

DIVISION 6. - CONSERVANCY DISTRICTS

Sec. 126-345. - Findings and purpose.

- (a) It is the purpose and intent of this division to prevent damage to natural and cultural resources and to preserve and enhance their value to the public. The preservation of trees and woodlands, marshes, swamps, wetlands, drainage ways, watercourses and steep slopes within the city serves important ecological, recreational and aesthetic functions to the benefit of existing and future residences.
- (b) The control of damage to natural resources and the preservation and enhancement of their natural, aesthetic, cultural, and historic value promote the health, safety, and general welfare of the city.

(Code 1977, § 13-114.1; Ord. No. 592, 4-26-2004)

Sec. 126-346. - Establishment of boundaries.

- (a) This division shall apply to all public and private lands within the following described areas:
 - (1) All areas within the Mississippi River Corridor as established in the city's comprehensive plan;
 - (2) Woodlands and significant trees (trees greater than six inches in diameter at breast height (DBH) as measured five feet above grade);
 - (3) Areas comprising slopes of 12 percent or greater;
 - (4) Natural drainage routes as determined by the city engineer; and
 - (5) Sites of archaeological or historical significance as determined by criteria set out in the National Environmental Policy Act (NEPA) or the state historic preservation office.
- (b) The conservancy district and the regulations herein shall apply to all lands in addition to the regulations of any other zoning districts which now or in the future may lie within the boundaries of these districts and shall not be a separate zoning district, but it shall apply to and govern uses within areas of the various zoning district.

(Code 1977, § 13-114.2; Ord. No. 592, 4-26-2004)

Sec. 126-347. - Permit; improvements.

To ensure that regulations in this division are properly implemented, any persons undertaking improvements to or on any land within a conservancy district shall, prior to commencing the work, obtain a permit from the city. All such improvements shall be subject to standards adopted by the city and any other state or federal regulations.

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 Minn. Stats. ch. 116G, Minnesota Rules Parts 6106.0010—6106.0180, and the planning and zoning enabling legislation in Minn. Stats. chs. 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 means an area designated to provide ingress and egress to public waters.

Adjacent means having a boundary that physically touches or adjoins.

Agricultural use means a use having the meaning given under Minn. Stats. § 40A.02.

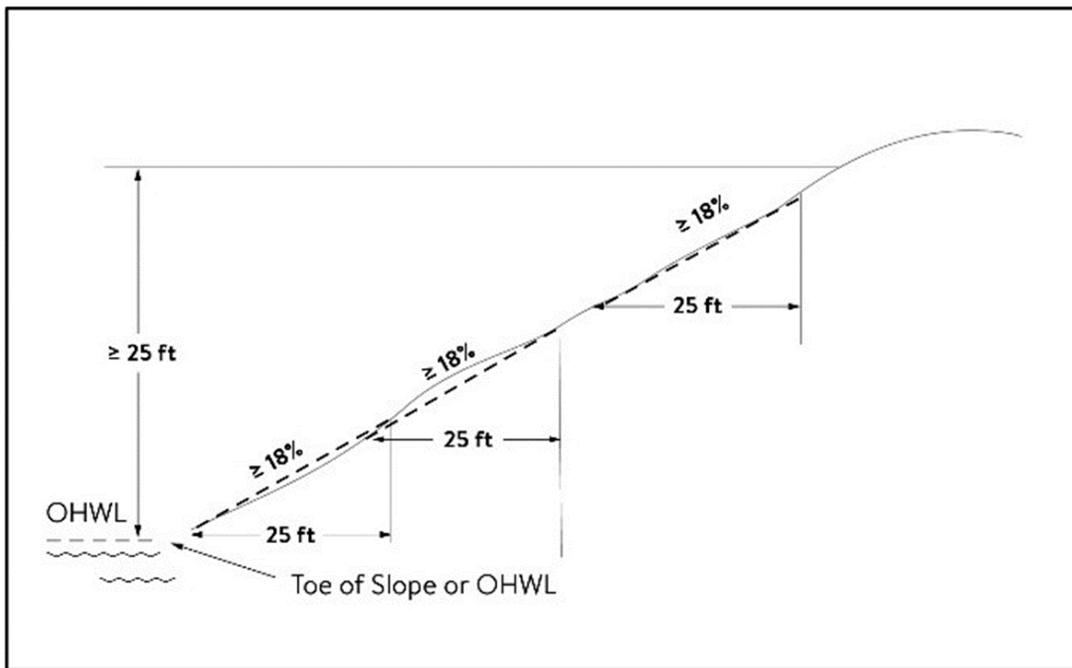
Alternative design means subdivision design methods such as conservation design, transfer of development density, or similar zoning and site design techniques that protect open space and natural areas.

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

Bluff means a natural topographic feature having:

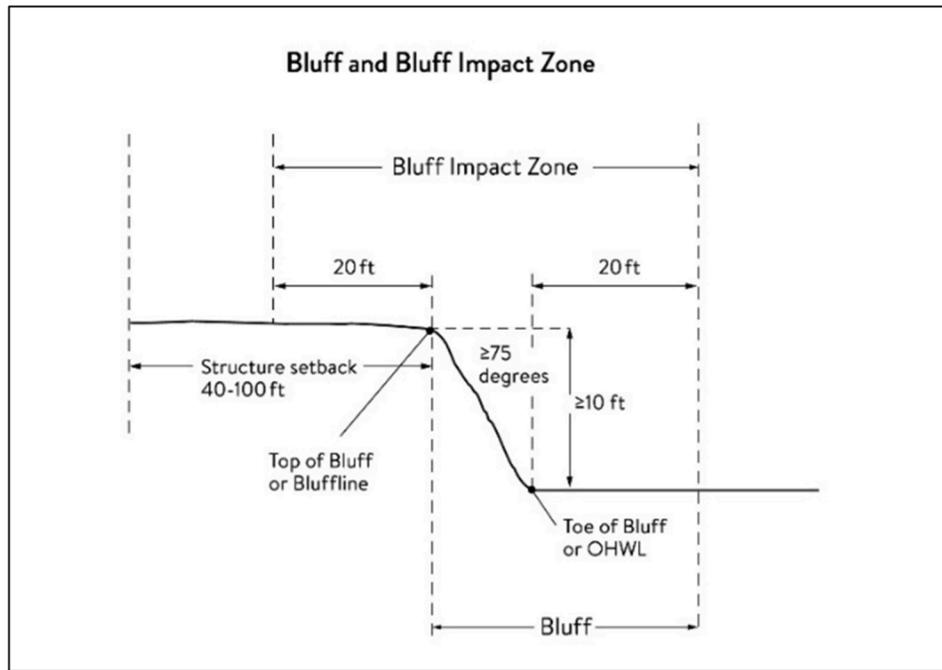
- (1) A slope that rises at least 25 feet where the grade of the slope averages 18 percent or greater, measured over any horizontal distance of 25 feet, as follows:
 - a. Where the slope begins above the ordinary high water level, from the toe of the slope to the top of the slope; or
 - b. Where the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

Figure 1. Bluff



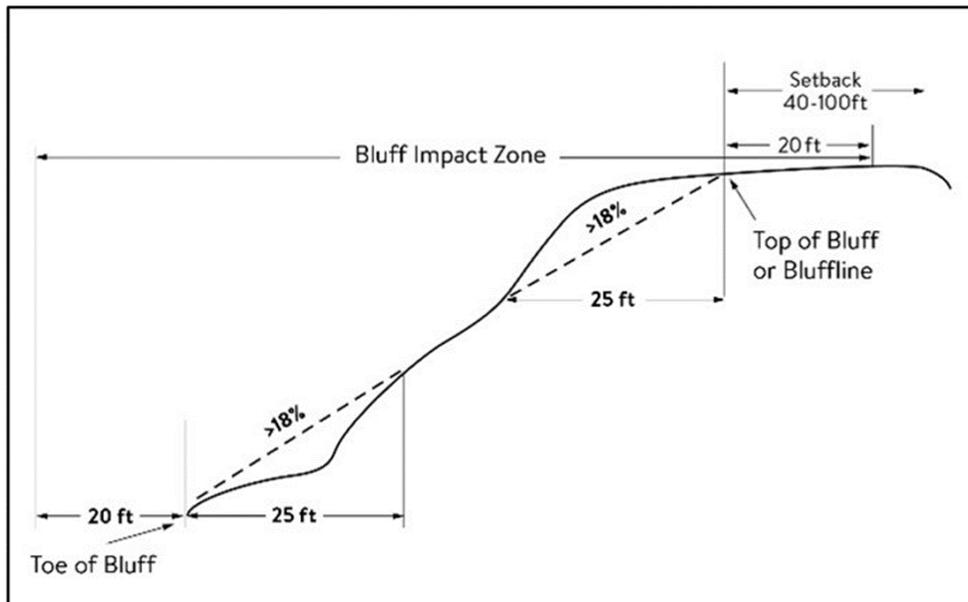
- (2) A natural escarpment or cliff with a slope that rises at least ten feet above the ordinary high water level or toe of the slope, whichever is applicable, to the top of the slope, with a slope of 75 degrees or greater. See Figure 2.

Figure 2. Natural Escarpment Bluff and Bluff Impact Zone



Bluff impact zone (BIZ) means a bluff and land located within 20 feet of the bluff. See Figures 1, 2 and 3 for a bluff example.

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



Bluffline means a line delineating the top of the bluff. More than one bluffline may be encountered proceeding landward from the river. See Figures 2 and 3.

Bluff, toe of means a line along the bottom of a bluff, requiring field verification, such that the slope above the line exceeds 18 percent and the slope below the line is 18 percent or less, measured over a horizontal distance of 25 feet. See Figures 2 and 3.

Bluff, top of means a line along the top of a bluff, requiring field verification, such that the slope below the line exceeds 18 percent and the slope above the line is 18 percent or less, measured over a horizontal distance of 25 feet. See Figures 2 and 3.

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

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

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

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

Conditional use means a use having the meaning given under Minn. Stats. chs. 394 and 462. Reference city Code [section 126-65](#).

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

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

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

Developer has the meaning given under Minn. Stats. § 116G.03.

Development has the meaning given under Minn. Stats. § 116G.03.

Discretionary action means 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 has the meaning given under Minnesota Rules Chapter 6115.

Electric power facilities means equipment and associated facilities for generating electric power or devices for converting wind energy to electrical energy as identified and defined under Minn. Stats. ch. 216E.

Essential services means underground or overhead gas, electrical, communications, steam, or water distribution, collection, supply, or disposal systems, including storm water. Essential services include poles, wires, mains, drains, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, navigational

structures, aviation safety facilities or other similar equipment and accessories in conjunction with the systems. Essential services does not include buildings, treatment works as defined in Minn. Stats. § 115.01, electric power facilities or transmission services.

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

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

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

- (1) Listed in the National Register of Historic Places or the State Register of Historic Places or locally designated as a historic site under Minn. Stats. ch. 471;
- (2) 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
- (3) An unplatted cemetery that falls under the provisions of Minn. Stats. ch. 307, in consultation with the Office of the State Archaeologist.

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

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

Interim use means a use having the meaning given under Minn. Stats. chs. 394 and 462.

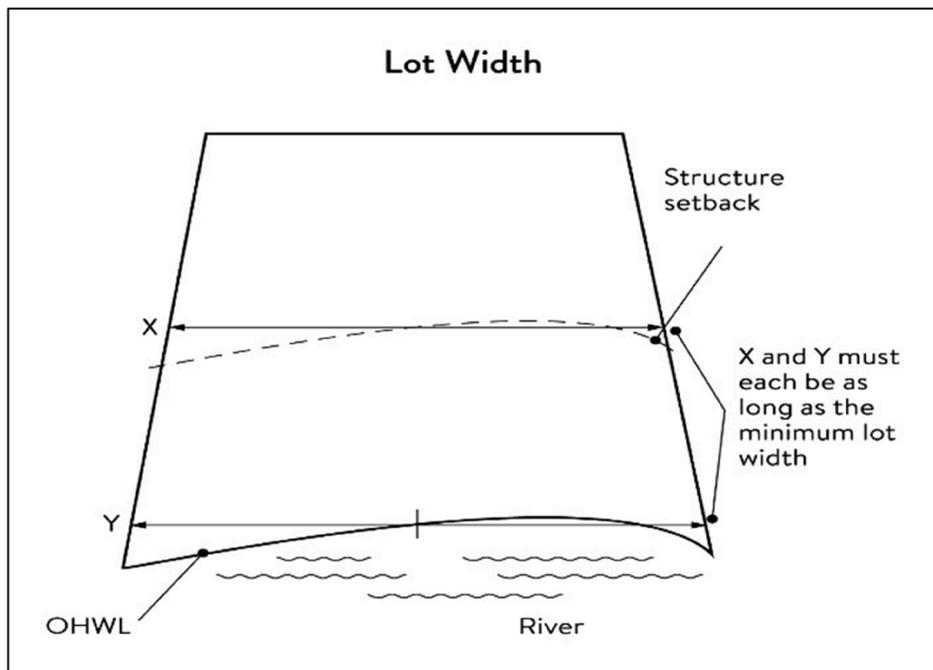
Land alteration means an activity that exposes the soil or changes the topography, drainage, or cross section of the land, excluding gardening or similar minor soil disturbances.

Local government means counties, cities, and townships.

Lot has the meaning given under Minnesota Rules Chapter 6120.

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

Figure 4. Lot Width



Marina has the meaning given under Minnesota Rules Chapter 6115.

Mississippi River corridor critical area (MRCCA) means the area within the river corridor boundary.

Mississippi River corridor critical area (MRCCA) plan means a chapter or other element in the City of Champlin comprehensive plan.

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

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

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

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

Nonconformity has the meaning given under Minn. Stats. § 394.22.

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

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

Ordinary high water level (OHWL) has the meaning given under Minn. Stats. § 103G.005.

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

Parcel has the meaning given under Minn. Stats. § 116G.03.

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

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

Planned unit development means 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 has the meaning given under Minn. Stats. chs. 505 and 515B.

Port means a water transportation complex established and operated under the jurisdiction of a port authority according to Minn. Stats. ch. 458.

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

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

Professional engineer means an engineer licensed to practice in Minnesota.

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

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

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

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

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

Public waters has the meaning given under Minn. Stats. § 103G.005.

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

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

Retaining wall means a vertical or nearly vertical structures constructed of mortar and rubble masonry, rock, or stone regardless of size, vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials.

Rock riprap means 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 means the boundary approved and adopted by the Metropolitan Council under Minn. Stats. § 116G.06, as approved and adopted by the legislature in Minn. Stats. § 116G.15, and as legally described in the State Register, volume 43, pages 508 to 518.

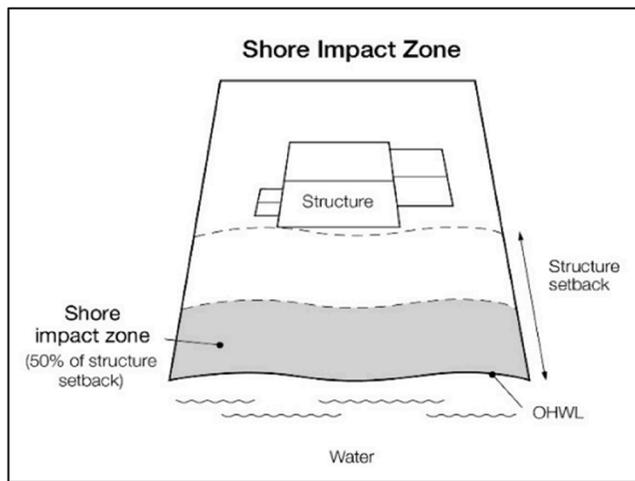
River-dependent use means the use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.

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

Setback means a separation distance measured horizontally.

Shore impact zone (SIZ) means land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of the required structure setback or, for agricultural use, 50 feet landward of the ordinary high water level. See Figure 5.

Figure 5. Shore Impact Zone



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

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

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

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

Subdivision has the meaning given under Minn. Stats. § 462.352.

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

Transmission services means:

- (1) Electric power lines, cables, pipelines, or conduits that are:
 - a. Used to transport power between two points, as identified and defined under Minn. Stats. § 216E.01, Subd. 4; or
 - b. 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 means the more or less continuous line formed by the tops of trees in a wooded area when viewed from a particular point. The treeline is determined during all seasons as if under full foliage.

Variance has the meaning given under Minn. Stats. § 394.22.

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

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

Water quality impact zone means land within the shore impact zone or within 50 feet of the OHWL of the river, whichever is greater, and land within 50 feet of a public water, wetland, or natural drainage route.

Wetland has the meaning given under Minn. Stats. § 103G.005.

Wharf has 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 are required as follows:

- a. Administrative review permit. The following shall require an administrative review permit by the city:
 1. Construction of buildings or structures, or building additions, or decks 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 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, or 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, or 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. Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities, if subsection (g) cannot be complied with.
 9. Stormwater management facilities in the bluff impact zone and water quality impact zone.
 10. Water-oriented accessory structures.

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 feet.
 2. Wireless communication towers.
 3. Nonmetallic mining.
 4. Land alterations in excess of 150 cubic yards in compliance with section 126-70, land alterations.
- 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. All conditional use permits, required under this section, must comply with division 2, conditional use permits.
- (3) *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 subsection (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.

(4) *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 facade; 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 blufflines;
 - 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.

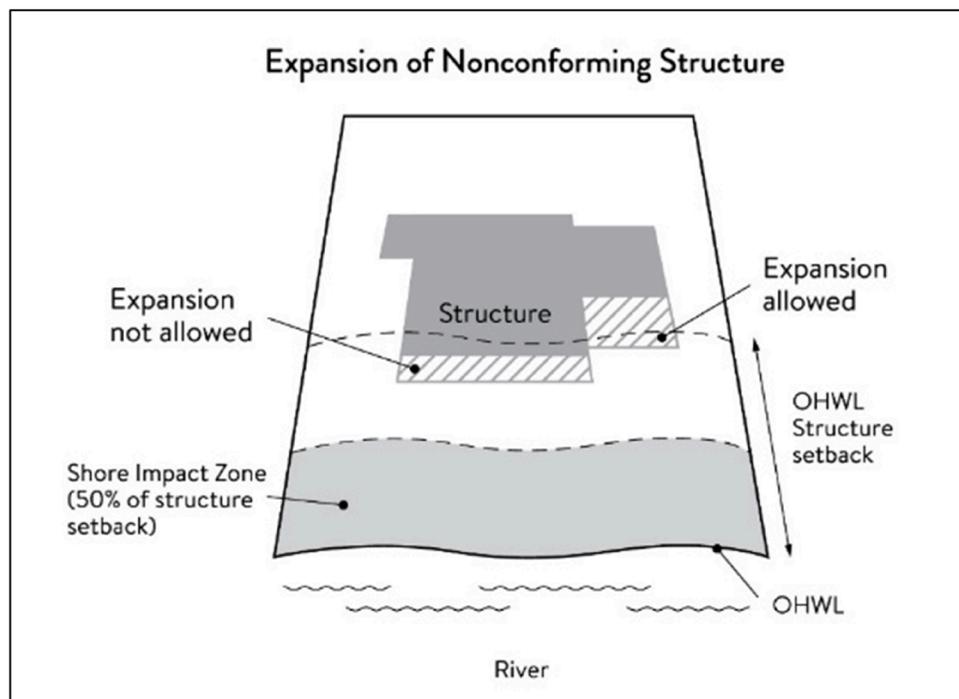
(5) *Variances*. Variances to the requirements under this section may only be granted in accordance with division 4, variances and appeals.

(6)

Nonconformities. All legally established nonconformities as of the date of the ordinance from which this section is derived may continue consistent with Minn. Stats. § 462.357, Subd. 1e and city Code section 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 the ordinance from which this section is derived 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 6); and
 2. The expanded structure's scale and bulk is consistent with that of the original structure and existing surrounding development.

Figure 6. Expansion of Nonconforming Structure



(7) *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 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.
- e. 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 days of the final decision.
- f. Requests to amend district boundaries must follow the provisions in Minnesota Rules Part 6106.0100, Subp. 9, Item C.
- (8) *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 and 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) *Special land use provisions.* The additional special use provisions in this section 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.

(1) *Underlying zoning.* Uses within the MRCCA are generally determined by underlying zoning, with additional provisions for the following land uses:

- 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
- e. Existing and new nonmetallic mining operations must submit land reclamation plans to the local government compatible with the purposes of this chapter.

(2) *River-dependent uses*. River-dependent uses must comply with the following design standards:

- a. Structures and parking areas, except shoreline facilities and private roads and conveyances serving river-dependent uses as provided in 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;
 - b. Shoreline facilities must comply with Minnesota Rules Chapter 6115 and must:
 - 1. Be designed in a compact fashion so as to minimize the shoreline area affected; and
 - 2. Minimize the surface area of land occupied in relation to the number of watercraft or barges to be served; and
 - c. Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.
- (3) *Wireless communication towers.* Wireless communication towers require a conditional or interim use permit and are subject to the following design standards:
- a. The applicant must demonstrate that functional coverage cannot be provided through co-location, a tower at a lower height, or a tower at a location outside of the MRCCA;
 - b. The tower must not be located in a bluff or shore impact zone;
 - c. Placement of the tower must minimize impacts on public river corridor views; and
 - d. Comply with the general design standards for public facilities.
- (f) *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 Minnesota Rules 6106.0120:

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

	CA-ROS Rural Open Space	CA-RN River Neighborhood	CA-RTC River Towns and Cities	CA-SR Separated from River
Structure height	35'	35'	48' CUP > 48'	Underlying zoning
Mississippi River structure setback from Ordinary High Water Level (OHWL)	200'	100'	75'	N/A

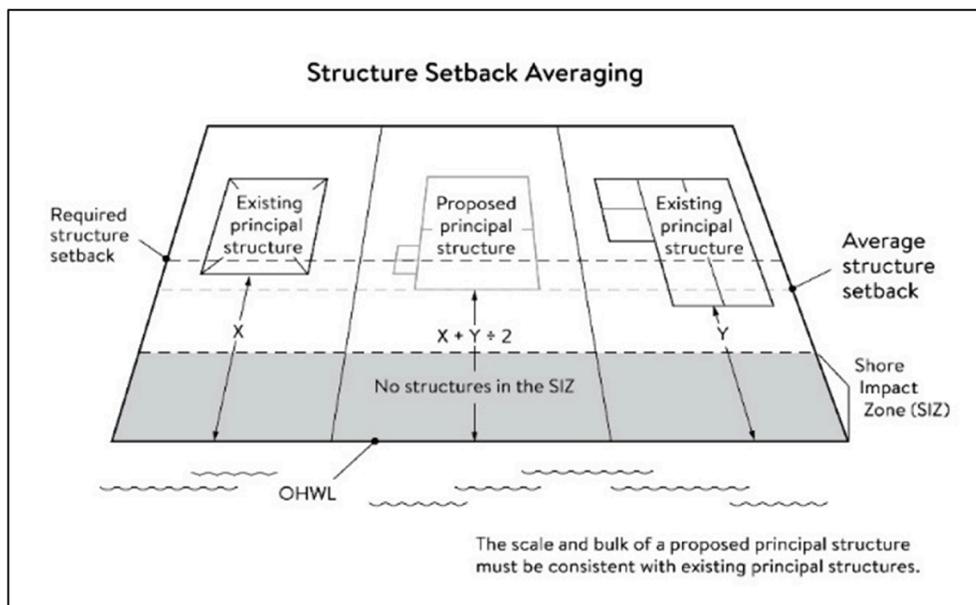
Bluff structure setback	100'	40'	40'	40'
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- a. Height descriptions. Structures, including alterations as defined by this section, must be no taller than the heights specified for each district below. Structures and facilities must comply with the following 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.
 - b. In addition to the conditional use permit requirements, criteria for considering whether to grant a conditional use permit for structures exceeding the height limits must include:
 1. Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;
 2. Determination that the proposed structure meets the required bluff and OHWL setbacks;
 3. Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as:
 - i. Placing the long axis of the building perpendicular to the river;
 - ii. Stepping back of portions of the facade;
 - iii. Narrowing the profile of upper floors of the building; or
 - iv. Increasing the setbacks of the building from the Mississippi River or blufflines;
 - c. Identification of techniques for preservation of those view corridors identified in the MRCCA plan; and
 - d. Opportunities for the creation or enhancement of public river corridor views.
- (2) Structure and impervious surface setback descriptions.
- a.

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.
- (3) 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 7.

Figure 7. Structure Setback Averaging



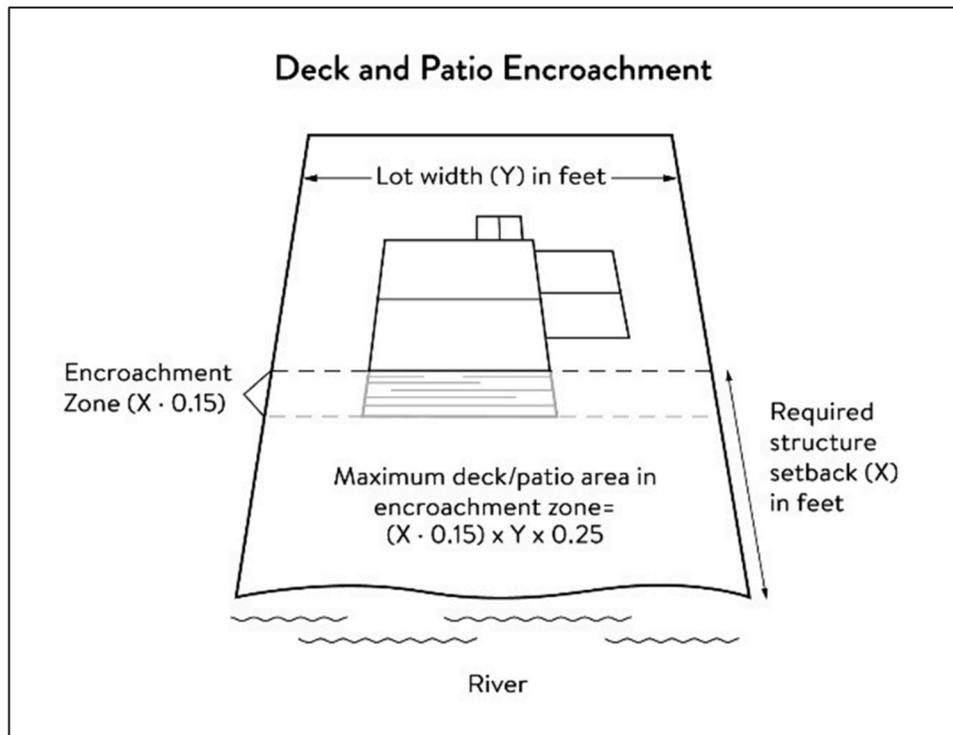
- (4) Subsurface sewage treatment systems, including the septic tank and absorption area, must be located at least 75 feet from the ordinary high water level of the Mississippi River and all other public waters.
- (5) Lot size and buildable area.
 - a.

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. Minimum lot depth for lots within the Mississippi River corridor critical area shall be 200 feet.
 - c. 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.
- (g) *Performance standards for private facilities.* All private facilities must be developed in accordance with the vegetation management and land alteration requirements of this section.
- (1) 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.
 - (2) 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 Minnesota 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 [Minnesota Rules] 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 Minnesota Rules [Part] 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:
 - i. The permit terminates on either a specific date or upon occurrence of a particular event related to the person requiring accommodation; and
 - ii. Upon expiration of the permit, the ramp or other facilities must be removed.
- (3) One water-oriented accessory structure is allowed for each riparian lot or parcel less than 300 feet in width at the ordinary high water level, with one additional water-oriented accessory structure allowed for each additional 300 feet of shoreline on the same lot or parcel. Water-oriented accessory structures are prohibited in the bluff impact zone and must:
- a. Not exceed 12 feet in height;
 - b. Not exceed 120 square feet in area; and
 - c. Be placed a minimum of ten feet from the ordinary high water level.
- (4) 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 8.

Figure 8. Deck and Patio Encroachment



(5) Signs.

- a. All signs within the MRCCA districts shall comply with the underlying zoning and chapter 118, signs.
- b. Off-premise advertising signs must:
 1. Meet required structure placement and height standards and;
 2. Not be readily visible.
- c. All signs shall be consistent with Minn. Stats. § 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. 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 feet in height and four square feet in surface area; and
 2. Sign lighting is prohibited.

(6) 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 percent 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.

(h) *Performance standards for public facilities.*

- (1) *Public facilities general design 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;
 - e. Minimize disturbance of spawning and nesting times by scheduling construction at times when local fish and wildlife are not spawning or nesting; and
 - f. Minimize disturbance during bird migration and nesting times by scheduling construction at times when birds are not migrating or nesting.
- (2) *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.
- (3) *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 Minn. Stats. §§ 84.415 and 103G.245.
- (4) *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 Minn. Stats. chs. 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 rights-of-way 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.
- (5) *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.
- (6) *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 section.
 - f. 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.
- (i) *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.
- (1) Applicability. This subsection applies to:
- a. Shore impact zones;
 - b. Areas within 50 feet of a wetland or natural drainage route;
 - c. Bluff impact zones;
 - d. Areas of native plant communities; and
 - e. Significant existing vegetative stands identified in the MRCCA plan.
- (2) Only the following intensive vegetation clearing activities are allowed with a permit:
- a. Clearing of vegetation that is dead, diseased, dying, or hazardous;
 - b. Clearing to prevent the spread of diseases or insect pests;
 - c. Clearing to remove invasive non-native species.
 - d. Clearing to prepare for restoration and erosion control management activities consistent with a plan approved by the city.
 - e. The minimum necessary for development that is allowed with a building permit or as an exemption under this section.
- (3) Only the following intensive vegetation clearing activities allowed without a permit:
- a. Maintenance of existing lawns, landscaping and gardens;
 - b. Removal of vegetation in emergency situations as determined by the city;
 - c. Right-of-way maintenance for public facilities meeting the standards of this section;
 - d. Agricultural and forestry activities meeting the standards of this section;
 - e. Selective vegetation removal, provided that vegetative cover remains consistent with the management purpose of the MRCCA district, including removal of:

1. Vegetation that is dead, diseased, dying, or hazardous;
 2. Vegetation to prevent the spread of diseases or insect pests;
 3. Individual trees and shrubs; and
 4. Invasive non-native species.
- (4) General performance standards. The following standards must be met, in addition to a restoration plan in order to approve a permit:
- a. Development is sited to minimize removal of or disturbance to natural vegetation;
 - b. Soil, slope stability, and hydrologic conditions are suitable for the proposed work as determined by a professional engineer or resource agency;
 - c. Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views;
 - d. Vegetation removal activities are conducted so as to expose the smallest practical area of soil to erosion for the least possible time;
 - e. Any other condition determined necessary to achieve the purpose of this section.
- (5) 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.
- (6) Restoration plan performance standards. The vegetation restoration plan must satisfy the permit application submittal requirements, and:
- a. Vegetation must be restored in one or more of the following restoration priority areas:
 1. Areas with soils showing signs of erosion, especially on or near the top and bottom of steep slopes and bluffs;
 2. Shoreline areas within 25 feet of the water with no natural vegetation, degraded vegetation, or planted with turf grass;
 3. Areas on steep slopes and bluffs that are visible from the river with no natural vegetation, degraded vegetation, or planted with turf grass;
 4. Other approved priority opportunity area, including priorities identified in the MRCCA plan, if none of the above exist.
 - b. Include vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities and by native vegetation establishment and enhancement guidelines;
 - c.

Any highly erodible soils disturbed during removal and/or restoration must be stabilized with deep-rooted vegetation with a high stem density;

- d. Vegetation removed must be restored with 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;
 - e. 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;
 - f. Be prepared by a qualified individual; and
 - g. Include a maintenance plan that includes management provisions for controlling invasive species and replacement of plant loss for three years.
 - h. Other conditions as determined necessary by the city to achieve the purpose of this section.
 - i. A certificate of compliance will be issued after the vegetation restoration plan requirements have been satisfied.
- (j) *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.
- (1) Any land alteration over 150 cubic yards shall be in compliance with section 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. Within the water quality impact zone, land alteration that involves more than ten cubic yards of material or affects an area greater than 1,000 square feet requires a permit, shall be in compliance with the administrative section.
- (2) Conditions of land alteration permit approval:
- a. 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 [Minnesota Rules] Part 6106.0090;
 - b.

Natural site topography, soil, and vegetation conditions are used to control runoff and reduce erosion and sedimentation;

- c. Construction activity is phased when possible;
- d. All erosion and sediment controls are installed before starting any land disturbance activity;
- e. Erosion and sediment controls are maintained to ensure effective operation;
- f. The proposed work is consistent with the vegetation standards in [Minnesota Rules] Part 6106.0150; and
- g. 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 [Minnesota Rules] Part 6106.0090, are implemented where applicable, regardless of project type.

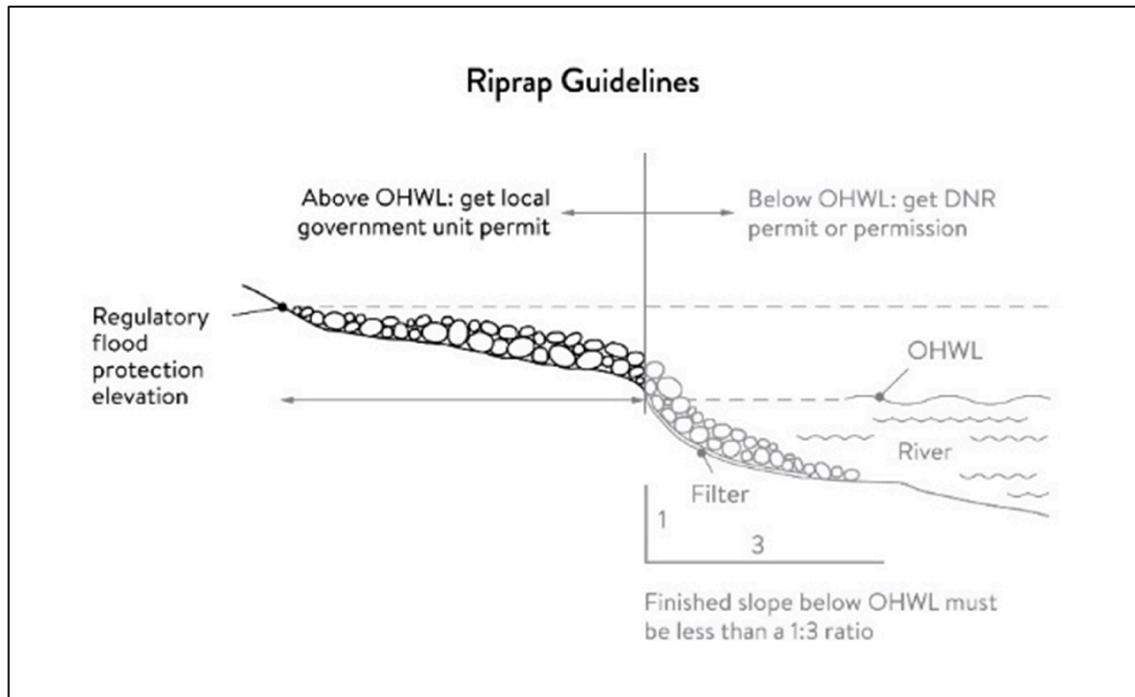
(3) Rock riprap, retaining walls, and other erosion control structures.

- 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.
 - 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 9 below.
 - iii. Modular block or similar material retaining walls are prohibited within 20 feet of the ordinary high water level, with exceptions as determined by the city engineer with design considerations such as wall function, soil type, erosion control, and shoreline stabilization.
 - 4. 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.

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 U.S. Army Corps of Engineers, and any other permits are obtained. See Figure 9.

Figure 9. Riprap Guidelines



(4) 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.
- (5) 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.
- (6) Compliance with other plans and programs. All development must:
 - a. Be consistent with Minn. Stats. ch. 103B, and local water management plans completed under [Minn. Stats.] ch. 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 Chapters 6120.5000—6120.6200.
- (k) *Subdivision and land development standards.*
 - (1) The purposes the subdivision and land development standards are to:
 - a. 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;
 - b. Establish standards for protecting and restoring biological and ecological functions of primary conservation areas on large sites; and
 - c. Encourage restoration of natural vegetation during development or redevelopment of large sites, where restoration opportunities have been identified in local plans.
 - (2) 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.
 - (3) Exemptions. The following activities are exempt from this part:
 - a. Minor subdivisions consisting of three or fewer lots;
 - b. Minor boundary line corrections;
 - c. Resolutions of encroachments;

- d. Additions to existing lots of record;
- e. Placement of essential services; and
- f. Activities involving river-dependent commercial and industrial uses.

(4) Design standards.

- a. 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:
 - 1. CA-ROS: 50 percent;
 - 2. CA-RN: 20 percent;
 - 3. CA-RTC: Ten percent; and
 - 4. 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.
- b. 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.
- c. 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.
- d. 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.
- e. 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.
- f. 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.
- g. 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.

(5)

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:

- a. Public acquisition by a government entity for conservation purposes;
 - b. A permanent conservation easement, as provided in Minn. Stats. ch. 84C;
 - c. A deed restriction; and
 - d. Other arrangements that achieve an equivalent degree of protection.
- (6) 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.
- (l) *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 Minn. Stats. § 116G.15, Subd. 4.
- (1) *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.
- (2) *Exemption category definitions.*
- a. *Exempt—E.* This means that the use or activity is allowed;
 - b. *Exempt if no alternative—(E).* This means that the use or activity is allowed only if no alternatives exist; and
 - c. *Not exempt—N.* This means that a use or activity is not exempt and must meet the standards of this chapter.
- (3) *General uses and activities exemption table.*

Use or Activity	Set-backs	Height Limits	SIZ	BIZ	Applicable Standards with which the Use or Activity Must Comply
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Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers)	N	E	N	N	Structure design and placement must minimize interference with public river corridor views
Barns, silos, and farm structures	N	E	N	N	
Bridges and bridge approach roadways	E	E	E	(E)	Section H— Performance Standards for Public Facilities
Wireless communication towers	E	E	N	N	Section E—Special Land Use Provisions
Chimneys, church spires, flag poles, public monuments, and mechanical stacks and equipment	N	E	N	N	
Historic properties and contributing properties in historic districts	E	E	E	E	Exemptions do not apply to additions or site alterations

(4) *Public utilities exemption table.*

Use or Activity	Set-backs	Height Limits	SIZ	BIZ	Applicable Standards with which the Use or Activity Must Comply
Electrical power facilities	E	E	E	(E)	Section H— Performance Standards for Public Facilities

Essential services (other than storm water facilities)	E	E	E	(E)	Section H— Performance Standards for Public Facilities
Storm water facilities	E	N	E	(E)	Section J—Land Alterations
Wastewater treatment	E	N	E	N	Section H— Performance Standards for Public Facilities
Public transportation facilities	E	N	(E)	(E)	Section H— Performance Standards for Public Facilities

(5) *Public recreational facilities exemption table.*

Use or Activity	Set-backs	Height Limits	SIZ	BIZ	Applicable Standards with which the Use or Activity Must Comply
Accessory structures, such as monuments, flagpoles, light standards, and similar park features	E	E	(E)	(E)	Section H— Performance Standards for Public Facilities; within BIZ, only on slopes averaging less than 30%. Exemptions do not apply to principal structures.
Picnic shelters and other open-sided structures	E	N	(E)	N	Section H— Performance Standards for Public Facilities

Parking lots	(E)	N	(E)	(E)	Section H— Performance 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.
Roads and driveways	(E)	N	(E)	(E)	Section H— Performance Standards for Public Facilities
Natural-surfaced trails, access paths, and viewing areas	E	N	E	E	Section H— Performance Standards for Public Facilities
Hard-surfaced trails and viewing platforms	E	N	E	(E)	Section H— Performance Standards for Public Facilities; within BIZ, only on slopes averaging less than 30%
Water access ramps	E	N	E	(E)	Section H— Performance Standards for Public Facilities
Public signs and kiosks for interpretive or directional purposes	E	N	E	(E)	Section H— Performance Standards for Public Facilities

(6) *River-dependent uses exemption table.*

Use or Activity	Set-backs	Height Limits	SIZ	BIZ	Applicable Standards with which the Use or Activity Must Comply
Shoreline facilities	E	N ²	E	(E)	Section E—Special Land Use Provisions. Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility.
Private roads and conveyance structures serving river-dependent uses	E	N ¹	E	(E)	Section E—Special Land Use Provisions

(7) *Private residential and commercial water access and use facilities exemption table.*

Use or Activity	Set-backs	Height Limits	SIZ	BIZ	Applicable Standards with which the Use or Activity Must Comply
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Private roads serving 3 or more lots	(E)	N	N	(E)	Section G— Performance 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 and parking areas.
Access paths	E	N	E	E	Section G— Performance Standards for Private Facilities
Water access ramps	E	N	E	N	Section G— Performance Standards for Private Facilities
Stairways, lifts, and landings	E	N	E	E	Section G— Performance Standards for Private Facilities
Water-oriented accessory structures	E	N	E	N	Section G— Performance Standards for Private Facilities
Patios and decks	E	N	N	N	Section G—Standards for Private Decks and Patios in Setback Areas

Directional signs for watercraft (private)	E	N	E	N	Private Off-Premise and Directional Signs; exemption does not apply to off-premise advertising signs
Temporary storage of docks, boats, and other equipment during the winter months	E	N	E	N	
Erosion control structures, such as rock riprap and retaining walls	E	N	E	(E)	Section F—Standards
Flood control structures	E	N	E	(E)	Section F—Standards

(Code 1977, § 13-114.4; Ord. No. 592, 4-26-2004; Ord. No. 845, 10-12-2021; Ord. No. 852, Att., 5-23-2022)

Editor's note— Ord. No. 845, adopted Oct. 12, 2021, amended the title of § 126-348 to read as herein set out. The former § 126-348 title pertained to the Mississippi River Corridor.

Sec. 126-349. - Woodland and significant tree protection.

(a) *Findings and purpose.* The city recognizes that preservation and replanting of trees is important on new development sites in order to maintain a healthy and desirable community. The purposes of tree preservation regulations are:

- (1) Prevention of soil erosion;
- (2) Improvement of air quality;
- (3) Energy conservation through natural insulation and shading;
- (4) Increased property values;
- (5) Protection of privacy by maintaining and establishing buffers between conflicting uses; and
- (6) Providing habitat for wildlife.

(b) *Scope.* The regulations contained in this section shall apply to all properties involving a site plan application or preliminary plat/lot division application resulting in the creation of one or more new development parcels and to property during construction after subdivision or when not connected with subdivision.

(c) *Heritage trees.*

- (1) Upon nomination by any person and with the written consent of the property owner, the city council, after public hearing, may designate a tree as a heritage tree. A tree may be designated as a heritage tree upon a finding that it is unique and of importance to the community due to any of the following factors:
 - a. It is an outstanding specimen of a desirable species;
 - b. It is one of the largest or oldest trees in the city; or
 - c. It possesses distinctive form, size, age, location, and/or historical significance.
- (2) After city council approval of a heritage tree designation, the property owner shall execute and record with the county recorder or, if appropriate, the county registrar of titles, a conservation easement of unlimited duration pursuant to Minn. Stats. ch. 84C over said tree. A listing of trees so designated, including the specific locations thereof, shall be kept by the community development department. Once designated, a heritage tree shall be subject to the provisions of this section unless removed from the list of heritage trees by action of the city council. The city council may remove a tree from the list upon its own motion or upon written request by the property owner.

(d) *Intent.*

- (1) Developments, structures, utilities, and all other site activities must be designed, installed and constructed so that the maximum number of trees are preserved on all lots or parcels with special emphasis on the following:
 - a. Specimen trees (trees larger than 24 inches DBH);
 - b. Heritage trees; and
 - c. Trees and/or woodlands that serve as a buffer between existing and proposed subdivisions.
- (2) Flexibility of city standards shall be considered when possible to ensure the preservation of the maximum number of trees.

(e) *Tree preservation plan required.* To minimize tree loss and to mitigate tree removal on wooded lots or parcels containing trees, a tree preservation plan shall be submitted with all site plan, preliminary plat and lot division applications. The plan shall be approved by the city.

(f) *Tree preservation plan content.* The content of all tree preservation plans submitted shall, for purposes of city staff review, include the following:

- (1) A tree inventory indicating size, species, location, and condition of all significant trees (six-inch DBH or greater) and clumps of nonsignificant trees within the site limits;
- (2) Identification of trees to be protected, preserved, or undisturbed and to be removed;
- (3)

Areas proposed to be designated as natural preserves where all natural vegetation will be protected and preserved;

- (4) Proposed disturbance zones;
- (5) Location and dimensions of building pads, construction zone for each lot and grading contours of the site;
- (6) Locations and details of tree protection fencing to be installed for all trees to be preserved; and
- (7) Calculation of significant tree inches removed on the site.

(g) *Tree preservation barriers.*

- (1) There shall be no movement, clearing, or storage of equipment within a designated tree protection area. No person shall permit the placement of construction materials, debris, soil deposits, or fill within the canopy of any protected tree areas.
- (2) Before any construction or grading takes place, snow fencing or erosion control fencing shall be installed around the borders of wooded areas at the drip-line of outer trees. If less protection is necessary due to the proximity of building structures or infrastructure, such reduced protection shall require approval by the city prior to any construction activity taking place.
- (3) No construction work shall begin until the protective fencing is installed and inspected by the city.
- (4) Silt barriers or similar effective erosion control barriers shall be required in any area where erosion or siltation may cause damage to protected trees.
- (5) All protective fencing and erosion control barriers must be maintained throughout the land disturbance and construction process.
- (6) The mowing, clearing, and grubbing of brush or debris located within or under the drip-line of existing trees may be allowed; provided such mowing, clearing, or grubbing is accomplished by hand or by mowers. The use of heavy equipment for this purpose is not allowed.

(h) *Standards of preservation during subdivision.*

- (1) Developments in residential districts may remove or disturb up to 50 percent of the total inches of significant trees. Any removal or disturbance beyond this threshold shall require reforestation or restitution.
- (2) Developments in nonresidential districts may remove or disturb up to 60 percent of the total inches of significant trees. Any removal or disturbance beyond this threshold shall require reforestation or restitution.
- (3)

Tree inches of significant trees to be removed for water quality treatment ponds and rights-of-way for arterial and major collector roadways shall be exempt from the calculation of total significant tree inches on a development site.

(i) *Standards of preservation during construction after subdivision or when not connected with subdivision.*

(1) In residential subdivisions, the builder shall be responsible for working with the community development department for the protection of the trees to be preserved on a particular lot.

(2) Prior to the issuance of a building permit by the city, the applicant for such building permit shall provide a certified survey identifying the location, size and species of trees six inches DBH or larger in size. Such survey shall indicate trees to be removed and those to be saved.

(3) The builder shall be required to replace significant trees removed from within the building pad on a basis of one-half-inch tree replacement for each one inch of tree removed.

(j) *Reforestation/restitution requirement.* If a development tree preservation plan exceeds the allowable removal or disturbance threshold, the subdivider shall either reforest within the site or pay restitution, or provide a combination thereof, as determined by the city. For each one inch of significant tree that is removed beyond the threshold, the subdivider shall replant one inch of new tree or provide the city with \$100.00 in restitution.

(k) *Reforestation/restitution plan.*

(1) If the amount of significant tree inches to be removed or disturbed exceeds the specified threshold, the subdivider shall provide a reforestation plan, or a calculation of restitution, or a combination thereof, as determined by the city.

(2) A reforestation plan shall be prepared by a registered landscape architect or forester and shall comply with the following criteria:

a. The plan shall indicate the location and diameter or height of all trees to be planted;

b. Plantings shall be of similar vegetation found on the site, with a preference for plantings designated as native to the site;

c. The minimum planting size for deciduous trees shall be 2.5 inches DBH and the minimum planting size for coniferous trees shall be six feet in height;

d. Replacement trees on a reforestation plan may count toward the trees required by the city's landscaping regulations;

e. Reforestation plantings shall be guaranteed for one full growing season; and

f. Restitution shall be paid to the city prior to the city's release of the signed final plat mylars, or prior to the approval of a minor subdivision. Any restitution shall be placed in a fund to be used for reforestation projects in the city.

(l)

Restrictions for properties not undergoing development. The number of trees removed from privately owned land shall be limited to two significant trees per year, unless an approved tree replacement plan has been obtained. The following trees are exempt from this provision:

- (1) Trees removed because they are dead or diseased;
 - (2) Trees that are an obstruction to traffic or power lines;
 - (3) Trees that pose a hazard to structures; and
 - (4) If the removal of the tree is consistent with good forestry practices.
- (m) *Penalties.* Any person who shall violate any of the provisions of this section or any tree preservation plan approved thereunder shall be guilty of an offense punishable as a misdemeanor. In addition, any and all permits and approvals extended by the city in connection with the property on which the violation occurs may be suspended or revoked after notice and an opportunity to be heard, and the city may also deny a certificate of occupancy or pursue injunctive relief and/or damages.

(Code 1977, § 13-114.5; Ord. No. 592, 4-26-2004)

Sec. 126-350. - Areas comprising slopes of 12 percent or greater.

No development shall be permitted on land having a slope, before alteration, in excess of 12 percent unless the applicant shall prove that the following conditions are met:

- (1) The foundation and underlying material of any structure, including roads, shall be adequate for slope condition and soil type;
- (2) The applicant can demonstrate that development during and after construction can be accomplished without increasing erosion, and that there is proper utilization of controls to reduce runoff to nondestructive levels;
- (3) The proposed development presents no danger of falling rock, mud, uprooted trees, or other material to structures, recreational facilities, public lands, and public water, at lower elevations; and
- (4) All retaining walls, shall meet the following design requirements:
 - a. Retaining walls or terrace contours shall not exceed five feet in height; and
 - b. The minimum horizontal distance between terraces and retaining walls shall be ten feet.

(Code 1977, § 13-114.6; Ord. No. 592, 4-26-2004)

Sec. 126-351. - Applications.

- (a) *Recommendation.* Conditional use permits, except hereinafter noted, shall be issued by the city council after recommendation from the planning commission.
- (b)

Submission; site plan specifications. A written application for a conditional use permit must be submitted to the zoning administrator. Such application shall include a site plan with adequate evidence to show that the proposed use will conform to the standards set forth in this section. The site plan shall be prepared to a scale appropriate to the size of the project and suitable for the review to be performed, which shall not be less than one inch equals 200 feet or more than one inch equals ten feet. The following information shall be provided in the site plan:

- (1) The name and address of the owner and developer, the legal description and address of the property, north point, date and scale of drawing, and number of sheets;
- (2) The location of the property, including such information as the name and numbers of roads, existing subdivisions, buildings, and other landmarks;
- (3) The existing topography, as indicated on a contour map having contour intervals of one foot on a zero percent to three percent slope, two feet on a three percent to ten percent slope, and five feet on a ten percent or greater slope. The topography map shall also clearly delineate:
 - a. Any bluff line; and
 - b. All streams, including intermittent streams and swales, rivers, water bodies, and wetlands located on the site, including:
 - 1 The depth of water;
 - 2 The bottom slope;
 - 3 A description of body materials and all vegetation, which may be found in the water body;
 - 4 A statement of water turbidity;
 - 5 A statement of water quality; and
 - 6 A classification given to the water body by the state department of natural resources and the state pollution control agency, if any.

The topography map shall also indicate the floodway and/or flood fringe lines and indicate the normal high-water mark of the river;

- (4) A plan delineating the existing drainage of the water setting forth in which direction the volume and at what rate stormwater is conveyed from the site and setting forth those areas of the site where stormwater collects and is gradually percolated into the ground or slowly released into a stream or pond;
- (5) A description of the soils of the site, including a map indicating soil types by areas to be disturbed as well as a soil report prepared by a soil scientist containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render

the soils suitable. All areas proposed for grading shall be identified by soil type, both as to soil type of existing topsoil and soil type of the new contour. The location and extent of any erosion areas shall be indicated;

- (6) A description of the flora and fauna of the site set forth with details of those areas where unique plant or animal species may be found on the site;
- (7) A description of any features, buildings, or areas that are of historic significance;
- (8) A map indicating the proposed finished grade shown at contours at the same intervals as provided in this section or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;
- (9) A landscape plan drawn to an appropriate scale, including dimensions and distances and the location, type, size, and description of all existing vegetation, clearly locating and describing any vegetation proposed for removal and all proposed landscape materials which will be added to the site as part of the development;
- (10) A proposed drainage plan of the developed site delineating in which direction, the volume, and at what rate stormwater will be conveyed from the site and setting forth the areas of the site where stormwater will be allowed to collect and gradually percolate into the ground, or be slowly released into a stream or lake. The plan shall also set forth the hydraulic capacity of all structures to be constructed or existing structures to be utilized, including volume of holding ponds and design storm;
- (11) An erosion and sedimentation control plan indicating the type, location, and necessary technical information on control measures to be taken both during and after construction, including a statement expressing the calculated anticipated gross soil loss expressed in ton/acre/year, both during and after construction;
- (12) The proposed size, alignment, height, and intended use of any structures to be erected or located on the site;
- (13) A clear delineation of all areas that shall be paved or surfaced, including a description of the surface material to be used;
- (14) A description of the method to be provided for vehicular and pedestrian access to the proposed development and public access to the river and/or public river view opportunities both before and after development's impact on existing views of and along the river;
- (15) A description of all parking facilities to be provided as part of the development of the site including an analysis of parking needs generated by the proposed development;
- (16) A delineation of the area or areas to be dedicated for public use;
- (17) A delineation of the location and amounts of excavated soils to be stored on the site during construction; and

- (18) Any other information pertinent to the particular project which in the opinion of the zoning administrator or applicant is necessary or helpful for the review of the project.
- (c) Six sets of clearly legible blue or black lined copies or drawings and required information shall be submitted to the zoning administrator and shall be accompanied by a receipt from the zoning administrator evidencing the payment of all required site plan fees.
- (d) No permit shall be issued unless the applicant, in support of his application, shall submit engineering data, surveys, site plans, and other information as the city may require in order to determine the effects of such development on the affected lands and water areas. Such data, surveys, etc., shall be prepared by hydrologists, biologists, botanists, or other technical persons as required by the zoning administrator at the applicant's expense.

(Code 1977, § 13-114.7; Ord. No. 592, 4-26-2004)

Sec. 126-352. - Expiration, extension and revisions.

- (a) Work authorized by the conditional use permit shall begin within 60 days from the date of issuance of the permit unless a different date for the commencement of work is set forth in the permit. The work authorized by the permit shall be completed within the time limit specified in the permit that in no event shall exceed more than 12 months from the date of issuance. The permittee shall notify the zoning administrator at least 24 hours prior to commencement of work.
- (b) Should the work not be commenced as specified herein, then the permit shall become void. However, if prior to the date established for commencement of work, the permittee makes written request to the zoning administrator for an extension of time to commence the work, setting forth the reasons for the required extension, the zoning administrator may grant one extension of not more than 60 days.
- (c) Any revision of the originally approved site plan must be approved by the city.
- (d) A conditional use permit may be approved subject to compliance with conditions that are specifically set forth in the permit and are necessary to ensure compliance with the requirements contained in this division. Such conditions may, among other matters:
- (1) Limit the size, kind or character of the proposed development;
 - (2) Require the construction of other structures, including special foundations and soil stabilization structures;
 - (3) Establish required monitoring procedures;
 - (4) Require such alterations of the site as may be necessary;
 - (5) Require execution of an agreement between the city and the developer; and
 - (6) Require surety in the form of a performance bond.

Accompanying such agreement and performance bond shall be a statement from the owner indicating the city's right of entry to the property if it becomes necessary to complete the agreed upon work.

(Code 1977, § 13-114.8; Ord. No. 592, 4-26-2004)

Sec. 126-353. - Effect of permit.

The granting of a conditional use permit under the provisions of this division shall in no way affect the property owner's or the permittee's responsibility to obtain the approval required by any other statute, ordinance, or regulation of any federal or state agency or subdivision thereof.

(Code 1977, § 13-114.9; Ord. No. 592, 4-26-2004)