

A		F
	Comment – Source – Date	Final Response
1	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.
2		
3	<b>Peter Waller, BWSR, Letter Dated January 30, 2025</b>	
4	Chapter 4: Definitions and Interpretation	The definition has been updated to exclude piped, public conveyances (i.e. storm sewer).
	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.	
5	<b>Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025</b>	
6		Threshold struck from final adopted rule
7	Chapter 6: Storm Water Management	
	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.	
8		
9	<b>Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025</b>	



	A	F
	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.
10	<b>Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025</b>	
11	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).
12	<b>Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025</b>	
13	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.
14	<b>Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025</b>	
15	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.
16	<b>Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025</b>	
17	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.	Chapter 7 struck from final adopted rule
18		

	A	F
19	<b>Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025</b>	
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	<b>Kelcey Klemm, City of Detroit Lakes City Administrator, Letter Dated February 10, 2025</b>	
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	<b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	
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 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.	This is part of the District's policy statement.
25		
26		
27	<b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	
28	Pg 3 - Chapter 2 - This chapter contains unnecessary information. Consider deleting entire Chapter. <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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 <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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.

Public Comment table as amended at PRWD Board of Managers Meeting 3/28/2025.

	A	F
30	Pg 3 - Chapter 2 – Regarding coordination between the district and local governments - How can coordination avoid duplication and conflicting requirements? <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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. <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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	<b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Corrected.
35	Pg 6 Define Bluff and Bluff Impact Zone. <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Definition struck from final adopted rule
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.”	The marsh land definition and all of references have been removed.
37	<b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	
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?”	This is a definition relevant to the MIDS requirements used in 6.4.
39	<b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	
40	Pg 8 Shoreland Standards: “Model standards are recommendations. This is a catch all statement that is not fair to applicant.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	This is a definition relevant to the state buffer law in Chapter 10.
41	Pg 9 Steep Slope: “1v:12h is not steep” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Definition struck from final adopted rule
42		
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.	These are an option that are recommended, especially for those who are unfamiliar with District rules.
44	<b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	



	A	F
45	Pg 10 Chapter 5 -Forms: "Where are these Forms?" <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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? <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	The required exhibits are listed at the end of each rule: 6.8, 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" <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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		
49		
50		
51		
52	"Creates subjectivity. Does applicant have ability to object?" <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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.
53		
54		
55	Should 7.4.a.2b be included here <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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.
56	Pg 11 – Figure 5-1 "Is there a timeframe for PRWD to complete? The entire process doesn't provide timelines and too open to subjectivity by staff" <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Timelines are subject to MS 15.99 as referenced.
57		
58	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." <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	This has been revised.
59		

	A	F
	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.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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.
60		
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?” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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”	Threshold struck from final adopted rule
63	Pg 14 – Applicability Thresholds – Section 6.2.A, (1 & 2) – “15% is overly restrictive” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Threshold struck from final adopted rule
64	Pg 14 – Applicability Thresholds – Section 6.2.A, (5) – “Was 10,000, provide reason for decreasing.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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 Statutes that protect landowner’s right to maintain” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Thresholds have been revised and reordered for clarity.
67	Pg 15 – Exemptions – “Add (2) Full depth pavement replacement including Full Depth Reclamation” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Duplicate comment, has been addressed.

	A	F
	Pg 15 – Criteria (Standards) Section 6.4,A, (2), (g) – “Not fair to applicant. this is a catch all.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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.
68		
	Pg 16 - Criteria (Standards) Section 6.4,A, (4), (a-b) – “provide justification for these multipliers. <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Multipliers struck from final adopted rule
69		
	Pg 17 – “Delete Biofiltration figure” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	These standard designs are included as examples for those who may not be familiar with this type of BMP.
70		
	Pg 18 – “Delete surface Sand Filter figure” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	These standard designs are included as examples for those who may not be familiar with this type of BMP.
71		
	Pg 19 – Section 6.4,A, (4),(c) – “Provide justification for multipliers.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Multipliers struck from final adopted rule
72		
	Pg 19 – Section 6.4,A, (4),(c) – Pond design criteria “may not be practical.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Where recommended design criteria are not practical, we encourage designers to evaluate other treatment alternatives.
73		
	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.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	State requirements are supplemental to these rules. MN Stormwater Manual design recommendation is mentioned for guidance for designer
74		
	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...” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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.
75		
	Pg 20 – Section 6.6, D – “Too subjective” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	The District will retain their discretion to protect natural resources within the District.
76		
	Pg 22 – Section 6.7, C – “This is perpetual. How is district going to police this” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	This process can be addressed with District policy outside of these Rules.
77		
	Pg 23 – Section 6.8, A, (2), (e) – Delineation – “Delete and replace with “depiction”” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Duplicate comment, has been addressed.
78		
	Pg 23 - Section 6.8, A, (2), (g) – graded swales, and pond basin cross sections – “can be built from contours.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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).
79		

	A	F
80	Pg 23 - Section 6.8, A, (3) – “List relevant sections” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Updated.
81	Pg 23 - Section 6.8, A, (1) – Where is reference Section 6.4. B. 2. e <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	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.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
83	Pg 24 – Section 7.4, A, (1) – “10 CY or more” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
84	Pg 25 – Section 7.4, A, (2) – “Does this go to engineering review? Seems like it should. most environmentally sensitive lots.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
85	Pg 25 – Section 7.4, A, (2) – “No more rate control. Why double WQ volume?” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
86	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” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
87	Pg 29 – Vegetation Alteration – Intensive Vegetation Clearing - Delete reference to steep slope <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
88	Pg 29 — Vegetation Alteration - Structure screening “How could this be measured?” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
89	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 struck from final adopted rule
90	<b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
91		



	A	F
	Pg 30 – Vegetation Alteration- “Remove/limit to SIZ and BLZs 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” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
92		
	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	Chapter 7 struck from final adopted rule
93		
	Pg 31 – Vegetation Alteration – Remove sections (9) & (10) <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
94		
	Pg 33 -Retaining Walls – Add definition of retaining wall. <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
95		
	Pg 33 – Existing Retaining Wall Reconstruction – “too subjective” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
96		
	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.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Chapter 7 struck from final adopted rule
97		
	Pg 35 – Chapter 8 – Regional Conveyance Systems – 8.1 add “excluding City of Detroit Lakes storm sewer” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	Duplicate comment, has been addressed.
98		
	Pg 35 – Chapter 8 – Regional Conveyance Systems – 8.1 “differs from definition” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	A regional conveyance is defined. Chapter 8 describes when activity on them is regulated.
99		
	Pg 40 – Buffers – 10.1, B - “Where is this defined?” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	The purposes are stated in 10.1. Buffers are defined in Chapter 3.
100		
	Pg 47 – “should be published prior to adoption.” <b>Jon Olson &amp; Scott Walz, Marked Comments, provided via email February 7, 2025</b>	The District is following the statutory requirements of 103D.341.
101		
	Chapter 1 – Delete. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
102		
	Chapter 2 – “Delete the last two sentences of paragraph two should.” <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
103		
	Chapter 2 – “Last sentence of paragraph 3 - Provide an explanation of how coordination can avoid duplicative and conflicting requirements”. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	The District is engaged with public partners to increase permitting efficiency and therefore reduce applicant costs.
104		



	A	F
105	Chapter 4 – “Bluff and Bluff Impact Zone definitions required.” <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Definition struck from final adopted rule
106	Chapter 4 – “Redeveloped Areas. Provide clarity. Reads as if it is almost a permit trigger.” <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
107	Chapter 4 – “Regional Conveyance: needs to exclude the City of Detroit Lakes-owned infrastructure.” <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	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 development of its own rules.” <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
109	Chapter 4 – “Steep Slopes: 12% not steep” <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Definition struck from final adopted rule
110	Chapter 5 – “Last sentence of 5.3; provide an explanation of when Board Action is necessary.” <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Board action is necessary for a variance and may be necessary for other circumstances at the Board's discretion.
111	Chapter 5 – “Figure 5-1; Chapter 7 item 4.A.2b needs to be addressed in this chart.” <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
112	Chapter 5 – “Additionally, timeframes should be added.” <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
113	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.” <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
114	Chapter 6 – “6.2.A.5 Provide reasoning for lowering impervious surface threshold from 10,000 sf to 7,000 sf” <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
115	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. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
116	Chapter 6 – “6.3 Consider exempting full depth pavement rehab to be consistent with City of DL. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
117	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. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
118		

	A	F
	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. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Multipliers struck from final adopted rule
119		
120	Chapter 6 – “Consider deleting bioretention and filter details. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
	Chapter 6 – “6.4.A.c.ii; the 3:1 ratio and 75' lengths may not be possible on all projects. Consider deleting this requirement <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
121		
	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. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
122		
	Chapter 6 – “6.6.D is ambiguous. Consider referencing the requirements of 23 of the MPCA CSW. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
123		
	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. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
124		
	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. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
125		
	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. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
126		
	Chapter 6 – “6.8.A.3 Define the relevant sections. Too ambiguous as written. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
127		
	Chapter 6 – “6.8.A.2.4 References Section 6.4.B.2.e which does not exist. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Duplicate comment, has been addressed.
128		
	Chapter 7 – “7.4.A.i; A threshold is required. Consider ten (10) cubic yards to be consistent with City and County. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Chapter 7 struck from final adopted rule
129		
	Chapter 7 – “7.4.A.i.i; Consider 33% (3h:lv) instead of 30%. Much more common term. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Chapter 7 struck from final adopted rule
130		
	Chapter 7 – “7.4.B: the chapter is mostly aesthetic and does not align with the watershed mission of water quality <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Chapter 7 struck from final adopted rule
131		
	Chapter 7 – “7.4.B.4; remove Steep Slopes from sentence. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Chapter 7 struck from final adopted rule
132		

	A	F
133	Chapter 7 – “7.4.B.6; revise 'lake of river' to 'lake or river' <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Chapter 7 struck from final adopted rule
134	Chapter 7 – “ 7.4.C.2; replacement of existing walls is very subjective. Who determines feasibility? <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Chapter 7 struck from final adopted rule
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. <b>Jon Olson, Letter Provided at meeting 2/12/2025.</b>	Chapter 7 struck from final adopted rule
136	He sees aesthetics, design, and density being scrutinized by the district. <b>Scott Walz, Comment provided at meeting 2/12/2025.</b>	Noted.
137	He feels that the permit review process is not always consistent and that there is no close out process for permits. <b>Scott Walz, Comment provided at meeting 2/12/2025.</b>	Noted. Permit closeout is completed by District staff.
138	He also sees a lack of enforcement for violations of the rules in the district. <b>Scott Walz, Comment provided at meeting 2/12/2025.</b>	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> . <b>Scott Walz, Comment provided at meeting 2/12/2025.</b>	Noted.
140	2) Will the rules be applied equally? <b>Scott Walz, Comment provided at meeting 2/12/2025.</b>	It is the intent for the Rules to be applied as written.
141	3) What is the enforcement plan? <b>Scott Walz, Comment provided at meeting 2/12/2025.</b>	Enforcement is detailed in Chapter 11.
142	4) How many man hours will it take to enforce the rule as stated? <b>Scott Walz, Comment provided at meeting 2/12/2025.</b>	Noted.
143	Requested that a written response to all comments be provided to the City. <b>Jon Olson, Comment provided at meeting 2/12/2025.</b>	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. <b>Kyle Vareberg, Comment provided at meeting 2/12/2025.</b>	Noted.
145	Requested that the list of required exhibits be reviewed for small projects and remove unnecessary or onerous requirements. <b>Kyle Vareberg, Comment provided at meeting 2/12/2025.</b>	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. <b>Kyle Vareberg, Comment provided at meeting 2/12/2025.</b>	Chapter 7 struck from final adopted rule
147	Requirements for removal and replacement of retaining walls are too high. <b>Phil Hansen, Comment provided at meeting 2/12/2025.</b>	Chapter 7 struck from final adopted rule



January 30, 2025

Rick Michaelson  
President  
Pelican River Watershed District  
211 Holmes St West, Wells Fargo Bldg, Suite 201  
Detroit Lakes, MN 56501

**RE: Amended Rules for the Pelican River Watershed District**

Dear Mr. Michaelson,

The Board of Water and Soil Resources (BWSR) appreciates the opportunity to review the final draft of the proposed amended rules, received December 23, 2024, of the Pelican River Watershed District (PRWD). We commend the PRWD for their early coordination efforts and input meetings held with local stakeholders.

Chapter one justifies the need for the rules mentioning water quality, lake health, degraded runoff. Another justification for the rules is to help maintain property values and the tax base within the PRWD. There is a 20+ year old Bemidji study as well as some from Maine and perhaps Wisconsin that affirm that water clarity is directly related to property values.

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](mailto:travis.germundson@state.mn.us) ) or Ethan Dahl, Buffer & Soil Loss Specialist, ( [ethan.dahl@state.mn.us](mailto:ethan.dahl@state.mn.us) ).

Reminder that MS 15.99 Time Deadline for Agency Action is applicable to the PRWD rules and permitting process.

Once the PRWD's has finalized its rules, I think the PRWD's intention to discuss possible memorandum of understandings with the City of Detroit Lakes and Becker County to streamline permitting processes is prudent.

Per Minnesota Statutes Section 103D.341 Subd. 2, BWSR staff have reviewed the draft rules and have no other comments beyond those noted above.

Bemidji      Brainerd      Detroit Lakes      Duluth      Mankato      Marshall      Rochester      St. Cloud      St. Paul

Detroit Lakes Office      1732 North Tower Road      Detroit Lakes, MN 56501  
www.bwsr.state.mn.us      TTY: (800) 627-3529      An equal opportunity employer

We appreciate the early coordination efforts of the Pelican River Watershed District in furthering watershed management and look forward to receiving a copy of the final rules upon adoption. Please feel free to contact me at 218-770-3802 or [pete.waller@state.mn.us](mailto:pete.waller@state.mn.us) if you have any questions.

Sincerely,

*Pete Waller*

Pete Waller  
Board Conservationist

CC: Ryan Hughes, Northern Region Manager, BWSR  
Travis Germundson, Appeals & Regulatory Compliance Coordinator, BWSR  
Ethan Dahl, Buffer & Soil Loss Specialist, BWSR  
Tera Guetter, Administrator Pelican River Watershed District Treasurer





# Administrative Penalty Order (APO) Plan for Buffer Law Implementation

Amended December 19, 2024

---

This amended plan was adopted by the Board of Water and Soil Resources (BWSR) pursuant to Minn. Stat. § 103B.101, subd. 12 and 12(a) and (b) and Minn. Stat. § 103F.48, subd. 7(c) to provide revised procedures for the issuance of APOs for counties and watershed districts and BWSR to reflect changes to Minnesota Law that occurred during the 2024 legislative session (Minnesota Laws 2024, Chapter 116, Article 4, sections 1 and 2). Users of the document are encouraged to obtain legal advice from an attorney regarding their specific application of the Buffer Law.

This document is organized as follows:

- A. Part A contains procedures for counties and watershed districts that elect to use Administrative Penalty Orders to enforce the riparian protection and water quality practices requirements of Minn. Stat. § 103F.48;
- B. Part A is best used in conjunction with Procedure 9: BWSR's Review of Local Buffer Enforcement Rules, Ordinances and Official Controls when evaluating a county or watershed district buffer enforcement mechanism for consistency with this Administrative Penalty Order Plan and Minn. Stat. § 103F.48, subd. 1(j); and
- C. Part B shall be used when BWSR is the enforcement authority for the riparian protection and water quality practices requirements of Minn. Stat. § 103F.48.

## Background

In 2015 the Minnesota Legislature passed the "Riparian Protection and Water Quality Practices" law codified in Minn. Stat. § 103F.48, which states: It is the policy of the state to establish riparian buffers and water quality practices to:

- 1) protect state water resources from erosion and runoff pollution;
- 2) stabilize soils, shores, and banks; and
- 3) Protect or provide riparian corridors.

Subdivision 3 of the law requires the fee title landowner<sup>1</sup> with property adjacent to a water body identified and mapped on the Buffer Protection Map to maintain a buffer to protect the State's water resources as specified in the law. Minnesota Statutes § 103F.48 also authorizes counties, watershed districts, and BWSR to require that landowner's violations of the riparian protection and water quality practices provided in Minn. Stat. § 103F.48 be

---

<sup>1</sup> In certain circumstances, the landowner includes the landowner's agent or operator, see Minn. Stat. § 103F.48, subd. 7(g) and subd. 9.

corrected and to assess administrative penalties to landowners who fail to comply. The APO authority is an enforcement tool to gain compliance with the riparian protection and water quality practices requirements to achieve the purposes of the law. BWSR may forgive all or part of a penalty if it determines that sufficient steps have been taken to fully resolve the noncompliance.

Minnesota Statutes § 103B.101, Subd. 12 provides authorization to BWSR and Subdivision 12a to counties and watershed districts the ability to assess monetary penalties of up to \$10,000 for noncompliance. BWSR is directed in § 103B.101, subdivision 12(b) to “adopt a plan containing procedures for the issuance of APOs by local governments and BWSR” which must be published in the State Register. The BWSR APO Plan, and any subsequent amendments, become effective 30 days after publishing. The procedures that BWSR will use when it is the enforcement authority are contained in Part B of this Plan.

This Plan provides procedures for counties, watershed districts, or BWSR to effectively use APO authority to ensure that the landowner of property adjacent to a waterbody shown on the Buffer Protection Map complies with the riparian protection and water quality practices requirements of Minn. Stat. § 103F.48. The primary goal is to protect water quality through compliance rather than to exact penalties. Thus, the responsible party or parties will have the opportunity to come into compliance before any penalties are assessed.

In addition, BWSR has developed additional documents to support implementation of the riparian protection and water quality practices requirements by BWSR, local governments and landowners. Local governments and landowners should comply with these documents, as appropriate, and encouraged to review the guidance when considering actions to comply with these requirements. These documents are available on BWSR’s website.

### **Enforcement responsibilities of Soil and Water Conservation Districts, Counties, Watershed Districts and BWSR**

Soil and water conservation districts (SWCD) are required under Minn. Stat. § 103F.48, subdivision 6 to track landowners progress toward compliance under subdivision 7 and must notify the county or watershed district with jurisdiction and BWSR if it determines a landowner is not in compliance with the riparian protection and water quality practices requirements.

Counties and watershed districts are not required to enforce the riparian protection and water quality practices requirements of Minn. Stat. § 103F.48 but may elect to exercise their jurisdiction as provided in subdivision 7 by notifying BWSR and identifying the ordinance, rule, or other official control it intends to use to carry out its compliance and enforcement authority. This may include the issuance of APOs and an associated penalty if the county or watershed district had adopted an APO plan consistent with the BWSR APO Plan. In areas where the county or watershed district has not elected to have jurisdiction, BWSR is required under § 103F.48, subdivision 7(c) to carry out enforcement responsibilities.

Counties and watershed districts with jurisdiction are authorized under Minn. Stat. § 103B.101, subdivision 12a, to require that violations of the riparian protection and water quality practices requirements be corrected and to assess administrative penalties. In addition, Minn. Stat. § 103F.48, subdivision 7, authorizes counties and watershed districts to enforce the riparian protection and water quality practices requirements by ordinance, rule, or by adopting an APO plan consistent with the Plan adopted by BWSR. A model county and watershed district APO Plan is provided in part A.

BWSR is required under Minn. Stat. § 103F.48, subdivision 1(j), to determine whether a county or watershed district that has elected jurisdiction has adopted a rule, ordinance, or other official control providing adequate procedures for APO issuance, enforcement and appeals for §§ 103F.48 and 103B.101, subd. 12a. In addition, BWSR has the responsibility to adopt an amended APO Plan to reflect the changes in Minnesota Laws that

occurred during the 2024 legislative session that amended Minn. Stat. § 103B.101 Subd. 12 and 12a and to ensure that a county or watershed district APO plan is consistent with the Plan adopted by BWSR under Minn. Stat. § 103F.48, subdivision 7(c). Minn. Stat. § 103F.48, subdivision 9, establishes an appeal process that landowners or their agents or operators may use to appeal APOs issued by counties or watershed districts. Appeals of APOs issued by BWSR shall follow procedures established in Minn. Stat. § 116.072 Subd. 6 for an expedited administrative hearing or Subd. 7 for a district court hearing.

## **Part A. Model County and Watershed District APO Plan**

### **A. Enforcement Procedures**

A county or watershed district that elects to exercise its jurisdiction to enforce the requirements of Minn. Stat. § 103F.48 must adopt a rule, ordinance, or other official control that provides adequate procedures for the issuance of administrative penalty orders, enforcement, and appeals, under Minn. Stat. § 103F.48, subd. 7. It is required under Minn. Stat. § 103B.101, subdivision 12a (b) that a county or watershed district considering exercising APO authority adopt the methods of determining compliance consistent with those provided in BWSR's APO Plan for a county or watershed district (Part A). A county or watershed district must define buffer width and measurement requirements and alternative practices and related provisions consistent with Minn. Stat. § 103F.48, subd. 3. BWSR has the authority to adopt orders under Minn. Stat. § 103B.101 and county enforcement authority is pursuant to Minn. Stat. Chapter 394, and watershed district enforcement authority is pursuant to Minn. Stat. Chapter 103D, which is in addition to any other official control or authority available to BWSR, counties and watershed districts.

### **B. Administrative Penalty Order (APO) Provisions**

A county or watershed district that chooses to use the APO authority granted in Minn. Stat. § 103B.101, subd. 12a and Minn. Stat. § 103F.48, subd. 7 must adopt a plan consistent with the plan adopted by BWSR (see Minn. Stat. § 103F.48, subd. 7(c)). Part A provides procedures to a county or watershed district that elects to use APOs to enforce the riparian protection and water quality practices requirements of Minn. Stat. § 103F.48 and can help to determine whether its APO plan is consistent with BWSR's Plan.

#### **1. Corrective Action Notice**

Upon receipt of an SWCD notification of noncompliance, the county or watershed district sends the landowner a corrective action notice that:

- (a) Includes a list of corrective actions needed to come into compliance with the requirements of Minn. Stat. § 103F.48;
- (b) Provides a timeline for the landowner to comply with the notice; and
- (c) Includes a statement that a landowner's failure to respond to this notice will result in the assessment of financial penalties.

The county or watershed district may send the landowner a combined corrective action notice and APO as provided in item 2 so long as the combined notice/APO includes all the required elements of both.

The county or watershed district may exercise its judgment by also naming a tenant or other person with control over that part of the property subject to riparian protection and water quality practices requirements, as a responsible party. The county or watershed district may deliver or transmit the corrective action notice by any means reasonably determined to reach the landowner, and it is recommended to document receipt. However, a

failure to document receipt will not preclude the county or watershed district from demonstrating receipt or knowledge of the corrective action notice in an enforcement proceeding. The county or watershed district must send a copy of the notice to the SWCD and BWSR.

At any time, the landowner may provide documentation of compliance to the county or watershed district. In addition, the landowner may supply information in support of a request to modify a corrective action or the timeline for compliance. Based on any such submittal or at its discretion, the county or watershed district, in writing, may modify the corrective action notice or timeline for compliance, and will deliver or transmit the modified corrective action notice and timeline in accordance with this section. Any modification to the notice or timeline for compliance should be in writing to ensure that the county or watershed district has a copy for its enforcement file. The county or watershed district should determine if the noncompliance has been fully corrected and issue its determination, in writing (as recommended above), to the landowner.

The SWCD may issue a validation of compliance if requested by the landowner and following consultation with the county or watershed district. On county or watershed district receipt of the validation, the corrective action notice will be deemed withdrawn for this item, and the subject property will not be subject to enforcement.

A corrective action notice is not considered a final decision and is not subject to appeal under Minn. Stat. § 103F.48, subd. 9.

**OPTION:** Counties and watershed districts may establish a local process to appeal a corrective action notice. The time period for compliance and the initiation of a penalty should be put on hold while any appeal is pending for up to 60 days.

**2. APO.** The county or watershed district may issue an APO of up to \$10,000 for noncompliance as provided for in Minn. Stat. § 103B.101, subdivision 12a(a), 12a(b), and 12a(c) against a landowner that does not comply with a corrective action notice. The APO should be sent with the corrective action notice, alternatively, a combined corrective action notice and APO may be sent so long as the combined notice/APO includes all the elements of both. The penalty will continue to accrue until the violation is corrected as provided in the corrective action notice and APO. The penalty schedules shown below in (a) and (b) will be used by BWSR to evaluate county and watershed district APO plan consistency with the Plan adopted by BWSR according to Minn. State. § 103F.48, subd. 7

**(a) Initial Violation.** The penalty range for a landowner on the same parcel that has not previously been the subject of an APO issued by the county or watershed district should be based on the following schedule:

- i. \$0 for 11 months after issuance of the corrective action notice;
- ii. \$200 - \$500 per parcel per month for six (6) months (180 days) following the time period in i; and
- iii. \$500 - \$1,000 per parcel per month following the time period in ii.

Counties and watershed districts are recommended to choose a specific penalty amount within the range shown in ii and iii to ensure consistency with the BWSR APO Plan.

Counties and watershed districts may modify the corrective actions and timeline for compliance, in accordance with section B.1, to extend the compliance timeline for a modification that imposes a substantial new action or that would significantly accelerate the completion date for an action.

(b) Repeat violation. The penalty range for a landowner on the same parcel that has previously been the subject of an APO issued by the county or watershed district to that same landowner shall be based on the following schedule:

- i. \$50 - \$200 per parcel per day for 180 days after issuance of the corrective action notice; and
- ii. \$200- \$ 500 per parcel per day after 180 days following the time period in i.

Counties and watershed districts are recommended to choose a specific penalty amount within the range shown in i and ii to ensure consistency with the BWSR APO Plan.

Counties and watershed districts may modify the corrective actions and timeline for compliance, in accordance with section B.1, to extend the compliance timeline for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

(c) Order. The APO should include:

- i. The facts constituting a violation of the riparian protection and water quality practices requirements;
- ii. The statute and/or ordinance or rule that has been violated;
- iii. Prior efforts to work with the landowner to resolve the violation;
- iv. The amount of the penalty to be imposed;
- v. The date the penalty will begin to be assessed;
- vi. The date that payment of the penalty is due;
- vii. The date by which all or part of the penalty may be forgiven if the landowner complies with the corrective action notice; and
- viii. The landowner or his/her agent or operators' right to appeal the APO.

All or part of the penalty may be forgiven based on the correction of the noncompliance by the landowner by the date specified in the APO. If part or all of the penalty is forgiven, the county or watershed district is recommended to document the reasons and the amount of the penalty that has been forgiven.

A copy of the issued APO must be sent to the SWCD and BWSR.

According to Minn. Stat. § 103F.48, subd. 9 an APO that is not appealed to the executive director of BWSR within 30 days of receipt by the landowner or his/her agent or operator is final.

(d) Administrative Penalty Order Procedures

i. Statute of limitations. According to Minn. Stat. § 541.07, subd. 2 (2), the county or watershed district has two years in which to commence an administrative penalty order action after the violation is discovered. The goal is to complete the action as soon as reasonably practical, recognizing that situations for which data must be gathered, field investigations must be completed and/or modeling must be performed will require adequate time to complete the work and communicate with the landowner involved.

ii. Compliance verification. Once a landowner has submitted written evidence of correction of the violation, compliance must be verified. The county or watershed district should:



- Review and evaluate all information related to the APO to determine if the violation has been corrected;
- Verify compliance by a site visit, re-inspection, examination of documentation, or other means as may be reasonable under the facts of the case; and
- Document compliance verification.

The county or watershed district may consult with the SWCD when conducting a compliance verification.

iii. Right to appeal. Minn. Stat. § 103F.48, subdivision 9, establishes the rights and procedures for a landowner or his/her agent or operator to appeal an APO issued for a violation of the riparian protection and water quality practices requirements. A landowner or his/her agent or operator may appeal, in writing, the terms and conditions of an APO issued by a county or watershed district within 30 days of receipt of the APO. The appealing party must provide a copy of the APO that is being appealed, the basis for the appeal and any supporting evidence. The appeal may be submitted personally, by U.S. mail, or electronically, to the Executive Director of BWSR. At the discretion of the Executive Director, APOs for the same or similar violations on a parcel may be combined and addressed as a single appeal. The Executive Director will review the appeal and supporting evidence and issue a decision within 60 days of receipt of the appeal. The Executive Director's decision is appealable to the Minnesota Court of Appeals pursuant to Minn. Stat. §§ 14.63 to 14.69. The penalty shall not accrue while the appeal is pending.

iv. Penalty due. Unless the landowner or his/her agent or operator appeals the APO within 30 days of receipt of the APO, the penalty is due and payable to the county or watershed district as specified in the APO. If the landowner or his/her agent or operator submits written evidence within 30 days of the date specified in the APO, which may include a validation of compliance issued by the SWCD, that the violation was corrected, and the county or watershed district verifies compliance, then the penalty will be payable based on the date the landowner or his/her agent, or operator submitted the written evidence of compliance.

However, if the county or watershed district determines the violation was not fully corrected, the landowner or his/her agent or operator has 20 additional days to pay the penalty after receipt of a letter of determination from the county or watershed district that the violation has not been fully corrected, or the time period specified in the APO as issued, whichever is later. The penalty will continue to accrue until the violation is corrected as provided in the corrective action notice and APO.

v. Referral for collection of penalty. All penalties assessed under an APO must be paid by the landowner within the specified time and made payable to the county or watershed district. Any penalty not received in the specified time may be collected by any lawful means by the county or watershed district.

vi. Reporting and documentation. Effective compliance reporting and documentation will ensure that proper enforcement action is taken, and that a record is maintained of these actions. When the county or watershed district identifies a violation of the riparian protection and water quality practices requirements, staff should follow record keeping procedures to assess and document the following to the extent known or available:

- Cause of the violation;

- Magnitude and duration of the violation;
- Whether the violation presents an actual or imminent risk to public health and safety, or to the environment or the natural resources of the state;
- Past violations;
- Efforts by the SWCD, county, watershed district or BWSR to assist the landowner to become compliant, including written and oral communications with the landowner; and
- Past and present corrective action efforts by the landowner.

## **Part B: BWSR Administrative Penalty Order Plan**

### **I. Buffer Requirements**

#### **1. Buffer width**

Except as provided under section I.5, a landowner must maintain a buffer area on a water shown on the buffer protection map as follows:

- A. For waters shown on the buffer protection map requiring a fifty (50) foot average width and a thirty (30) foot minimum width buffer as measured according to subsection 2, except as provided in section I.5.
- B. For waters shown on the buffer protection map requiring a sixteen and a half (16.5) foot minimum width buffer as measured according to subsection 2 except as provided in subsection I.5.

#### **2. Buffer Measurement**

- A. The measurement of the required buffer on land adjacent to a water requiring a fifty (50) foot average width and a thirty (30) foot minimum width buffer must be from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level.
- B. The measurement of the required buffer on land adjacent to a water requiring a sixteen and a half (16.5) foot minimum width buffer must be in the same manner as for measuring the perennial vegetation buffer strips under Minn. Stat. § 103E.021.

#### **3. Use of Buffer Area**

A buffer may not be used for cultivation farming but may be grazed, mowed, hayed or otherwise harvested, provided permanent growth of perennial vegetation is maintained, except as provided in subsection 4.G and section I.5.

#### **4. Exemptions**

- A. The requirement of section I.1 does not apply to land that is:
  - i. Enrolled in the federal Conservation Reserve Program;
  - ii. Used as a public or private water access or recreational use area including stairways, landings, picnic areas, access paths, beaches and watercraft access areas, and permitted water-oriented structures as provided in the shoreland model standards and criteria adopted pursuant to Minn. Stat. § 103F.211 or as provided in an approved local government shoreland ordinance;

- iii. Covered by a road, trail, building or other structures; or
- iv. 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;
- v. Part of a water-inundation cropping system; or
- vi. In a temporary nonvegetated 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.

B. The landowner claiming the applicability of an exemption to their parcel is responsible for identifying the exemption and maintaining evidence of eligibility to demonstrate qualification for the exemption.

## 5. Alternative practices

The landowner or his/her agent or operator of land that is used for cultivation farming may demonstrate compliance with section I.1 by establishing and maintaining an alternative riparian water quality practice(s), or combination of structural, vegetative, and management practice(s), based on the Natural Resources Conservation Service Field Office Technical Guide, common alternative practices adopted and published by BWSR, other practices approved by BWSR, or practices based on local conditions approved by the local SWCD that are consistent with the Field Office Technical Guide which provide water quality protection comparable to the water quality protection provided by a required buffer as defined in subsections I.1 to I.3.

## II. Compliance Determinations

Compliance on each parcel will be determined based on the establishment and maintenance of buffers and/or alternative practices.

Compliance status will be determined by BWSR:

- A. On a parcel basis as identified by a unique locally defined property identification number or description; and
- B. The compliance status of each bank, or edge of an applicable water body on an individual parcel will be determined independently.

### 1. Notification of Noncompliance

When BWSR observes potential noncompliance or receives a third-party complaint from a private individual or entity, or another public agency, it will consult with the SWCD to 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 BWSR. BWSR compliance or enforcement actions under Minnesota Statutes § 103F.48 and section III will be based on an SWCD issued Notice of Noncompliance.

At any time, the landowner or his/her agents or operators may provide documentation of compliance to the SWCD. The SWCD should evaluate the documentation or review the buffer and/or alternative practices to determine if the parcel is in compliance and issue its determination in writing to the landowner or his/her agents or operators and BWSR. The SWCD may issue a Validation of Compliance if applicable and requested by the landowner or his/her agents or operators.

### III. Enforcement and Penalty Procedures

#### 1. Corrective Action Notice

Upon receipt of an SWCD notification of noncompliance, BWSR will send the landowner or his/her agents or operators a corrective action notice that will:

- (a) Include a list of corrective actions needed to come into compliance with the requirements of Minn. Stat. § 103F.48;
- (b) Provide a timeline for complying with this notice; and
- (c) Include a statement that failure to respond to this notice will result in the assessment of financial penalties.

The landowner may be sent a combined corrective action notice and APO as provided in item 2 so long as the combined notice/APO includes all the elements of both.

BWSR may deliver or transmit the corrective action notice by any means reasonably determined to reach the landowner or agents or operators, which will document receipt. However, a failure to document receipt will not preclude BWSR from demonstrating receipt or knowledge of the corrective action notice in an enforcement proceeding under section III. BWSR will also send a copy of the notice to the SWCD.

At any time, the landowner or his/her agents or operators may provide documentation of compliance to BWSR. In addition, the landowner or his/her agent or operator may supply information in support of a request to modify a corrective action or the timeline for compliance. Based on any such submittal or at its discretion, BWSR, in writing, may modify the corrective action notice or timeline for compliance, and will deliver or transmit the modified corrective action notice and timeline in accordance with this section. BWSR should determine if the noncompliance has been fully corrected and issue its determination as provided in section III. 3B, in writing, to the landowner or his/her agent or operator.

The SWCD may issue a validation of compliance if requested by the landowner or his/her agent or operator and following consultation with BWSR. On BWSR receipt of the validation the corrective action notice will be deemed withdrawn for the purpose of section 2.0, and the subject property will not be subject to enforcement under that section.

A corrective action notice is not considered a final decision and is not subject to appeal under Minn. Stat. § 103F.48, subd. 9.

## 2. BWSR's Use of Administrative Penalty Orders.

### A. Enforcement by BWSR

BWSR's authority to enforce the riparian protection and water quality practices requirements of Minn. Stat. § 103F.48 by APO is pursuant to Minn. Stat. § 103B.101, subdivision 12.

### B. BWSR's enforcement team

Prior to issuance of an APO, BWSR staff may establish an enforcement team to review the specific facts and develop an APO.

### C. Amount of penalty

BWSR staff may issue an APO of up to \$10,000 per violation, as provided for in Minn. Stat. § 103B.101, subd. 12 against a landowner or his/her agent or operator that does not comply with a corrective action notice. The APO should be sent with the corrective action notice, alternatively, a combined corrective action notice and APO may be sent so long as the combined notice/APO includes all the elements of both.

(1) Initial Violation. The penalty for a landowner or his/her agent or operator on the same parcel that has not previously been the subject of an APO issued by BWSR shall be based on the following schedule:

- (a) \$0 for 11 months after issuance of the corrective action notice;
- (b) \$500 per parcel per month for six (6) months (180 days) following the time period in (a); and
- (c) \$1,000 per parcel per month following time period in (b.)

BWSR may modify the corrective actions and timeline for compliance, in accordance with section III.1, to extend the compliance timeline for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

(2) Repeat violation. The penalty for a landowner or his/her agent or operator on the same parcel that has previously been the subject of an APO issued by BWSR for that same landowner shall be based on the following schedule:

- (a) \$100 per parcel per day for 180 days after issuance of the corrective action notice; and
- (b) \$500 per parcel per day after 180 days following the time period in (a).

BWSR may modify the corrective actions and timeline for compliance, in accordance with section III.1, to extend the compliance timeline for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.





**TO:** GARRETT MONSON, ENGINEER & PELICAN RIVER WATERSHED  
DISTRICT BOARD OF DIRECTORS

**FROM:** KELCEY KLEMM, CITY ADMINISTRATOR

**SUBJECT:** COMMENTS ON PROPOSED PELICAN RIVER WATERSHED DISTRICT  
RULES

**DATE:** FEBRUARY 10, 2025

---

Thank you for providing the draft of the Pelican River Watershed Districts Rules revision in advance of your February 12<sup>th</sup> public hearing. The City submits these comments in response to the proposed new rules.

Chapter 4: Definitions and Interpretation

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.

Chapter 6: Storm Water Management

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.

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.

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.

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.

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.

#### Chapter 7: Shoreline and Streambank Alterations

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.

#### Streamlining of Rules and Processes

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.

Thank you again for soliciting feedback from the City on your proposed rules.

## **Comments on Draft Pelican River Watershed District 2024 Revised Rules**

---

Thank you for the opportunity to review and participate in the public hearing process for the Pelican River Watershed District draft rules. Attached is a chronological list of our comments, organized by chapter. While these comments reflect my professional perspectives, they do not necessarily represent the official positions of my respective company.

As you work toward finalizing the rules, we ask that you provide a written response to any items that remain unresolved following today's public hearing. If you have any questions, please feel free to reach out to Jon Olson at Apex Engineering Group.

### **Chapter 1**

- A. Delete

### **Chapter 2**

- A. Delete, at minimum;
  - 1) Delete the last two sentences of paragraph two should.
  - 2) Last sentence of paragraph 3 – Provide an explanation of how coordination can avoid duplicative and conflicting requirements.

### **Chapter 3**

- A. No comments.

### **Chapter 4**

- A. Bluff and Bluff Impact Zone definitions required.
- B. Redeveloped Areas. Provide clarity. Reads as if it is almost a permit trigger.
- C. Regional Conveyance: needs to exclude the City of Detroit Lakes-owned infrastructure.
- D. 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 development of its own rules.
- E. Steep Slopes: 12% not steep

### **Chapter 5**

- F. Last sentence of 5.3; provide an explanation of when Board Action is necessary.
- G. Figure 5-1; Chapter 7 item 4.A.2b needs to be addressed in this chart.
  - 1) Additionally, timeframes should be added.

- H. 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."

## Chapter 6

- I. 6.2.A.5 Provide reasoning for lowering impervious surface threshold from 10,000 sf to 7,000 sf
- J. 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.
- K. 6.3 Consider exempting full depth pavement rehab to be consistent with City of DL.
- L. 6.4.A 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.
- M. 6.4.A.4 Provide documentation for requiring increased treatment levels for non-infiltrating practices. There BMPs are often already more costly as-is.
- N. Consider deleting bioretention and filter details.
- O. 6.4.A.4.c.ii; the 3:1 ratio and 75' lengths may not be possible on all projects. Consider deleting this requirement.
- P. 6.5: Provide clarification on when this provision must be met. 2.0' freeboard is excessive on my smaller sites. Consider deleting this section.
- Q. 6.6.D is ambiguous. Consider referencing the requirements of 23 of the MPCA CSW.
- R. 6.7.C This will create added burden on the District with no end date. Consider deleting at minimum, section should reference permanent BMP.
- S. 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.
- T. 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.
- U. 6.8.A.3 Define the relevant sections. Too ambiguous as written.
- V. 6.8.A.2.4 References Section 6.4.B.2.e which does not exist.

## Chapter 7

- W. 7.4.A.1; A threshold is required. Consider ten (10) cubic yards to be consistent with City and County.
- X. 7.4.A.1.i; Consider 33% (3h:1v) instead of 30%. Much more common term.
- Y. 7.4.B: the chapter is mostly aesthetic and does not align with the watershed mission of water quality.
  - 1) 7.4.B.4; remove Steep Slopes from sentence.
  - 2) 7.4.B.6; revise 'lake of river' to 'lake or river'
- Z. 7.4.C.2; replacement of existing walls is very subjective. Who determines feasibility?
- AA. 7.4.C.3; this is a City concern. Delete in the event the City modifies its ordinance or allows a variance.

**Chapter 8 – 11**

BB. No comment

**Submitted By:**

**Jon Olson, PE (ND, MN)**  
Civil Engineer

**Apex Engineering Group**  
920 McKinley Avenue  
Detroit Lakes, MN 56501

Office: 218-844-2580  
Direct: 218-844-2583  
Cell: 218-234-8680  
Email: [Jon.Olson@ApexEngGroup.com](mailto:Jon.Olson@ApexEngGroup.com)





# PELICAN RIVER WATERSHED DISTRICT

2025

1

## ~~2024~~ REVISED RULES

Effective Date: \_\_\_\_\_, 20\_\_



# Summary of Comments on PRWD Rule Revision - For Public Comment\_JS0-SRW comments\_Final.pdf

Page: 1

≡	Number: 1	Author: jon.olson	Subject: Text Box	Date: 2/6/2025 3:54:16 PM -06'00'
	2025			
✓	Number: 2	Author: jon.olson	Subject: Line	Date: 2/6/2025 3:54:19 PM -06'00'

## TABLE OF CONTENTS

CHAPTER 1.	GENERAL POLICY STATEMENT AND INTRODUCTION.....	2
CHAPTER 2.	RELATIONSHIP OF WATERSHED DISTRICT TO BECKER COUNTY AND CITY OF DETROIT LAKES.....	3
CHAPTER 3.	GENERAL PROVISIONS AND CITATION.....	5
CHAPTER 4.	DEFINITIONS AND INTERPRETATION .....	6
CHAPTER 5.	PERMIT REQUIREMENTS .....	10
CHAPTER 6.	STORM WATER MANAGEMENT .....	14
CHAPTER 7.	SHORELINE AND STREAMBANK ALTERATIONS.....	24
CHAPTER 8.	REGIONAL CONVEYANCE SYSTEMS.....	35
CHAPTER 9.	PUBLIC DRAINAGE SYSTEMS.....	37
CHAPTER 10.	BUFFERS.....	40
CHAPTER 11.	ENFORCEMENT.....	46

## 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. Ch. 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.

<sup>2</sup> 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.

New mission statement? <sup>3</sup>

---

≡ Number: 1 Author: jon.olson Subject: Text Box Date: 2/6/2025 3:12:35 PM -06'00'

---

This chapter contains unnecessary information. Consider deleting entire Chapter.

 Number: 2 Author: jon.olson Subject: Highlight Date: 1/6/2025 1:50:53 PM -06'00'

---

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.

≡ Number: 3 Author: jon.olson Subject: Architect Date: 2/7/2025 10:59:09 AM -06'00'

---

New mission statement?



## 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 <sup>2</sup>protect existing natural <sup>3</sup>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. <sup>4</sup>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.

City's have their own technical advisors <sup>5</sup>

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. <sup>6</sup>coordinating, the District and local governments also can avoid duplication, conflicting requirements, and unnecessary costs for permit applicants and taxpayers.

How can coordination avoid duplication and conflicting requirements? <sup>8</sup>

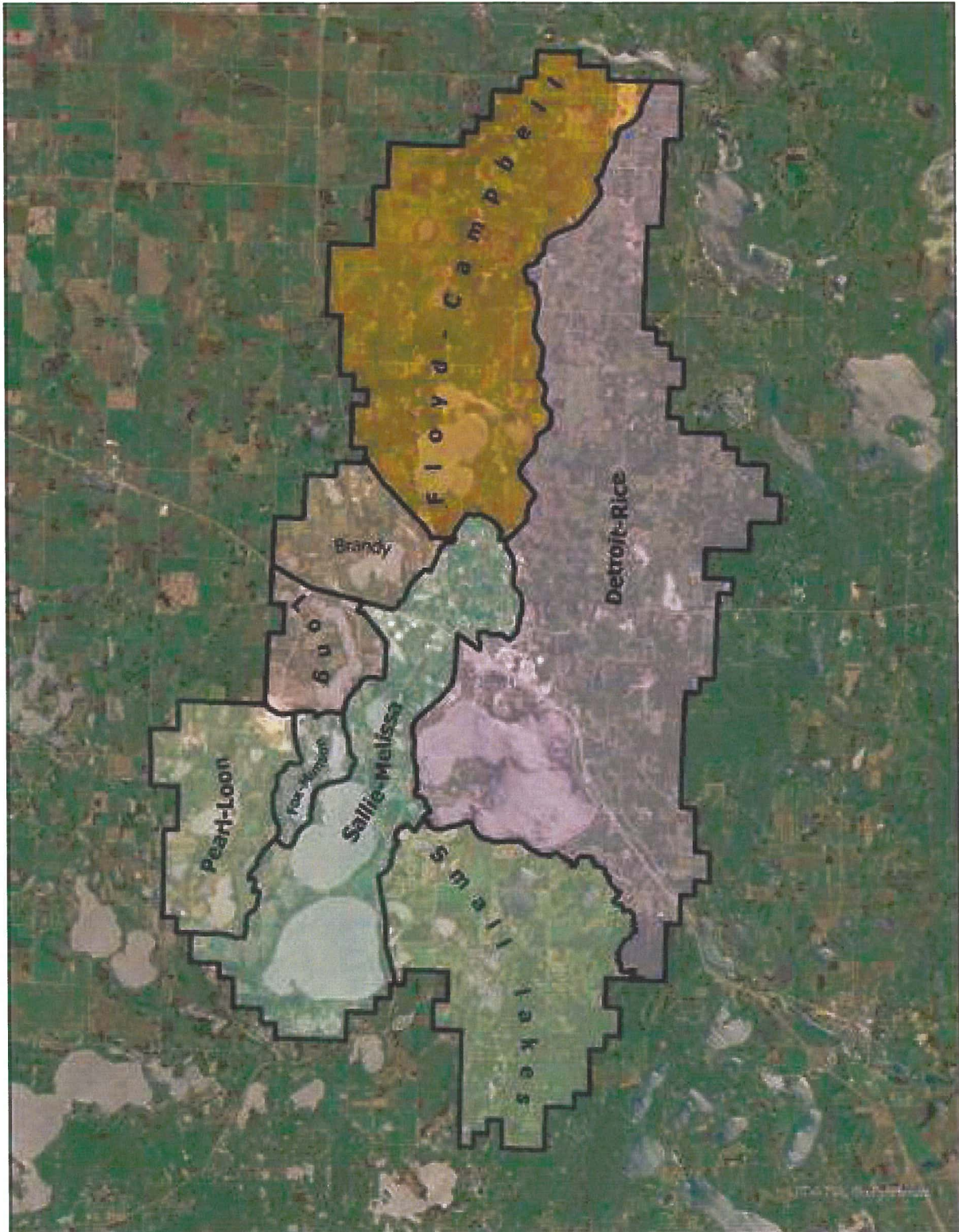
<sup>9</sup>  
All topography and vegetative? Goes beyond watershed district purposes, see Statute 103D.201

## Page: 4

≡	Number: 1	Author: jon.olson	Subject: Text Box	Date: 2/6/2025 3:12:43 PM -06'00'
	This chapter contains unnecessary information. Consider deleting entire Chapter.			
T	Number: 2	Author: scott	Subject: Highlight	Date: 2/7/2025 8:41:09 AM -06'00'
I	Number: 3	Author: scott	Subject: Highlight	Date: 2/7/2025 8:41:19 AM -06'00'
T	Number: 4	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:13:54 PM -06'00'
	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.			
≡	Number: 5	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:14:16 PM -06'00'
	City's have their own technical advisors			
≡	Number: 6	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:24:36 PM -06'00'
	y coordinating, the District and local governments also can avoid duplication, conflicting requirements, and unnecessary costs for permit applicants and taxpayers.			
≡	Number: 7	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:24:41 PM -06'00'
	By			
≡	Number: 8	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:13:43 PM -06'00'
	How can coordination avoid duplication and conflicting requirements?			
≡	Number: 9	Author: jon.olson	Subject: Architect	Date: 2/7/2025 11:39:32 AM -06'00'
	All topography and vegetative? Goes beyond watershed district purposes, see Statute 103D.201			

Add title and label major roads for reference.

1 Scott Walz, Meadowland Surveying







### 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** <sup>1</sup>Alteration: Any activity that results in disturbance to a site's underlying soils or established vegetation that's not part of routine maintenance.

**No definition of Bluff or Bluff Impact Zone** <sup>2</sup>Best Management Practices (BMP): Measures taken to minimize negative effects on the environment including those documented in the Minnesota Stormwater Manual.

**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. 103D.

**Drainage Authority**: The public body having jurisdiction over a drainage system under Minn. Stat. Ch. 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.

≡	Number: 1	Author: jon.olson	Subject: Text Box	Date: 2/6/2025 3:15:34 PM -06'00'
	Alteration			
/	Number: 2	Author: jon.olson	Subject: Line	Date: 2/6/2025 3:15:16 PM -06'00'
≡	Number: 3	Author: jon.olson	Subject: Architect	Date: 2/7/2025 11:40:09 AM -06'00'
	No definition of Bluff or Bluff Impact Zone			

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 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.

Why provide a definition for only one type of wetland and not others? Additionally this is not consistent with state definition.

Why provide a definition for only one type of wetland and not others? Additionally this is not consistent with state definition.

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 include 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.

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?

<sup>1</sup> Public Water: As defined at Minn. Stat. § 103G.005, subdivision 15, and included within the public waters inventory as provided in Minn. Stat. § 103G.201.

<sup>2</sup> Redevelopment Areas: Any 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.

Regional Conveyance: A surface or subsurface drainage path conveying concentrated flow that drains 200-acres or more.

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.

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 1,000 feet of the OHWL of water bodies and 300 feet from rivers or the outer extent of the floodplain.

<sup>3</sup> 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.

<sup>4</sup> Model standards are recommendations. This is a catch all statement that is not fair to applicant.



---

≡ Number: 1 Author: jon.olson Subject: Architect Date: 2/7/2025 8:47:08 AM -06'00'

---

Where is this u  
sed in the r  
ules? Is this a r  
eduction from 2  
5% allowable i  
mpervious? Or a  
trigger for r  
equiring a P  
RWD permit? I  
s it applied in S  
IZ only or D  
istrict wide?

---

■ Number: 2 Author: scott Subject: Highlight Date: 2/7/2025 8:47:17 AM -06'00'

---

---

■ Number: 3 Author: jon.olson Subject: Highlight Date: 2/6/2025 3:25:06 PM -06'00'

---

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.

---

≡ Number: 4 Author: jon.olson Subject: Architect Date: 2/7/2025 11:40:56 AM -06'00'

---

Model standards are recommendations. This is a catch all statement that is not fair to applicant.

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.

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.

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

#### 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.

	Number: 1	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:18:53 PM -06'00'
	1v:12h is not steep			
	Number: 2	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:25:12 PM -06'00'
	twelve percent (12%),			

## 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

Rule revisions were requested as to avoid this added step. Rules should not need to be translated to applicant.

<sup>1</sup> 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. <sup>2</sup> re-application meetings are highly recommended for all applications. A <sup>3</sup> re-application meeting request form is available on the District website and can be submitted in person or via email.

where are these forms? <sup>4</sup>

- 5.2 **Forms.** A District permit application and <sup>5</sup> district checklist of permit submittal requirements, <sup>6</sup> 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>.

where are these defined?

- 5.3 **Action by District.** The District will act on complete applications in accordance with timing requirements established under Minn. Stat. § 15.99. A complete permit application includes <sup>7</sup> required information, exhibits, and fees. An application will not be considered unless <sup>9</sup> <sup>8</sup> substantial technical questions have been addressed and all substantial plan revisions resulting from staff and consultant review have been completed. <sup>10</sup> 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 chart on the following page (*Figure 5-1*).

this gives staff too much power and provides no timeframe for PRWD

<sup>11</sup>








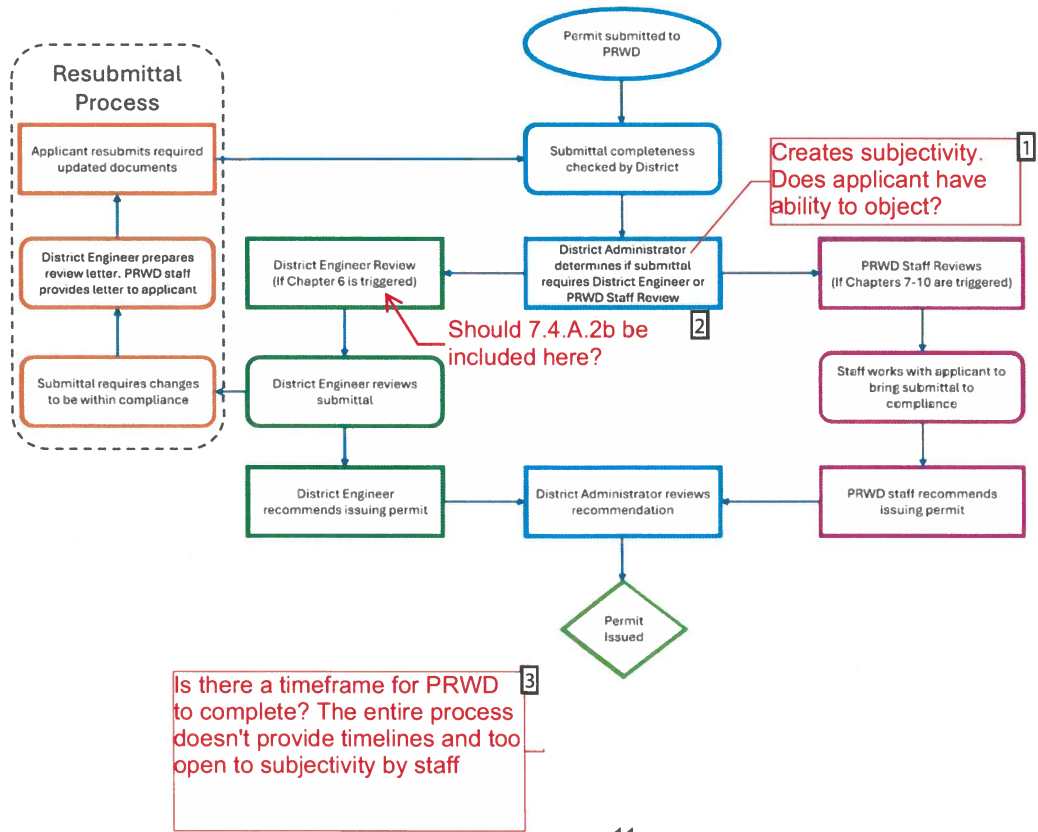
≡	Number: 1	Author: jon.olson	Subject: Architect	Date: 2/7/2025 8:53:22 AM -06'00'
	Rule revisions were requested as to avoid this added step. Rules should not need to be translated to a applicant.			
	Number: 2	Author: jon.olson	Subject: Highlight	Date: 1/6/2025 2:31:39 PM -06'00'
	Pre-application meetings are highly recommended for all applications			
	Number: 3	Author: jon.olson	Subject: Highlight	Date: 1/6/2025 2:32:36 PM -06'00'
	pre-application meeting request form			
≡	Number: 4	Author: jon.olson	Subject: Architect	Date: 1/6/2025 2:32:45 PM -06'00'
	where are these forms?			
	Number: 5	Author: jon.olson	Subject: Highlight	Date: 1/6/2025 2:30:09 PM -06'00'
	District checklist			
≡	Number: 6	Author: jon.olson	Subject: Architect	Date: 2/7/2025 11:41:26 AM -06'00'
	where are these defined?			
	Number: 7	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:22:36 PM -06'00'
	all required information, exhibits, and fees.			
	Number: 8	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:22:18 PM -06'00'
	substantial technical questions have been addressed and all substantial plan revisions resulting from staff and consultant review have been completed			
	Number: 9	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:22:22 PM -06'00'
	all s			
	Number: 10	Author: jon.olson	Subject: Highlight	Date: 1/6/2025 2:36:31 PM -06'00'
	Permit decisions will be made by the District Administrator, or a designated representative, unless Board action is deemed necessary.			
≡	Number: 11	Author: jon.olson	Subject: Architect	Date: 2/7/2025 11:41:19 AM -06'00'
	this gives staff too much power and provides no timeframe for PRWD			

Figure 5-1





---

≡ Number: 1 Author: jon.olson Subject: Architect Date: 2/7/2025 8:56:26 AM -06'00'

---

Creates subjectivity. Does applicant have a ability to object?

---

≡ Number: 2 Author: jon.olson Subject: Architect Date: 2/6/2025 3:23:58 PM -06'00'

---

Should 7.4.A.2b be included here?

---

≡ Number: 3 Author: jon.olson Subject: Architect Date: 2/7/2025 9:00:05 AM -06'00'

---

Is there a timeframe for P  
RWD to complete? The entire process doesn't provide timelines and too open to subjectivity by staff

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." <sup>1</sup> and Surveying

5.4 **Issuance of Permits.** <sup>2</sup> 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.

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.

<sup>3</sup> **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.

**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.

**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.

Is the PRWD staffed to manage and enforce? <sup>6</sup>

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?

---

≡ Number: 1 Author: jon.olson Subject: Architect Date: 2/6/2025 3:21:33 PM -06'00'

---

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."

■ Number: 2 Author: jon.olson Subject: Highlight Date: 2/6/2025 3:21:51 PM -06'00'

---

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.

■ Number: 3 Author: scott Subject: Highlight Date: 2/7/2025 9:01:34 AM -06'00'

---

≡ Number: 4 Author: jon.olson Subject: Architect Date: 2/7/2025 11:42:00 AM -06'00'

---

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.

■ Number: 5 Author: scott Subject: Highlight Date: 2/7/2025 9:59:37 AM -06'00'

---

≡ Number: 6 Author: jon.olson Subject: Architect Date: 2/7/2025 11:42:24 AM -06'00'

---

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?

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.

This is the entire lot <sup>2</sup>  
for nearly all existing  
lots on Detroit, Floyd,  
Sallie, Melissa, Fox,  
Munson

- 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:

15% is overly  
restrictive

- <sup>4</sup> (1) More than <sup>3</sup>5% in the protective zone\* of riparian lots outside the City of Detroit Lakes.

(a) <sup>5</sup> protective zone is the area within 150-feet of the lake's OHWL

- (2) More than <sup>6</sup>5% 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 of Becker County Zoning Ordinances.

- (3) More than 25% on riparian lots.

- <sup>7</sup> (4) More than 50% of non-riparian lots.

- (5) More than <sup>8</sup>10,000 square feet of lot coverage of riparian lots.

- (6) ~~Equal or greater than 1 acre of impervious surface coverage.~~

- (7) Projects requiring a variance from, or use of allowable mitigation within, the local shoreland zoning ordinance.

Was 10,000, provide  
reason for  
decreasing.

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

- <sup>12</sup> C. Residential subdivision or development of four (4) or more lots.

- D. Construction or reconstruction of a <sup>13</sup> private or public paved trail, parking lot, or public water access; or

No threshold <sup>14</sup>

- E. 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.

C, D and E  
are all  
non-linear.  
Believe there  
are state  
Statutes that  
protect  
landowner's  
right to  
maintain

Delete and replace with "Construction activity that results <sup>15</sup>  
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."

≡	Number: 1	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:29:12 PM -06'00'
≡	Number: 2	Author: jon.olson	Subject: Architect	Date: 2/7/2025 11:42:59 AM -06'00'
	This is the entire lot for nearly all existing lots on Detroit, Floyd, Sallie, Melissa, Fox, Munson			
■	Number: 3 15	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:30:02 PM -06'00'
≡	Number: 4	Author: jon.olson	Subject: Architect	Date: 2/7/2025 11:43:19 AM -06'00'
	15% is overly restrictive			
■	Number: 5	Author: scott	Subject: Highlight	Date: 2/7/2025 9:59:51 AM -06'00'
■	Number: 6 15	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:30:02 PM -06'00'
≡	Number: 7	Author: jon.olson	Subject: Architect	Date: 2/7/2025 11:43:25 AM -06'00'
	Was 10,000, provide reason for decreasing.			
■	Number: 8 7,000	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:29:04 PM -06'00'
✓	Number: 9	Author: jon.olson	Subject: Line	Date: 2/6/2025 3:26:46 PM -06'00'
✓	Number: 10	Author: jon.olson	Subject: Line	Date: 2/6/2025 3:26:34 PM -06'00'
✓	Number: 11	Author: jon.olson	Subject: Line	Date: 2/6/2025 3:26:36 PM -06'00'
≡	Number: 12	Author: jon.olson	Subject: Architect	Date: 2/7/2025 11:43:48 AM -06'00'
	C, D and E are all non-linear. Believe there are state Statues that protect landowner's right to maintain			
■	Number: 13	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:31:27 PM -06'00'
	private or public paved trail, parking lot			
≡	Number: 14	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:31:17 PM -06'00'
	No threshold			
≡	Number: 15	Author: jon.olson	Subject: Architect	Date: 2/7/2025 11:43:51 AM -06'00'
	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."			



### 6.3 Exemptions.

#### A. Exemptions from stormwater management permitting:

- (1) Mill and overlay projects where underlying soils are not disturbed.

### 6.4 Criteria (Standards).

← Add (2) Full depth pavement replacement including Full Depth Reclamation

1

#### 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 6.3(B)(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.

Not fair to applicant.  
this is a catch all.

2

- (g) 3 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 not limit to the following:

- (a) Bedrock within three (3) vertical feet of the bottom of the infiltration basin.

---

≡ Number: 1 Author: jon.olson Subject: Architect Date: 2/6/2025 3:32:35 PM -06'00'


---

Add (2) Full depth pavement replacement including Full Depth Reclamation

≡ Number: 2 Author: jon.olson Subject: Architect Date: 2/6/2025 3:33:23 PM -06'00'

---

Not fair to applicant. this is a catch all.

 Number: 3 Author: jon.olson Subject: Highlight Date: 2/6/2025 3:33:34 PM -06'00'

---




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.

- (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 200 feet 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 \* 1.5

(b) Filtration: Water Quality Volume \* 2

provide justification for 3  
multipliers

	Number: 1 1.5	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:36:29 PM -06'00'
	Number: 2 2	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:36:29 PM -06'00'
	Number: 3	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:36:53 PM -06'00'

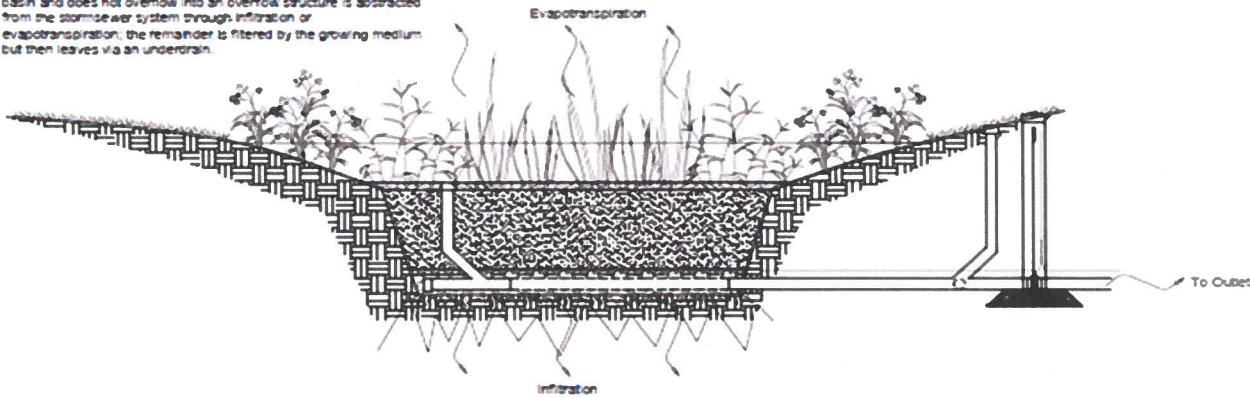
provide justification for multipliers

Delete.

1

**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 stormwater 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**

Not To Scale

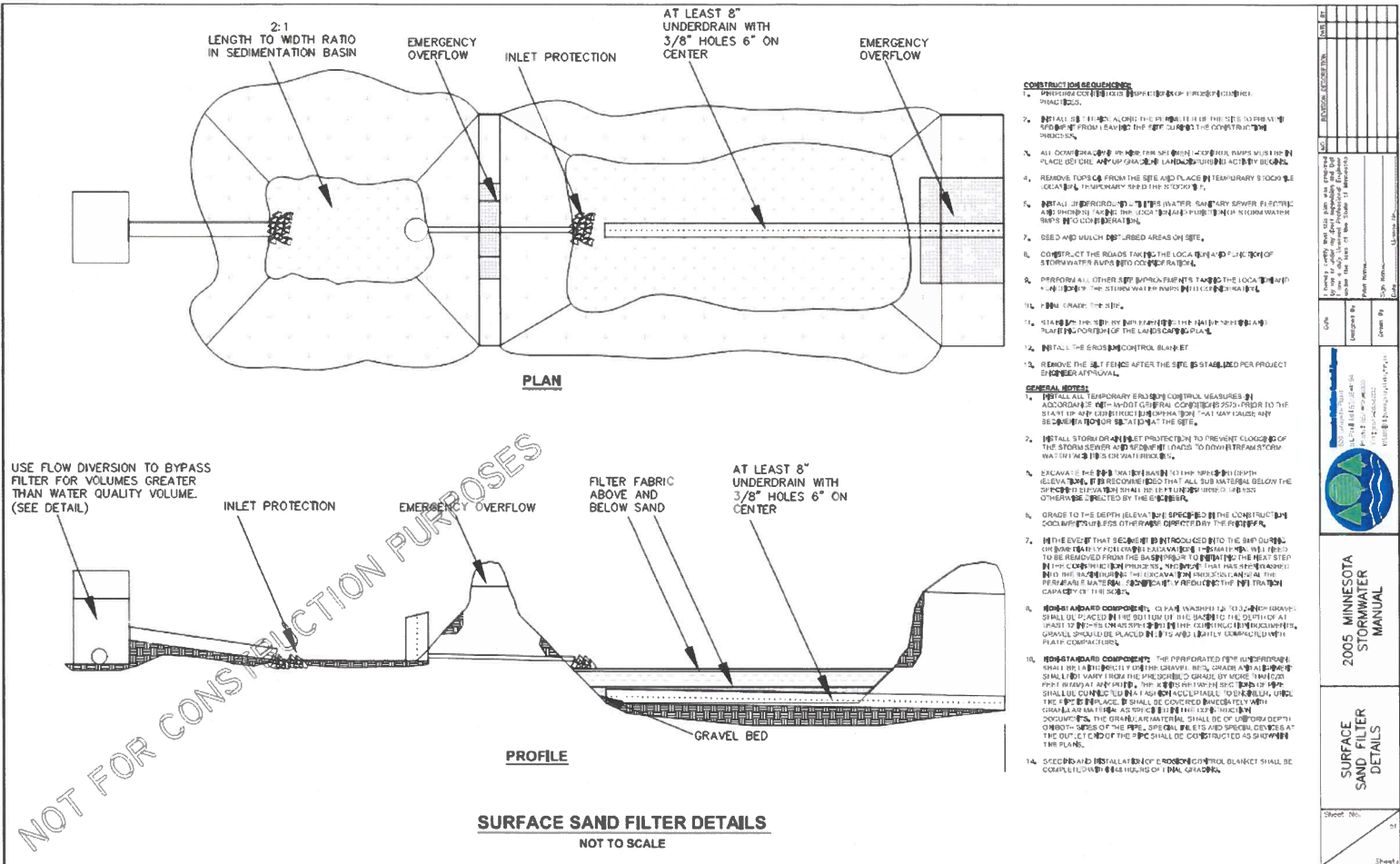
NOT FOR CONSTRUCTION PURPOSES





Delete.

1. Apex Engineering and Scott Walz, Meadowland Surveying





provide justification for <sup>1</sup>  
multipliers

(c) Wet Ponds as necessary: Water Quality Volume <sup>2</sup>

- i. Permanent pool volume below the pond's runout elevation must have a minimum volume of 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.

May not be practical <sup>3</sup>

- ii. Ponds must be designed with a minimum <sup>4</sup> 1 length-to-width ratio to prevent short-circuiting. Inlets must be a <sup>5</sup> minimum of 75 feet 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 percent 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 percent 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. <sup>6</sup>

Not fair to applicant.  
this is a catch all.

- (f) <sup>7</sup> Design and placement of stormwater BMPs will be done in accordance with MPCA requirements and are recommended to follow guidance from the Minnesota Stormwater Manual.

(5) **Exception:** Single-family or twin home construction or modification on non-riparian lots are exempt from providing permanent water quality treatment.

≡	Number: 1	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:37:24 PM -06'00'
	provide justification for multipliers			
■	Number: 2	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:37:15 PM -06'00'
	2			
≡	Number: 3	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:38:30 PM -06'00'
	May not be practical			
■	Number: 4	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:38:08 PM -06'00'
	3:1 length-to-width			
■	Number: 5	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:38:08 PM -06'00'
	minimum of 75 feet			
≡	Number: 6	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:34:33 PM -06'00'
	Not fair to applicant. this is a catch all.			
■	Number: 7	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:34:11 PM -06'00'
	Design and placement of stormwater BMPs will be done in accordance with MPCA requirements and are recommended to follow guidance from the Minnesota Stormwater Manual.			

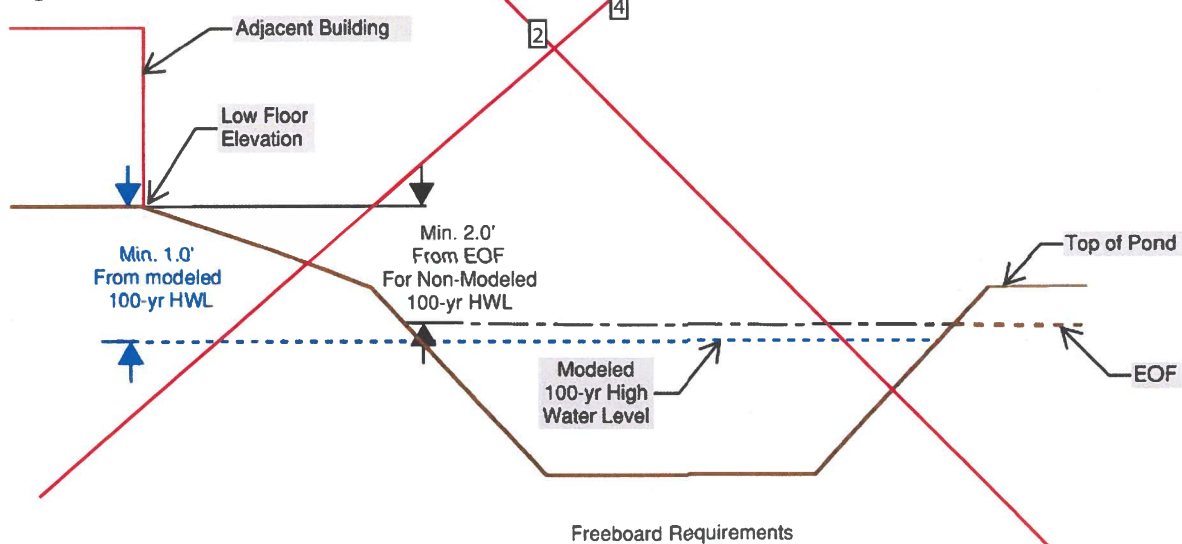


6.5

### 3 MP 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 1.0-feet above the modeled 100-year high water level of the basin.
    - (a) Alternatively, the low floor elevation may be 2.0-feet 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. 5 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.

Too subjective

≡	Number: 1	Author: jon.olson	Subject: Text Box	Date: 2/7/2025 11:05:44 AM -06'00'
	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...			
/	Number: 2	Author: jon.olson	Subject: Line	Date: 2/6/2025 3:34:53 PM -06'00'
■	Number: 3	Author: jon.olson	Subject: Highlight	Date: 2/7/2025 11:05:16 AM -06'00'
	BMP High-Water Level Management.			
/	Number: 4	Author: jon.olson	Subject: Line	Date: 2/6/2025 3:34:56 PM -06'00'
≡	Number: 5	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:39:14 PM -06'00'
	Too subjective			
■	Number: 6	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:39:02 PM -06'00'
	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.			

- 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 14 calendar day.
  - (2) Exposed soil areas within the Shoreland Impact Zone must be stabilized within 48 hours of work having suspended for more than 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 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. 1 Upon issuance of the permit, the District will record the maintenance agreement on the parcel containing the BMP.

This is perpetual. How is district 2 going to police this

#### 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 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.

	Number: 1      Author: jon.olson      Subject: Highlight      Date: 2/6/2025 3:40:05 PM -06'00'
	Upon issuance of the permit, the District will record the maintenance agreement on the parcel containing the BMP
	Number: 2      Author: jon.olson      Subject: Architect      Date: 2/6/2025 3:40:32 PM -06'00'
	This is perpetual. How is district going to police this

Delete and replace  
with "depiction"

1

ed by Jon Olson, Apex Engineering and Scott Walz, Meadowland Surveying

(e) 2 delineation 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, 4 graded swales, and pond/basin cross sections.

can be built from  
contours.

(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 5s required in relevant sections.

List 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 7 section 6.4.B.2.e. Soil borings and test pits must be completed to a minimum depth of five (5) feet below the bottom of the proposed BMP.

where is this?

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



≡	Number: 1	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:43:15 PM -06'00'
	Delete and replace with "depiction"			
■	Number: 2	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:42:40 PM -06'00'
	Delineation			
≡	Number: 3	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:44:16 PM -06'00'
	can be built from contours.			
■	Number: 4	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:43:55 PM -06'00'
	graded swales, and pond/basin cross sections			
■	Number: 5	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:41:13 PM -06'00'
	as required in relevant sections			
≡	Number: 6	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:41:41 PM -06'00'
	List relevant sections			
■	Number: 7	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:44:39 PM -06'00'
	Section 6.4.B.2.e			
≡	Number: 8	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:44:47 PM -06'00'
	where is this?			

## 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.**

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 size** requires a permit and must comply with the following standards:

10 CY or more

(1) **Land Alterations in the Shore Impact Zone.** Land alterations, **regardless of the 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.

≡	Number: 1	Author: jon.olson	Subject: Text Box	Date: 2/7/2025 11:12:32 AM -06'00'
	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.			
■	Number: 2	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:45:26 PM -06'00'
	regardless of the size			
≡	Number: 3	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:45:41 PM -06'00'
	10 CY or more			
■	Number: 4	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:45:26 PM -06'00'
	regardless of the size			

- (g) Any alterations below the Ordinary High Water Level of public waters shall be authorized by the Commissioner under Minn. Stat. § 103G.245.
- (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 percent (30%) 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:

1

(a) The proposed activity meets all local land use ordinances.

(b) 2 stormwater from all new/reconstructed Impervious Surfaces must be consistently managed with the requirements of Chapter 6 3 or single lot, residential projects, an applicant may substitute the use of a BMP designed to treat a 2.2-inch event in lieu of submitting numerical modeling

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 aeriels 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.

Does this go to engineering review? Seems like it should. most environmentally sensitive lots.

No more rate control. Why double WQ volume?

---

≡ Number: 1 Author: jon.olson Subject: Architect Date: 2/6/2025 3:47:40 PM -06'00'

---

Does this go to engineering review? Seems like it should. most environmentally sensitive lots.

 Number: 2 Author: jon.olson Subject: Highlight Date: 2/6/2025 3:47:06 PM -06'00'

---

Stormwater from all new/reconstructed Impervious Surfaces must be consistently managed with the requirements of Chapter 6

 Number: 3 Author: jon.olson Subject: Highlight Date: 2/6/2025 3:46:43 PM -06'00'

---

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 submitting numerical modeling.

≡ Number: 4 Author: jon.olson Subject: Architect Date: 2/6/2025 3:47:10 PM -06'00'

---

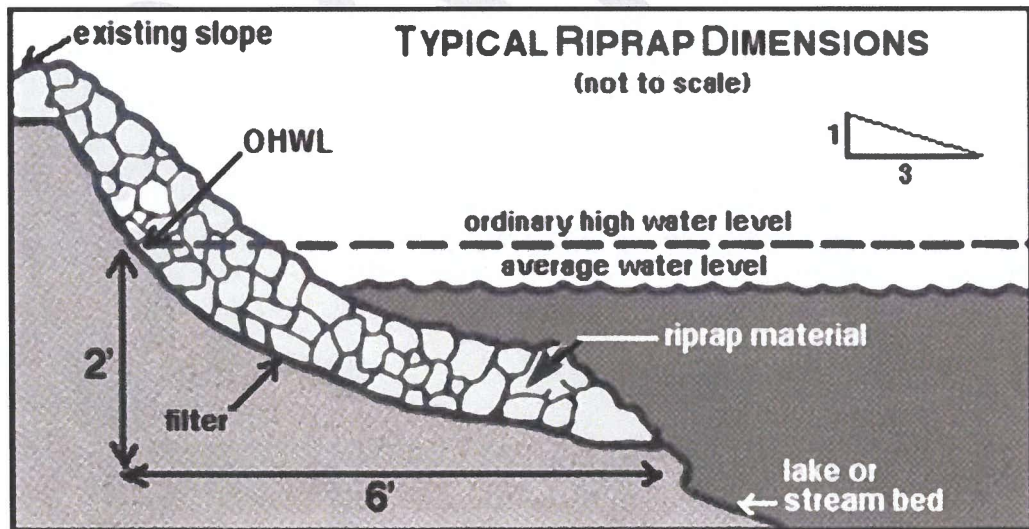
No more rate control. Why double WQ volume?

- (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 3 to 1(horizontal to vertical).
- (g) The riprap must be no more than 6 feet 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 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.
- (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 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.

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

Delete

How could this be measured?

This is the only portion of Section B that the PRWD should be concerned about.

**Vegetation Alteration.** Vegetative alterations may be allowed 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 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 with **4** **3** Shore and Bluff Impact Zones, **6** **r** **on Steep Slopes** is prohibited except as detailed in (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

≡	Number: 1	Author: jon.olson	Subject: Architect	Date: 2/7/2025 11:13:58 AM -06'00'
	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			
■	Number: 2	Author: scott	Subject: Highlight	Date: 2/7/2025 10:33:09 AM -06'00'
/	Number: 3	Author: jon.olson	Subject: Line	Date: 2/7/2025 10:40:31 AM -06'00'
/	Number: 4	Author: jon.olson	Subject: Line	Date: 2/7/2025 10:40:55 AM -06'00'
≡	Number: 5	Author: jon.olson	Subject: Architect	Date: 2/7/2025 10:34:25 AM -06'00'
	Delete			
■	Number: 6	Author: jon.olson	Subject: Highlight	Date: 2/6/2025 3:48:47 PM -06'00'
	or on Steep Slopes,			
≡	Number: 7	Author: jon.olson	Subject: Architect	Date: 2/7/2025 10:35:12 AM -06'00'
	How could this be measured?			
≡	Number: 8	Author: jon.olson	Subject: Architect	Date: 2/7/2025 10:36:24 AM -06'00'
	This is the only portion of Section B that the PRWD should be concerned about.			
■	Number: 9	Author: scott	Subject: Highlight	Date: 2/7/2025 10:35:30 AM -06'00'



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

Remove. Definition of Steep slope is far too restrictive to be included here

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') 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 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 1:1 ratio, regardless of size. Trees removed for legal placement of lake access paths or structures must be replaced at a ratio of 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

☰	Number: 1	Author: jon.olson	Subject: Architect	Date: 2/6/2025 3:49:26 PM -06'00'
	or			
/	Number: 2	Author: jon.olson	Subject: Line	Date: 2/6/2025 3:49:20 PM -06'00'
/	Number: 3	Author: jon.olson	Subject: Line	Date: 2/6/2025 3:49:15 PM -06'00'
/	Number: 4	Author: jon.olson	Subject: Line	Date: 2/7/2025 10:44:11 AM -06'00'
/	Number: 5	Author: jon.olson	Subject: Line	Date: 2/7/2025 10:43:56 AM -06'00'
☰	Number: 6	Author: jon.olson	Subject: Architect	Date: 2/7/2025 11:44:55 AM -06'00'
	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			
☐	Number: 7	Author: scott	Subject: Highlight	Date: 2/7/2025 10:50:21 AM -06'00'
☰	Number: 8	Author: jon.olson	Subject: Architect	Date: 2/7/2025 10:51:19 AM -06'00'
	Remove			
	. D			
	efinition of S			
	teep slope is far t			
	o restrictive to b			
	e included here			

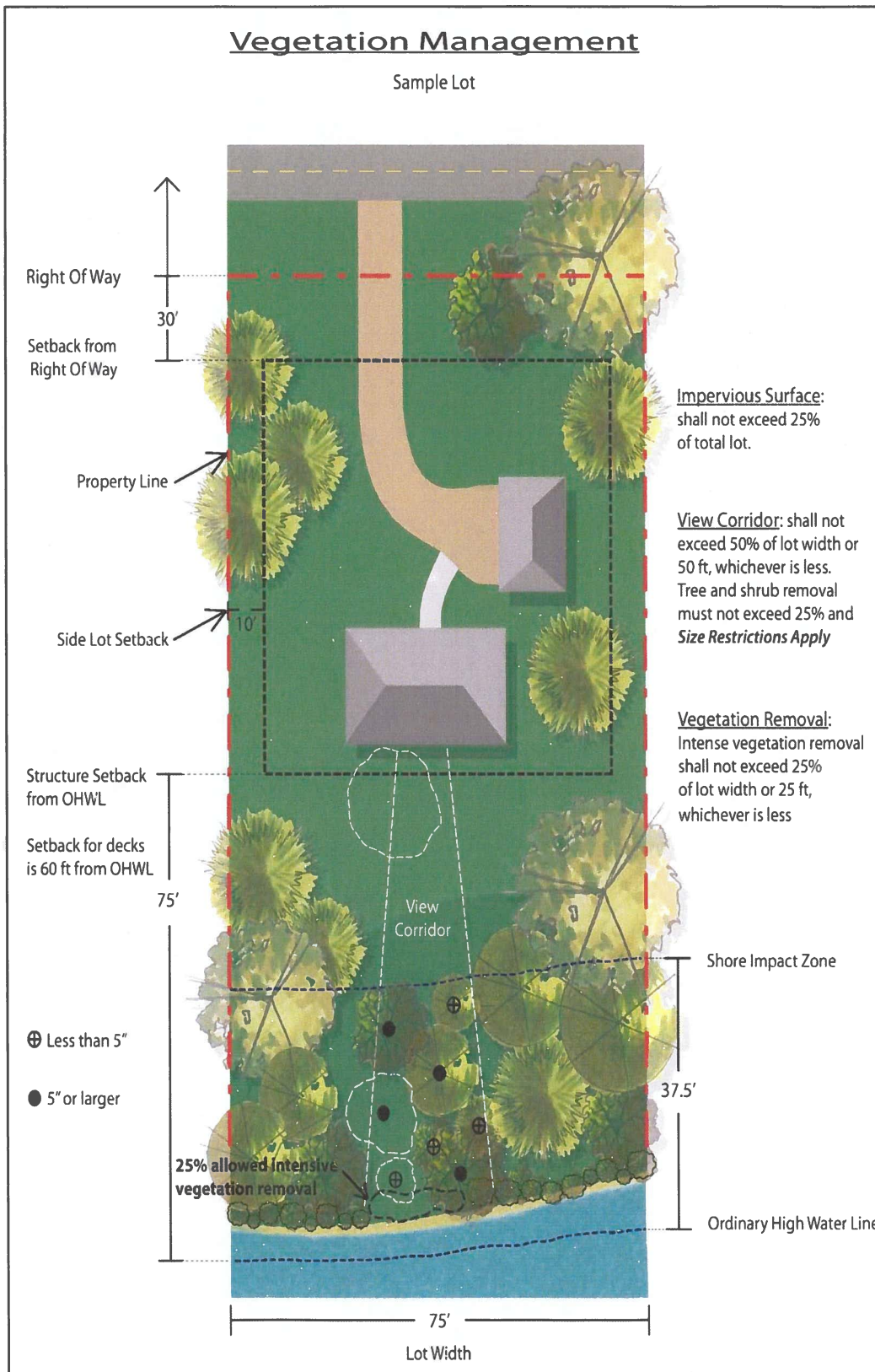


District may solicit the review of the trees by an independent arborist, at the property owner's expense.

- (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 <sup>1</sup>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 2:1 as part of a restoration order, based upon applicable density and spacing recommendations.

Number: 1	Author: jon.olson	Subject: Line	Date: 2/7/2025 10:47:15 AM -06'00'
Number: 2	Author: jon.olson	Subject: Line	Date: 2/7/2025 10:47:28 AM -06'00'

Figure 7-2



C.

<sup>1</sup> Retaining Walls.

No definition of a retaining wall

<sup>2</sup>

(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.

too subjective.

<sup>3</sup>

(2)

*Existing Retaining Wall Reconstruction.* <sup>4</sup> 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 6.A(4) prior to discharging to the waterbody; or

---


 Number: 1      Author: scott      Subject: Highlight      Date: 2/7/2025 10:52:12 AM -06'00'

---

 Number: 2      Author: jon.olson      Subject: Architect      Date: 2/7/2025 10:52:48 AM -06'00'

---

No definition of a  
retaining wall

 Number: 3      Author: jon.olson      Subject: Architect      Date: 2/6/2025 3:50:44 PM -06'00'

---

too subjective.

 Number: 4      Author: jon.olson      Subject: Highlight      Date: 2/6/2025 3:50:07 PM -06'00'

---

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 this is true,  
leave it in the  
City's rules.  
Should not be  
included in  
PRWD rules

1

- 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)

2

Retaining walls within the Shore Impact Zone are not permitted within the City of Detroit Lakes.

#### 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 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.




---

 Number: 1      Author: jon.olson      Subject: Architect      Date: 2/7/2025 10:53:45 AM -06'00'

---

If this is true, I  
eave it in the C  
ity's rules. S  
ould not be i  
ncluded in P  
RWD rules

---

 Number: 2      Author: scott      Subject: Highlight      Date: 2/7/2025 10:52:58 AM -06'00'

---

excluding City of  
Detroit Lakes storm  
sewer

1

Comment provided by Jon Olson, Apex Engineering and Scott Walz, Meadowland Surveying

differs from definition 2

## 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. Ch. 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.

---

≡ Number: 1 Author: jon.olson Subject: Architect Date: 1/6/2025 2:47:26 PM -06'00'

---

excluding City of Detroit Lakes storm sewer

≡ Number: 2 Author: jon.olson Subject: Architect Date: 1/6/2025 2:47:59 PM -06'00'

---

differs from definition

 Number: 3 Author: jon.olson Subject: Highlight Date: 1/6/2025 2:47:45 PM -06'00'

---

including its natural streams and watercourses, and artificial channels  
and piped systems

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. Ch. 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. 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 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 ACSIC<sup>1</sup> 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. Ch. 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 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.

---

<sup>1</sup> 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.

DRAFT

## CHAPTER 10. BUFFERS

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

where is this defined? ①

- 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, ② 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 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), and when that cannot be accomplished, the District will use its Administrative Penalty Order (APO) powers granted by Minn. Stat. § 103F.48.

### 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 Minn. Stat. § 103F.48 subs. 4.3 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 of a 16.5-foot minimum width. 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 requirement of 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 requirement of Minn. Stat. § 103F.48 subs. 4.1 does not apply to land that is:

---

☰ Number: 1 Author: jon.olson Subject: Architect Date: 1/6/2025 2:51:29 PM -06'00'

---

where is this defined?

📄 Number: 2 Author: jon.olson Subject: Highlight Date: 1/6/2025 2:51:16 PM -06'00'

---

o achieve the stated  
purposes

- (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. 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, subdivision 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, subdivision 6, or by petition pursuant to Minn. Stat. § 103E.715, subdivision 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 average Buffer, the drainage system will be required to acquire only the first 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 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. Ch. 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: (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 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 10.6(C)(1)(a).
  - (c) \$200 per parcel per month after six (6) months (180 days) following the time period in 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 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., Ch. 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 \_\_\_\_\_; <sup>1</sup>published in the *Detroit Lakes Tribune* on \_\_\_\_\_.

should be published  
prior to adoption.


<sup>2</sup>

DRAFT

---

 Number: 1      Author: jon.olson      Subject: Highlight      Date: 2/7/2025 11:09:57 AM -06'00'  
Published in the Detroit Lakes Tribune on\_\_\_\_\_.

---

 Number: 2      Author: jon.olson      Subject: Architect      Date: 2/7/2025 11:09:47 AM -06'00'  
should be published prior to adoption.