

City of South St. Paul
Dakota County, Minnesota
Ordinance No. 1411

**AN ORDINANCE UPDATING THE STANDARDS FOR THE MISSISSIPPI RIVER
CRITICAL CORRIDOR AREA (MRCCA), REORGANIZING THE CITY'S OVERLAY
DISTRICTS AND UPDATING ZONING STANDARDS FOR MUNICIPAL USES**

SECTION 1. REPEAL AND REPLACE. Division 2 of Article IV of Chapter 118 of the South St. Paul City Code is hereby repealed and replaced as follows:

**DIVISION 2. MISSISSIPPI RIVER CRITICAL CORRIDOR AREA OVERLAY
DISTRICT**

Sec. 118-165. Authority, Intent, and Purpose

- (a) *Statutory Authorization.* This Mississippi River Corridor Critical Area (MRCCA) section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter [116G](#), Minnesota Rules, Parts [6106.0010 - 6106.0180](#), and the planning and zoning enabling legislation in Minnesota Statutes, Chapter [462](#) and [473](#).
- (b) *Policy.* The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of designated critical areas and thus preserve and enhance the quality of important historic, cultural, aesthetic values, and natural systems and provide for the wise use of these areas.

Sec. 118-166. General Provisions

- (a) *Jurisdiction.* The provisions of this division shall apply to land within the river corridor boundary as described in the [State Register, volume 43](#), pages 508 to 519 and shown on the official zoning map.
- (b) *Enforcement.* The City of South St. Paul is responsible for the administration and enforcement of this division. Any violation of its provisions or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this division can occur regardless of whether or not a permit is required for a regulated activity listed in Section 118-168 (b).
- (c) *Severability.* If any section, clause, provision, or portion of this division is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this division shall not be affected thereby.
- (d) *Abrogation and Greater Restrictions.* It is not intended by this division to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this division imposes greater restrictions, the provisions of this division shall

prevail. All other sections inconsistent with this division are hereby repealed to the extent of the inconsistency only.

- (e) *Underlying zoning.* Uses and standards of underlying zoning districts apply except where standards of this overlay district are more restrictive.

Sec. 118-167. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the same meaning they have in common usage and to give this article its most reasonable application. For the purpose of this article, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally. Definitions in this section are unique to Division II. All other definitions refer to section 118-8 of this title.

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

Adjacent means having a boundary that physically touches or adjoins.

Agricultural use means a use having the meaning given under Minnesota Statutes, section [40A.02](#).

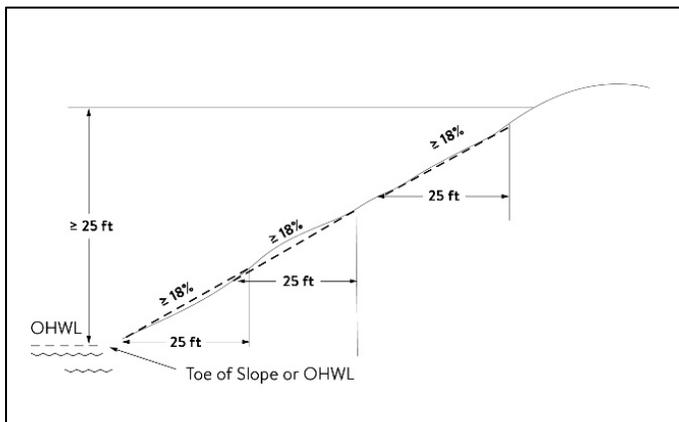
Alternative design means subdivision design methods such as conservation design, transfer of development density, or similar zoning and site design techniques that protect open space and natural areas.

Biological and ecological functions means the functions of vegetation in stabilizing soils and slopes, retaining and filtering runoff, providing habitat, and recharging groundwater.

Bluff means a natural topographical feature having:

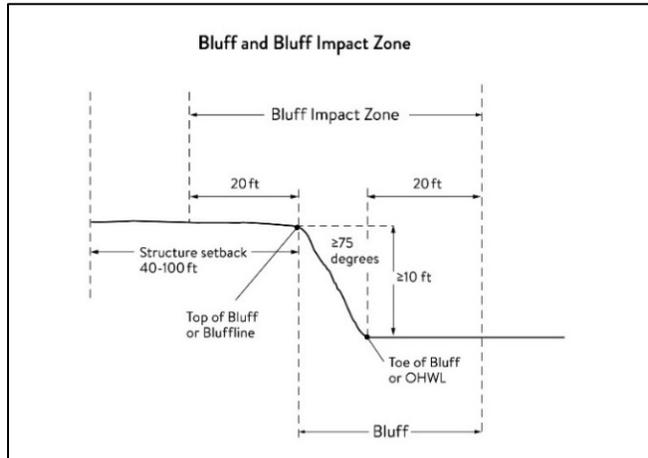
- A. A slope that rises at least 25 feet where the grade of the slope averages 18 percent or greater, measured over any horizontal distance of 25 feet, from the toe of the slope to the top of the slope. Where the slope begins below the ordinary high water level, the ordinary high water level is the toe of the slope. See Figure 1; or

Figure 1. Bluff



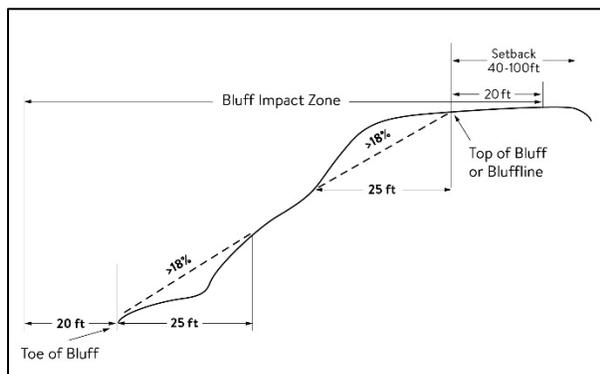
B. A natural escarpment or cliff with a slope that rises at least ten feet above the ordinary high water level or toe of the slope, whichever is applicable, to the top of the slope, with a slope of 75 degrees or greater. See Figure 2.

Figure 2. Natural Escarpment Bluff and Bluff Impact Zone



Bluff impact zoning (BIZ) means a bluff and land located within 20 feet of the bluff. See Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Figure 3. Bluff Impact Zone, Bluffline, Toe of bluff, and Top of Bluff



Bluffline means a line delineating the top of the bluff. More than one bluffline may be encountered proceeding landward from the river. See Figures 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Bluff, Toe of means a line along the bottom of a bluff, requiring field verification, such that the slope above the line exceeds 18 percent and the slope below the line is 18 percent or less, measured over a horizontal distance of 25 feet. See Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Bluff, Top of means a line along the top of a bluff, requiring field verification, such that the slope below the line exceeds 18 percent and the slope above the line is 18 percent or less, measured

over a horizontal distance of 25 feet. See Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example

Buildable area means the area upon which structures may be placed on a lot or parcel of land and excludes areas needed to meet requirements for setback, rights-of-way, bluff impact zones, historic properties, wetlands, designated floodways, land below the ordinary high water level of public waters, and other unbuildable areas.

Building means a structure with two or more outside rigid walls and a fully secured roof and affixed to a permanent site.

Certificate of compliance means a document written after a compliance inspection, certifying that the development complies with applicable requirements at the time of the inspection.

Commissioner means the commissioner of the Minnesota Department of Natural Resources.

Conditional use means a use having the meaning given under Minnesota Statutes, chapters [394](#) and [462](#).

Conservation design means a pattern of subdivision that is characterized by grouping lots within a portion of a parcel, where the remaining portion of the parcel is permanently protected as open space.

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

Deck means a horizontal, unenclosed, aboveground level structure open to the sky, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

Developer means the meaning given under Minnesota Statutes, section [116G.03](#).

Development means the meaning given under Minnesota Statutes, section [116G.03](#).

Discretionary action means an action under this division related to land use that requires a public hearing by local ordinance or statute, such as preliminary plats, final subdivision plats, planned unit developments, conditional use permits, interim use permits, variances, appeals, and rezonings.

Dock means the meaning given under Minnesota Rules, chapter [6115](#).

Electric power facilities means equipment and associated facilities for generating electric power or devices for converting wind energy to electrical energy as identified and defined under Minnesota Statutes, [section 216E](#).

Essential services means underground or overhead gas, electrical, communications, steam, or water distribution, collection, supply, or disposal systems, including storm water. Essential services include poles, wires, mains, drains, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, navigational structures, aviation safety facilities or other similar equipment and accessories in conjunction with the systems. Essential services does not include buildings,

treatment works as defined in Minnesota Statutes, section 115.01, electric power facilities or transmission services.

Feedlot means the meaning given for animal feedlots under Minnesota Rules chapter [7020](#).

Floodplain means the meaning given the meaning given under Minnesota Rules chapter [6120](#).

Fully reconstructs means the reconstruction of an existing impervious surface that involves site grading and subsurface excavation so that soil is exposed. Mill and overlay and other resurfacing activities are not considered fully reconstructed.

Hard-surface trail means a trail surfaced in asphalt, crushed aggregate, or other hard surface, for multi-purpose use, as determined by local, regional, or state agency plans.

Historic property means an archaeological site, standing structure, site, district, or other property that is:

- A. Listed in the National Register of Historic Places or the State Register of Historic Places or locally designated as a historic site under Minnesota Statutes, chapter [471](#);
- B. Determined to meet the criteria for eligibility to the National Register of Historic Places or the State Register of Historic Places as determined by the director of the Minnesota Historical Society; or
- C. An unplatted cemetery that falls under the provisions of Minnesota Statutes, chapter [307](#), in consultation with the Office of the State Archaeologist.

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 driveways, including those with concrete, asphalt, or gravel surfaces.

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

Interim use means the meaning given under Minnesota Statutes, chapters [394](#) and [462](#).

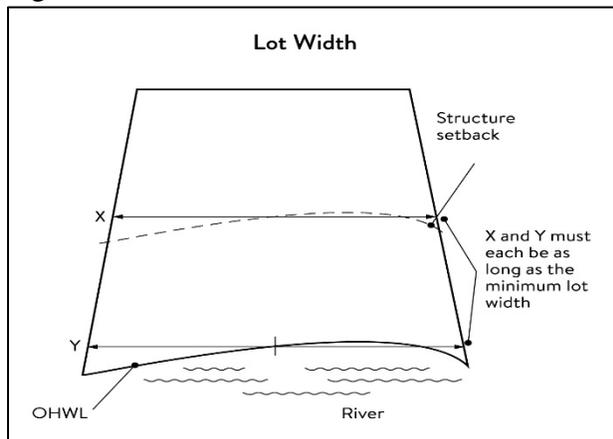
Land alteration means an activity that exposes the soil or changes the topography, drainage, or cross section of the land, excluding gardening or similar minor soil disturbances.

Local government means counties, cities, and townships.

Lot means the meaning given under Minnesota Rules chapter [6120](#).

Lot width means the shortest distance between lot lines measured at both the ordinary high water level and at the required structure setback from the ordinary high water level. See figure 4.

Figure 4. Lot Width



Marina means the meaning given under Minnesota Rules chapter 6115.

Mississippi River Corridor Critical Area (MRCCA) means the area within the River Corridor Boundary.

Mississippi River Corridor Critical Area (MRCCA) Plan means a chapter in the City of South St. Paul's comprehensive plan.

Mooring facility means the meaning given under Minnesota Rules part [6115.0170](#).

Native plant community means a plant community identified by the Minnesota Biological Survey or biological survey issued or adopted by a local, state, or federal agency.

Natural-surface trail means a trail composed of native soil and rock or compacted granular stone, primarily intended for hiking, equestrian, or mountain bike use, as determined by local, regional, or state agency plans.

Natural vegetation means any combination of ground cover, understory, and tree canopy that, while it may have been altered by human activity, continues to stabilize soils, retain and filter runoff, provide habitat, and recharge groundwater.

Nonconformity means the meaning given under Minnesota Statutes, section [394.22](#).

Nonmetallic mining means construction, reconstruction, repair, relocation, expansion, or removal of any facility for the extraction, stockpiling, storage, disposal, or reclamation of nonmetallic minerals such as stone, sand, and gravel. Nonmetallic mining does not include ancillary facilities such as access roads, bridges, culverts, and water level control structures. For purposes of this subpart, "facility" includes all mine pits, quarries, stockpiles, basins, processing structures and equipment, and any structures that drain or divert public waters to allow mining.

Off-premise advertising signs means those signs that direct attention to a product, service, business, or entertainment venue that is not exclusively related to the premises where the sign is located.

Ordinary high water level (OHWL) means the meaning given under Minnesota Statutes, section [103G.005](#).

Overlay district means a zoning district applied over one or more previously established zoning districts, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zoning district. Overlay districts are often used to protect historic features and natural resources such as shoreland or floodplain.

Parcel means the meaning given under Minnesota Statutes, section [116G.03](#).

Patio means a constructed hard surface located at ground level with no railings and open to the sky.

Picnic shelter means a roofed structure open on all sides, accessory to a recreational use.

Plat means the meaning given under Minnesota Statutes, sections [505](#) and [515B](#).

Port means a water transportation complex established and operated under the jurisdiction of a port authority according to Minnesota Statutes, [chapter 458](#).

Primary conservation areas (PCAs) mean key resources and features, including shore impact zones, bluff impact zones, floodplains, wetlands, gorges, areas of confluence with tributaries, natural drainage routes, unstable soils and bedrock, native plant communities, cultural and historic properties, and significant existing vegetative stands, tree canopies, and other resources identified in local government plans.

Private facilities means private roads, driveways, and parking areas, private water access and viewing facilities, decks and patios in setback areas, and private signs.

Professional engineer means an engineer licensed to practice in Minnesota.

Public facilities means public utilities, public transportation facilities, and public recreational facilities.

Public recreation facilities means recreational facilities provided by the state or a local government and dedicated to public use, including parks, scenic overlooks, observation platforms, trails, docks, fishing piers, picnic shelters, water access ramps, and other similar water-oriented public facilities used for recreation.

Public river corridor views (PRCVs) means views toward the river from public parkland, historic properties, and public overlooks, as well as views toward bluffs from the ordinary high water level of the opposite shore, as seen during the summer months and documented in the MRCCA plan/chapter of the comprehensive plan.

Public transportation facilities means all transportation facilities provided by federal, state, or local government and dedicated to public use, such as roadways, transit facilities, railroads, and bikeways.

Public utilities means electric power facilities, essential services, and transmission services.

Public waters means as defined under Minnesota Statutes, [section 103G.005](#).

Readily visible means land and development that are easily seen from the ordinary high water level of the opposite shore during summer months.

Resource agency means a federal, state, regional, or local agency that engages in environmental, natural, or cultural resource protection or restoration activities, including planning, implementation, and monitoring.

Retaining wall means a vertical or nearly vertical structures constructed of mortar and rubble masonry, 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.

River corridor boundary means the boundary approved and adopted by the Metropolitan Council under Minnesota Statutes, section [116G.06](#), as approved and adopted by the legislature in Minnesota Statutes, section [116G.15](#), and as legally described in the State Register, [volume 43](#), pages 508 to 518.

River-dependent use means the use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.

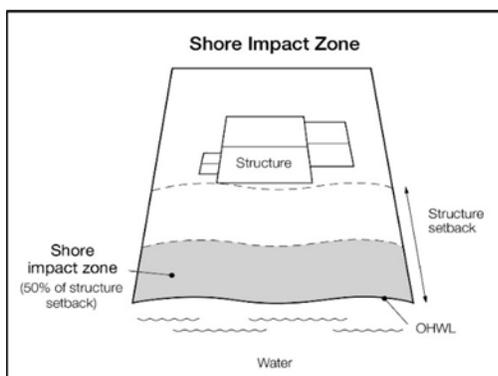
Rock riprap means a natural coarse rock placed or constructed to armor shorelines, streambeds, bridge abutments, pilings and other shoreline structures against scour, or water or ice erosion.

Selective vegetation removal means the removal of isolated individual trees or shrubs that are not in a contiguous patch, strip, row, or block and that does not substantially reduce the tree canopy or understory cover.

Setback means a separation distance measured horizontally.

Shore impact zone (SIZ) 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, for agricultural use, 50 feet landward of the ordinary high water level. See Figure 5.

Figure 5. Shore Impact Zone



Shoreline facilities means facilities that require a location adjoining public waters for ingress and egress, loading and unloading, and public water intake and outflow, such as barge facilities, port facilities, commodity loading and unloading equipment, watercraft lifts, marinas, short-term watercraft mooring facilities for patrons, and water access ramps. Structures that would be enhanced by a shoreline location, but do not require a location adjoining public waters as part of their function, are not shoreline facilities, such as restaurants, bait shops, and boat dealerships.

Steep slope means a natural topographic feature with an average slope of 12 to 18 percent, measured over a horizontal distance equal to or greater than 50 feet, and any slopes greater than 18 percent that are not bluffs.

Storm water management facilities means facilities for the collection, conveyance, treatment, or disposal of storm water.

Structure means a building, sign, or appurtenance thereto, except for aerial or underground utility lines, such as sewer, electric, telephone, or gas lines, and utility line towers, poles, and other supporting appurtenances.

Subdivision means the meaning given under Minnesota Statutes, section [462.352](#).

Subsurface sewage treatment system means having the meaning given under Minnesota Rules, part 7080.1100.

Transmission services means:

A. Electric power lines, cables, pipelines, or conduits that are:

- (1) Used to transport power between two points, as identified and defined under Minnesota Statutes, section [216E.01, Subd. 4](#); or
- (2) For mains or pipelines for gas, liquids, or solids in suspension, used to transport gas, liquids, or solids in suspension between two points; and

B. Telecommunication lines, cables, pipelines, or conduits.

Treeline means the more or less continuous line formed by the tops of trees in a wooded area when viewed from a particular point. The treeline is determined during all seasons as if under full foliage.

Variance means the meaning given under Minnesota Statutes, section [394.22](#).

Water access ramp means a boat ramp, carry-down site, boarding dock, and approach road, or other access that allows launching and removal of a boat, canoe, or other watercraft with or without a vehicle and trailer.

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 public waters, 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.

Water quality impact zone means land within the shore impact zone or within 50 feet of a public water, wetland, or natural drainage route.

Wetland means as defined under Minnesota Statutes, section [103G.005](#).

Wharf means as defined under Minnesota Rules, part [6115.0170](#).

Sec. 118-168.- Administration

(a) Purpose. The purpose of this section is to identify administrative provisions to ensure this division is administered consistent with its purpose.

(b) Permits. A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, vegetation removal consistent with Section 118-174 and land alterations consistent with Section 118-175.

(c) Variances. Variances to the requirements under this section may only be granted in accordance with Minnesota Statutes, Section [462.357](#) and City Code Section 118-38 and must consider the potential impacts of variances on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan. In reviewing the variance application, the City shall:

(1) Evaluate the impacts to these resources. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, and

(2) Make written findings that the variance is consistent with the purpose of this section, as follows.

- a. The extent, location and intensity of the variance will be in substantial compliance with the MRCCA Plan;
- b. The variance is consistent with the character and management purpose of the MRCCA district in which it is located;
- c. The variance will not be unduly detrimental to PCAs and PRCVs nor will it contribute to negative incremental impacts to PCAs and PRCVs when considered in the context of past, present and reasonable future actions; and
- d. The variance will not negatively impact other resources identified in the City's Critical Area Plan.

(d) Conditional and interim use permits. All conditional and interim uses, required under this division, must comply with Minnesota Statutes, section [462.3595](#) and must consider the potential impacts on primary conservation areas, public river corridor views, and

other resources identified in the MRCCA plan. In reviewing the application, the City shall:

- (1) Evaluate the impacts to these resources and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, consistent with Section 118-168(e).
- (2) Make written findings that the conditional or interim use is consistent with the purpose of this section, as follows.
 - a. The extent, location and intensity of the conditional use will be in substantial compliance with the MRCCA Plan;
 - b. The conditional use is consistent with the character and management purpose of the MRCCA district in which it is located;
 - c. The conditional use will not be unduly detrimental to PCAs and PRCVs nor will it contribute to negative incremental impacts to PCAs and PRCVs when considered in the context of past, present and reasonable future actions; and
 - d. The conditional use will not negatively impact other resources identified in the City's Critical Area Plan.

(e) Conditions of Approval. The City shall evaluate the impacts to PCAs, PRCVs, and other resources identified in the MRCCA Plan, and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts. Mitigation may include:

- (1) Restoration of vegetation identified as "vegetation restoration priorities" identified in the MRCCA plan.
- (2) Preservation of existing vegetation;
- (3) Stormwater runoff management;
- (4) Reducing impervious surface;
- (5) Increasing structure setbacks;
- (6) Wetland and drainage route restoration and/or preservation;
- (7) Limiting the height of structures
- (8) Modifying structure design to limit visual impacts on PRCVs; and
- (9) Other conservation measures

(f) Application materials. Applications for permits and discretionary actions required under this division must submit the following information in addition to the material requirements elsewhere in the zoning code unless the Zoning Administrator determines that the information is not needed:

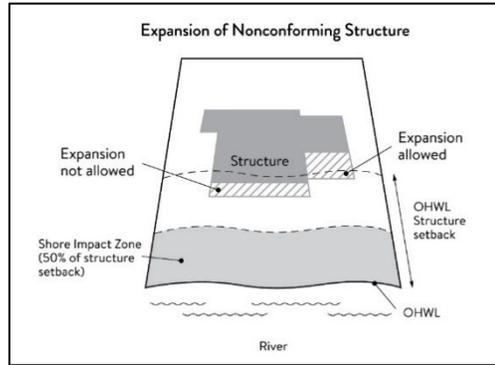
- (1) A detailed project description; and

- (2) Scaled maps and plans, dimensional rendering, maintenance agreements, and other materials that identify and describe:
 - a. Primary conservation areas;
 - b. Public river corridor views;
 - c. Buildable area;
 - d. Existing and proposed topography and drainage patterns;
 - e. Proposed storm water and erosion and sediment control practices;
 - f. Existing and proposed vegetation to be removed and established;
 - g. Ordinary high-water level, blufflines, and all required setbacks;
 - h. Existing and proposed structures;
 - i. Existing and proposed impervious surfaces; and
 - j. Existing and proposed subsurface sewage treatment systems.

(g) Nonconformities

- (1) All legally established nonconformities as of the date of this ordinance may continue consistent with Minnesota Statutes, section [462.357, Subd. 1e](#) .
- (2) New structures erected in conformance with the setback averaging provisions of Section 118-171 (c) (4) are conforming structures.
- (3) Site alterations and expansion of site alterations that were legally made prior to the effective date of this ordinance are conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements.
- (4) Legally nonconforming principal structures that do not meet the setback requirements of Section 118-171 (c) may be expanded laterally provided that:
 - a. The expansion does not extend into the shore or bluff impact zone or further into the required setback than the building line of the existing principal structure (See Figure 5); and
 - b. The expanded structure's scale and bulk is consistent with that of the original structure and existing surrounding development.

Figure 6. Expansion of Nonconforming Structure



(h) Notifications

(1) Amendments to this division and to the MRCCA plan must be submitted to the Commissioner as provided in Minnesota Rules, part 6106.0070, Subp. 3, Items B – I.

(2) Notice of public hearings for discretionary actions, including conditional and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, and PUDs, must be sent to the following entities at least (10) days prior to the hearing:

- a. The Commissioner in a format prescribed by the DNR;
- b. National Park Service; and
- c. Where building heights exceed the height limit specified in Section 118-171 (b) as part of the conditional use or variance process, adjoining local governments within the MRCCA, including those with overlapping jurisdiction and those across the river.

(3) Notice of final decisions for conditional and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, and PUDs, including findings of fact, must be sent to the Commissioner, the National Park Service, and adjoining local governments within the MRCCA within ten (10) days of the final decision.

(4) Requests to amend district boundaries must follow the provisions in Minnesota Rules, part 6106.0100, Subp. 9, Item C.

(i) Accommodating Disabilities. Reasonable accommodations for ramps or other facilities to provide persons with disabilities access to the persons' property, as required by the federal Americans with Disabilities Act and the federal Fair Housing Act and as provided by [Minnesota Rules, chapter 1341](#), must:

- (1) Comply with Sections 118-171 to 118-177; or
- (2) If Sections 118-171 to 118-177 cannot be complied with, ramps or other facilities are allowed with an administrative permit provided:
 - a. The permit terminates on either a specific date or upon occurrence of a particular event related to the person requiring accommodation; and
 - b. Upon expiration of the permit, the ramp or other facilities must be removed.

Sec. 118-169.- MRCCA Districts and Special Zoning Areas

- (a) *Purpose.* The purpose of this Section is to establish districts under which building height and structure placement are regulated to protect and enhance the Mississippi River's resources and features consistent with the natural and built character of each district. This section also establishes two special zoning areas where flexibility from structure placement regulations may be granted under certain circumstances.
- (b) *District description and management purpose.* The MRCCA within the City of South St. Paul is divided into the following MRCCA Districts:

(1) Rural and Open Space (ROS)

- a. *Description.* The ROS district is characterized by rural and low-density development patterns and land uses and includes land that is riparian or visible from the river, as well as large, undeveloped tracts of high ecological and scenic value, floodplain, and undeveloped islands. Many primary conservation areas exist in the district.
- b. *Management purpose.* The ROS district must be managed to sustain and restore the rural and natural character of the corridor and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas.

(2) River Neighborhood (RN)

- a. *Description.* The RN district is characterized by primarily residential neighborhoods that are riparian or readily visible from the river or that abut riparian parkland. The district includes parks and open space, limited commercial development, marinas, and related land uses.
- b. *Management purpose.* The RN district must be managed to maintain the character of the river corridor within the context of existing residential and related neighborhood development, and to protect and enhance

habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas. Minimizing erosion and the flow of untreated storm water into the river and enhancing habitat and shoreline vegetation are priorities in the district.

(3) Separated from River (SR)

- a. Description. The SR district is characterized by its physical and visual distance from the Mississippi River. The district includes land separated from the river by distance, topography, development, or a transportation corridor. The land in this district is not readily visible from the Mississippi River.
- b. Management purpose. The SR district provides flexibility in managing development without negatively affecting the key resources and features of the river corridor. Minimizing negative impacts to primary conservation areas and minimizing erosion and flow of untreated storm water into the Mississippi River are priorities in the district. The RTC district must be managed in a manner that allows continued growth and redevelopment in historic downtowns and more intensive redevelopment in limited areas at river crossings to accommodate compact walkable development patterns and connections to the river. Minimizing erosion and the flow of untreated storm water into the river, providing public access to and public views of the river, and restoring natural vegetation in riparian areas and tree canopy are priorities in the district.

(4) Urban Mixed (UM)

- a. Description. The UM district includes large areas of highly urbanized mixed use that are a part of the urban fabric of the river corridor, including institutional, commercial, industrial, and residential areas and parks and open space.
- b. Management purpose. The UM district must be managed in a manner that allows for future growth and potential transition of intensely developed areas that does not negatively affect public river corridor views and that protects bluffs and floodplains. Restoring and enhancing bluff and shoreline habitat, minimizing erosion and flow of untreated storm water into the river, and providing public access to and public views of the river are priorities in the district.

(c) *Special Zoning Areas.* The MRCCA within the City of South St. Paul contains two special zoning areas where the City has been granted flexibility from statewide MRCCA regulations:

(1) Zoning Area A

- a. Description. Zoning Area A includes areas of land located west of Concord Street which have existing commercial and residential development.
- b. Purpose. Zoning area A is a developed area with shallow parcel depths that cannot accommodate full compliance with the rules for bluff impact zones at the toe of a bluff. Zoning Area A offers flexibility related to the placement of retaining walls, structures, and impervious surfaces near the toe of the bluff with a conditional use permit.

(2) Zoning Area B

- a. Description. Zoning Area B is a strip of land located on the east side of Concord Street between Bryant Avenue and Wentworth Avenue which has existing commercial development.
- b. Purpose. Zoning Area B is a developed area with shallow parcel depths that cannot comply with MRCCA setback rules for a bluffline. Zoning Area B offers flexibility related to the placement of structures and impervious surfaces near the bluffline with a conditional use permit.

(d) *MRCCA District Map.* The locations and boundaries of the MRCCA districts and the special zoning areas established by this section are shown on the maps entitled “MRCCA Zoning Districts Map” and “MRCCA Special Zoning Areas Map” which are incorporated herein by reference. The district and zoning area boundary lines are intended to follow the centerlines of rivers and streams, highways, streets, lot lines, and municipal boundaries, unless a boundary line is otherwise indicated on the map. Where district boundaries cross unsubdivided property, the district boundary line is determined by use of dimensions or the scale appearing on the map.

Sec. 118-170.-Special Land Use Provisions

- (a) *Purpose.* To identify development standards and considerations for land uses that have the potential to negatively impact primary conservation areas and public river corridor views.
- (b) *Underlying Zoning.* Uses within the MRCCA are generally determined by underlying zoning, with additional provisions for the following land uses:

- (1) *Agricultural use.* Perennial ground cover is required within 50 feet of the ordinary high water level and within the bluff impact zone.
- (2) *Feedlots.* New animal feedlots and manure storage areas are prohibited. Existing animal feedlots and manure storage areas must conform with Minnesota Rules, chapter [7020](#).
- (3) *Forestry.* Tree harvesting and biomass harvesting within woodlands, and associated reforestation, must be consistent with recommended practices in [Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota](#).
- (4) *Nonmetallic mining.* Nonmetallic mining requires a conditional use permit or interim use permit issued by the local government, subject to the following:
 - a. New nonmetallic mining is prohibited within the shore impact zone and bluff impact zone and within the required structure setback from the bluffline and OHWL;
 - b. Processing machinery must be located consistent with setback standards for structures as provided in Section 118-171 (c);
 - c. Only one barge loading area, which must be limited to the minimum size practicable, is permitted for each mining operation;
 - d. New and, where practicable, existing nonmetallic mining operations must not be readily visible and must be screened by establishing and maintaining natural vegetation. The unscreened boundaries of nonmetallic mining areas are limited to only the barge loading area;
 - e. A site management plan must be developed by the operator and approved by the local government before new nonmetallic mining commences. Operations must be consistent with the site plan throughout the duration of operations at the site. The site management plan must:
 1. Describe how the site will be developed over time with an emphasis on minimizing environmental risk to public waters;
 2. Explain where staged reclamation may occur at certain points during the life of the site;
 3. Address dust, noise, storm water management, possible pollutant discharges, days and hours of operation, and duration of operations; and

4. Describe any anticipated vegetation and topographic alterations outside the pit, and reclamation plans consistent with the stated end use for the land;
 - f. Existing and new nonmetallic mining operations must submit land reclamation plans to the local government compatible with the purposes of this ordinance.
- (5) *River-dependent uses*. River-dependent uses must comply with the following design standards:
- a. Structures and parking areas, except shoreline facilities and private roads and conveyances serving river-dependent uses as provided in Section 118-177 must meet the dimensional and performance standards in this section, must be designed so that they are not readily visible, and must be screened by establishing and maintaining natural vegetation;
 - b. Shoreline facilities must comply with [Minnesota Rules, chapter 6115](#) and must:
 1. Be designed in a compact fashion so as to minimize the shoreline area affected; and
 2. Minimize the surface area of land occupied in relation to the number of watercraft or barges to be served; and
 - c. Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.
- (6) *Wireless communication towers*. Wireless communication towers as regulated in Section 118- 271 require a conditional or interim use permit within the boundaries of the MRCCA district and are subject to the following design standards:
- a. The applicant must demonstrate that functional coverage cannot be provided through co-location, a tower at a lower height, or a tower at a location outside of the MRCCA;
 - b. The tower must not be located in a bluff or shore impact zone; and
 - c. Placement of the tower must minimize impacts on public river corridor views.
 - d. Comply with the general design standards in Section 118-173(b).

Section 118-171.-Structure Height and Placement and Lot Size

(a) *Purpose.* To establish standards that protect primary conservation areas and public river corridor views from development impacts and ensure that new development is sited consistent with the purpose of the MRCCA.

(b) *Structure height.* Structures and facilities must comply with the following standards unless identified as exempt in Section 118-177

(1) Structures and facilities must comply with the following standards unless identified as exempt in Section 118-177:

- a. ROS District: 35 feet
- b. RN District: 35 feet
- c. SR District: Height is determined by underlying zoning, provided the allowed height is consistent with that of the mature treeline, where present, and existing surrounding development, as viewed from the OHWL of the opposite shore.
- d. UM district: 65 feet, provided tiering of structures away from the Mississippi River and from blufflines is given priority, with lower structure heights closer to the river and blufflines, and that structure design and placement minimize interference with public river corridor views. Structures over 65 feet are allowed as a conditional use according to Section 118-171 (b)(3).

(2) Height is measured on the side of the structure facing the Mississippi River.

(3) In addition to the conditional use permit requirements of Section 118-168 (d), criteria for considering whether to grant a conditional use permit for structures exceeding the height limits must include:

- a. Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;
- b. Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as:
 1. Placing the long axis of the building perpendicular to the river;
 2. Stepping back of portions of the facade;
 3. Lowering the roof pitch or use a flat roof;

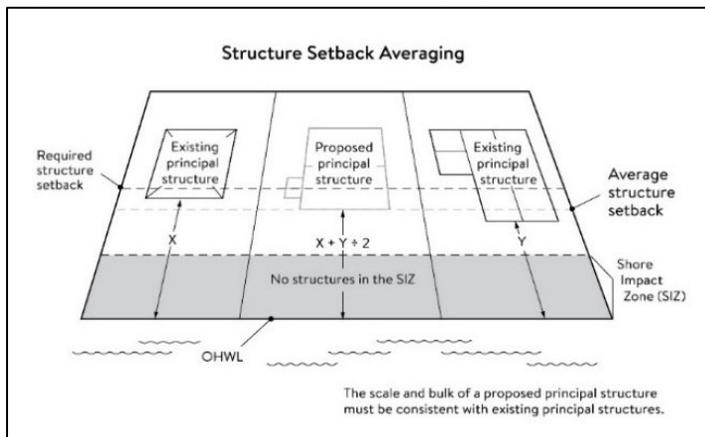
4. Using building materials or mitigation techniques that will blend in with the natural surrounding such as green roofs, green walls, or other green and brown building materials;
 5. Narrowing the profile of upper floors of the building; or
 6. Increasing the setbacks of the building from the Mississippi River or blufflines;
- (4) Identification of techniques for preservation of those view corridors identified in the MRCCA Plan; and
- (5) Opportunities for creation or enhancement of public river corridor views.

(c) Structure and impervious surface placement

- (1) Structures and impervious surfaces must not be placed in the shore or bluff impact zones unless identified as an exemption in Section 118-177. Properties in the special zoning areas are eligible for specific flexibility from these requirements:
- a. On properties in Zoning Area A, structures, retaining walls, and impervious surfaces may be placed within the bluff impact zone at the toe of the bluff, but not in the bluff or within 20 feet of the top of the bluff, with a conditional use permit meeting the standards in Section 118-171 (c)(1)c. A new retaining wall may be allowed by conditional use permit for the purpose of stabilizing the toe of a bluff. Retaining walls in the following situations do not require a conditional use permit:
 1. The replacement or modification of an existing retaining wall in the same location as long as the replacement wall does not have a substantially larger exposed face than the existing wall and does not encroach further into the bluff than the existing wall.
 2. Retaining walls located on or adjacent to the right-of-way of an existing improved public street or alley if the City determines the wall is necessary for continued functionality and safety.
 3. New retaining walls to address an emergency situation determined by the City.
 - b. On properties in Zoning Area B, structures and impervious surfaces may be placed within the 40-foot bluff top setback and within 20 feet of the top of the bluff up to the top of the bluff or bluffline by conditional use permit meeting the standards in Section 118-171(c)(1)c. No structure or impervious surface may extend beyond the bluffline.
 - c. Conditional Use Permit Standards

1. Plans must demonstrate, through analysis of soil and geotechnical studies if requested by the city, that structures, retaining walls, and impervious surface can be installed without compromising the stability of the bluff.
 2. Compliance with land alteration conditions of approval in Section 118-175 (f)
 3. Compliance with vegetation removal and restoration standards in Section 118-174 (d)
- (2) Structures, impervious surfaces, and facilities must comply with the following OHWL setback provisions unless identified as exempt in Section 118-177.
- a. ROS District: 200 feet from the Mississippi River.
 - b. RN District: 100 feet from the Mississippi River.
 - c. UM District: 50 feet from the Mississippi River.
- (3) Structures, impervious surfaces, and facilities must comply with the following bluffline setback provisions unless identified as exempt in Section 118-177:
- a. ROS District: 100 feet.
 - b. RN District: 40 feet.
 - c. SR District: 40 feet.
 - d. UM District: 40 feet.
- (4) Where principal structures exist on the adjoining lots on both sides of a proposed building site, the minimum setback may be altered to conform to the average of the adjoining setbacks, if the new structure's scale and bulk riverward or bluffward of the setbacks required under Section 118-171 (c) (2) and Section 118-171(c)(3) are consistent with adjoining development. See Figure 7.

Figure 7. Structure Setback Averaging



- (5) Subsurface sewage treatment systems, including the septic tank and absorption area, must be located at least 75 feet from the ordinary high water level of the Mississippi River and all other public waters.

(d) *Lot size and buildable area*

- (1) The width of lots abutting the Mississippi River in the ROS District must be at least 200 feet, unless alternative design methods are used that provide greater protection of the riparian area.
- (2) All new lots must have adequate buildable area to comply with the setback requirements of Section 118-171 (c)(2) and Section 118 -171(c)(3) so as to not require variances to use the lots for their intended purpose, except for land in Zoning Area B.

Sec. 118-172.- Performance Standards for Private Facilities

- (a) *Purpose.* To establish design standards for private facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan.
- (b) *General design standards.* All private facilities must be developed in accordance with the vegetation management and land alteration requirements in Section 118-174 and Section 118-175
- (c) *Private roads, driveways, and parking areas.* Except as provided in Section 118-177, private roads, driveways and parking areas must:
- (1) Be designed to take advantage of natural vegetation and topography so that they are not readily visible;

- (2) Comply with structure setback requirements according to Section 118-171 (c); and
- (3) Not be placed within the bluff impact zone or shore impact zone, unless compliant with Section 118-171(c)(1) or exempt under Section 118-177 and designed consistent with Section 118-173 (b).

(d) Private water access and viewing facilities

- (1) Private access paths must be no more than:
 - a. Eight feet wide, if placed within the shore impact zone; and
 - b. Four feet wide, if placed within the bluff impact zone.
- (2) Private water access ramps must:
 - a. Comply with Minnesota Rules, parts [6115.0210](#) and [6280.0250](#); and
 - b. Be designed and constructed consistent with the applicable standards in Design Handbook for Recreational Boating and Fishing Facilities.
- (3) Design and construction of private stairways, lifts, and landings are subject to the following standards:
 - a. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties and residential facilities held in common, if approved by the City;
 - b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet area allowed for commercial properties and residential facilities held in common, if approved by the City;
 - c. Canopies or roofs are prohibited on stairways, lifts, or landings;
 - d. Stairways, lifts, and landings must be located in the least visible portion of the lot whenever practical; and
 - e. Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities are allowed for achieving access to shore areas according to Section 118-172 (3)a-d, and as provided under Section 118-168 (h).
- (4) One water-oriented accessory structure is allowed for each riparian lot or parcel less than 300 feet in width at the ordinary high water level, with one additional water-oriented accessory structure allowed for each additional 300 feet of

shoreline on the same lot or parcel. Water-oriented accessory structures are prohibited in the bluff impact zone and must:

- a. Not exceed 12 feet in height;
- b. Not exceed 120 square feet in area; and
- c. Be placed a minimum of 10 feet from the ordinary high water level.

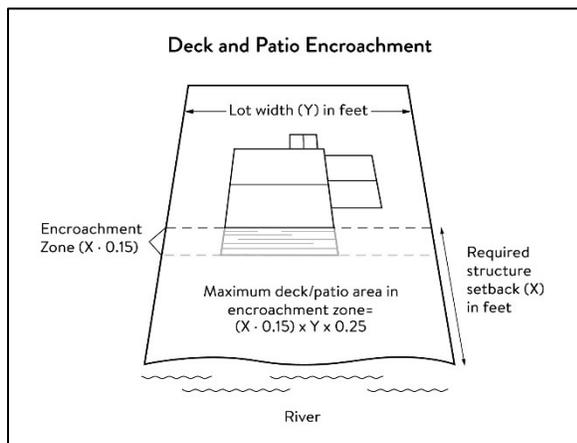
(e) *Decks and patios in setback areas.* Decks and at-grade patios may encroach into the required setbacks from the ordinary high water level and blufflines without a variance, when consistent with Section 118-174 and 118-175, provided that:

- (1) The encroachment of the deck or patio into the required setback area does not exceed 15 percent of the required structure setback;
- (2) The area of the deck or patio that extends into the required setback area occupies no more than 25 percent of the total area between the required setback and the 15 percent using the formula:

[Required setback depth (feet) x 0.15 x lot width (feet) x 0.25 = maximum total area]

- (3) The deck or patio does not extend into the bluff impact zone, except as listed in Section 118-172(e)(4). See Figure 8.

Figure 8. Deck and Patio Encroachment



- (4) Decks and at-grade patios in Zoning Area B may exceed the limits in Section 118-172(e)(1), Section 118-172(e)(2), and may extend into the bluff impact zone, but not in the bluff, consistent with Section 118-171(c)(1)b.

(f) *Off-premises and directional signs.*

- (1) Off-premises advertising signs must:

- a. Meet required structure placement and height standards in Section 118-171(b) and 118-171(c).
 - b. Not be readily visible
- (2) Directional signs for patrons arriving at a business by watercraft must comply with the following standards:
- a. They must be consistent with Minnesota Statutes, section [86B.115](#).
 - b. Only convey the location and name of the establishment and the general types of goods and services available, if located in a shore impact zone.
 - c. Be no greater than ten feet in height and 32 square feet in surface area; and
 - d. If illuminated, the lighting must be shielded to prevent illumination out across the river or to the sky.

Sec. 118-173.- Performance Standards for Public Facilities

- (a) *Purpose.* To establish design standards for public facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan. Public facilities serve the public interest by providing public access to the Mississippi River corridor or require locations in or adjacent to the river corridor and therefore require some degree of flexibility.
- (b) *General design standards.* All public facilities must be designed and constructed to:
- (1) Minimize visibility of the facility from the river to the extent consistent with the purpose of the facility;
 - (2) Comply with the structure placement and height standards in Section 118-171, except as provided in Section 118-177;
 - (3) Be consistent with the vegetation management standards in Section 118-174 and the land alteration and storm water management standards in Section 118-175, including use of practices identified in [Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001](#), where applicable;
 - (4) Avoid primary conservation areas, unless no alternative exists. If no alternative exists, then disturbances to primary conservation areas must be avoided to the greatest extent practicable, and design and construction must minimize impacts; and
 - (5) Minimize disturbance of spawning and nesting times by scheduling construction at times when local fish and wildlife are not spawning or nesting.

(c) *Right-of-way maintenance standards.* Right-of-way maintenance must comply with the following standards:

- (1) Vegetation currently in a natural state must be maintained to the extent feasible;
- (2) Where vegetation in a natural state has been removed, native plants must be planted and maintained on the right-of-way; and
- (3) Chemical control of vegetation must be avoided when practicable, but when chemical control is necessary, chemicals used must be in accordance with the regulations and other requirements of all state and federal agencies with authority over the chemical's use.

(d) *Crossings of public water or public land.* Crossings of public waters or land controlled by the commissioner are subject to approval by the commissioner according to Minnesota Statutes, sections 84.415 and 103G.245.

(e) *Public utilities.* Public utilities must comply with the following standards:

- (1) High-voltage transmission lines, wind energy conversion systems greater than five megawatts, and pipelines are regulated according to Minnesota Statutes, chapter [216E](#), [216F](#), and [216G](#) respectively; and
- (2) If overhead placement is necessary, utility facility crossings must minimize visibility of the facility from the river and follow other existing right of ways as much as practicable.
- (3) The appearance of structures must be as compatible as practicable with the surrounding area in a natural state with regard to height and width, materials used, and color.
- (4) Wireless communication facilities, according to Section 118-170 (b)(6)

(f) *Public transportation facilities.* Public transportation facilities shall comply with structure placement and height standards in Section 118-171. Where such facilities intersect or about two or more MRCCA districts, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:

- (1) Providing scenic overlooks for motorists, bicyclists, and pedestrians;
- (2) Providing safe pedestrian crossings and facilities along the river corridor;
- (3) Providing access to the riverfront in public ownership; and
- (4) Allowing for use of the land between the river and the transportation facility.

(g) *Public recreational facilities.* Public recreational facilities must comply with the following standards:

- (1) Buildings and parking associated with public recreational facilities must comply with the structure placement and height standards in Section 118-171, except as provided in Section 118-177;
- (2) Roads and driveways associated with public recreational facilities must not be placed in the bluff or shore impact zones unless no other placement alternative exists. If no alternative exists, then design and construction must minimize impacts to shoreline vegetation, erodible soils and slopes, and other sensitive resources.
- (3) Trails, access paths, and viewing areas associated with public recreational facilities and providing access to or views of the Mississippi River are allowed within the bluff and shore impact zones if design, construction, and maintenance methods are consistent with the best management practice guidelines in [Trail Planning, Design, and Development Guidelines](#).
 - a. Hard-surface trails are not allowed on the face of bluffs with a slope exceeding 30 percent. Natural surface trails are allowed, provided they do not exceed eight feet in width
 - b. Trails, paths, and viewing areas must be designed and constructed to minimize:
 1. Visibility from the river;
 2. Visual impacts on public river corridor views; and
 3. Disturbance to and fragmentation of primary conservation areas.
- (4) Public water access facilities must comply with the following requirements:
 - a. Watercraft access ramps must comply with Minnesota Rules chapters [6115.0210](#) and [6280.0250](#); and
 - b. Facilities must be designed and constructed consistent with the standards in Design Handbook for Recreational Boating and Fishing Facilities
- (5) Public signs and kiosks for interpretive or directional purposes are allowed in the bluff or shore impact zones, provided they are placed and constructed to minimize disturbance to these areas and avoid visual impacts on public river corridor views.
- (6) Public stairways, lifts, and landings must be designed as provided in Section 118-172(d)(3).

Sec. 118-174.- Vegetation Management

- (a) *Purpose.* To establish standards that sustain and enhance the biological and ecological functions of vegetation; preserve the natural character and topography of the MRCCA;

and maintain stability of bluffs and steep slopes and ensure stability of other erosion-prone areas.

(b) *Applicability.* This section applies to:

- (1) Shore impact zones;
- (2) Areas within 50 feet of a wetland or natural drainage route;
- (3) Bluff impact zones;
- (4) Areas of native plant communities; and
- (5) Significant existing vegetative stands identified in the MRCCA plan.

(c) *Activities allowed without a vegetation permit.*

- (1) Maintenance of existing lawns, landscaping and gardens;
- (2) Removal of vegetation in emergency situations as determined by the City of South St. Paul;
- (3) Right-of-way maintenance for public facilities meeting the standards of Section 118-173(c);
- (4) Agricultural and forestry activities meeting the standards of Sections 118-170(b)(1) and 118-170 (b)(3);
- (5) Selective vegetation removal, provided that vegetative cover remains consistent with the management purpose of the MRCCA District, including removal of:
 - a. Vegetation that is dead, diseased, dying, or hazardous;
 - b. Vegetation to prevent the spread of diseases or insect pests;
 - c. Individual trees and shrubs; and
 - d. Invasive non-native species.

(d) *Activities allowed with a vegetation permit.*

- (1) Only the following intensive vegetation clearing activities are allowed with a vegetation permit:
 - a. Clearing of vegetation that is dead, diseased, dying, or hazardous;
 - b. Clearing to prevent the spread of diseases or insect pests;
 - c. Clearing to remove invasive non-native species.
 - d. Clearing to prepare for restoration and erosion control management activities consistent with a plan approved by the City of South St. Paul.

- e. The minimum necessary for development that is allowed with a building permit or as an exemption under 118-177.

(2) **General Performance Standards.** The following standards must be met, in addition to a restoration plan under 118-174(f), in order to approve a vegetation permit:

- a. Development is sited to minimize removal of or disturbance to natural vegetation;
- b. Soil, slope stability, and hydrologic conditions are suitable for the proposed work as determined by a professional engineer;
- c. Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views;
- d. Vegetation removal activities are conducted so as to expose the smallest practical area of soil to erosion for the least possible time; and
- e. Any other condition determined necessary to achieve the purpose of this section.

(e) *Prohibited Activities.* All other vegetation clearing is prohibited.

(f) *Vegetation restoration plan.*

(1) Development of a vegetation restoration plan and reestablishment of natural vegetation is required:

- a. For any vegetation removed with a permit under 118-174 (d)(1)
- b. Upon failure to comply with any provisions in this section; or
- c. As part of the planning process for subdivisions as provided in Section 118-176.

(2) **Restoration Plan Performance Standards.** The vegetation restoration plan must satisfy the application submittal requirements in Section 118-168(e) and

- a. Vegetation should be restored in one or more of the restoration priority areas as identified in the crucial area plan.
 - 1. Areas with soils showing signs of erosion, especially on or near the top and bottom of steep slopes and bluffs;
 - 2. Shoreline areas within 25 feet of the water with no natural vegetation, degraded vegetation, or planted with turf grass;

3. Areas on steep slopes and bluffs that are visible from the river with no natural vegetation, degraded vegetation, or planted with turf grass; or
 4. Other approved priority opportunity areas, including priorities identified in the MRCCA plan, if none of the above exist.
- b. Include vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities and by [Native Vegetation Establishment and Enhancement Guidelines](#);
 - c. Any highly erodible soils disturbed during removal and/or restoration must be stabilized with deep-rooted vegetation with a high stem density;
 - d. Vegetation removed must be restored with native vegetation to the greatest extent practicable;
 - e. For restoration of removed native plant communities, restored vegetation must also provide biological and ecological function equivalent to the removed native plant communities. Restoration plans should be prepared by a qualified individual and include a maintenance plan that includes management provisions for controlling invasive species and replacement of plant loss for three years.
- (3) A certificate of compliance will be issued after the vegetation restoration plan requirements have been satisfied.

Sec. 118-175.- Land Alteration Standards and Stormwater Management

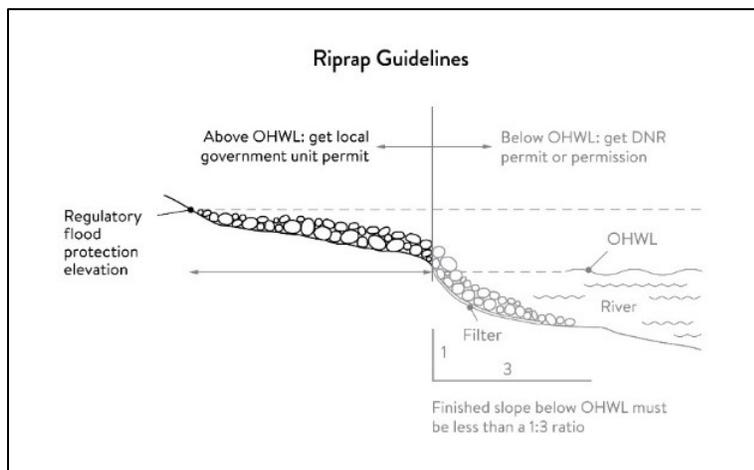
- (a) *Purpose.* To establish standards that protect water quality from pollutant loadings of sediment, nutrients, bacteria, and other contaminants; and maintain stability of bluffs, shorelines, and other areas prone to erosion.
- (b) *Land Alteration*
 - (1) Within the bluff impact zone, land alteration is prohibited, except for the following, which are allowed by permit.
 - a. Erosion control consistent with a plan approved by the local government or resource agency and consistent with 118-175(f);
 - b. The minimum necessary for development that is allowed as an exception under Section 118-177; and
 - c. Repair and maintenance of existing buildings and facilities

- (2) Within the water quality impact zone, land alteration that involves more than ten cubic yards of material or affects an area greater than 1,000 square feet requires a permit.

(c) *Rock riprap, retaining walls, and other erosion control structures.*

- (1) Construction, repair, or replacement of rock riprap, retaining walls, and other erosion control structures located at or below the OHWL must comply with Minnesota Rules, part [6115.0215, Subp. 4, item E](#), and [6115.0216, Subp. 2](#). Work must not proceed until approved by the commissioner, permitted by the US Army Corps of Engineers, and any other permits are obtained. See Figure 9.

Figure 9. Riprap Guidelines



- (2) Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and the water quality impact zone are allowed with a permit consistent with provisions of Section 118-175 (f) provided that:
- a. If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.
 - b. The structures are used only to correct an established erosion problem as determined by the City of South St. Paul.
 - c. The size and extent of the structures are the minimum necessary to correct the erosion problem and are not larger than the following, unless a professional engineer determines that a larger structure is needed to correct the erosion problem:
 1. Retaining walls must not exceed five feet in height and must be placed a minimum horizontal distance of ten feet apart; and
 2. Riprap must not exceed the height of the regulatory flood protection elevation.

- d. Repair of existing rock riprap, retaining walls, and other erosion control structures above the OHWL does not require a permit provided it does not involve any land alteration.

(d) Stormwater management

- (1) In the bluff impact zone, storm water management facilities are prohibited, except by permit if:
 - a. There are no alternatives for storm water treatment outside the bluff impact zone on the subject site;
 - b. The site generating runoff is designed so that the amount of runoff reaching the bluff impact zone is reduced to the greatest extent practicable;
 - c. The construction and operation of the facility does not affect slope stability on the subject property or adjacent properties; and
 - d. Mitigation based on the best available engineering and geological practices is required and applied to eliminate or minimize the risk of slope failure.
 - (2) In the water quality impact zone, development that creates new impervious surface, as allowed by exemption in Section 118-177, or fully reconstructs existing impervious surface of more than 10,000 square feet requires a storm water permit. Multipurpose trails and sidewalks are exempt if there is down gradient vegetation or a filter strip that is at least five feet wide.
 - (3) In all other areas, storm water runoff must be directed away from the bluff impact zones or unstable areas
- (e) Development on steep slopes.* Construction of structures, impervious surfaces, land alteration, vegetation removal, or other construction activities are allowed on steep slopes if:
- (1) The development can be accomplished without increasing erosion or storm water runoff;
 - (2) The soil types and geology are suitable for the proposed development; and
 - (3) Vegetation is managed according to the requirements of Section 118-174.

(f) Conditions of land alteration permit approval

- (1) Temporary and permanent erosion and sediment control measures retain sediment onsite consistent with best management practices in the [Minnesota Stormwater Manual](#);

- (2) Natural site topography, soil, and vegetation conditions are used to control runoff and reduce erosion and sedimentation;
- (3) Construction activity is phased when possible;
- (4) All erosion and sediment controls are installed before starting any land disturbance activity;
- (5) Erosion and sediment controls are maintained to ensure effective operation;
- (6) The proposed work is consistent with the vegetation standards in Section 118-174; and
- (7) Best management practices for protecting and enhancing ecological and water resources [identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001](#).

(g) Compliance with other plans and programs. All development must:

- (1) Be consistent with Minnesota Statutes, chapter [103B](#), and local water management plans completed under Minnesota Statutes, chapter [8410](#);
- (2) Meet or exceed the wetland protection standards under Minnesota Rules, chapter [8420](#); and
- (3) Meet or exceed the floodplain management standards under Minnesota Rules, sections [6120.5000 – 6120.6200](#).

Sec. 118-176.- Subdivision and Land Development Standards

(a) Purpose

- (1) To protect and enhance the natural and scenic values of the MRCCA during development or redevelopment of the remaining large sites
- (2) To establish standards for protecting and restoring biological and ecological functions of primary conservation areas on large sites; and
- (3) To encourage restoration of natural vegetation during development or redevelopment of large sites where restoration opportunities have been identified in MRCCA Plans.

(b) Applicability

- (1) The design standards in this section apply to subdivisions, planned unit developments and master- planned development and redevelopment of land involving ten or more acres for parcels that abut the Mississippi River and 20 or more acres for all other parcels, including smaller individual sites within the following developments that are part of a common plan of development that may be constructed at different times:

- a. Subdivisions;
- b. Planned unit developments; and
- c. Master-planned development and redevelopment of land

(2) The following activities are exempt from the requirements of this section:

- a. Minor subdivisions consisting of three or fewer lots;
- b. Minor boundary line corrections;
- c. Resolutions of encroachments;
- d. Additions to existing lots of record;
- e. Placement of essential services; and
- f. Activities involving river-dependent commercial and industrial uses.

(c) *Application Materials.* Project information listed in Section 118-168(f) must be submitted for all proposed developments.

(d) *Design standards.*

(1) Primary conservation areas, where they exist, must be set aside and designated as protected open space in quantities meeting the following as a percentage of total parcel area:

- a. CA-ROS District: 50%;
- b. CA-RN District: 20%;
- c. CA-UM: 10%
- d. CA-SR District: 10% if the parcel includes native plant communities or provides feasible connections to a regional park or trail system, otherwise no requirement.

(2) If the primary conservation areas exceed the amounts specified in Section 118-176(d), then protection of native plant communities and natural vegetation in riparian areas shall be prioritized.

(3) If primary conservation areas exist but do not have natural vegetation (identified as restoration priorities in the MRCCA Plan), then a vegetation assessment must be completed to evaluate the unvegetated primary conservation areas and

determine whether vegetation restoration is needed. If restoration is needed, vegetation must be restored according to Section 118-174 (f)(2).

- (4) Storm water treatment areas or other green infrastructure may be used to meet the protected open space requirements if the vegetation provides biological and ecological functions.
- (5) Land dedicated for public river access, parks, or other open space or public facilities may be counted toward the protected open space requirement.
- (6) Protected open space areas must connect open space, natural areas, and recreational areas, where present on adjacent parcels, as much as possible to form an interconnected network.

(e) Permanent protection of dedicated open space

- (1) Designated open space areas must be protected through one or more of the following methods:
 - a. Public acquisition by a government entity for conservation purposes;
 - b. A permanent conservation easement, as provided in Minnesota Statutes, chapter 84C;
 - c. A deed restriction; and
 - d. Other arrangements that achieve an equivalent degree of protection.
- (2) Permanent protection methods must ensure the long-term management of vegetation to meet its biological and ecological functions, prohibit structures, and prohibit land alteration, except as needed to provide public recreational facilities and access to the river.

(f) Alternative Design Standards

- a. Alternative design standards may be considered through a Planned Unit Development approval.

Sec. 118-177.- Exemptions.

- (a) *Purpose.* To provide exemptions to structure placement, height and other standards for specific river or water access dependent facilities as provided in Minnesota Statutes, section [116G.15 Subd. 4](#).
- (b) *Applicability.*
 - (1) Uses and activities not specifically exempted must comply with this article. Uses and activities exempted under shore impact zone and bluff impact zone must

comply with the vegetation management and land alteration standards in Section 118-174 and section 118-175.

(2) Uses and activities in Section 118-177(c) are categorized as:

- a. *Exempt- E*. This means that the use or activity is allowed;
- b. *Exempt if no alternative- (E)*. This means that the use or activity is allowed only if no alternatives exist; and
- c. *Not Exempt- N*. This means that a use or activity is not exempt and must meet the standards of this ordinance.

(c) Uses and Activities Exemption Classification

(1) General Uses and Activities

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers)	N	E	N	N	Structure design and placement must minimize interference with public river corridor views.
Barns, silos, and farm structures	N	E	N	N	
Bridges and bridge approach roadways	E	E	E	(E)	Section 118-173
Wireless communication towers	E	E	N	N	Section 118-170 (b)(6)
Chimneys, church spires, flag poles, public monuments, and mechanical stacks and equipment	N	E	N	N	
Historic properties and contributing properties in historic districts	E	E	E	E	Exemptions do not apply to additions or site alterations
Within Zoning Area A, structures and impervious surfaces (including driveways and parking areas)	N	n/a	n/a	E	Section 118-171(c)(1)a, Section 118-172; within BIZ, structures & impervious surfaces only within 20 feet of toe of bluff, not on face of bluff or at the top of the bluff; and must not affect stability of bluff.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Within Zoning Area B, structures, decks, and impervious surfaces (including driveways, parking areas and at-grade patios).	E	n/a	n/a	E	Section 118-171(c)(1)b, Section 118-172; within BIZ, structures & impervious surfaces only within 20 feet of top of bluff, not on face of bluff; and must not affect stability of bluff

E- Exempt

(E)- Exemption if no alterative

N- non-exempt

(2) Public Utilities

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Electrical power facilities	E	E	E	(E)	Section 118-173
Essential services (other than storm water facilities)	E	E	E	(E)	Section 118-173
Storm water facilities	E	N	E	(E)	Section 118-175
Wastewater treatment	E	N	E	N	Section 118-173
Public transportation facilities	E	N	(E)	(E)	Section 118-173

E- Exempt

(E)- Exemption if no alterative

N- non-exempt

(3) Public Recreation Facilities

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Accessory structures, such as monuments, flagpoles, light standards, and similar park features	E	E	(E)	(E)	Section 118-173; within BIZ, only on slopes averaging less than 30%. Exemptions do not apply to principal structures.
Picnic shelters and other open-sided structures	E	N	(E)	N	Section 118-173
Parking lots	(E)	N	(E)	(E)	Section 118-173; within BIZ, only within 20 feet of toe of bluff; not on face of bluff; and must not affect stability of bluff
Roads and driveways	(E)	N	(E)	(E)	Section 118-173
Natural-surfaced trails, access paths, and viewing areas	E	N	E	E	Section 118-173
Hard-surfaced trails and viewing platforms	E	N	E	(E)	Section 118-173; within BIZ, only on slopes averaging less than 30%
Water access ramps	E	N	E	(E)	Section 118-173
Public signs and kiosks for interpretive or directional purposes	E	N	E	(E)	Section 118-173

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

(4) River-dependent uses

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Shoreline facilities	E	N ¹	E	(E)	Section 118-170(b)(5). Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility

¹ River-dependent commercial, industrial, and utility structures are exempt from height limits only if greater height is required for operational reasons.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Private roads and conveyance structures serving river-dependent uses	E	N1	E	(E)	Section 118-170(b)(5)

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

(5) Private residential and commercial water access and use facilities

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Private roads serving 3 or more lots	(E)	N	N	(E)	Section 118-172; in BIZ, only on slopes averaging less than 30%. Exemption does not apply to private roads serving fewer than 3 lots or to private driveways and parking areas
Access paths	E	N	E	E	Section 118-172
Water access ramps	E	N	E	N	Section 118-172
Stairways, lifts, and landings	E	N	E	E	Section 118-172
Water-oriented accessory structures	E	N	E	N	Section 118-172
Patios and decks	E	N	N	N	Section 118-172(e)
Directional signs for watercraft (private)	E	N	E	N	Section (118-172(f); exemption does not apply to off-premise advertising signs
Temporary storage of docks, boats, and other equipment during the winter months	E	N	E	N	
Erosion control structures, such as rock riprap and retaining walls	E	N	E	(E)	Section 118-175 (c), (e), and (f)
Flood control structures	E	N	E	(E)	Section 118-175

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

Sec. 118-178- 118-183. -Reserved

SECTION 2. ENACTMENT. South St. Paul City Code Article IV Division 3 is hereby enacted:

DIVISION 3. OTHER OVERLAY DISTRICTS

Sec. 118-184.- Shoreland Management District

- (a) *Declaration of intent and purpose.* The city finds that it is in the interest of the public health, safety and welfare to provide guidance for wise development of shorelands of public waters and thus to preserve and enhance the quality of surface waters, preserve the economic and natural environmental values of shorelands, and provide for the wise utilization of water and related land resources of the state.
- (b) *Establishment of the shorelands overlay zoning district.*
 - (1) The official zoning map of the city, which is on file in the office of the city clerk and which is incorporated by reference in this Code, is hereby amended to include a map overlay district and incorporated by reference setting forth the boundaries of a shorelands overlay district, as established and defined herein.
 - (2) The shorelands overlay zoning district shall be that area which is within 300 feet of the Mississippi River bank, as measured from the ordinary highwater mark, or the landward extent of the floodplain districts, as defined herein, whichever is greater.
 - (3) The shorelands overlay zoning district may be referred to by the abbreviation SL.
- (c) *General provisions.* The shorelands regulations shall apply to all lands within the jurisdiction of the city shown on the official zoning map as being located within the boundaries of the shorelands overlay zoning district.
- (d) *Standards for development within the shorelands districts.*
 - (1) Any application for a building permit, conditional use permit, zoning approval, or subdivision approval for any development in the shorelands district shall be subject to the river corridor site plan review requirements as contained herein.
 - (2) In addition to the criteria and standards for site plan approval, site plans for development in the shorelands district are also subject to the following standards. No site plan that fails to satisfy these additional standards shall be approved by the city council.
 - a. *Lot size.* All lots intended as residential building sites platted or created by metes and bounds after the date of enactment of shorelands regulations shall conform to the following dimensions:

1. Lots not served by a public sewer shall be at least 20,000 square feet (approximately one-half acre) in area and at least 100 feet in width at the building line and at the ordinary highwater mark (for lots abutting a public water). Lots served by public sewer and which abut public water shall be at least 15,000 square feet in area and at least 75 feet in width at the building line and at the ordinary highwater mark. All other lots served by a public sewer shall be at least 10,000 square feet in area and at least 75 feet in width at the building line.
 2. Lots of record in the office of the county register of deeds on the date of enactment of these regulations which do not meet the requirements herein may be allowed as building sites, provided that such use is permitted in the underlying zoning district and that the lot is in separate ownership from abutting lands and is served by public sewer and water.
- b. *Placement of structures on lots.*
1. No structure shall be placed nearer than 50 feet from the right-of-way line of any federal, state, or county trunk highway or 20 feet from the right-of-way line of any public street.
 2. No structure shall exceed 35 feet in height, unless such structures are approved as part of a planned unit development.
 3. The total area of all impervious surfaces on a lot shall not exceed 30 percent of the total lot area.
 4. Subsections (d)(2)b.1 and (d)(2)b.2 of this section shall not apply to the following:
 - (i) Boathouses may be located landward of the ordinary highwater mark as a conditional use, provided they are not used for habitation and they do not contain sanitary facilities.
 - (ii) Locations of piers and docks shall be controlled by applicable state and local regulations.
 - (iii) Where development exists on both sides of a proposed building site, structural setbacks may be altered to take setbacks of existing structures into account.
 - (iv) Commercial, industrial, or permitted open space uses requiring locations on public waters may be allowed as conditional uses closer to such waters than the setbacks described above.
- c. *Placement of roads and parking areas.* The placement of roads and parking areas shall be controlled in order to retard the runoff of surface waters and excess

nutrients. The placement of roads and parking areas shall be according to the following criteria:

1. No impervious surface shall be placed within 50 feet of the ordinary highwater mark. Where practical and feasible, no impervious surface shall be placed within 100 feet of the normal highwater mark.
 2. Natural vegetation or other natural materials shall be used in order to screen parking areas when viewed from the water.
- d. *Sewage disposal.* Public sewage disposal and commercial, agricultural, solid waste, and industrial disposal shall be subject to the standards, criteria, rules, and regulations of the state pollution control agency and department of health.
- (e) *Nonconforming sanitary facilities.* Sanitary facilities that are not consistent with the provisions of these regulations and of referenced state regulations shall be eliminated within five years of enactment of these regulations.

(Code 1992, § 1500.33, subds. 26—30)

State law reference(s)—Shoreland management, Minn. Stat. § 103F.201 et seq.; municipal shoreland management, Minn. Stat. § 103F.221.

Sec. 118-185.- Floodplain districts.

(a) *Authority; findings of fact; purpose.*

- (1) *Statutory authorization.* The legislature of the State of Minnesota has, in Minn. Stat. chs. 103F and 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of South St. Paul, Minnesota, does ordain as follows:
- (2) *Findings of fact.*
 - a. *[Public health, safety, general welfare.]* The flood hazard areas of the City of South St. Paul, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 - b. *Methods used to analyze flood hazards.* This section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
 - c. *National Flood Insurance Program compliance.* This section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations parts 59—78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(3) *Statement of purpose.* It is the purpose of this section to promote the public health, safety, and general welfare and to minimize those losses described in subsection (a)(2)a. by provisions contained herein.

(b) *General provisions.*

(1) *Lands to which section applies.* This section shall apply to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the Floodway and Flood Fringe districts.

(2) *Establishment of official zoning map.* The official zoning map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this section. The attached material shall include the flood insurance study for Dakota County, Minnesota, and incorporated areas and flood insurance rate map panels therein numbered 27037C0041E, 27037C0043E, 27037C0044E, 27037C0107E and the flood insurance rate map index (map number 27037CIND4A), all dated December 2, 2011, and prepared by the Federal Emergency Management Agency. The official zoning map shall be on file in the office of the city clerk and the city planner.

(3) *Regulatory flood protection elevation.* The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(4) *Interpretation.*

a. In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the city council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

b. The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the zoning administrator, the board of adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the board of adjustment and to submit technical evidence.

(5) *Abrogation and greater restrictions.* It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provisions of this section shall prevail. All other ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.

- (6) *Warning and disclaimer of liability.* This section does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This section shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.
- (7) *Severability.* If any section, clause, provision, or portion of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- (8) *Definitions.* For purposes of this section, the following definitions shall be used. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this section its most reasonable application.
- a. *Accessory use or structure* means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
 - b. *Basement* means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
 - c. *Conditional use* means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
 1. Certain conditions as detailed in the zoning ordinance exist.
 2. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
 - d. *Equal degree of encroachment* means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
 - e. *Flood* means a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
 - f. *Flood frequency* means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
 - g. *Flood fringe* means that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Dakota County, Minnesota, and Incorporated Areas.
 - h. *Floodplain* means the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
 - i. *Floodproofing* means a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

- j. *Floodway* means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
- k. *Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.
- l. *Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."
- m. *Obstruction* means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- n. *Principal use or structure* means all uses or structures that are not accessory uses or structures.
- o. *Reach* means a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- p. *Recreational vehicle* means a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light-duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this section, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.
- q. *Regional flood* means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.
- r. *Regulatory flood protection elevation* means the regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
- s. *Structure* means anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting

the exemption criteria specified in subsection (h)(3)a. of this section and other similar items.

- t. *Substantial damage* means damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
 - u. *Substantial improvement* means within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:
 - 1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
 - 2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this section, "historic structure" shall be as defined in 44 Code of Federal Regulations, part 59.1.
 - v. *Variance* means a modification of a specific permitted development standard required in an official control including this section to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.
 - w. *Zoning administrator* means the city engineer or the city engineer's designee.
- (9) *Annexations.* The flood insurance rate map panels adopted by reference into subsection (b)(2) above may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this section. If any of these floodplain land areas are annexed into the city after the date of adoption of this section, the newly annexed floodplain lands shall be subject to the provisions of this section immediately upon the date of annexation into the city.
- (c) *Establishment of zoning districts.*
- (1) *Districts.*
 - a. *Floodway district.* The Floodway district shall include those areas designated as floodway on the flood insurance rate map adopted in subsection (b)(2).
 - b. *Flood Fringe district.* The Flood Fringe district shall include those areas designated as floodway fringe. The Flood Fringe district shall include those areas shown on the flood insurance rate map as adopted in subsection (b)(2) as being within zones AE but being located outside of the floodway.

(2) *Compliance.* No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this section. Within the Floodway and Flood Fringe districts, all uses not listed as permitted uses or conditional uses in subsections (d) and (e) that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

- a. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this section and specifically subsection (h).
- b. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this section and specifically subsection (j).
- c. As-built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this section and specifically as stated in subsection (i).

(d) *Floodway district (FW).*

(1) *Permitted uses.*

- a. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- b. Industrial-commercial loading areas, parking areas, and airport landing strips.
- c. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- d. Residential lawns, gardens, parking areas, and play areas.

(2) *Standards for floodway permitted uses.*

- a. The use shall have a low flood damage potential.
- b. The use shall be permissible in the underlying zoning district if one exists.
- c. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

(3) *Conditional uses.*

- a. Structures accessory to the uses listed in [subsection] (d)(1) above and the uses listed in [subsections] (d)(3)b. through (d)(3)h. below.
- b. Extraction and storage of sand, gravel, and other materials.

- c. Marinas, boat rentals, docks, piers, wharves, and water-control structures.
 - d. Railroads, streets, bridges, utility transmission lines, and pipelines.
 - e. Storage yards for equipment, machinery, or materials.
 - f. Placement of fill or construction of fences.
 - g. Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of subsection (h)(3).
 - h. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.
- (4) *Standards for floodway conditional uses.*
- a. All uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
 - b. All floodway conditional uses shall be subject to the procedures and standards contained in subsection (i)(4).
 - c. The conditional use shall be permissible in the underlying zoning district if one exists.
 - d. Fill.
 1. Fill, dredge spoil, and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
 2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a longterm site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
 3. As an alternative, and consistent with subsection 2. immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the city council has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the county recorder.
 - e. Accessory structures.
 1. Accessory structures shall not be designed for human habitation.

2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters:
 - (i) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - (ii) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
 3. Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the following additional standards:
 - (i) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
 - (ii) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed; and
 - (iii) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- f. Storage of materials and equipment.
1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city council.
- g. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minn. Stat., ch. 103G. Community-wide structural works for flood control

intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

- h. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(e) *Flood Fringe district (FF).*

(1) *Permitted uses.* Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no preexisting, underlying zoning use districts exist, then any residential or nonresidential structure or use of a structure or land shall be a permitted use in the Flood Fringe district provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe district "permitted uses" listed in subsection (e)(2) and the "standards for all flood fringe uses" listed in subsection (e)(5).

(2) *Standards for flood fringe permitted uses.*

- a. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.
- b. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at their largest projection may be internally floodproofed in accordance with subsection (d)(4)e.3.
- c. The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with subsection (e)(2)a.
- d. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
- e. The provisions of subsection (e)(5) shall apply.

(3) *Conditional uses.* Any structure that is not elevated on fill or floodproofed in accordance with subsections (e)(2)a. and (e)(2)b. and or any use of land that does not comply with the standards in subsections (e)(2)c. and (e)(2)d. shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in subsections (e)(4), (e)(5) and (i)(4).

(4) *Standards for flood fringe conditional uses.*

- a. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or

above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

1. The enclosed area is above grade on at least one side of the structure;
 2. It is designed to internally flood and is constructed with flood-resistant materials; and
 3. It is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
 - (i) *Design and certification.* The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
 - (ii) *Specific standards for above-grade, enclosed areas.* Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - (iii) A minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters without any form of human intervention; and
 - (iv) That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
- b. Basements, as defined by subsection (b)(8)b., shall be subject to the following:
1. Residential basement construction shall not be allowed below the regulatory flood protection elevation.

2. Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with subsection (e)(4)c.
- c. All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.
 - d. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the city council. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
 - e. Storage of materials and equipment:
 1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city council.
 - f. The provisions of subsection (e)(5) shall also apply.
- (5) Standards for all flood fringe uses.
- a. *[New principal structures.]* All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the city council must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
 - b. *Commercial uses.* Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and

velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood.

- c. *Manufacturing and industrial uses.* Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection (e)(5)b. above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
 - d. *[Fill.]* Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation; FEMA's requirements incorporate specific fill compaction and side slope protection standards for multistructure or multilot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
 - e. *[Floodplain developments.]* Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.
 - f. Standards for recreational vehicles are contained in subsection (h)(3).
 - g. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- (f) *Subdivisions.*
- (1) *Review criteria.* No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall be able to contain a building site outside of the Floodway district at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this section and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the floodplain, the Floodway and Flood Fringe district boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
 - (2) *Removal of special flood hazard area designation.* The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-

year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multistructure or multilot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(g) *Public utilities, railroads, roads, and bridges.*

- (1) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
- (2) *Public transportation facilities.* Railroad tracks, roads, and bridges to be located within the floodplain shall comply with subsections (d) and (e). Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- (3) *On-site sewage treatment and water supply systems.* Where public utilities are not provided:
 - a. On-site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and
 - b. New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

(h) *Manufactured homes and manufactured home parks and placement of recreational vehicles.*

- (1) New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by subsection (f).
- (2) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with subsection (e). If vehicular road access for preexisting manufactured home parks is not provided in accordance with subsection (e)(5)a., then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the city council.
 - a. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

- (3) Recreational vehicles that do not meet the exemption criteria specified in subsection (h)(3)a. below shall be subject to the provisions of this section and as specifically spelled out in subsections (h)(3)c. and (h)(3)d. below.
- a. *Exemption.* Recreational vehicles are exempt from the provisions of this section if they are placed in any of the areas listed in subsection (h)(3)b. below and further they meet the following criteria:
 1. Have current licenses required for highway use.
 2. Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
 3. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
 - b. *Areas exempted for placement of recreational vehicles.*
 1. Individual lots or parcels of record.
 2. Existing commercial recreational vehicle parks or campgrounds.
 3. Existing condominium type associations.
 - c. *[Loss of exemption.]* Recreational vehicles exempted in subsection (h)(3)a. lose this exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the recreational vehicle or exceeding \$500.00 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the use of land restrictions specified in subsections (d) and (e). There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood-free location should flooding occur.
 - d. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
 1. Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with subsection (e)(5)a. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.
 2. All new or replacement recreational vehicles not meeting the criteria of [subsection] (a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of [subsection] (i)(4). The applicant must submit an emergency plan for the safe

evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of subsections (h)(3)a.1. and (h)(3)a.2. will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with subsection (g)(3).

(i) *Administration.*

(1) *Zoning administrator.* A zoning administrator or other official designated by the city council shall administer and enforce this section. If the zoning administrator finds a violation of the provisions of this section the zoning administrator shall notify the person responsible for such violation in accordance with the procedures stated in subsection (k).

(2) *Permit requirements.*

- a. *Permit required.* A permit issued by the zoning administrator in conformity with the provisions of this section shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- b. *Application for permit.* Application for a permit shall be made in duplicate to the zoning administrator on forms furnished by the zoning administrator and shall include the following where applicable:
 1. Plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot;
 2. Existing or proposed structures, fill, or storage of materials; and
 3. The location of the foregoing in relation to the stream channel.
- c. *State and federal permits.* Prior to granting a permit or processing an application for a conditional use permit or variance, the zoning administrator shall determine that the applicant has obtained all necessary state and federal permits.
- d. *Certificate of zoning compliance for a new, altered, or nonconforming use.* It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the zoning administrator stating that the use of the building or land conforms to the requirements of this section.
- e. *Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance.* Permits, conditional use permits, or

certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this section, and punishable as provided by subsection (k).

- f. *Certification.* The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section. Floodproofing measures shall be certified by a registered professional engineer or registered architect.
- g. *Record of first floor elevation.* The zoning administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The zoning administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are floodproofed.
- h. *Notifications for watercourse alterations.* The zoning administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minn. Stat., ch. 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- i. Notification to FEMA when physical changes increase or decrease the 100-year flood elevation. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the zoning administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

(3) *City council.*

- a. *Rules.* The city council shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by state law.
- b. *Administrative review.* The city council shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this section.
- c. *Variances.* The city council may authorize upon appeal in specific cases such relief or variance from the terms of this section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the city council shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this section, any other zoning regulations in the

community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

1. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 2. Variances shall only be issued by a community upon:
 - (i) A showing of good and sufficient cause,
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. *Hearings.* upon filing with the city council of an appeal from a decision of the zoning administrator, or an application for a variance, the city council shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The city council shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing.
- e. *Decisions.* The city council shall arrive at a decision on such appeal or variance within 60 days. In acting upon an appeal, the city council may, so long as such action is in conformity with the provisions of this section, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the zoning administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the city council may prescribe appropriate conditions and safeguards such as those specified in subsection (i)(4)e., which are in conformity with the purposes of this section. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this section punishable under subsection (k). A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.
- f. *Appeals.* Appeals from any decision of the city council may be made, and as specified in this community's official controls and also by Minnesota Statutes.

- g. *Flood insurance notice and record keeping.* The zoning administrator shall notify the applicant for a variance that:
 - 1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
 - 2. Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the National Flood Insurance Program.
- (4) *Conditional uses.* The city council and planning commission shall hear and decide applications for conditional uses permissible under this section. Applications shall be submitted to the zoning administrator who shall forward the application to the planning commission for consideration. The planning commission will make a recommendation and then forward to the city council for consideration.
 - a. *Hearings.* Upon filing with the city an application for a conditional use permit, the city shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing.
 - b. *Decisions.* The city council shall arrive at a decision on a conditional use within 60 days except where additional time is permitted. In accordance with state law, in no case shall the city take longer than 120 days to arrive at a decision. In granting a conditional use permit the city council shall prescribe appropriate conditions and safeguards, in addition to those specified in subsection (i)(4)e., which are in conformity with the purposes of this section. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this section punishable under subsection (k). A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.
 - c. *Procedures to be followed by the City Council and Planning Commission in acting on conditional use permit applications within all floodplain districts.*
 - 1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the planning commission and city council for determining the suitability of the particular site for the proposed use:
 - (i) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the stream channel; and

- (ii) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
2. Transmit one copy of the information described in subsection 1. to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
3. Based upon the technical evaluation of the designated engineer or expert, the city council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- d. *Factors upon which the decision of the planning commission and city council shall be based.* In passing upon conditional use applications, the planning commission and city council shall consider all relevant factors specified in other sections of this section, and:
 1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
 3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 5. The importance of the services provided by the proposed facility to the community.
 6. The requirements of the facility for a waterfront location.
 7. The availability of alternative locations not subject to flooding for the proposed use.
 8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
 12. Such other factors which are relevant to the purposes of this Ordinance.
- e. *Conditions attached to conditional use permits.* Upon consideration of the factors listed above and the purpose of this section, the planning commission and city

council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this section. Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities.
2. Limitations on period of use, occupancy, and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
5. Floodproofing measures, in accordance with the State Building Code and this section. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(j) *Nonconforming uses.*

(1) A structure or the use of a structure or premises which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of this section may be continued subject to the following conditions. Historic structures, as defined in subsection (b)(8)u.2., shall be subject to the provisions of subsections (j)(1)a. through (j)(1)d.

- a. No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity except as authorized by law.
- b. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in [subsection] (j)(1)c. below.
- c. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this section. The assessor shall notify the zoning administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.
- d. If any nonconforming use or structure is substantially damaged, as defined in subsection (b)(8)t. it shall not be reconstructed except in conformity with the provisions of this section. The applicable provisions for establishing new uses or new structures in subsections (d) and (e) will apply depending upon whether the use or structure is in the Floodway or Flood Fringe district, respectively.

(k) *Penalties for violation.*

(1) Violation of the provisions of this section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

(2) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

- a. In responding to a suspected ordinance violation, the zoning administrator and other government agencies may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- b. When an ordinance violation is either discovered by or brought to the attention of the zoning administrator, the zoning administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the community's plan of action to correct the violation to the degree possible.
- c. The zoning administrator shall notify the suspected party of the requirements of this section and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the zoning administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the zoning administrator may either:
 1. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or
 2. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.
- d. If the responsible party does not appropriately respond to the zoning administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this section and shall be prosecuted accordingly. The zoning administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this section.

(1) *Amendments.*

- (1) The floodplain designation on the official zoning map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be

permitted by the Commissioner of Natural Resources if they determine that, through other measures, lands are adequately protected for the intended use.

- (2) All amendments to this section, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten days' written notice of all hearings to consider an amendment to this section and said notice shall include a draft of the ordinance amendment or technical study under consideration.

(Ord. No. 1251, § 2, 11-7-2011)

State law reference(s)—Floodplain Management Law, Minn. Stat. § 103F.101 et seq.; local floodplain management ordinances, Minn. Stat. § 103F.121.

SECTION 3. AMENDMENT. South St. Paul City Code Section 66-51 is hereby amended as follows:

Sec. 66-51. - Weeds, grass, and plants.

(a) *Nuisance defined; removal.* Grass, plants, and weeds, whether noxious, as defined by law, or not, other than trees, bushes, flowers, native plant landscape areas that comply with this ordinance or other ornamental plants growing to a greater height than six inches or that have gone or are about to go to seed upon a lot or parcel of land outside the traveled portion of a street or alley in the city are a public nuisance. The owner and the occupant must abate or prevent such nuisance on such property and on land outside the traveled portion of the street or alley abutting on such property.

(b) Exemption. Any ground cover vegetation located in one of the following primary conservation areas within the MRCCA overlay district is hereby exempt from height restrictions:

- (1) Shore impact zone;
- (2) Areas within fifty feet (50') of a wetland or natural drainage way;
- (3) Bluff impact zone;
- (4) Areas of native plant communities; and
- (5) Significant vegetative stands

Ground cover vegetation and any vegetation management within the MRCCA overlay district shall comply with the vegetation management requirements found in Section 118-174 and any vegetation management permits approved by the city.

~~(c)~~ *Notice.* When the owner or occupant permits a nuisance to exist in violation of subsection (a) of this section, the weed inspector will serve notice upon the owner of the property by regular mail or by personal service, ordering the owner or occupant to have the grass, plants, or weeds cut and removed within five days after receipt of the notice, and also stating that, in

case of noncompliance, the work will be done by the city at the expense of the owner, and that if unpaid, the charge for such work will be made a special assessment against the property concerned. When no owner, occupant or agent of the owner or occupant can be found, the notice shall be posted on the property.

(~~d~~e) *City to remove.* If the owner or occupant fails to comply with the notice within five days after its receipt or posting, the city will cut and remove the grass, plants, or weeds. A record showing the cost of such work attributable to each separate lot and parcel will be made and delivered to the clerk.

SECTION 4. AMENDMENT. South St. Paul City Code Section 118-9 is hereby amended as follows:

Sec. 118-9. Architectural requirements.

(c) *Nonresidential structures.*

(1) *Purpose.* The purpose of this subsection (c) is to establish minimum standards for exterior architecture of nonresidential structures. To ensure high quality development, redevelopment, and compatibility with evolving architectural or planning themes that contributes to the community's image of quality, visual aesthetics, permanence and stability are in the best interest of the citizens in the city. These standards are intended to prevent use of materials that are unsightly, rapidly deteriorate, contribute to depreciation of area property values, or cause urban blight. These standards are further intended to ensure coordinated design of building exteriors, additions and accessory structure exteriors in order to prevent visual disharmony, minimize adverse impacts on adjacent properties from buildings which are or may become unsightly, and buildings that detract from the character and appearance of the area. It is not the intent of this subsection to unduly restrict design freedom when reviewing and approving project architecture in relationship to the proposed land use, site characteristics and interior building layout.

(2) *Application of provisions.* This subsection (c) applies to all nonresidential buildings, additions, exterior remodeling and accessory structures in the GB: General Business, I-1: Light Industrial, and I: Industrial zoning districts, unless different exterior materials are specifically approved as part of an overall planned unit development (PUD) that creates a theme or blends with other elements of approved plans.

SECTION 5. AMENDMENT. South St. Paul City Code Section 118-95 is hereby amended as follows:

The city is divided into the following zoning use districts:

- (1) R-1, single-family district.
- (2) R-2, duplex residence district.

- (3) R-3, general residence district.
- (4) R-4, multifamily residential district.
- (5) CGMU, Concord Gateway mixed-use district.
- (6) MMM, mixed markets and makers district.
- (7) C-1, retail business district.
- (8) GB, general business district.
- (9) ~~EB, existing business overlay district.~~ I-1, light industrial district
- (10) I, industrial district.
- (11) MH, mobile home district.
- ~~(12) SP, special purpose overlay districts.~~
- (1~~2~~3) NRDD, North Riverfront development district.
- (1~~3~~4) RT, railroad transportation district.
- (1~~4~~5) PUD, planned unit development district.

The city also contains the following overlay or special purpose subdistricts:

- (1) Mississippi River Critical Corridor Area district
- (2) Shorelands district
- (3) Floodplain district
- (4) South St. Paul Municipal Airport Safety Zones (see Appendix A)

(Code 1992, § 1500.07, subd. 1; Ord. No. 1385, § 3, 11-1-2021)

SECTION 6. AMENDMENT. South St. Paul City Code Section 118-8 is hereby amended as follows:

Sec. 118-8. - Lots, distances, and definitions.

Building heights means the vertical distance from grade plane to the average height of the highest roof surface, as defined in the latest edition of the state building code.

~~Feed lot means the place of housing for feeding of livestock or other animals for food, fur, pleasure, or resale purposes in yards, lots, pens, buildings, or other areas not normally used for pasture or crops and in which substantial amounts of manure or other related wastes may originate by reason of feeding of such animals.~~

~~*Feedlot* means having the meaning given for animal feedlots under Minnesota Rules chapter 7020.~~

~~*Grade plane* means a reference plane representing the average of finished ground level adjoining the building at the exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the~~

building and the lot line or, where the lot line is more than 6 feet (1829 mm) from the building, between the building and a point 6 feet (1829 mm) from the building.

SECTION 7. AMENDMENT. South St. Paul City Code Section 118-37 is hereby amended as follows:

Sec. 118-37. Enforcing officer.

(b) *Duties.* The duties of the person or persons enforcing the provisions of this chapter shall be as designated by the city council, and may include the following:

- (7) ~~To issue permit numbers to existing business uses in the EB zoning district upon enactment of this chapter.~~ Reserved

SECTION 8. AMENDMENT. South St. Paul City Code Section 118-273 is hereby amended as follows:

Sec. 118-273. - Exceptions to the minimum requirements for all districts.

(2) *Permitted encroachments into required yards and setback areas.*

c. In all zoning districts

2. Retaining walls. Retaining walls up to four feet in height are permitted at any location in a front, side, or rear yard with no minimum setback from any property line provided that the area for the retaining walls are not within the ~~MNRRA~~ MRCCA area, conservation easements, natural ravine, or other areas where slope alterations are restricted. Retaining walls over four feet in height are subject to the requirements of the Minnesota State Building Code.

SECTION 9. AMENDMENT. South St. Paul City Code Section 118-125 is hereby amended as follows:

Section 118-125.- CGMU, Concord Gateway mixed-use district

(b) *Permitted uses*

- (32) Medical or dental office or clinic (for humans only)
- (33) Municipal buildings and uses ~~Museum.~~
- (34) Museum ~~Musical instrument and musical recordings store.~~
- (35) Musical instrument and musical recordings store ~~Notions store.~~
- (36) Notions store ~~Office.~~

- (37) Office Optician.
- (38) Optician Painting, wallpaper and decorating store for retail sales and service.
- (39) Painting, wallpaper and decorating store for retail sales and service ~~Pet store.~~
- (40) Pet store ~~Repair and servicing of items the sale of which is permitted in this district.~~
- (41) Public parks and playgrounds ~~Residential multifamily dwelling units, if within a structure containing at least four units.~~
- (42) Repair and servicing of items the sale of which is permitted in this district ~~Shoe store.~~
- (43) Residential multifamily dwelling units, if within a structure containing at least four units. A small wireless facility, as defined in section 54-402, that is located in the right of way, as long as all provisions of sections 54-400—54-429 have been met.
- (44) Shoe store ~~Sporting goods store.~~
- (45) A small wireless facility, as defined in section 54-402, that is located in the right-of-way, as long as all provisions of sections 54-400—54-429 have been met ~~Stationery store.~~
- (46) Sporting goods store ~~Tanning salon.~~
- (47) Stationary store ~~Tobacco store.~~
- (48) Tanning salon ~~Toy store.~~
- (49) Tobacco store ~~Variety store.~~
- (50) Toy Store ~~Video sales and rental.~~
- (51) Variety store.
- (52) Video sales and rental

SECTION 10. AMENDMENT. South St. Paul City Code Section 118-126 is hereby amended as follows:

Section 118-126.- C-1, retail business district

- (a) *Permitted uses.* No land or buildings within the C-1 district shall be used except for one of the following uses:
 - (44) Motel
 - (45) Municipal buildings and uses ~~Museum.~~
 - (46) Museum ~~Musical instrument and musical recordings store.~~
 - (47) Musical instrument and musical recordings store ~~Notions store.~~

- (48) Notions store ~~Office.~~
- (49) Office ~~Optician.~~
- (50) Optician ~~Paint and wallpaper store.~~
- (51) Paint and wallpaper store ~~Painting and decorating.~~
- (52) Painting and decorating ~~Pet store.~~
- (53) Pet store ~~Printing and publishing.~~
- (54) Printing and publishing ~~PWS antennas located entirely inside a building or structure.~~
- (55) Public parks and playgrounds ~~Radio and television broadcasting.~~
- (56) PWS antennas located entirely inside a building or structure ~~Repair and servicing of any article the sale of which is permitted in the district.~~
- (57) Radio and television broadcasting ~~School, elementary or secondary.~~
- (58) Repair and servicing of any article the sale of which is permitted in the district ~~Shoe store.~~
- (59) School, elementary or secondary ~~A small wireless facility, as defined in section 54-402, that is located in the right-of-way, as long as all provisions of sections 54-400—54-429 have been met.~~
- (60) Shoe store ~~Sporting goods store.~~
- (61) A small wireless facility, as defined in section 54-402, that is located in the right-of-way, as long as all provisions of sections 54-400—54-429 have been met ~~Stationery store.~~
- (62) Sporting goods store ~~Supermarket or grocery store.~~
- (63) Stationery store ~~Tanning salon.~~
- (64) Supermarket or grocery store ~~Tile and linoleum store.~~
- (65) Tanning salon ~~Tobacco store.~~
- (66) Tile and linoleum store ~~Toy store.~~
- (67) Tobacco store ~~Variety store.~~
- (68) Toy store ~~Video sales and rental.~~
- (69) Variety store
- (70) Video sales and rental

SECTION 11. AMENDMENT. South St. Paul City Code Section 118-128 is hereby amended as follows:

Section 118-128.- GB, general business district

(b) *Uses by conditional use permit.* Within the GB district, the following uses may be allowed only by conditional use permit:

(19) Essential services

~~(20) Existing use in an adjacent existing business district that is not a permitted use or a specified use by conditional use permit.~~

~~(204)~~ Exterior storage, open sales lots.

~~(212)~~ Food locker plant.

~~(223)~~ Laundry.

~~(234)~~ Lumber yard.

~~(245)~~ Manufacturing as permitted in the I district.

~~(256)~~ Medical uses (human and animal).

~~(267)~~ On-sale and off-sale liquor sales, including 3.2 percent beer.

~~(278)~~ Other uses deemed by the city council to be similar in purpose and character to those set forth in this subsection and in subsection (a) of this section.

~~(289)~~ Parking garage.

~~(2930)~~ Pet boarding, kenneling, training, and grooming provided that:

a. Unless expressly allowed by the conditional use permit, all activity must take place within a completely enclosed building with odor and sound control except for the walking of dogs. No outdoor kenneling shall be permitted.

b. There shall be no overnight kenneling of customers' pets and no animal may be present inside the business between the hours of 10:00 p.m. and 6:00 a.m. unless their owner is also present.

c. Any outdoor off-leash exercise/relief area that is provided shall be entirely enclosed by a fence. Pets may not be off-leash in these areas between the hours of 8:00 p.m. and 7:00 a.m.

~~(304)~~ PWS antennas.

~~(312)~~ PWS tower.

~~(323)~~ Reception or meeting hall.

~~(334)~~ Seasonal business.

~~(345)~~ Spur tracks.

~~(356)~~ Supper club.

~~(367)~~ Structures exceeding 45 feet in height.

~~(378)~~ Body art establishment; provided, however, that the building in which the body art establishment is located shall not be closer than:

- a. Three hundred feet from the nearest part of a residential building located within a residential district, as referenced in section 118-8; and
 - b. One-half mile from the nearest part of a building in which another body art establishment is located.
- (389) Theater.
- (3940) Wholesaling.
- (404) Alternative financial establishment, subject to the supplemental regulations in section 118-275.

SECTION 12. AMENDMENT. South St. Paul City Code Section 118-129 is hereby amended as follows:

Section 118-129.- I, industrial district

(b) *Permitted uses.*

- (2) Manufacturing in an enclosed building with permanent walls and roof, Except as prohibited by subsection (d) of this section.
 - (3) ~~Municipal and government buildings and uses~~ Offices.
 - (4) ~~Offices~~ Printing and publishing.
 - (5) ~~Printing and publishing~~ PWS antennas located entirely inside a building or structure.
 - (6) ~~Public recreational uses~~ A small wireless facility, as defined in section 54-402, that is located in the right-of-way, as long as all provisions of sections 54-400—54-429 have been met.
 - (7) ~~PWS antennas located entirely inside a building or structure. Radio, television and other transmitting studios and towers under 50 feet in height.~~
 - (8) ~~A small wireless facility, as defined in section 54-402, that is located in the right-of-way, as long as all provisions of sections 54-400—54-429 have been met.~~ Warehousing and distribution in an enclosed building with permanent walls and roof.
 - (9) ~~Radio, television and other transmitting studios and towers under 50 feet in height~~ Within the boundaries of the South St. Paul Municipal Airport, aviation- and airport-related businesses.
 - (10) Warehousing and distribution in an enclosed building with permanent walls and roof.
 - (11) Within the boundaries of the South St. Paul Municipal Airport, aviation- and airport-related businesses.
- (k) *Exterior building materials.* ~~See Section 118-9. All buildings shall be finished on all sides with permanent finished materials of consistent quality. Except as otherwise provided by section 118-9249, exterior wall surfaces shall be face brick, glass, or stone. Architecturally~~

~~treated concrete, cast in place, precast panels, or decorative block may be acceptable if incorporated in a building design that is compatible with other development throughout the district.~~

- (1) Standards for Individual Hangar Lots at Fleming Field Municipal Airport. The following standards shall apply to individual hangar lots located within the official boundaries of Fleming Field Municipal Airport.

- (1) Lot Size. There shall be no minimum lot size provided that each lot is sized appropriately for the type of hangar it is designed to accommodate.

- (2) Setbacks. Hangar buildings shall adhere to all setback requirements imposed by the State Building Code and the Federal Airline Administration (FAA) and shall also meet the following zoning setback requirements:

- a. Hangar buildings shall be at least 5 feet from any side property line or rear property line that is shared with another platted hangar lot. Unless otherwise approved by the Airport Manager, no hangar building may be placed within 10 feet of any hangar building on an adjacent lot.
 - b. Unless otherwise allowed by conditional use permit, hangar buildings shall comply with I district setback requirements for all property lines that are shared with properties that are not part of the airport.
 - c. Unless otherwise allowed by conditional use permit, hangar buildings must meet I district front yard setback requirements for front yards that abut a public road that is not within the airport's security fence.

- (3) Landscaping. The I district's landscaping requirements shall not apply to individual hangar lots within the interior of the airport or to yards that face the interior of the airport. Yards facing a public street shall be well-landscaped in keeping with the general intent of the I district standards but a strict application of the Code shall not be required and overstory tree requirements may be relaxed or waived if deemed necessary to comply with FAA standards. New subdivisions which create additional hangar lots may be required to provide landscaping along any property line that is shared with properties that are not part of the airport.

- (4) Lot coverage restrictions and the minimum floor area ratio requirement are not applicable.

SECTION 13. AMENDMENT. South St. Paul City Code Section 118-134 is hereby amended as follows:

Section 118-134.- I-1, light industrial district

- (c) *Permitted uses.*
- (2) Manufacturing in an enclosed building with permanent walls and roof, except as prohibited by subsection (e) of this section.
 - (3) Municipal and government buildings and uses ~~Offices.~~
 - (4) Offices ~~Printing and publishing.~~
 - (5) Printing and publishing ~~PWS antennas located entirely inside a building or structure.~~
 - (6) Public recreational uses ~~A small wireless facility, as defined in section 54-402, that is located in the right of way, as long as all provisions of sections 54-400—54-429 have been met.~~
 - (7) PWS antennas located entirely inside a building or structure. ~~Radio, television and other transmitting studios and towers under 50 feet in height.~~
 - (8) A small wireless facility, as defined in section 54-402, that is located in the right-of-way, as long as all provisions of sections 54-400—54-429 have been met. ~~Warehousing and distribution in an enclosed building with permanent walls and roof.~~
 - (9) Radio, television and other transmitting studios and towers under 50 feet in height
 - (10) Warehousing and distribution in an enclosed building with permanent walls and roof.

SECTION 14. AMENDMENT. South St. Paul City Code Section 118-243 is hereby amended as follows:

Section 118-243.- Landscaping

- (1) *Maintenance and warranty requirements.* Many zoning districts have specific minimum landscaping requirements for new development and landscaping is often an integral part of a site plan, conditional use permit, or planned unit development approval. Additionally, landscaping may be used to satisfy a screening requirement. The following provisions are intended to ensure that required landscaping is correctly installed and maintained:
- (2) *Financial guarantee.* In certain situations, the city may require financial guarantee to ensure that required landscaping is correctly installed and maintained. Such a financial guarantee shall be in the form of a cash escrow, letter of credit, or other form deemed acceptable by the city attorney. The requirements listed below shall apply to projects that have received site plan approval after March 21, 2022.

- b. *Size of financial guarantee.* A required financial guarantee for landscaping shall not exceed 125 percent of the total estimated cost of furnishing and installing the required plant materials and other landscape materials. That estimated cost shall be provided by the applicant and is subject to approval by the city. With that as the maximum, the following guidelines are in place for different types of projects:

4. *Site plan approvals with a tree preservation component or MRCCA vegetation restoration plan component.* The city council or zoning administrator may establish a security requirement to guarantee that tree preservation and/or MRCCA vegetation restoration plan requirements are followed, including any requirement that tree replacement occur.

SECTION 15. ENACTMENT. South St. Paul City Code Section 118-197 is hereby enacted:

Section 118-197.- Public Parks and Playgrounds

City, school district, state, federal, county, and other public parks and playgrounds are to be developed in accordance with official public plans as may be on file with the City.

SECTION 16. ENACTMENT. South St. Paul City Code Section 118-269 is hereby enacted:

Section 118-269.- Municipal Buildings and Uses

Municipal buildings and uses are to be developed in accordance with official public plans as may be on file with the City. Such uses shall follow the zoning regulations of the underlying zoning district with the following exceptions:

- (a) They are exempt from minimum floor area ratio (FAR) and maximum lot coverage by building regulations.
- (b) Buildings may be permitted to deviate from a strict application of a zoning district's exterior building material requirements by conditional use permit. No conditional use permit shall be required for recreational buildings in public parks to deviate from exterior building material requirements if they are developed in accordance with official public plans.
- (c) When located in industrial districts, they may have less than 15% lot coverage by landscaping by conditional use permit.
- (d) Multiple principal structures may be allowed on a single lot by conditional use permit. No conditional use permit shall be required for recreational buildings in public parks.

- (e) They may exceed the limit on the number of accessory buildings allowed on a lot and may exceed the height and size maximums for accessory buildings by conditional use permit. No conditional use permit shall be required for accessory buildings in public parks and accessory buildings at the Fleming Field Municipal Airport that are developed in accordance with official public plans.
- (f) In zoning districts where the Institutional Use Standards listed in Section 118-274 are applicable, they may deviate from a strict application of setback requirements by conditional use permit. No conditional use permit shall be required for recreational buildings in public parks that are developed in accordance with official public plans.
- (g) They may be granted additional height beyond what a zoning district would typically allow by conditional use permit so long as the additional height is required for operational reasons.

SECTION 17. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

The ordinance repeals and replaces the existing Mississippi River Corridor Overlay District rules with new rules that comply with updated State requirements. It also eliminates the Existing Business and Public Land overlay districts and reformats the layout of the remaining overlay districts. It establishes zoning standards for public parks and municipal buildings and uses and clarifies which zoning districts allow such uses.

SECTION 18. EFFECTIVE DATE. This ordinance shall become effective upon publication.

Approved: August 21, 2023

Published: August 23, 2023



Deanna Werner, City Clerk