

CITY OF CARVER

ORDINANCE NO. 05-2017

**AN ORDINANCE AMENDING SECTIONS 50-190, 50-194, 50-195, and 50-196
OF THE CARVER CITY CODE RELATING
TO BLUFFS WITHIN THE COMMUNITY**

THE CITY COUNCIL OF THE CITY OF CARVER, CARVER COUNTY, MINNESOTA, DOES ORDAIN AS FOLLOWS:

Section 1. Repeal and New Section. Section 50-190 of the Carver City Code is hereby repealed in its entirety and in its place the following is adopted and enacted:

Sec. 50-190. - Lots of record existing on June 6, 2005.

- A. For lots of record on which a structure existed on or before June 6, 2005, the setback from the top of the bluff is five (5) feet or the existing setback, whichever is greater, for additions to an existing structure or for the construction of accessory structures on the site.
- B. Solely for the purpose of this [section 50-190](#), the definition of structures set forth in [section 50-5](#)(21) is modified to exclude fences not in excess of four feet in height which are constructed to be as unobtrusive as possible and timber walls and rock walls which do not exceed three feet in height, all of which are conditional uses in the bluff setback area.
- C. Deck additions may be allowed without a variance to a structure not meeting the tier II setback requirements in [section 50-189](#) if all of the following criteria are met:
 - 1. A thorough evaluation of the property and structure by the city planner reveals no reasonable location for a deck outside of the tier II setback;

The portion of the deck within the tier II setback shall not be greater than 300 square feet including stairs and ramps;
 - 3. No more than eight support tiers for the deck and any stairway may be located in the overlay district;

4. The support tiers must be timber or wood resting on concrete footings;
 5. The deck surface may not be impervious (concrete, bituminous, brick, or pavers are not allowed in the overlay district) and shall not be enclosed;
 6. The use of loose aggregate material and/or vegetation and bushes under the deck to help dissipate the flow of water from the deck is required; and
 7. The plans for the proposed construction must be reviewed by the building official and are subject to any conditions deemed necessary to comply as closely as possible with the intent of this section.
- D. Lots of record without an existing principal structure. Lots without an existing principal structure on June 6, 2005 may be issued a building permit and may construct within the building pad as depicted on the approved plat and plans. Plans shall be designed to minimally impact the bluff and tier I and tier II areas and shall comply to the greatest extent possible with the requirements of sections [50-192](#) through [50-195](#). Grading and erosion control plans with existing and proposed two-foot contours shall be provided at the time of building permit application and must be approved by the building official prior to the issuance of a building permit. Conditions may be placed on the approval of the plans for the purpose of minimizing impacts to the bluff and setback area.
- E. Additions may be permitted without a variance to a principal structure not meeting the bluff setback requirements in [section 50-197](#) A. if all of the following criteria are met:
1. The principal structure existed on June 5, 2005.

The principal structure with addition must meet the height requirements of the underlying district.
 3. The addition must not cause the structure to occupy a larger or different building footprint.
 4. The addition must not utilize cantilevers, bay windows or other construction methods to cause the structure to extend past a vertical plane extending from the building footprint to the sky. Roof overhangs are excluded from this provided that they do not extend more than two feet past said vertical plane.

Section 2. Repeal and New Section. Section 50-194 of the Carver City Code is hereby repealed in its entirety and in its place the following is adopted and enacted:

Sec. 50-194. - Removal or alteration of vegetation.

- (1) Removal or alteration of vegetation within a bluff or tier I buffer area is prohibited, except for removal and control of exotic species and the planting of certain approved types of vegetation. The city may maintain and update a list of exotic species and plantings that are permitted to be removed or added under this paragraph and may make available fact sheets and Best Management Practices describing appropriate methods of treating exotic species. Exotic species that may be found in these areas include European buckthorn, exotic honeysuckles, staghorn and smooth sumac, Siberian elm and White poplar. Other species may be added to the exotic species or approved plantings list upon approval of the building official from time to time.
- (2) Removal or alteration of vegetation within a tier II setback area which is at least 25 feet away from the top of the bluff may be cleared so that a lawn may be installed provided that no tree, the diameter of six inches or greater, may be removed. Removal or alteration of vegetation within a tier II setback area must receive prior written approval of the building official or designee. An on-site review will be made to determine if the removal or alteration of vegetation will require new ground cover.

Section 3. Repeal and New Section. Section 50-195 of the Carver City Code is hereby repealed in its entirety and in its place the following is adopted and enacted:

Sec. 50-195. - Topographic alterations/grading and filling.

- (1) No earth may be moved, nor may fill or excavated material be placed in a bluff or within the tier I bluff area.
- (2) Movement of more than ten cubic yards of material within the tier II setback area may be permitted with the approval of the building official. The approval shall be granted if the proposed alteration does not adversely affect the tier II area or other property. Topographic alterations/grading and filling within the tier II area shall not be permitted to increase the rate of drainage. The drainage from property within a bluff or a bluff setback area may not be redirected without approval from the city engineer. Any application involving the movement of earth or the placement of fill within the bluff setback area shall provide a detailed landscape plan which shall include an erosion control plan and is subject to any conditions determined necessary by the building official.

Section 4. Repeal and New Section. Section 50-196 of the Carver City Code is hereby repealed in its entirety and in its place the following is adopted and enacted:

Sec. 50-196. - Enforcement.

- A. For any violation of this section the city building official may issue a summary order (red tag) to stop construction, which order shall remain in place until the property owner or contractor provides evidence satisfactory to the building official that construction can be completed in compliance with this section;
- B. If any violation of this section continues and is not brought into compliance after written order from the building official, the city may proceed under the provisions of chapter 10 of the City Code relating to nuisance abatement to cause compliance and removal of the structure (or the portion which is not in compliance with this section);
- C. Any continuous violation of this section is deemed hazardous to the sensitive bluff area of the city and, to secure compliance, the city may proceed under the Minnesota Hazardous Building Act and cause the structure (or the portion which is not in compliance with this section) to be removed;
- D. Any violation of the terms of this section is a misdemeanor and each day the violation continues is a separate misdemeanor. Any cost incurred by the city in compelling conformance with the provisions of this section shall be paid by the property owner and the city may assess such costs against the property to be included in the taxes. The remedies set forth herein are cumulative and the city may elect any or all of the remedies.

Section 5. Effective Date. This Ordinance (including the repeals) shall be in force and effect upon adoption and publication in the official newspaper of the City in accordance with applicable law. The City may publish a summary of this Ordinance.

Section 6. Codification. City staff is directed to work with Municode to codify the revisions to Sections 50-190, 50-194, 50-195, and 50-196 of the City Code as enacted in this Ordinance.

Passed and adopted by the City Council of the City of Carver on the ____ day of _____, 2017.

Mike Webb, Mayor

ATTEST:

Vicky Sons-Eiden, City Clerk

[https://mhslaw.sharepoint.com/sites/clients/6774/41226/draftdocs/ordinance 50-190 194 195 196/ordinance amend 50-190, 50-194, 50-196 bluffs 04.20.17.docx](https://mhslaw.sharepoint.com/sites/clients/6774/41226/draftdocs/ordinance%2050-190%20194%20195%20196/ordinance%20amend%2050-190,%2050-194,%2050-196%20bluffs%2004.20.17.docx)