

**ORDINANCE NO. 845  
CITY OF CHAMPLIN  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA**

**ORDINANCE AMENDING SEC. 126-348. - MISSISSIPPI RIVER CORRIDOR  
CRITICAL AREA (MRCCA)**

**WHEREAS**, the City Council finds that the ordinance amendment is in response to the adopted 2017 Minnesota Rules Chapter 6106, Mississippi River Corridor Critical Area (MRCCA) and notice from Minnesota Department of Natural Resources; and

**WHEREAS**, the Minnesota Department of Natural Resources provided conditional approval of the ordinance amendment in a letter dated July 15, 2021; and

**WHEREAS**, the Champlin Planning Commission held a public hearing on July 19, 2021, and public meeting on August 16, 2021, regarding the ordinance amendment.

**NOW THEREFORE**, The City Council of the City of Champlin does hereby ordain the following amendments denoted with:

Additions: Add

Deletions: ~~Delete~~

*Sec. 126-348. - Mississippi River Corridor*

~~(a) *Findings and purpose.* The city finds that the Mississippi River Corridor within the city is a unique and valuable resource. The control of irreversible damage to this resource and the preservation and enhancement of its natural, aesthetic, cultural and historic values promote the health, safety and general welfare of the city. All development within the Mississippi River Corridor must minimize impact on the natural environment.~~

~~(b) *Permit standards.*~~

~~(1) Improvements including decks and patios within the Mississippi River Corridor shall not cover in excess of ten percent of the land area in the rear yard.~~

~~(2) The following improvements shall require administrative approval by the city:~~

~~a. Retaining walls (keystone or modular block retaining walls are prohibited);~~

~~b. Steps (in-ground or aboveground);~~

~~c. Permanent lawn furniture or fixtures;~~

~~d. New or improvements to existing decks attached to homes constructed within the Mississippi River Corridor prior to May 22, 1979;~~

~~e. Riprap; and~~

- f. — Fences as regulated by section 126-389.
- (3) — The following improvements shall require a conditional use permit from the city:
- a. — The excavation and fill of dirt in excess of 150 cubic yards;
  - b. — Swimming pool (aboveground and in-ground);
  - c. — Decks or patios made structurally a part of the retaining wall and which do not overhang or extend beyond the retaining wall; and
  - d. — In-ground decks and patios not overhanging the riverbank.
- (4) — The following improvements shall be permitted improvements to houses constructed prior to May 22, 1979:
- a. — Additions to principle structures if no further encroachment to the Mississippi River ordinary high-water level;
  - b. — Additions to principle structures which encroach further into the 100-foot setback if the encroachment does not encroach further than the established setback of the adjacent structures on either side of the subject house. The established setback is a line drawn between the two adjacent structures from the point closest to the river on both structures;
  - c. — Uncovered decks attached to a principle structure;
  - d. — The addition of a second story to principle structures if no further encroachment occurs to the Mississippi River ordinary high-water level;
  - e. — Interior and exterior remodels of existing principle structures if no further encroachment occurs to the Mississippi River ordinary high-water level;
  - f. — Attached or detached garages that are constructed no closer to the Mississippi River than the existing principle structure. Such garages shall be the principle garages for the residence; and
  - g. — Bay windows that do not add additional floor space or require additional supports constructed on the principle structure.
- (5) — The following improvements on homes constructed prior to May 22, 1979, shall require a conditional use permit: covered decks and three season porches attached to a principle structure.

## Sec. 126-348. - Mississippi River Corridor Critical Area (MRCCA)

### (a) Purpose and Authority

The City finds that the Mississippi River corridor within the City is a unique and valuable resource. The purpose of this section is to control irreversible damage to the Mississippi River corridor critical areas and the preservation and enhancement of the Mississippi River's natural, aesthetic, cultural and historic values that promote the health, safety and general welfare of the City. This 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. The Legislature of Minnesota has delegated responsibility to the City to regulate the subdivision, use and development of designated Mississippi River corridor 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.

(1) Designated Goals of the MRCCA Rules and Plan

- a. Protect and preserve the Mississippi River and adjacent lands that the legislature finds to be unique and valuable state and regional resources for the benefit of the health, safety, and welfare of the citizens of the state, region, and nation;
- b. Prevent and mitigate irreversible damages to these state, regional, and natural resources;
- c. Preserve and enhance the natural, aesthetic, cultural, and historical values of the Mississippi River and adjacent lands for public use and benefit;
- d. Protect and preserve the Mississippi River as an essential element in the national, state, and regional transportation, sewer and water, and recreational systems; and
- e. Protect and preserve the biological and ecological functions of the Mississippi River corridor.

(b) Definitions

Unless specifically defined below, words or phrases used in this section shall be interpreted to give them the same meaning they have in common usage and to give this section its most reasonable application. For the purpose of this section the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally. Unless specifically defined, the use of the words “this section” shall refer to Section 126-348.

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

Adjacent. Having a boundary that physically touches or adjoins.

Agricultural use. A use having the meaning given under Minnesota Statutes, Section 40A.02.

Alterations. Includes play equipment, permanent lawn ornaments and furniture, arbor, trellis, fire pits, slides, fences, lighting, signs, pools, industrial and utility structures, farm structures, bridges, flag poles, monuments, mechanical equipment, utilities, shelters and open-sided structures, paved lots, paved driveways, paved paths, stairways, lifts, landings, patios and similar structures.

Alternative design. 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.

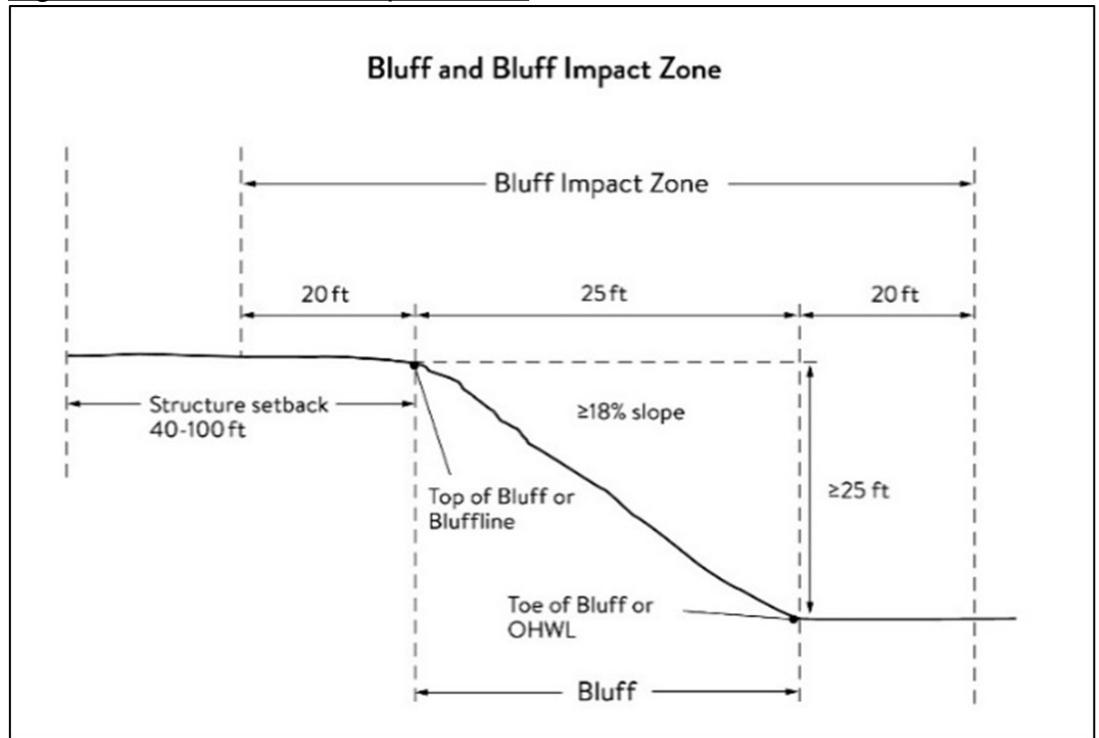
Barge fleeting. Temporarily parking and securing barges on the river, on or off channel, while tows are assembled or broken up.

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

Bluff. A natural topographic feature having:

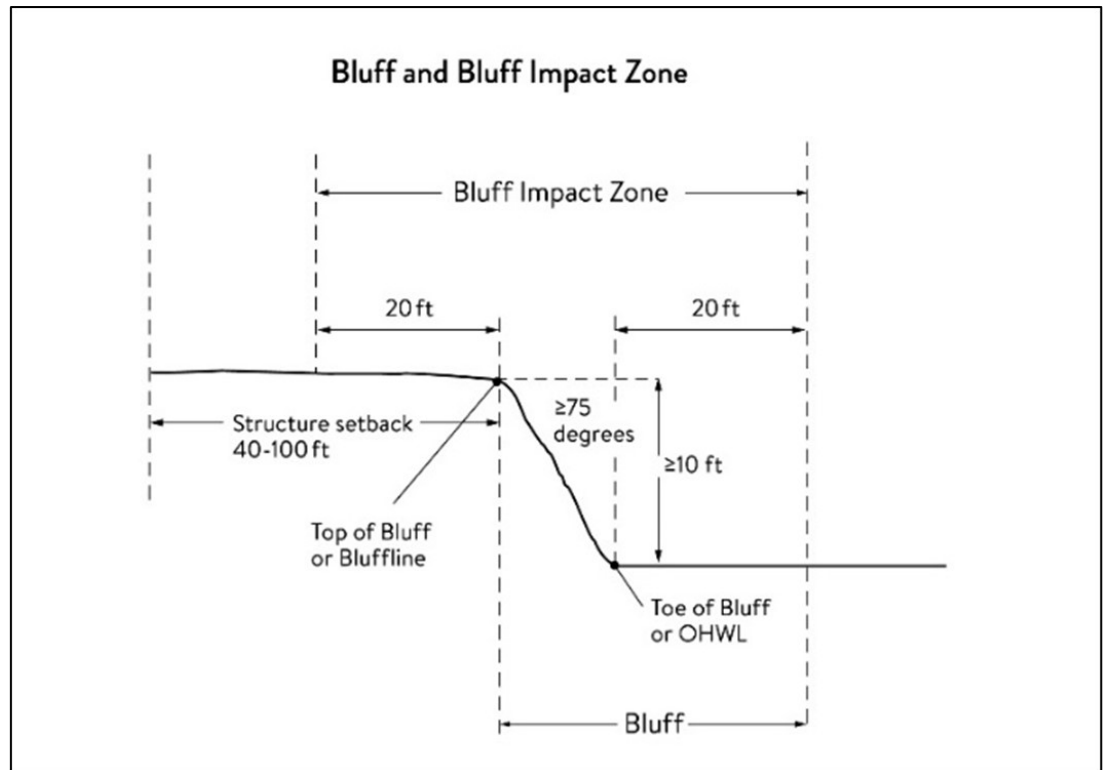
1. A slope that rises at least 25 feet where the grade of the slope averages 18 percent or greater, measured over any horizontal distance of 25 feet, from the toe of the slope to the top of the slope. Where the slope begins below the ordinary high water level, the ordinary high water level is the toe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

Figure 1. Bluff and Bluff Impact Zone



2. 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 zone. A bluff and land located within 20 feet of the bluff. See Figures 1 and 2.

Bluffline. A line delineating the top of the bluff. More than one bluffline may be encountered proceeding landward from the river. See Figures 1 and 2.

Bluff, Toe of. 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 Figures 1 and 2.

Bluff, Top of. 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 Figures 1 and 2.

Buildable area. 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. A structure with two or more outside rigid walls and a fully secured roof and affixed to a permanent site.

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

Commissioner. The Commissioner of the Minnesota Department of Natural Resources.

Conditional use. A use having the meaning given under Minnesota Statutes, Chapters 394 SB 462. Reference City Code Section 126-65

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

Deck. 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. Having the meaning given under Minnesota Statutes, Section 116G.03.

Development. Having the meaning given under Minnesota Statutes, Section 116G.03.

Discretionary action. An action under this chapter 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. Having the meaning given under Minnesota Rules, Chapter 6115.

Electric power facilities. 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. 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, Chapter 115.01, electric power facilities or transmission services.

Feedlot. Having the meaning given for animal feedlots under Minnesota Rules Chapter 7020.

Floodplain. Having the meaning given the meaning given under Minnesota Rules Chapter 6120.

Fully reconstructs. 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. 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. An archaeological site, standing structure, site, district, or other property that is 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, Section 471; 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 an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307, in consultation with the Office of the State Archaeologist.

Impervious surface. 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. The removal of all or a majority of the trees or shrubs in a contiguous patch, strip, row, or block.

Interim use. A use having the meaning given under Minnesota Statutes, Section 394 and 462.

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

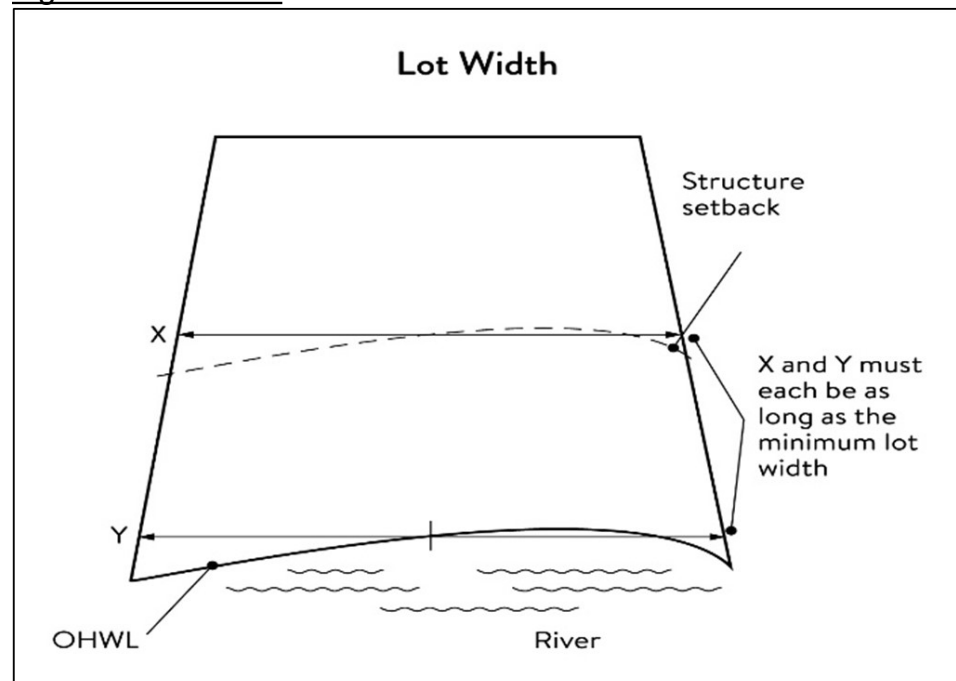
Local government. Counties, cities, and townships.

Local park agencies. The Minneapolis Park and Recreation Board and the Three Rivers Park District.

Lot. Having the meaning given under Minnesota Rules Chapter 6120.

Lot width. 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 3.

Figure 3. Lot Width



Marina. Having the meaning given under Minnesota Rules Chapter 6115.

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

Mississippi River Corridor Critical Area (MRCCA) Plan. A chapter or other element in the City of Champlin Comprehensive Plan.

Mooring facility. Having the meaning given under Minnesota Rules Chapter 6115.0170.

Native plant community. 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. 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. 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. Having the meaning given under Minnesota Statutes, Section 394.22.

Nonmetallic mining. Construction, reconstruction, repair, relocation, expansion, or removal of any facility for the extraction, stockpiling, storage, disposal, or reclamation of nonmetallic minerals such a 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. 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). Having the meaning given under Minnesota Statutes, Section 103G.005.

Overlay district. 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. Having the meaning given under Minnesota Statutes, Section 116G.03.

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

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

Planned unit development. A method of land development that merges zoning and subdivision controls, allowing developers to plan and develop a large

area as a single entity, characterized by a unified site design, a mix of structure types and land uses, and phasing of development over a number of years. Planned unit development includes any conversion of existing structures and land uses that utilize this method of development.

Plat. Having the meaning given under Minnesota Statutes, Sections 505 and 515B.

Port. A water transportation complex established and operated under the jurisdiction of a port authority according to Minnesota Statutes, Section 458.

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

Professional engineer. An engineer licensed to practice in Minnesota.

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

Public recreation facilities. 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. 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. 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. Electric power facilities, essential services, and transmission services.

Public waters. Having the meaning given under Minnesota Statutes, Section 103G.005.

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

Resource agency. 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. 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.

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

River corridor boundary. 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.

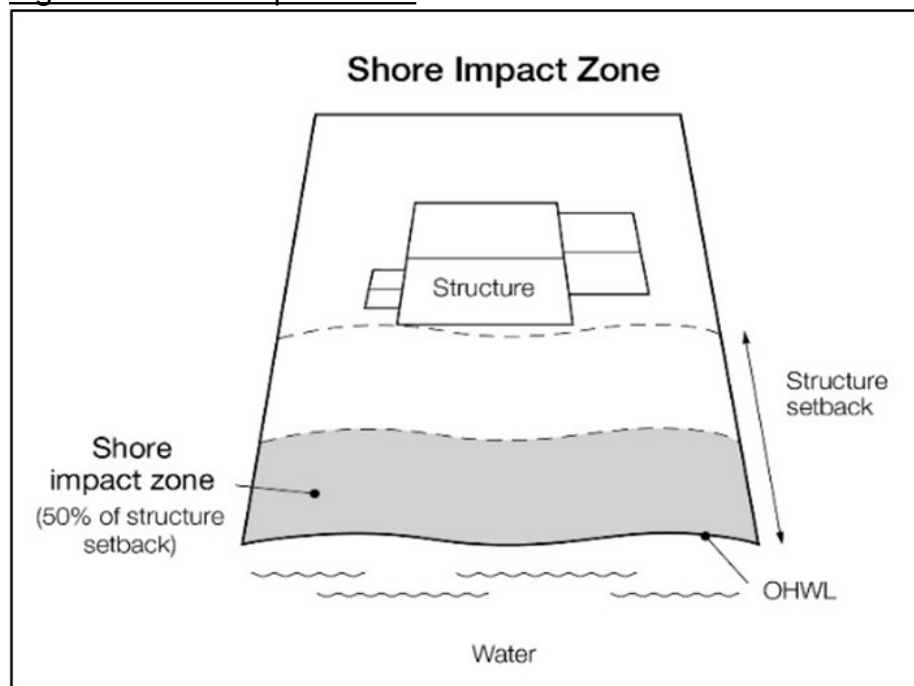
River-dependent use. The use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.

Selective vegetation removal. 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. A separation distance measured horizontally.

Shore impact zone. 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 4.

Figure 4. Shore Impact Zone



Shoreline facilities. 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.

Special purpose units of government. The University of Minnesota, the St. Paul Port Authority, watershed management organizations established under Minnesota Statutes, Chapter 103B, watershed districts established under Minnesota Statutes, Chapter 103D, and any other unit of government other than local government or a state or regional agency.

State or regional agency. The Metropolitan Airports Commission, Minnesota Historical Society, University of Minnesota, Department of Natural Resources, Department of Transportation, Metropolitan Council and other state agencies.

Steep slope. 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. Facilities for the collection, conveyance, treatment, or disposal of storm water.

Structure. 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. Having the meaning given under Minnesota Statutes, Section 462.352.

Subsurface sewage treatment system. Having the meaning given under Minnesota Rules, Part 7080.1100.

Transmission services.

1. Electric power lines, cables, pipelines, or conduits that are used to transport power between two points, as identified and defined under Minnesota Statutes, Section 216E.01, Subdivision 4; or For mains or pipelines for gas, liquids, or solids in suspension, used to transport gas, liquids, or solids in suspension between two points; and
2. Telecommunication lines, cables, pipelines, or conduits.

Treeline. 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.

Twin Cities Metropolitan area. The area over which the Metropolitan Council has jurisdiction according to Minnesota Statutes, Section 473.121 Subdivision 2.

Variance. Having the meaning given under Minnesota Statutes, Section 394.22.

Water access ramp. 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. 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. Land within the shore impact zone or within 50 feet of the OWHL of the river, whichever is greater, and land within 50 feet of a public water, wetland, or natural drainage route.

Wetland. Having the meaning given under Minnesota Statutes, Section 103G.005.

Wharf. Having the meaning given under Minnesota Rules, Part 6115.0170.

### (c) Administration

This administration subsection contains general provisions, permit required, evaluation criteria, mitigation conditions, written findings, permit application standards, variances, conditional use permit, nonconformities, notifications, exemptions, and appeals.

#### (1) General Administration.

- a. Jurisdiction. The provisions of this section 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 is responsible for the administration and enforcement of this section. 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 section can occur regardless of whether or not a permit is required for a regulated activity.
- c. Severability. If any section, clause, provision, or portion of this section is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.
- d. 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 sections inconsistent with this section 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.

#### (2) Permit Required

Administrative review permit or conditional use permit is required as follows:

a. Administrative review permit. The following shall require an administrative review permit by the City:

1. Construction of buildings, structures, building additions, decks, or alterations as defined by this section within the primary conservation areas including but not limited to the shore impact zone and bluff impact zone, or water quality impact zone, priorities for restoration areas identified in the MRCCA plan, or within 50 feet of a wetland or natural drainage.
2. Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and water quality impact zone.
3. Land alterations that involve more than ten (10) cubic yards of material or affects an area greater than 1,000 square feet within the water quality impact zone
4. Installation and/or alteration of sewage treatment systems within the MRCCA Boundary
5. Vegetation removal and vegetation restoration within the primary conservation areas (DNR mapping) including but not limited to the shore impact zone and bluff impact zone, water quality impact zone, priorities for restoration areas identified in the MRCCA plan, or within 50 feet of a wetland or natural drainage
6. Interim or temporary uses within the primary conservation areas (DNR mapping) including but not limited to the shore impact zone and bluff impact zone, water quality impact zone, priorities for restoration areas identified in the MRCCA plan, or within 50 feet of a wetland or natural drainage
7. Ramps and private water access and viewing facilities within the primary conservation areas (DNR mapping) including but not limited to the shore impact zone and bluff impact zone, or water quality impact zone, priorities for restoration areas identified in the MRCCA plan, or within 50 feet of a wetland or natural drainage
8. Stormwater management facilities in the bluff impact zone and water quality impact zone

b. Conditional use permit. The following within the MRCCA boundary shall require a conditional use permit from the City:

1. In the CA-RTC River Towns and Cities District structures over 48'
2. Wireless communication towers
3. Nonmetallic mining
4. Land alterations in excess of 150 cubic yards in compliance with Sec. 126-70 Land Alterations
5. Water-oriented accessory structures

c. Concurrent permit review. Any administrative review permit that is concurrent with another application requiring a discretionary action,

public notification or public hearing process shall be reviewed concurrently within the discretionary action, public hearing process.

d. Activities allowed without a permit.

1. Maintenance of existing lawns, landscaping and gardens;
2. Removal of vegetation in emergency situations as determined by the City;
3. Right-of-way maintenance for public facilities meeting the standards of this section
4. Agricultural and forestry activities meeting the standards of this section
5. Selective vegetation removal, provided that vegetative cover remains consistent with the management purpose of the MRCCA District, including removal of:
  - i. Vegetation that is dead, diseased, dying, or hazardous;
  - ii. Vegetation to prevent the spread of diseases or insect pests;
  - iii. Individual trees and shrubs; and
  - iv. Invasive non-native species.
6. 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 as defined by this section

(3) Evaluation Criteria, Mitigation Conditions and Written Findings

Any activity, improvement or use required to obtain an administrative review permit, conditional use permit, or variances shall be evaluated by the criteria herein and with the conditions as stated below. Each permit will be evaluated for consistency with the standards of this section and for the impacts to primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan.

a. Mitigation Conditions. If negative impacts are found in the evaluation of the activity, improvement, variance, or use, the City will require conditions to mitigate the impacts that are related to and proportional to the impacts. Mitigation conditions may include the following:

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 Public River Corridor Views PRCVs;
9. Buffers, filter strips;
10. Increasing, enhancing, and/or connecting habitat for pollinators, birds, and other wildlife

11. Increasing open space dedication; and
12. Other conservation measures.

b. Written findings for variances and conditional use permits. To approve variances and conditional use permits, the Planning Commission shall make its findings of fact and recommendations in writing to the City Council, consistent with the purpose of this section as follows:

1. The extent, location and intensity of the conditional use or variance will be in substantial compliance with the MRCCA Plan goals.
2. The conditional use or variance is consistent with the character and management purpose of the MRCCA overlay district in which it is located;
3. The conditional use or variance is in compliance with the City's Comprehensive Plan, Conservancy District Ordinance, Floodplain Ordinance and Surface Water Management Plan;
4. The conditional use or variance will not be detrimental to Primary Conservation Areas (PCAs) including shore impacts zones (SIZ), bluff impact zones (BIZ), floodplains, wetlands, natural drainage routes and watercourses, unstable soils and bedrock, native plant communities, cultural and historic properties, significant vegetative stands, publicly owned parks, trails and open spaces nor will it contribute to negative incremental impacts when considered in the context of past, present and future actions; and
5. The conditional use or variance will not be detrimental to Public River Corridor Views (PRCVs), or other scenic views nor will it contribute to negative incremental impacts to PRCVs when considered in the context of past, present and reasonable future actions; and
6. The conditional use or variance will not negatively impact Priorities for Restoration as shown in the MRCCA Plan.
7. For structures exceeding the height limits, the following criteria shall be considered and written findings shall be submitted for determining whether to grant a conditional use permit, or variance:
  - i. Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;
  - ii. Determination that the proposed structure meets the required bluff and OHWL setbacks;
  - iii. Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as: Placing the long axis of the building perpendicular to the river; Stepping back of portions of the façade; Lowering the roof pitch or use of a flat roof; Using building materials or mitigation techniques that will blend in with the natural surroundings such as green roofs, green walls, or other green and brown building materials; Narrowing the profile of

- upper floors of the building; or Increasing the setbacks of the building from the Mississippi River or bluff lines
- iv. Identification of a preservation of those view corridors identified in the MRCCA Plan; and
- v. Opportunities for creation or enhancement of public river corridor views

#### (4) Permit Application

The Applications for conditional use permits, variances and administrative reviews required under this section must submit the following information unless the City determines that the information is not needed.

- a. Application form
- b. A detailed project narrative description including for administrative reviews, variances and conditional use permits, how the proposed alteration, variance or conditional use is consistent with the purposes of this section including subsections of purpose, evaluation criteria, mitigation conditions, vegetation restoration plan and criteria as described in section (c) (3) b Written findings for variances and conditional use permits.
- c. Application fee in accordance with Chapter 22 Fees;
- d. Scaled maps and plans, dimensional renderings, maintenance agreements, and other materials that identify and describe:
  - 1. Primary conservation areas;
  - 2. Public river corridor views;
  - 3. Buildable area;
  - 4. Existing and proposed topography and drainage patterns;
  - 5. Proposed storm water and erosion and sediment control practices;
  - 6. Vegetation to be removed and restored with a vegetation restoration plan consistent with the vegetation management standards;
  - 7. Ordinary high water level, blufflines, and all required setbacks;
  - 8. Existing and proposed structures;
  - 9. Existing and proposed impervious surfaces; and
  - 10. Existing and proposed subsurface sewage treatment systems.

#### (5) Variances

Variances to the requirements under this section may only be granted in accordance with Division 4 - Variances and Appeals

#### (6) Conditional Use Permits

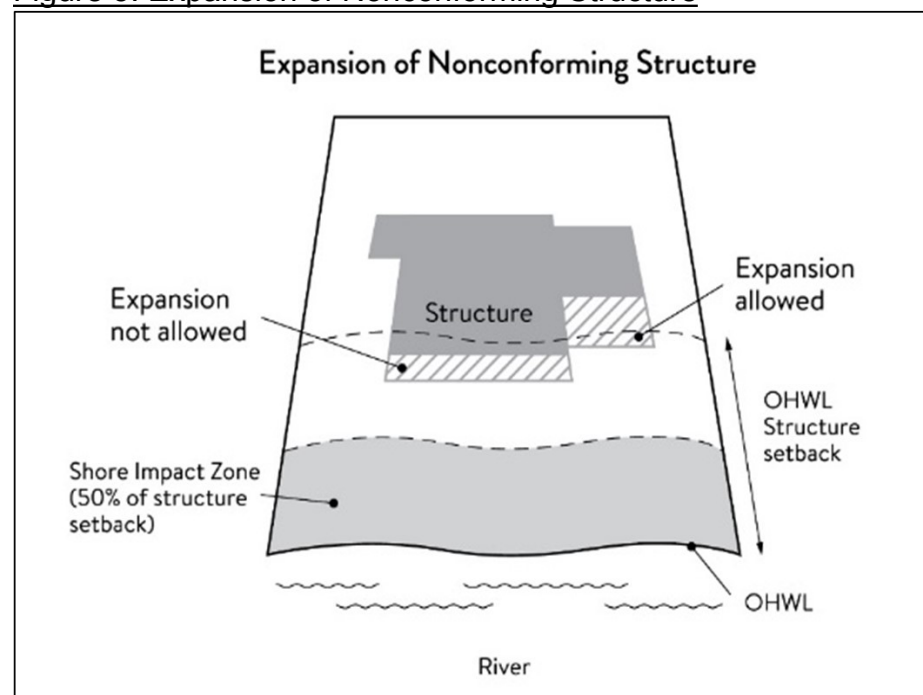
All conditional use permits, required under this section, must comply with Division 2. Conditional Use Permits

#### (7) Nonconformities

All legally established nonconformities as of the date of this ordinance may continue consistent with MN Rules 462.357 Subd.1e and City Code Sec. 126-40. Nonconforming uses, signs, lots, buildings and structures, and the following.

- a. 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.
- b. New structures erected in conformance with the setback averaging provisions are conforming structures
- c. Legally nonconforming principal structures that do not meet the setback requirements may be expanded laterally provided that:
  1. 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
  2. The expanded structure's scale and bulk is consistent with that of the original structure and existing surrounding development.

Figure 5. Expansion of Nonconforming Structure



#### (8) Notifications

- a. Amendments to this section and to the MRCCA plan must be submitted to the Commissioner as provided in Minnesota Rules, part 6106.0070, Subp. 3, Items B – I.
- b. Notice of public hearings for discretionary actions, including conditional and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, comprehensive plan

amendments and PUDs, must be sent to the following entities at least ten (10) days prior to the hearing:

1. The Commissioner in a format prescribed by the DNR;
  2. National Park Service; and
  3. Where building heights exceed the height limits 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.
- c. Notice of final decisions for actions in nonconformities, 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.
- d. Requests to amend district boundaries must follow the provisions in Minnesota Rules, part 6106.0100, Subp. 9, Item C.

(9) Exemptions

The purpose is to provide exemptions to structure placement, height and other standards for specific river or water access dependent facilities as provided in Minnesota Statutes 116G.15 Subd. 4.

- a. Applicability. Uses and activities not specifically exempted must comply with this section. Uses and activities exempted under shore impact zone and bluff impact zone must comply with the vegetation management and land alteration standards in this section.
- b. Exemption Category Definitions.
  1. Exempt – E. This means that the use or activity is allowed;
  2. Exempt if no alternative - (E). This means that the use or activity is allowed only if no alternatives exist; and
  3. Not exempt - N. This means that a use or activity is not exempt and must meet the standards of this ordinance.
- c. General Uses and Activities Exemption Table.

<u>Use or Activity</u>	<u>Set backs</u>	<u>Height Limits</u>	<u>SIZ</u>	<u>BIZ</u>	<u>Applicable standards with which the use or activity must comply</u>
<u>Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers)</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>N</u>	<u>Structure design and placement must minimize interference with public river corridor views.</u>
<u>Barns, silos, and farm structures</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>N</u>	
<u>Bridges and bridge approach roadways</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>(E)</u>	<u>Standards for Public Facilities</u>
<u>Wireless communication towers</u>	<u>E</u>	<u>E</u>	<u>N</u>	<u>N</u>	<u>Special Land Use Provisions</u>
<u>Chimneys, church spires, flag poles, public monuments, and</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>N</u>	

<u>mechanical stacks and equipment</u>					
<u>Historic properties and contributing properties in historic districts</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>Exemptions do not apply to additions or site alterations</u>

d. Public Utilities Exemption Table.

<u>Use or Activity</u>	<u>Set backs</u>	<u>Height Limits</u>	<u>SIZ</u>	<u>BIZ</u>	<u>Applicable standards with which the use or activity must comply</u>
<u>Electrical power facilities</u>	<u>E</u>	<u>E</u>	<u>E</u>	(E)	<u>Standards for Public Facilities</u>
<u>Essential services (other than storm water facilities)</u>	<u>E</u>	<u>E</u>	<u>E</u>	(E)	<u>Standards for Public Facilities</u>
<u>Storm water facilities</u>	<u>E</u>	<u>N</u>	<u>E</u>	(E)	<u>Land Alterations</u>
<u>Wastewater treatment</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>Standards for Public Facilities</u>
<u>Public transportation facilities</u>	<u>E</u>	<u>N</u>	(E)	(E)	<u>Standards for Public Facilities</u>

e. Public Recreational Facilities Exemption Table.

<u>Use or Activity</u>	<u>Set backs</u>	<u>Height Limits</u>	<u>SIZ</u>	<u>BIZ</u>	<u>Applicable standards with which the use or activity must comply</u>
<u>Accessory structures, such as monuments, flagpoles, light standards, and similar park features</u>	<u>E</u>	<u>E</u>	(E)	(E)	<u>Standards for Public Facilities; within BIZ, only on slopes averaging less than 30%. Exemptions do not apply to principal structures.</u>
<u>Picnic shelters and other open-sided structures</u>	<u>E</u>	<u>N</u>	(E)	<u>N</u>	<u>Standards for Public Facilities</u>
<u>Parking lots</u>	(E)	<u>N</u>	(E)	(E)	<u>Standards for Public Facilities; within BIZ, only within 20 feet of toe of bluff; not on face of bluff; and must not affect stability of bluff</u>
<u>Roads and driveways</u>	(E)	<u>N</u>	(E)	(E)	<u>Standards for Public Facilities</u>

<u>Natural-surfaced trails, access paths, and viewing areas</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>E</u>	<u>Standards for Public Facilities</u>
<u>Hard-surfaced trails and viewing platforms</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>(E)</u>	<u>Standards for Public Facilities; within BIZ, only on slopes averaging less than 30%</u>
<u>Water access ramps</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>(E)</u>	<u>Standards for Public Facilities</u>
<u>Public signs and kiosks for interpretive or directional purposes</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>(E)</u>	<u>Standards for Public Facilities</u>

f. River-dependent Uses Exemption Table.

<u>Use or Activity</u>	<u>Set backs</u>	<u>Height Limits</u>	<u>SIZ</u>	<u>BIZ</u>	<u>Applicable standards with which the use or activity must comply</u>
<u>Shoreline facilities</u>	<u>E</u>	<u>N[1]</u>	<u>E</u>	<u>(E)</u>	<u>Special Land Use Provisions. Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility</u>
<u>Private roads and conveyance structures serving river-dependent uses</u>	<u>E</u>	<u>N1</u>	<u>E</u>	<u>(E)</u>	<u>Special Land Use Provisions</u>

g. Private residential and commercial water access and use facilities Exemption Table.

<u>Use or Activity</u>	<u>Set backs</u>	<u>Height Limits</u>	<u>SIZ</u>	<u>BIZ</u>	<u>Applicable standards with which the use or activity must comply</u>
<u>Private roads serving 3 or more lots</u>	<u>(E)</u>	<u>N</u>	<u>N</u>	<u>(E)</u>	<u>Standards for Private Facilities; in BIZ, only on slopes averaging less than 30%. Exemption does not apply to private roads serving fewer 3 lots or to private driveways</u>

					and parking areas
<u>Access paths</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>E</u>	<u>Standards for Private Facilities</u>
<u>Water access ramps</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>Standards for Private Facilities</u>
<u>Stairways, lifts, and landings</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>E</u>	<u>Standards for Private Facilities</u>
<u>Water-oriented accessory structures</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>Standards for Private Facilities</u>
<u>Patios and decks</u>	<u>E</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Standards for Private Decks and Patios in Setback Areas</u>
<u>Directional signs for watercraft (private)</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>Private Off-Premise and Directional Signs; exemption does not apply to off-premise advertising signs</u>
<u>Temporary storage of docks, boats, and other equipment during the winter months</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>N</u>	
<u>Erosion control structures, such as rock riprap and retaining walls</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>(E)</u>	<u>Standards</u>
<u>Flood control structures</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>(E)</u>	<u>Standards</u>

(10) Appeals

Property owners may appeal the administrative review permit to the city council. A written notice of intent to appeal shall be filed with the City within 30 calendar days of receipt of notice of the decision. Upon receipt of the written notice of intent to appeal, the council shall, within a reasonable time but no later than 30 days after receipt of notice of appeal, hear the appeal, and shall promptly thereafter render its decision, which decision shall be final.

(d) River Corridor Overlay Districts

This section applies to the Mississippi River Corridor Critical Areas (MRCCA) identified on the official zoning map including the following Corridor Area (CA) overlay districts. The City has approximately 588 acres of land in the MRCCA designated as four different overlay districts: Rural and Open Space (CA-ROS), River Neighborhoods (CA-RN), River Towns & Crossings (CA-RTC), and Separated from River (CA-SR). The district 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

(1) Rural and Open Space (CA-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 (CA-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) River Towns and Crossings (CA-RTC).

- a. Description. The RTC District is characterized by historic downtown areas and limited nodes of intense development at specific river crossings, as well as institutional campuses that predate designation of the MRCCA, and that include taller buildings.
- b. Management purpose. 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) Separated from River (CA-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.

(e) Standards

(1) Structure Height and Setback

The structure setbacks from the ordinary high water level (OHWL) and bluffs, as well as structure height limits measured on the side of the structure facing the Mississippi River, for each of the MRCCA districts, are shown in Table 126-348(e).1.a and described below in compliance with MN rules 6106.0120:

a. Table 126-348(e).1.a Height and Setback Standards

<u>Table 126-348(e).1.a Height and Setback Standards</u>				
	<u>CA-ROS Rural Open Space</u>	<u>CA-RN River Neighborhood</u>	<u>CA-RTC River Towns and Cities</u>	<u>CA-SR Separated from River</u>
<u>Structure height</u>	<u>35'</u>	<u>35'</u>	<u>48'</u> <u>CUP &gt;</u> <u>48'</u>	<u>Underlying zoning</u>
<u>Mississippi River structure setback from Ordinary High Water Level (OHWL)</u>	<u>200'</u>	<u>100'</u>	<u>75'</u>	<u>N/A</u>
<u>Bluff structure setback</u>	<u>100'</u>	<u>40'</u>	<u>40'</u>	<u>40'</u>

b. Height Descriptions. Structures, including alterations as defined by this section, must be no taller than the heights specified for each district below. Structures and facilities must comply with the following specific height standards unless identified as exempt in this Section.

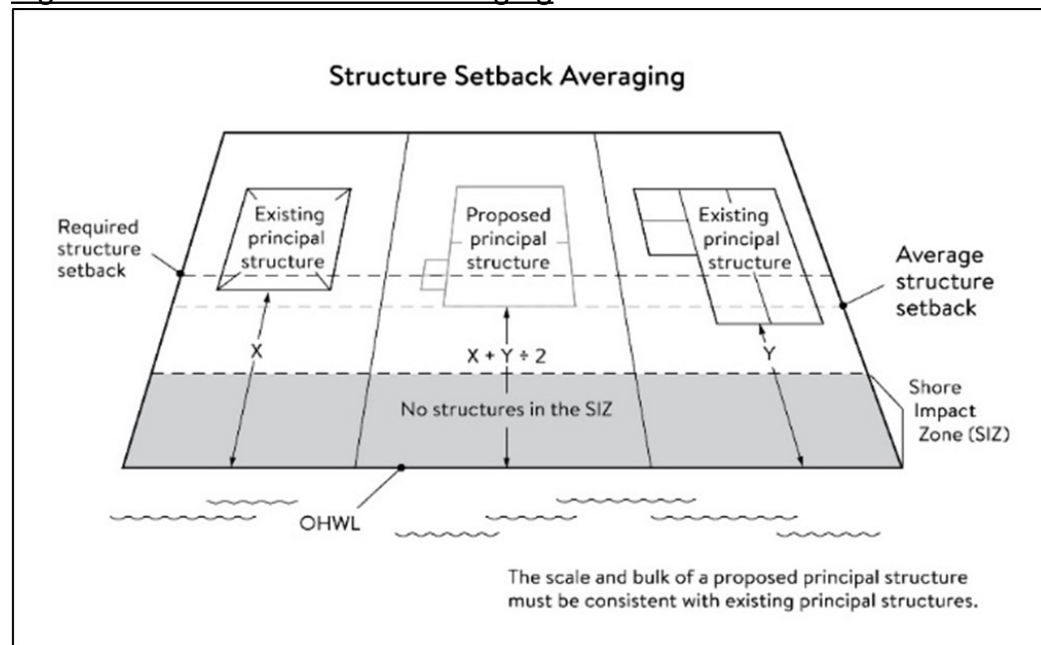
1. CA-ROS Rural Open Space District: Maximum 35 feet
2. CA-RN River Neighborhood District: Maximum 35 feet
3. CA-RTC River Towns and Cities District: Maximum 48 feet, provided tiering of structures away from the Mississippi River and from blufflines is given priority, with lower structure heights closer to the river and blufflines, and that structure design and placement minimizes interference with public river corridor views. Structures over 48 feet are allowed as a conditional use according to Section 128-348(c) Administration.
4. CA-SR Separated from River District: Maximum 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.

c. Setback Descriptions. Structures, including alterations as defined by this section, and impervious surfaces must not be located in the shore

impact zone nor in the bluff impact zone and must meet the following setback requirement from the ordinary high water level of the Mississippi River as specified for each district below unless identified as exempt in this section.

1. CA-ROS Rural Open Space District: 200 feet from the Mississippi River and 100 feet from the bluffline
2. CA-RN River Neighborhood District: 100 feet from the Mississippi River and 40 feet from the bluffline
3. CA-RTC River Towns and Cities District: 75 feet from the Mississippi River and 40 feet from the bluffline
4. CA-SR Separated from River District: as specified in underlying zoning district and 40 feet from the bluffline
5. Setback Averaging. 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 this subsection are consistent with adjoining development. See Figure 6.

Figure 6. Structure Setback Averaging



6. 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.

(2) Lot size and buildable area.

- a. 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.
- b. All new lots must have adequate buildable area to comply with the setback requirements of this section so as to not require variances to use the lots for their intended purpose.

(3) Private roads, driveways, and parking areas.

Private roads, driveways, parking areas must comply with the following.

- a. Must be designed and constructed to take advantage of natural vegetation and topography so that they are not readily visible;
- b. Comply with structure setback requirements according to this section; and
- c. Not be placed within the bluff impact zone or shore impact zone, unless exempt by this section and designed consistent with this section.

(4) Private water access and viewing facilities.

Private water access and viewing facilities including trails, paths, ramps, recreational boating and fishing facilities, stairways, lifts, and landings, must comply with the following.

- a. Private access paths must be no more than:
  1. eight feet wide, if placed within the shore impact zone; and
  2. four feet wide, if placed within the bluff impact zone.
- b. Private water access ramps must:
  1. Comply with MN rules parts 6115.0210 and 6280.0250; and
  2. Be designed and constructed consistent with the applicable standards in Design Handbook for Recreational Boating and Fishing Facilities, incorporated by reference under part 6106.0090.
- c. Private stairways, lifts, and landings are subject to the following standards:
  1. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways are allowed for commercial properties and residential facilities held in common, if approved by the City;
  2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet are allowed for commercial properties and residential facilities held in common, if approved by the City;
  3. Canopies or roofs are prohibited on stairways, lifts, or landings;
  4. Stairways, lifts, and landings must be located in the least visible portion of the lot whenever practical; and
  5. Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities are allowed for achieving access to shore areas according to MN rules 6106.0080, subpart 7. 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, in compliance with this section or if ramps or other facilities cannot comply, may be 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.

d. 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:

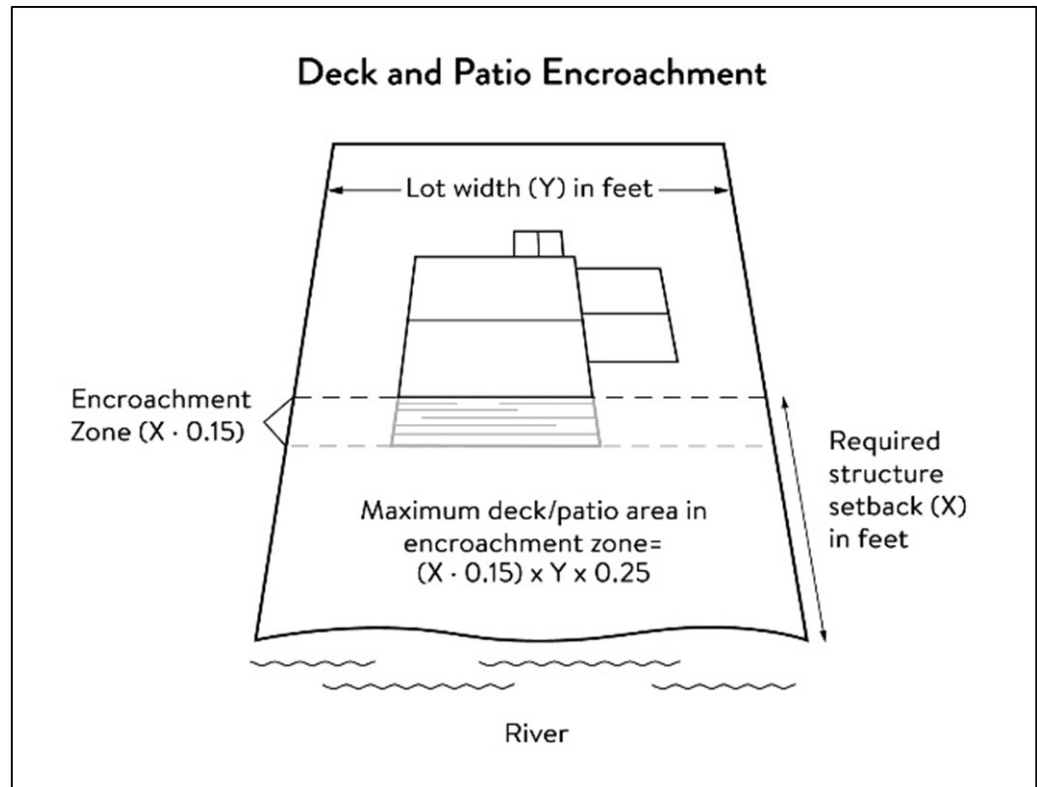
1. Not exceed 12 feet in height;
2. Not exceed 120 square feet in area; and
3. Be placed a minimum of ten feet from the ordinary high water level.

(5) Private Decks and patios in setback areas.

Private decks and at-grade patios may encroach into the required setbacks from the ordinary high water level and blufflines without a variance, in compliance with vegetation management, land alteration, and storm water management standards, provided that:

- a. The encroachment of the deck or patio into the required setback area does not exceed 15 percent of the required structure setback.
- b. 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 allowance, using the following formula: [required setback depth (feet) x 0.15 x lot width (feet) x 0.25 = maximum total area]; and
- c. The deck or patio does not extend into the bluff impact zone. See Figure 7 below.

Figure 7. Deck and Patio Encroachment



(6) Signs.

- a. All signs within the MRCCA districts shall comply with the underlying zoning and Chapter 118 Signs
- b. Off-premise advertising signs must: Meet required structure placement and height standards and not be readily visible
- c. All signs shall be consistent with Minnesota Statutes, section 86B.115; A person may not use a fixed or anchored structure on the waters of this state, not a part of a pier or dock extending from shore, for advertising purposes.
- d. Public signs and kiosks for public recreational facilities, 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. If illuminated, the lighting must be fully shielded and be directed downward.
- e. Private signs are prohibited within Primary Conservation Areas including the Shore Impact Zone (SIZ) except for signs that meet the following:
  1. One sign no greater than three (3) feet in height and four (4) square feet in surface area; and
  2. Sign lighting is prohibited

(7) Vegetation Management

The purpose of vegetation management is 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.

- a. Applicability. This subsection 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.
  
- b. Only the following intensive vegetation clearing activities are allowed with a permit:
  1. Clearing of vegetation that is dead, diseased, dying, or hazardous;
  2. Clearing to prevent the spread of diseases or insect pests;
  3. Clearing to remove invasive non-native species.
  4. Clearing to prepare for restoration and erosion control management activities consistent with a plan approved by the City.
  5. The minimum necessary for development that is allowed with a building permit or as an exemption under this section.
  
- c. General Performance Standards. The following standards must be met, in addition to a restoration plan in order to approve a permit:
  1. Development is sited to minimize removal of or disturbance to natural vegetation;
  2. Soil, slope stability, and hydrologic conditions are suitable for the proposed work as determined by a professional engineer or resource agency;
  3. Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views;
  4. Vegetation removal activities are conducted so as to expose the smallest practical area of soil to erosion for the least possible time
  5. Any other condition determined necessary to achieve the purpose of this section.
  
- d. Vegetation restoration plan. Development of a restoration plan and reestablishment of natural vegetation is required for any vegetation removed with a permit, failure to comply with any vegetation clearing and restoration standards and criteria, or as part of subdivision and land development. The vegetation restoration plan must meet the restoration plan performance standards,

- e. Restoration Plan Performance Standards. The vegetation restoration plan must satisfy the permit application submittal requirements, and:
1. Vegetation must be restored in one or more of the following restoration priority areas:
    - i. Areas with soils showing signs of erosion, especially on or near the top and bottom of steep slopes and bluffs;
    - ii. Shoreline areas within 25 feet of the water with no natural vegetation, degraded vegetation, or planted with turf grass;
    - iii. Areas on steep slopes and bluffs that are visible from the river with no natural vegetation, degraded vegetation, or planted with turf grass;
    - iv. Other approved priority opportunity area, including priorities identified in the MRCCA plan, if none of the above exist.
  2. 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;
  3. Any highly erodible soils disturbed during removal and/or restoration must be stabilized with deep-rooted vegetation with a high stem density;
  4. Vegetation removed must be restored with natural or native vegetation to the greatest extent practicable. The area (square feet) of the restored vegetation should be similar to that removed to the greatest extent practicable.
  5. For restoration of removed native plant communities, restored vegetation must also provide biological and ecological function equivalent to the removed native plant communities. The area (square feet) of the restored vegetation should be equivalent to that removed;
  6. Be prepared by a qualified individual; and
  7. Include a maintenance plan that includes management provisions for controlling invasive species and replacement of plant loss for three years.
  8. Other conditions as determined necessary by the City to achieve the purpose of this section.
- f. A certificate of compliance will be issued after the vegetation restoration plan requirements have been satisfied

#### (8) Land Alteration

The purpose of this section is 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. Any land alteration over 150 cubic yards shall be in compliance with Sec. 126-70. - Land alterations.

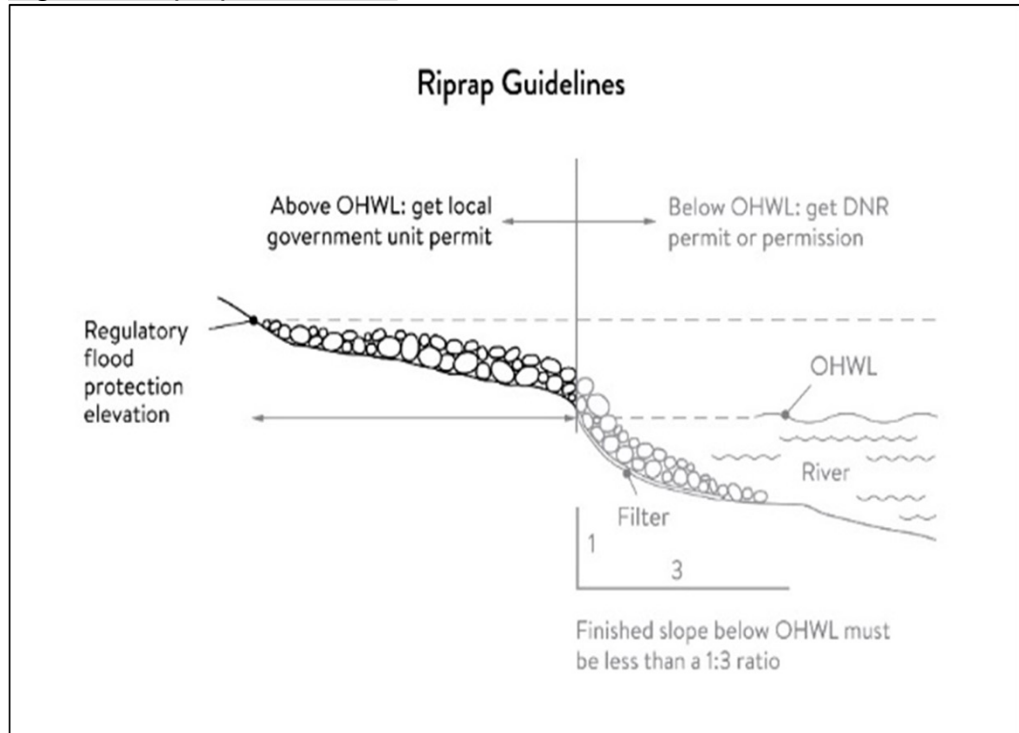
- a. Within the bluff impact zone, land alteration is prohibited, except for the following which are allowed by permit:
  - 1. Erosion control consistent with a plan approved by the city or resource agency
  - 2. The minimum necessary for development that is allowed as an exception under exemptions section; and
  - 3. Repair and maintenance of existing buildings and facilities.
- b. 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, incorporated by reference under part 6106.0090;
  - 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 part 6106.0150; and
  - 4. Best management practices for protecting and enhancing ecological and water resources identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-001, incorporated by reference under part 6106.0090, are implemented where applicable, regardless of project type.

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

- a. 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 land alteration standards provided that:
  - 1. If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project consistent with section (e) (9) b Construction at or below the OHWL.
  - 2. The structures are used only to correct an established erosion problem as determined by the City.
  - 3. 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:
    - i. Retaining walls must not exceed five feet in height and must be placed a minimum horizontal distance of ten feet apart; and

- ii. Riprap must not exceed the height of the regulatory flood protection elevation. See Figure 8 below.
- iii. Modular block retaining walls are prohibited within 20 feet of the OHWL, with exceptions as determined by the City Engineer with design considerations such as wall function, soil type, erosion control, and shoreline stabilization.

Figure 8. Riprap Guidelines



- b. Construction AT OR BELOW THE OHWL: 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 8.

(10) Stormwater Management

- a. In the bluff impact zone, storm water management facilities are prohibited, except by permit if:
  - 1. There are no alternatives for storm water treatment outside the bluff impact zone on the subject site;
  - 2. The site generating runoff is designed so that the amount of runoff reaching the bluff impact zone is reduced to the greatest extent practicable;

3. The construction and operation of the facility does not affect slope stability on the subject property or adjacent properties; and
4. Mitigation based on the best available engineering and geological practices is required and applied to eliminate or minimize the risk of slope failure.

- b. In the water quality impact zone, development that creates new impervious surface, as allowed by Exemptions section, 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
- c. In all other areas, storm water runoff must be directed away from the bluff impact zones or unstable areas.

(11) Development on Steep Slopes.

Construction of structures, impervious surfaces, land alteration, vegetation removal, or other construction activities are allowed on steep slopes if:

- a. The development can be accomplished without increasing erosion or storm water runoff;
- b. The soil types and geology are suitable for the proposed development; and
- c. Vegetation is managed according to the requirements of the vegetation management section.

(12) Subdivision and Land Development Standards.

- a. The purposes the subdivision and land development standards are to:
  1. Protect and enhance the natural and scenic values of the Mississippi River Critical Corridor Area during development or redevelopment of the remaining large sites within the corridor;
  2. Establish standards for protecting and restoring biological and ecological functions of primary conservation areas on large sites; and
  3. Encourage restoration of natural vegetation during development or redevelopment of large sites, where restoration opportunities have been identified in local plans.
- b. Applicability. The design standards in this subsection apply to subdivisions, planned unit developments and master- planned development and redevelopment of land involving ten or more acres for contiguous 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: Subdivisions; Planned unit

developments; and Master-planned development and redevelopment of land.

c. Exemptions: The following activities are exempt from this part:

1. Minor subdivisions consisting of three or fewer lots;
2. Minor boundary line corrections;
3. Resolutions of encroachments;
4. Additions to existing lots of record;
5. Placement of essential services; and
6. Activities involving river-dependent commercial and industrial uses.

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:
  - i. CA-ROS: 50 percent;
  - ii. CA-RN: 20 percent;
  - iii. CA-RTC: ten percent; and
  - iv. CA-SR: ten percent, 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 maximum percentage established above, 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 the vegetation restoration plan standards in the vegetation management section.
4. If primary conservation areas do not exist on the parcel and portions of the parcel have been identified in the MRCCA plan as a restoration area, vegetation must be restored in the identified areas according to vegetation restoration plan section and the area must be set aside and designated as protected open space.
5. 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.
6. Land dedicated under Section 122-5 Park Dedication, for public river access, parks, or other open space or public facilities may be counted toward the protected open space requirement.

7. 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 Designated Open Space.

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. Designated open space areas must be protected through one or more of the following methods:

1. Public acquisition by a government entity for conservation purposes;

2. A permanent conservation easement, as provided in Minnesota Statutes, Chapter 84C;

3. A deed restriction; and

4. Other arrangements that achieve an equivalent degree of protection.

f. Alternative design standards. Applicants are encouraged to propose alternative design methods that achieve better protection or restoration of Primary Conservation Areas. Methods may include protection and restoration of continuous vegetation, preventing the fragmentation of vegetation, and habitat conservation for known protected species such as the blanding turtle.

### (13) Public Facility General Standards.

All public facilities must be designed and constructed to:

a. Minimize visibility of the facility from the river to the extent consistent with the purpose of the facility;

b. Comply with the structure placement and height standards in this section

c. Be consistent with the vegetation management standards, and the land alteration and storm water management standards in this section, including use of practices identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001, where applicable;

d. Avoid primary conservation areas, unless no alternative exists. If no alternative exists, then disturbance to primary conservation areas must be avoided to the greatest extent practicable, and design and construction must minimize impacts; and

e. Minimize disturbance of spawning and nesting times by scheduling construction at times when local fish and wildlife are not spawning or nesting.

f. Minimize disturbance during bird migration and nesting times by scheduling construction at times when birds are not migrating or nesting.

(14) Public Right-of-way maintenance standards.

Right-of-way maintenance must comply with the following standards:

- a. Vegetation currently in a natural state must be maintained to the extent feasible;
- b. Where vegetation in a natural state has been removed, native plants must be planted and maintained on the right-of-way; and
- c. 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.

(15) Public 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.

(16) Public Utilities.

Public utilities must comply with the following standards:

- a. 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
- b. If overhead placement is necessary, utility facility crossings must minimize visibility of the facility from the river, be hidden from view and follow other existing right of ways as much as practicable.
- c. 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.
- d. Wireless communication facilities, according to special land use provisions.

(17) Public Transportation facilities

Public transportation facilities shall comply with structure placement and height standards in this section. Where such facilities intersect or abut two or more MRCCA districts, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:

- a. Providing scenic overlooks for motorists, bicyclists, and pedestrians;
- b. Providing safe pedestrian crossings and facilities along the river corridor;
- c. Providing access to the riverfront in public ownership; and
- d. Allowing for use of the land between the river and the transportation facility.

(18) Public Recreational Facilities

Public recreational facilities must comply with the following standards:

- a. Buildings and parking associated with public recreational facilities must comply with the structure placement and height standards in this section;
- b. 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.

- c. 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.
  1. 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.
  2. Trails, paths, and viewing areas must be designed and constructed to minimize:
    - i. Visibility from the river;
    - ii. Visual impacts on public river corridor views; and
    - iii. Disturbance to and fragmentation of primary conservation areas.
- d. Public water access facilities must comply with the following requirements:
  1. Watercraft access ramps must comply with Minnesota Rules Chapters 6115.0210 and 6280.0250; and
  2. Facilities must be designed and constructed consistent with the standards in Design Handbook for Recreational Boating and Fishing Facilities.
- e. Public stairways, lifts, and landings must be designed as provided in private water access and viewing facilities.

#### (19) Special Land Use Provisions

The additional special use provisions in this subsection apply to the following land uses and are meant to identify development standards and considerations for land uses that have potential to negatively impact primary conservation areas and public river corridor views.

- a. Agricultural use. Perennial ground cover is required within 50 feet of the ordinary high water level and within the bluff impact zone.
- b. Feedlots. New animal feedlots and manure storage areas are prohibited. Existing animal feedlots and manure storage areas must conform with Minnesota Rules, Chapter 7020.
- c. 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.

d. Nonmetallic mining. Nonmetallic mining requires a conditional use permit or interim use permit issued by the local government, subject to the following:

1. 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;
2. Processing machinery must be located consistent with setback standards for structures;
3. Only one barge loading area, which must be limited to the minimum size practicable, is permitted for each mining operation;
4. 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;
5. 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:
  - i. Describe how the site will be developed over time with an emphasis on minimizing environmental risk to public waters;
  - ii. Explain where staged reclamation may occur at certain points during the life of the site;
  - iii. Address dust, noise, storm water management, possible pollutant discharges, days and hours of operation, and duration of operations; and
  - iv. Describe any anticipated vegetation and topographic alterations outside the pit, and reclamation plans consistent with the stated end use for the land; and
6. Existing and new nonmetallic mining operations must submit land reclamation plans to the local government compatible with the purposes of this ordinance.

e. River-dependent uses. River-dependent uses must comply with the following design standards:

1. Structures and parking areas, except shoreline facilities and private roads and conveyances serving river-dependent uses as provided in exemption tables, 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;

2. Shoreline facilities must comply with Minnesota Rules, chapter 6115 and must: Be designed in a compact fashion so as to minimize the shoreline area affected; and Minimize the surface area of land occupied in relation to the number of watercraft or barges to be served; and
3. Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.
- f. Wireless communication towers. Wireless communication towers require a conditional or interim use permit and are subject to the following design standards:
  1. 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;
  2. The tower must not be located in a bluff or shore impact zone;
  3. Placement of the tower must minimize impacts on public river corridor views; and
  4. Comply with the general design standards for public facilities.

(20) Compliance with Other Plans and Programs.

All development must:

- a. Be consistent with Minnesota Statutes, Chapter 103B, and local water management plans completed under Chapter 8410;
- b. Meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420; and
- c. Meet or exceed the floodplain management standards under Minnesota Rules, Chapter 6120. 5000 – 6120.6200

(21) Fences.

Fences between principal structures and the river are allowed if fences meet the following:

- a. Not higher than six feet outside the shore impacts zones (SIZ), bluff impact zones (BIZ), and regulatory floodplain.
- b. Not higher than four feet and maximum 50% opaque within the shore impacts zones (SIZ), bluff impact zones (BIZ), and regulatory floodplain above the OHWL as long as the fence is out of the floodway.

This ordinance shall become effective following its passage and publication as required by law.

First Reading: September 13, 2021

Second Reading: October 12, 2021

Adoption: October 12, 2021

Published in the StarTribune on October 15, 2021.

*Ryan Karasek*

---

Ryan Karasek, Mayor

ATTEST:

*Roberta Colotti*

---

Roberta Colotti, CMC, City Clerk