Rule D – Wetland and Creek Buffers

1 Policy

It is the policy of the Board of Managers to ensure the preservation of the natural resources, recreational, habitat, water treatment and water storage functions of water resources. This rule is intended to:

1.1 Support municipal enforcement of the Wetland Conservation Act and the policy of no net loss in the extent, quality and ecological diversity of existing wetlands in the watershed.

1.2 Preserve vegetation and habitat important to fish, waterfowl and other wildlife while also minimizing negative impacts of erosion.

1.3 Require buffers around wetlands, water basins and watercourses affected by land-disturbing activities.

1.4 Ensure the preservation of the natural resources, habitat, water treatment and water storage functions of wetlands, water basins and watercourses.

1.5 Maintain wetland integrity and prevent fragmentation of wetlands.

1.6 Prevent erosion of shorelines and streambanks, and foster the use of natural materials for the protection, maintenance and restoration of shorelines and streambanks.

2 Regulation

2.1 Compliance with the criteria in section 3 of this rule is required for any activity that requires a permit under the Rule B – Floodplain Management and Drainage Alterations, Rule E – Dredging and Sediment Removal, Rule F – Shoreline and Streambank Stabilization, except sand blanketing, Rule G – Waterbody Crossings and Structures or Rule J – Stormwater Management rules. The requirements of the rule apply to property:

a encompassing or adjacent to a public watercourse, public waters wetland or other protected wetland in the watershed; or

b encompassing or adjacent to any other watercourse within a High-Risk Erosion Area, unless the applicant submits data demonstrating a Stream Power Index rating of 3 or less and an absence of any significant existing erosion.

2.2 The requirements of this rule do not apply to incidental wetlands.

3 Criteria

3.1 **Buffer width**. Buffer must be created or maintained on any regulated

feature disturbed by activity regulated by the District and on any regulated feature downgradient from the activity, in accordance with the following criteria:

a Subject to paragraphs 3.1b through e, buffers must extend:
  i An average of 80 feet from the delineated edge of an exceptional value wetland,[1] minimum 40 feet;
  ii An average of 60 feet from the delineated edge of a high value wetland, minimum 30 feet;
  iii an average 40 feet from the delineated edge of a medium value wetland,[1] minimum 20 feet;
  iv an average 20 feet from the delineated edge of a low value wetland,[1] minimum 10 feet;
  v an average of 50 feet from the centerline of a public waters watercourse, minimum 30 feet;
  vi an average of 50 feet from the thalweg of any watercourse within a High-Risk Erosion Area, minimum 30 feet.

b The actual width of buffer required for a particular project may be reduced from the applicable width in paragraph a as follows:
  i For every 3 percent decrease in average buffer slope from 18 percent, the average buffer width may be reduced 1 foot.
  ii For every grade of Hydrologic Soil Group above Type D for the predominant buffer soil condition, the average buffer width may be reduced 1 foot.

c **Steep slopes.** Paragraph b notwithstanding, where a buffer encompasses all or part of a slope averaging 18 percent or greater over a distance of 50 feet or more upgradient of the regulated feature, calculated using a reasonably precise topographic surface model, the buffer will extend to the width specified under section 3.1a or to the top of the slope, whichever is greater. An existing contour alteration or artificial structure on a slope constitutes a break in slope only if it will indefinitely dissipate upgradient runoff velocity and trap upgradient pollutant loadings.

d **Existing single-family residential properties:** Paragraphs a through c do not apply. When required on an existing single-family home property, buffer must extend an average of 20 feet from the delineated edge of a wetland or OHW of a watercourse, minimum 10

[1] Wetland values will be determined in accordance with Appendix D1.

feet.

e Buffer width may vary, provided that the minimum buffer width is maintained at all points, there is no reduction in total buffer area, and the buffer provides wetland and habitat protection at least equivalent to a buffer of uniform width. Buffer wider than 200 percent of the applicable width calculated in accordance with above provisions will be excluded from the buffer-averaging calculation.

f Buffer is only required on the property that is the subject of the District permit, and is required where the regulated feature is either on or within the applicable buffer width of the subject property.

g Buffer required for linear projects will be limited in width to the extent of available right-of-way.

3.2 Buffer areas must be planted with native vegetation and maintained to retain natural resources and ecological value. Existing buffer areas preserved in compliance with this rule must be managed in a naturalized condition to encourage growth of native vegetation and eliminate invasive species. Buffer vegetation must not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality and performance, each as approved by the District in advance in writing or when implemented pursuant to a written maintenance plan approved by the District.

a Diseased, noxious, invasive or otherwise hazardous trees or vegetation may be selectively removed from buffer areas and trees may be selectively pruned to maintain health.

b Pesticides and herbicides may be used in accordance with Minnesota Department of Agriculture rules and guidelines.

c No fill, debris or other material will be placed within a buffer.

d No structure or impervious cover (hard surface) may be created within a buffer area, except that boardwalks, sidewalks and trails designed for nonmotorized use, and stormwater management facilities may be located within a buffer area as long as the minimum buffer width is maintained from the regulated feature and average buffer width is maintained, except as allowed under paragraph 3.1e of this rule. Plans and specifications must be approved by the District prior to

construction.

i Hydrants, utility manholes, piers, docks, canoe racks, information kiosks, signage, retaining walls and benches may be located within a buffer in a public park.

e A pervious path or boardwalk, not more than 12 feet wide, may be maintained to provide access to a regulated feature. Access paths or boardwalks will not be located where or constructed such that concentrated runoff will flow to the regulated feature.

3.3 Buffer will be indicated by permanent, free-standing markers at the buffer's upland edge, in material conformity with a design and text provided by the District. A marker will be placed along each lot line, with additional markers at an interval of no more than 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 a marker flush to the ground or breakaway markers of durable material.

3.4 Before any work subject to District permit requirements commences, buffer areas and maintenance requirements must be documented in a declaration or other document approved by the District and recorded in the office of the county recorder or registrar. On public land or right-of-way, buffer areas and maintenance requirements may be documented in a written agreement with the District in lieu of a recorded document.

3.5 In establishing buffer pursuant to this rule, the potential transfer of aquatic invasive species (e.g., zebra mussels, Eurasian watermilfoil, etc.) must be minimized to the maximum extent possible.

4 Temporary Alterations

Temporary alteration of buffer areas permitted under this rule or in writing by the District must comport with the requirements of this section.

4.1 Compliance with District Rule C – Erosion and Sediment Control is required, irrespective of the area or volume of earth to be disturbed.

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

4.3 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 native vegetation established as soon as possible.

4.4 Fill or excavated material may not be placed to create an unstable slope.

5 Roads and Utilities

A structure, impervious cover or right-of-way maintained permanently in conjunction with a crossing of a waterbody or wetland may be constructed and maintained in buffer area that would otherwise be required under this rule. The structure, impervious cover or right-of-way must be designed to minimize the area of permanent vegetative disturbance. 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.

5.1 All work will be conducted in accordance with section 4 of this rule.

6 Shoreline or Streambank Improvements

A shoreline or streambank improvement subject to District Rule F, including a sand blanket, is excepted from the prohibitions of subsection 3.2, provided the improvement complies with District Rule F – Shoreline and Streambank Stabilization. The applicable buffer width may overlap shoreline or streambank improvements other than a sand blanket.

7 Required information and exhibits

The following exhibits will accompany the permit application, including but not limited to one full-size plan set (22 inches by 34 inches), one plan set reduced to a maximum size of 11 inches by 17 inches) and electronic files in a format acceptable to the District:

7.1 For work on any property subject to this rule:

- a A scaled site plan showing existing conditions, including the following elements:
  - i Topographic contours at two-foot intervals;
  - ii Existing streets, roads and trails;
  - iii Existing structures and facilities;
  - iv Extent of regulated feature as delineated in the field;
  - v Location of existing trees and tree masses;
  - vi Soil types and locations.
- b A scaled proposed site plan showing proposed development that include the following elements:

i Topographic contours showing finished grade at two-foot intervals;
ii Proposed streets, parking, trails and sidewalks;
iii Location of proposed structures and facilities;
iv Extent of regulated feature and associated buffers as delineated in the field;
v Location of major landscaping including those existing trees and tree masses to be retained.
vi Property lines and corners and delineation of lands under ownership of the applicant
vii Street rights-of-way;
viii Utility easements;

7.2 For projects on properties on which wetlands are located, exhibits must be submitted as follows:

a For existing single-family home properties encompassing all or part of a wetland: A wetland delineation.

b For all other properties encompassing all or part of a wetland: A wetland delineation, type determination, and function and values assessment of any regulated wetland using the Minnesota Routine Assessment Method (MnRAM) or another wetlands-assessment method approved by the District. The delineation and function and values assessment must be conducted by a certified wetland delineator and supported by the following documentation:

i Identification of the methods used;
ii Identification of presence or absence of normal circumstances or problem conditions;
iii Wetland data sheets, or a report, for each sample site, referenced to the location shown on the delineation map. In each data sheet/report applicant must provide the reasoning for satisfying, or not satisfying each of the technical criteria and why the area is or is not a wetland;
iv A delineation map showing the size, locations, configuration and boundaries of wetlands in relation to identifiable physical characteristics, such as roads, fence lines, waterways or other identifiable features;
v The location of all sample sites and stakes/flags must be accurately shown on the delineation map.

7.3 For properties adjacent to but not encompassing any portion of a wetland, the District will determine the need for wetland buffer and applicable buffer width using best available data, including any wetland functions and values data submitted by the applicant.

Appendix D1 – Wetlands Definitions

"Exceptional value wetlands" are those meeting one or more of the following rating levels, as determined by application of the current edition of the Minnesota Routine Assessment Method (MnRAM) or another wetlands-assessment method approved by the District.

Function or Value	Rating
Vegetative Diversity	Exceptional
Wildlife Habitat	Exceptional
Amphibian Habitat AND Vegetative Diversity	High High
Fish Habitat	Exceptional
Shoreline Habitat	High
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

"High value wetlands" are those meeting one or more of the following rating levels, as determined by application of the current edition of MnRAM or another wetlands-assessment method approved by the District.

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

"Medium value wetlands" are those that do not qualify as high value wetlands but that meet one or more of the following rating levels, as determined by application of the current edition of MnRAM or another wetlands-assessment method approved by the District.

Function or Value	Rating
Vegetative Diversity	Medium
Wildlife Habitat	Medium
Amphibian Habitat AND Vegetative Diversity	Medium Medium
Fish Habitat	Medium
Shoreline Habitat	Low
Aesthetics/education/recreation/cultural AND Wildlife Habitat	Medium Low
Stormwater Sensitivity	Medium

"Low value wetlands" are those that do not qualify as "exceptional," "high," or "medium" wetlands.