction activity that is not defined as redevelopment and areas where new impervious surface is being created.

NPDES General Construction Stormwater Permit: The current Minnesota Pollution Control Agency General Permit to Discharge Stormwater Associated with Construction Activity Under the National Pollution Discharge Elimination System State Disposal System Program (NPDES/SDS).

NRCS: Natural Resource Conservation Service of the U.S. Department of Agriculture.

Ordinary High Water Level (OHWL): The boundary of public waters and wetlands which is an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominately terrestrial. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel.

Parcel: A unit of real property that has been given a tax identification number maintained by a County.

Person: An individual, firm, partnership, association, corporation, or limited liability company, but does not include public corporations or governmental subdivisions.

Pretreatment: Devices or practices installed upstream of a stormwater BMP that are designed to capture trash, debris, and/or coarse sediment to reduce the risk of clogging the primary BMP. Pretreatment option includes but is not limited to vegetated filter strips, sumped manholes, and forebays.

Public Drainage System: A network of open channel ditches, drain tile, or a combination used to drain property that were established by a drainage authority under MN Chapter 103E.

Public Water: As defined in Minn. Stat. § 103G.005, subd. 15, as amended, and included within the public waters inventory as provided in Minn. Stat. § 103G.201, as amended.

Redevelopment Areas: Construction activity where, prior to the start of construction, the areas to be disturbed have fifteen percent (15%) or more of existing impervious surface(s).

Reconstruction: A project that is repairing or rebuilding existing infrastructure where the underlying soil is disturbed; the definition does not include mill & overlay projects or full-depth reclamation projects where the underlying soils are undisturbed.

Regional Conveyance: A surface or subsurface drainage path conveying concentrated flow that drains two hundred (200) acres or more not including piped, public conveyance (i.e. storm sewer).

Responsible Party: A party other than a landowner that directly or indirectly controls the condition of riparian land subject to a Buffer under the Rules.

Retaining Wall: A wall constructed of stone or rock with a height greater than twelve inches (12").

Riparian Lot: Private or public property that is abuts a waterbody, such as a river, stream, lake, or wetland.

Riparian Protection: A water quality outcome for the adjacent waterbody equivalent to that which would be provided by the otherwise mandated buffer, from a facility or practice

owned or operated by a municipal separate storm sewer system (MS4) permittee or subject to a maintenance commitment in favor of that permittee at least as stringent as that required by the MS4 general permit in effect.

Seasonal High-Water Table: The highest known seasonal elevation of groundwater as indicated by redoximorphic features such as mottling within the soil.

Shore Impact Zone (SIZ): Land located between the ordinary high water level of a public water and a line parallel to and half (1/2) the setback from it (as defined by applicable county or municipal zoning ordinances), except that on property used for agricultural purposes the shore impact zone boundary is a line parallel to and fifty feet (50') from the Ordinary High Water Level.

Shoreland District: Area within one thousand feet (1,000') of the OHWL of water bodies and three hundred feet (300') from rivers or the outer extent of the floodplain.

Shoreland Standards: Local shoreland standards as approved by the Commissioner or, absent such standards, the shoreland model standards and criteria adopted pursuant to Minn. Stat. § 103F.211, as amended.

Steep Slopes: A natural topographic feature with an average slope of twelve (12) to eighteen percent (18%), measured over a horizontal distance equal to or greater than fifty feet (50'), and any slopes greater than eighteen percent (18%) that are not bluffs.

Stormwater Pollution Prevention Plan (SWPPP): A comprehensive plan developed to manage and reduce the discharge of pollutants in stormwater.

Structure: An above ground building or other improvement that has substantial manmade features other than a surface.

SWCDs: Soil and Water Conservation Districts: political subdivisions of the State of Minnesota.

Trail: A linear, non-motorized vehicle path not exceeding ten feet (10') in width.

Wetland: Area identified as wetland under Minn. Stat. § 103G.005, subd. 19, as amended.

4.2 Interpretation.

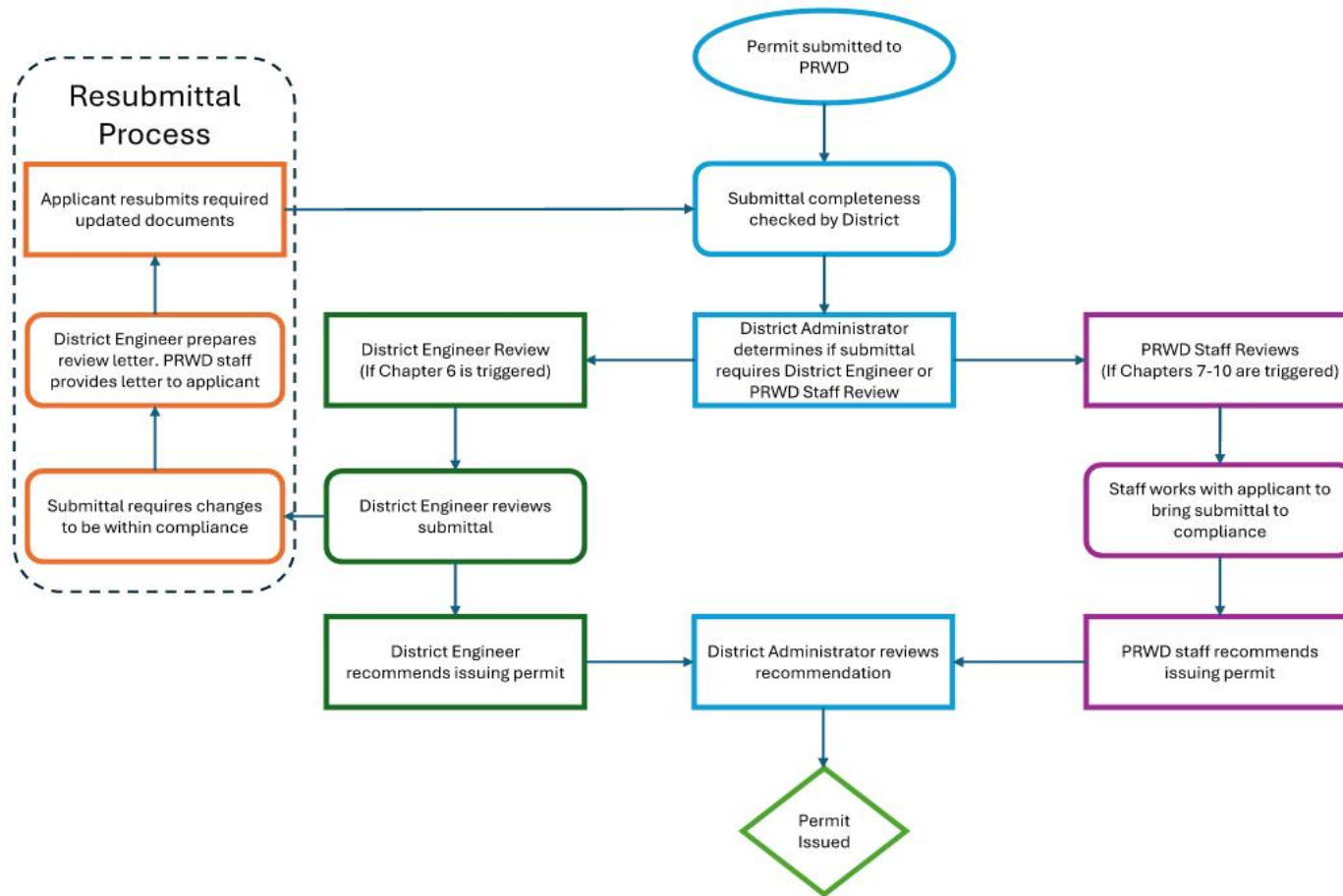
- A. The headings of articles and sections are provided for convenience of reference only and will not affect the construction, meaning, or interpretation of the Rules.
- B. The definition of terms herein shall apply equally to the singular and plural forms of the terms defined.
- C. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms.
- D. The words "include," "includes," and "including" shall be deemed to be followed by the phrase "without limitation."
- E. The word "will" shall be construed to have the same meaning and effect as the word "shall." Both terms shall be construed to indicate a mandatory state or condition.

- F. The word “may” shall be construed to indicate a permissive state or condition.
- G. The words “herein,” “hereof,” and “hereunder,” and words of similar import, shall be construed to refer to the Rules in its entirety and not to any particular provision hereof.
- H. In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” mean “to and including.”
- I. All distances, unless otherwise specified, shall be measured horizontally.

CHAPTER 5. PERMIT REQUIREMENTS

- 5.1 **Application Required.** A person undertaking an activity for which a permit is required by the Rules must obtain the required permit prior to commencing the activity that is subject to District regulation. Applications for permits must be submitted to the District in accordance with the procedures described herein. Required exhibits are specified for each substantive rule below. Applicants are encouraged to contact District staff before submission of an application to review and discuss application requirements and the applicability of specific rules to a proposed project. When the Rules require a criterion to be met, or a technical or other finding to be made, the District makes the determination except where the rule explicitly states otherwise. The landowner or, in the District's judgment, easement holder, must sign the permit application and will be the permittee or a co-permittee. Pre-application meetings are highly recommended for all applications. A pre-application meeting request form is available on the District website and can be submitted in person or via email.
- 5.2 **Forms.** A District permit application, and District checklist of permit submittal requirements, must be submitted on the forms provided by the District. Applicants may obtain forms from the District office or website at <http://www.prwd.org/permits>.
- 5.3 **Action by District.** The District will act on complete applications in accordance with timing requirements established under Minn. Stat. § 15.99, as amended. A complete permit application includes all required information, exhibits, and fees. An application will not be considered unless all substantial technical questions have been addressed and all substantial plan revisions resulting from staff and consultant review have been completed. Permit decisions will be made by the District Administrator, or a designated representative, unless Board action is deemed necessary.
- A. The District's permitting process is summarized in the chart on the following page (*Figure 5-1*).

Figure 5-1



- 5.4 **Issuance of Permits.** The permit will be issued after the applicant has satisfied all requirements for the permit and has paid all required District fees.
- 5.5 **Permit Term.** Permits are valid for twelve (12) months from the date of issuance unless otherwise stated within the permit, or due to it being suspended or revoked. To extend a permit, the permittee must apply to the District in writing, stating the reasons for the extension. Plan changes, and related project documents, must be included in the extension application. The District must receive this application at least thirty (30) days prior to the permit expiration date. The District may impose different or additional conditions on a renewal or deny the renewal in the event of a material change in circumstances. On the first renewal, a permit will not be subject to change because of a change in the Rules.
- 5.6 **Permit Assignment.** If title to the property is transferred during the term of the permit, a permittee must be assigned. The District will act on a permit assignment when the following conditions have been met:
- A. The proposed assignee agrees, in writing, to assume the terms, conditions, and obligations of the permit;
 - B. The proposed assignee has the ability to satisfy the terms and conditions of the permit;
 - C. The proposed assignee is not changing the project;
 - D. There are no violations of the permit conditions; and
 - E. The District has received from the proposed assignee a substitute surety, if required, to secure performance of the assigned permit.

Until the assignment is approved, the permittee of record, as well as the current title owner, will be responsible for permit compliance.

- 5.7 **Permit Fees.** The District will charge applicants permit fees in accordance with a schedule that will be maintained and revised from time to time by the Board of Managers to ensure that permit fees cover the District's actual costs of administering, inspecting, and enforcing permits. The current fee schedule may be obtained from the District office or the District website at <http://www.prwd.org/permits>. An applicant must submit the required permit fee to the District at the time it submits its permit application. Permit fees will not be charged to the federal government, the State of Minnesota, or a political subdivision of the State of Minnesota.
- 5.8 **Permit Variance.** Requests for a variance from a requirement of this chapter must be decided by the Board of Managers under the following conditions:
- A. **Variance Authorized.** The Board of Managers may hear requests for a variance from the literal provisions of this chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the property under consideration. The Board of Managers may grant a variance where it is demonstrated that such action will be in keeping with the spirit and intent of this chapter. Requests for variances must be in writing.

- B. Standard. In order to grant a variance, the Board of Managers will determine that:
- (1) Special conditions apply to the structure or land under consideration that do not generally apply to other land or structures in the District.
 - (2) Because of the unique conditions of the property involved, undue hardship to the applicant would result, as distinguished from mere inconvenience, if the strict letter of the chapter was carried out. A hardship cannot be created by the landowner or their contractor. Economic hardship is not grounds for issuing a variance.
 - (3) The proposed activity for which the variance is sought will not adversely affect the public health, safety, or welfare; will not create extraordinary public expense; and will not adversely affect water quality, water control, or drainage in the District.
 - (4) The intent of the chapter is met.
- C. Term. A variance will become void twelve (12) months after it is granted if not used.
- D. Violation. A violation of any condition set forth in a permit variance is a violation of this chapter and will be addressed through the process detailed in Chapter 11, Enforcement.

CHAPTER 6. STORM WATER MANAGEMENT

6.1 **Policy.** It is the policy of the District to manage, through permitting, stormwater and snowmelt runoff on a local, regional, and watershed basis to promote natural infiltration of runoff throughout the District to enhance water quality and minimize adverse natural resource impacts through the following principles:

- A. Reduce adverse water quality impacts.
- B. Preserve vegetation.
- C. Decrease runoff volume and promote infiltration where suitable.
- D. Prevent soil erosion and sedimentation.
- E. Maintain existing flow patterns.
- F. Store stormwater runoff on-site.
- G. Avoid channel erosion.

6.2 **Applicability (Thresholds).** Permits are required for the following activities:

- A. Non-Linear Projects. Construction or reconstruction of impervious surface resulting in total impervious surface lot coverage (new and existing) of:
 - (1) More than fifteen percent (15%) in the protective zone* of riparian lots outside the City of Detroit Lakes.
 - (a) Protective zone is the area within one hundred fifty feet (150') of the lake's OHWL.
 - (2) More than fifteen percent (15%) on non-conforming lots outside the City of Detroit Lakes.
 - (a) Non-conforming lots are those that do not meet the minimum lot size standards in Section 2, Chapter 5 of Becker County Zoning Ordinances.
 - (3) More than twenty-five percent (25%) on riparian lots.
 - (4) More than fifty percent (50%) of non-riparian lots.
 - (5) More than seven thousand (7,000) square feet of lot coverage of riparian lots.
 - (6) Equal or greater than one (1) acre of impervious surface coverage.
 - (7) Projects requiring a variance from, or use of allowable mitigation within, the local shoreland zoning ordinance.
- B. Residential subdivision or development of four (4) or more lots.
- C. Construction or reconstruction of a private or public paved trail greater than two hundred (200) linear feet in length.
- D. Projects or common plans of development or sale disturbing fifty (50) acres or more within one (1) mile of, and flow to, a special water or impaired water. A complete application and SWPPP must be submitted to the MPCA at least thirty (30) days prior to the start of construction activity.

- E. Linear Projects. Projects that create or fully reconstruct more than one (1) acre of impervious surface as part of the same project.

6.3 **Exemptions.**

- A. Exemptions from stormwater management permitting:
 - (1) Mill and overlay or full-depth reclamation projects where underlying soils are not disturbed.

6.4 **Criteria (Standards).**

- A. Water Quality (Volume).
 - (1) The Water Quality Volume (WQV) is determined as follows:
 - (a) New Development Areas: Capture and retain on site 1.1 inches of runoff from all impervious surfaces on the site.
 - (b) Redevelopment Areas: Capture and retain on site 1.1 inches of runoff from the new and/or reconstructed impervious surfaces on the site.
 - (c) Linear projects: Capture and retain the larger of the following:
 - i. 0.55 inches of runoff from the new and fully reconstructed impervious surfaces on the site; or
 - ii. 1.1 inches of runoff from the net increase impervious area on the site.
 - (2) Infiltration must be used, if feasible:
 - (a) Treatment volume within infiltration basins is measured from the bottom of the basin to the lowest outlet.
 - (b) Infiltration areas will be designed to drain within forty-eight (48) hours. Infiltration rates follow the current version of the MPCA Stormwater Manual. Field measured infiltration rates will be divided by two (2) for design infiltration rates.
 - (c) Soils with infiltration rates higher than 8.3 inches/hour must be amended if infiltration is to be used, otherwise see Section 6.4(A)(4) below for non-infiltration BMP options.
 - (d) Runoff entering an infiltration BMP must be pretreated.
 - (e) At least one (1) soil boring or test pit completed by a licensed professional is required within the footprint of each proposed infiltration BMP.
 - (f) The basin bottom elevation must have three (3) feet of separation above the season high water table.
 - (g) Design and placement of infiltration BMPs must follow any and all additional NPDES General Construction Stormwater Permit and MPCA requirements.

- (3) Infiltration will be considered infeasible if infiltration is prohibited by MPCA requirement. Common factors prohibiting infiltration include but are not limited to the following:
 - (a) Bedrock within three (3) vertical feet of the bottom of the infiltration basin.
 - (b) Seasonal High-Water Levels within three (3) vertical feet of the bottom of the infiltration basin.
 - (c) Site has predominantly Hydrological Soil Group D (clay) soils.
 - (d) Contaminated soils on site.
 - (e) Drinking Water Source Management Areas or within two hundred feet (200') of public drinking water well.
 - (f) Documentation, such as soil borings and or well maps are required upon permit submittal stating why infiltration is infeasible. Final feasibility to be confirmed by District Engineer.
- (4) If infiltration is infeasible a non-infiltrating BMP must be implemented. For non-infiltrating BMPs multiply the Water Quality Volume by the appropriate factor listed below for the chosen BMP:
 - (a) Biofiltration: Water Quality Volume multiplied by one and one half (1.5)
 - (b) Filtration: Water Quality Volume multiplied by two (2)

Biofiltration with Underdrain at Bottom

A small amount of the runoff that flows into the basin and does not overflow into an overflow structure is abstracted from the stormsewer system through infiltration or evapotranspiration; the remainder is filtered by the growing medium but then leaves via an underdrain.

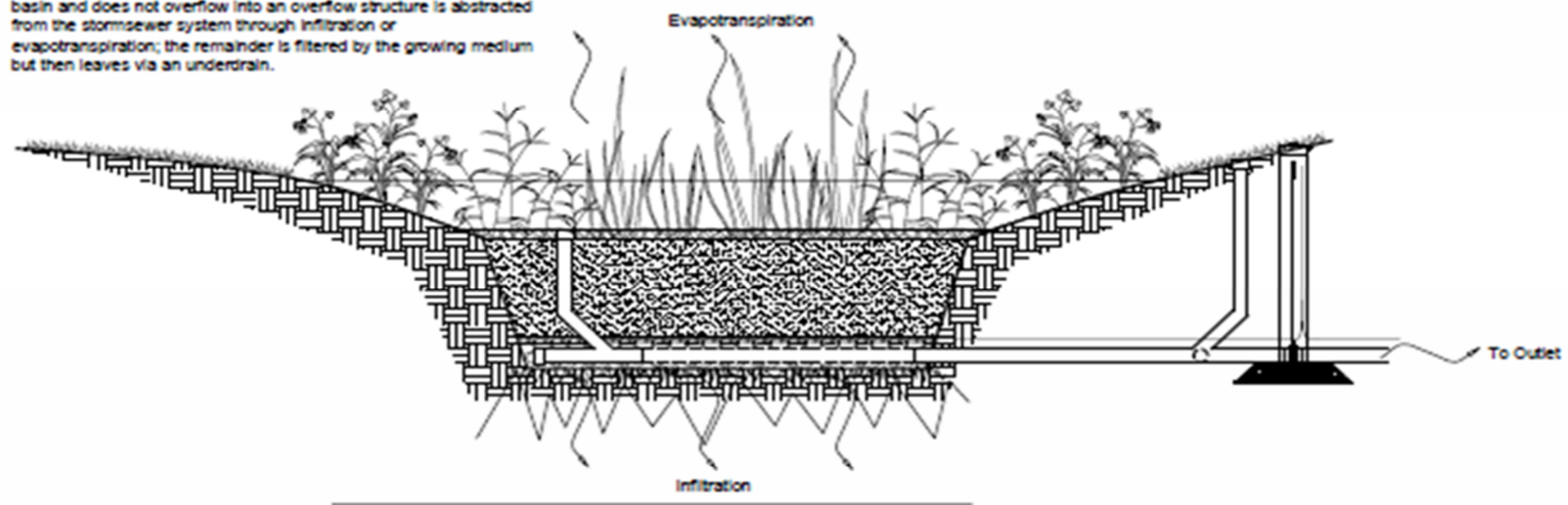
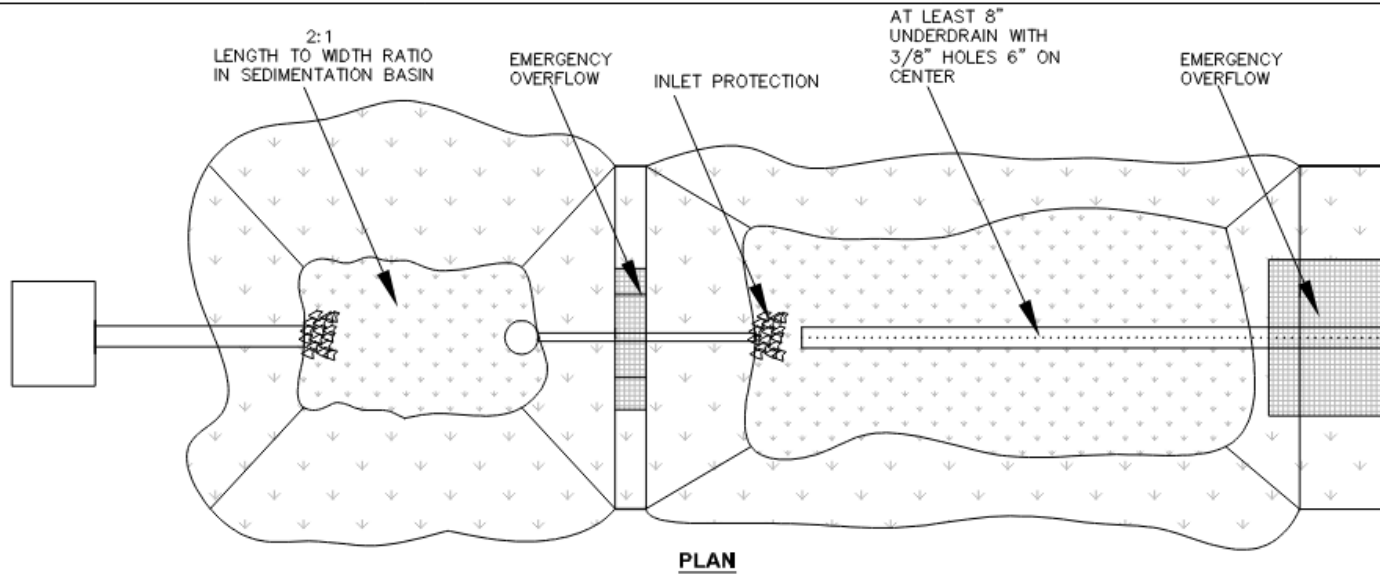


Figure 2-2: Biofiltration with Underdrain at Bottom

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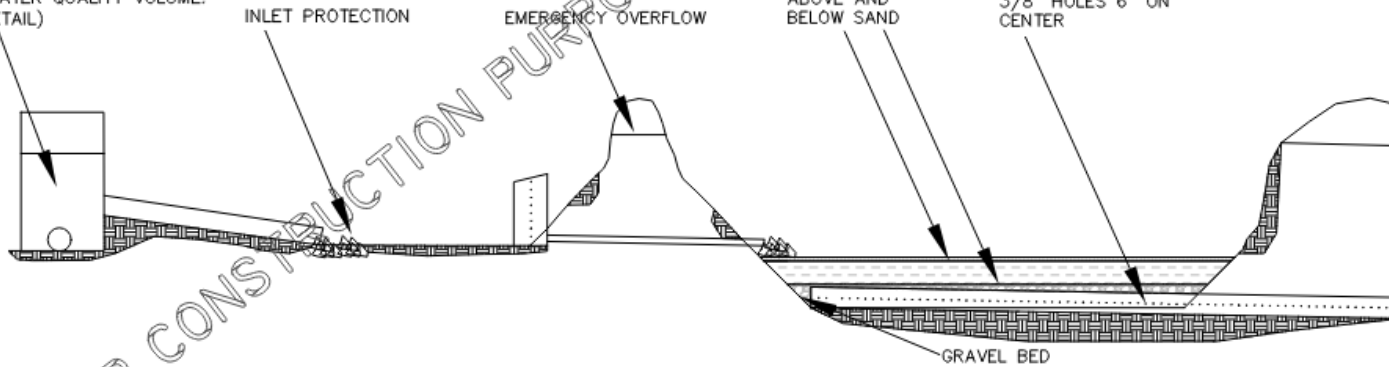
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SHEET: [Sheet Number]		
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SHEET NO.: [Sheet Number]		



PLAN

USE FLOW DIVERSION TO BYPASS FILTER FOR VOLUMES GREATER THAN WATER QUALITY VOLUME. (SEE DETAIL)



PROFILE

SURFACE SAND FILTER DETAILS

NOT TO SCALE

CONSTRUCTION SEQUENCES

1. PERFORM CONTINUOUS INSPECTIONS OF EROSION CONTROL PRACTICES.
2. INSTALL SILT FENCE ALONG THE PERIMETER OF THE SITE TO PREVENT SEDIMENT FROM LEAVING THE SITE DURING THE CONSTRUCTION PROCESS.
3. ALL DOWNGRADIENT PERIMETER SEDIMENT CONTROL BMPs MUST BE IN PLACE BEFORE ANY UP GRADIENT LAND DISTURBING ACTIVITY BEGINS.
4. REMOVE TOPSOIL FROM THE SITE AND PLACE IN TEMPORARY STOCKPILE LOCATION. TEMPORARY SEED THE STOCKPILE.
5. INSTALL UNDERGROUND UTILITIES (WATER, SANITARY SEWER, ELECTRIC AND PHONES) TAKING THE LOCATION AND FUNCTION OF STORM WATER BMPs INTO CONSIDERATION.
7. SEED AND MULCH DISTURBED AREAS ON SITE.
8. CONSTRUCT THE ROADS TAKING THE LOCATION AND FUNCTION OF STORM WATER BMPs INTO CONSIDERATION.
9. PERFORM ALL OTHER SITE IMPROVEMENTS TAKING THE LOCATION AND FUNCTION OF THE STORM WATER BMPs INTO CONSIDERATION.
10. FINAL GRADE THE SITE.
11. STABILIZE THE SITE BY IMPLEMENTING THE NATIVE SEEDS AND PLANTS PORTION OF THE LANDSCAPE PLAN.
12. INSTALL THE EROSION CONTROL BLANKET.
13. REMOVE THE SILT FENCE AFTER THE SITE IS STABILIZED PER PROJECT ENGINEER APPROVAL.

GENERAL NOTES

1. INSTALL ALL TEMPORARY EROSION CONTROL MEASURES IN ACCORDANCE WITH MNDOT GENERAL CONDITIONS (2573) PRIOR TO THE START OF ANY CONSTRUCTION OPERATION THAT MAY CAUSE ANY SEDIMENTATION OR EROSION AT THE SITE.
2. INSTALL STORM DRAINLET PROTECTION TO PREVENT CLOGGING OF THE STORM SEWER AND SEDIMENT LOADS TO DOWNSTREAM STORM WATER FACILITIES OR WATERBODIES.
4. EXCAVATE THE SEDIMENTATION BASIN TO THE SPECIFIED DEPTH (ELEVATION). IT IS RECOMMENDED THAT ALL SUB MATERIAL BELOW THE SPECIFIED ELEVATION SHALL BE LEFT UNDISTURBED, UNLESS OTHERWISE DIRECTED BY THE ENGINEER.
6. GRADE TO THE DEPTH (ELEVATION) SPECIFIED IN THE CONSTRUCTION DOCUMENTS UNLESS OTHERWISE DIRECTED BY THE ENGINEER.
7. IN THE EVENT THAT SEDIMENT IS INTRODUCED INTO THE BMP DURING OR IMMEDIATELY FOLLOWING EXCAVATION THE MATERIAL WILL NEED TO BE REMOVED FROM THE BASIN PRIOR TO INITIATING THE NEXT STEP IN THE CONSTRUCTION PROCESS. SEDIMENT THAT HAS BEEN WASHED INTO THE BASIN DURING THE EXCAVATION PROCESS CAN SEAL THE PERMEABLE MATERIAL SIGNIFICANTLY REDUCING THE INFILTRATION CAPACITY OF THE BASIN.
9. **NON-STANDARD COMPONENT:** CLEAN, WASHED 1/2 TO 3/4 INCH GRAVEL SHALL BE PLACED IN THE BOTTOM OF THE BASIN TO THE DEPTH OF AT LEAST 12 INCHES OR AS SPECIFIED IN THE CONSTRUCTION DOCUMENTS. GRAVEL SHOULD BE PLACED IN LIFTS AND LIGHTLY COMPACTED WITH PLATE COMPACTORS.
10. **NON-STANDARD COMPONENT:** THE PERFORATED PIPE (UNDERDRAIN) SHALL BE Laid DIRECTLY ON THE GRAVEL BED. GRADE AND ALL ELEVATIONS SHALL NOT VARY FROM THE PRESCRIBED GRADE BY MORE THAN 0.03 FEET (3MM) AT ANY POINT. THE JOINTS BETWEEN SECTIONS OF PIPE SHALL BE CONNECTED IN A FASHION ACCEPTABLE TO ENGINEER. ONCE THE PIPES IN PLACE, IT SHALL BE COVERED IMMEDIATELY WITH GRANULAR MATERIAL AS SPECIFIED IN THE CONSTRUCTION DOCUMENTS. THE GRANULAR MATERIAL SHALL BE OF UNIFORM DEPTH ON BOTH SIDES OF THE PIPE. SPECIAL INLETS AND SPECIAL DEVICES AT THE OUTLET END OF THE PIPE SHALL BE CONSTRUCTED AS SHOWN IN THE PLANS.
14. SEEDING AND INSTALLATION OF EROSION CONTROL BLANKET SHALL BE COMPLETED WITHIN 48 HOURS OF FINAL GRADING.

NOT FOR CONSTRUCTION PURPOSES

DATE	DESIGNED BY	DRAWN BY	CHECKED BY	APPROVED BY	SCALE	SHEET NO.	OF SHEETS
2005 MINNESOTA STORMWATER MANUAL							
SURFACE SAND FILTER DETAILS							
Sheet No. _____ of _____ Sheets							

- (c) Wet Ponds as necessary: Water Quality Volume multiplied by two (2):
 - i. Permanent pool volume below the pond's runout elevation must have a minimum volume of one thousand eight hundred (1,800) cubic feet per contributing acre or equivalent to the volume produced by a 2.5-inch storm event over the pond's contributing area.
 - ii. Ponds must be designed with a minimum three-to-one (3:1) length-to-width ratio to prevent short-circuiting. Inlets must be a minimum of seventy-five feet (75') from the pond's outlet.
 - iii. The WQV is measured from the top of the permanent pool elevation to the emergency overflow elevation.
- (d) MIDS Flexible Treatment Options (FTO) can also be used but follow the sequencing before with:
 - i. FTO #1:
 - a. Achieve at least 0.55 inch volume reduction goal.
 - b. Remove seventy-five percent (75%) of the annual total phosphorus load.
 - c. Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.
 - ii. FTO #2:
 - a. Achieve volume reduction to the maximum extent practicable, as determined by the District.
 - b. Remove sixty percent (60%) of the annual total phosphorus load.
 - c. Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.
 - iii. FTO #3:
 - a. Off-site mitigation (including banking or cash or treatment on another project, as determined by the District) equivalent to the volume reduction performance goal can be used in areas selected by the District.
- (e) Pretreatment must be provided for all filtration practices but is not necessary for wet ponds.
- (f) Design and placement of stormwater BMPs must be done in accordance with MPCA requirements and are recommended to follow guidance from the Minnesota Stormwater Manual.

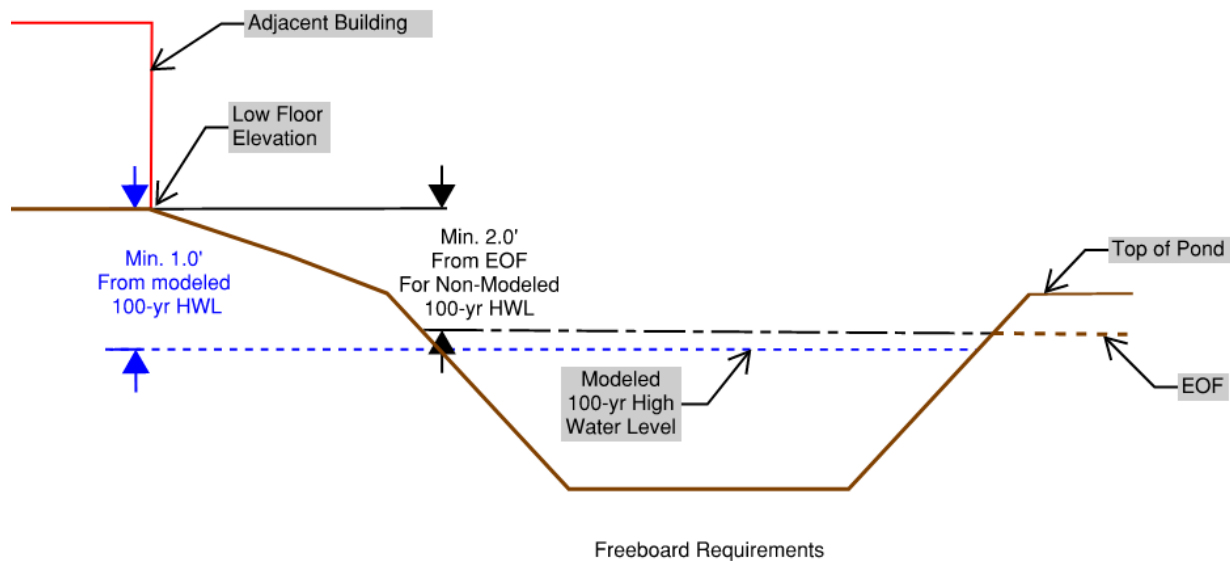
(5) **Exceptions:**

- (a) Single-family or twin home construction or modification on lots outside of the Shoreland District are exempt from providing permanent water quality treatment.
- (b) Trails that provide a five-foot (5') vegetated buffer prior to reaching a conveyance (i.e. swale, ditch, or curb and gutter) are exempt from providing permanent water quality treatment.

6.5 **BMP High-Water Level Management.**

- A. Where one hundred (100) year high water levels are driven by local, onsite drainage, rather than a FEMA floodplain not related to development, the following criteria must be met:
- (1) Low floor: at least one foot (1') above the modeled one hundred (100) year high water level of the basin.
 - (a) Alternatively, the low floor elevation may be two feet (2') above the EOF of the basin to demonstrate compliance where modeling is not available.
 - (2) Applicants must use precipitation depths from Atlas 14 using MSE-3 storm distribution in quantifying the one hundred (100) year high water level in the basin.

Figure 6-1



6.6 **Erosion Control.**

- A. Natural project site topography and soil conditions must be specifically addressed to reduce erosion and sedimentation during construction and after project completion.

- B. Site erosion and sediment control practices must be consistent with MPCA requirements.
- C. The project must be phased to minimize disturbed areas and removal of existing vegetation, until it is necessary for project progress.
- D. The District may require additional erosion and sediment control measures on areas with a slope to a sensitive, impaired, or special waterbody, stream, public drainage system, or Wetland to assure retention of sediment on-site.
- E. Erosion control must include features adequate to protect facilities to be used for post- construction stormwater infiltration.
- F. Required erosion control BMPs must be in-place prior to any site disturbance.
- G. Erosion prevention must be done in accordance with the following:
 - (1) Stabilize all exposed soil areas (including stockpiles) with temporary erosion control (seed and mulch or blanket) within fourteen (14) days (or seven (7) days for all projects within one (1) mile of an impaired water) after construction activities in the area have permanently or temporarily ceased on any portion of the site and will not resume for a period exceeding fourteen (14) calendar days.
 - (2) Exposed soil areas within the Shoreland Impact Zone must be stabilized within forty-eight (48) hours of work having suspended for more than seventy-two (72) hours or when work has permanently ceased.
 - (3) For projects that increase the drainage area to a point of discharge at the site boundary by more than ten percent (10%) and the runoff does not drain to an onsite, permitted BMP prior to leaving the site, the applicant must demonstrate that site runoff will not adversely impact the capacity, stability, or function of the receiving lands or conveyance.
- H. Sediment control must be done in accordance with the following:
 - (1) Sediment control practices will be placed down-gradient before up-gradient land disturbing activities begin.
 - (2) Vehicle tracking practices must be in place to minimize track out of sediment from the construction site. Streets must be cleaned if tracking practices are not adequate to prevent sediment from being tracked onto the street.
- I. Dewatering must be done in accordance with the following:
 - (1) Dewatering turbid or sediment laden water to surface waters (Wetlands, streams, or lakes) and stormwater conveyances (gutters, catch basins, or ditches) is prohibited.
- J. Inspections and maintenance must be done in accordance with the following:

- (1) Applicant must inspect all erosion prevention and sediment control practices to ensure integrity and effectiveness. Nonfunctional practices must be repaired, replaced, or enhanced the next business day after discovery.
 - (2) Erosion control plans must include contact information including email and a phone number of the person responsible for inspection and compliance with erosion and sediment control.
- K. Pollution prevention must be done in accordance with the following:
- (1) Solid waste must be stored, collected, and disposed of in accordance with state law.
 - (2) Provide effective containment for all liquid and solid wastes generated by washout operations (concrete, stucco, paint, form release oils, curing compounds).
 - (3) Hazardous materials that have potential to leach pollutants must be under cover to minimize contact with stormwater.
- L. Final stabilization must be done in accordance with the following:
- (1) For residential construction only, individual lots are considered final stabilized if the structures are finished and temporary erosion protection and downgradient sediment control has been completed.
 - (2) Grading and landscape plans must include soil tillage and soil bed preparation methods that are employed prior to landscape installation to a minimum depth of eight inches (8") and incorporate amendments to meet the Minnesota Stormwater Manual predevelopment soil type bulk densities.

6.7 **Maintenance.**

- A. Long-term maintenance agreements between the District and the landowner are required for all permanent stormwater BMPs.
- B. The maintenance agreement shall be submitted prior to permit issuance. It is recommended that a draft maintenance agreement be submitted with application materials.
- C. Upon issuance of the permit, the District will record the maintenance agreement on the parcel containing the BMP.

6.8 **Required Exhibits.**

- A. Applicants of permits required under Chapter 6 will be required to submit the following:
 - (1) A permit application form as detailed in the Rules.
 - (2) Site plans signed by a Minnesota licensed professional. Site plans must contain sheets that at a minimum address the following:

- (a) Property lines and delineation of lands under ownership of the applicant.
 - (b) Existing and proposed elevation contours, maximum two-foot (2') interval.
 - (c) Identification of normal and ordinary high-water elevations of waterbodies and stormwater features shown in the plans.
 - (d) Proposed and existing stormwater facilities' location, alignment, and elevation.
 - (e) Depiction of on-site Wetlands, shoreland, and floodplain areas.
 - (f) Construction plans and specifications of all proposed stormwater BMPs.
 - (g) Details will be required for all outlet control structures, Emergency Overflows, graded swales, and pond/basin cross sections.
 - (h) Details must show all elevation for pipe, weirs, orifices, or any other control devices.
 - (i) SWPPP identifying location, type, and quantity of temporary erosion prevention and sediment control practices. SWPPP that at a minimum meets the requirements of the NPDES construction permit.
 - (j) Site drawing showing the type, location, and dimensions of all permanent and temporary erosion control BMPs.
- (3) Drainage narrative including: project summary, existing and proposed impervious area, existing and proposed drainage patterns including direction and routing of roof drainage, and stormwater model reports as required in relevant sections.
- (a) Acceptable computer modeling software must be based on NRCS Technical Release #20 (TR-20), as required in relevant sections.
 - (b) Model output for both existing and proposed conditions is required. The District Engineer may require a copy of the electronic model to be submitted if the software used does not provide easily reviewed output reports.
- (4) Soil boring report or test pit documentation identifying location of the boring or test pit, Seasonal High Water Level, and depth of each soil type found as required in Section 6.4(A)(2)(e). Soil borings and test pits must be completed to a minimum depth of five feet (5') below the bottom of the proposed BMP.
- (5) If infiltration is not being used, justification must be provided.

CHAPTER 7. SHORELINE AND STREAMBANK ALTERATIONS

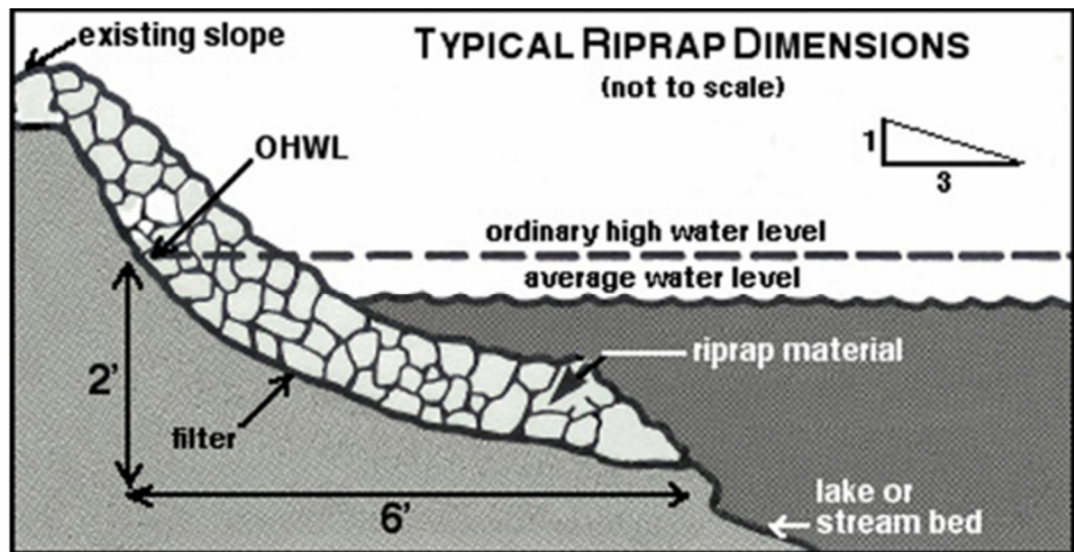
- 7.1 **Policy.** It is the policy of the Board of Managers to prevent erosion of shorelines and streambanks, promote the use of natural material and bioengineering in the restoration and maintenance of shorelines, and maintain natural riparian corridors. These activities promote water quality and protect ecological integrity. This chapter focuses on the Shore Impact Zone (SIZ). The Shore Impact Zone means land located between the Ordinary High Water Level (OHWL) of a Public Water and a line parallel to and half (1/2) the setback from it (as defined by applicable county or municipal zoning ordinances and as further defined in Chapter 4).
- 7.2 **Applicability.** A permit is required for alteration to the land surface, Impervious Surface, or vegetation within the Shore Impact Zone, including but not limited to riprap, bioengineered shoreline installation, retaining walls, walkways, removal of any trees or woody vegetation, or conversion to turf grass.
- 7.3 **Preapplication Meeting.** For work within the Shore Impact Zone, a preapplication meeting is encouraged prior to submitting a permit application. It is highly recommended that this meeting be completed in person and on-site with the landowner and/or a project representative such as the designer or contractor.
- 7.4 **Shore Impact Zone Alteration Criteria.** The movement of any material within the Shore Impact Zone;
- A. **Grading, Filling, Excavation, or Any Other Land Altering Activities.** Any activity which disturbs soils, shoreline, streambank, or Impervious Surface within a Shore Impact Zone, exceeding 20 square-feet in size, requires a permit and must comply with the following standards:
- (1) ***Land Alterations in the Shore Impact Zone.*** Land alteration exceeding 20 square-feet in size, must be designed and implemented to minimize erosion and sediment from entering surface waters during and after construction and implement the following standards:
 - (a) No net increase in stormwater nutrient or sediment loading to the receiving waterbody.
 - (b) Exposed bare soil shall be covered with mulch or similar materials or have a downgradient BMP (silt fence, bio-roll, etc.) installed within forty-eight (48) hours.
 - (c) A permanent vegetation cover shall be planted within fourteen (14) days of completion of the project through a re-vegetation plan as approved by the District.
 - (d) Temporary erosion and sediment control Best Management Practices must be installed to prevent erosion or sediment loss to Public Waters or to neighboring properties prior to land disturbing activity.
 - (e) Alterations to topography are only permitted if they are accessory to permitted or Conditional Uses and are limited to the extent necessary to maintain natural shoreline topography and do not adversely affect adjacent or nearby properties and waterbodies.
 - (f) Filling or excavation activities to create walk-out basements shall not be allowed within Shore or Bluff Impact Zones.

- (g) Any alterations below the Ordinary High Water Level of public waters shall be authorized by the Commissioner under Minn. Stat. § 103G.245, as amended.
 - (h) Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
 - (i) Plans to place fill or excavated material on Steep Slopes must be reviewed by a licensed professional as approved by the District for continued slope stability and must not create finished slopes of thirty-three percent (33%) or greater.
- (2) *Impervious Surfaces.* Impervious Surface within the Shore Impact Zone can contribute to an increase in runoff or stormwater pollutants to the lake. Construction or re-construction (changes) to Impervious Surface is allowed provided that:
- (a) The proposed activity meets all local land use ordinances.
 - (b) Stormwater from all new/reconstructed Impervious Surfaces must be consistently managed with the requirements of Chapter 6. For single lot, residential projects, an applicant may substitute the use of a BMP designed to treat a 2.2-inch event in lieu of plans signed by a licensed engineer.
- (3) *Ice Pressure Ridge Repair.* Ice Pressure Ridges are formed by winter ice expansion pushing up on a shoreline. While these natural features provide a host of ecological benefits, there are circumstances when it may be necessary to conduct repair to an existing ridge that has been damaged. Modification to the Ice Pressure Ridge is permitted according to the following:
- (a) Modifications or repairs are only allowed on Ice Pressure Ridges that experienced recent damage from ice action within the past six (6) months. Landowners will need to provide proof of ice ridge formation within the last six (6) months through aerials or photographs.
 - (b) A ridge of no less than eight inches (8") must be maintained parallel to the shore or ice ridge repaired to previous height (whichever is higher). The eight inch (8") difference is measured between the ridge top and three feet (3') landward of the ridge.
 - (c) Ice ridge material that is composed of muck, clay, or organic sediment is deposited and stabilized at an upland site above the OHWL.
 - (d) Ice ridge material that is composed of sand or gravel may be re-graded to conform to the original cross-section and alignment of the lakebed, with a finished surface at or below the OHWL or it may be removed.
 - (e) Additional excavation or replacement fill material must not occur on the site.

- (f) Erosion control measures shall be installed in accordance with the approved Erosion and Sediment Control Plan. Once grading and excavating activities are completed, the project area shall be vegetated.
 - (g) Any unrelated grading, excavating, and/or filling activities may require additional permits.
 - (h) A four-foot (4') wide lake access walkway may be placed over, but not cut through the ridge.
 - (i) Any alteration below the OHWL shall require approval from the DNR.
 - (j) The project must meet all state, city, and county regulations.
- (4) *Shoreline and Streambank Stabilization.* This is allowed only where there is a demonstrated need to stop existing erosion along unstable sensitive topography such as steep slopes, bluffs, rivers, and streams to help prevent or reduce erosion. Erosion needs to be verified by District staff either through a site visit or photos.
- (a) Stabilizing shoreline erosion and instability is permitted by doing the following:
 - i. Applicant must investigate the use of native plant material and techniques to stabilize shoreline.
 - ii. If native plant material will not be sufficient, the applicant will investigate the use of bio armoring with a combination of natural rock riprap and vegetation plantings.
 - iii. Natural rock riprap alone, free of debris, is only allowed where there is a demonstrated need to stop existing erosion that cannot be accomplished by items i. and ii. above and the following standards are met:
 - (b) Riprap to be used in shoreline erosion protection must be sized appropriately in relation to the erosion potential of the wave or current action of the particular waterbody, but in no case will the riprap rock average less than six inches (6") in diameter or more than thirty inches (30") in diameter. Riprap will be durable, natural stone and of a gradation that will result in a stable shoreline embankment. Stone, granular filter, and geotextile material must conform to standard Minnesota Department of Transportation specifications. Materials used must be free from organic material, soil, clay, debris, trash, or any other material that may cause siltation or pollution.
 - (c) Riprap will be placed to conform to the natural alignment of the shoreline and to not obstruct navigation or flow of water.
 - (d) Riprap will consist of coarse stones that are randomly and loosely placed. Panning, walls, or rock of uniform size or placement is prohibited.

- (e) A transitional layer consisting of graded gravel, at least six inches (6") deep, and an appropriate geotextiles filter fabric will be placed between the existing shoreline and any riprap. The thickness of the riprap layers should be at least 1.25 times the maximum stone diameter. Tow boulders, if used, must be at least fifty percent (50%) buried.
- (f) The minimum finished slope waterward of the OHWL must be no steeper than three-to-one (3:1) (horizontal to vertical).
- (g) The riprap must be no more than six feet (6') waterward of the ordinary high-water level.
- (h) The height of the riprap extends no higher than three feet (3') above the OHWL, or one foot (1') above the highest known water level, or one foot (1') above evidence of erosion, whichever is less.
- (i) Riprap for cosmetic purposes or replacement of stable vegetation is not allowed.
- (j) For riprap projects resulting in greater than two hundred (200) cumulative linear feet of shoreline on a parcel, a DNR permit is required.

Figure 7-1



- (5) **Beach Sand Blanket.** A beach blanket or sand blanket is the placement of beach material on a shore where a beach does not naturally occur (i.e. a muddy-bottom lake). Placement of sand blanket areas must meet the following standards:
 - (a) The existing lake bottom must be hard bottom sand or gravel, with no muck or organic layer present, suitable for supporting material.

- (b) The maximum size of the blanket cannot exceed fifty feet (50') in width (or half width of the lot, whichever is less), maximum ten feet (10') in depth landward from the OHWL, and not exceed six inches (6") in thickness.
 - i. Alternatively, the sand blanket may be twenty-five feet (25') wide, or twenty-five percent (25%) of lot width (whichever is less), and fifteen feet (15') landward from the OHWL.
 - (c) The natural slope must be less than five percent (5%).
 - (d) Material must be clean and washed sand or gravel with no organic materials, silt, loam, or clay.
 - (e) The design must incorporate a berm or stormwater diversion around the beach area on upslope edge to prevent erosion.
 - (f) Replacement and maintenance of the sand blanket requires a permit and expansion of the sand blanket is not allowed. Only one (1) installation of sand or gravel to the same location may be made during a four (4)-year period. After the four (4) years have passed since the last blanketing, the location may receive another sand blanket. More than two (2) applications at an individual project site will require a permit from the DNR.
 - (g) Sand blankets are not allowed on Steep Slopes, Emergent Vegetation, or Wetland.
 - (h) Exception: Beaches operated by public entities and available to the public may be maintained in a manner that represents minimal impact to the environment and are exempt from parts (b) and (f) of this section; however, District permits are still required and must adhere to DNR regulations.
 - (i) Use of non-biodegradable fabric is not permissible.
- (6) *Rain Gardens. Placement of rain gardens must meet the following standards:*
- (a) Obtain District permit.
 - (b) Design and install consistent with the Minnesota Stormwater Manual.
 - (c) Setback no less than ten feet (10') from structures with foundations or basements.
 - (d) Setback no less than ten feet (10') from a sewage tank and twenty feet (20') from a septic drain field.
 - (e) Must not be located on slopes twelve percent (12%) or greater.
 - (f) Must not be located within fifty feet (50') of the top of a bluff.
 - (g) Must not be located within twenty feet (20') of the toe of a bluff.

- B. Vegetation Alteration. Vegetative alterations may be permitted on riparian lots, in Shore and Bluff Impact Zones, or on Steep Slopes in accordance with the following standards:
- (1) Prior to vegetation alterations regulated by this section or prior to establishing a view corridor on a riparian lot, the property owner is encouraged to contact the District to arrange a site visit and must complete an application for vegetation alteration.
 - (2) The District may require that the property owner clearly mark any proposed view corridor/or any vegetation to be removed from the riparian lot. Additionally, the District may require the property owner to supply information on slope, soil type, property line locations, location of easements, and any other information that may be needed in order for the District to act on a request.
 - (3) In considering a permit application for vegetation alterations, including the establishment view/access corridor, the District may take into consideration the predevelopment vegetation, natural openings, surrounding vegetation patterns and densities, previous vegetation alterations, slope, soil type, the locations and extent of adjacent view corridors, adjacent body of water, and other information it deems necessary and pertinent to the request.
 - (4) Intensive Vegetation Clearing within the Shore and Bluff Impact Zones, or on Steep Slopes, is prohibited except as detailed in Section 7.4(B)(6)(c) below.
 - (5) Limited clearing and trimming of trees, shrubs, and groundcover in the Shore Impact Zone is permitted to provide a view to the water from the principal dwelling and to accommodate the placement of permitted stairways and landings, access paths, and beach and watercraft access areas, in accordance with the following standards:
 - (a) The vegetation within the Shore Impact Zone will be maintained to screen structures or other facilities with trees and shrubs so that the structures are at most fifty percent (50%) visible as viewed from public waters during the summer months when the leaf canopy is fully developed.
 - (b) Existing shading of water surfaces is preserved.
 - (c) Cutting debris must not be left on the ground.
 - (d) Limited trimming, pruning, and thinning of branches or limbs to protect structures, maintain clearances, or provide limited view corridors are allowed as long as the integrity of the tree is not damaged or the health of the tree is not adversely affected.
 - (e) Vegetation removal must not increase erosion or stormwater runoff rate.

- (6) A view/lake access corridor, defined as a line of sight on a riparian lot extending from the lakeward side of the principal residence towards the ordinary high-water level of a lake or river, is permitted in accordance with the following standards:
- (a) The total cumulative width of the view corridor must not exceed fifty feet (50') or fifty percent (50%) of lot width, whichever is less. If more than fifty feet (50') feet or fifty percent (50%), whichever is less, has already been cleared, then additional clearing is not allowed.
 - (b) Removal of vegetation shall not be greater than twelve feet (12') in width in any contiguous strip.
 - (c) Any proposed Intensive Vegetation Clearing to accommodate the placement of permitted stairways and landings, access paths, and beach and watercraft access areas must be within the view corridor. Only one (1) beach/watercraft access area will be allowed on each residential lot and:
 - i. must be less than fifteen feet (15') landward from the OHWL; and
 - ii. must be no wider than twenty-five feet (25') or twenty-five percent (25%) of the lot width, whichever is less.

For the purpose of this section, if this area or the shoreline has already been cleared, then additional Intensive Vegetation Clearing will not be allowed.

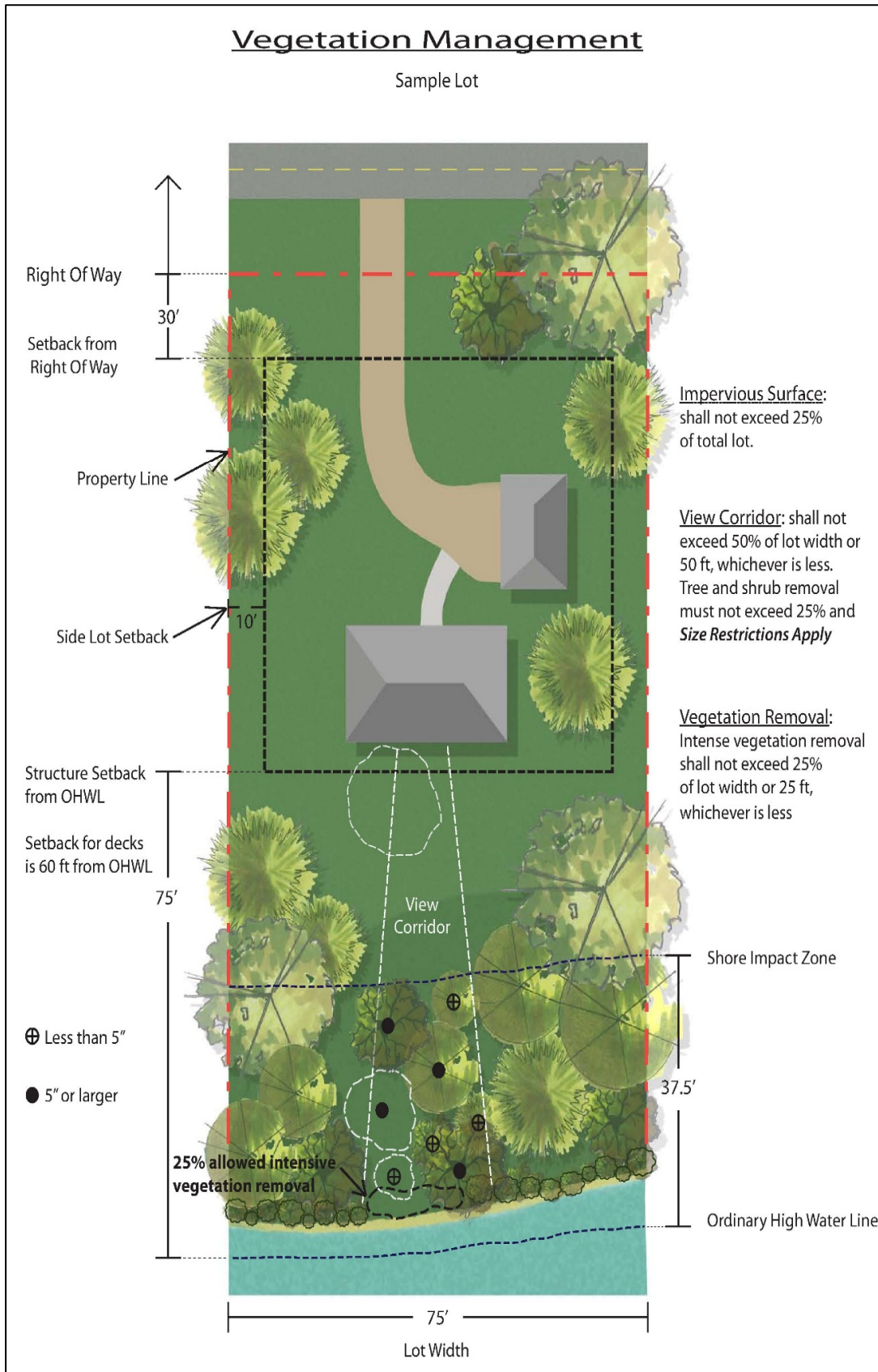
- (7) The total amount of tree/shrub removal within the view corridor must not exceed twenty-five (25%) percent of the trees larger than five inches (5") in diameter measured at four and one-half feet (4 ½') above the ground and twenty-five (25%) percent of the trees/shrubs smaller than five inches (5") in diameter, in a random pattern.
- (a) Work must be conducted in a manner that does not disturb topsoil.
 - (b) Stumps may be ground down flush with the ground; however, below ground roots must be left in place as they provide stability on shoreline.
 - (c) Cutting must be conducted with use of hand operated tools and not heavy machinery, except where necessary and prior written approval has been granted by District staff.
 - (d) The removal of invasive and noxious species must be verified and approved by District staff.
 - (e) Within the Shore Impact Zone, or on steep slopes or bluffs, dead, diseased, or trees deemed hazardous by District staff, or by a certified arborist, may be removed and replaced at a one-to-one (1:1) ratio, regardless of size. Trees removed for legal placement of lake access paths or structures must be replaced at a ratio of two-to-one (2:1). Replacement trees shall be at least one and one-half inches (1.5") in diameter, and of a type listed on the District's approved tree list. The replacement tree must be replanted within the Shore Impact Zone or

Steep Slope or Bluff Impact Zone of the removed tree, and distributed throughout the impacted area as approved by District staff or certified arborist. The District may solicit the review of the trees by an independent arborist, at the property owner's expense.

- (8) Planting of native trees, shrubs, establishing vegetated buffers, and maintaining vegetated shorelines is encouraged on all riparian lots within the District as a method to minimize and mitigate the impacts of stormwater runoff, erosion, and nutrient enrichment on the District's water resources.
 - (a) Planting of native vegetation that includes grade alteration or disturbing existing vegetation shall require a permit approved by the District prior to establishment. The District will require a plant list and Operation and Maintenance (O & M) plan with the Permit.
- (9) All vegetative alterations are subject to the following conditions:
 - (a) Exposed bare soil shall be covered with mulch or similar materials or have a downgradient BMP (silt fence, bio-roll, etc.) installed within forty-eight (48) hours .
 - (b) A permanent vegetation cover shall be planted within fourteen (14) days of completion of the project through a re-vegetation plan as approved by the District.
 - (c) Cutting must be conducted with use of hand operated tools and not heavy machinery, except where necessary and prior written approval has been granted by District staff. Topsoil disturbance is to be limited and the root system must remain in place.
 - (d) Altered areas must be stabilized to acceptable erosion control standards consistent with the Minnesota Stormwater Manual.
 - (e) In considering a request for vegetation alterations, including the establishment of a view corridor, the District may take into account the predevelopment vegetation, natural openings, surrounding vegetation patterns and density, previous vegetative alterations, slope, soil type, the location and extent of adjacent view corridors, the adjacent body of water, and other information it deems necessary and pertinent to the request.
- (10) *Violations.* Violations of this section may be remedied with restoration orders, in addition to other available legal remedies. Restoration varies based on the percentage of vegetation coverage (evaluated through aerial coverage of trees and/or shrubs and on-site visual observation) in the Shore Impact Zone, Bluff, and Impact Zone, Steep Slope area. Restoration mitigation may include an erosion control and stormwater plan, a specified mix of trees, shrubs, and low ground cover of native species and understory consistent with the natural cover of shorelines in the area. Replacement ratios will be up to two-to-one (2:1) as part of a restoration order, based upon applicable density and spacing recommendations.

- (11) *Exemptions.* Planting of native trees and/or shrubs, establishing vegetated buffers, and maintaining existing vegetated shorelines in kind, without grade alteration, does not require a permit.

Figure 7-2



C. Retaining Walls.

- (1) *New Construction.* Retaining wall construction within the Shore Impact Zone and Bluff Impact Zone is permitted only for areas of slope instability that cannot be corrected by any other means including native plantings, bio-armoring, riprap, or other practices. If an adequate, alternative practice to stabilize a slope exists, construction of a retaining wall will not be allowed. If there are no adequate alternatives, the retaining wall is permitted in accordance with the following standards:
 - (a) The applicant provides detailed description of alternatives that were considered and why they were not feasible.
 - (b) The proposed retaining wall construction is permitted by the DNR, as necessary.
 - (c) Stabilization design drawings showing the wall location, dimensions, and any reinforcement details must be prepared by a licensed professional and must conform to sound engineering principles.
 - (d) The permit will require that an as-built survey, prepared by a licensed professional, be filed with the District.
 - (e) The District Engineer may require a geotechnical report, if necessary, to review if soil conditions are suitable for wall construction.

- (2) *Existing Retaining Wall Reconstruction.* Retaining wall reconstruction within the Shore Impact Zone and Bluff Impact Zone is only recommended for areas of slope instability that cannot be corrected by any other means. If an adequate alternative practice to stabilize the slope exists, reconstruction is not recommended and will only be permitted in accordance with the following standards:
 - (a) The proposed retaining wall reconstruction is permitted by the DNR, as necessary.
 - (b) Drawings showing the wall design must be prepared by a licensed professional.
 - (c) The permit will require that an as-built survey, prepared by a licensed professional, be filed with the District.
 - (d) The District Engineer may require a geotechnical report, if necessary, to review if soil conditions are suitable for wall construction.
 - (e) Upgradient of the reconstructed retaining wall, the applicant provides either:
 - i. A diversion of stormwater draining toward the retaining wall to an onsite BMP, such as a rain garden, which will treat runoff from the direct drainage area consistent with the provisions of Section 6.4.A prior to discharging to the waterbody; or

- ii. A fifteen-foot (15') buffer of native vegetation approved by District staff. Only a four-foot (4') wide path for access to the lake may pass through the buffer.
- (3) Maintenance of existing retaining walls does not require a permit. Maintenance consists of replacing or repairing components of the retaining wall without disturbing the soils beneath the foundation of the wall. Replacing the entire wall or expanding its height or footprint are not considered maintenance.
- (4) Retaining walls within the City of Detroit Lakes are regulated by the City.

7.5 **Maintenance.**

- A. Long-term maintenance agreements between the District and the landowner are required for all permanent changes to the Shore Impact Zone.
- B. The maintenance agreement shall be submitted prior to permit issuance. It is recommended that a draft maintenance agreement be submitted with application materials.
- C. Upon issuance of the permit, the District will record the maintenance agreement on the parcel containing the Shore Impact Zone alteration.

7.6 **Required Exhibits.** Applicants for projects that do not trigger a Chapter 6 Stormwater permit, but do trigger a Chapter 7 Shoreline and Streambank Alterations permit, must submit the following:

- A. Photographs documenting existing site conditions and need for stabilization. Images must be during growing season and must depict, in profile, bank vegetation and slope condition of the subject and adjacent properties, and the existence of emergent or floating vegetation adjacent to the subject property.
- B. Dimensioned drawings of proposed conditions, including landmarks, such as houses, buildings, roads, etc., showing dimensions and distance to proposed project.
- C. Erosion Control Plan containing permanent and temporary erosion control BMPs locations.
- D. Vegetation removal and plantings list, including quantities, and drawing/map as applicable.
- E. Drawings prepared by a licensed professional for any BMP design required under section 7.4.A.2.b.
- F. Drawings prepared by a licensed professional for any wall design for retaining wall projects.

7.7 **EXEMPTIONS.**

- A. The City of Detroit Lakes Public Beach (West Lake Drive) will conform to MN State Regulations and is exempt from the Rules.

CHAPTER 8. REGIONAL CONVEYANCE SYSTEMS

- 8.1 **Policy.** It is the policy of the Board of Managers to preserve regional conveyance systems within the District, including its natural streams and watercourses, and artificial channels and piped systems. Chapter 8 applies to surface water conveyance systems other than public drainage systems. The purpose of this chapter is to maintain regional conveyance capacity, prevent flooding, preserve water quality and ecological condition, and provide an outlet for drainage for the beneficial use of the public as a whole now and into the future. Chapter 8 does not apply to public drainage systems, as defined in the Rules, which the District manages and maintains through the exercise of its authority under the drainage code (Minn. Stat. Chapter 103E) and the application of Chapter 9. It is not the intent of this chapter to decide drainage rights or resolve drainage disputes between private landowners.
- 8.2 **Regulation.** A person may not construct, improve, repair, or alter the hydraulic characteristics of a regional conveyance system that extends across two (2) or more parcels of record not under common ownership, including by placing or altering a utility, bridge, or culvert structure within or under such a system, without first obtaining a permit from the District. Permits are not required to repair or replace an element of a regional conveyance system owned by a government entity when the hydraulic capacity of the system will not change.
- 8.3 **Criteria.** The conveyance system owner is responsible for maintenance. In addition, modification of the conveyance system must:
- A. Preserve existing hydraulic capacity.
 - B. Retain existing navigational use.
 - C. Not adversely affect water quality or downstream flooding characteristics.
 - D. Be designed to allow for future erosion, scour, and sedimentation considerations.
 - E. Be designed for maintenance access and be maintained in perpetuity to continue to meet the criteria of this Section 8.3. The maintenance responsibility must be memorialized in a document executed by the property owner in a form acceptable to the District and filed for record on the deed. Alternatively, a public permittee may meet its perpetual maintenance obligation by executing a programmatic or project-specific maintenance agreement with the District.
- 8.4 **Subsurface Utility Crossings.** A crossing beneath a regional conveyance system must maintain adequate vertical separation from the bed of the conveyance system. The District will determine adequate separation by reference to applicable guidance and in view of relevant considerations such as soil condition, the potential for upward migration of the utility, and the likelihood that the bed elevation may decrease due to natural processes or human activities. The District will also consider the feasibility of providing separation and the risks if cover diminishes. Nothing in this section diminishes the crossing owner's responsibility under Section 8.3, above. The applicant must submit a record drawing of the installed utility.

8.5 **Required Exhibits.** The following exhibits must accompany the permit application:

A. Construction details showing:

- (1) Size and description of conveyance system modification including existing and proposed flow line (invert) elevations. Elevations must be provided in NAVD 88 datum.
- (2) Existing and proposed elevations of utility, bridge, culvert, or other structure.
- (3) End details with flared end sections or other appropriate energy dissipaters.
- (4) Emergency overflow elevation and route.

B. Narrative describing construction methods and schedule.

C. Erosion and sediment control plan in accordance with Chapter 6.

D. Computations of watershed area, peak flow rates and elevations, and discussion of potential effects on water levels above and below the project site.

8.6 **Exception.** Criterion 8.3(A) may be waived if the applicant can demonstrate with supporting hydrologic calculations the need for an increase in discharge rate in order to provide for reasonable surface water management in the upstream area, and that the downstream impacts of the increased discharge rate can be reasonably accommodated and will not exceed the existing rate at the conveyance outfall.

CHAPTER 9. PUBLIC DRAINAGE SYSTEMS

9.1 **Policy.** Chapter 9 applies to work within public drainage systems, as that term is defined in the Rules. The District regulates work in surface water conveyance systems other than public drainage systems through the application of Chapter 9. It is the policy of the Board of Managers to regulate work within the right-of-way of a public drainage system that has the potential to affect the capacity or function of the public drainage system, or ability to inspect and maintain the system. The purpose of this chapter is to protect the integrity and capacity of public drainage systems consistent with Minn. Stat. Chapter 103E to prevent regional or localized flooding, preserve water quality, and maintain an outlet for drainage for the beneficial use of the public and benefitted lands now and into the future.

9.2 **Regulation.**

- A. Temporary or permanent work in or over a public drainage system, including any modification of the system, including installation or replacement of crossings, requires a permit from the District. The permit is in addition to any formal procedures or District approvals that may be required under Minn. Stat. Chapter 103E or other drainage law.
- B. A utility may not be placed under a public drainage system without a permit from the District. The design must provide at least five feet (5') of separation between the utility and the as constructed and subsequently improved grade of the public drainage system, unless the District determines that a separation of less than five feet (5') is adequate to protect and manage the system at that location. The applicant must submit a record drawing of the installed utility. The crossing owner will remain responsible should the crossing be found to be an obstruction or subject to future modification or replacement under the Drainage Law.
- C. A pumped dewatering operation must not outlet within two hundred feet (200') of a public drainage system without a permit from the District. A permit application must include a dewatering plan indicating discharge location, maximum flow rates, and outlet stabilization practices.

9.3 **Criteria.** A project constructed subject to Section 9.2(A) must:

- A. Comply with applicable orders or findings of the District.
- B. Comply with all federal, state, and District Wetland protection rules and regulations.
- C. Demonstrate that such activity will not adversely impact the capacity, stability, or function of the public drainage system, or ability to inspect and maintain the public drainage system.
- D. Not create or establish Wetlands within the public drainage system right of way without an order to impound the public drainage system under Minn. Stat. § 103E.227, as amended.

- E. Provide conveyance at the grade of the ACSIC¹ where work is being completed. If the ACSIC has not been determined, the applicant may request that the District duly determine the ACSIC before acting on the application, or may accept conditions that the District determines are adequate to limit the risk that the applicant's work will not be an obstruction, within the meaning of Minn. Stat. Chapter 103E, when the ACSIC is determined. An applicant that proceeds without determination of the ACSIC bears the risk that the work later is determined to be an obstruction.
- F. Maintain hydraulic capacity and grade under interim project conditions, except where the District, in its judgement, determines that potential interim impacts are adequately mitigated.
- G. Where the open channel is being realigned, provide an access corridor that the District deems adequate at the top of bank of the drainage system, with the following characteristics:
 - (1) A minimum of twenty feet (20') in width.
 - (2) Cross-slope (perpendicular to direction of flow) no more than five percent (5%) grade.
 - (3) Longitudinal slope (parallel to the direction of flow) no more than one-to-five (1:5) (vertical to horizontal).
- H. Provide adequate supporting soils to facilitate equipment access for inspection and maintenance. Provide stable channel and outfall.
- I. Be designed for maintenance access and be maintained in perpetuity to avoid constituting an obstruction and otherwise to continue to meet the criteria of this section. The maintenance responsibility must be memorialized in a document executed by the property owner in a form acceptable to the District and filed for record on the deed. Alternatively, a public permittee may meet its perpetual maintenance obligation by executing a programmatic or project-specific maintenance agreement with the District. Public Linear Projects are exempt from the public drainage system easement requirement of this section.
- J. Identify proposed temporary obstruction or crossings of the public drainage system and specify operational controls to enable unobstructed conveyance of a rainfall or flow condition.

9.4 **Required Exhibits.** The following exhibits must accompany the permit application. Elevations must be provided in NAVD 88 datum.

- A. Map showing location of project, tributary area, and location and name of the public drainage system branches within the project area.
- B. Existing and proposed cross sections and profile of affected area.
- C. Description of bridges or culverts proposed.

¹ The "As Constructed and Subsequently Improved Condition" (ACSIC) of a public drainage system must be determined to understand if proposed work may be considered "repair" and what regulations are applicable. Determination of the ACSIC is discussed in more detail within Section VII, B of the Minnesota Public Drainage Manual.

- D. Location and sizes of proposed connections to the public drainage system.
- E. Narrative and calculations describing effects on water levels above and below the project site.
- F. Erosion and sediment control plan.
- G. Hydrologic and hydraulic analysis of the proposed project.
- H. Local benchmark in NAVD 88 datum.

CHAPTER 10. BUFFERS

10.1 **Policy.** It is the policy of the District to:

- A. Provide public drainage system ditches with vegetated Buffers and water quality practices to achieve the following purposes:
 - (1) Protect state water resources from erosion and runoff pollution.
 - (2) Stabilize soils and banks.
- B. Coordinate closely with the District's landowners, soil and water conservation districts and counties, and utilize local knowledge and data, to achieve the stated purposes in a collaborative, effective, and cost-efficient manner.
- C. Integrate District authorities under Minn. Stat. §§ 103D.341, 103E.021, and 103F.48, as amended, to provide for clear procedures to achieve the purposes of this chapter.
- D. The District will implement and enforce Buffers through the use of Drainage Law (Minn. Stat. §§ 103E.021, 103E.351, 103D.545, and 103D.551, as amended), and when that cannot be accomplished, the District will use its Administrative Penalty Order (APO) powers granted by Minn. Stat. § 103F.48, as amended.

10.2 **Data Sharing/Management.**

- A. The District may enter into arrangements with an SWCD, a county, BWSR, and other parties with respect to the creation and maintenance of, and access to, data concerning Buffers and alternative practices under this chapter.
- B. The District will manage all such data in accordance with the Minnesota Data Practices Act and any other applicable laws.

10.3 **Vegetated Buffer Requirement.**

- A. Except as applicable under Minn. Stat. § 103F.48, subds. 3 and 5, a landowner must maintain a Buffer on land that is adjacent to a public drainage system ditch identified and mapped on the buffer protection map established and maintained by the Commissioner pursuant to the Buffer Law.
 - (1) The Buffer must be a minimum width of sixteen and one half feet (16.5'). This section does not apply to the portion of public drainage systems consisting of tile.
 - (2) The Buffer is measured from the top or crown of bank. Where there is no defined bank, measurement will be from the normal water level. The District will determine normal water level in accordance with BWSR guidance. The District will determine top or crown of bank in the same manner as measuring the perennially vegetated strip under Minn. Stat. § 103E.021.
- B. The requirements under Minn. Stat. § 103F.48 applies to all public drainage ditches within the legal boundary for which the District is the drainage authority.

- C. The requirements under Minn. Stat. § 103F.48, subd. 3 do not apply to land that is:
- (1) Enrolled in the federal Conservation Reserve Program.
 - (2) Used as a public or private water access or recreational use area including stairways, landings, picnic areas, access paths, beach, and watercraft access areas, provided the area in such use is limited to what is permitted under shoreland standards or, if no specific standard is prescribed, what is reasonably necessary.
 - (3) Used as the site of a water-oriented structure in conformance with shoreland standards or, if no specific standard is prescribed, what is reasonably necessary.
 - (4) Covered by a road, trail, building, or other structure.
 - (5) Regulated by a national pollutant discharge elimination system/state disposal system (NPDES/SDS) municipal separate storm sewer system, construction or industrial permit under Minnesota Rules, Chapter 7090, and the adjacent waterbody is provided riparian protection.
 - (6) Part of a water-inundation cropping system.
 - (7) In a temporary non-vegetated condition due to drainage tile installation and maintenance, alfalfa or other perennial crop or plant seeding, or a construction or conservation project authorized by a federal, state, or local government unit.

10.4 **Drainage System Acquisition and Compensation for Buffer.**

- A. In accordance with Minn. Stat. § 103F.48, subd. 10(b), a landowner owning land within the benefited area of and adjacent to a public drainage ditch may request that the District, as the drainage authority, acquire and provide compensation for the Buffer strip required under this rule.
- B. The request may be made to use Minn. Stat. § 103E.021, subd. 6, or by petition pursuant to Minn. Stat. § 103E.715, subd. 1.
- C. The decision on the request is within the judgment and discretion of the District, unless the request concerns a Buffer strip mandated by Minn. Stat. § 103E.021.
- D. If the request is granted or the petition proceeds, the requirements of the Buffer strip and the compensation to be paid for its incorporation into the drainage system will be determined in accordance with the statutes referenced in Minn. Stat. § 103F.48 and associated procedures. When the order establishing or incorporating the Buffer strip is final, the Buffer strip will become a part of the drainage system and thereafter be managed by the District in accordance with the drainage code.
- E. On a public drainage ditch that also is a public water subject to a fifty-foot (50') average Buffer, the drainage system will be required to acquire only the first sixteen and one half feet (16.5') of the Buffer.

- F. The District, on its own initiative pursuant to Minn. Stat. §§ 103F.48 and 103E.021, may acquire and provide compensation for Buffer strips required under this chapter on individual or multiple properties along a public drainage system. The Board of Managers findings and order will be delivered or transmitted to the landowner.
- G. This section does not displace the terms of Minn. Stat. Chapter 103E requiring or providing for drainage system establishment and acquisition of vegetated Buffer strips along public ditches.

10.5 **Action For Noncompliance.**

- A. When the District observes potential noncompliance or receives a third-party complaint from a private individual or entity, or from another public agency (such as the SWCD), it will determine the appropriate course of action to confirm compliance status. This may include communication with the landowner or his/her agents or operators, communication with the shoreland management authority, inspection, or other appropriate steps necessary to verify the compliance status of the parcel. On the basis of this coordination, the SWCD may issue a notification of noncompliance to the District. If the SWCD does not transmit such a notification, the District will not pursue a compliance or enforcement action under Minn. Stat. § 103F.48, but may pursue such an action under the authority of Minn. Stat. §§ 103E.021 and 103D.341 and Section 10.6 of this chapter.
- B. On receipt of an SWCD notification of noncompliance, or if acting solely under authority of Minn. Stat. § 103E.021 or 103D.341, the District will determine first whether sufficient public drainage system easement exists to establish the required vegetative Buffer. If a sufficient easement does not exist, the District will attempt to acquire the necessary easements through incremental Buffer establishment provided in Minn. Stat. § 103E.021, subd. 6 or through a redetermination of benefits provided in Minn. Stat. § 103E.351 to establish the required Buffers. The establishment of the required Buffers will occur within twelve (12) months of the determination that inadequate easement exists, and no more than eighteen (18) months from the receipt of an SWCD notification of noncompliance or the District decision to establish the required Buffers.
- C. If the District is unable to acquire the necessary easements through incremental Buffer establishment provided in § 103E.021, subd. 6, or through a redetermination of benefits, or if sufficient easement does exist and an established Buffer has been adversely altered, the District will issue a corrective action notice and practical schedule for compliance to the landowner or responsible party. The District may inspect the property and will consult with the SWCD, review available information, and exercise its technical judgment to determine appropriate and sufficient corrective action and a practical schedule for such action. The District will maintain a record establishing the basis for the corrective action that it requires.
 - (1) The District will issue the corrective action notice and schedule to the landowner of record. The landowner may be the subject of enforcement liabilities under Section 10.6. The District may deliver or transmit the notice and schedule by any means reasonably determined to reach the landowner, and will document receipt. However, a failure to document receipt will not preclude the District from demonstrating receipt or knowledge in an enforcement proceeding under Section 10.6.

- (2) The corrective action notice and schedule will identify the parcel of record to which it pertains and the portion of that parcel that is alleged to be noncompliant. It will describe corrective actions to be taken, a schedule of intermediate or final dates for correction, a compliance standard against which it will judge the corrective action, and a statement that failure to respond to this notice and schedule will result in an enforcement action. The District will provide a copy of the notice and schedule to BWSR.
- (3) At any time, a landowner or responsible party may supply information in support of a request to modify a corrective action or the schedule for its performance. On the basis of any such submittal or at its own discretion, the District may modify the corrective action notice or schedule, and deliver or transmit the modified notice and schedule in accordance with Section 10.5(C)(1), or may advise the landowner in writing that it is not pursuing further compliance action.
- (4) At any time after the District has issued the notice and schedule, a landowner, or authorized agent or operator of a landowner or responsible party, may request that the SWCD issue a validation of compliance with respect to property for which the notice and schedule has been issued. On District receipt of the validation, the notice and schedule will be deemed withdrawn, and the subject property will not be subject to enforcement.
- (5) A corrective action notice and schedule is not considered a final decision subject to appeal. An objection to a finding of noncompliance, or to any specified corrective action or its schedule, is reserved to the landowner or responsible party and may be addressed in an enforcement proceeding under Section 10.6.

10.6 **Enforcement.**

- A. Under authority of Minn. Stat. §§ 103E.021, 103D.545, and 103D.551, the District may seek remedies for noncompliance with this chapter against any landowner or responsible party including but not limited to: (a) reimbursement of District compliance costs under Minn. Stat. § 103D.345 and 103E.021 and/or an escrow, surety, performance bond, or a letter of credit for same; (b) administrative compliance order (ACO); (c) district court remedy including injunction, restoration, or abatement order, authorization for District entry, and/or order for cost recovery; and (d) referral to the District attorney for criminal misdemeanor prosecution.
- B. In instances where existing vegetation on the ditch Buffer easement has been adversely altered and has not been restored, the District may collect compliance expenses in accordance with Minn. Stat. § 103E.021 from a landowner for noncompliance with the corrective action notice and schedule. The District will restore any adversely altered Buffer and charge the landowner for the cost of the restoration if the landowner does not complete the requirements of the corrective action notice and schedule.
- C. In instances where a ditch Buffer easement area cannot be established in a timely manner, the District may issue an administrative order imposing a monetary penalty against a landowner or responsible party for noncompliance with the corrective action notice and schedule. The penalty will continue to accrue until the

noncompliance is corrected as provided in the corrective action notice and schedule.

- (1) The penalty for a landowner on a single parcel that previously has not received an administrative penalty order issued by the District shall be the following:
 - (a) \$0 for 11 months after issuance of the corrective action notice and schedule.
 - (b) \$50 per parcel per month for the first six (6) months (180 days) following the time period in Section 10.6(C)(1)(a).
 - (c) \$200 per parcel per month after six (6) months (180 days) following the time period in Section 10.6(C)(1)(b).
- (2) The penalty for a landowner on a single parcel that previously has received an administrative penalty order issued by the District shall be:
 - (a) \$50 per parcel per day for 180 days after issuance of the corrective action notice and schedule
 - (b) \$200 per parcel per day for after 180 days following the time period in Section 10.6(C)(1)(a).

D. The administrative order will state the following:

- (1) The facts constituting a violation of the Buffer requirements.
- (2) The statute and/or rule that has been violated.
- (3) Prior efforts to work with the landowner to resolve the violation.
- (4) For an administrative penalty order, the amount of the penalty to be imposed, the date the penalty will begin to accrue, and the date when payment of the penalty is due.
- (5) The right of the landowner or responsible party to appeal the order. A copy of the APO must be sent to the SWCD and BWSR.

E. An administrative order will be issued after a compliance hearing before the District Board of Managers. The landowner and any other responsible parties will receive written notice at least two (2) weeks in advance of the hearing with a statement of the facts alleged to constitute noncompliance and a copy or link to the written record on which District staff intends to rely, which may be supplemented at the hearing. A landowner or responsible party may be represented by counsel, may present and question witnesses, and may present evidence and testimony to the Board of Managers. The District will make a record of the hearing.

F. After a hearing noticed and held for consideration of an administrative penalty or other administrative order, the Board of Managers may issue findings and an order imposing any authorized remedy or remedies.

- (1) The amount of an administrative penalty will be based on considerations including the extent, gravity, and willfulness of the noncompliance; its economic benefit to the landowner or responsible party; the extent of the landowner or responsible party's diligence in addressing it; any noncompliance history; the public costs incurred to address the noncompliance; and other factors as justice may require.
 - (2) The Board of Managers' findings and order will be delivered or transmitted to the landowner and other responsible parties. An administrative penalty order may be appealed to BWSR in accordance with Minn. Stat. § 103F.48, subdivision 9, and will become final as provided therein. The District may enforce the order in accordance with Minn. Stat. § 116.072, subd. 9. Other remedies imposed by administrative order may be appealed in accordance with Minn. Stat. § 103D.537.
 - (3) The Board of Managers may forgive an administrative penalty, or any part thereof, on the basis of diligent correction of noncompliance following issuance of the findings and order and such other factors as the Board finds relevant.
- G. Absent a timely appeal, an administrative penalty is due and payable to the District as specified in the administrative penalty order.
- H. Nothing within this Buffer Rule diminishes or otherwise alters the District's authority under Minn. Stat. Chapter 103E with respect to any public drainage system for which it is the drainage authority, or any Buffer strip that is an element of that system.

10.7 **Effect of Rule.**

- A. If any section, provision, or portion of this Buffer Rule is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Buffer Rule is not affected thereby.
- B. Any provision of this Buffer Rule, and any amendment to it, that concerns District authority under Minn. Stat. § 103F.48 is not effective until an adequacy determination has been issued by BWSR. Authority exercised under Minn. Stat. Chs. 103D and 103E does not require a BWSR adequacy determination.

CHAPTER 11. ENFORCEMENT

- 11.1 **Matter of Enforcement.** In the event of a violation, or potential violation, of a District Rule, permit, order or stipulation, or a provision of Minn. Stat. Chapters 103D or 103E, the District may take action to prevent, correct, or remedy the violation or any harm to water resources resulting from it. Enforcement action includes but is not limited to, injunction, action to compel performance, abatement, or restoration, and prosecution as a criminal misdemeanor in accordance with Minn. Stat. §§ 103D.545 and 103D.551.
- 11.2 **Investigation of Noncompliance.** The District's Board of Managers, staff, or designated consultants may enter and inspect property in the District related to investigation of permit activities to determine the existence of a violation or potential violation as described in the preceding section.
- 11.3 **Preliminary Administrative Compliance Order.** The District, including staff and legal consultants, may issue a preliminary administrative compliance order without notice or hearing when it finds a violation or potential violation, and that the violation or potential violation presents a threat to the public health, welfare, and safety, or an adverse effect on water resources. A preliminary administrative compliance order may require that the landowner or responsible contractor cease the land-disturbing activity; apply for an after-the-fact permit; and take corrective or restorative action.
- 11.4 **Board Hearing – Administrative Compliance Order.** If a landowner or their agent fails to comply with the preliminary ACO, the Board of Managers may hold a hearing with the alleged violator to discuss the violation. After due notice and a hearing at which evidence may be presented, the Board shall make findings. If the Board of Managers finds a violation, it may issue an administrative compliance order that may require the landowner or responsible contractor to cease land-disturbing activity; apply for an after-the-fact permit; take corrective or restorative action; reimburse the District for costs under Minn. Stat. § 103D.545, subd. 2; and/or be subject to any other remedy within the District's authority. An administrative compliance order may supersede a preliminary administrative compliance order or may be issued without a prior preliminary administrative compliance order.
- 11.5 **Liability for Enforcement Costs.** To the extent provided for by Minn. Stat. § 103D.545, subd. 2, a landowner, contractor, or equipment operator is liable for investigation and response costs incurred by the District under the Rules, including but not limited to the costs to inspect and monitor compliance, engineering and other technical analysis costs, legal fees and costs, and administrative expenses.
- 11.6 **Contractor Liability.** An individual, firm, corporation, partnership, association, or other legal entity contracting to perform work subject to one (1) or more projects will be responsible to ascertain that the necessary permit has been obtained and that the work complies with the permit, the Rules, regulations, statutes, and any applicable District orders or stipulations. A contractor that, itself or through a subcontractor, engages in an activity constituting a violation or potential violation is not a "responsible contractor", as defined in Minn. Stat. § 16C.285, for purposes of the District.

BOARD OF MANAGERS

PELICAN RIVER WATERSHED DISTRICT

By Chris Jasken, Secretary

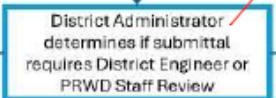
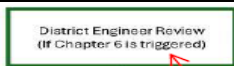
Adopted_____; Published in the Detroit Lakes Tribune on_____.

	A	E
1	Comment – Source – Date	Draft Response
2	Please note the Administrative Penalty Order (APO) Plan for Buffer Law Implementation, attached, was approved by the Board December 19, 2024. This new APO plan will require watershed districts to revise their rules. These changes can be incorporated into your rules now or wait until receiving official notification of the need to revise your rules. If you decide to move forward with incorporating the APO changes at this time, please reach out to either Travis Germundson, Appeals & Regulatory Compliance Coordinator, (travis.germundson@state.mn.us) or Ethan Dahl, Buffer & Soil Loss Specialist, (ethan.dahl@state.mn.us).	Noted, not planning to make this change at this time.
3	Peter Waller, BWSR, Letter Dated January 30, 2025	
4	Chapter 4: Definitions and Interpretation	
5	Regional Conveyance – the City is seeking clarity if this definition and subsequently Chapter 8 of the rules would apply to the City’s storm water collection system. Exempting the City would provide clarity.	The definition has been updated to exclude piped, public conveyances (i.e. storm sewer).
6	Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025	
7	Chapter 6: Storm Water Management	Regarding the 50% impervious on non-riparian lot threshold, the board has previously discussed, there is recognition that there may be more permits due to this clarification. The development and redevelopment of these lots provide opportunities to protect the region's critical resources. Many BMPs can fit into the required green spaces or subterranean options exist. Additionally, opportunities can be pursued to create regional practices.
8	The City has commented previously about the increased number of “triggers” that would require a PRWD storm water permit in the draft rules. Some changes were made from the earlier draft, but the City still raises concerns about 6.2.A.(4) that requires a storm water permit for activities resulting in impervious surface more than 50% on non-riparian lots (side note: check spelling of riparian in this section). The City has many smaller commercial properties that exceed 50% impervious surface coverage (i.e. downtown business district) and any improvements to these properties would trigger a storm water permit with little room on the property to adhere to PRWD rules. The City requests that 6.2.A.(4) be removed or exempt properties within the city limits of Detroit Lakes. These smaller properties within the City are part of a municipal collection / treatment system and should not be considered the same as rural areas without a regional system in place. The existing PRWD and City rules that trigger a permit for activities that result in one or more acres of impervious is already sufficient without adding this requirement.	
9	Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025	

	A	E
10	The formatting of section 6.2.B including the underlining of “linear projects” but the sections below it (C, D, E) are not necessarily linear projects. Some reformatting can provide clarity.	These items have had underlines removed and been reordered for clarity.
11	Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025	
12	Section 6.2.D requiring permits for private or public paved trail, parking lot, or public water access does not provide any threshold for when the work requires a permit, thus requiring a permit for any and all work activity related to this section. Providing some threshold would be helpful for minor improvements or consider deleting 6.2.D, as these items are already covered in section 6.2.A Non-Linear Projects and 6.2.B Linear Projects.	Removed parking lot and public water access call outs as they are covered in 6.2.A. Added a threshold for trails for greater than 200 linear feet. Defined trails as a linear, non-motorized vehicle path not exceeding 10-feet in width. Also added an exemption in 6.4.A.(5) for trails with a 5-foot vegetated buffer prior to reaching conveyance (swale, ditch, or curb and gutter).
13	Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025	
14	Section 6.3 is an exemption for projects where underlying soils are not disturbed. The City requests this exemption be expanded to include full depth reclamation or full depth pavement replacement projects on public linear projects (e.g. City sidewalks, trails, and streets). Full depth rehabilitation projects are a common pavement improvement technique that is utilized by the City, County, and Townships to extend the life of our roadways. Requiring these linear projects to meet PRWD rules would require extensive regrading and storm water improvements that would nullify the value of doing a pavement rehabilitation project.	Full-depth reclamation where no underlying soils are disturbed has been added to the mill & overlay exemption from stormwater management permitting. Additoinally, the definition of Reconstruction has been revised.
15	Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025	
16	Section 6.8.A.(2).(e) states that on-site wetlands must be delineated. 'Delineation' is a technical term requiring certified professionals to identify and map wetland boundaries based on vegetation, soil, and hydrology. Since this process can only be conducted during the growing season and is often unnecessary, consider replacing 'Delineation' with 'Depiction' to allow for a more flexible approach.	Delineation has been replaced with depiction.
17	Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025	
18	Section 7.4.A.(1) requires a permit for any land alterations in the Shore Impact Zone, regardless of size. The City’s Shoreland Management Ordinance allows up to 10 cubic yards (CY) of material to be disturbed within the shore impact zone without a permit. The City suggests that the watershed match the City’s 10 CY threshold.	A threshold of 20 square-feet of disturbance has been added. Also added an exemption for planting native species or replacing vegetation in kind where no grading is proposed.

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19	Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025	
20	As stated previously in my August 2023 and December 2024 letters, the City also looks forward to further discussing how land disturbance permits and mitigation permits can better be processed so that City and PRWD processes and permits are not duplicative. The City understands that these efforts will follow once the new rules are adopted.	Noted.
21	Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025	
22	Pg 2 - Chapter 1 - This chapter contains unnecessary information. Consider deleting entire Chapter.	The introductory chapters of the Rules are for informing the public and any potential applicant of the District's purpose and standing as a governmental unit.
23	Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	
24	Pg 2 - Chapter 1 – is the final paragraph on page 2 a new mission statement? Under the Rules, the District seeks to protect the public health and welfare and the natural resources of the District by providing reasonable regulation of the modification or alteration of the District’s lands and waters to reduce the severity and frequency of flooding and high water; to preserve floodplain and wetland storage capacity; to improve the chemical, physical, and	This is part of the District's policy statement.
25	biological quality of surface water; to reduce sedimentation; to preserve waterbodies’ hydraulic and navigational capacity; to preserve natural wetland and shoreland features; and to minimize	
26	public expenditures to avoid or correct these problems in the future.	
27	Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	
28	Pg 3 - Chapter 2 - This chapter contains unnecessary information. Consider deleting entire Chapter. Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	The introductory chapters of the Rules are for informing the public and any potential applicant of the District's purpose and standing as a governmental unit. Chapter 2 lets the public and applicants know that the District works cooperatively with the City and County in permitting activities. The District is striving for education and transparency.
29	Pg 3 - Chapter 2 – Regarding protection of existing topography and vegetative features - All topography and vegetative? Goes beyond watershed district purposes, see Statute 103D.201 Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Minnesota Statute 103D.201 has a broad scope of General Purposes and the Specific Purposes include the protection of water quality of watercourses and water basins. Water quality is impacted by the topography and vegetation of the contributing drainage area.

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30	Pg 3 - Chapter 2 – Regarding coordination between the district and local governments - How can coordination avoid duplication and conflicting requirements? Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Discussion of delegation of permitting authority over all or portions of chapters within these rules will be part of Memorandums of Understanding following establishment of the revised rules.
31	Pg 3 - Chapter 2 – Regarding the district serving as technical advisors to municipal officials in the preparation of local surface water management plans. – “City's have their own technical advisors” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	As the local agency focused on water quality, the District looks forward to continuing to be a partner in local surface water management plans.
32	Pg 4 Add title and label major roads for reference. Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Noted, more detailed maps are available on the District website. This is a high-level representation of the District.
33	Pg 6 Correct spelling of Alteration	
34	Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Corrected.
35	Pg 6 Define Bluff and Bluff Impact Zone. Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	These definitions have been added.
36	Pg 7 Marsh Areas: “Why provide a definition for only one type of wetland and not others? Additionally this is not consistent with state definition.”	
37	Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	The marsh land definition and all of references have been removed.
38	Pg 8 Redevelopment Areas: “Where is this used in the rules? Is this a reduction from 25% allowable impervious? Or a trigger for requiring a PRWD permit? Is it applied in SIZ only or District wide?”	
39	Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	This is a definition relevant to the MIDS requirements used in 6.4.
40	Pg 8 Shoreland Standards: “Model standards are recommendations. This is a catch all statement that is not fair to applicant.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	This is a definition relevant to the state buffer law in Chapter 10.
41	Pg 9 Steep Slope: “1v:12h is not steep” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	
42		The definition has been revised to "a natural topographic feature with an average slope of 12 to 18 percent, measured over a horizontal distance equal to or greater than 50 feet, and any slopes greater than 18 percent that are not bluffs." This is consistent with MN Rules 6120.2500 Subp. 15b.
43	Pg 10 Chapter 5 -Preapplication Meetings – “Rule revisions were requested as to avoid this added step. Rules should not need to be translated to applicant.	
44	Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	These are an option that are recommended, especially for those who are unfamiliar with District rules.

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45	Pg 10 Chapter 5 -Forms: "Where are these Forms?" Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	All referenced forms will be added to the District website after the Rules are adopted.
46	Pg 10 Chapter 5 -Where are required information exhibits and fees defined? Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	The required exhibits are listed at the end of each rule: 6.8, 7.6, 8.5, and 9.4. Fees are defined under 5.7.
47	Pg 10 Chapter 5 - An application will not be considered unless all substantial technical questions have been addressed and all substantial plan revisions resulting from staff and consultant review have been completed. Permit decisions will be made by the District Administrator, or a designated representative, unless Board action is deemed necessary. "this gives staff too much power and provides no timeframe for PRWD" Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	The board has delegated permit approval to the District Administrator. All permit activity is subject to the timelines outlined in the referenced MS 15.99.
48	Pg 11 Figure 5-1 –	The District maintains the discretion to review permits internally or have a consultant, such as the District Engineer, complete the review. This flowchart is intended to communicate the typical processes. It is not a detailed description of decision making criteria.
49		
50		
51		
52	"Creates subjectivity. Does applicant have ability to object?" Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	
53	Pg 11 – Figure 5-1	The District maintains the discretion to review permits internally or have a consultant, such as the District Engineer, complete the review. This flowchart is intended to communicate the typical processes. It is not a detailed description of decision making criteria.
54		
55	Should 7.4.a.2b be included here Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	
56	Pg 11 – Figure 5-1 "Is there a timeframe for PRWD to complete? T	Timelines are subject to MS 15.99 as referenced.
57	he entire process doesn't provide timelines and too open to subjectivity by staff" Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	
58		
59	Pg 12 – Issuance of Permits. "Too subjective. Should read " The permit will be issued after the applicant has satisfied the requirements of these Rules and has paid all required District fees." Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	This has been revised.

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60	Pg 12 – Permit Assignment – “Where/when is the term of the permit defined? Are permits ever closed? Currently there is no final inspection to assure permit reqs were completed. PRWD has gone back to a permit 12 yrs after the fact and punished the new landowners for not meeting permitted design. As stated in last public comment, rules are worthless without enforcement.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Permit Term is described in Chapter 5 Section 5.5. Moving forward, permits will be recorded on the parcel. Enforcement is addressed in Chapter 11.
61	Pg 12 – Permit Assignment – “Is the PRWD staffed to manage and enforce? Is the expectation that any permit will transfer with the property title and future owners will be responsible for the terms of the permit? If so, are you creating an ever increasing responsibility for PRWD to enforce lifelong permits?” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Noted.
62	Pg 14 – Applicability Thresholds – Section 6.2,A, (1), (a) – “This is the entire lot for nearly all existing lots on Detroit, Floyd, Sallie, Melissa, Fox, Munson”	This aligns with County Ordinance.
63	Pg 14 – Applicability Thresholds – Section 6.2,A, (1 & 2) – “15% is overly restrictive” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	This aligns with County Ordinance.
64	Pg 14 – Applicability Thresholds – Section 6.2,A, (5) – “Was 10,000, provide reason for decreasing.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Recommended standards are 5,000 SF per similar lake focused watersheds, Board decided upon 7,000 SF.
65	Pg 14 – Applicability Thresholds – Section 6.2,A, (6) – cross out of this line. “Delete and replace with "Construction activity that results in land disturbance of equal to or greater than one (1) or if project is part of common plan of development or sale that will ultimately disturb greater than one (1) acre." Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	One acre of disturbance is when a SWPPP is triggered. 6.2.A.6 is stating a threshold of more than 1 acre of impervious surface. This threshold is not meant to trigger with land disturbance permits, but rather for large sites that don't trigger other thresholds.
66	Pg 14 – Applicability Thresholds – Section 6.2,C-E – “C, D and E are all non-linear. Believe there are state Statues that protect landowner's right to maintain” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Thresholds have been revised and reordered for clarity.
67	Pg 15 – Exemptions – “Add (2) Full depth pavement replacement including Full Depth Reclamation” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Duplicate comment, has been addressed.

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68	Pg 15 – Criteria (Standards) Section 6.4,A, (2), (g) – “Not fair to applicant. this is a catch all.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	The intent is to include the MPCA requirements that are typically relevant to the area, but the State standards still govern and are therefore included by reference.
69	Pg 16 - Criteria (Standards) Section 6.4,A, (4), (a-b) – “provide justification for these multipliers. Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	The multipliers account for the nutrient removal efficiencies of different types of BMPs consistent with guidance from MN Stormwater Manual and other similar watershed districts.
70	Pg 17 – “Delete Biofiltration figure” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	These standard designs are included as examples for those who may not be familiar with this type of BMP.
71	Pg 18 – “Delete surface Sand Filter figure” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	These standard designs are included as examples for those who may not be familiar with this type of BMP.
72	Pg 19 – Section 6.4,A, (4),(c) – “Provide justification for multipliers.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	The multipliers account for the nutrient removal efficiencies of different types of BMPs consistent with guidance from MN Stormwater Manual and other similar watershed districts.
73	Pg 19 – Section 6.4,A, (4),(c) – Pond design criteria “may not be practical.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Where recommended design criteria are not practical, we encourage designers to evaluate other treatment alternatives.
74	Pg 19 – Section 6.4,A, (4),(f) – Design and placement of stormwater BMPS will be done in accordance with MPCA requirements and are recommended to follow the Minnesota Stormwater Manual. “Not fair to the applicant. This is a catch all.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	State requirements are supplemental to these rules. MN Stormwater Manual design recommendation is mentioned for guidance for designer
75	Pg 20 – Section 6.5 – “Delete this section. not water quality related and will require HydroCAD model in many applications. Add disclaimer to approved permit that PRWD has not reviewed/does not take any responsibility in site flooding...” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Protection of the public from potential flooding is a General and Specific Purpose of the District. This requirement is a due diligence check of potential on site flooding. There are still options that do not require modeling.
76	Pg 20 – Section 6.6, D – “Too subjective” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	The District will retain their discretion to protect natural resources within the District.
77	Pg 22 – Section 6.7, C – “This is perpetual. How is district going to police this” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	This process can be addressed with District policy outside of these Rules.
78	Pg 23 – Section 6.8, A, (2), (e) – Delineation – “Delete and replace with “depiction”” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Duplicate comment, has been addressed.
79	Pg 23 - Section 6.8, A, (2), (g) – graded swales, and pond basin cross sections – “can be built from contours.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Basins and swales may have a bottom elevation that are not at an even contour i.e. 1361.20. Therefore, a crossing detail speeds the review and inspection (and can help ensure the feature is constructed correctly).

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80	Pg 23 - Section 6.8, A, (3) – “List relevant sections” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Updated.
81	Pg 23 - Section 6.8, A, () – Where is reference Section 6.4. B. 2. e Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Updated.
82	Pg 24 – Chapter 7 – Shoreline and Streambank Alterations “This is Chapter is mostly aesthetics. Does watershed care? The watershed lakes are nearly 100% developed. Focus on water quality and forget about the couple of undeveloped lots.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Chapter 7 pertains to shoreline/lake health and riparian habitatat.
83		
84	Pg 24 – Section 7.4, A, (1) – “10 CY or more” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Duplicate comment, has been addressed.
85	Pg 25 – Section 7.4, A, (2) – “Does this go to engineering review? Seems like it should. most environmentally sensitive lots.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	The required exhibits have been updated.
86	Pg 25 – Section 7.4, A, (2) – “No more rate control. Why double WQ volume?” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Updated.
87	Pg 29 – Vegetation Alteration “Remove or at least limit to bluff and shore impact zone and item (5)(e). How is the rest related to water quality? Again reference Statute 103D.201. This appears to be managing aesthetics, which is completely subjective. This is all already regulated by City and County” ” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Duplicate comments, have been addressed.
88	Pg 29 – Vegetation Alteration – Intensive Vegetation Clearing - Delete reference to steep slope Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	This is consistent with County Ordinances.
89	Pg 29 — Vegetation Alteration - Structure screening “How could this be measured?” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	This is consistent with County Ordinances.
90	Pg 29 – Vegetation Alteration - Vegetation removal must not increase erosion or stormwater runoff rate. “This is the only portion of Section B that the PRWD should be concerned about.”	Chapter 7 pertains to shoreline/lake health and riparian habitatat.
91	Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	

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92	Pg 30 – Vegetation Alteration- “Remove/limit to SIZ and BIZs and related only to erosion control. How is the rest related to water quality? Again reference Statute 103D.201. This is all already regulated by City and County” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Chapter 7 pertains to shoreline/lake health and riparian habitatatata.
93	Pg 30 – Vegetation Alteration- “Remove. Definition of Steep slope is far too restrictive to be included here” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	This is consistent with MN Rules 6120.2500 Subp. 15b. and County Ordinances.
94	Pg 31 – Vegetation Alteration – Remove sections (9) & (10) Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	These sections are integral to the Rules.
95	Pg 33 -Retaining Walls – Add definition of retaining wall. Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Added definition for retaining wall.
96	Pg 33 – Existing Retaining Wall Reconstruction – “too subjective” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Added an exemption for maintenance and described what maintenance consists of.
97	Pg 34 – City Ordinance on Retaining walls – “If this is true, leave it in the City’s rules. Should not be included in PRWD rules.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Duplicate comment, has been addressed.
98	Pg 35 – Chapter 8 – Regional Conveyance Systems – 8.1 add “excluding City of Detroit Lakes storm sewer” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	Duplicate comment, has been addressed.
99	Pg 35 – Chapter 8 – Regional Conveyance Systems – 8.1 “differs from definition” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	A regional conveyance is defined. Chapter 8 describes when activity on them is regulated.
100	Pg 40 – Buffers – 10.1, B - “Where is this defined?” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	The purposes are stated in 10.1. Buffers are defined in Chapter 3.
101	Pg 47 – “should be published prior to adoption.” Jon Olson & Scott Walz, Marked Comments, provided via email February 7, 2025	The District is following the statutory requirements of 103D.341.
102	Chapter 1 – Delete. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
103	Chapter 2 – “Delete the last two sentences of paragraph two should.” Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
104	Chapter 2 –“ Last sentence of paragraph 3 - Provide an explanation of how coordination can avoid duplicative and conflicting requirements”. Jon Olson, Letter Provided at meeting 2/12/2025.	The District is engaged with public partners to increase permitting efficiency and therefore reduce applicant costs.

	A	E
105	Chapter 4 –“Bluff and Bluff Impact Zone definitions required.” Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
106	Chapter 4 –“ Redeveloped Areas. Provide clarity. Reads as if it is almost a permit trigger.” Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
107	Chapter 4 –“Regional Conveyance: needs to exclude the City of Detroit Lakes-owned infrastructure.” Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
108	Chapter 4 –“ Shoreland Standards: reference to the shoreland model standards is ambiguous. This is a sample ordinance (rule) that is intended as a starting point for a local agency (e.g., watershed) in the	Duplicate comment, has been addressed.
109	development of its own rules.” Jon Olson, Letter Provided at meeting 2/12/2025.	
110	Chapter 4 –“Steep Slopes: 12% not steep” Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
111	Chapter 5 –“Last sentence of 5.3; provide an explanation of when Board Action is necessary.” Jon Olson, Letter Provided at meeting 2/12/2025.	Board action is necessary for a variance and may be necessary for other circumstances at the Board's discretion.
112	Chapter 5 –“Figure 5-1; Chapter 7 item 4.A.2b needs to be addressed in this chart.” Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
113	Chapter 5 –“ Additionally, timeframes should be added.” Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
114	Chapter 5 –“5.4 is too subjective. It should read “The permit will be issued after the applicant has satisfied the requirements of these Rules and has paid all required District fees.” Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
115	Chapter 6 –“ 6.2.A.5 Provide reasoning for lowering impervious surface threshold from 10,000 sf to 7,000 sf” Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
116	Chapter 6 –“6.2.C thru 6.2.E are non-linear projects. Consider deleting for clarity. If they remain, a threshold for roads and parking lots is required. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
117	Chapter 6 –“6.3 Consider exempting full depth pavement rehab to be consistent with City of DL. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
118	Chapter 6 –“ Consider simply referencing the treatment requirements of the most current version of the MPCA Construction Stormwater General Permit. List a few of the requirements and then adding a blanket statement that all MPCA requirements apply is not fair to the applicant. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.

	A	E
119	Chapter 6 “6.4.A.4 Provide documentation for requiring increased treatment levels for non-infiltrating practices. There BMPs are often already more costly as-is. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
120	Chapter 6 –“Consider deleting biorention and filter details. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
121	Chapter 6 –“6.A.4.c.ii; the 3:1 ratio and 75' lengths may not be possible on all projects. Consider deleting this requirement Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
122	Chapter 6 –“6.5: Provide clarification on when this provision must be met. 2.0' freeboard is excessive on my smaller sites. Consider deleting this section. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
123	Chapter 6 –“6.6.D is ambiguous. Consider referencing the requirements of 23 of the MPCA CSW. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
124	Chapter 6 –“6.7.C This will create added burden on the District with no end date. Consider deleting at minimum, section should reference permanent BMP. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
125	Chapter 6 –“6.8.A.2.e Requiring wetland delineations on all projects will add significant cost and delays. Consider softening this to show wetlands and shoreland. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
126	Chapter 6 –“6.8.A.2.g Often times graded swales do not need a detail. They can be constructed from the grading plan. Consider deleting 'graded swale' from this sentence. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
127	Chapter 6 –“6.8.A.3 Define the relevant sections. Too ambiguous as written. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
128	Chapter 6 –“6.8.A.2.4 References Section 6.4.B.2.e which does not exist. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
129	Chapter 7 –“7.4.A.l; A threshold is required. Consider ten {10} cubic yards to be consistent with City and County. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
130	Chapter 7 –“7.4.A.l.i; Consider 33% {3h:lv} instead of 30%. Much more common term. Jon Olson, Letter Provided at meeting 2/12/2025.	Updated.
131	Chapter 7 –“ 7.4.B: the chapter is mostly aesthetic and does not align with the watershed mission of water quality Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
132	Chapter 7 –“7.4.B.4; remove Steep Slopes from sentence. Jon Olson, Letter Provided at meeting 2/12/2025.	Duplicate comment, has been addressed.

	A	E
133	Chapter 7 –“7.4.B.6; revise 'lake of river' to 'lake or river' Jon Olson, Letter Provided at meeting 2/12/2025.	Updated.
134	Chapter 7 –“ 7 .4.C.2; replacement of existing walls is very subjective. Who determines feasibility? Jon Olson, Letter Provided at meeting 2/12/2025.	Replacement of an existing retaining wall does not require the determination of the feasibility of alternative methods.
135	Chapter 7 –“ 7.4.C.3; this is a City concern. Delete in the event the City modifies its ordinance or allows a variance. Jon Olson, Letter Provided at meeting 2/12/2025.	Revised to state "Retaining walls within the City of Detroit Lakes are regulated by the City."
136	He sees aesthetics, design, and density being scrutinized by the district. Scott Walz, Comment provided at meeting 2/12/2025.	Noted.
137	He feels that the permit review process is not always consistent and that there is no close out process for permits. Scott Walz, Comment provided at meeting 2/12/2025.	Noted. Permit closeout is completed by District staff.
138	He also sees a lack of enforcement for violations of the rules in the district. Scott Walz, Comment provided at meeting 2/12/2025.	Enforcement is detailed in Chapter 11.
139	Is water quality the main focus of the district? If so, should the district focus more keenly on issues such as <i>E. coli</i> . Scott Walz, Comment provided at meeting 2/12/2025.	Noted.
140	2) Will the rules be applied equally? Scott Walz, Comment provided at meeting 2/12/2025.	It is the intent for the Rules to be applied as written.
141	3) What is the enforcement plan? Scott Walz, Comment provided at meeting 2/12/2025.	Enforcement is detailed in Chapter 11.
142	4) How many man hours will it take to enforce the rule as stated? Scott Walz, Comment provided at meeting 2/12/2025.	Noted.
143	Requested that a written response to all comments be provided to the City. Jon Olson, Comment provided at meeting 2/12/2025.	Noted. These responses are fulfilling that request.
144	Recommends eliminating lot coverage requirements for county residential parcels and allow the county to solely handle stormwater. Kyle Vareberg, Comment provided at meeting 2/12/2025.	Noted.
145	Requested that the list of required exhibits be reviewed for small projects and remove unnecessary or onerous requirements. Kyle Vareberg, Comment provided at meeting 2/12/2025.	Required submittals have been prepared a reviewed by the Board with landowners in mind.
146	Requested a retaining wall definition be added to the rule. Kyle Vareberg, Comment provided at meeting 2/12/2025.	Duplicate comment, has been addressed.
147	Requirements for removal and replacement of retaining walls are too high. Phil Hansen, Comment provided at meeting 2/12/2025.	Added an exemption for maintenance and described what maintenance consists of.



PELICAN RIVER WATERSHED DISTRICT

202~~5~~⁴ REVISED RULES

~~Effective Date~~ Adopted: _____, March 28, 20~~—~~25



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CHAPTER 1. GENERAL POLICY STATEMENT AND INTRODUCTION

The Pelican River Watershed District (the “District”) is a political subdivision of the State of Minnesota, established under Minn. Stat. Chapter 103D, cited as the “Watershed Law.” Under the Watershed Law, the District exercises a series of powers to accomplish its statutory purposes. Under Chapter 103D the District’s general statutory purpose is to conserve natural resources through development planning, sediment and erosion control, and other conservation projects, based upon sound scientific principles. In order to accomplish its statutory purpose, the governing body of the District, the Board of Managers, is required to adopt a series of rules, cited as the 2024 Revised Rules of the PRWD (the “Rules”).

The District, as part of the Otter Tail River One Watershed One Plan process, has adopted a Comprehensive Watershed Management Plan (the “Plan”), which contains the framework and guiding principles for the District in carrying out its statutory purposes. It is the District’s intent to implement the Plan’s principles and objectives in the Rules.

Land alteration affects the volume, and quality of surface water runoff which ultimately must be accommodated by the existing surface water systems within the District. The District was established in 1966 in response to concerns about regional lake health. Lake health and contributing factors continue to be the primary focus of the District.

Land alteration and utilization also can degrade the quality of runoff entering the streams and waterbodies of the District due to non-point source pollution. Lake and stream sedimentation from ongoing erosion processes and construction activities reduces the hydraulic capacity of waterbodies and degrades water quality. Water quality problems already exist in many of the lakes and streams throughout the District.

Projects which increase the rate or volume of stormwater runoff can decrease downstream hydraulic capacity. Projects which degrade runoff quality can aggravate existing water quality problems and contribute to new ones. Projects which fill floodplain or wetland areas can aggravate existing flooding by reducing flood storage and hydraulic capacity of waterbodies and can degrade water quality by eliminating the filtering capacity of those areas.

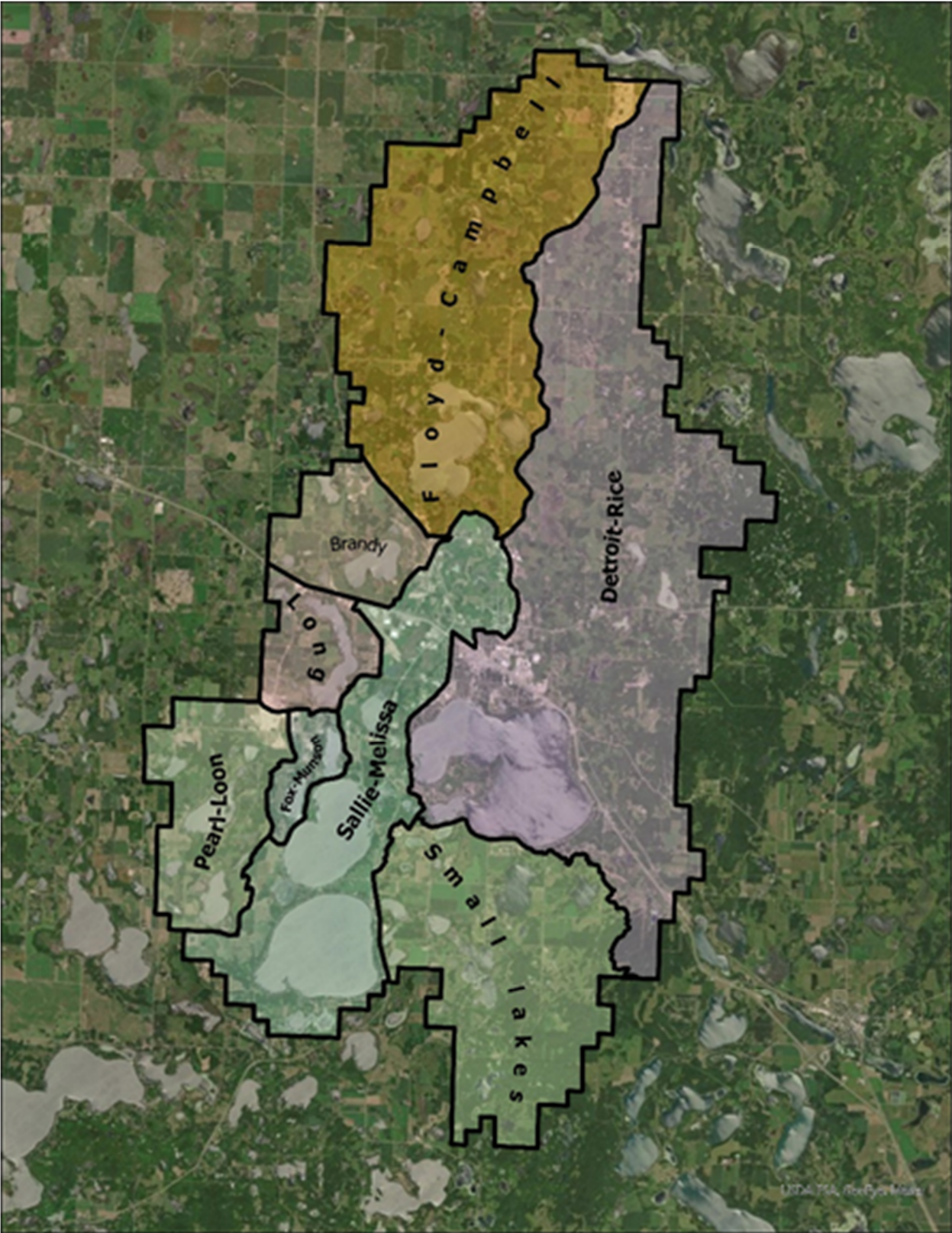
Under the Rules, the District seeks to protect the public health and welfare and the natural resources of the District by providing reasonable regulation of the modification or alteration of the District’s lands and waters to reduce the severity and frequency of flooding and high water; to preserve floodplain and wetland storage capacity; to improve the chemical, physical, and biological quality of surface water; to reduce sedimentation; to preserve waterbodies’ hydraulic and navigational capacity; to preserve natural wetland and shoreland features; and to minimize public expenditures to avoid or correct these problems in the future.

CHAPTER 2. RELATIONSHIP OF WATERSHED DISTRICT TO BECKER COUNTY AND CITY OF DETROIT LAKES

The District recognizes that the primary control and determination of appropriate land uses is the responsibility of Becker County (the “County”) and the City of Detroit Lakes (the “City”). Accordingly, the District will coordinate permit application reviews involving land development only after it is first demonstrated that the application has been submitted to the County or the City, where the land is located.

It is the intention of the managers to ensure that development of land within the District proceeds in conformity with the Rules, in addition to conforming with the development guides and plans adopted by the County and the City. The District will exercise control over development by its permit program described in the Rules to ensure the maintenance of stormwater management features; protect public waters, wetlands, and groundwater; and protect existing natural topography and vegetative features in order to preserve them for present and future beneficial uses. The District will review and permit projects sponsored or undertaken by other governmental units, and will require permits in accordance with the Rules for governmental projects which have an impact on water resources of the District. These projects include but are not limited to, land development and road, trail, and utility construction. The District desires to serve as technical advisors to the municipal officials in the preparation of local surface water management plans and the review of individual development proposals prior to investment of significant public or private funds.

To promote a coordinated review process between the District and local governments, the District encourages these entities to involve the District early in the planning process. The District's comments do not eliminate the need for permit review and approval if otherwise required under the Rules. The District intends to coordinate with each local government to ensure that property owners and other permit applicants are aware of the permit requirements of both bodies. By coordinating, the District and local governments also can avoid duplication, conflicting requirements, and unnecessary costs for permit applicants and taxpayers.



CHAPTER 3. GENERAL PROVISIONS AND CITATION

- 3.1 **Statutory Policy.** The 2024 Revised Rules of the Pelican River Watershed District (the “Rules”), as provided by Minn. Stat. § 103D.341, subd. 1, and as amended from time to time, are to effectuate the purposes of Minn. Stat. Chapters 103D and 103E and the authority of the Managers therein described. The Rules are deemed necessary to implement and make more specific the law administered by the Pelican River Watershed District (the “District”). Each rule adopted by the District shall have the full force and effect of law.
- 3.2 **General Policy; Other Rules Superseded.** It is the intention of the Managers with the implementation of the Rules to promote the use of the waters and related resources within the District in a provident and orderly manner so as to improve the general welfare and public health for the benefit of present and future residents. The Rules shall supersede all previous rules adopted by the District.
- 3.3 **Short Title.** The Rules shall be known and may be cited as the “Pelican River Watershed District Rules”.
- 3.4 **Jurisdiction.** The jurisdiction of the Rules includes all of the area, incorporated and unincorporated, including both land and water, within the territory of the District.
- 3.5 **Adoption or Amendment of Rules.** Changes to the Rules may be made by the Managers on their own prompting or following the petition of any interested person according to the procedure set forth in Minn. Stat. § 103D.341, subd. 2, as may be amended from time to time. An amendment or rule shall be adopted by a majority vote of the Managers.
- 3.6 **Inconsistent or More Restrictive Provisions.** If any rule is inconsistent with or less restrictive than the provisions of Minn. Stat. Chapters 103D or 103E, or other applicable law, the provisions of Minn. Stat. Chapters 103D or 103E, or other applicable law, shall govern.
- 3.7 **Severability.** The provisions of the Rules are severable, and invalidity of any section, paragraph, subdivision, or any other part thereof, does not make invalid any other section, paragraph, subdivision, or any part thereof.
- 3.8 **Due Process of Law.** A person shall not be deprived or divested of any previously established beneficial use or right, by any rule of the District, without due process of law, and all rules of the District shall be construed accordingly.
- 3.9 **Cooperation with Other Agencies or Governing Bodies.** The Managers accept the responsibility with which they are charged as a governing body and will cooperate to the fullest extent with persons, groups, state and federal agencies, and other governing bodies, while acting in accordance with their own statutory authority and responsibilities.
- 3.10 **Appeals.** Any person aggrieved by the adoption or enforcement of the Rules or any action of the District arising out of or pursuant to the adoption or enforcement of a rule may appeal from the Rules or any action taken thereon in accordance with the appellate procedure and review provided in Minn. Stat. §§ 103D.535 and 103D.537, as amended from time to time.

CHAPTER 4. DEFINITIONS AND INTERPRETATION

- 4.1 **Definitions.** For the purposes of the Rules, certain words and terms are defined as follows. In the absence of a definition hereinafter, the definitions established for the State of Minnesota by statute or by case law apply to the Rules unless clearly in conflict, clearly inapplicable, or unless the content makes such meaning contrary thereto. Additionally, if words or phrases are not defined therein, they shall be interpreted to give them the same meaning they have in common usage and to give the Rules their most reasonable application.

Alteration: Any activity that results in disturbance to a site's underlying soils or established vegetation that's not part of routine maintenance.

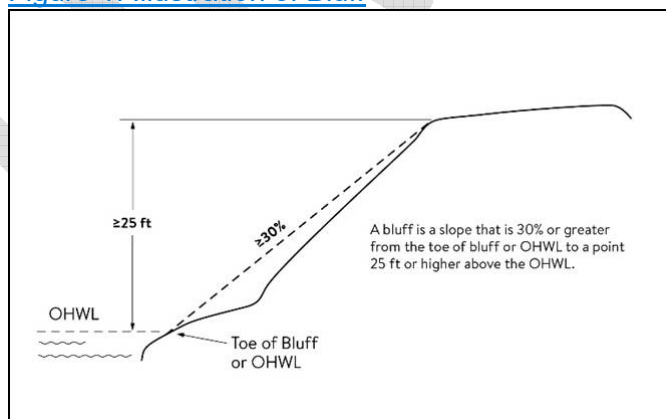
Best Management Practices (BMP): Measures taken to minimize negatives effects on the environment including those documented in the Minnesota Stormwater Manual.

Bluff:

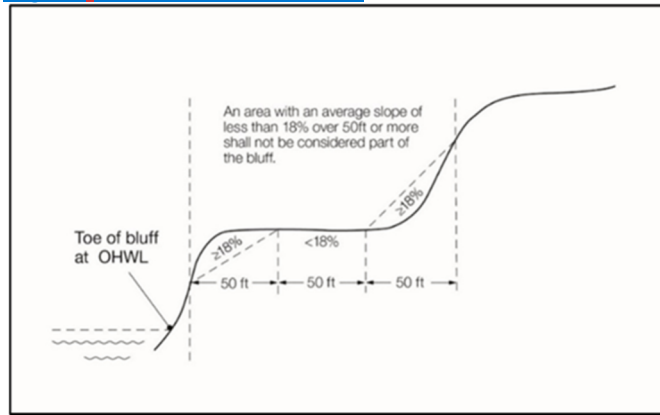
Bluff—A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- A. Part or all of the feature is located in a shoreland area;
- B. The slope must drain toward the waterbody;
- C. The slope rises at least ~~twenty-five feet (25') feet~~ above the ordinary ~~high water~~ high-water level; and
- D. The grade of the slope, from the toe of the bluff to a point ~~twenty-five 25-feet (25')~~ or more above the ordinary high water level, averages ~~30thirty percent (30%)~~ (30%) or greater (see Figure 1), except that an area with an average slope of less than ~~4eighteen percent (18%)~~ (18%) over a distance of at least ~~50fifty feet (50')~~ (50') shall not be considered part of the bluff (see Figure 2).

Figure 1. Illustration of Bluff

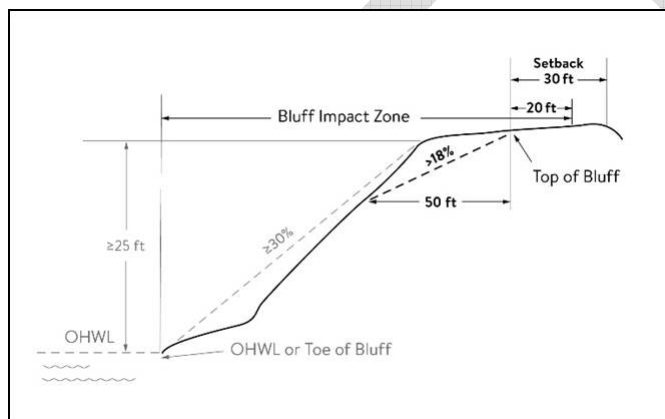


[Figure -2. Exception to Bluff](#)



[2.514 Bluff impact zone:](#) A bluff and land located within ~~20~~twenty feet (20') of the top of a bluff (s.-See Figure 3).

[Figure 3. Bluff Impact Zone and Top of Bluff](#)



[2.515 Bluff, Toe of:](#) -The lower point of a ~~50~~ fifty-foot (50') segment with an average slope exceeding ~~48~~eighteen percent (18%) or the ordinary high water level, whichever is higher.

[2.516 Bluff, Top of:](#) - For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher~~st~~ point of a ~~50~~ fifty-foot (50') segment with an average slope exceeding ~~48~~eighteen percent (18%). See Figure 3.

~~-Bluff - A slope that rises at least 25 feet and has an average slope of 18 percent or greater, measured from the ordinary high water level to the top of the slope.~~

~~Bluff Impact Zone - The area within the bluff and 20 feet past the top of the bluff.~~

Board of Managers (Board and/or Managers): The governing body of the Pelican River Watershed District.

Buffer: An area consisting of perennial vegetation, excluding invasive plants and noxious weeds.

Buffer Law: Minn. Stat. § 103F.48, as amended.

BWSR: Board of Water and Soil Resources of Minnesota.

Commissioner: Commissioner of the Minnesota Department of Natural Resources.

Conditional Uses: Traditionally non-approved practices that may be allowed, with written approval from the District, to best meet the intent of the rule.

DNR: The Minnesota Department of Natural Resources.

Direct Watershed: Region draining to a specific lake, stream, or river.

District: The Pelican River Watershed District established under the Minnesota Watershed Law, Minn. Stat. Ch-~~apter~~ 103D.

Drainage Authority: The public body having jurisdiction over a drainage system under Minn. Stat. Ch-~~apter~~ 103E.

Emergency Overflow (EOF): A primary overflow to pass flows above the design capacity around the principal outlet safely downstream without causing flooding.

Emergent Vegetation: Aquatic plants that are rooted in the water but have leaves, stems, or flowers that extend above the water's surface.

Ice Pressure Ridges: The ridge, comprised of soil, sand and/or gravel, often found in the Shore Impact Zone near the Ordinary High-Water Level of lakes, and caused by wind driven ice or ice expansion.

Impervious Surface: Constructed hard surface (gravel, concrete, asphalt, pavers, etc.) 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.

Intensive Vegetation Clearing: The removal of all or a majority of the trees or shrubs in a contiguous patch, strip, row, or block.

Landowner: The holder of the fee title or the holder's agents or assigns.

Linear Project: A road, trail, or sidewalk project that is not part of a common plan of development.

Low Floor Elevation (LFE): The elevation of the lowest floor of a habitable or uninhabitable structure, which is often the elevation of the basement floor or walk-out level.

Marsh Areas: ~~Wetlands that are frequently or continually inundated with water.~~

Licensed Professional: A professional licensed in the State of Minnesota with the necessary expertise in the fields of hydrology, drainage, flood control, erosion and sediment control, and stormwater pollution control to design and certify stormwater management devices and plans, erosion prevention and sediment control plans, and shoreland alterations including retaining walls. Examples of registered professionals may include professional engineers, professional landscape architects, professional geologists, and professional soil engineers who have the referenced skills.

MPCA: The Minnesota Pollution Control Agency.

Minnesota Stormwater Manual: The MPCA's online manual for stormwater management including design guidance and referenced regulations.

Natural Rock Riprap: Natural uncut course stone, non-angular, non-concrete, free of debris that may cause siltation or pollution. Stones must average more than six inches (6") but less than thirty inches (30") in diameter.

New Development Areas: ~~All-s~~Surface construction activity that is not defined as redevelopment and areas where new impervious surface is being created.

NPDES General Construction Stormwater Permit: The current Minnesota Pollution Control Agency General Permit to Discharge Stormwater Associated with Construction Activity Under the National Pollution Discharge Elimination System State Disposal System Program (NPDES/SDS).

NRCS: Natural Resource Conservation Service of the U.S. Department of Agriculture.

Ordinary High Water Level (OHWL): The boundary of public waters and wetlands which is an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominately terrestrial. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel.

Parcel: A unit of real property that has been given a tax identification number maintained by a County.

Person: Any individual, firm, partnership, association, corporation, or limited liability company, but does not include public corporations or governmental subdivisions.

Pretreatment: Devices or practices installed upstream of a stormwater BMP that are designed to capture trash, debris, and/or coarse sediment to reduce the risk of clogging the primary BMP. Pretreatment option includes s but is not limited to vegetated filter strips, sumped manholes, and forebays.

Public Drainage System: A network of open channel ditches, drain tile, or a combination used to drain property that were established by a drainage authority under MN Chapter 103E.

Public Water: As defined at-in Minn. Stat. § 103G.005, sub~~division~~ 15, as amended, and included within the public waters inventory as provided in Minn. Stat. § 103G.201, as amended.

Redevelopment Areas: ~~Any-s~~Construction activity where, prior to the start of construction, the areas to be disturbed have fifteen percent (15%) or more of existing impervious surface(s).

Reconstruction: Any project that is repairing or rebuilding existing infrastructure where the underlying soil is disturbed~~-;~~ the definition dDoes not include Mmill & Ooverlay projects or Ffull-Ddepth Rreclamation projects where the underlying soils are undisturbed.

Regional Conveyance: A surface or subsurface drainage path conveying concentrated flow that drains two hundred (200)-acres or more not including piped, public conveyance (i.e. storm sewer).-

Responsible Party: A party other than a landowner that directly or indirectly controls the condition of riparian land subject to a Buffer under the Rules.

Retaining Wall: ~~a wall constructed of stone or rock with a height greater than 12-~~
~~twelve inches (12").~~

Riparian Lot: Private or public property that abuts a waterbody, such as a river, stream, lake, or wetland.

Riparian Protection: A water quality outcome for the adjacent waterbody equivalent to that which would be provided by the otherwise mandated buffer, from a facility or practice owned or operated by a municipal separate storm sewer system (MS4) permittee or subject to a maintenance commitment in favor of that permittee at least as stringent as that required by the MS4 general permit in effect.

Seasonal High-Water Table: The highest known seasonal elevation of groundwater as indicated by redoximorphic features such as mottling within the soil.

Shore Impact Zone (SIZ): Land located between the ordinary high water level of a public water and a line parallel to and half (1/2) the setback from it (as defined by applicable county or municipal zoning ordinances), except that on property used for agricultural purposes the shore impact zone boundary is a line parallel to and fifty feet (50') from the Ordinary High Water Level.

Shoreland District: Area within ~~one thousand 1,000~~-feet (~~1,000'~~) of the OHWL of water bodies and ~~300-three hundred~~ feet (~~300'~~) from rivers or the outer extent of the floodplain.

Shoreland Standards: Local shoreland standards as approved by the Commissioner or, absent such standards, the shoreland model standards and criteria adopted pursuant to Minn. Stat. § 103F.211, ~~as amended.~~

Steep Slopes: ~~Non-bluff lands having average slopes more than twelve percent (12%), as measured over distances of fifty feet (50'), measured on the ground. A natural topographic feature with an average slope of twelve (12) to 18eighteen percent (18%), measured over a horizontal distance equal to or greater than 50fifty feet (50'), and any slopes greater than 18eighteen percent (18%) that are not bluffs.~~

Stormwater Pollution Prevention Plan (SWPPP): A comprehensive plan developed to manage and reduce the discharge of pollutants in stormwater.

Structure: An above ground building or other improvement that has substantial manmade features other than a surface.

SWCDs: Soil and Water Conservation Districts: political subdivisions of the State of Minnesota.

Trail: ~~a linear, non-motorized vehicle path not exceeding ten 10~~-feet (~~10'~~) in width.

Wetland: Area identified as wetland under Minn. Stat. § 103G.005, subd. 19, ~~as amended.~~

4.2 Interpretation.

- A. The headings of articles and sections are provided for convenience of reference only and will not affect the construction, meaning, or interpretation of the Rules.
- B. The definition of terms herein shall apply equally to the singular and plural forms of the terms defined.

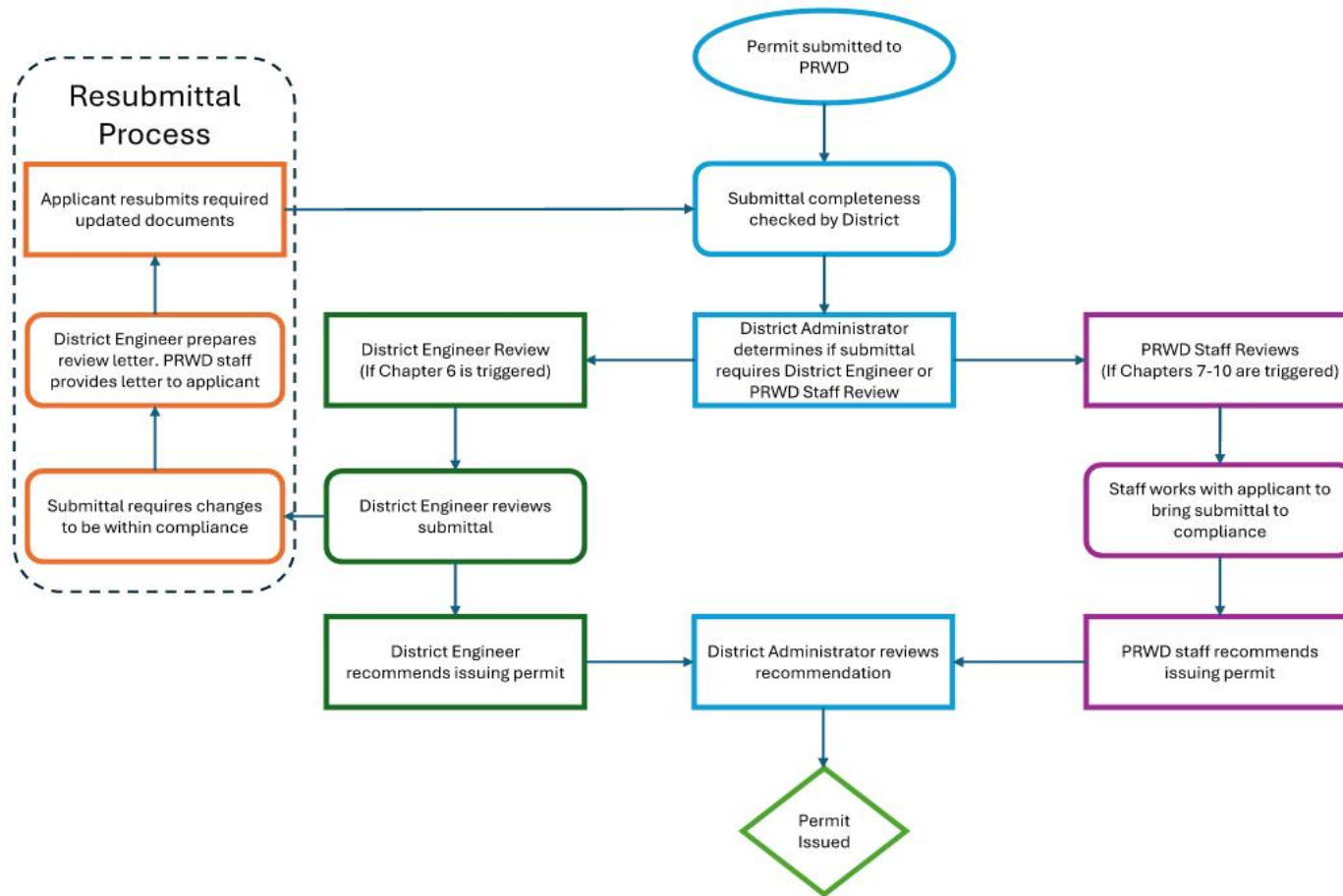
- C. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms.
- D. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation.”
- E. The word “will” shall be construed to have the same meaning and effect as the word “shall.” Both terms shall be construed to indicate a mandatory state or condition.
- F. The word “may” shall be construed to indicate a permissive state or condition.
- G. The words “herein,” “hereof,” and “hereunder,” and words of similar import, shall be construed to refer to the Rules in its entirety and not to any particular provision hereof.
- H. In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” mean “to and including.”
- I. All distances, unless otherwise specified, shall be measured horizontally.

DRAFT

CHAPTER 5. PERMIT REQUIREMENTS

- 5.1 **Application Required.** A person undertaking an activity for which a permit is required by the Rules must obtain the required permit prior to commencing the activity that is subject to District regulation. Applications for permits must be submitted to the District in accordance with the procedures described herein. Required exhibits are specified for each substantive rule below. Applicants are encouraged to contact District staff before submission of an application to review and discuss application requirements and the applicability of specific rules to a proposed project. When the Rules require a criterion to be met, or a technical or other finding to be made, the District makes the determination except where the rule explicitly states otherwise. The landowner or, in the District's judgment, easement holder, must sign the permit application and will be the permittee or a co-permittee. Pre-application meetings are highly recommended for all applications. A pre-application meeting request form is available on the District website and can be submitted in person or via email.
- 5.2 **Forms.** A District permit application, and District checklist of permit submittal requirements, must be submitted on the forms provided by the District. Applicants may obtain forms from the District office or website at <http://www.prwd.org/permits>.
- 5.3 **Action by District.** The District will act on complete applications in accordance with timing requirements established under Minn. Stat. § 15.99, *as amended*. A complete permit application includes all required information, exhibits, and fees. An application will not be considered unless all substantial technical questions have been addressed and all substantial plan revisions resulting from staff and consultant review have been completed. Permit decisions will be made by the District Administrator, or a designated representative, unless Board action is deemed necessary.
- A. The District's permitting process is ~~shown in a~~ *summarized in the* chart on the following page (*Figure 5-1*).

Figure 5-1



5.4 **Issuance of Permits.** The permit will be issued ~~only~~ after the applicant has satisfied all requirements ~~and conditions~~ for the permit and has paid all required District fees.

5.5 **Permit Term.** Permits are valid for twelve (12) months from the date of issuance unless otherwise stated within the permit, or due to it being suspended or revoked. To extend a permit, the permittee must apply to the District in writing, stating the reasons for the extension. Plan changes, and related project documents, must be included in the extension application. The District must receive this application at least thirty (30) days prior to the permit expiration date. The District may impose different or additional conditions on a renewal or deny the renewal in the event of a material change in circumstances. On the first renewal, a permit will not be subject to change because of a change in the Rules.

5.6 **Permit Assignment.** If title to the property is transferred during the term of the permit, a permittee must be assigned. The District will act on a permit assignment when the following conditions have been met:

- A. The proposed assignee agrees, in writing, to assume the terms, conditions, and obligations of the permit;
- B. The proposed assignee has the ability to satisfy the terms and conditions of the permit;
- C. The proposed assignee is not changing the project;
- D. There are no violations of the permit conditions; and
- E. The District has received from the proposed assignee a substitute surety, if required, to secure performance of the assigned permit.

Until the assignment is approved, the permittee of record, as well as the current title owner, will be responsible for permit compliance.

5.7 **Permit Fees.** The District will charge applicants permit fees in accordance with a schedule that will be maintained and revised from time to time by the Board of Managers to ensure that permit fees cover the District's actual costs of administering, inspecting, and enforcing permits. The current fee schedule may be obtained from the District office or the District website at <http://www.prwd.org/permits>. An applicant must submit the required permit fee to the District at the time it submits its permit application. Permit fees will not be charged to the federal government, the State of Minnesota, or a political subdivision of the State of Minnesota.

5.8 **Permit Variance.** Requests for a variance from a requirement of this ~~Chapter~~chapter must be decided by the Board of Managers under the following conditions:

- A. **Variance Authorized.** The Board of Managers may hear requests for a variance from the literal provisions of this ~~Chapter~~chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the property under consideration. The Board of Managers may grant a variance where it is demonstrated that such action will be in keeping with the spirit and intent of this ~~Chapter~~chapter. Requests for variances must be in writing.

- B. Standard. In order to grant a variance, the Board of Managers will determine that:
- (1) Special conditions apply to the structure or land under consideration that do not generally apply to other land or structures in the District.
 - (2) Because of the unique conditions of the property involved, undue hardship to the applicant would result, as distinguished from mere inconvenience, if the strict letter of the Chapter-chapter was carried out. A hardship cannot be created by the landowner or their contractor. Economic hardship is not grounds for issuing a variance.
 - (3) The proposed activity for which the variance is sought will not adversely affect the public health, safety, or welfare; will not create extraordinary public expense; and will not adversely affect water quality, water control, or drainage in the District.
 - (4) The intent of the Chapter-chapter is met.
- C. Term. A variance will become void twelve (12) months after it is granted if not used.
- D. Violation. A violation of any condition set forth in a permit variance is a violation of this Chapter-chapter and will be addressed through the process detailed in Chapter 11, Enforcement.

CHAPTER 6. STORM WATER MANAGEMENT

6.1 **Policy.** It is the policy of the District to manage, through permitting, stormwater and snowmelt runoff on a local, regional, and watershed basis to promote natural infiltration of runoff throughout the District to enhance water quality and minimize adverse natural resource impacts through the following principles:

- A. Reduce adverse water quality impacts.
- B. Preserve vegetation.
- C. Decrease runoff volume and promote infiltration where suitable.
- D. Prevent soil erosion and sedimentation.
- E. Maintain existing flow patterns.
- F. Store stormwater runoff on-site.
- G. Avoid channel erosion.

6.2 **Applicability (Thresholds).** Permits are required for the following activities:

A. Non-Linear Projects. Construction or reconstruction of impervious surface resulting in total impervious surface lot coverage (new and existing) of:

- (1) More than fifteen percent (15%) in the protective zone* of riparian lots outside the City of Detroit Lakes.
 - (a) Protective zone is the area within one hundred fifty 150-feet (150') of the lake's OHWL.
- (2) More than fifteen percent (15%) on non-conforming lots outside the City of Detroit Lakes.
 - (a) Non-conforming lots are those that do not meet the minimum lot size standards in Chapter 5, Section 2, Chapter 5 of Becker County Zoning Ordinances.
- (3) More than twenty-five percent (25%) on riparian lots.
- (4) More than fifty percent (50%) of non-riparian lots.
- (5) More than seven thousand (7,000) square feet of lot coverage of riparian lots.
- (6) Equal or greater than one (1) acre of impervious surface coverage.
- (7) Projects requiring a variance from, or use of allowable mitigation within, the local shoreland zoning ordinance.

~~B. Linear Projects. Projects that create or fully reconstruct more than one (1) acre of impervious surface as part of the same project.~~

~~C.B. Residential subdivision or development of four (4) or more lots.~~

~~D.C. Construction or reconstruction of a private or public paved trail greater than two hundred (200) linear feet in length, parking lot, or public water access; or~~

~~D. Projects or common plans of development or sale disturbing fifty (50) acres or more within one (1) mile of, and flow to, a special water or impaired water. A~~

complete application and SWPPP must be submitted to the MPCA at least thirty (30) days prior to the start of construction activity.

E. Linear Projects. Projects that create or fully reconstruct more than one (1) acre of impervious surface as part of the same project.

6.3 **Exemptions.**

A. Exemptions from stormwater management permitting:

- (1) Mill and overlay or full-depth reclamation projects where underlying soils are not disturbed.

6.4 **Criteria (Standards).**

A. Water Quality (Volume).

- (1) The Water Quality Volume (WQV) is determined as follows:
 - (a) New Development Areas: Capture and retain on site 1.1 inches of runoff from all impervious surfaces on the site.
 - (b) Redevelopment Areas: Capture and retain on site 1.1 inches of runoff from the new and/or reconstructed impervious surfaces on the site.
 - (c) Linear projects: Capture and retain the larger of the following:
 - i. 0.55 inches of runoff from the new and fully reconstructed impervious surfaces on the site; or
 - ii. 1.1 inches of runoff from the net increase impervious area on the site.
- (2) Infiltration must be used, if feasible:
 - (a) Treatment volume within infiltration basins is measured from the bottom of the basin to the lowest outlet.
 - (b) Infiltration areas will be designed to drain within forty-eight (48) hours. Infiltration rates follow the current version of the MPCA Stormwater Manual. Field measured infiltration rates will be divided by two (2) for design infiltration rates.
 - (c) Soils with infiltration rates higher than 8.3 inches/hour must be amended if infiltration is to be used, otherwise see Section 6.34(BA)(4) below for non-infiltration BMP options.
 - (d) Runoff entering an infiltration BMP must be pretreated.
 - (e) At least one (1) soil boring or test pit completed by a licensed professional is required within the footprint of each proposed infiltration BMP.
 - (f) The basin bottom elevation must have three (3) feet of separation above the season high water table.

- (g) Design and placement of infiltration BMPs must follow any and all additional NPDES General Construction Stormwater Permit and MPCA requirements ~~and should follow the Minnesota Stormwater Manual design guidance.~~
- (3) Infiltration will be considered infeasible if infiltration is prohibited by MPCA requirement. Common factors prohibiting infiltration include but are not limit to the following:
 - (a) Bedrock within three (3) vertical feet of the bottom of the infiltration basin.
 - (b) Seasonal High-Water Levels within three (3) vertical feet of the bottom of the infiltration basin.
 - (c) Site has predominantly Hydrological Soil Group D (clay) soils.
 - (d) Contaminated soils on site.
 - (e) Drinking Water Source Management Areas or within two hundred 200 feet (200') of public drinking water well.
 - (f) Documentation, such as soil borings and or well maps are required upon permit submittal stating why infiltration is infeasible. Final feasibility to be confirmed by District Engineer.
- (4) If infiltration is infeasible a non-infiltrating BMP must be implemented. For non-infiltrating BMPs multiply the Water Quality Volume by the appropriate factor listed below for the chosen BMP:
 - (a) Biofiltration: Water Quality Volume ~~*~~multiplied by one and one half (1.5)
 - (b) Filtration: Water Quality Volume ~~*~~multiplied by two (2)

- (c) Wet Ponds as necessary: Water Quality Volume ~~*~~multiplied by two (2):
 - i. Permanent pool volume below the pond's runoff elevation must have a minimum volume of one thousand eight hundred (1,800) cubic feet per contributing acre or equivalent to the volume produced by a 2.5-inch storm event over the pond's contributing area.
 - ii. Ponds must be designed with a minimum three-to-one (3:1) length-to-width ratio to prevent short-circuiting. Inlets must be a minimum of ~~seventy-five~~75 feet (75') from the pond's outlet.
 - iii. The WQV is measured from the top of the permanent pool elevation to the emergency overflow elevation.
- (d) MIDS Flexible Treatment Options (FTO) can also be used but follow the sequencing before with:
 - i. FTO #1:
 - a. Achieve at least 0.55 inch volume reduction goal.
 - b. Remove ~~75~~seventy-five percent (75%) of the annual total phosphorus load.
 - c. Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.
 - ii. FTO #2:
 - a. Achieve volume reduction to the maximum extent practicable, as determined by the District.
 - b. Remove ~~60~~sixty percent (60%) of the annual total phosphorus load.
 - c. Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.
 - iii. FTO #3:
 - a. Off-site mitigation (including banking or cash or treatment on another project, as determined by the District) equivalent to the volume reduction performance goal can be used in areas selected by the District.
- (e) Pretreatment must be provided for all filtration practices but is not necessary for wet ponds.
- (f) Design and placement of stormwater BMPs ~~will~~must be done in accordance with MPCA requirements and are recommended to follow guidance from the Minnesota Stormwater Manual.

(5) Exceptions:

(a) Single-family or twin home construction or modification on non-riparian lots outside of the Shoreland District are exempt from providing permanent water quality treatment.

(g) Trails that provide a five-foot (5') vegetated buffer from prior to reaching a conveyance (i.e. swale, ditch, or curb and gutter) are exempt from providing permanent water quality treatment.

(h)(b)

6.5 **BMP High-Water Level Management.**

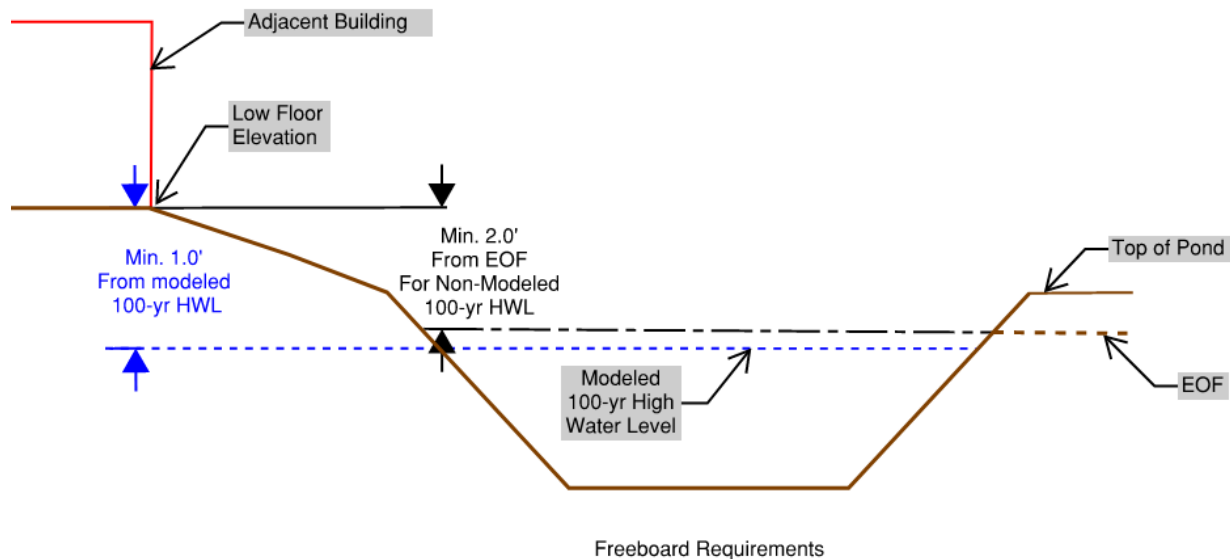
A. Where 100-year high water levels are driven by local, onsite drainage, rather than a FEMA floodplain not related to development, the following criteria must be met:

(1) Low floor: at least 1-foot (1') above the modeled 100-year high water level of the basin.

(a) Alternatively, the low floor elevation may be 2-feet (2') above the EOF of the basin to demonstrate compliance where modeling is not available.

(2) Applicants must use precipitation depths from Atlas 14 using MSE-3 storm distribution in quantifying the 100-year high water level in the basin.

Figure 6-1



6.6 **Erosion Control.**

- A. Natural project site topography and soil conditions must be specifically addressed to reduce erosion and sedimentation during construction and after project completion.
- B. Site erosion and sediment control practices must be consistent with MPCA requirements.
- C. The project must be phased to minimize disturbed areas and removal of existing vegetation, until it is necessary for project progress.
- D. The District may require additional erosion and sediment control measures on areas with a slope to a sensitive, impaired, or special waterbody, stream, public drainage system, or Wetland to assure retention of sediment on-site.
- E. Erosion control must include features adequate to protect facilities to be used for post- construction stormwater infiltration.
- F. Required erosion control BMPs must be in-place prior to any site disturbance.
- G. Erosion prevention must be done in accordance with the following:
 - (1) Stabilize all exposed soil areas (including stockpiles) with temporary erosion control (seed and mulch or blanket) within fourteen (14) days (or seven (7) days for all projects within one (1) mile of an impaired water) after construction activities in the area have permanently or temporarily ceased on any portion of the site and will not resume for a period exceeding fourteen (14) calendar days.
 - (2) Exposed soil areas within the Shoreland Impact Zone must be stabilized within forty-eight (48) hours of work having suspended for more than seventy-two (72) hours or when work has permanently ceased.
 - (3) For projects that increase the drainage area to a point of discharge at the site boundary by more than ten percent (10%) and the runoff does not drain to an onsite, permitted BMP prior to leaving the site, the applicant must demonstrate that site runoff will not adversely impact the capacity, stability, or function of the receiving lands or conveyance.
- H. Sediment control must be done in accordance with the following:
 - (1) Sediment control practices will be placed down-gradient before up-gradient land disturbing activities begin.
 - (2) Vehicle tracking practices must be in place to minimize track out of sediment from the construction site. Streets must be cleaned if tracking practices are not adequate to prevent sediment from being tracked onto the street.
- I. Dewatering must be done in accordance with the following:
 - (1) Dewatering turbid or sediment laden water to surface waters (Wetlands, streams, or lakes) and stormwater conveyances (gutters, catch basins, or ditches) is prohibited.

- J. Inspections and maintenance must be done in accordance with the following:
- (1) Applicant must inspect all erosion prevention and sediment control practices to ensure integrity and effectiveness. Nonfunctional practices must be repaired, replaced, or enhanced the next business day after discovery.
 - (2) Erosion control plans must include contact information including email and a phone number of the person responsible for inspection and compliance with erosion and sediment control.
- K. Pollution prevention must be done in accordance with the following:
- (1) Solid waste must be stored, collected, and disposed of in accordance with state law.
 - (2) Provide effective containment for all liquid and solid wastes generated by washout operations (concrete, stucco, paint, form release oils, curing compounds).
 - (3) Hazardous materials that have potential to leach pollutants must be under cover to minimize contact with stormwater.
- L. Final stabilization must be done in accordance with the following:
- (1) For residential construction only, individual lots are considered final stabilized if the structures are finished and temporary erosion protection and downgradient sediment control has been completed.
 - (2) Grading and landscape plans must include soil tillage and soil bed preparation methods that are employed prior to landscape installation to a minimum depth of eight inches (8") and incorporate amendments to meet the Minnesota Stormwater Manual predevelopment soil type bulk densities.

6.7 **Maintenance.**

- A. Long-term maintenance agreements between the District and the landowner are required for all permanent stormwater BMPs.
- B. The maintenance agreement shall be submitted prior to permit issuance. It is recommended that a draft maintenance agreement be submitted with application materials.
- C. Upon issuance of the permit, the District will record the maintenance agreement on the parcel containing the BMP.

6.8 **Required Exhibits.**

- A. Applicants of permits required under Chapter 6 will be required to submit the following:
 - (1) A permit application form as detailed in the Rules.

- (2) Site plans signed by a Minnesota licensed professional. Site plans must contain sheets that at a minimum address the following:
 - (a) Property lines and delineation of lands under ownership of the applicant.
 - (b) Existing and proposed elevation contours, maximum two ~~(2)~~-foot (2') interval.
 - (c) Identification of normal and ordinary high-water elevations of waterbodies and stormwater features shown in the plans.
 - (d) Proposed and existing stormwater facilities' location, alignment, and elevation.
 - (e) Delineation/Depiction of on-site Wetlands, ~~marshes~~, shoreland, and floodplain areas.
 - (f) Construction plans and specifications of all proposed stormwater BMPs.
 - (g) Details will be required for all outlet control structures, Emergency Overflows, graded swales, and pond/basin cross sections.
 - (h) Details must show all elevation for pipe, weirs, orifices, or any other control devices.
 - (i) SWPPP identifying location, type, and quantity of temporary erosion prevention and sediment control practices. SWPPP that at a minimum meets the requirements of the NPDES construction permit.
 - (j) Site drawing showing the type, location, and dimensions of all permanent and temporary erosion control BMPs.
- (3) Drainage narrative including: project summary, existing and proposed impervious area, existing and proposed drainage patterns including direction and routing of roof drainage, and stormwater model reports as required in relevant sections.
 - (a) Acceptable computer modeling software must be based on NRCS Technical Release #20 (TR-20), as required in relevant sections.
 - (b) Model output for both existing and proposed conditions is required. The District Engineer may require a copy of the electronic model to be submitted if the software used does not provide easily reviewed output reports.
- (4) Soil boring report or test pit documentation identifying location of the boring or test pit, Seasonal High Water Level, and depth of each soil type found as required in Section 6.4 ~~(-A)(-2)(-e)~~. Soil borings and test pits must be completed to a minimum depth of five ~~(5)~~-feet (5') below the bottom of the proposed BMP.

- (5) If infiltration is not being used, justification must be provided.

DRAFT

CHAPTER 7. SHORELINE AND STREAMBANK ALTERATIONS

- 7.1 **Policy.** It is the policy of the Board of Managers to prevent erosion of shorelines and streambanks, promote the use of natural material and bioengineering in the restoration and maintenance of shorelines, and maintain natural riparian corridors. These activities promote water quality and protect ecological integrity. This ~~Chapter~~ ~~chapter~~ focuses on the Shore Impact Zone (SIZ). The Shore Impact Zone means land located between the Ordinary High Water Level (OHWL) of a Public Water and a line parallel to and half (1/2) the setback from it (as defined by applicable county or municipal zoning ordinances and as further defined in Chapter 4).
- 7.2 **Applicability.** A permit is required for alteration to the land surface, Impervious Surface, or vegetation within the Shore Impact Zone, including but not limited to riprap, bioengineered shoreline installation, retaining walls, walkways, removal of any trees or woody vegetation, or conversion to turf grass.
- 7.3 **Preapplication Meeting.** For work within the Shore Impact Zone, a preapplication meeting is encouraged prior to submitting a permit application. It is highly recommended that this meeting be completed in person and on-site with the landowner and/or a project representative such as the designer or contractor.

Shore Impact Zone Alteration Criteria.

- 7.4 ~~The movement of any material on steep slopes or within the Shore Impact Zone; Otter Tail County – need a permit for any movement.~~
- A. Grading, Filling, Excavation, or Any Other Land Altering Activities. Any activity which disturbs soils, shoreline, streambank, or Impervious Surface within a Shore Impact Zone, ~~regardless of the exceeding 20 square-feet in~~ size, requires a permit and must comply with the following standards:
- (1) ~~Land Alterations in the Shore Impact Zone.~~ Land alterations, ~~regardless of the exceeding 20 square-feet in~~ size, must be designed and implemented to minimize erosion and sediment from entering surface waters during and after construction and implement the following standards:
- (a) No net increase in stormwater nutrient or sediment loading to the receiving waterbody.
 - (b) Exposed bare soil shall be covered with mulch or similar materials or have a downgradient BMP (silt fence, bio-roll, etc.) installed within forty-eight (48) hours.
 - (c) A permanent vegetation cover shall be planted within fourteen (14) days of completion of the project through a re-vegetation plan as approved by the District.
 - (d) Temporary erosion and sediment control Best Management Practices must be installed to prevent erosion or sediment loss to Public Waters or to neighboring properties prior to land disturbing activity.
 - (e) Alterations to topography are only permitted if they are accessory to permitted or Conditional Uses and are limited to the extent necessary to maintain natural shoreline topography and do not adversely affect adjacent or nearby properties and waterbodies.

- (f) Filling or excavation activities to create walk-out basements shall not be allowed within Shore or Bluff Impact Zones.
 - (g) Any alterations below the Ordinary High Water Level of public waters shall be authorized by the Commissioner under Minn. Stat. § 103G.245, as amended.
 - (h) Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
 - (i) Plans to place fill or excavated material on Steep Slopes must be reviewed by a licensed professional as approved by the District for continued slope stability and must not create finished slopes of thirty-three percent (330%) or greater.
- (2) *Impervious Surfaces*. Impervious Surface within the Shore Impact Zone can contribute to an increase in runoff or stormwater pollutants to the lake. Construction or re-construction (changes) to Impervious Surface is allowed provided that:
- (a) The proposed activity meets all local land use ordinances.
 - ~~(3)~~ Stormwater from all new/reconstructed Impervious Surfaces must be consistently managed with the requirements of Chapter 6. For single lot, residential projects, an applicant may substitute the use of a BMP designed to treat a 2.2-inch event in lieu of plans signed by a licensed engineer of submitting numerical modeling.
 - (b)
- ~~(4)~~(3) *Ice Pressure Ridge Repair*. Ice Pressure Ridges are formed by winter ice expansion pushing up on a shoreline. While these natural features provide a host of ecological benefits, there are circumstances when it may be necessary to conduct repair to an existing ridge that has been damaged. Modification to the Ice Pressure Ridge is permitted according to the following:
- (a) Modifications or repairs are only allowed on Ice Pressure Ridges that experienced recent damage from ice action within the past six (6) months. Landowners will need to provide proof of ice ridge formation within the last six (6) months through aerials or photographs.
 - (b) A ridge of no less than eight inches (8") must be maintained parallel to the shore or ice ridge repaired to previous height (whichever is higher). The eight inch (8") difference is measured between the ridge top and three feet (3') landward of the ridge.
 - (c) Ice ridge material that is composed of muck, clay, or organic sediment is deposited and stabilized at an upland site above the OHWL.
 - (d) Ice ridge material that is composed of sand or gravel may be re-graded to conform to the original cross-section and alignment of the lakebed, with a finished surface at or below the OHWL or it may be removed.

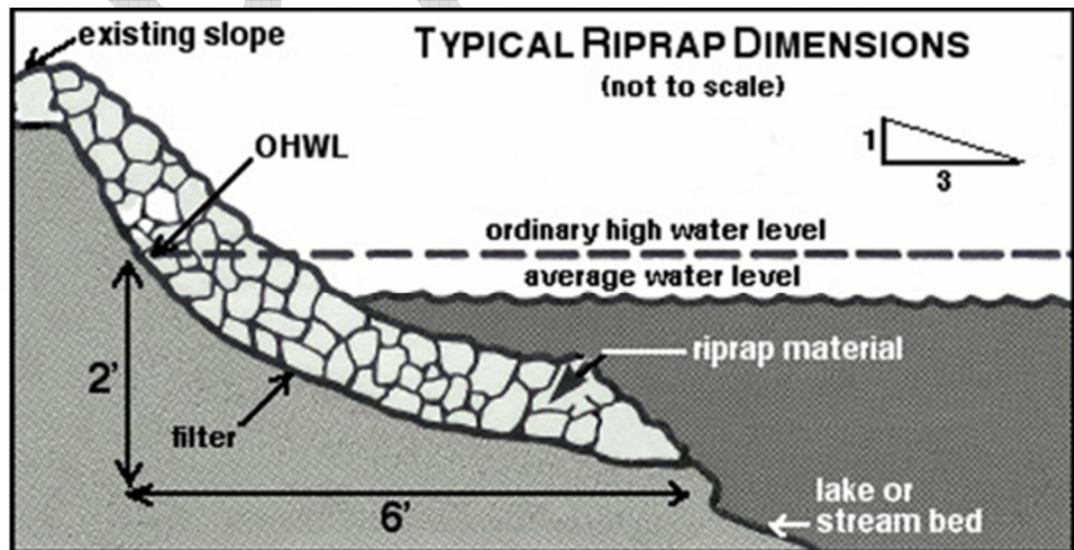
- (e) Additional excavation or replacement fill material must not occur on the site.
- (f) Erosion control measures shall be installed in accordance with the approved Erosion and Sediment Control Plan. Once grading and excavating activities are completed, the project area shall be vegetated.
- (g) Any unrelated grading, excavating, and/or filling activities may require additional permits.
- (h) A four-foot (4') wide lake access walkway may be placed over, but not cut through the ridge.
- (i) Any alteration below the OHWL shall require approval from the DNR.
- (j) The project must meet all state, city, and county regulations.

~~(5)~~(4) *Shoreline and Streambank Stabilization*. This is allowed only where there is a demonstrated need to stop existing erosion along unstable sensitive topography such as steep slopes, bluffs, rivers, and streams to help prevent or reduce erosion. Erosion needs to be verified by District staff either through a site visit or photos.

- (a) Stabilizing shoreline erosion and instability is permitted by doing the following:
 - i. Applicant must investigate the use of native plant material and techniques to stabilize shoreline.
 - ii. If native plant material will not be sufficient, the applicant will investigate the use of bio armoring with a combination of natural rock riprap and vegetation plantings.
 - iii. Natural rock riprap alone, free of debris, is only allowed where there is a demonstrated need to stop existing erosion that cannot be accomplished by items i. and ii. above and the following standards are met:
- (b) Riprap to be used in shoreline erosion protection must be sized appropriately in relation to the erosion potential of the wave or current action of the particular waterbody, but in no case will the riprap rock average less than six inches (6") in diameter or more than thirty inches (30") in diameter. Riprap will be durable, natural stone and of a gradation that will result in a stable shoreline embankment. Stone, granular filter, and geotextile material must conform to standard Minnesota Department of Transportation specifications. Materials used must be free from organic material, soil, clay, debris, trash, or any other material that may cause siltation or pollution.
- (c) Riprap will be placed to conform to the natural alignment of the shoreline and to not obstruct navigation or flow of water.

- (d) Riprap will consist of coarse stones that are randomly and loosely placed. Panning, walls, or rock of uniform size or placement is prohibited.
- (e) A transitional layer consisting of graded gravel, at least six inches (6") deep, and an appropriate geotextiles filter fabric will be placed between the existing shoreline and any riprap. The thickness of the riprap layers should be at least 1.25 times the maximum stone diameter. Tow boulders, if used, must be at least fifty percent (50%) buried.
- (f) The minimum finished slope waterward of the OHWL must be no steeper than three-to-one (3:1) (horizontal to vertical).
- (g) The riprap must be no more than 6-six feet (6') waterward of the ordinary high-water level.
- (h) The height of the riprap extends no higher than three feet (3') above the OHWL, or one foot (1') above the highest known water level, or one foot (1') above evidence of erosion, whichever is less.
- (i) Riprap for cosmetic purposes or replacement of stable vegetation is not allowed.
- (j) For riprap projects resulting in greater than two hundred (200) cumulative linear feet of shoreline on a parcel, a DNR permit is required.

Figure 7-1



(6)(5) *Beach Sand Blanket*. A beach blanket or sand blanket is the placement of beach material on a shore where a beach does not naturally occur (i.e. a muddy-bottom lake). Placement of sand blanket areas must meet the following standards:

- (a) The existing lake bottom must be hard bottom sand or gravel, with no muck or organic layer present, suitable for supporting material.
- (b) The maximum size of the blanket cannot exceed fifty feet (50') in width (or half width of the lot, whichever is less), maximum ten feet (10') in depth landward from the OHWL, and not exceed six inches (6") in thickness.
 - i. Alternatively, the sand blanket may be twenty-five feet (25') wide, or twenty-five percent (25%) of lot width (whichever is less), and fifteen feet (15') landward from the OHWL.
- (c) The natural slope must be less than five percent (5%).
- (d) Material must be clean and washed sand or gravel with no organic materials, silt, loam, or clay.
- (e) The design must incorporate a berm or stormwater diversion around the beach area on upslope edge to prevent erosion.
- (f) Replacement and maintenance of the sand blanket requires a permit and expansion of the sand blanket is not allowed. Only one (1) installation of sand or gravel to the same location may be made during a four (4)-year period. After the four (4) years have passed since the last blanketing, the location may receive another sand blanket. More than two (2) applications at an individual project site will require a permit from the DNR.
- (g) Sand blankets are not allowed on Steep Slopes, Emergent Vegetation, or Wetland ~~and Marsh Areas~~.
- (h) Exception: Beaches operated by public entities and available to the public may be maintained in a manner that represents minimal impact to the environment and are exempt from parts ~~(b)~~ and ~~(f)~~ of this section; however, District permits are still required and must adhere to DNR regulations.
 - (i) Use of non-biodegradable fabric is not permissible.

~~(7)~~(6) *Rain Gardens. Placement of rain gardens must meet the following standards:*

- (a) Obtain District permit.
- (b) Design and install consistent with the Minnesota Stormwater Manual.
- (c) Setback no less than ten feet (10') from structures with foundations or basements.
- (d) Setback no less than ten feet (10') from a sewage tank and twenty ~~(20)~~ feet (20') from a septic drain field.
- (e) Must not be located on slopes twelve percent (12%) or greater.

(f) Must not be located within fifty feet (50') of the top of a bluff.

(g) Must not be located within twenty feet (20') of the toe of a bluff.

B. Vegetation Alteration. Vegetative alterations may be ~~allowed~~ permitted on riparian lots, in Shore and Bluff Impact Zones, or on Steep Slopes in accordance with the following standards:

(1) Prior to vegetation alterations regulated by this section or prior to establishing a view corridor on a riparian lot, the property owner is encouraged to contact the District to arrange a site visit and must complete an application for vegetation alteration.

(2) The District may require that the property owner clearly mark any proposed view corridor/or any vegetation to be removed from the riparian lot. Additionally, the District may require the property owner to supply information on slope, soil type, property line locations, location of easements, and any other information that may be needed in order for the District to act on a request.

(3) In considering a ~~request~~ permit application for vegetation alterations, including the establishment view/access corridor, the District may take into consideration the predevelopment vegetation, natural openings, surrounding vegetation patterns and densities, previous vegetation alterations, slope, soil type, the locations and extent of adjacent view corridors, adjacent body of water, and other information it deems necessary and pertinent to the request.

(4) Intensive Vegetation Clearing within the Shore and Bluff Impact Zones, or on Steep Slopes, is prohibited except as detailed in Section 7.4(B)(6)(c) below.

(5) Limited clearing and trimming of trees, shrubs, and groundcover in the Shore Impact Zone is permitted to provide a view to the water from the principal dwelling and to accommodate the placement of permitted stairways and landings, access paths, and beach and watercraft access areas, in accordance with the following standards:

(a) The vegetation within the Shore Impact Zone will be maintained to screen structures or other facilities with trees and shrubs so that the structures are at most fifty percent (50%) visible as viewed from public waters during the summer months when the leaf canopy is fully developed.

(b) Existing shading of water surfaces is preserved.

(c) Cutting debris must not be left on the ground.

(d) Limited trimming, pruning, and thinning of branches or limbs to protect structures, maintain clearances, or provide limited view corridors are allowed as long as the integrity of the tree is not damaged or the health of the tree is not adversely affected.

- (e) Vegetation removal must not increase erosion or stormwater runoff rate.
- (6) A view/lake access corridor, defined as a line of sight on a riparian lot extending from the lakeward side of the principal residence towards the ordinary high-water level of a lake or river, is permitted in accordance with the following standards:
- (a) The total cumulative width of the view corridor must not exceed fifty feet (50') or fifty percent (50%) of lot width, whichever is less. If more than fifty feet (50') feet or fifty percent (50%), whichever is less, has already been cleared, then additional clearing is not allowed.
 - (b) Removal of vegetation shall not be greater than twelve feet (12') in width in any contiguous strip.
 - (c) Any proposed Intensive Vegetation Clearing to accommodate the placement of permitted stairways and landings, access paths, and beach and watercraft access areas must be within the view corridor. Only one (1) beach/watercraft access area will be allowed on each residential lot and:
 - i. must be less than fifteen feet (15') landward from the OHWL; and
 - ii. must be no wider than twenty-five feet (25') or twenty-five percent (25%) of the lot width, whichever is less.

For the purpose of this section, if this area or the shoreline has already been cleared, then additional Intensive Vegetation Clearing will not be allowed.

- (7) The total amount of tree/shrub removal within the view corridor must not exceed twenty-five (25%) percent of the trees larger than five inches (5") in diameter measured at four and one-half feet (4 ½') above the ground and twenty-five (25%) percent of the trees/shrubs smaller than five inches (5") in diameter, in a random pattern.
- (a) Work must be conducted in a manner that does not disturb topsoil.
 - (b) Stumps may be ground down flush with the ground; however, below ground roots must be left in place as they provide stability on shoreline.
 - (c) Cutting must be conducted with use of hand operated tools and not heavy machinery, except where necessary and prior written approval has been granted by District staff.
 - (d) The removal of invasive and noxious species must be verified and approved by District staff.
 - (e) Within the Shore Impact Zone, or on steep slopes or bluffs, dead, diseased, or trees deemed hazardous by District staff, or by a certified arborist, may be removed and replaced at a one-to-one (1:1) ratio, regardless of size. Trees removed for legal placement of lake access paths or structures must be replaced at a ratio of two-to-one (2:1).

Replacement trees shall be at least one and one-half inches (1.5") in diameter, and of a type listed on the District's approved tree list. The replacement tree must be replanted within the Shore Impact Zone or Steep Slope or Bluff Impact Zone of the removed tree, and distributed throughout the impacted area as approved by District staff or certified arborist. The District may solicit the review of the trees by an independent arborist, at the property owner's expense.

- (8) Planting of native trees, shrubs, establishing vegetated buffers, and maintaining vegetated shorelines is encouraged on all riparian lots within the District as a method to minimize and mitigate the impacts of stormwater runoff, erosion, and nutrient enrichment on the District's water resources.
 - (a) Planting of native vegetation that includes grade alteration or disturbing existing vegetation shall require a permit approved by the District prior to establishment. The District will require a plant list and Operation and Maintenance (O & M) plan with the Permit.
- (9) All vegetative alterations are subject to the following conditions:
 - (a) Exposed bare soil shall be covered with mulch or similar materials or have a downgradient BMP (silt fence, bio-roll, etc.) installed within forty-eight (48) hours .
 - (b) A permanent vegetation cover shall be planted within fourteen (14) days of completion of the project through a re-vegetation plan as approved by the District.
 - (c) Cutting must be conducted with use of hand operated tools and not heavy machinery, except where necessary and prior written approval has been granted by District staff. Topsoil disturbance is to be limited and the root system must remain in place.
 - (d) Altered areas must be stabilized to acceptable erosion control standards consistent with the Minnesota Stormwater Manual.
 - (e) In considering a request for vegetation alterations, including the establishment of a view corridor, the District may take into account the predevelopment vegetation, natural openings, surrounding vegetation patterns and density, previous vegetative alterations, slope, soil type, the location and extent of adjacent view corridors, the adjacent body of water, and other information it deems necessary and pertinent to the request.

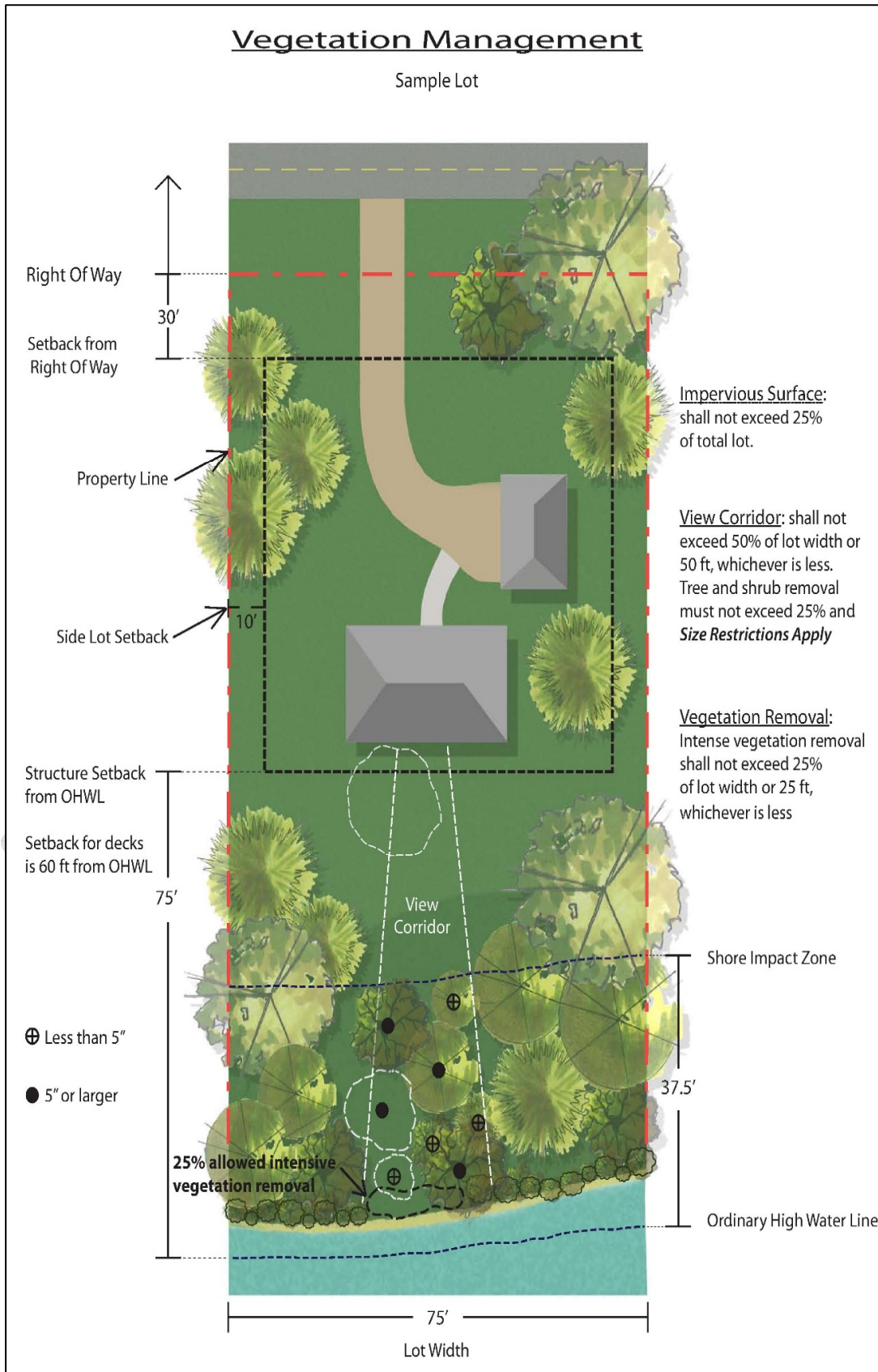
(10) *Violations.* Violations of this section may be remedied with restoration orders, in addition to other available legal remedies. Restoration varies based on the percentage of vegetation coverage (evaluated through aerial coverage of trees and/or shrubs and on-site visual observation) in the Shore Impact Zone, Bluff, and Impact Zone, Steep Slope area. Restoration mitigation may include an erosion control and stormwater plan, a specified mix of trees, shrubs, and low ground cover of native species and understory consistent with the natural cover of shorelines in the area. Replacement

ratios will be up to two-to-one (2:1) as part of a restoration order, based upon applicable density and spacing recommendations.

~~(10)(11)~~ Exemptions. Planting of native trees and/or shrubs, establishing vegetated buffers, and maintaining existing vegetated shorelines in kind, ~~all~~ without grade alteration, does not require a permit.

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Figure 7-2



C. Retaining Walls.

- (1) *New Construction.* Retaining wall construction within the Shore Impact Zone and Bluff Impact Zone is permitted only for areas of slope instability that cannot be corrected by any other means including native plantings, bio-armoring, riprap, or other practices. If an adequate, alternative practice to stabilize a slope exists, construction of a retaining wall will not be allowed. If there are no adequate alternatives, the retaining wall is permitted in accordance with the following standards:
 - (a) The applicant provides detailed description of alternatives that were considered and why they were not feasible.
 - (b) The proposed retaining wall construction is permitted by the DNR, as necessary.
 - (c) Stabilization design drawings showing the wall location, dimensions, and any reinforcement details must be prepared by a licensed professional and must conform to sound engineering principles.
 - (d) The permit will require that an as-built survey, prepared by a licensed professional, be filed with the District.
 - (e) The District Engineer may require a geotechnical report, if necessary, to review if soil conditions are suitable for wall construction.

- (2) *Existing Retaining Wall Reconstruction.* Retaining wall reconstruction within the Shore Impact Zone and Bluff Impact Zone is only recommended for areas of slope instability that cannot be corrected by any other means. If an adequate alternative practice to stabilize the slope exists, reconstruction is not recommended and will only be permitted in accordance with the following standards:
 - (a) The proposed retaining wall reconstruction is permitted by the DNR, as necessary.
 - (b) Drawings showing the wall design must be prepared by a licensed professional.
 - (c) The permit will require that an as-built survey, prepared by a licensed professional, be filed with the District.
 - (d) The District Engineer may require a geotechnical report, if necessary, to review if soil conditions are suitable for wall construction.
 - (e) Upgradient of the reconstructed retaining wall, the applicant provides either:
 - i. A diversion of stormwater draining toward the retaining wall to an onsite BMP, such as a rain garden, which will treat runoff from the direct drainage area consistent with the provisions of [Chapter Section 6.4.A—\(A\)\(4\)](#) prior to discharging to the waterbody; or

- ii. A ~~fifteen-foot~~fifteen-foot (15') buffer of native vegetation approved by District staff. Only a four-foot (4')-wide path for access to the lake may pass through the buffer.

~~(3)~~ Maintenance of existing retaining walls does not require a permit. Maintenance consists of replacing or repairing components of the retaining wall without disturbing the soils underlying beneath the foundation of the wall. Replacing the entire wall or expanding its height or footprint are not considered maintenance.

~~(3)~~(4) Retaining walls within the ~~Shore Impact Zone are not permitted within the~~ City of Detroit Lakes are regulated by the City.

7.5 **Maintenance.**

- A. Long-term maintenance agreements between the District and the landowner are required for all permanent changes to the Shore Impact Zone.
- B. The maintenance agreement shall be submitted prior to permit issuance. It is recommended that a draft maintenance agreement be submitted with application materials.
- C. Upon issuance of the permit, the District will record the maintenance agreement on the parcel containing the Shore Impact Zone alteration.

7.6 **Required Exhibits.** Applicants for projects that do not trigger a Chapter 6 Stormwater permit, but do trigger a Chapter 7 Shoreline and Streambank Alterations permit, must submit the following:

- A. Photographs documenting existing site conditions and need for stabilization. Images must be during growing season and must depict, in profile, bank vegetation and slope condition of the subject and adjacent properties, and the existence of emergent or floating vegetation adjacent to the subject property.
- B. Dimensioned drawings of proposed conditions, including landmarks, such as houses, buildings, roads, etc., showing dimensions and distance to proposed project.
- C. Erosion Control Plan containing permanent and temporary erosion control BMPs locations.
- D. Vegetation removal and plantings list, including quantities, and drawing/map as applicable.

~~E.~~ Drawings prepared by a licensed professional for any BMP design required under section 7.4.A.2.Bb.

~~E.F.~~ Drawings prepared by a licensed professional for any wall design for retaining wall project or showing the wall design for retaining wall projects if applicable.

7.7 **EXEMPTIONS.**

A. The City of Detroit Lakes Public Beach (West Lake Drive) will conform to MN State Regulations and is exempt from the Rules.

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CHAPTER 8. REGIONAL CONVEYANCE SYSTEMS

- 8.1 **Policy.** It is the policy of the Board of Managers to preserve regional conveyance systems within the District, including its natural streams and watercourses, and artificial channels and piped systems. Chapter 8 applies to surface water conveyance systems other than public drainage systems. The purpose of this ~~Chapter~~ ~~chapter~~ is to maintain regional conveyance capacity, prevent flooding, preserve water quality and ecological condition, and provide an outlet for drainage for the beneficial use of the public as a whole now and into the future. Chapter 8 does not apply to public drainage systems, as defined in the Rules, which the District manages and maintains through the exercise of its authority under the drainage code (Minn. Stat. Ch. ~~apter~~ 103E) and the application of Chapter 9. It is not the intent of this ~~Chapter~~ ~~chapter~~ to decide drainage rights or resolve drainage disputes between private landowners.
- 8.2 **Regulation.** A person may not construct, improve, repair, or alter the hydraulic characteristics of a regional conveyance system that extends across two (2) or more parcels of record not under common ownership, including by placing or altering a utility, bridge, or culvert structure within or under such a system, without first obtaining a permit from the District. Permits are not required to repair or replace an element of a regional conveyance system owned by a government entity when the hydraulic capacity of the system will not change.
- 8.3 **Criteria.** The conveyance system owner is responsible for maintenance. In addition, modification of the conveyance system must:
- A. Preserve existing hydraulic capacity.
 - B. Retain existing navigational use.
 - C. Not adversely affect water quality or downstream flooding characteristics.
 - D. Be designed to allow for future erosion, scour, and sedimentation considerations.
 - E. Be designed for maintenance access and be maintained in perpetuity to continue to meet the criteria of this Section 8.3. The maintenance responsibility must be memorialized in a document executed by the property owner in a form acceptable to the District and filed for record on the deed. Alternatively, a public permittee may meet its perpetual maintenance obligation by executing a programmatic or project-specific maintenance agreement with the District.
- 8.4 **Subsurface Utility Crossings.** A crossing beneath a regional conveyance system must maintain adequate vertical separation from the bed of the conveyance system. The District will determine adequate separation by reference to applicable guidance and in view of relevant considerations such as soil condition, the potential for upward migration of the utility, and the likelihood that the bed elevation may decrease due to natural processes or human activities. The District will also consider the feasibility of providing separation and the risks if cover diminishes. Nothing in this ~~Section~~ ~~section~~ diminishes the crossing owner's responsibility under Section 8.3, above. The applicant must submit a record drawing of the installed utility.

8.5 **Required Exhibits.** The following exhibits must accompany the permit application:

A. Construction details showing:

- (1) Size and description of conveyance system modification including existing and proposed flow line (invert) elevations. Elevations must be provided in NAVD 88 datum.
- (2) Existing and proposed elevations of utility, bridge, culvert, or other structure.
- (3) End details with flared end sections or other appropriate energy dissipaters.
- (4) Emergency overflow elevation and route.

B. Narrative describing construction methods and schedule.

C. Erosion and sediment control plan in accordance with Chapter 6.

D. Computations of watershed area, peak flow rates and elevations, and discussion of potential effects on water levels above and below the project site.

8.6 **Exception.** Criterion 8.3(A) may be waived if the applicant can demonstrate with supporting hydrologic calculations the need for an increase in discharge rate in order to provide for reasonable surface water management in the upstream area, and that the downstream impacts of the increased discharge rate can be reasonably accommodated and will not exceed the existing rate at the conveyance outfall.

CHAPTER 9. PUBLIC DRAINAGE SYSTEMS

9.1 **Policy.** Chapter 9 applies to work within public drainage systems, as that term is defined in the Rules. The District regulates work in surface water conveyance systems other than public drainage systems through the application of Chapter 9. It is the policy of the Board of Managers to regulate work within the right-of-way of a public drainage system that has the potential to affect the capacity or function of the public drainage system, or ability to inspect and maintain the system. The purpose of this ~~Chapter~~-chapter is to protect the integrity and capacity of public drainage systems consistent with Minn. Stat. Ch-~~apter~~ 103E to prevent regional or localized flooding, preserve water quality, and maintain an outlet for drainage for the beneficial use of the public and benefitted lands now and into the future.

9.2 **Regulation.**

- A. Temporary or permanent work in or over a public drainage system, including any modification of the system, including installation or replacement of crossings, requires a permit from the District. The permit is in addition to any formal procedures or District approvals that may be required under Minn. Stat. Ch-~~apter~~ 103E or other drainage law.
- B. A utility may not be placed under a public drainage system without a permit from the District. The design must provide at least five feet (5') of separation between the utility and the as constructed and subsequently improved grade of the public drainage system, unless the District determines that a separation of less than five ~~(5)~~-feet (5') is adequate to protect and manage the system at that location. The applicant must submit a record drawing of the installed utility. The crossing owner will remain responsible should the crossing be found to be an obstruction or subject to future modification or replacement under the Drainage Law.
- C. A pumped dewatering operation must not outlet within two hundred feet (200') of a public drainage system without a permit from the District. A permit application must include a dewatering plan indicating discharge location, maximum flow rates, and outlet stabilization practices.

9.3 **Criteria.** A project constructed subject to Section 9.2(A) must:

- A. Comply with applicable orders or findings of the District.
- B. Comply with all federal, state, and District Wetland protection rules and regulations.
- C. Demonstrate that such activity will not adversely impact the capacity, stability, or function of the public drainage system, or ability to inspect and maintain the public drainage system.
- D. Not create or establish Wetlands within the public drainage system right of way without an order to impound the public drainage system under Minn. Stat. § 103E.227, as amended.

- E. Provide conveyance at the grade of the ACSIC¹ where work is being completed. If the ACSIC has not been determined, the applicant may request that the District duly determine the ACSIC before acting on the application, or may accept conditions that the District determines are adequate to limit the risk that the applicant's work will not be an obstruction, within the meaning of Minn. Stat. Chapter 103E, when the ACSIC is determined. An applicant that proceeds without determination of the ACSIC bears the risk that the work later is determined to be an obstruction.
- F. Maintain hydraulic capacity and grade under interim project conditions, except where the District, in its judgement, determines that potential interim impacts are adequately mitigated.
- G. Where the open channel is being realigned, provide an access corridor that the District deems adequate at the top of bank of the drainage system, with the following characteristics:
 - (1) A minimum of twenty feet (20') in width.
 - (2) Cross-slope (perpendicular to direction of flow) no more than five percent (5%) grade.
 - (3) Longitudinal slope (parallel to the direction of flow) no more than one-to-five (1:5) (vertical to horizontal).
- H. Provide adequate supporting soils to facilitate equipment access for inspection and maintenance. Provide stable channel and outfall.
- I. Be designed for maintenance access and be maintained in perpetuity to avoid constituting an obstruction and otherwise to continue to meet the criteria of this Section. The maintenance responsibility must be memorialized in a document executed by the property owner in a form acceptable to the District and filed for record on the deed. Alternatively, a public permittee may meet its perpetual maintenance obligation by executing a programmatic or project-specific maintenance agreement with the District. Public Linear Projects are exempt from the public drainage system easement requirement of this Section.
- J. Identify proposed temporary obstruction or crossings of the public drainage system and specify operational controls to enable unobstructed conveyance of a rainfall or flow condition.

9.4 **Required Exhibits.** The following exhibits must accompany the permit application. Elevations must be provided in NAVD 88 datum.

- A. Map showing location of project, tributary area, and location and name of the public drainage system branches within the project area.
- B. Existing and proposed cross sections and profile of affected area.
- C. Description of bridges or culverts proposed.

¹ The "As Constructed and Subsequently Improved Condition" (ACSIC) of a public drainage system must be determined to understand if proposed work may be considered "repair" and what regulations are applicable. Determination of the ACSIC is discussed in more detail within Section VII, B of the Minnesota Public Drainage Manual.

- D. Location and sizes of proposed connections to the public drainage system.
- E. Narrative and calculations describing effects on water levels above and below the project site.
- F. Erosion and sediment control plan.
- G. Hydrologic and hydraulic analysis of the proposed project.
- H. Local benchmark in NAVD 88 datum.

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CHAPTER 10. BUFFERS

10.1 **Policy.** It is the policy of the District to:

- A. Provide public drainage system ditches with vegetated Buffers and water quality practices to achieve the following purposes:
 - (1) Protect state water resources from erosion and runoff pollution.
 - (2) Stabilize soils and banks.
- B. Coordinate closely with the District's landowners, soil and water conservation districts and counties, and utilize local knowledge and data, to achieve the stated purposes in a collaborative, effective, and cost-efficient manner.
- C. Integrate District authorities under Minn. Stat. §§ 103D.341, 103E.021, and 103F.48, as amended, to provide for clear procedures to achieve the purposes of this ~~Chapter~~chapter.
- D. The District will implement and enforce Buffers through the use of Drainage Law (Minn. Stat. §§ 103E.021, 103E.351, 103D.545, and 103D.551, as amended), and when that cannot be accomplished, the District will use its Administrative Penalty Order (APO) powers granted by Minn. Stat. § 103F.48, as amended.

10.2 **Data Sharing/Management.**

- A. The District may enter into arrangements with an SWCD, a county, BWSR, and other parties with respect to the creation and maintenance of, and access to, data concerning Buffers and alternative practices under this ~~Chapter~~chapter.
- B. The District will manage all such data in accordance with the Minnesota Data Practices Act and any other applicable laws.

10.3 **Vegetated Buffer Requirement.**

- A. Except as applicable under Minn. Stat. § 103F.48, ~~subdss. 4.3 and 5 may apply~~, a landowner must maintain a Buffer on land that is adjacent to a public drainage system ditch identified and mapped on the buffer protection map established and maintained by the Commissioner pursuant to the Buffer Law.
 - (1) The Buffer must be a minimum width of sixteen and one half feet (of a 16.5-foot) minimum width. This ~~Section~~section does not apply to the portion of public drainage systems consisting of tile.
 - (2) The Buffer is measured from the top or crown of bank. Where there is no defined bank, measurement will be from the normal water level. The District will determine normal water level in accordance with BWSR guidance. The District will determine top or crown of bank in the same manner as measuring the perennially vegetated strip under Minn. Stat. § 103E.021.
- B. The requirements ~~of~~under Minn. Stat. § 103F.48 ~~subs. 4.1~~ applies to all public drainage ditches within the legal boundary for which the District is the drainage authority.

- C. The requirements ~~under of~~ Minn. Stat. § 103F.48, ~~subssubd. 4-13~~ does not apply to land that is:
- (1) Enrolled in the federal Conservation Reserve Program.
 - (2) Used as a public or private water access or recreational use area including stairways, landings, picnic areas, access paths, beach, and watercraft access areas, provided the area in such use is limited to what is permitted under shoreland standards or, if no specific standard is prescribed, what is reasonably necessary.
 - (3) Used as the site of a water-oriented structure in conformance with shoreland standards or, if no specific standard is prescribed, what is reasonably necessary.
 - (4) Covered by a road, trail, building, or other structure.
 - (5) Regulated by a national pollutant discharge elimination system/state disposal system (NPDES/SDS) municipal separate storm sewer system, construction or industrial permit under Minnesota Rules, Ch-~~apter~~ 7090, and the adjacent waterbody is provided riparian protection.
 - (6) Part of a water-inundation cropping system.
 - (7) In a temporary non-vegetated condition due to drainage tile installation and maintenance, alfalfa or other perennial crop or plant seeding, or a construction or conservation project authorized by a federal, state, or local government unit.

10.4 **Drainage System Acquisition and Compensation for Buffer.**

- A. In accordance with Minn. Stat. § 103F.48, subd. ~~ivision~~ 10(b), a landowner owning land within the benefited area of and adjacent to a public drainage ditch may request that the District, as the drainage authority, acquire and provide compensation for the Buffer strip required under this rule.
- B. The request may be made to use Minn. Stat. § 103E.021, subd. ~~ivision~~ 6, or by petition pursuant to Minn. Stat. § 103E.715, subd. ~~ivision~~ 1.
- C. The decision on the request is within the judgment and discretion of the District, unless the request concerns a Buffer strip mandated by Minn. Stat. § 103E.021.
- D. If the request is granted or the petition proceeds, the requirements of the Buffer strip and the compensation to be paid for its incorporation into the drainage system will be determined in accordance with the statutes referenced in Minn. Stat. § 103F.48 ~~subs. 4.1 paragraph 5.1~~ and associated procedures. When the order establishing or incorporating the Buffer strip is final, the Buffer strip will become a part of the drainage system and thereafter be managed by the District in accordance with the drainage code.
- E. On a public drainage ditch that also is a public water subject to a fifty ~~(50)~~-foot ~~(50')~~ average Buffer, the drainage system will be required to acquire only the first ~~sixteen and one half feet (16.5') feet~~ of the Buffer.

- F. The District, on its own initiative pursuant to Minn. Stat. §§ 103F.48 and 103E.021, may acquire and provide compensation for Buffer strips required under this ~~Chapter~~ ~~chapter~~ on individual or multiple properties along a public drainage system. The Board of Managers findings and order will be delivered or transmitted to the landowner.
- G. This ~~Section~~ ~~section~~ does not displace the terms of Minn. Stat. Ch-~~apter~~ 103E requiring or providing for drainage system establishment and acquisition of vegetated Buffer strips along public ditches.

10.5 **Action For Noncompliance.**

- A. When the District observes potential noncompliance or receives a third-party complaint from a private individual or entity, or from another public agency (such as the SWCD), it will determine the appropriate course of action to confirm compliance status. This may include communication with the landowner or his/her agents or operators, communication with the shoreland management authority, inspection, or other appropriate steps necessary to verify the compliance status of the parcel. On the basis of this coordination, the SWCD may issue a notification of noncompliance to the District. If the SWCD does not transmit such a notification, the District will not pursue a compliance or enforcement action under Minn. Stat. § 103F.48, but may pursue such an action under the authority of Minn. Stat. §§ 103E.021 and 103D.341 and Section 10.6 of this ~~Chapter~~ ~~chapter~~.
- B. On receipt of an SWCD notification of noncompliance, or if acting solely under authority of Minn. Stat. § 103E.021 or 103D.341, the District will determine first whether sufficient public drainage system easement exists to establish the required vegetative Buffer. If a sufficient easement does not exist, the District will attempt to acquire the necessary easements through incremental Buffer establishment provided in Minn. Stat. § 103E.021, subd. 6 or through a redetermination of benefits provided in Minn. Stat. § 103E.351 to establish the required Buffers. The establishment of the required Buffers will occur within twelve (12) months of the determination that inadequate easement exists, and no more than eighteen (18) months from the receipt of an SWCD notification of noncompliance or the District decision to establish the required Buffers.
- C. If the District is unable to acquire the necessary easements through incremental Buffer establishment provided in § 103E.021, subd. 6, or through a redetermination of benefits, or if sufficient easement does exist and an established Buffer has been adversely altered, the District will issue a corrective action notice and practical schedule for compliance to the landowner or responsible party. The District may inspect the property and will consult with the SWCD, review available information, and exercise its technical judgment to determine appropriate and sufficient corrective action and a practical schedule for such action. The District will maintain a record establishing the basis for the corrective action that it requires.
 - (1) The District will issue the corrective action notice and schedule to the landowner of record. The landowner may be the subject of enforcement liabilities under Section 10.6. The District may deliver or transmit the notice and schedule by any means reasonably determined to reach the landowner, and will document receipt. However, a failure to document

receipt will not preclude the District from demonstrating receipt or knowledge in an enforcement proceeding under Section 10.6.

- (2) The corrective action notice and schedule will identify the parcel of record to which it pertains and the portion of that parcel that is alleged to be noncompliant. It will describe corrective actions to be taken, a schedule of intermediate or final dates for correction, a compliance standard against which it will judge the corrective action, and a statement that failure to respond to this notice and schedule will result in an enforcement action. The District will provide a copy of the notice and schedule to BWSR.
- (3) At any time, a landowner or responsible party may supply information in support of a request to modify a corrective action or the schedule for its performance. On the basis of any such submittal or at its own discretion, the District may modify the corrective action notice or schedule, and deliver or transmit the modified notice and schedule in accordance with Section 10.5(C)(1), or may advise the landowner in writing that it is not pursuing further compliance action.
- (4) At any time after the District has issued the notice and schedule, a landowner, or authorized agent or operator of a landowner or responsible party, may request that the SWCD issue a validation of compliance with respect to property for which the notice and schedule has been issued. On District receipt of the validation, ~~(a)~~ the notice and schedule will be deemed withdrawn, and the subject property will not be subject to enforcement.
- (5) A corrective action notice and schedule is not considered a final decision subject to appeal. An objection to a finding of noncompliance, or to any specified corrective action or its schedule, is reserved to the landowner or responsible party and may be addressed in an enforcement proceeding under Section 10.6.

10.6 **Enforcement.**

- A. Under authority of Minn. Stat. §§ 103E.021, 103D.545, and 103D.551, the District may seek remedies for noncompliance with this ~~Chapter~~ chapter against any landowner or responsible party including but not limited to: (a) reimbursement of District compliance costs under Minn. Stat. § 103D.345 and 103E.021 and/or an escrow, surety, performance bond, or a letter of credit for same; (b) administrative compliance order (ACO); (c) district court remedy including injunction, restoration, or abatement order, authorization for District entry, and/or order for cost recovery; and (d) referral to the District attorney for criminal misdemeanor prosecution.
- B. In instances where existing vegetation on the ditch Buffer easement has been adversely altered and has not been restored, the District may collect compliance expenses in accordance with Minn. Stat. § 103E.021 from a landowner for noncompliance with the corrective action notice and schedule. The District will restore any adversely altered Buffer and charge the landowner for the cost of the restoration if the landowner does not complete the requirements of the corrective action notice and schedule.

- C. In instances where a ditch Buffer easement area cannot be established in a timely manner, the District may issue an administrative order imposing a monetary penalty against a landowner or responsible party for noncompliance with the corrective action notice and schedule. The penalty will continue to accrue until the noncompliance is corrected as provided in the corrective action notice and schedule.
- (1) The penalty for a landowner on a single parcel that previously has not received an administrative penalty order issued by the District shall be the following:
 - (a) \$0 for 11 months after issuance of the corrective action notice and schedule.
 - (b) \$50 per parcel per month for the first six (6) months (180 days) following the time period in [Section 10.6\(C\)\(1\)\(a\)](#).
 - (c) \$200 per parcel per month after six (6) months (180 days) following the time period in [Section 10.6\(C\)\(1\)\(b\)](#).
 - (2) The penalty for a landowner on a single parcel that previously has received an administrative penalty order issued by the District shall be:
 - (a) \$50 per parcel per day for 180 days after issuance of the corrective action notice and schedule
 - (b) \$200 per parcel per day for after 180 days following the time period in [Section 10.6\(C\)\(1\)\(a\)](#).
- D. The administrative order will state the following:
- (1) The facts constituting a violation of the Buffer requirements.
 - (2) The statute and/or rule that has been violated.
 - (3) Prior efforts to work with the landowner to resolve the violation.
 - (4) For an administrative penalty order, the amount of the penalty to be imposed, the date the penalty will begin to accrue, and the date when payment of the penalty is due.
 - (5) The right of the landowner or responsible party to appeal the order. A copy of the APO must be sent to the SWCD and BWSR.
- E. An administrative order will be issued after a compliance hearing before the District Board of Managers. The landowner and any other responsible parties will receive written notice at least two (2) weeks in advance of the hearing with a statement of the facts alleged to constitute noncompliance and a copy or link to the written record on which District staff intends to rely, which may be supplemented at the hearing. A landowner or responsible party may be represented by counsel, may present and question witnesses, and may present evidence and testimony to the Board of Managers. The District will make a record of the hearing.

- F. After a hearing noticed and held for consideration of an administrative penalty or other administrative order, the Board of Managers may issue findings and an order imposing any authorized remedy or remedies.
- (1) The amount of an administrative penalty will be based on considerations including the extent, gravity, and willfulness of the noncompliance; its economic benefit to the landowner or responsible party; the extent of the landowner or responsible party's diligence in addressing it; any noncompliance history; the public costs incurred to address the noncompliance; and other factors as justice may require.
 - (2) The Board of Managers' findings and order will be delivered or transmitted to the landowner and other responsible parties. An administrative penalty order may be appealed to BWSR in accordance with Minn. Stat. § 103F.48, subdivision 9, and will become final as provided therein. The District may enforce the order in accordance with Minn. Stat. § 116.072, subdivision 9. Other remedies imposed by administrative order may be appealed in accordance with Minn. Stat. § 103D.537.
 - (3) The Board of Managers may forgive an administrative penalty, or any part thereof, on the basis of diligent correction of noncompliance following issuance of the findings and order and such other factors as the Board finds relevant.
- G. Absent a timely appeal, an administrative penalty is due and payable to the District as specified in the administrative penalty order.
- H. Nothing within this Buffer Rule diminishes or otherwise alters the District's authority under Minn. Stat., Chapter 103E with respect to any public drainage system for which it is the drainage authority, or any Buffer strip that is an element of that system.

10.7 **Effect of Rule.**

- A. If any section, provision, or portion of this Buffer Rule is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Buffer Rule is not affected thereby.
- B. Any provision of this Buffer Rule, and any amendment to it, that concerns District authority under Minn. Stat. § 103F.48 is not effective until an adequacy determination has been issued by BWSR. Authority exercised under Minn. Stat. Chapters 103D and 103E does not require a BWSR adequacy determination.

CHAPTER 11. ENFORCEMENT

- 11.1 **Matter of Enforcement.** In the event of a violation, or potential violation, of a District Rule, permit, order or stipulation, or a provision of Minn. Stat. Chapters 103D or 103E, the District may take action to prevent, correct, or remedy the violation or any harm to water resources resulting from it. Enforcement action includes but is not limited to, injunction, action to compel performance, abatement, or restoration, and prosecution as a criminal misdemeanor in accordance with Minn. Stat. §§ 103D.545 and 103D.551.
- 11.2 **Investigation of Noncompliance.** The District's Board of Managers, staff, or designated consultants may enter and inspect property in the District related to investigation of permit activities to determine the existence of a violation or potential violation as described in the preceding section.
- 11.3 **Preliminary Administrative Compliance Order.** The District, including staff and legal consultants, may issue a preliminary administrative compliance order without notice or hearing when it finds a violation or potential violation, and that the violation or potential violation presents a threat to the public health, welfare, and safety, or an adverse effect on water resources. A preliminary administrative compliance order may require that the landowner or responsible contractor cease the land-disturbing activity; apply for an after-the-fact permit; and take corrective or restorative action.
- 11.4 **Board Hearing – Administrative Compliance Order.** If a landowner or their agent fails to comply with the preliminary ACO, the Board of Managers may hold a hearing with the alleged violator to discuss the violation. After due notice and a hearing at which evidence may be presented, the Board shall make findings. If the Board of Managers finds a violation, it may issue an administrative compliance order that may require the landowner or responsible contractor to cease land-disturbing activity; apply for an after-the-fact permit; take corrective or restorative action; reimburse the District for costs under Minn. Stat. § 103D.545, subd. 2; and/or be subject to any other remedy within the District's authority. An administrative compliance order may supersede a preliminary administrative compliance order or may be issued without a prior preliminary administrative compliance order.
- 11.5 **Liability for Enforcement Costs.** To the extent provided for by Minn. Stat. § 103D.545, subd. 2, a landowner, contractor, or equipment operator is liable for investigation and response costs incurred by the District under the Rules, including but not limited to the costs to inspect and monitor compliance, engineering and other technical analysis costs, legal fees and costs, and administrative expenses.
- 11.6 **Contractor Liability.** An individual, firm, corporation, partnership, association, or other legal entity contracting to perform work subject to one (1) or more projects will be responsible to ascertain that the necessary permit has been obtained and that the work complies with the permit, the Rules, regulations, statutes, and any applicable District orders or stipulations. A contractor that, itself or through a subcontractor, engages in an activity constituting a violation or potential violation is not a "responsible contractor", as defined in Minn. Stat. § 16C.285, for purposes of the District.

BOARD OF MANAGERS

PELICAN RIVER WATERSHED DISTRICT

By Chris Jasken, Secretary

Adopted _____; Published in the Detroit Lakes Tribune on _____.

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