

Chapter 91
WS, WILD AND SCENIC OVERLAY DISTRICT

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XX-91-1: PURPOSE: The purpose of the WS district is to:

- A. Designate land use overlay districts along the bluffland and shoreline of the Rum River.
- B. Regulate the area of a lot, and the length of the bluffland and water frontage suitable for building sites.
- C. Regulate the setback of structures and sanitary waste treatment facilities from blufflines and shorelines to protect the existing and/or natural scenic values, vegetation, soils, water quality, floodplain areas, and bedrock from disruption by man-made structures or facilities.
- D. Regulate alterations of the natural vegetation and topography.
- E. Prevent poorly planned development.
- F. Conserve and protect the natural scenic values and resources of the Rum River and maintain a high standard of environmental quality. (Ord. 920, 18 Apr 22)

XX-91-2: STATUTORY AUTHORIZATION: This zoning district for the controlling of bluffland and riverland development, in order to protect and preserve the outstanding scenic, recreational natural, historical and scientific values of the Rum River in Baldwin township, as required by Minnesota statutes chapters 103F.301 to 103F.35, Minnesota rules chapter 6105.0010 to 6105.0250 and the management plan for the and Rum River (MP 6105.1400-6105.1500). (Ord. 920, 18 Apr 22)

XX-91-3: DISTRICT APPLICATION:

- A. The jurisdiction of this chapter shall include all unincorporated land designated within the WS district within the town as described in Minnesota rule 6105.1408 and represented on the zoning map established by section XX-45-3 of this ordinance.
- B. The use of any land within the WS district; the size and shape of lots; the use and location of structures on lots; the installation and maintenance of waste disposal facilities; the filling, grading, lagooning, or dredging of any river area; the cutting of vegetation or alteration of the natural topography within the district; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations. Permits from the zoning administrator are required by this chapter and this ordinance for the construction of buildings, public or private sewage treatment systems, the grading and filling of the natural topography and erection of signs within the WS district.
- C. It is not intended by this ordinance to repair, abrogate or impair any existing easement, covenants, deed restrictions, or land use controls. Where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. (Ord. 920, 18 Apr 22)

XX-91-4: DISTRICT BOUNDARIES: In order to preserve and protect the Rum River and its adjacent lands that possess outstanding scenic, recreational, natural, historical, scientific and similar values; the Rum River in Baldwin Township has been given the Scenic River classification and the uses and classification of the rivers and their adjacent lands are hereby designated by land use zoning districts, which are shown on the zoning map as identified in Minnesota Rule 6105.1400. (Ord. 920, 18 Apr 22)

XX-91-5: ALLOWED USES: Subject to the performance standards established in this chapter, this ordinance, and specifications of the Rum River management plan, the following are allowed uses within a WS district:

- A. Permitted Uses: The following are permitted uses in a WS district:
 - 1. Agriculture
 - 2. Essential services
 - 3. Forestry

4. Governmental campgrounds, subject to management plan specifications in Minnesota rule 6105.0940
 5. Government resource management for improving fish and wildlife habitat; wildlife management areas; nature areas, subject to management plan specifications in Minn. Rule 6105.0940
 6. Other governmental open space recreational uses, subject to management plan specifications in Minnesota rule 6105.0940
 7. Public access, road accesses type with boat launching facilities, subject to management plan specifications in Minnesota rule 6105.0940
 8. Public access, trail access type, subject to management plan specifications in Minnesota rule 6105.0940
 9. Single family dwellings
 10. Private drives
 11. Signs approved by federal and state government that are necessary for public health and safety and signs indicating areas that are available or not available for public uses.
- B. Conditional Uses. The following are conditional uses in a WS district and require a conditional use permit based upon procedures set forth in and regulated by chapter 4 of this ordinance. Additionally, besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in section XX-4-2 and section XX-4-3 of this ordinance.
1. Churches and cemeteries
 2. Private campgrounds, subject to management plan specifications in Minnesota rule 6105.0940
 3. Private open space recreational uses, subject to management plan specifications in Minnesota rule 6105.0940
 4. Temporary docks
 5. Underground mining that does not involve surface excavation
 6. Utility transmission power lines subject to Minnesota rules 6105.0170 and 6105.0180
 7. Public roads subject to Minnesota rules 6105.0190 and 6105.0200
- C. Accessory Uses. The following are permitted accessory uses in a WS district:
1. Off-street parking subject to chapter 21 of this ordinance
 2. Sewage disposal systems.
 3. Signs not visible from the river as regulated by chapter of 23 of this ordinance
- D. Any uses not listed as permitted, conditional or accessory uses shall not be allowed within the applicable land use district. (Ord. 920, 18 Apr 22)

XX-91-6: MINIMUM LOT, SETBACK, AND OTHER REQUIREMENTS: The following minimum lot requirements and setbacks, and building height shall be observed in a WS district subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot Requirements:

1. Lot Area (above the ordinary high water):	
Unplatted Parcel:	20.0 acres
Platted Lot:	4.0 acres
Buildable Area Within Parcel or Lot:	40,000 square feet
2. Lot Width at building line and OHWL:	250 feet
3. Lot Depth:	300 feet

B. Setbacks:

1. Structure setback from OHWL:	150 feet
2. Structure setback from bluffline:	30 feet
3. On site sewage treatment system setback from OHWL:	100 feet

C. Maximum Building Height: 25 feet

D. No structure shall be placed on any slope greater than 13 percent.

E. No structure shall be placed in any floodway. Structures proposed within a floodplain shall be consistent with the statewide Standards and Criteria for Management of Floodplain Areas of Minnesota (Minnesota Rules 6120.5000- 6120.6200) and this ordinance. (Ord. 920, 18 Apr 22)

XX-91-7: SUBSTANDARD LOTS:

A. Lots of record as of October 10, 1979, hereafter referred to as the effective date for the purposes of this section being the day the Sherburne county scenic and recreational river ordinance was adopted, that do not meet the dimensional requirements of this ordinance shall be allowed as building sites, provided: such use is permitted in the land use district; the lot was in separate ownership on the effective date of this ordinance; and all sanitary and dimensional requirements are complied with, as practicable.

B. If in a group of contiguous lots under a single ownership, any individual lot does not meet the lot width minimum requirements of this Ordinance, such individual lot cannot be considered as a separate parcel of land for purposes of sale or development, but shall be combined with adjacent lots under the same ownership so that the combination of lots

will equal one or more parcels of land each meeting the lot width requirements of this ordinance, except that such lots which are 50 percent or more of the lot width standards of these regulations may be considered as a separate parcel of land for the purpose of sale or development, if on-site sewage treatment systems can be installed so as to comply with this ordinance. (Ord. 920, 18 Apr 22)

XX-91-8: SEWAGE TREATMENT SYSTEMS:

- A. Any premises intended for human occupancy shall provide for an adequate method of sewage treatment. Public or municipal collection and treatment facilities shall be used where available and feasible. Where public or municipal facilities are not available, all on-site individual sewer treatment systems shall conform to the minimum standards and administrative procedures set forth in section XX-16-6 of this chapter and the minimum standards of the Minnesota Pollution Control Agency, the Minnesota Department of Health and section XX-91-6.B of this chapter.
2. No person, firm, or corporation shall install, alter, repair or extend any individual sewer disposal system without first obtaining a permit for such from the zoning administrator for the specific installation, alteration, repair, or extension. (Ord. 920, 18 Apr 22)

XX-91-9: VEGETATIVE CUTTING: The following general and specific standards shall apply:

- A. General Provisions, within designated setback areas:
 1. Clear cutting except for any authorized public services such as roads and utilities, shall not be permitted.
 2. Selective cutting of trees in excess of four inches in diameter at breast height shall be permitted providing cutting is spaced in several cutting operations and a continuous tree cover is maintained.
 3. The cutting provisions of section XX-91-9.B of this section, shall not be deemed to prevent:
 - a. The removal of diseased or insect infested trees, or of rotten or damaged trees that present safety hazards.
 - b. Pruning understory vegetation, shrubs, plants, brush, grass, or from harvesting crops, or cutting suppressed trees or trees less than four inches in diameter at breast height.
- B. Clear Cutting: Clear cutting anywhere in the designated land use district on the Rum River is subject to the following standards and criteria:

1. Clear cutting shall not be used as a cutting method where soil, slope, or other watershed conditions are determined by the zoning authority to be fragile and subject to severe erosion and/or sedimentation.
2. Clearcutting shall be conducted only where clear-cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain.
3. The size of clear cut blocks, patches or strips shall be kept at a minimum necessary.
4. Where feasible all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area. Where feasible, replanting shall be performed in the same spring, or the following spring.
5. Clear cutting, except for public services such as roads and utilities, is not permitted within 150 feet from the Ordinary High Water level.
6. Clear cutting, except for public services such as roads and utilities, is not permitted within the 30 feet from the bluffline. (Ord. 920, 18 Apr 22)

XX-91-10: GRADING, FILLING, ALTERATION OF BEDS OF PUBLIC WATERS:

- A. Any grading and filling work done within the WS district designated by this chapter shall require a permit from the zoning administrator and shall comply with the following:
 1. Grading and filling of the natural topography which is not accessory to a permitted or conditional use shall not be permitted in the WS district.
 2. Grading and filling of the natural topography that is accessory to a permitted or conditional use shall not be conducted without a grading and filling permit from the zoning authority issued only if the conditions of section XX-91-10 of this chapter are properly satisfied.
 3. Grading and filling of the natural topography shall be performed in a manner which minimizes earthmoving, erosion, tree clearing, and the destruction of natural amenities.
 4. Grading and filling of the natural topography shall also meet the following standards:
 - a. The smallest amount of bare ground is exposed for as short a time as feasible.

- b. Temporary ground cover such as mulch is used and permanent ground cover, such as sod is planted.
 - c. Methods to prevent erosion and to strap sediment are employed.
 - d. Fill is stabilized to accepted engineering standards.
- B. Excavation of material from, or filling in a scenic river, or construction of any permanent structures or navigational obstructions therein is prohibited unless authorized by a permit from the commissioner pursuant to Minnesota Statutes Section 103G.315.
- C. Drainage or filling in of wetlands is not allowed within WS district designated by this chapter. (Ord. 920, 18 Apr 22)

XX-91-11: SUBDIVISIONS:

- A. No land shall be subdivided which is determined by the town board to be unsuitable by reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or the community.
- B. Within WS district no plat or subdivision shall be approved unless or until the applicant has proven by all methods required in section XX-91-8 of this chapter, that each lot in the proposed subdivision has adequate area and a suitable location for a conforming septic tank and soil absorption system
- C. The provisions otherwise set forth in this ordinance and in the subdivision ordinance shall apply to all plats.
- D. Approval of a plat that is inconsistent with this chapter is only by variance if the detrimental impact of the inconsistency is more than overcome by other protective characteristics of the proposal. (Ord. 920, 18 Apr 22)

XX-91-12: ADMINISTRATION:

- A. The provisions of this chapter shall be administered by the zoning administrator.
- B. The board of adjustment as provided for in section 7 of this ordinance shall act upon all questions as they arise in the administration of this ordinance; to hear and decide appeals; and to review any order, requirements, decisions or determination made by the zoning administrator, who is charged with enforcing this chapter as provided by Minnesota Statutes.

- C. Permit fees and inspection fees as may be established by ordinance shall be collected by the zoning administrator for deposit with town and credited to the appropriate fund. (Ord. 920, 18 Apr 22)

XX-91-13: NONCONFORMITES:

- A. Uses that are prohibited by this ordinance but which were in existence prior to the effective date of this ordinance shall be non-conforming use and regulated in accordance with chapter 15 of this ordinance.
- B. All lots, buildings, structures, or facilities in existence prior to the effective date of enactment or amendment of this ordinance which are permitted uses within the newly established land use district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this chapter shall be non-conforming use and regulated in accordance with chapter 15 of this ordinance, except:
 - 1. Any structural alteration or addition to a substandard use that will increase the substandard dimensions shall not be allowed.
 - 2. Where a setback pattern from the ordinary high watermark has already been established on both sides of a proposed building site, the setback of the proposed structure may be allowed to conform to that pattern. This provision shall apply to lots which do not meet the minimum lot width requirements in Section XX-91-6 of this chapter. (Ord. 920, 18 Apr 22)

XX-91-14: VARIANCES:

- A. Variances shall only be granted in accordance with Minnesota statutes chapter 462 and Chapter 6 of this ordinance.
- B. In addition to the criteria set forth by section XX-6-3 of this ordinance, a request for approval of a variance shall not circumvent the general purposes and intent of this chapter. In considering a variance request, the board of adjustment shall also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.
- C. The board or adjustment may also impose conditions in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest.

- D. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in section XX-91-15 of this chapter shall also include the board of adjustment's summary of the public record/ testimony and the findings of facts and decision that supports the issuance of the variance. (Ord. 920, 18 Apr 22)

XX-91-15: NOTIFICATION TO THE DEPARTMENT OF NATURAL RESOURCES:

- A. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls shall be sent to the commissioner or the commissioner's designated representative and postmarked at least 10 days before the hearings. Notices of hearings to consider proposed subdivisions/plats shall include copies of the subdivision/plat.
- B. A copy of approved amendments and subdivisions/plats, and final decisions granting conditional uses or variances under local shoreland management controls shall be sent to the commissioner or the commissioner's designated representative and postmarked within 10 days of final action.
- C. Commissioner Approval Required:
 - 1. Certain land use decisions that directly affect the use of land within the WS district and involve adopting or amending an ordinance regulating the use of land including rezoning of particular tracts of land.
 - 2. The action of the town board under this chapter shall become effective when and only when either:
 - a. The action has previously received approval from the commissioner.
 - b. The town receives approval after its final decision; or
 - c. Thirty days have elapsed from the day the commissioner received notice of the final decision, and no response has been sent by the commissioner; or
 - d. The commissioner certifies their approval within 30 days after conducting a public hearing. (Ord. 920, 18 Apr 22)

XX-91-16: PERMITS REQUIRED: The following table summarizes the permit and certification process within the WS district designated by this chapter.

Application	Action Required
Building Permit:	Issued by building official
Sign Permit:	Issued by zoning administrator
Septic Permit:	Issued by building official
Grading/Filling Permit:	Issued by town engineer
Amendment (text or map):	Subject to approval by town board and commissioner
Conditional Use Permit:	Subject to approval by town board and forwarded to commissioner
Variance:	Subject to approval by town board and commissioner
Plat	Subject to approval by town board and forwarded to commissioner

(Ord. 920, 18 Apr 22)