

**BUFFER DECLARATION**

**THIS DECLARATION** (“Declaration”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_(name(s)), \_\_\_\_\_ (marital status) ("Declarant") in favor of the Carnelian-Marine St. Croix Watershed District (“District”), a body with powers pursuant to Minnesota Statutes Chapters 103B and 103D.

**RECITALS**

**WHEREAS**, Declarant is the owner of real property within Washington County, Minnesota, legally described as:

**[LEGAL DESCRIPTION –  
MUST BE FROM DEED, NOT TAX STATEMENT]**

(the “Property”) and no one other than Declarant, has any right, title or interest in the Property; and

**WHEREAS**, the Property constitutes the entirety of the land to which District Permit #\_\_\_\_\_ applies; and

**WHEREAS**, Declarant desires to subject the Property to certain conditions and restrictions imposed by the District as a condition to issuance of District Permit #\_\_\_\_\_ for the benefit of the District and the owners of the Property.

**NOW, THEREFORE**, Declarant makes this Declaration and hereby declares that this Declaration constitutes covenants to run with the Property in perpetuity, and further declares that the Property will be owned, used, occupied and conveyed subject to the covenants, restrictions, easements, charges and liens set forth in this Declaration, all of which bind all persons owning or acquiring any right, title or interest in the Property, and their heirs, successors, personal representatives and assigns.

**1. Buffer.** A vegetated lake, river, stream and wetland buffer is established as delineated on the scaled site plan for the Property attached hereto and incorporated herein as **Exhibit A**. The buffer is subject to the following terms:

- a. The buffer will consist of adequately vegetated land, consisting primarily of plant species native to this region.

b. The following activities will be prohibited within a lake buffer, wetland buffer, and within the streamside zone of a stream or river buffer:

(i) Creating impervious cover except, except for access to a waterbody or wetland for a lawful private or public use of the resource. All access surfaces within the buffer zones, other than stairs, lifts, and docks allowed under the applicable shoreland ordinances, must be pervious. Permanent vegetative disturbance will be limited to that necessary for access in light of the nature and extent of the permitted use. For the purpose of this exception, porous paving systems are not considered a pervious use. No facility, other than a footpath or a facility accessory to a permitted use of the waterbody and required by its nature to be adjacent to the water such as stairs, lifts, and docks allowed under the applicable shoreland ordinances, may be located within the buffer zone. Paved recreational trails must be located outside the buffer zone. The access zone must not exceed 50 feet in width or half the lot width, whichever is less.

(ii) Excavating fill or placing fill or debris, except for temporary placement of fill or debris pursuant to duly-permitted work in the associated watercourse, in compliance with all conditions of the permit, and in compliance with 1.f.

(iii) Altering vegetation, except for (a) vegetative enhancements, as approved in writing by staff; and (ii) the removal of invasive exotic species or of trees for disease control or revegetation. A tree larger than six inches in diameter at a point two feet 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.

(iv) Locating roads or utilities, except pursuant to a crossing of the associated watercourse in accordance with 1.f. Structures and appurtenances associated with the road or utility shall not be located within the streamside zone unless no feasible alternative exists. Outlet, flood control and stormwater treatment facilities may be located within the zone if so approved under (District Rule 2.0 Stormwater Management), except that a stormwater basin is not permitted:

(a) Within the streamside zone of a stream buffer.

(b) Within the buffer of a groundwater-dependent natural resource, unless the basin bottom is a least three feet above

the seasonal high water table, bedrock or other impeding layer and the basin and associated facilities are designed and maintained to infiltration the two-year, 24-hour precipitation event.

c. The activities of 1.b. will be prohibited in the middle zone of a stream buffer, except that dead trees, limbs or branches may be removed from the buffer for any reason and without District approval.

d. The following activities will be prohibited in the outer zone of a stream buffer:

(i) Creating impervious cover, except for access to a waterbody or wetland for a lawful private or public use of the resource. All access surfaces within the buffer zones, other than stairs, lifts, and docks allowed under the applicable shoreland ordinances, must be pervious. Permanent vegetative disturbance will be limited to that necessary for access in light of the nature and extent of the permitted use. For the purpose of this exception, porous paving systems are not considered a pervious use. No facility, other than a footpath or a facility accessory to a permitted use of the waterbody and required by its nature to be adjacent to the water such as stairs, lifts, and docks allowed under the applicable shoreland ordinances, may be located within the buffer zone. Paved recreational trails must be located outside the buffer zone. The access zone must not exceed 50 feet in width or half the lot width, whichever is less.

(ii) Placing fill or excavation, except in accordance with 1.f. and other applicable law.

(iii) Locating roads and utilities that involve the creation of impervious surface within the outer zone, except pursuant to a crossing of the watercourse and in accordance with 1.f. Structures and appurtenances associated with the road or utility shall not be located within the outer zone unless no feasible alternative exists. Outlet, flood control and stormwater treatment facilities may be located within the zone if so approved under (District Rule 2.0 Stormwater Management).

e. The buffer will be maintained in accordance with the vegetation management plan attached hereto and incorporated herein as **Exhibit B**.

f. Temporary alterations are subject to the following terms:

(i) Compliance with District Rule 3.0 Erosion and Sediment Control, irrespective of the area or volume of earth disturbed.

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

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

(iv) Fill or excavated material will not be placed to create an unstable slope.

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

g. A wetland buffer created in satisfaction of District Rule 8.0 Wetland Management will comply with the following criteria:

(i) Declarant will provide delineation by permanent markers at the buffer's upland edge, with a design and text approved by District staff in writing.

(ii) Existing trails used for landowner access to wetlands within buffer zones may retain those existing trails, unless trails occur along a drainage swale. Existing trail areas not along a stormwater path, but in an open field may be mowed for walking. Existing trails can not cause any type of soil erosion, soil removal, or vegetation removal.

**2. Notice.** Any notice under this Declaration will be sent by certified mail, return receipt requested, or delivered to the address shown for the owner at the Washington County Property Tax Records Department.

Declarant may change this address by a certified letter to the District referencing the permit number.

**3. Recordation/Registration.** Declarant will file an executed copy of this Declaration with the Washington County Recorder's Office or the Washington County Registrar's Office, whichever is appropriate, with the filing cost to be borne by Declarant. This Declaration will be unlimited in duration without being

rerecorded. The covenants and restrictions set forth in this Declaration are established for the benefit of the District as a public body and the benefit of appurtenant public resources, and are not intended as “private covenants, conditions or restrictions” within the meaning of Minnesota Statutes § 500.20.

**4. Recitals.** The recitals set forth above expressly are incorporated herein.

**IN WITNESS WHEREOF**, the undersigned has executed this instrument the day and year first set forth.

**DECLARANT**

\_\_\_\_\_

The foregoing instrument was acknowledged  
before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_ (name(s)), \_\_\_\_\_ (marital status)

\_\_\_\_\_  
Notary

**(stamp)**

This instrument was drafted by:

**Name**  
**Address**  
**Address**  
**Telephone Number**

## **Exhibit A**