

**COMFORT LAKE - FOREST LAKE WATERSHED DISTRICT RULES**

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## **INTRODUCTION**

The Comfort Lake - Forest Lake Watershed District (the "District") adopts these Rules and Regulations as required by Minnesota Statute 103D.341 to accomplish the purposes in Chapter 103D, implement the powers of the managers, and the policies of the District as contained in the District Watershed Management Plan (the "Plan").

## **RELATION OF WATERSHED DISTRICT TO MUNICIPALITIES**

The District recognizes that the primary control and determination of appropriate land uses is the responsibility of the municipalities. 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 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 these Rules, in addition to conforming with the development guides and plans adopted by municipalities.

The District shall exercise control over development by its permit program described in these rules to ensure the maintenance of needed water storage areas, their shorelines, and protection of existing natural topography and vegetative features in order to preserve them for present and future beneficial uses.

The District will review and permit projects sponsored or undertaken by municipalities and other governmental units, and will require permits of the contractor in accordance with these Rules for governmental projects which have an impact on water resources of the District. These projects include but are not limited to, land development, road, trail and utility construction.

The District desires to serve as technical advisors to the municipal officials in the preparation of local surface water management plans and the review of individual development proposals prior to investment of significant public or private funds. To promote a coordinated review process between the District and the municipalities, the District encourages the municipalities 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 these rules. The District intends to coordinate with each municipality to ensure that property owners and other permit applicants are aware of the permit requirements of both bodies. By coordinating, the District and municipalities also can avoid duplication, conflicting requirements and unnecessary costs for permit applicants and taxpayers.

The District urges municipalities to develop, as rapidly as possible, local surface water management plans, providing a coordinated system of managing surface water on a regional or subwatershed basis consistent with their local water management plan and the District's Rules.

## **DEFINITIONS**

“Agricultural activity” means the use of land for the production of agronomic, horticultural or silvicultural crops, including nursery stock, sod, fruits, vegetables, flowers, forages, cover crops, grains, and Christmas trees. Agricultural activity also includes animal husbandry and grazing.

“Bed of waterbody” means all portions of a waterbody located below the ordinary high-water level.

“Bioengineering” means the use of live plant materials to provide erosion control, slope and stream bank stabilization, landscape restoration, and wildlife habitat. These techniques are used alone or in conjunction with conventional engineering techniques.

“Buffer” means an upland area adjacent to a lake, stream or wetland that is maintained in or restored to primarily native vegetation.

“Development” means alteration of land contours or the placement of one or more structures or surfaces on a single parcel, or on contiguous parcels pursuant to a common scheme. Development includes any land disturbance, or development or redevelopment of impervious surface, including but not limited to road and/or parking lot construction or reconstruction.

“Developed site” means a parcel or portion of a parcel containing one or more structures or impervious surfaces and may contain associated landscaped or actively maintained vegetated areas.

“Distributed CN-value approach” means an approach that separately assigns a curve number to each land use to more accurately reflect volume and timing of site-generated runoff. Impervious surfaces directly connected to stormwater conveyances may not be grouped together with disconnected impervious and pervious areas for calculation of drainage area curve numbers.

“Facility” means any part of a natural or constructed system contributing under the stormwater management plan to meeting a standard of section 2.4.

“Feasible” means technically achievable at a cost, in the District’s determination, not substantially disproportionate to the stormwater management benefit to be gained.

“Floodplain” means the area adjoining a watercourse or water basin that has been or would be covered by a flood expected to occur on an average frequency of the 100-year recurrence interval. An applicable delineation in the District’s Hydrologic and Hydraulic study (SRF 2005) shall govern.

“General development lake” means a lake so designated by the Minnesota DNR pursuant to Minn. Rules 6120.3000.

“Groundwater-dependent natural resource” (GDNR) means a feature with surface emergence of groundwater at a spring or seepage area, sufficiently mineral rich to support a plant community or aquatic ecosystem listed in the Appendix to these Definitions. Information used to identify a GDNR includes Minnesota Land Cover Classification System plant community data, information on known springs and groundwater seepages, wetland function and value assessments, flow and water quality data and site inspection data.

“Impervious surface” means a surface that has been compacted or covered with a layer of material, or is likely to become compacted from expected use, so that it is highly resistant to infiltration by water.

“Land Disturbance” Any activity on property that results in a change or alteration in the existing ground cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, stockpiling, excavation and borrow pits. Road milling/overlay and routine vegetation management activities will not be considered land disturbance.

“Landlocked basin” means a basin localized depression that does not have a natural outlet at or below the water elevation of the 10-day runoff (snowmelt) event with a 100-year return frequency using the 2000 Washington County Topographic Survey and Chisago County Topographic Survey.

“Manage 1,” as a wetland classification, means a wetland that does not qualify as a “Preserve” wetland but that meets one or more of the following rating levels pursuant to the most current version of Minnesota Routine Assessment Method (MnRAM) or other method approved by the District:

Function or Value	Rating
Vegetative Diversity	High
Wildlife Habitat	High
Fish Habitat	High
Aesthetics/education/recreation/cultural AND Wildlife Habitat	High Medium
Stormwater Sensitivity AND Vegetative Diversity	High Medium
Vegetative Diversity AND Maintenance of Hydrologic Regime	Medium High

“Manage 2,” as a wetland classification, means a wetland that does not qualify as a “Preserve” or “Manage 1” wetland but that meets one or more of the following rating levels pursuant to the most current version of Minnesota Routine Assessment Method (MnRAM) or other method approved by the District:

Vegetative Diversity	Medium
Wildlife Habitat	Medium
Fisheries Habitat	Medium
Aesthetics/education/recreation/cultural AND Wildlife Habitat	Medium Low

“Manage 3,” as a wetland classification, means a wetland that does not qualify as a “Preserve,” “Manage 1” or “Manage 2” wetland.

“Mapped natural community” means a natural community identified in “Natural Communities and Rare Species Map for Washington and Chisago County” (Minnesota Department of Natural Resources, Natural Heritage Program, 1990), or in a natural resources inventory using the same protocol as established by the Minnesota Department of Natural Resources.

“Middle zone” is a vegetative buffer zone that extends from the upland edge of the streamside zone to the interior edge of the outer zone of a watercourse.

“Natural environment lake” means a lake so designated by the Minnesota DNR pursuant to Minn. Rules 6120.3000.

“NURP standard” means the design criteria developed pursuant to the Nationwide Urban Runoff Program (U.S. EPA, 1983) and published by the Minnesota Pollution Control Agency in Protecting Water Quality in Urban Areas 1991” (sections 4.1-4 through 4.1-7), as may be amended.

“Ordinary high-water level” or "OHWL" means the boundary of a public water or wetland as determined by the Department of Natural Resources, and is an elevation indicating the highest water level that has been maintained for a sufficient period of time to leave evidence on the landscape, commonly indicated by a change from predominantly aquatic to predominantly terrestrial vegetation. For watercourses, the ordinary high-water level is the elevation of the top of bank of the channel. For basins and flowages, it is the operating elevation of the summer pool. If the DNR has not defined an OHWL, the District, with DNR consultation, will establish the elevation for the purpose of the permit application.

“Outer zone” is a vegetative buffer zone that extends from the upland edge of the middle zone of a watercourse to a point specified in these Rules.

“Public water” has the definition at Minnesota Statutes § 103G.005, subd. 15.

“Pre-development” means at the time preceding creation of impervious surface or substantial change in site hydrology or infiltration by alteration of site vegetation or contour.

“Preserve,” as a wetland classification, means a wetland meeting any of the following rating levels pursuant to the most current version of Minnesota Routine Assessment Method (MnRAM) or other method approved by the District:

Function or Value	Rating
Vegetative Diversity	Exceptional
Wildlife Habitat	Exceptional
Fish Habitat	Exceptional
Aesthetics/education/recreation/cultural AND Wildlife Habitat	Exceptional High
Stormwater Sensitivity AND Vegetative Diversity	Exceptional Medium or greater
Vegetative Diversity AND Maintenance of hydrologic regime	High High or greater

“Recreational development lake” means a lake so designated by the Minnesota DNR pursuant to Minn. Rules 6120.3000.

“Revegetation” means the planting of native indigenous species.

“Shore impact zone” means land located between the OHWL of a public water and a line parallel to it at a distance defined under MN Rule 6120.

“Site” means the parcel or parcels of land on which the activity subject to District permitting is to occur. If subdivision triggers District permitting, the site is the area being subdivided. For an independent roadway, trail or other linear project, “site” means the area of right-of-way held and to be acquired for the project for the section or sections of roadway or trail to be disturbed.

“Site design practice” means a method of managing stormwater peak flow, flow volume or quality listed in Appendix 2.1 to Rule 2.0.

“Steep slope” means land with an average slope in the direction of flow exceeding twelve (12) percent over a distance of 50 feet or more or land defined as steep slope in the corresponding County Soil Survey (Chisago or Washington County), as amended.

“Stream” means a natural or altered natural watercourse.

“Stream buffer zone” means a streamside zone, middle zone or outer zone.

“Streamside zone” is a vegetative buffer zone that extends from the ordinary high-water mark of a watercourse to the interior edge of the middle zone.

“Structure” means anything that is constructed or placed on the ground and that is, or is intended, to remain for longer than a brief, temporary period of time.

“Subdivision” means the separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots.

“Subwatershed” means an area wholly or partly within the Comfort Lake - Forest Lake watershed defined by the drainage of all surface flows to a common waterbody.

“Thalweg” means the line connecting the points of lowest bed elevation in the direction of flow.

“Utility” means a facility for transmitting water, wastewater, steam, gas, electricity or similar commodities, including but not limited to cable access television and data transmission lines.

“Waterbody” means a watercourse or waterbasin.

“Waterbasin” means an enclosed natural depression with definable banks, capable of retaining water.

“Watercourse” means any definable channel including a natural channel, altered natural channel or artificial channel that has definable beds and banks capable of conducting confined runoff from adjacent land.

“Wetland” means land transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. A wetland (a) is predominated by hydric soils; (b) is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (c) under normal circumstances, supports a prevalence of hydrophytic vegetation. A wetland is a waterbasin if it meets the definition of that term.

“Wetland Conservation Act or WCA” means the Minnesota Wetland Conservation Act of 1991 as amended. Wetlands shall be delineated using the methods outlined in the U.S. Army Corps of Engineers *Wetlands Delineation Manual*.

## DEFINITIONS – APPENDIX

Groundwater-Dependent Natural Resource Types  
(Following Minnesota Land Cover Classification System protocol)

Cold water trout stream	Wet prairie seepage subtype - saturated soils
Spring creek	Calcareous seepage fen
Groundwater-dependent lake	Calcareous seepage fen boreal subtype
Tamarack swamp seepage subtype	Calcareous seepage fen prairie subtype
Tamarack swamp minerotrophic subtype	Poor fen
Tamarack swamp sphagnum subtype	Poor fen sedge subtype
White cedar swamp seepage subtype	Poor fen patterned fen subtype
Black spruce bog	Rich fen
Black spruce bog intermediate subtype	Rich fen sedge subtype
Black spruce bog raised subtype	Rich fen floating-mat subtype - saturated soils
Black ash swamp seepage subtype	Rich fen patterned fen subtype
Mixed hardwood swamp seepage subtype	Open bog Open sphagnum bog schlenke subtype
Scrub tamarack poor fen	Graminoid bog
Birch bog, spiraea temporarily flooded shrubland	Wet meadow floating mat subtype
Shrub fen	Rich fen floating-mat subtype - semipermanently flooded
Poor fen shrub subtype	Rich fen floating-mat subtype - intermittently exposed
Rich fen shrub subtype	Rich fen floating-mat subtype - permanently flooded
Wet brush-prairie seepage subtype	Talus slope algific subtype
Shrub swamp seepage subtype	Seepage meadow
Alder swamp - saturated soils	Wet cliff
Birch bog, spiraea shrubland - saturated soils	Moderate cliff
Alder swamp	Midwest sedimentary dripping cliff
Birch bog, spiraea shrubland - seasonally flooded	Saline spring mud flats
Birch bog, spiraea shrubland - semipermanently flooded	

## 1.0 PROCEDURAL REQUIREMENTS

**1.1 Application Required.** Any person undertaking any activity for which a permit is required by these Rules shall first submit for review a permit application, engineering design data and such other information to the District as may be required by these Rules to determine whether the improvements are in compliance with the criteria established by these Rules. All permit applications must bear the original signature of the landowner.

**1.2 Applicability of Rules.** The following is a summary of the applicability of specific District rules. Please review carefully the more detailed provisions of the individual rules to determine how each rule applies to a given project.

### 1.2.1 Stormwater Management (Rule 2.0):

- (a) Residential subdivision or development of three (3) or more lots within one thousand (1000) feet of a public water and residential subdivision or development of four (4) or more lots elsewhere.
- (b) Non-residential or multi-residential development, including road and other linear projects not connected to a development parcel, creating new impervious surface or disturbing existing impervious surface that, in the aggregate, exceeds:
  - (i) One (1) acre or five (5) percent of a site (whichever is less) within one thousand (1000) feet of a public water; or
  - (ii) One (1) acre or twenty-five (25) percent of a site (whichever is less) elsewhere.
- (c) The criteria of section 2.4 will apply to all existing and new impervious surface on the project site. Notwithstanding, for road and other linear projects, only net new surface will be considered. For the purpose of this rule, mill and overlay of hard surface is not considered new surface. However, road or other hard surface that is reconstructed by removing the pavement layer and exposing the underlying soil is considered new surface.

### 1.2.2 Erosion Control (Rule 3.0):

Any grading, filling, or other lands disturbing activity that involves:

- (a) the grading, filling, or other land alteration activities which involve movement of more than two hundred (200) cubic yards of earth or erodible material.
- (b) Surface disturbance or removal of vegetative cover on one quarter (1/4) acre or more of land within one thousand (1000) feet of a public water or one (1) acre or more of disturbance elsewhere.

### 1.2.3 Lake, Stream, and Wetland Buffer (Rule 4.0):

Any lot containing land within the buffer zone of any General Development Lake, Recreational Development Lake, Natural Environment Lake, stream or wetland within the watershed; and

- (a) that results from subdivision of land into two or more buildable lots on or after February 1, 2009; or
- (b) that is subject to land disturbance for the purpose of a new primary use for which (i) a rezoning or (ii) a land use variance for lot hard surface percentage or structure setback from a wetland or surface water resource has been approved on or after February 1, 2009.

**1.2.4 Shoreline & Streambank Alteration (Rule 5.0):**

- (a) Construction or installation of a shoreline or streambank stabilization partially or wholly below the ordinary high water mark of a natural or altered natural watercourse defined as a public water or a waterbasin.
- (b) Notwithstanding subsection 1.2.4(a), a District permit under Rule 5.0 is required only if:
  - (a) a Minnesota Department of Natural Resources public waters work general permit covering shoreline and streambank alterations is in effect; and
  - (b) the general permit excuses property owners from the DNR individual permit requirement if they hold a District permit.

**1.2.5 Watercourse and Basin Crossing (Rule 6.0):**

Any use of the beds of any waterbody within the District for the placement of roadways, utilities, water control structures.

**1.2.6 Floodplain and Drainage Alteration (Rule 7.0):**

- (a) Any alteration or filling of land below the 100-year flood elevation of any wetland, public water, stormwater management basin, or landlocked subwatershed unless a permit is received from the appropriate local government unit in accordance with a state-approved floodplain management ordinance.
- (b) Any artificial redirection of flow across drainage boundaries or obstruction of the natural flow of surface water.

**1.2.7 Wetland Management (Rule 8.0):**

Permit required from Wetland Conservation Act (WCA) Local Government Unit (LGU) for activities that may impact wetlands. Activities conducted in wetlands may require a permit from the District under the other Rules of the District, see Rules 2.0 through 7.0 in particular.

**1.3 Forms.** Permit applications shall be submitted using forms provided by the District. Forms are available from the District Office located at 220 North Lake Street, Forest Lake, Minnesota, 55025 or on the District's website at [www.cfllwd.org](http://www.cfllwd.org). Permit applications shall be addressed to:

Comfort Lake - Forest Lake Watershed District  
220 North Lake Street  
Forest Lake, Minnesota, 55025

**1.4 Action by Board of Managers.** The managers shall act within sixty (60) days of receipt of a completed application and complete set of required exhibits. No application is considered complete unless all required items listed in each applicable rule are submitted in the form acceptable to the District. The District will provide written notice to applicant of any missing items needed to complete the application, within fifteen (15) business days from receipt of application.

**1.5 Conformity with Local Requirements.** The District encourages the developer to seek District input starting at the concept stage.

**1.6 Notification Process.** A certified list of property owners obtained from Washington County and/or Chisago County who reside adjacent to the subject property, and all property owners within five hundred (500) feet of the property boundary of a proposed project, must be submitted before an application is considered complete. District staff will send notice of the proposed project to the individuals on the mailing list for the applicant at the applicant's expense. A copy of the list will be retained with the application at the District office.

If the project is proposed within the shoreland management area of a lake with a formal lake association known by the District, the District will notify the lake association of the application.

**1.7 Alternative Notification.** The Board, upon written request from the applicant, may approve alternative notification for any of the following projects.

- (a) A linear project, including but not limited to a road, sidewalk or trail, one-half mile or more in length.
- (b) A project on a parcel or contiguous parcels with an area of one hundred (100) acres or more, where no more than five (5) percent of the area will be disturbed, provided the disturbed area does not include a wetland.
- (c) A project where the applicant proposes to combine notification under this Rule with notification required under the approval procedures of another governmental body.

The applicant must demonstrate that an alternative means of notification will provide adequate notice to residents near the proposed activity.

**1.8 Permit Renewals and Transfers.** Work must be performed under an active permit. If a permit approval requires conditions to be met before the permit will issue, those conditions must be met within sixty (60) days of approval. A permit expires one year from the date the permit is issued unless the permit states otherwise or the permit is suspended or revoked. To renew or transfer a permit, the permittee must submit a written request to the District prior to the permit expiration date, stating the reason for the renewal or transfer. The Board, in its discretion, may grant a permit for a duration longer than one (1) year if a request to do so is included in the duly-noticed application.

**1.9 Regular Meetings.** District meeting schedules, notices, and agendas can be obtained from the District's website ([clflwd.org](http://clflwd.org)) or by contacting the District office.

**1.10 Permit Decisions.** Permit decisions will be made by the Board of Managers except as the Board, by written resolution, may delegate to the District administrator.

## **2.0 STORMWATER MANAGEMENT**

**2.1 Purposes and Policy.** It is the policy of the District to:

2.1.1 Preserve natural infiltration, groundwater recharge and subsurface flows that support groundwater dependent resources including lakes, streams, channels, wetlands, plant communities and drinking water supplies;

2.1.2 Work toward restoration of natural hydrology;

2.1.3 Limit off-site stormwater flow volume to prevent down-gradient flooding and impacts to waters within the Comfort Lake - Forest Lake watershed; and

2.1.4 Require management of stormwater flow to limit sediment, nutrient and metals concentrations conveyed to ground and surface waters and promote water quality.

2.1.5 Minimize connectivity of impervious surfaces to stormwater conveyance systems and preserve the natural hydrology of landlocked basins to minimize basin and downgradient flood risk.

2.1.6 Assure that property owners control rate and volume of stormwater runoff originating from their property so that surface water and groundwater quantity and quality is protected, soil erosion is minimized, flooding potential is reduced and thermal impacts are reduced.

2.1.7 Encourage land use practices that consider the groundwater, surface water and associated natural resources in the decision making process.

2.1.8 Work with all communities and non-community public water supply systems as they develop and implement their wellhead protection plan.

2.1.9 Limit activities that result in the loss of locally unique groundwater dependent resources.

2.1.10 Follow general recommendations presented in the applicable county groundwater plan.

## **2.2 Applicability.**

Subject to an exception in section 2.7, the requirements of this section apply to:

- (a) Residential subdivision or development of three (3) or more lots within one thousand (1000) feet of a public water and residential subdivision or development of four (4) or more lots elsewhere.
- (c) Non-residential or multi-residential development, including road and other linear projects not connected to a development parcel, creating new impervious surface or disturbing existing impervious surface that, in the aggregate, exceeds:
  - (j) One (1) acre or five (5) percent of a site (whichever is less) within one thousand (1000) feet of a public water; or
  - (ii) One (1) acre or twenty-five (25) percent of a site (whichever is less) elsewhere.
- (c) The criteria of section 2.4 will apply to all existing and new impervious surface on the project site. Notwithstanding, for road and other linear projects, only net new surface will be considered. For the purpose of this rule, mill and overlay of hard surface is not considered new surface. However, road or other hard surface that is reconstructed by removing the pavement layer and exposing the underlying soil is considered new surface.

**2.3 Regulation.** Before commencing any activity described at section 2.2, a developer of land for residential, commercial, industrial, institutional, or public use shall submit a stormwater management plan to the District in conformity with the requirements of this Rule, and secure a permit from the District. The District encourages the developer to seek District input starting at the concept stage.

**2.4 Standards.**

2.4.1 Management Standards. An applicant for a stormwater management permit must demonstrate to the District that the proposed land-altering activity will:

(a) Maintain peak stormwater flow rate from each point of discharge from the site for a 24-hour precipitation event with a return frequency of 2, 10, or 100 years in the drainage area in which the site is located at or below the peak stormwater flow rate calculated in accordance with subsection 2.5.4.

(b) Maintain stormwater flow volume from each point of discharge from the site for a 24-hour precipitation event with a return frequency of 2 years, or 5 years within a landlocked basin or an area that drains to a landlocked basin, at or below the pre-development stormwater flow volume, calculated in accordance with subsection 2.5.4.

(c) Decrease phosphorus loading by fifty (50) percent from existing conditions for developed sites or sites with agricultural activity and not increase phosphorus loading from existing on all other sites.

(d) Maintain the bounce in water level or duration of inundation, during a precipitation event of critical duration with a return frequency of 2, 5, or 100 years in the drainage area in which the site is located, for any downstream lake or wetland within the limit specified for the lake or wetland susceptibility class as follows:

<u>Susceptibility Class</u>	<u>Permitted Bounce</u>	<u>Inundation Period for 1.5-Year event</u>	<u>Inundation Period for 10-Year or Greater Event</u>
Preserve Wetland	Pre-development	Existing	Existing
Manage 1 Wetland	Pre-development + 0.5 feet	Existing plus 1 day	Existing plus 2 days
Manage 2 Wetland	Pre-development + 1.0 feet	Existing plus 2 days	Existing plus 14 days
Manage 3 Wetland and Lakes	No limit	Existing plus 7 days	Existing plus 21 days

**Source: State of Minnesota Stormwater Advisory Group, “Stormwater and Wetlands Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Stormwater and Snowmelt Runoff on Wetlands” (June 1997).**

2.4.2 Obligation to Ensure Performance. To find that the standards of this rule have been met, the District may require as-built drawings or impose additional requirements as a specific condition of approval. The District may require monitoring or performance evaluation as a condition of approving a stormwater management practice that has not been adequately demonstrated in the proposed application.

2.4.3 Assurance of Downgradient Capacity. An applicant may be required to demonstrate that downgradient stormwater conveyance structures and features will be adequate to handle proposed peak flow or flow volume from the site.

## 2.5 Stormwater Management.

2.5.1 Sequence of Volume Management Methods. To meet the standards of section 2.4, site-based stormwater management methods shall be used in the following sequence. A preferred method shall be used to the degree feasible before a less-preferred method is used. Treatment in a regional facility shall be governed not by this subsection, but by subsection 2.7.3.

(a) First, the applicant shall comply with the stormwater volume reduction standard to the maximum extent practicable on-site through volume reduction methods approved by the District.

(b) Second, for the remaining volume reduction required to fully meet the standard, the applicant shall comply with the volume reduction standard at an offsite location or through the use of qualified volume banking credits as determined by subsection 2.5.2. Volume reduction may be accomplished at another site outside of the project area or through the use of banked credits as long as it yields the same volume reduction benefit, and is approved by the District. Offsite compliance and banking credits shall be achieved in the following sequence:

- (i) within the same subwatershed as the project site
- (ii) within a subwatershed adjacent to the project site, or
- (iii) within the Comfort Lake – Forest Lake Watershed District.

(c) Third, as a last alternative, for the remaining volume reduction required, the applicant shall pay into the District's Stormwater Impact Fund. The required amount to contribute to the Stormwater Impact Fund will be set by resolution of the District Board, and amended from time to time, as the estimated cost of creating equivalent volume reduction within the subwatershed under generally favorable conditions.

- (i) Funds contributed to the Stormwater Impact Fund, will be spent within the subwatershed where the project impact occurred. If the managers thereafter conclude there is no reasonable opportunity to use the funds in that manner, they may in writing direct use of the funds as far as possible to serve similar water resource purposes within the same geographic area.
- (ii) Funds contributed to the Stormwater Impact Fund shall be allocated to volume reduction projects by the District according to a stormwater impact fund implementation plan as approved by the District Board and amended from time to time.

2.5.2 Volume Banking. Excess volume reduction or runoff retention achieved onsite, up to the volume of the five-year, 24-hour event, may be banked (credit) for use on other projects within the District that are unable to fully meet the District stormwater volume reduction standard onsite.

The District has established and will maintain a list of available banked runoff retention Volume Credits.

- (a) Volume reduction or runoff retention achieved onsite in excess of the requirement of subsection 2.4.1 may be listed in the District's bank for use on other projects within the District that are unable fully to meet the volume reduction standard of subsection 2.4.1(b), on the project site.
- (b) Stormwater management facilities or practices relied upon to create Volume

Credits must be included in the recorded maintenance instrument or maintenance plan specified in subsection 2.5.7.

- (c) Volume Credits may be utilized by permit applicants to meet the requirement of subsection 2.4.1(b) only after the applicant has demonstrated to the District that:
  - a. One-half (1/2) inch of runoff from all new impervious surface on the parcel will be abstracted within parcel boundaries;
  - b. Soil conditions and/or other site constraints prevent abstraction of additional runoff onsite. Infiltration is considered not feasible where soils do not support infiltration, documented soil contaminants preclude the use of infiltration practices, or there is inadequate separation from the water table.
  - c. The facility or practice generating the credit is providing the level of volume control for which the applicant seeks credit.
- (d) Permit applicants are responsible for contacting a seller of Volume Credits and arranging the sale on terms established by the interested parties. The District will certify the sale through a form established by the District and completed by the buyer and seller of the Volume Credits.

2.5.3 Site Design Practice Infeasibility. If a claim that a site design practice is infeasible rests on its inconsistency with a local ordinance or state standard, reasonable attempts to gain permission to incorporate the practice into site design must be documented. Satisfactory documentation includes denial of an exception or variance or a written statement by the authority that an exception or variance would be unlikely to be granted.

2.5.4 Calculating Off-Site Stormwater Flow. To calculate off-site flow, Soil Conservation Service TR-20 method is to be used. CN-values used to determine the pre-development rate and volume control standard under Rule 2.0 will be as follows:

Hydrologic Soil Group	Curve Number
A	30
B	58
C	71
D	78

All assumptions for CN-values and impervious surface area estimates must be clearly stated. A distributed CN-value approach shall be used to calculate runoff flows.

An area of the site to be disturbed during construction shall be assigned a CN-value corresponding to a soil permeability class one step below that of the undisturbed soil unless the permit specifies a District-approved method to restore soil structure.

2.5.5 Pretreatment. An infiltration facility used to meet the standard of subsection 2.4.1(b) must be designed and maintained to provide for pretreatment of stormwater runoff. Pretreatment shall be sized to 25% of the infiltration volume.

2.5.6 Acquisition of Property or Contract Rights. An applicant relying on on- or off-site facilities for complying with the standards of section 2.4 must possess all land access rights necessary for design, construction, and long-term operation and maintenance of the facilities.

This subsection does not apply to treatment in a regional facility pursuant to subsection 2.7.3(a).

**2.5.7 Basin in Contributing Area to Groundwater-Dependent Natural Resource.** As the District develops the data to do so, it will by resolution of the Board of Managers adopt maps of the surface contributing areas of high-priority groundwater-dependent natural resources. If a stormwater basin is proposed within a mapped surface contributing area, it must contain and infiltrate the volume generated by a 2-year, 24-hour storm event, if feasible. The basin bottom must be at least three (3) feet above the seasonally high water table. If this infiltration standard is not met basin outflow must be non-erosive and routed through a subsurface system, flow spreader or other device that discharges water through or across the ground to lower discharge temperature to that of the ambient soil.

**2.5.8 Stormwater Management Facility Maintenance Instrument.** If a developer proposes to construct a wet detention basin, infiltration or pretreatment facility, outlet structure, culvert, outfall structure, or other stormwater management facility in order to meet the requirements of this Rule, the developer must submit with the permit application a maintenance instrument. The maintenance instrument shall identify and protect areas of stormwater, detention, infiltration and overflow; specify the methods, schedule, and responsible parties for maintenance; provide for perpetual facility maintenance; and contain at a minimum the requirements in the District's standard maintenance declaration. The executed maintenance instrument must be recorded against the property deed with the County before permit issuance. If a municipal facility maintenance plan has been approved by the District and the municipality will maintain the facility, a separate maintenance instrument is not required.

**2.5.9 Form of Recordation.** Rights under subsection 2.5.5, a maintenance instrument under subsection 2.5.8, and any commitment of indefinite duration that is a condition of a District permit shall be recorded against the property deed with the County as an easement or declaration in a form acceptable to the District. The recordation requirement does not apply to public permittees where these Rules specifically so state.

**2.5.10 Conformance to Floodplain and Drainage Alteration Requirements.** In addition to all other legal requirements that may apply, all land-altering and related stormwater management activity pursuant to Rule 2.0 shall comply with freeboard requirements of Rule 7.0.

**2.5.11 Stormwater Management Facility Construction Schedule.** The applicant must submit a construction schedule showing that stormwater management facilities required for compliance with Rule 2.0 will be constructed contemporaneous to the work authorized by the permit. The District may use financial assurances in accordance with Section 10.0 of these Rules to complete the construction of facilities that has not met the approved schedule.

**2.6 Required Exhibits.** The following items, submitted in duplicate and prepared by appropriate professionals or certified by a professional engineer registered in the State of Minnesota, registered land surveyors, or other appropriate professional shall accompany all permit applications submitted to the District pursuant to Rule 2.0

2.6.1 Property lines and delineation of lands under applicant's ownership;

- 2.6.2 For existing and proposed conditions, topography showing all off-site and on-site catchments contributing to surface flows onto or from the site;
- 2.6.3 The location, alignment and elevation of proposed and existing stormwater facilities;
- 2.6.4 Delineation of existing on-site wetland, shoreland, drain tiling and floodplain areas as defined in the Washington County FEMA base flood elevation mapping study (2008), or the most current District information which can be obtained by contacting the District offices or visiting the District website at [clflwd.org](http://clflwd.org);
- 2.6.5 Existing and proposed normal and 100-year water elevations on site;
- 2.6.6 Existing and proposed site contour elevations at two-foot intervals, related to NGVD, 1929 datum;
- 2.6.7 Elevation of the OHWL of each public water on the site, if determined by the Minnesota Department of Natural Resources, and of any legal buffer associated with the public water;
- 2.6.8 Construction plans and specifications for all proposed facilities including construction sequence;
- 2.6.9 A maintenance schedule for all proposed facilities;
- 2.6.10 Stormwater runoff rate analyses for the 2-, 5-, 10-, and 100-year critical events and runoff volume for the 2-year critical event under pre-settlement and proposed conditions, using Appendix 2.2 to simulate infiltration losses in designed practices;
- 2.6.11 All hydrologic, water quality, and hydraulic computations completed to design the proposed facilities, including a demonstration of conformance to standards in subsection 2.4.1 (c) in the site aggregate;
- 2.6.12 Delineation of any flowage and drainage easements and other property interests dedicated to stormwater management purposes, including, but not limited to, viable and current county or judicial ditches;
- 2.6.13 Documentation as to the status of a National Pollutant Discharge Elimination System stormwater permit for the project from the Minnesota Pollution Control Agency and provide the Storm Water Pollution Prevention Plan (SWPPP) as it becomes available;
- 2.6.14 Geotechnical information including soil maps, borings, site-specific recommendations, and other information necessary to evaluate the proposed stormwater management design;
- 2.6.15 Wetland function and value assessment for all impacted wetlands pursuant to the most current version of Minnesota Routine Assessment Method (MnRAM) or other method approved by the District; and

2.6.16 All exhibits shall be submitted in an electronic format as well as in hard copy. Exhibits for flowage and drainage easements shall be submitted as shapefiles.

## **2.7 Exceptions.**

2.7.1 Performance Standard. The District may grant an exception to the sequencing requirements of subsection 2.5.1 providing applicant's demonstration, under subsection 2.5.1, that an alternative management technology or method will achieve the same levels of performance and reliability as the method specified at subsection 2.5.1.

2.7.2 Variance. The District may grant a variance to any requirement of Rule 2.0 under Rule 11.0. A variance shall be limited to the extent necessary to put the property to a reasonable or economically viable use.

2.7.3 Regional Treatment. Management of site stormwater in a regional facility constitutes compliance with Rule 2.0 in any of the following circumstances:

(a) Management is pursuant to and in accordance with a local water management plan approved by the District.

(b) An applicant has demonstrated infeasibility of on-site and off-site infiltration to fully meet the standard of subsection 2.4.1(b) and the District, in writing, finds that the proposed method of management would meet all standards of section 2.4 except for subsection 2.4.1(b).

(c) Management is pursuant to and in accordance with a cooperative agreement with the District that explicitly recognizes alternative compliance with Rule 2.0 under specified conditions.

## APPENDICES

### APPENDIX 2.1

#### **Inventory of Site Design Practices and Guidance on Their Use for Stormwater Management.**

- Avoid conversion of high-permeability soils.
- Avoid soil compaction.
- Target high-permeability soils for infiltration.
- Use natural depressions and swales, except wetlands, for runoff storage and infiltration, with overflow to vegetated areas.
- Crown roads and driveways to encourage runoff to swales.
- Increase stormwater flow path length to waterbody or wetland.
- Use filter strips at edges of impervious surfaces, property boundaries, waterbodies and wetlands.
- Avoid curbs and gutters on roadways.
- Direct rain gutter downspouts to pervious surfaces or below-grade tiles.
- Use pervious surfaces for roads, driveways, parking areas and walkways.
- Design street widths less than 26 feet and appropriate for projected traffic load.
- Design streets for parking on one side only.
- Design streets with sidewalk on one side only.
- Limit road and driveway lengths.
- Design smaller (e.g., 9' x 18') parking stalls.
- Design for shared parking stalls and driveways.
- Reduce cul de sac radius and use pervious center; use T or V turnaround.
- Design with reduced structure setback and frontage.

APPENDIX 2.2

**Design Infiltration Rates**

<b>Hydrologic Soil Group</b>	<b>Soil Textures*</b>	<b>Corresponding Unified Soil Classification**</b>	<b>Infiltration Rate [inches/hour]</b>
A	Gravel, sand, sandy gravel, silty gravel, loamy sand, sandy loam	GW - Well-graded gravel or well-graded gravel with sand GP - Poorly graded gravel or poorly graded gravel with sand	1.63
		GM - Silty gravel or silty gravel with sand SW - Well-graded sand or well-graded sand with gravel SP - Poorly graded sand or poorly graded sand with gravel	0.8
B	Loam, silt Loam	SM - Silty sand or silty sand with gravel	0.6
		ML - Silt OL - Organic silt or organic silt with sand or gravel or gravelly organic silt	0.3
C	Sandy clay Loam	GC - Clayey gravel or clayey gravel with sand SC - Clayey sand or clayey sand with gravel	0.2
D	Clay, clay loam, silty clay loam, sandy clay, silty clay	CL - Lean clay or lean clay with sand or gravel or gravelly lean clay CH - Fat clay or fat clay with sand or gravel or gravelly fat clay OH - Organic clay or organic clay with sand or gravel or gravelly organic clay MH - Elastic silt or elastic silt with sand or gravel	< 0.2

Source: Minnesota Stormwater Manual (2005)

### **3.0 EROSION CONTROL**

**3.1 Policy.** It is the policy of the Board of Managers to require erosion control for land development activities to prevent the siltation and sedimentation of streams, channels, lakes, wetlands, and groundwater recharge areas in the District.

**3.2 Applicability.** All persons shall submit an erosion control plan to the District, and secure a permit from the District approving the erosion control plan for any grading, filling, or other land disturbing activity that involves:

- (a) Grading, filling, or other land alteration activity that involves movement of more than two hundred (200) cubic yards of earth or erodible material.
- (b) Surface disturbance or removal of vegetative cover on one quarter (1/4) acre or more of land within one thousand (1000) feet of a public water or one (1) acre or more of disturbance elsewhere.

**3.3 Regulation.** The plan must meet the following standards:

3.3.1 An erosion control plan must be prepared by a qualified individual showing proposed methods of retaining waterborne sediments on site during the period of construction and showing how the site will be restored, covered, or revegetated after construction, including a timetable for completion;

3.3.2 The erosion control plan shall be consistent with the specifications of the MPCA manual "Protecting Water Quality in Urban Areas" and its current revisions;

3.3.3 The erosion control plan will specify measures for indefinite stabilization of exposed and stockpiled earth and erodible materials in the event that site work is suspended. These measures will be implemented within 30 days of a request by the District unless, on the basis of permittee's written response, the District finds that the site is active and actively managed under the erosion control plan. The District may set a later deadline for implementation if site conditions warrant.

**3.4 Required Exhibits.** The following items, prepared by an appropriate professional, shall accompany all permit applications submitted to the District pursuant to Rule 3.0:

3.4.1 Property lines and delineation of lands under applicant's ownership;

3.4.2 Existing and proposed site contour elevations at two-foot intervals, related to NGVD, 1929 datum;

3.4.3 Documentation as to the status of a National Pollutant Discharge Elimination System stormwater permit for the project from the Minnesota Pollution Control Agency and provide the Storm Water Pollution Prevention Plan (SWPPP), if required, as it becomes available; and

3.4.4 An erosion and sediment control plan consistent with the standards of sections 3.3 and 3.5.

### **3.5 Site Maintenance Practices.**

3.5.1 All erosion and sediment control measures shall be installed, and the District shall be given three business days' notice in writing, before land disturbance commences.

3.5.2 Erosion control measures shall not be removed until after the project is complete and the District determines that all disturbed areas have been fully stabilized, and shall be removed within 14 days thereafter;

3.5.3 Permanent wet detention basins used as temporary sedimentation basins during construction must be cleaned out after construction is complete and restored to their original design. Infiltration practices shall be protected from sedimentation and compaction during construction and shall remain offline until the contributing drainage area is stabilized;

3.5.4 The permittee is responsible at all times for the maintenance and proper operation of all erosion and sediment control facilities. On any property on which land-disturbing activity has occurred pursuant to a permit issued under this Rule, the permittee shall, at a minimum, inspect, maintain and repair all disturbed surfaces and all erosion and sediment control facilities and soil stabilization measures every day work is performed on the site, and at least weekly, until land-disturbing activity has ceased. Thereafter, the permittee shall perform these responsibilities at least weekly until vegetative cover is established;

3.5.5 All exposed soil areas and soil stockpiles within two hundred (200) lineal feet of a wetland, waterbody, a discernable surface drainage feature or a stormwater system inlet, and with a continuous positive slope to that water feature, must be stabilized with erosion control measures, or temporary or permanent cover, within twenty-four (24) hours after connection to a surface water. All other disturbed portions of the site must be stabilized with erosion control measures, or temporary or permanent cover, within fourteen (14) days after construction activity in that area has temporarily or permanently ceased. If an area is not permanently stabilized, it shall be managed in accordance with subsection 3.5.4.

3.5.6 The weekly inspection requirement of subsection 3.5.4, above, may be reduced to monthly between November 15 and snowmelt if site management conforms to the following:

- (a) Exposed soils are stabilized with established vegetation, straw or mulch, matting, rock or other approved product such as rolled erosion control product. Seeding is encouraged, but alone is not sufficient.
- (b) Temporary and permanent ponds and sediment traps are graded to capacity before spring snowmelt. This does not include infiltration/filtration facilities, which must be kept free of sediment until the site is fully stabilized.
- (c) Sediment barriers are properly installed at necessary perimeter and sensitive locations.
- (d) Slopes and grades are properly stabilized with approved methods. Rolled erosion control products must be used on slopes greater than 3:1 (H:V) and where erosion conditions dictate.
- (e) Stockpiled soils and other materials subject to erosion are protected by established vegetation, anchored straw or mulch, rolled erosion control product or other durable covering; a barrier prevents movement of eroded materials from the location.

- (f) All construction entrances are properly stabilized.
- (g) Snow management protects erosion and sediment control measures.

3.5.7 If a site is actively worked after November 15, all steep slope measures, downgradient and perimeter sediment controls, stockpile stabilization and sediment control measures, swales, channels, culvert outfalls and storm sewer inlets must be maintained in proper working condition at the end of each work day.

**3.6 Agricultural practices.** The erosion control measures described in section 3.2 of this Rule are not required for land that is used for agricultural activity, provided that a grass or natural vegetation buffer zone extending sixteen (16) feet or the width of an applicable shore impact zone, whichever wider, is maintained along any waterbody or wetland and no fertilizer is used in the zone. The Board further encourages the use of BMPs (e.g., vegetative swales) in order to slow the flow of the runoff water and allow particulates to settle out and water to infiltrate into the soil prior to discharging to waterbodies and wetlands. These swales can effectively remove small amounts of excess sediments and associated nutrients and heavy metals.

## **4.0 LAKE, STREAM, AND WETLAND BUFFER REQUIREMENTS**

**4.1 Purposes and Policy.** The purpose of Rule 4.0 is to establish, maintain, and protect buffers adjacent to water resources in order to protect and improve the water quality, flow regime and habitat of the water resources in the Comfort Lake - Forest Lake Watershed District, consistent with the interest in avoiding undue disturbance to established public and private activities in littoral and riparian zones. Natural vegetation bordering the bed and banks of lakes, streams and wetlands serves a critical role in maintaining the ecological function of and societal benefits deriving from those water resources. Purposes served by vegetative buffers include bank and shoreline stabilization; erosion prevention; filtration of nutrients, sediments and other pollutants from storm flows; protection of stream beds and banks and mitigation of downstream flooding through moderation of peak flows both into and within the resource; regulation of in-stream temperatures; preservation of aquatic and terrestrial habitat; protection of scenic resources; and maintenance of property values.

### **4.2 Applicability.**

4.2.1 Rule 4.0 applies to any lot containing land within the buffer zone of any General Development Lake, Recreational Development Lake, Natural Environment Lake, stream or wetland within the watershed; and

- (a) that results from subdivision of land into two or more buildable lots on or after February 1, 2009; or
- (b) that is subject to land disturbance for the purpose of a new primary use for which (i) a rezoning or (ii) a land use variance for lot hard surface percentage or structure setback from a wetland or surface water resource has been approved on or after February 1, 2009.

4.2.2 Within 45 days of plat recordation under paragraph 4.2.1(a), and before a land disturbance under paragraph 4.2.1(a) or (b), a buffer permit shall be obtained from the District

and an instrument incorporating the requirements of Rule 4.0 and approved by the District shall be recorded with the County.

4.2.3 A buffer shall be indicated by permanent, free-standing markers at the buffer's upland edge, with a design and text approved by Municipality and District staff in writing in order to maintain consistency throughout the community. A marker shall be placed at each lot line, with additional markers at an interval of no more than two hundred (200) feet. If a District permit is sought for a subdivision, the monumentation requirement will apply to each lot of record to be created. On public land or right-of-way, the monumentation requirement may be satisfied by the use of markers flush to the ground, breakaway markers of durable material, or a vegetation maintenance plan approved by City and District staff in writing in order to maintain consistency throughout the community.

4.2.4 Rule 4.0 applies in addition to, and not in place of, any local shoreland ordinance.

### 4.3 Zone Widths.

4.3.1 Subject to the special provisions in subsections 4.3.2 through 4.3.6, stream, wetland and lake buffer zones are as follows:

- |   |          |
|---|----------|
| (a) Stream (measured from top of bank)  | 75 feet  |
| (b) Lakes (measured from delineated OHWL)   |          |
| (1) Natural environment lake  | 100 feet |
| (2) Recreational development lake   | 50 feet  |
| (3) General development lake  | 25 feet  |
| (c) Wetlands; Based on the wetland function and value assessment the following will be buffer requirement (measured from delineated wetland edge)   |          |
| (1) Preserve  | 100 feet |
| (2) Manage 1  | 75 feet  |
| (3) Manage 2  | 50 feet  |
| (4) Manage 3  | 25 feet  |
| (d) If a lake or wetland is a groundwater-dependent natural resource, the buffer will be one hundred (100) feet. If the stream is a groundwater-dependent natural resource, the streamside zone will be fifty (50) feet, and the middle zone one hundred (100) feet |          |

4.3.2 Where a mapped natural community is associated with a stream, lake or wetland, the upland edge of the middle zone shall be as specified in subsection 4.3.1 or contiguous with the upland edge of the natural community area, whichever is greater.

4.3.3 Where a buffer zone encompasses all or part of a steep slope, the zone or buffer shall extend to the distance specified in subsection 4.3.1 or to the top of the slope, whichever is greater.

4.3.4 Where the 100-year floodplain extends further than the upland edge of the middle zone, the lake buffer or the wetland buffer as specified in subsection 4.3.1, the zone or buffer shall extend to the upland edge of the floodplain.

4.3.5 Where a lake or wetland is encompassed within or contiguous to a stream or lake to which Rule 4.0 applies, the most protective lake, stream, or wetland buffer shall apply.

4.3.6 The District may find compliance with the Rule if the wetland buffer, on average, meets the requirements of the Rule and is no less than fifty (50) percent of the required buffer width at any point. Only buffer up to two hundred (200) percent of the required width will be counted in determining average buffer. The averaged buffer must be at least as protective of the water resources as the non-averaged buffer.

*For example, a recreational development lake with a required fifty (50) foot buffer zone width would have a minimum twenty-five (25) foot buffer zone width and a maximum one hundred (100) foot buffer zone width that would count to the determined average. The total area of the averaged buffer zone must meet or exceed the total area of the required buffer zone.*

**4.4 Required Exhibits.** The following items shall accompany all permit applications submitted to the District pursuant to Rule 4.0:

4.4.1 Property lines and delineation of lands under applicant's ownership;

4.4.2 Delineation of existing on-site wetland, shoreland, and floodplain areas;

4.4.3 Elevation of the OHWL of each public water on the site, if determined by the Minnesota Department of Natural Resources and of any legally established buffer associated with the public water;

4.4.4 Existing and proposed site contour elevations at two-foot intervals, related to NGVD, 1929 datum;

4.4.5 Wetland function and value assessment for all wetlands subject to buffer pursuant to Minnesota Routine Assessment Method (MnRAM) 3.2 (including groundwater function) or other method approved by the District;

4.4.6 Site plan indicating location of applicable buffer zone; Buffer zone location exhibits shall be submitted as shapefiles.

4.4.7 Survey of existing buffer vegetation in accordance with subsection 4.5.4; and

4.4.8 Buffer Planting Plan in accordance with subsection 4.5.5.

**4.5 Limitations in Buffer Zones.**

4.5.1 Lake, Stream, and Wetland Buffers;. The following activities are prohibited within a lake, stream, or wetland buffer:

- (a) Creating impervious cover.
- (b) Excavation or placing fill or debris, except for approved shoreline or streambank stabilization activities and temporary placement of fill or debris pursuant to duly-permitted work in the associated waterbody or wetland, in compliance with all conditions of the permit, and in compliance with section 4.6.
- (c) Altering vegetation, except for (i) vegetative enhancements, as approved in writing by staff; and (ii) the removal of invasive exotic species or of trees for disease control, removal of safety hazards or revegetation. A tree larger than six inches in diameter at a point fifty-four (54) inches above the ground may be removed only on written authorization from District staff on a determination that the function of the buffer will not be diminished.
- (d) Applying phosphorus-containing fertilizers, except on written authorization from District staff on a determination that phosphorus application is appropriate and will not injure the waterbody.
- (e) Locating roads or utilities, except pursuant to a crossing of the associated watercourse in accordance with section 4.7. Structures and appurtenances associated with the road or utility shall not be located within the buffer unless no feasible alternative exists.
- (f) Outlet, flood control and stormwater treatment facilities may be located within the buffer if so approved under Rule 2.0, except that a stormwater basin is not permitted within the buffer of a groundwater-dependent natural resource, unless the basin bottom is at least three (3) feet above the seasonal high water table, and the basin and associated facilities are designed and maintained to infiltrate the two-year, 24-hour precipitation event.

4.5.2 At the time a buffer is created under Rule 4.0, the District may, depending on site specific conditions, require a planting or landscaping plan to establish adequate native vegetative cover for an area that:

- (a) Has vegetation composed more than thirty (30) percent of undesirable plant species (including, but not limited to reed canary grass, common buckthorn, purple loosestrife, leafy spurge, bull thistle, and other noxious weeds); or
- (b) Consists more than ten (10) percent of bare or disturbed soil or turf grass.

4.5.3 Protection of buffer areas described in this rule are to be maintained indefinitely. Where a planting or landscaping plan is required under subsection 4.5.4 or is otherwise needed, the buffer strip plantings must be identified on the site plan and shall comply with the following standards:

- (a) Buffer strips shall be planted with a site appropriate native seed mix as specified by BWSR, MnDOT, NRCS or SWCD, with the exception of a one-time planting with an annual nurse or cover crop such as oats or rye. Native trees and shrubs may be added to supplement ground cover.

- (b) The seed mix shall be broadcast according to BWSR, MnDOT, NRCS or SWCD specifications of the selected mix. The annual nurse or cover crop shall be applied at a minimum rate of thirty (30) pounds per acre. The seed mix selected for permanent cover shall be appropriate for soil site conditions and free of invasive species. BWSR, MnDOT, NRCS or SWCD approved mixtures appropriate for specific soil and moisture conditions can be used to meet these requirements.
- (c) The buffer revegetation plan shall specify the method for the seeding or planting of the grasses, shrubs, and forbs.
- (d) No fertilizer shall be used in establishing new buffer strips, except when necessary to establish acceptable buffer strip vegetation and then limited to amounts indicated by an accredited soil testing laboratory.
- (e) All disturbed areas shall be mulched and stabilized immediately. Mulch shall be anchored with a disk or tackifier.
- (f) Buffer strips (both natural and created) shall be protected by erosion and sediment control measures during construction in accordance with Rule 3.0.

4.5.4 Applicant may apply to District for grant monies or other District funds, when available, to offset a portion of the cost of re-stabilizing riparian buffer zones.

#### **4.6 Temporary Alterations.**

4.6.1 Compliance with Rule 3.0 is required, irrespective of the area or volume of earth to be disturbed.

4.6.2 Buffer zones and the location and extent of vegetation disturbance shall be delineated on the erosion control plan.

4.6.3 Alterations must be designed and conducted to ensure only the smallest amount of disturbed ground is exposed for the shortest time possible. Mulches or similar materials must be used for temporary soil coverage and permanent natural vegetation established as soon as possible.

4.6.4 Fill or excavated material shall not be placed to create an unstable slope.

4.6.5 When construction, land disturbance, fill or excavation activity occurs within the outer zone, the boundary between the outer and middle zones shall be demarcated with siltation or other fencing to prevent disturbance of vegetation within the middle zone. When construction, land disturbance, fill or excavation activity occurs within the middle zone, the boundary between the middle and streamside zones shall be demarcated with siltation or other fencing to prevent disturbance of vegetation within the streamside zone.

#### **4.7 Roads and Utilities.**

4.7.1 A structure, impervious cover or right-of-way maintained permanently in conjunction with a crossing of the waterbody or wetland shall minimize the area of permanent vegetative disturbance to the degree feasible. Minimization includes, but is not limited to, approach roads and rights-of-way that are perpendicular to the crossing and of a minimum width consistent with use and maintenance access needs.

4.7.2 All work shall be in accordance with section 4.6.

#### **4.8 Access to Waterbody or Wetland.**

Access to a waterbody or wetland for a lawful private or public use of the resource may be created and maintained. All access surfaces within the buffer zone must be pervious and permanent vegetative disturbance shall be limited to that necessary for access in light of the nature and extent of the permitted use. No facility, other than a footpath or streambank/shoreline stabilization or a facility accessory to a permitted use of the waterbody or wetland and required by its nature to be adjacent to the water, may be located within the buffer zone. The access area must not exceed thirty (30) feet or fifty (50) percent of the lot width along the shoreline or streambank, whichever is less. The access area width should be only as wide as that needed for the intended purpose.

#### **4.9 Trails in Buffer Zone.**

The buffer may enclose a trail or a water quality facility on a demonstration that doing so will not significantly reduce the protection afforded the waterbody or wetland. A trail no more than ten (10) feet in width bordered by a pervious buffer of at least five (5) feet on each side is deemed to meet this requirement. The trail or water quality feature shall not count toward buffer width. A non-linear facility for general public use that is required by its nature to be adjacent to the water may be allowed in the buffer on a case-by-case basis if the impact to the buffer is minimized and the project will not negatively impact the lake, stream, or wetland.

### **5.0 SHORELINE & STREAMBANK ALTERATIONS**

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

5.1.1 Encourage the establishment and maintenance of natural vegetation on shorelines and streambanks and discourage use of other alteration of a shoreline or streambank unless erosion of the shoreline or streambank is occurring.

5.1.2 Assure that improvements or alterations of shoreline and streambank areas comply with accepted engineering principles to prevent erosion.

5.1.3 Preserve and, wherever feasible, enhance the ecological integrity and natural appearance of shoreline and streambank areas.

## **5.2 Regulation.**

5.2.1 No person shall construct or install a shoreline or streambank stabilization partially or wholly below the ordinary high water mark of (a) a natural or altered natural watercourse defined as a public water; or (b) a waterbasin, without first securing District approval and, if required, posting a financial assurance. Construction or installation of a shoreline or streambank stabilization wholly above the ordinary high water mark of a waterbody may require a permit under Rule 7.0.

5.2.2 Notwithstanding subsection 5.2.1, a District permit under Rule 5.0 is required only if:

- (a) a Minnesota Department of Natural Resources public waters work general permit covering shoreline and streambank alterations is in effect; and
- (b) the general permit excuses from the DNR individual permit requirement property owners that hold a District permit.

**5.3 Criteria for Bioengineering.** The use of bioengineering is encouraged as an alternative to traditional engineered stabilization techniques for its cost advantage and ecological integrity. Bioengineering techniques should be used to the maximum extent possible under the following criteria.

5.3.1 The resultant project shall be structurally stable. Special emphasis shall be given to the stability of the toe of slope and protection of the shoreline and streambank during vegetation establishment.

5.3.2 Native vegetation shall be used in all cases. Preferable species include those that form dense root systems or can be planted from cuttings.

5.3.3 Bioengineering projects shall include a long-term maintenance plan which will ensure that small erosion spots are corrected and that establishment of native plant materials is successful.

**5.4 Bioengineering Required Exhibits.** The following exhibits shall accompany the bioengineering permit application (one full-size; one set-reduced to maximum size of 11" x 17"):

5.4.1 Site plan showing property lines, delineation of lands under ownership of the applicant; delineation of the existing shoreline; delineation of wetland within the project area; existing contour elevations (if available); and locations and lineal footage of the proposed bioengineering treatment;

5.4.2 Site plan prepared by a professional engineer, landscape architect registered in the State of Minnesota, or other qualified professional experienced in the field of shoreline and stream restoration detailing the proposed bioengineering treatment, drawn to scale, with the horizontal and vertical scales noted on the drawing. The detail should show the finished slope, distance lakeward of the bioengineering treatment, ordinary high water level elevation and material specifications; and

5.4.3 Detailed planting plan using native vegetation.

**5.5 Criteria for Rip Rap Placement.** The District favors the use of bioengineering techniques and combined bioengineering/riprap for as much of a shoreline stabilization project as fetch, slope, soil and

other relevant conditions allow. Live plantings incorporated in shoreline bioengineering must be native aquatic vegetation and/or native upland plants. For those parts of a stabilization project for which riprap is proposed, a permit applicant must evaluate the use of bioengineering techniques, as well as a combination of bioengineering and riprap, and show that they have been determined to be unsuitable. In addition, rip rap placement shall comply with the following criteria:

5.5.1 Rip rap material is to be durable, natural stone common to the setting and of a gradation that will result in a stable shoreline embankment able to withstand ice and wave action.

5.5.2 The finished slope of the rock fragments, boulders and/or cobbles should not be steeper than a ratio of three (3) feet horizontal to one (1) foot vertical (3:1) under normal conditions. Steeper slopes will generally require larger sized rip rap. The finished slope shall be no steeper than 2:1 (horizontal to vertical). Any rock/boulder stabilization project with a proposed finished slope steeper than 2:1 (horizontal to vertical) shall be evaluated in accordance with the conditions for retaining walls.

5.5.3 No rip rap or filter materials is to be placed more than (six) 6 feet waterward of the shoreline measured from the ordinary high water level (OHW) elevation under normal conditions. The encroachment into the water is the minimum amount necessary to provide protection and may not unduly interfere with the flow of water.

5.5.4 A transitional layer consisting of graded gravel, at least six (6) inches deep, and an appropriate geotextile filter fabric shall be placed between the soil material of the existing shoreline and the rip rap to prevent erosion of the embankment and to prevent settlement.

5.5.5 Rip rap placement shall not be attempted when underlying soils are not capable of supporting resulting loads. In these cases, a professional engineer registered in Minnesota should be consulted.

5.5.6 The thickness of the rip rap layers shall be at least 1.25 times the maximum stone diameter, exclusive of toe boulders at least fifty (50) percent buried.

5.5.7 The rip rap shall conform with the natural alignment of the shoreline (i.e., maintaining an undulating or meandering shoreline).

5.5.8 The design must reflect the engineering properties of the underlying soils and any soil corrections or reinforcements. For a shoreline, the design must conform to engineering principles for wave energy dispersion and resistance to deformation from ice pressure and movement, considering prevailing winds and fetch. For a streambank, the design shall conform to engineering principles for the hydraulic behavior of open channel flow, considering channel slope, velocity, tractive forces and upstream and downstream impacts.

5.5.9 Rip rap placement projects shall contain native vegetation planting within the rip rap in an area equal to or greater than twenty-five (25) percent of the overall area of the rip rap. The native vegetation planting plan shall be approved by District staff.

5.5.10 Materials used shall be non-polluting.

**5.6 Rip Rap Required Exhibits.** The following exhibits shall accompany the rip rap permit application (one full-size; one set-reduced to maximum size of 11" x 17"):

5.6.1 Site plan showing property lines, delineation of lands under ownership of the applicant; delineation of the existing shoreline; delineation of wetland within the project area; existing contour elevations (if available); and locations and lineal footage of the proposed rip rap treatment;

5.6.2 Cross-section detailing the proposed rip rap, drawn to scale, with the horizontal and vertical scales noted on the drawing. The detail should show the finished rip rap slope, transitional layer design and placement, distance lakeward of the rip rap placement, ordinary high water level elevation and material specifications;

5.6.3 Description of the underlying soil materials that will support the rip rap and, if the underlying soils will not support the rip rap, the recommendations of a qualified soils engineer;

5.6.4 Gradation, average diameter, quality and type of rip rap material to be used (normally, a Class III gradation is sufficient);

5.6.5 Gradation, quality and type of filter blanket material to be used (normally, Type I gradation is sufficient);

5.6.6 Manufacturer's material specifications for proposed geotextile fabric(s);

5.6.7 Detailed planting plan for native vegetation planting element of the project; and

5.6.8 Narrative and supporting documentation assessing the feasibility of bioengineering for the site.

## **5.7 Criteria for Retaining Walls.**

5.7.1 A shoreline or streambank structure with a finished slope steeper than 2:1 (H:V), including but not limited to a rock, boulder or masonry installation, seawall, sheetpile structure or gabion basket, is subject to this section. A single course of riprap or other permanent material less than eighteen (18) inches in height is excepted.

5.7.2 A new retaining wall, or repair/reconstruction of an existing retaining wall that increases floodplain encroachment beyond that required by technically sound and accepted repair/reconstruction methods, is permitted only pursuant to a variance. The applicant must demonstrate there is no adequate stabilization alternative.

5.7.3 The location of the finished wall shall be verified with a certificate of survey prepared by a registered land surveyor,

**5.8 Retaining Wall Required Exhibits.** A application for retaining wall installation must contain an analysis of alternative solutions in addition to a structural/geotechnical analysis prepared by a professional engineer, practicing in civil engineering and registered in the State of Minnesota, showing that the design conforms to accepted engineering principals and will withstand expected ice and wave action and earth pressures.

**5.9 Criteria for Laying Sandblankets.** All permitted sandblanketing shall comply with the following standards.

5.9.1 The sandblanket installation shall comply with section 4.8 and the standards of the DNR for placement of a sandblanket without a public waters work permit.

5.9.2 Beaches that are operated by governmental entities, and available to the general public, shall be exempted from the following restrictions: (i) that sandblankets be no more than fifty (50) feet in width and (ii) that sandblankets be installed no more frequently than once every four years.

5.9.3 A natural zone of native shoreline plants of the same depth and equal to twenty (20) percent of the width of the sandblanket should be maintained adjacent to the sandblanket.

**5.10 Sandblanket Required Exhibits.** The following exhibits shall accompany the sandblanket permit application:

5.10.1 Site plan showing property lines, delineation of the work area, existing elevation contours of the adjacent upland area, delineation of wetland within the project area, ordinary high water elevation, and regional flood elevation (if available). All elevations must be reduced to NGVD (1929 datum); and

5.10.2 Profile, cross-sections and/or topographic contours showing existing and proposed elevations and proposed side slopes in the work area. (Topographic contours should be at intervals not greater than one (1) foot);

**5.11 Criteria for Streambank Stabilization.** Intact, vegetated and stable shorelines and streambanks provide valuable functions to the associated water resource including prevention of erosion, reinforcement of soils through root structure, trapping of nutrients and sediments, and provision of fish and wildlife habitat. The CLFLWD promotes the preservation and enhancement of the ecological integrity and natural appearance of shorelines and streambanks with the intent of preventing erosion. When alteration is necessary, the CLFLWD encourages bioengineering, landscaping and preservation of natural vegetation practices.

All proposed streambank stabilization and restorations shall be designed with and in response to an intimate understanding of the aforementioned characteristics unique to the stream reach in question. The physical appearance and operation character of a stream is a product of the adjustment of the stream's boundaries to the magnitude of stream flow and erosional debris produced from the contributing watershed. The individual stream characteristics are further modified by the influence of channel materials, basin relief, and other features of valley morphology along with a local history of land use and sediment deposition.

The unique characteristics of each stream reach shall be fully considered in the design of a streambank stabilization.

**5.12 Streambank Stabilization Required Exhibits.** The following exhibits shall accompany the streambank stabilization permit application:

5.12.1 Site plan prepared by a professional engineer or a landscape architect registered in the State of Minnesota and experienced in the field of stream restoration showing property lines; the ordinary high water (OHW) elevation and floodplain elevation; existing streambank and contour elevations;

5.12.2 Stream cross-section(s) depicting entire floodprone width; detailing channel dimensions, such as bankfull stage and the dimension and placement of the proposed stabilization/restoration measure(s). A longitudinal profile depicting the thalweg and top of bank; detailing the dimension and placement of the proposed stabilization/restoration measure(s);

5.12.3 Material specifications including plant species and whether species are rooted, seed or cutting;

5.12.4 Stream classification and design calculations and documentation; and

5.12.5 Detail of proposed site-specific erosion and sediment control practices.

**5.13 Other Shoreline Improvements.** Types of shoreline improvements not specifically addressed by Rule 5.0 shall require a variance.

## **6.0 WATERCOURSE AND BASIN CROSSINGS**

**6.1 Policy.** It is the policy of the District to discourage the use of lake beds and beds of waterbodies for the placement of roadways, utilities, water control structures, and associated structures.

**6.2 Regulation.** No person shall use the beds of any waterbody within the District for the placement of roadways, utilities, water control structures, and associated structures without first securing a permit from the District.

**6.3 Criteria.** Use of the bed:

6.3.1 For all public waters, shall meet a demonstrated public benefit;

6.3.2 Shall retain adequate hydraulic capacity;

6.3.3 Shall retain adequate navigational capacity;

6.3.4 Shall not adversely affect water quality;

6.3.5 Shall represent the "minimal impact" solution to a specific need with respect to all other reasonable alternatives; and

6.3.6 Shall preserve fish and wildlife passage.

**6.4 Required Exhibits.** The following exhibits shall accompany the permit application:

6.4.1 Construction plans and specifications;

6.4.2 Analysis prepared by a professional engineer or qualified hydrologist showing the effect of the project on hydraulic capacity and water quality;

6.4.3 An erosion control and restoration plan; and

6.4.5 Copy of permit application to Department of Natural Resources, Army Corps of Engineers, and Wetland Conservation Act LGU, if required based on proposed activities.

**6.5 Maintenance.** A declaration or other recordable instrument stating terms for maintenance of stability and hydraulic and navigational capacity shall be approved by the District shall be recorded in the office of the county recorder or registrar before permit issuance. In place of recordation, a public permittee or a permittee without a property interest sufficient for recordation may assume the maintenance obligation by means of a written agreement with the District. The agreement shall state that if the ownership of the structure is transferred, the owner shall require the transferee to comply with this subsection

**6.6 Coordination with other Government Agencies.** The District will communicate with the Department of Natural Resources and Wetland Conservation Act LGUs in the review and approval of proposed activities.

## **7.0 FLOODPLAIN AND DRAINAGE ALTERATIONS**

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

7.1.1 promote the reasonable use of water resources, such that a landowner may dispose of surface water only in a manner that does not unreasonably burden other landowners;

7.1.2 preserve existing water storage capacity in the 100-year floodplain of all waterbodies and wetlands in the watershed to minimize the frequency and severity of high water;

7.1.3 prohibit development in the 100-year floodplain which will unduly restrict flood flows or aggravate known high water problems; and

7.1.4 preserve the natural hydrology of landlocked basins to minimize flooding risks to structures and ecological impacts within or downgradient of those basins.

**7.2 Regulation.** No person shall artificially redirect flow across drainage boundaries, nor obstruct the natural flow of surface water, without first obtaining a permit from the District. No person shall alter or fill land below the 100-year flood elevation of any stream, wetland, public water, stormwater management basin, or landlocked basin without first obtaining a permit from either:

- (a) the District, or
- (b) the appropriate local government unit in accordance with a state-approved floodplain management ordinance.

**7.3 Criteria for Floodplain or Drainage Alterations.**

7.3.1 Floodplain filling shall not cause a net decrease in flood storage capacity below the projected 100-year flood elevation. The fill volume shall be calculated by a professional engineer registered in the State of Minnesota or by a qualified hydrologist. All new residential, commercial, industrial, institutional buildings, and other habitable or non-habitable structures and stormwater management facilities shall be constructed so that the lowest basement floor and lowest entry elevations of structures comply with the following:

Elevation	Regional Elevation		Detention Basins and Isolated Wetlands		Infiltration Basins			Rain-gardens
	100-yr	EOF	100-yr	EOF	Bottom	100-yr	EOF	EOF
Low Floor Freeboard	2 ft.	1 ft.	0 ft.	NA	0 ft.	NA	NA	NA
Low Opening Freeboard	NA	NA	2 ft.	1 ft.	NA	2 ft.	1 ft.	0.5 ft.

7.3.2 The minimum building elevation alternatively may be defined as the lowest grade elevation in contact with the structure rather than the lowest basement floor elevation for perched water basin situations if the following criteria are met:

- (a) Geologic mapping and all available data sources indicate the adjacent waterbody is not a surface expression of a regional water table but is a perched groundwater system;
- (b) The basement floor elevation will be four (4) feet above the currently observed ground water elevations in the area as demonstrated by two borings or observation wells located between each structure and the waterbody; and
- (c) The basement floor elevation will be two (2) feet above the elevation of any known historic high groundwater elevations for the area.

7.3.3 Within the drainage area to a landlocked basin, the separation between the lowest basement floor elevation and the 100-yr high water elevation cited in subsection 7.3.1, shall be at least three feet, unless the building is at least two feet above the basin overflow.

7.3.4. No person will alter stormwater flow at a property boundary by changing land contours, diverting or obstructing surface or channel flow, or creating a basin outlet, unless the District finds that the alteration will not have an unreasonable impact on an upgradient or downgradient landowner and will not adversely affect flood risk, basin or channel stability, groundwater hydrology, stream or channel baseflow, water quality or aquatic or riparian habitat.

**7.4 Required Exhibits.** The following exhibits shall accompany the permit application:

7.4.1 Site Plan indicating location of 100-year flood elevation of any wetland, public water, stormwater management basin, or landlocked basin on or directly adjacent to the property;

7.4.2 Site Plan and supporting calculations indicating location and volume of any floodplain impact and mitigation;

7.4.3 Site Plan indicating lowest floor elevations of all proposed structures; and

7.4.5 Analysis of impact of alterations to surface flow on upgradient and downgradient landowners, flood risk, basin or channel stability, groundwater hydrology, stream or channel baseflow, water quality or aquatic or riparian habitat.

## **8.0 WETLAND MANAGEMENT**

Wetlands are important to the District's water resources because they reduce the likelihood of flood damage by functioning like natural sponges, storing water and slowly releasing it over time. Wetlands also help control increases in the rate and volume of runoff in urban areas and buffer shorelines against erosion. Wetlands help improve water quality by removing or retaining nutrients carried in surface runoff, processing organic wastes and reducing the amount of sediment before it reaches open water. Because of their value to surrounding water resources, natural wetlands should be protected from uses as primary discharge for untreated stormwater.

**8.1 Policy.** It is the policy of the Board of Managers to support the Wetland Conservation Act Local Governing Unit's efforts to:

- a) Manage wetlands to achieve no-net loss in the quantity, quality, and biological diversity of wetlands in the District.
- b) Increase the quantity, quality, and biological diversity of wetlands in the District by restoring or enhancing diminished or drained wetlands.
- c) Avoid impacts from activities that destroy or diminish the quantity, quality, and biological diversity of District wetlands.
- d) Replace affected wetlands where avoidance is not feasible and prudent.
- e) Encourage natural vegetation around wetlands which is integral to maintaining the water quality and ecological functions that wetlands provide.
- f) Follow general recommendations presented in the County Groundwater Plans

**8.2 Wetland Impact Permits.** Any wetland impact (filling, draining, ditching, dredging, or altering vegetation or grades in a buffer zone surrounding a wetland) is required to conform to the Wetland Conservation Act (WCA). The District does not currently serve as the Local Governing Unit (LGU) for WCA for any of the communities in the District, and therefore does not require the review of wetland impact, permit, and replacement/mitigation plans. Local Governing Unit regulations must be followed.

Activities conducted in wetlands may require a permit from the District under the other Rules of the District, see Rules 2.0 through 7.0 in particular.

**8.3 Wetland replacement.** The District urges wetland replacement, where permitted, shall be of the same or improved quality, type and function, and in accordance with the following prioritization for the location of the replacement wetland (both constructed and banked).

- a) On site replacement is most preferred;

- b) Within the same sub-watershed;
- c) Within adjoining sub-watershed;
- d) Within the District;
- e) Outside of the District is the least preferred;

**8.4 Technical Evaluation Panel.** The District shall participate as able, in the activities and deliberations of the technical evaluation panel (TEP) in accordance to the WCA process.

## **9.0 FEES**

**9.1 Policy Findings.** The Board of Managers finds that:

9.1.1 By encouraging applicants to seek permits for potential projects, the public benefits by improving or maintaining water quality and quantity of water resources in the District. Other benefits include reduced inspection and enforcement costs for correcting unpermitted activities in violation of District rules, state and federal clean water laws.;

9.1.2 it is in the public interest that certain projects, be inspected and analyzed by District staff to provide the Board of Managers sufficient information to evaluate compliance with District goals and Rules and applicable law. The District's annual tax levy should not be used to pay such costs for these development projects; and

9.1.3 from time to time persons perform work requiring a permit from the District without a permit, and persons perform work in violation of an issued District permit. The costs of engineering inspection and analysis in such cases exceeds those costs where the applicant has complied with District requirements. The District's annual tax levy should not be used to pay such costs which are incurred because of a failure to meet District requirements.

**9.2 Site Inspections.** A site inspection by District staff shall be performed in the following cases:

9.2.1 commercial, industrial, or multi-family residential developments;

9.2.2 single family residential developments greater than five (5) acres;

9.2.3 any alterations of a floodplain;

9.2.4 where any person performs any work for which a permit is required under these Rules without having first obtained a permit from the District, or, performs any work in violation of any terms or conditions of a permit issued by the District under these Rules; or

9.2.5 any project which, due to its location, scope, or construction techniques, requires inspection as part of permit review or in order to determine compliance with District Rules and applicable law.

**9.3 Calculation of Fees.** In all cases described in section 9.2, the permittee, property owner, or person responsible for a violation shall pay to the District a non-refundable permit fee and cash escrow established to reflect the District's actual costs of permit application review and field inspection of the work, including investigation of the area affected by the work, analysis of the work, services of a

consultant, including engineering and legal consultants, and activity performed to determine or secure compliance with the permit and District rules. The permit fee and escrow schedule will be established, and amended from time to time, by resolution of the Board of Managers.

#### **9.4. Violation Procedures and Payment of Fees.**

9.4.1 The enforcement of all unpermitted work will fall under Rule 12.0.

9.4.2 The District shall notify any person performing work described in subsection 9.2.4 of this Rule of the violation. If a permit has not been issued for the work, the person performing the work shall promptly apply for a permit and pay the permit application fee and cash escrow. If a permit has previously been issued, the Board may rescind the permit if it finds violations of permit terms.

9.4.3 On receipt of a permit application, exhibits and completion of any necessary inspection and analysis showing that the work to be performed is in accordance with District requirements, the Board may issue a permit. On permit approval, the Board shall notify the permit applicant of the fee due. The fee shall be paid to the District within thirty (30) days from the date of permit approval and shall be received by the District prior to actual issuance of the permit.

9.4.4 In cases where the permit approved by the Board requires further monitoring of the project by District staff or consultants, the District shall notify the applicant of the monitoring fee due. The fee shall be paid to the District within thirty (30) days from the date of notice and failure to pay the fee shall constitute a violation of the permit terms and the Board may rescind the permit.

**9.5 Recovery of Fee.** In all cases, fees will be due within thirty (30) days of invoice by the District. The fee provided for in this Rule may be recovered by the District by any legal action authorized by law.

**9.6 Governmental Agencies Exempt.** The fee provided for in this Rule shall not be charged to any agency of the United States or any governmental unit in the State of Minnesota.

### **10.0 FINANCIAL ASSURANCES**

**10.1 Policy.** It is the policy of the District to protect and conserve the water resources of the District by assuring compliance with the District's Rules in the performance of activities within the District, and to assure compliance where necessary by requiring a letter of credit or cash escrow with a permit application that is conditioned on adequate performance of the authorized activities and compliance with District Rules.

#### **10.2 Form and Conditions of a Letter of Credit, Surety Bond or Cash Escrow.**

10.2.1 The District may require a letter of credit, surety bond or cash escrow in a form approved by the District for an activity regulated under these Rules. A commercial assurance shall be from an issuer licensed to issue such assurances in Minnesota. The assurance shall be submitted by the permittee but the principal for a letter of credit need not be the permittee.

10.2.2 The assurance shall be in favor of the District and conditioned on the permittee's performance of the activities authorized in the permit in compliance with all applicable laws, including the District's Rules, the terms and conditions of the permit and payment when due of any fees or other charges authorized by law, including the District's Rules. The assurance shall state that in the event the conditions of the assurance are not met, the District may make a claim against it.

10.2.3 The assurance must be valid and in force for at least the permit term.

**10.3 Assurance Amount.** A standard assurance schedule shall be set and revised from time to time by the Board of Managers by resolution as the amount the Board deems necessary to cover the following potential costs to the District:

(a) Application, field inspection, monitoring and related fees authorized under Minn. Stat. § 103D.345;

(b) The cost of maintaining and implementing protective measures set forth in or incorporated into the permit; and

(c) The cost of remedying damage resulting from permit noncompliance or for which the permittee otherwise is responsible.

**10.4 Use of Assurance.** The District may obtain and use funds in accordance with the procedures stated in the bond, letter of credit or cash escrow agreement. The District may apply the proceeds of any financial assurance it holds to reimburse its reasonable costs incurred including, but not limited to, administrative and consultant costs and attorneys' fees. If the District's reasonable costs exceed the proceeds of financial assurances, the property owner will be responsible for the outstanding amount.

**10.5 Release of a Assurance.** On written notification of completion of a project, the District will inspect the project to determine if the project is constructed in accordance with the terms of the permit and District Rules. If the project is completed in accordance with the terms of the permit and District Rules and there is no outstanding balance for unpaid review and inspection fees, the District will issue a letter of compliance and release the assurance. The District does not pay interest on assurances. If the District has not inspected the project and made a determination about the project's compliance with the above criteria within sixty (60) days of District receipt of written notification of project completion, the assurance is deemed released. In this event, the District will provide a written letter releasing the assurance if needed to meet the issuer's requirements.

## **11.0 VARIANCES**

**11.1 Variances Authorized.** The Board of Managers may hear requests for variances from the literal provisions of these Rules 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 variances where it is demonstrated that such action will be in keeping with the spirit and intent of these Rules. A variance shall contain conditions to prevent or mitigate adverse impacts from the activity.

**11.2 Standard.** In order to grant a variance, the Board of Managers shall determine that the special conditions that apply to the structure or land in question do not apply generally to other land or structures in the District, that the granting of the variance will not merely serve as a convenience to the applicant, and that the variance will not impair or be contrary to the intent of these Rules. A hardship cannot be created by the landowner, the landowner's agent or representative, or a contractor. Economic hardship alone is not grounds for issuing a variance.

**11.3 Term.** Unless terminated under section 11.5, a variance will remain valid for the same term as the permit of which it is a part.

**11.4 Procedure.** The procedure for requesting a variance to the District's rules can be obtained from the contacting the District Administrator.

**11.5 Violation.** A violation of any condition set forth in a variance shall be a violation of the District Rules and may terminate the variance.

## **12.0 ENFORCEMENT**

**12.1 Administrative Order.** The District may issue a compliance order when it finds that a proposed or initiated project presents a serious threat of flooding, soil erosion, sedimentation, or adverse effect on water quality or otherwise violates any Rule of the District or condition of a District permit.

**12.2 Violation of Rules a Misdemeanor.** Violation of these Rules, a stipulation agreement made, an order or a permit issued by the Board of Managers pursuant to these Rules is a misdemeanor.

**12.3 District Court Action.** The Board of Managers may exercise all powers conferred upon it by Minnesota Statutes Chapter 103D in enforcing these Rules, including criminal prosecution, injunction, action to compel performance, restoration, abatement, or other appropriate action.

This is a true and correct copy of the Rules of the Comfort Lake - Forest Lake Watershed District adopted by the Board of Managers on December 18, 2008;

The Effective date for the District's adopted Rules shall be: February 1, 2009

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John T. Lynch, Secretary

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Jackie A. Anderson, President

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Richard P. Damchik, Vice President

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Jon W. Spence, Treasurer

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Wayne S. Moe, Manager

# **Addendum A**

## **Groundwater**

**A.1.1 Background.** The Washington County Water Consortium initiated the process of developing model groundwater rules for future adoption by watershed districts located in Washington County in spring 2004. As part of this process, Emmons and Olivier Resources (EOR) produced a report for the Washington County Water Consortium entitled, “Incorporating Groundwater Protection into Watershed District Rules”.

The resulting report provided potential rule language pertaining to groundwater appropriations, volume control, groundwater quality, and groundwater dependent natural resources. The District’s proposed groundwater rules come directly from the EOR report.

Because the District rules do not have a section specifically addressing groundwater, language addressing the referenced groundwater issues are scattered throughout the rules discussing other topics (i.e. stormwater management). For this reason, this groundwater addendum consolidates all the district rules concerning groundwater into one place

It is the general policy of the Board of Managers to follow general recommendations presented in the County Groundwater Plans (located in subsection 2.1.9 and section 4.1 of District rules). While Washington County does have an adopted groundwater plan, Chisago County currently does not. Chisago County started work on one in 2007 as part of the Chisago County Geologic Atlas project (in partnership with the Minnesota Geologic Survey and Minnesota Department of Natural Resources).

The following bullets represent specific language within the District’s rules pertaining to groundwater and details where each are located in the District’s rules. Each specific rule is categorized in the four headings used in the Washington Water Consortium EOR report; groundwater appropriations, volume control, groundwater quality, and groundwater dependent natural resources.

### **Groundwater Appropriations**

Objective: To monitor the use of groundwater in areas where existing wells and/or groundwater dependent natural resources could be negatively impacted by overuse of groundwater. Negative impacts include reduced flow to surface water bodies, lowering of lake and wetland levels, or interference with other wells

- To manage a sustainable water supply ensuring ample, high quality groundwater is available for residential, commercial, and natural resource needs. (Appropriations not specifically addressed in rules, however, volume control standards help maintain groundwater supply and protect groundwater quality).

### **Volume control**

Objective: To control the rate and volume of stormwater runoff so that surface water and groundwater quantity and quality are protected, soil erosion is minimized, flooding potential is reduced, and thermal impacts are reduced. In addition, it is designed to address the preservation of natural infiltration and recharge of groundwater to ensure that subsurface flows are maintained for groundwater dependent natural resources such as lakes, streams, wetlands, plant communities, and drinking water supplies

- Assure property owners control the rate and volume of stormwater runoff originating from their property so that surface water and groundwater quantity and quality is protected, soil erosion is minimized, flooding potential is reduced and thermal impacts are reduced (located in subsection 2.1.6 of rules).

- Preserve natural infiltration and recharge of groundwater and to maintain subsurface flows which maintain groundwater dependent resources including lakes, streams, wetlands, plant communities and drinking water supplies (located in subsection 2.1.1 of rules).

## **Groundwater Quality**

Objective: To protect groundwater quality while promoting groundwater recharge. Many of the current stormwater management/water quality standards prohibit the use of volume control practices for groundwater in certain applications (e.g. commercial, industrial, and institutional land uses) due to the potential for groundwater contamination. This rule would allow for controlled infiltration in these areas by using best management practices (BMPs) to pre-treat the stormwater runoff before it is infiltrated.

### **Language included in the District rules pertaining to groundwater quality:**

It is the policy of the District:

- Require management of stormwater flow to limit sediment, nutrient, and metals conveyed to the groundwater (located in subsection 2.1.4 of rules).
- Manage land-use activities to minimize adverse impacts to groundwater quality (located in subsections 2.1.7, 2.5.5, and 8.1 (f) of rules).
- The District will work with all communities and non-community public water supply systems as they develop and implement their wellhead protection plan (located in subsection 2.1.8 of District rules).

## **Groundwater Dependent Natural Resources**

Objective: To protect the unique and sensitive resources found in Washington County. While there is some overlap in this standard with the volume control and groundwater quality standards, it addresses groundwater protection by providing specific criteria for vegetative buffers, stormwater management, water quality, and wetland bounce and duration.

- Promote groundwater/surface water management practices that protect the hydrologic functions of groundwater dependant resources (located in subsection 2.5.7 of District rules);
- Limit activities that result in the loss of locally/unique groundwater dependent resources (located in subsection 2.1.9 of District rules).
- Basin in Contributing Area to Groundwater-Dependent Natural Resource. A stormwater basin within the surface contributing area to a groundwater-dependent natural resource must contain and infiltrate the volume generated by a two-year, 24-hour storm event, if feasible. The basin bottom must be at least three feet above the seasonally high water table. If this infiltration standard is not met, basin outflow must be non-erosive and routed through a subsurface system, flow spreader or other device that discharges water through or across the ground to lower discharge temperature to that of the ambient soil (located in 2.5.6 of District rules).
- If a lake or wetland is a groundwater-dependent natural resource, the buffer will be one hundred (100) feet. If the stream is a groundwater-dependent natural resource, the streamside zone will be fifty (50) feet, and the middle zone one hundred (100) feet (located in subsection 4.3.1 (d) of District rules).