



Preliminary Draft Rule Content - MRCCA Work Group Meeting #4

I. PURPOSE

In furtherance of the policies declared in Minnesota Statutes, Chapters 116G and Executive Order 79-19, the commissioner of the Minnesota Department of Natural Resources (DNR) provides the following minimum standards and criteria for the development of land within the Mississippi River Corridor Critical Area (MRCCA). The purposes of the minimum standards and criteria are to:

- A. protect and preserve the Mississippi River and adjacent lands that the legislature finds to be a unique and valuable state and regional resource for the benefit of the health, safety, and welfare of the citizens of the state, region, and nation;
- B. prevent and mitigate irreversible damages to these state, regional, and national resources;
- C. preserve and enhance the natural, aesthetic, cultural, and historical values of the Mississippi River and adjacent lands for public use and benefit;
- D. protect and preserve the Mississippi River as an essential element in the national, state, and regional transportation, sewer and water, and recreational systems; and
- E. protect and preserve the biological and ecological functions of the Mississippi River corridor.

II. SCOPE

- A. The standards and criteria for the MRCCA hereby established in these rules shall pertain to public waters and to public and private lands within the boundaries established by Executive Order 79-19.
- B. All state, local, and special governmental units, councils, commissions, boards, districts, agencies, departments, and other authorities shall exercise their powers so as to further the purpose of this rule.
- C. Land owned by the state, its agencies and subdivisions shall be administered in accordance with this rule.
- D. In case of conflict between a provision of this rule and any other rule, the more protective provision applies.
- E. Minnesota Statewide Shoreland Management Standards found in parts 6120.2500 to 6120.3900 shall not apply to lands within the MRCCA.
- F. Minnesota Wild, Scenic and Recreational River Rules found in parts 6105.0010 to 6105.0250 shall not apply to lands within the MRCCA.
- G. Specific standards found in this rule shall supersede Executive Order 79-19, and Minnesota Rules, parts 4410.8100 to 4410.9910 for management of the MRCCA.

III. ADOPTION SCHEDULE

- A. In consultation with the Metropolitan Council, the DNR shall prepare a notification schedule for local governments to adopt or amend plans and land use controls as provided in this rule.
- B. Within one year of notification by the DNR, local governments shall adopt or amend plans and land use controls to bring them into substantial compliance with this rule, except a local government with an existing comprehensive plan may opt to amend its plan as part of the next comprehensive plan update as provided under Minnesota Statutes, section 473.851.
- C. All plans and land use controls adopted by local governments pursuant to Executive Order 79-19 and in existence on the effective date of this rule shall remain in effect and shall be enforced until amended and approved by the DNR.
- D. The adoption of plans and land use controls in compliance with this rule shall not in any way limit or modify the rights of any person to complete any development that has been previously authorized as provided in Minnesota Statutes, section 116G.13, subdivision 2.

IV. DUTIES

Duties of the DNR:

- A. The DNR shall consult with the U.S. Army Corps of Engineers, the National Park Service (NPS), the Metropolitan Council, other agencies, and local governments to ensure the MRCCA is managed as a multi-purpose resource in a way that:
 - 1. conserves the scenic, environmental, recreational, mineral, economic, cultural and historic resources and functions of the river corridor;
 - 2. maintains the river channel for transportation by providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the Mississippi River and riverfront;
 - 3. provides for the continuation and development of a variety of urban areas, including industrial, commercial, and residential uses, where appropriate, within the MRCCA;
 - 4. utilizes certain reaches of the river as a source of water supply and as a receiving water for properly treated sewage, stormwater and industrial waste effluents; and
 - 5. protects and preserves the biological and ecological functions of the MRCCA.
- B. The DNR shall provide advice and assistance to local governments in the MRCCA in the development, adoption, administration and enforcement of plans and land use controls, consistent with the purposes in the rule, specifically:
 - 1. Develop model ordinances;
 - 2. Review preliminary draft plans and land use controls and provide local governments with comments that will assist them in completing plans and land use controls, and amendments thereto, that will comply with this rule;
 - 3. Review and approve plans and land use controls and amendments thereto prior to adoption by the local government;

4. Aid in the fulfillment of the state's role to preserve and protect the MRCCA and to monitor the administration and enforcement of land use controls. In doing so, the DNR may:
 - review decisions concerning subdivision plats, planned unit developments, conditional use permits, interim use permits, variances, appeals, rezoning, and other developments requiring discretionary action under MRCCA land use controls;
 - review recent local government actions with regard to MRCCA land use controls to ensure compliance with the state's minimum standards and criteria; and
 - periodically review the overall implementation and enforcement of MRCCA land use controls and report to local governments on potential deficiencies and achievements;
 5. Develop materials for local governments to use in educational and marketing efforts that encourage the use of best management practices specified in this rule;
 6. Develop model mitigation measures or systems for common conditions that local governments may use according to mitigation standards of this rule;
 7. Develop training programs for these rules and on the use of model ordinances; and
 8. Consult with agencies (identified below), to ensure they administer lands and programs under their jurisdictions consistent with this rule.
- C. After review, if the DNR determines that the local government has failed to adopt and administer plans and land use controls consistent with these rules, the DNR may:
1. Appeal the actions of the local government to courts as provided under Minnesota Statutes, chapters 394 and 462, and chapter 116G;
 2. Reduce or eliminate eligibility for grant programs administered by the DNR; and/or
 3. Adopt land use controls for the local government as provided in this rule.

Duties of the Metropolitan Council:

- A. The Metropolitan Council shall:
1. Incorporate the standards and criteria of this rule into its planning;
 2. Work with local governments and the DNR to ensure the standards and criteria are being adopted and implemented appropriately;
 3. Be the lead agency to coordinate the preparation, submission, review and modification of plans and land use controls that are prepared by local governments; and
 4. Provide written comments to the DNR on all proposed plans, land use controls and updates and amendments submitted by local governments, within time frames prescribed in this rule.

Duties of local governments:

A. Local governments shall:

1. Prepare and/or amend plans and land use controls to meet or exceed the minimum standards and criteria in this rule;
2. Submit proposed plans, land use controls, and amendments thereto that affect lands within the boundaries of the MRCCA to the Metropolitan Council for review, and to the DNR for review and approval, before adoption as provided in this rule;
3. Adopt, administer and enforce plans and land use controls as provided in this rule;
4. Send copies of all notices of public hearings to consider plans, land use controls, updates and amendments to plans and controls, plats, planned unit developments, conditional and interim use permits, variances, appeals, rezoning, and other development requiring discretionary action affecting lands within the boundaries of the MRCCA to the DNR, to the NPS, and to all adjoining local governments (including those that overlap and are across the river), at least 10 days prior to any public hearing, in a format prescribed by the DNR. Notices must include copies of all materials submitted as part of the application; and
5. Send notice of all decisions made (for actions identified in #4 above), including findings of fact and hardship or practical difficulties criteria, to the DNR, to the NPS, and to all adjoining local governments (including those that overlap and are across the river), within 10 days following the action, in a format prescribed by the DNR.

B. Nothing in these rules will prohibit or discourage a local government from adopting and enforcing plans and land use controls that are more restrictive than these rule requirements.

C. Local governments may, under special circumstances and with DNR approval, adopt land use controls that are not in strict conformity with these minimum standards and criteria, provided the purposes of Minnesota Statutes, section 116G.15 are satisfied.

Duties of townships:

A. Notwithstanding local government responsibilities noted above, townships without existing land use controls on the effective date of these rules may prepare and adopt land use controls in substantial compliance with this rule under authority of Minnesota Statutes, chapters 394, 462 and 473. All townships enacting or amending plans and land use controls are subject to the following provisions:

1. The plans and land use controls must be consistent with or more restrictive than the plans or land use controls adopted by the county in which the township is located as provided under Minnesota Statutes, section 394.33, if the county has adopted land use controls pursuant to this rule. For the purposes of this rule, consistency means that township controls cover the same full range of MRCCA provisions covered by the county controls, contain dimensional standards at least as restrictive as those in the

- county controls, and do not allow land uses in particular areas that are not allowed under the county's controls;
2. A township must provide for administration and enforcement of MRCCA controls in a manner that is at least as effective as county implementation; and
 3. A township may adopt a county's land use controls by reference.

Duties of other agencies:

- A. Agencies owning and managing lands within the MRCCA shall manage said lands under their ownership as prescribed in substantial compliance with this rule. This includes, but is not limited to, the Metropolitan Airports Commission, the University of Minnesota, the NPS, the DNR, the Metropolitan Council, the Minneapolis Park and Recreation Board, the Three Rivers Park District, the Minnesota Department of Transportation, and Anoka Ramsey Community College. Watershed Management Organizations as established under Minnesota Statutes, chapter 103B, and Watershed Districts as established under Minnesota Statutes, chapter 103D, shall carry out their duties in substantial compliance with this rule.

V. PREPARATION, REVIEW, APPROVAL, & ADOPTION OF PLANS & LOCAL CONTROLS

- A. **Local governments:** Within one year of notification from the DNR, local governments must prepare plans and land use controls, submit a preliminary draft to the DNR for informal review, and formally submit them to the Metropolitan Council and the DNR for review.
- B. **Metropolitan Council:** Within 45 days of receiving plans and land use controls from local governments, the Metropolitan Council must review the plans and land use controls for consistency with regional objectives, this rule and Minnesota Statutes, Chapter 116G, and submit to the DNR its written evaluation, copies of the plans and land use controls reviewed, and any other relevant materials. Upon a formal written request from the Metropolitan Council, the DNR may grant a time extension of 30 days when the DNR determines that the Metropolitan Council has satisfactorily demonstrated that it requires more time for review.
- C. **DNR (Commissioner):** Within 45 days of receiving a written evaluation of plans and land use controls from the Metropolitan Council, the DNR must review all plans and land use controls to determine their consistency with provisions of this rule and Minnesota Statutes, Chapter 116G, taking into account the evaluation of the Metropolitan Council. Upon completing the review, the DNR must either:
 1. Approve the plans and/or land use controls by a written decision and notify the local government, or
 2. Return the plans and/or land use controls to the local government for modification, with a written explanation of the need for modification.

The DNR shall provide a copy of the decision to the Metropolitan Council and the NPS.

- D. **Modification:** When the DNR returns a plan or land use controls for modification, the DNR shall provide a written explanation of the deficiencies of the plan or land use controls that need to be corrected by the local government before the DNR can approve it. The local government shall revise the plan or land use controls consistent with the instructions of the DNR, and resubmit the revised plan or land use controls to the DNR within 60 days of their receipt. If requested by the local government or Metropolitan Council, final revision need not be made until a formal meeting has been held with the DNR on the plan or land use controls.
- E. **Adoption and implementation:** Within 45 days of receiving the DNR's approval of a plan, land use control or amendments thereto, the local government must adopt the plan, land use control or amendment, and submit a copy, with evidence of adoption, to the DNR, the Metropolitan Council and the NPS. If, in the opinion of the DNR, the local government is making a conscientious effort to complete adoption in a timely manner, the DNR may grant an appropriate extension of time. Plans, land use controls or amendments thereto prepared pursuant to this rule shall become effective when enacted by the local government or, following adoption by the DNR, upon such date as the DNR may provide in the order approving said plans, land use controls or amendments thereto. Once in effect, the local government shall properly implement and enforce its plans and land use controls. Local governments shall enact, for lands within the MRCCA, only those plans, land use controls and amendments thereto that have the written approval of the DNR.
- F. **Failure to prepare and submit land use controls:** Except as otherwise provided in this rule, if any local government fails to prepare land use controls that are acceptable to the DNR within one year of notification, the DNR shall:
1. Prepare land use controls in substantial compliance with this rule within 90 days of the last day of the one-year notification period;
 2. Conduct a public hearing in the community directly affected by the land use controls, subject to the following provisions:
 - (1) At least 30 days prior to the date of the public hearing, the DNR shall give legal notice to the affected local government, all adjoining local governments (including those that overlap and are across the river), the Metropolitan Council, the NPS, requesting persons, and persons owning real property that would be directly affected by the land use controls;
 - (2) The legal notice shall include the time, location and purpose of the hearing, and a summary of the proposed land use controls;
 - (3) At least two weeks prior to the date of the public hearing, the DNR shall place one legal notice of the proposed land use controls in the official newspaper of the local government;
 - (4) The DNR shall receive all testimony and exhibits relative to the land use controls presented at the public hearing, and shall prepare an official record of the hearing within 60 days of its conclusion;

3. Adopt the land use controls for the local government's portion of the MRCCA within 60 days of the conclusion of the public hearing; and
 4. Give notice of the adopted land use controls to the affected local government, the Metropolitan Council and the National Park Service.
- G. **Implementation of controls adopted by the DNR:** Land use controls that have been adopted by the DNR shall apply and have the effect of adoption by the local government or agency with jurisdiction, and shall be administered by the local government or agency with jurisdiction as if they were part of the local ordinance. At any time after the preparation and adoption of plans and land use controls by the DNR, a local government or agency with jurisdiction may prepare land use controls according to the provisions in these rules. When the land use controls are approved by the DNR, they shall supersede the land use controls adopted by the DNR.
- H. **Amendments to plans and land use controls:** Local governments and agencies with jurisdiction may amend their plans and land use controls that have been approved by the DNR by resubmitting the plans and land use controls with any recommended changes thereto, to the DNR for consideration. Amendments to plans and land use controls shall become effective only upon the approval thereof by the DNR in the same manner as for approval of the original plans and regulations as provided in this rule.
- I. **Additional provisions for plans:** Plans prepared per this rule shall be a component of the local government's comprehensive plan, prepared with the elements, and updated on the same schedule, as directed by Minnesota Statutes, section 473.851-473.871. Plans shall contain provisions to:
1. protect the features and resources identified in Minnesota Statutes, section 116G.15, Subp. 4.(b);
 2. provide for the screening of existing development;
 3. ensure that development requiring urban services not be permitted outside the MUSA boundary as established by the Metropolitan Council;
 4. minimize potential conflict of surface water uses as provided in Minnesota Statutes, section 86B.205;
 5. provide for commercial barge terminals, barge fleeting and recreational marinas, where appropriate;
 6. provide for future commercial and industrial uses that require water access;
 7. maximize the creation and maintenance of open space and recreation facilities, including parks, scenic overlooks, natural areas, islands, and wildlife areas;
 8. identify potential trail locations; and
 9. provide for transportation and public utility development in a manner consistent with the provisions of these rules.

VI. SITE PLANS

- A. Site plans shall be required for development that requires a development permit.
- B. Site plans shall include, but not be limited to:
 - 1. a detailed description of the project, including how the project complies with the provisions of this rule; and
 - 2. scaled mapping that identifies:
 - primary conservation areas;
 - existing and proposed topography and drainage patterns;
 - proposed stormwater and erosion and sediment control practices;
 - existing and proposed vegetation to be removed and established;
 - OHWL, blufflines, and all required setbacks;
 - existing and proposed structures;
 - existing and proposed impervious surfaces; and
 - existing and proposed SSTS.

VII. VARIANCES

- A. Variances shall be considered by the local government consistent with Minnesota Statutes, sections 394.27 and 394.362, or 462.357 subdivision 6(2).
- B. Variances will be subject to mitigation as provided by this rule.

VIII. CUPs & IUPs

In addition to existing local government standards for reviewing conditional and interim uses and the requirements of Minnesota Statutes, chapters 394 or 462, the following standards must be incorporated into local controls:

- A. Evaluation of the topographic, vegetation, and soils conditions on the site to identify where mitigation may be necessary to:
 - 1. prevent soil erosion, stormwater runoff, or other degradation of public waters;
 - 2. maintain or restore vegetation in the SIZ, BIZ, and SPZ to a natural state;
 - 3. screen structures and other facilities as viewed from the OHWL of the opposite shore;
 - 4. accommodate water supply and on-site sewage treatment; and
 - 5. protect and enhance the resources and features identified in MN Statutes, §116G.15, Subd. 4(b).
- B. Interim use permits shall require compliance with the standards in this rule.
- C. Where evaluation and assessment determine the need for additional environmental protections, the issuance of a conditional or interim use permit shall include conditions for approval and mitigation requirements in accordance with the mitigation section of this rule. Conditions imposed by local governments may include the following:
 - 1. increased setbacks from the OHWL or blufflines;
 - 2. location, design, and use requirements for watercraft launching or docking, and for vehicular parking;
 - 3. public access or trail dedication;

4. structure or other facility design, use, and location;
5. phasing of construction;
6. conservation easements to protect the SIZ, BIZ, SPZ or shoreline buffer;
7. native vegetation maintenance or restoration;
8. special requirements for limiting runoff and directing it away from bluffs and steep slopes;
9. and other conditions considered necessary by the local unit of government.

IX. NONCONFORMITIES

- A. Nonconformities shall be regulated by the local government consistent with Minnesota Statutes, section 394.36 or 462.357, subdivision 1(e).
- B. Expansion of nonconforming structures may be permitted if the expansion does not increase the degree of nonconformity.
- C. Any alteration or expansion of a nonconforming structure that increases the horizontal or vertical riverward structure face shall not be allowed unless it can be demonstrated that the structure will be visually inconspicuous in summer months as viewed from the river.

X. MITIGATION

- A. Mitigation shall be required for:
 1. a granted variance; and
 2. a granted conditional or interim use permit where the development activity will result in an increase in stormwater runoff to the river or will impact other resources or features identified in Minnesota Statutes, §116G.15, Subd. 4(b).
- B. Mitigation shall be proportional to the impact of the project on the features and resources identified in Minnesota Statutes, §116G.15, Subp. 4 (b).
- C. Mitigation will include one or more of the following measures as determined by the local government:
 1. restore areas within the SIZ, BIZ, or SPZ to a natural state;
 2. restore buffers, floodplains, or wetlands;
 3. use "low-impact development" stormwater management as provided in Minnesota Statutes, section 115.03, Subd. 5c) to manage the rate and volume of stormwater runoff to predevelopment conditions. Stormwater best management practices shall be consistent with latest Minnesota Stormwater Manual;
 4. removal of nonconforming structure(s) and impervious surfaces that do not comply with the required setback standards or other dimensional standards of this rule; impervious surface standards, or structures and impervious located in the SIZ or SPZ;
 5. planting of trees and shrubs native to the area, use of natural color(s) or material(s) on the exterior of the structure, or other screening techniques to reduce visual impact;
 6. recording a conservation easement to protect the SIZ, BIZ or SPZ;
 7. where private and public partnerships propose development, dedication of public access within the SIZ; or
 8. voluntary connection to public sewer.

XI. DEFINITIONS

Access lot. "Access lot" means a parcel of land that provides access to public waters, including controlled access lots and alternative access lots.

Access path. "Access path" means an area designated to provide ingress and egress to public waters.

Accessory structure. "Accessory structure" means any building, structure, or improvement subordinate to and on the same lot as the principal structure or use, including sheds, storage shelters, gazebos, hot tubs, swimming pools, pole buildings, detached garages, decks, patios, and other similar structures. *(Based on MR, part 6120.2500)*

Accessory use. "Accessory use" means a use or portion of a use or structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto. *(EO 79-19)*

Adjacent. "Adjacent" means having a boundary which physically touches or adjoins. *(EO 79-19)*

Aggregate mining. "Aggregate mining" means the construction, reconstruction, repair, relocation, expansion, or removal of any facility for the extraction, stockpiling, storage, disposal, or reclamation of nonmetallic minerals. Facilities include all mine pits, quarries, stockpiles, basins, and any structures which drain or divert public waters to allow mining. Ancillary facilities such as access roads, bridges, culverts, and water level control structures are not mining activities. *(Based on MR, part 6115.0170)*

Aggregate extraction. "Aggregate extraction" means the removal from the land of stone, sand and gravel, or other material for commercial, industrial, or governmental purposes.

Agricultural use. "Agricultural use" has the meaning given under Minnesota Statutes, chapter 40A. *(MS, section 40A.02 defines "agricultural use" as the production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products. "Agricultural use" also includes wetlands, pasture, forest land, wildlife land, and other uses that depend on the inherent productivity of the land.)*

Alteration. "Alteration" means any activity that exposes the soil or will change the topography, drainage, or cross-section of land.

Alternative access lot. "Alternative access lot" means an access lot that provides access to public waters for owners of riparian lots within subdivisions.

Barge fleeting area. "Barge fleeting area" means an area on the river, on or off channel, where barges are temporarily parked and secured while tows are assembled or broken up. *(EO 79-19)*

Barge slip. "Barge slip" means a basin, usually adjacent to a wharf, jetty, dock or other cargo handling facility, where barges are brought for the purpose of loading or unloading cargo. *(EO 79-19)*

Bioengineering. “Bioengineering” means the use of living and nonliving plant materials in combination with natural and synthetic support materials for slope stabilization, erosion reduction, and vegetative establishment.

Bluff. “Bluff” means a natural topographic feature having all of the following characteristics:

- A. the slope rises at least 25 feet above the ordinary high water level or toe of the bluff, and
- B. the grade of the slope from the ordinary high water level or toe of the bluff to the top of the bluff averages 30 percent or greater, where
- C. “toe of the bluff” means the lower point of a horizontal 10-foot segment with an average slope exceeding 18 percent, and
- D. “top of the bluff” means the higher point of the highest horizontal 10-foot segment with an average slope exceeding 18 percent. *(Based on MR, part 6120.2500)*

Bluff impact zone (BIZ). “Bluff impact zone” means land on and within 20 feet of a bluff. *(Based on MR, part 6120.2500)*

Bluffline. “Bluffline” means a line delineating the top of the bluff. More than one bluffline may be encountered proceeding landward from the river. *(Based on EO 79-19 and MS, section 116G.15)*

Buffer. “Buffer” means the land that is used to protect adjacent lands and waters from development and more intensive land uses. The land is kept in a natural state of trees, shrubs, and low ground cover and understory of plants that provides ecological services such as filtering runoff, controlling nutrient movement, and protecting fish and wildlife habitat. In areas of agricultural use, the land is used for less intensive agricultural purposes.

Buildable area. “Buildable area” means the area upon which structures may be placed on a lot or parcel of land and excludes areas to meet setback requirements, bluffs, areas with slopes greater than 18 percent, rights-of-way, historic sites, wetlands, designated floodways, land below the ordinary high water level of public waters, and other unbuildable areas.

Certificate of compliance. “Certificate of compliance” means a document, written after a compliance inspection, certifying that development is in compliance with applicable requirements at the time of the inspection. *(Based on MR, part 7080.1100)*

Clear cutting. “Clear cutting” means the removal of an entire stand of trees and shrubs. *(EO 79-19)*

Clustering or clustered. “Clustering or clustered” means a development pattern and technique whereby structures or building sites are arranged in close proximity to one another in groups. *(Based on EO 79-19)*

Commissioner. “Commissioner” means the commissioner of the Department of Natural Resources.

Common open space. “Common open space” means a portion of a development permanently set aside to preserve elements of the natural landscape for public or private use, which will not be

developed or subdivided and is either owned in common by the individual owners in the development or by a permanently established management entity. *(Based on MR, part 4410.0200)*

Conditional use. "Conditional use" has the meaning given under Minnesota Statutes, chapters 394 and 462. *(MS, chapters 394 and 462 contain slightly different provisions for conditional uses.)*

Conservation easement. "Conservation easement" has the meaning given under Minnesota Statutes, section 84C. *(MS, section 84C.01 defines "conservation easement" as a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.)*

Controlled access lot. "Controlled access lot" means an access lot that provides access to public waters for owners of nonriparian lots within a conventional subdivision.

Conventional subdivision. "Conventional subdivision" means a pattern of subdivision development that is characterized by lots that are spread regularly throughout a parcel in a lot and block design.

Cumulative impact. "Cumulative impact" has the meaning given under Minnesota Rules, chapter 4410. *(MR, part 4410.0200 defines "cumulative impact" as the impact on the environment that results from incremental effects of the project in addition to other past, present, and reasonably foreseeable future projects regardless of what person undertakes the other projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.)*

Deck. "Deck" means a horizontal, unenclosed above ground level structure with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

Department. "Department" means the Department of Natural Resources.

Developer. "Developer" has the meaning given under Minnesota Statutes, chapter 116G. *(MS, section 116G.03 defines "developer" as any person, including a governmental agency, undertaking any development.)*

Development. "Development" has the meaning given under Minnesota Statutes, chapter 116G. *(MS, section 116G.03 defines "development as the making of any material change in the use or appearance of any structure or land including but not limited to:*

- (1) a reconstruction, alteration of the size, or material change in the external appearance of a structure on the land;*
- (2) a change in the intensity of use of the land;*
- (3) alteration of a shore or bank of a river, stream, lake or pond;*
- (4) commencement of drilling (except to obtain soil samples), mining or excavation;*
- (5) demolition of a structure;*
- (6) clearing of land as an adjunct to construction;*

- (7) deposit of refuse, solid or liquid waste, or fill on a parcel of land; and
- (8) the dividing of land into three or more parcels.)

Development permit. "Development permit" has the meaning given under Minnesota Statutes, chapter 116G. *(MS, section 116G.03 defines "development permit" as any building permit, zoning permit, water use permit, discharge permit, permit for dredging, filling, or alterina any portion of a watercourse, plat approval, rezoning, certification, variance, or other action have the effect of permitting any development.)*

Dock. "Dock" has the meaning given under Minnesota Rules, chapter 6115. *(MR, part 6115.0170 defines "dock" as a narrow structure extending waterward from the shoreline intended for ingress and egress for moored watercraft or seaplanes or to provide access to deeper water for swimming, fishing, or other water-oriented recreational activities.)*

Dwelling unit. "Dwelling unit" means any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Essential services. "Essential services" means underground or overhead gas, electrical, steam, or water distribution systems; collection, communication, supply, or sewer systems, including poles, wires, mains, drains, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, or other similar equipment and accessories in conjunction therewith; but not including buildings, wastewater treatment works as defined in Minnesota Statutes, section 115.01, or electrical generation and transmission services. ***(Based on EO 79-19)***

Extractive use. "Extractive use" means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

Feedlot. "Feedlot" has the meaning given for "animal feedlots" under Minnesota Rules, chapter 7020). *(MR, part 7020.0300 defines "animal feedlot" as a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.)*

Fill. "Fill" means any material placed or intended to be placed on the land.

Floodplain. "Floodplain" has the meaning given under Minnesota Rules, chapter 6120. *(MR, part 6120.5000 defines "floodplain" as the areas adjoining a watercourse which has been or hereafter may be covered by a regional flood.)*

General advertising signs. "General advertising signs" means those signs which direct attention to a product, service, business or entertainment not exclusively related to the premises where such sign is located. *(EO 79-19)*

Government development. "Government development" has the meaning given under Minnesota Statutes, chapter 116G. *(MS, section 116G.03 defines "government development" as any development financed in whole or in substantial part, directly or indirectly, by the United States, the state of Minnesota, or any agency or political subdivision thereof. Development financed indirectly" means development underwritten or insured by moneys of the governments, or any agency or political subdivision thereof. "Development financed in substantial part" means development with more than 50 percent of its financing or reimbursement from moneys of the governments, or any agency or political subdivision thereof.)*

Hardship. "Hardship" has the meaning given under Minnesota Statutes, chapters 394 and 462. *(MS, chapters 394 and 462 contain different provisions for variances and hardship.)*

Historic preservation. "Historic preservation" means the protection by various means of buildings or other structures, land areas, or districts which are listed, or have been found eligible to be listed, in the State Register of Historic Sites or the National Register of Historic Places. *(Based on EO 79-19)*

Impervious surface. "Impervious surface" means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, decks, sidewalks, patios, parking lots, storage areas, and concrete, asphalt, gravel driveways, and riprap and other hard armoring.

Interim use. "Interim use" has the meaning given under Minnesota Statutes, chapters 394 and 462. *(MS, sections 394.303 and 462.3597 both define "interim use" as a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.)*

Intensive vegetation clearing. "Intensive vegetation clearing" means the substantial removal of trees or shrubs in a contiguous patch, strip, row, or block.

Land use controls. "Land use controls" has the meaning given for "official controls" under Minnesota Statutes, chapter 462. *(MS, section 462.353 defines "official controls" as ordinances and regulations which control the physical development of a city, county or town or any part thereof or any detail thereof and implement the general objectives of the comprehensive plan. Official controls may include ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps.)*

Local government unit. "Local government unit" means any political subdivision of the state, including but not limited to counties, municipalities, townships, and all agencies and boards thereof. *(EO 79-19)*

Local origin. "Local origin" means a source for live plant materials and their propagules that is limited to areas of the same region where the plant materials are proposed to be planted, not to exceed 200 miles from where the plant materials are proposed to be planted. *(Based on MR, part 6115.0170)*

Lot. "Lot" has the meaning given under Minnesota Rules, chapter 6120. *(MR, part 6120.2500 defines "lot" as a parcel of land designated by plat, metes and bounds, registered land survey, auditors plat, or other accepted means and separated from other parcels or portions by said description for the purpose of use, occupancy, sale, lease, or separation.)*

Lot width. "Lot width" means the shortest distance between lot lines measured at both the ordinary high water level and at the required structure setback from ordinary high water level for riparian lots. For nonriparian lots, the lot width is the shortest distance between side lot lines as measured at the midpoint of the longest axis of the lot. *(Based on MR, part 6120.2500)*

Marina. "Marina" has the meaning given under Minnesota Rules, chapter 6115. *(MR, part 6115.0170 defines "marina" as either an inland or offshore commercial mooring facility for the concentrated mooring of seven or more watercraft or seaplanes wherein commercial ancillary services common to marinas are provided.)*

Metropolitan plans, guides, and standards. "Metropolitan plans, guides, and standards" means and refers to all documents, reports, and materials which have been adopted by the Metropolitan Council and includes, but is not limited to Metropolitan Development Guide Sections, including the Development Framework Chapter and policy plans for Development Programs of all Metropolitan Commissions. *(EO 79-19)*

Metropolitan systems. "Metropolitan systems" means those facilities for which the Metropolitan Council has planning responsibility including, but not limited to interceptor sanitary sewers, sewage treatment plants, transit facilities, regional parks, and major highways. *(EO 79-19)*

Metropolitan Urban Service Area (MUSA). "Metropolitan Urban Service Area (MUSA)" the portion of the Metropolitan Area having metropolitan sewer service available, good highway access, transit service, and most municipal services as designated in the Development Framework chapter of the Metropolitan Development Guide. *(EO 79-19)*

Mississippi River Corridor. "Mississippi River Corridor" means that area within the boundaries of the Mississippi River Corridor Critical Area.

Mooring. "Mooring" has the meaning given under Minnesota Rules, chapter 6115. *(MR, part 6115.0170 defines "mooring" as any containment or restraint of free-floating watercraft, seaplanes or floating structures that provides a fixed fastening for the craft or structure.)*

Mooring facility. "Mooring facility" has the meaning given under Minnesota Rules, chapter 6115. *(MR, part 6115.0170 defines "mooring facility" as a concentrated area intended for the mooring or containment of seven (7) or more watercraft, seaplanes, or floating structures by docks, mooring buoys, beaching, or other means.)*

Native plants. "Native plants" means indigenous plant species growing in an ecological classification system province or a major watershed in Minnesota prior to European settlement.

(Based on MR, part 6115.0170)

Natural state. "Natural state" means where the condition, composition, and diversity of the plant community is substantially unaltered by humans; or where restoration has been consistent with commissioner guidelines or local government approved plans.

Nonconformity. "Nonconformity" has the meaning given under Minnesota Statutes, chapters 394 and 462. *(MS, section 394.22 defines "nonconformity" as any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would have been permitted to become established under the terms of the official controls now written, if the official controls had been in effect prior to the date it was established, recorded, or authorized.)*

Non-riparian lot. "Non-riparian lot" means a lot that does not abut public waters.

Ordinary high water level (OHWL). "Ordinary high water level" has the meaning given under Minnesota Statutes, chapter 103G. *(MS, section 103G.005 defines "OHWL" as means the boundary of water basins, watercourses, public waters, and public waters wetlands, and:*

- (1) the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;*
- (2) for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and*
- (3) for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.)*

Parcel. "Parcel" means any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

Patio. "Patio" means a constructed hard surface located at ground level.

Planned unit development. "Planned unit development" means a method of land use or development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for occupancy, sale, rent, or lease, and a mix of structure types and land uses. These developments may be organized and operated as residential or commercial enterprises such as individual dwelling units, townhouses, condominiums, time-share condominiums, cooperatives, common interest communities, apartment buildings, recreational vehicle parks, manufactured home parks, or any combination of these. Enterprises not meeting the definition of resort, which may include some forms of fractional ownership properties, campgrounds or youth camps, are planned

unit developments. Planned unit developments shall also include any conversion of existing structures and land uses that utilize this method of development.

Plat. "Plat" has the meaning given under Minnesota Statutes, chapters 505 and 515B. *(MS, section 505.01 defines "plat" as a delineation of one or more existing parcels of land drawn to scale showing all data as required by this chapter, depicting the location and boundaries of lots, blocks, outlots, parks, and public ways.)*

Port. "Port" has the meaning given under Minnesota Rules, chapter 6115. *(MR, part 6115.0170 defines "port" as a water transportation complex established and operated under the jurisdiction of a port authority pursuant to Minnesota Statutes, chapter 458.)*

Port facility. "Port facility" has the meaning given under Minnesota Rules, chapter 6115. *(MR, part 6115.0170 defines "port facility" as any facility useful in the maintenance and operation of a port. Facilities include, but are not limited to, transportation facilities, terminal and storage facilities, floating and handling equipment, power stations, and other facilities necessary for the maintenance and operation of a port.)*

Primary conservation areas. "Primary conservation areas" means key resources and features listed in 116G.15, Subd. 4 (b), including the SIZ, BIZ, and SPZ; floodplains, wetlands and gorges; areas of confluence with key tributaries; natural drainage routes, unstable soils and bedrock; significant existing vegetative stands, tree canopies, and native plant communities; scenic views and vistas; publicly owned parks, trails, and open spaces; and cultural and historic sites and structures.

Professional engineer. "Professional engineer" means an engineer registered to practice in Minnesota.

Project area. "Project area" means the parcel in its entirety proposed for development.

Public facility. "Public facility" means all public buildings, including schools, libraries, fire stations, administrative offices, roads, bridges. **(EO 79-19)**

Public safety facilities. "Public safety facilities" means hydrants, fire alarm boxes, street lights, railway crossing signals, and similar facilities and accessories, but not including buildings. **(EO 79-19)**

Public waters. "Public waters" has the meaning given under Minnesota Statutes, section 103G. *(MN Statutes, section 103G.005 defines "public waters" as (a):*

- (1) water basins assigned a shoreland management classification by the commissioner under sections 103F.201 to 103F.221;*
- (2) waters of the state that have been finally determined to be public waters or navigable waters by a court of competent jurisdiction;*
- (3) meandered lakes, excluding lakes that have been legally drained;*
- (4) water basins previously designated by the commissioner for management for a specific purpose such as trout lakes and game lakes pursuant to applicable laws;*

- (5) *water basins designated as scientific and natural areas under section 84.033;*
 - (6) *water basins located within and totally surrounded by publicly owned lands;*
 - (7) *water basins where the state of Minnesota or the federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of the public ownership;*
 - (8) *water basins where there is a publicly owned and controlled access that is intended to provide for public access to the water basin;*
 - (9) *natural and altered watercourses with a total drainage area greater than 2 miles²;*
 - (10) *natural and altered watercourses designated by the commissioner as trout streams;*
 - (11) *public waters wetlands, unless the statute expressly states otherwise.*
- (b) *Public waters are not determined exclusively by the proprietorship of the underlying, overlying, or surrounding land or by whether it is a body or stream of water that was navigable in fact or susceptible of being used as a highway for commerce at the time this state was admitted to the union.)*

Readily visible. "Readily visible" means easily seen or visually conspicuous; when the river user first looks up at the surrounding landscape, the user sees the object without having to look hard or long or use any devices.

-OR-

Visually inconspicuous. "Visually inconspicuous" means difficult to see or not readily noticeable in summer months as viewed from the river. **(Based on MR, part 6105.0354)**

Shoreline recreation use area. "Shoreline recreation use area" means the area within the shore impact zone where vegetation in a natural state need not exist.

Recreational vehicle. "Recreational vehicle" has the meaning given under Minnesota Statutes, chapter 168, or the meaning given "recreational camping vehicle" under Minnesota Statutes, chapter 327. *(MS, section 168.002 defines "recreational vehicle" as:*

- (a) *travel trailers including those that telescope or fold down, chassis-mounted campers, motor homes, tent trailers, and converted buses that provide temporary human living quarters; and*
- (b) *a vehicle that:*
 - (1) *is not used as the residence of the owner or occupant;*
 - (2) *is used while engaged in recreational or vacation activities; and*
 - (3) *is either self-propelled or towed on the highways incidental to the recreational or vacation activities.*

MS, section 327.14 defines "recreational camping vehicle" as:

- (a) *any vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses;*
- (b) *any structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;*
- (c) *any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle; and*
- (d) *any folding structure, mounted on wheels and designed for travel, recreation, and vacation use.)*

Retaining walls. “Retaining walls” means vertical or nearly vertical structures constructed of mortar-rubble masonry, placement of rock or stone regardless of size, vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials. *(Based on MR, part 6115.1070)*

Rezone. “Rezone” means a change of permitted uses within a local zoning district or of the boundaries of a local zoning district, adopted by ordinance by the local government unit. *(EO 79-19)*

Riparian lot. “Riparian lot” means is a lot that abuts public waters.

Riprap shore protection. “Riprap shore protection” means coarse stones, boulders, cobbles, broken rock or concrete, or brick materials laid loosely to create an irregular surface against the slope of the existing bank of a public water, to dissipate wave energy for erosion control. *(Based on MR, part 6115.0170)*

River-dependent commercial and industrial use. “River-dependent commercial and industrial use” means the use of land for commercial or industrial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business, including but not limited to barge facilities and marinas.

Rules and regulations. “Rules and regulations” means the instruments by which state and local units of government control the physical development of the Mississippi River Corridor or any part or detail thereof. Regulations include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and the adoption of official maps. *(EO 79-19)*

Semipublic use. “Semipublic use” means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Setback. “Setback” means a separation distance measured horizontally.

Shore impact zone (SIZ). “Shore impact zone” means land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of the required structure setback, or 50 feet landward of the ordinary high water level in agricultural areas. *(Based on MR, part 6120.2500)*

Shoreland. “Shoreland” has the meaning given under Minnesota Statutes, chapter 103F. Shorelands for rivers in the wild and scenic rivers system means those lands within the boundaries of the management plan for each designated river segment.

Shoreland conservation subdivision. “Shoreland conservation subdivision” is a method of subdivision of shorelands characterized by creating greater community value through open space amenities for homeowners and protection of natural resources and riparian areas. Site designs incorporate standards of low impact development.

Shoreline buffer. "Shoreline buffer" means a buffer abutting public waters.

Shoreline facilities. "Shoreline facilities" means facilities that require a location adjoining the water for ingress and egress, loading and unloading, and public water input and output, including but not limited to barge facilities, commodity loading and unloading equipment, watercraft lifts, marinas, short-term watercraft mooring for patrons, and water access ramps. Structures that would be enhanced by a shoreline location but do not require a location adjoining the water as part of their function, are not shoreline facilities (e.g. restaurants, bait shops, and boat dealerships).

Significant historic site. "Significant historic site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Slope preservation zone (SPZ). "Slope preservation zone" means land on and within 20 feet of a very steep slope.

State agency. "State agency" has the meaning given under Minnesota Rules, chapter 4410. *(MR, part 4410.8100 defines "state agency" as a state board, commission, institution, or any other unit of state government.)*

Steep Slope. "Steep slope" means a natural topographic feature with an average slope of 12-18 percent, measured over a horizontal distance equal to or greater than 50 feet.
(Based on MS, section 116G.15)

Stormwater. "Stormwater" has the meaning given under Minnesota Rules, chapter 7090. *(MR, part 7090.0080 defines "stormwater" as stormwater runoff, snow melt runoff, and surface runoff and drainage. It includes the term "stormwater" as used in agency documents.)*

Structure. "Structure" means any building, sign, or appurtenance thereto, except for aerial or underground utility lines, such as sewer, electric, telephone, telegraph, or gas lines, including towers, poles, and other supporting appurtenances. *(Based on MR, part 6105.0040)*

Subdivision. "Subdivision" has the meaning given under Minnesota Statutes, chapter 462. *(MS, section 462.352 defines "subdivision" as the separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:*

- (1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;*
- (2) creating cemetery lots;*

(3) resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.)

Subsurface sewage treatment system. "Subsurface sewage treatment system" has the meaning given under Minnesota Rules, chapter 7080. (MR, part 7080.1100 defines "subsurface sewage treatment system" as either an individual subsurface sewage treatment system as defined in subpart 41 or a mid-sized subsurface sewage treatment system as defined in part 7081.0020, subpart 4, as applicable.)

Suitable area. "Suitable area" means the area remaining on a lot or parcel of land after the shore impact zone, bluff impact zones, slope preservation zones, roads and rights of way, historic sites, wetlands, designated floodways, and land below the ordinary high water level are subtracted.

Surface waters. "Surface waters" means waters of the state excluding groundwater as defined in Minnesota Statutes, section 115.01. Surface waters include lakes, reservoirs, ponds, marshes, rivers, tributary streams, watercourses, waterways, springs, and all other bodies or accumulations of water.

Variance. "Variance" has the meaning under Minnesota Statutes, chapters 394 and 462. (MS, chapters 394 and 462 contain different provisions for variances and hardship.)

Very steep slope. "Very steep slope" means a natural topographic feature having all of the following characteristics:

- A. the slope rises at least 10 feet above the ordinary high water level or toe of slope, and
- B. the grade of the slope from the ordinary high water level or toe of slope to the top of slope averages 18 percent or greater, where
- C. "toe of slope" means the lower point of the lowest horizontal 10-foot segment with an average slope exceeding 18 percent, and
- D. "top of slope" means the higher point of the highest horizontal 10-foot segment with an average slope exceeding 18 percent. *(Based on MS, section 116G.15)*

Water access ramp. "Water access ramp" means a ramp, road, or other conveyance which allows the launching and removal of a boat with a vehicle and trailer.

Water-oriented accessory structure. "Water-oriented accessory structure" means a small building or other improvement, except stairways, fences, docks, and retaining walls that, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples include gazebos, screen houses, fish houses, pump houses, and detached decks and patios.

Wetlands. "Wetlands" has the meaning given under Minnesota Statutes, chapter 103G.

(MS, section 103G.005 defines "wetlands" as:

(a) lands 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. For purposes of this definition, wetlands must have the following three attributes:

(1) have a predominance of hydric soils;

(2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(3) under normal circumstances support a prevalence of such vegetation.

(b) For the purposes of regulation under this chapter, the term wetlands does not include public waters wetlands as defined in subdivision 15a.)

Wharf. "Wharf" has the meaning given under Minnesota Rules, chapter 6115.

(MR, part 6115.0170 defines "wharf" as a permanent structure constructed into navigable waters as a part of a port facility for berthing or mooring commercial watercraft, or for transferring cargo to and from watercraft in an industrial or commercial enterprise, or for loading or unloading passengers from commercial watercraft, or for the operation of a port facility.)