



Minnesota.  
Department of Natural Resources.  
Administrative Rules Proceedings Files:  
Mississippi River Corridor Critical Area  
(MRCCA).

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**State of Minnesota**

**Department of Natural Resources**

**In the Matter of Proposed Permanent  
Rules Relating to  
Mississippi River Corridor Critical Area**

**OAH Docket No. 8-9014-33236**

**Revisor's File No. R-04240**

**EXHIBITS**

submitted pursuant to *Minnesota Rules*, part 1400.2220

**Minnesota Department of Natural Resources**

**Proposed Permanent Rules Relating to Mississippi River Corridor Critical Area**  
 OAH Docket Number 8-9014-33236

**EXHIBIT LIST submitted pursuant to *Minnesota Rules*, part 1400.2220**

Item	Cross-reference to items A to P of part 1400.2220	Exhibit Number
First Request for Comments as published in the <i>State Register</i> on 12/14/2009 Second Request for Comments as published in the <i>State Register</i> on 6/02/2014	A	1
<i>Not included: Petition for rulemaking</i>	B	—
The proposed rules, including the Revisor's approval, dated 2/26/2016	C	2
Statement of Need and Reasonableness SONAR Exhibit 3A Executive Order 130 and Amendments SONAR Exhibit 3B Executive Order 79-19 SONAR Exhibit 3C Metropolitan Council Resolution 79-48 SONAR Exhibit 3D Reorganization Order 170 SONAR Exhibit 3E 2008 DNR Report to Legislature on MRCCA Program SONAR Exhibit 3F 2014 DNR Report to Legislature on Status of MRCCA Rulemaking SONAR Exhibit 3G Maps of Proposed MRCCA Districts	D	3
Certificate of mailing the statement of need and reasonableness to the Legislative Reference Library	E	4
Notice of Hearing as mailed, signed and dated 4/01/2016, and as published in the <i>State Register</i> on 4/11/2016	F	5
Certificate of Mailing the Notice of Intent to Adopt Rules and the Certificate of Accuracy of the Mailing List; showing compliance with Minnesota Statutes, section 14.111	G	6
Certificate of Additional Notice and copies of the department's statewide news release and the department's informational webpage	H	7
<i>Not included: Document from chief judge authorizing omission of the text of the proposed rules from the notice of intent published in the State Register</i>	J	—
Certificate showing that the agency sent the notice of hearing and the statement of need and reasonableness to legislators as required by <i>Minnesota Statutes</i> , section 14.116	K	8
Copy of transmittal letter showing the department consulted with Minnesota Management and Budget (MMB) and MMB's memo dated 2/23/2016 in response	K	9
Department of Natural Resources' first request for approval of notice plan and notice of hearing dated 2/24/2016 Office of Administrative Hearings' First Order on Review dated 3/01/2016 Department of Natural Resources' second request for approval of notice plan and notice of hearing dated 3/10/2016 Office of Administrative Hearings' Second Order on Review dated 3/17/2016 Department of Natural Resources' third request for approval of notice plan and notice of hearing dated 3/23/2016 Office of Administrative Hearings' Third Order on Review dated 4/01/2016	K	10
Opening statement by Department of Natural Resources	—	11

Item	Cross-reference to items A to P of part 1400.2220	Exhibit Number
Bluff & Bluff Impact Zone (Figure 1 from Proposed Rules)	—	<b>12</b>
OHWL Setback & Shore Impact (Figure 2 from Proposed Rules)	—	<b>13</b>
Expansion of Nonconforming Structure (Figure 3 from Proposed Rules)	—	<b>14</b>
Vegetative Clearing (from Homeowners Guide)	—	<b>15</b>
Land Alteration (from Homeowners Guide)	—	<b>16</b>
Decks & Riparian Access (from Homeowners Guide)	—	<b>17</b>
Mississippi River Corridor Critical Area History & Timeline	—	<b>18</b>
Proposed MRCCA District – Correction for Watergate Marina, St. Paul	—	<b>19</b>
All written comments and submissions on the proposed rule received by the agency during the comment period – see separate folders and index	I	

**Public Meeting #2**  
**Date:** Monday, June 23, 2014  
**Time:** 1:00 p.m..  
**Location:** DHS  
Elmer L. Andersen Human Services Building, Room 2370  
540 Cedar Street  
St. Paul, MN 55164

**Minnesota Department of Natural Resources (DNR)**  
**Division of Ecological and Water Resources**  
**REQUEST FOR COMMENTS on Possible Rules Governing the Mississippi River**  
**Corridor Critical Area, *Minnesota Rules*, chapters 6106 and 4410**

**Subject of Rules.** The Minnesota Department of Natural Resources (DNR) requests comments on possible rules governing the Mississippi River Corridor Critical Area (MRCCA). The MRCCA includes the Mississippi River and 5,400 acres of adjacent land along a 72-mile stretch through the Twin Cities metropolitan area. Development in the corridor is currently guided by locally-adopted and enforced MRCCA plans and ordinances that must comply with existing districts and standards and guidelines established in Executive Order 79-19, the order designating the MRCCA. The Minnesota Department of Natural Resources (DNR) is engaged in rulemaking to update these districts and standards. The rulemaking will primarily develop new language in Chapter 6106, but also may modify existing language in Chapter 4410 if determined necessary to facilitate administration.

This rulemaking will provide for management of the MRCCA as a multi-purpose resource in a manner consistent with *Minnesota Statutes* 116G.15, subd. 2, that: conserves scenic, environmental recreational, mineral, economic, cultural, and historic resources and functions; maintains the river channel for transportation, including barging and fleeting areas; provides for continuation, development and redevelopment of a variety of urban uses; uses the river for water supply and as a receiving water for properly treated effluents; and protects the biological and ecological functions of the corridor.

**Persons Affected.** The rules would likely affect the following persons and organizations within the MRCCA: all local governmental units with jurisdiction in the MRCCA (21 cities, 4 townships, and 5 counties); property owners, institutions, developers, and businesses; recreational facility users; water-oriented businesses, facilities, and navigation interests on the Mississippi River; utility providers; state and regional agencies and institutions with facilities, property interests, and/or regulatory authority in the MRCCA (such as the Metropolitan Council, Department of Natural Resources, Department of Transportation, Metropolitan Airports Commission, University of Minnesota, Saint Paul Port Authority, Minnesota Historical Society, and federal agencies such as the National Park Service and U.S. Army Corps of Engineers).

**Statutory Authority.** *Minnesota Statutes*, section 116G.15, as amended in *Laws 2013*, chapter 137, article 2, sections 18 to 21, requires the DNR to adopt rules for administration of the Mississippi River Corridor Critical Area.

**Rules Drafts.** The DNR has developed a working draft of the possible rules and districts for public comment. The working draft of the possible rules, district maps, and other information regarding the rulemaking are available on the DNR website at:

[www.dnr.state.mn.us/input/rules/mrcca/index.html](http://www.dnr.state.mn.us/input/rules/mrcca/index.html)

or can be obtained by contacting the agency contact person provided below.

**Public Comment.** Interested persons or groups may submit comments or information on the working draft of possible rules in writing until 4:30 p.m. on August 15, 2014. The DNR will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments. The DNR does not plan to appoint an advisory committee to comment on the possible rules, but will be convening public information meetings and open houses throughout the summer of 2014 to gain additional input. This process is the continuation of a process that began in 2009. As part of that process, the DNR consulted closely with advisory committees; local governments; federal, state, and regional agencies; and other interest groups in developing the working draft of the proposed rules and districts. The DNR will continue to consult with these interest groups throughout the public comment phase.

## Official Notices

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**Agency Contact Person.** Written comments, questions, and requests to receive a copy of the working draft of proposed rules should be directed to: Daniel Petrik at Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4025, **phone:** (651) 259-5714, **facsimile:** (651) 296-1811, and **e-mail:** [mrcca.rulemaking@state.mn.us](mailto:mrcca.rulemaking@state.mn.us).

**Alternative Format.** Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

**NOTE:** This rulemaking phase is intended to provide informal feedback on the working draft rules before they are finalized for the last phase. The last phase is a formal process that begins with a Notice of Intent/Hearing to adopt the rules, with a public hearing presided over by an Administrative Law Judge. Therefore, comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the Administrative Law Judge. The agency is required to submit to the judge only those written comments received after the rules are formally proposed in the second phase. If you submit comments in response to this notice and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

Dated: May 21, 2014

Tom Landwehr, Commissioner  
Department of Natural Resources

### **Minnesota Teachers Retirement Association (TRA) Notice of Meeting of the Board of Trustees on 18 June 2014**

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Wednesday, June 18, 2014 at 9:30 a.m. in Suite 400, 60 Empire Drive, St. Paul, MN to consider matters which may properly come before the Board. Board members may participate by telephone.

### **Minnesota Department of Transportation (Mn/DOT) Notice to Bidders: Suspensions/Debarments as of May 27, 2014**

#### **NOTICE OF SUSPENION**

**NOTICE IS HEREBY GIVEN** that MnDOT has ordered that the following vendors be suspended effective May 15, 2014, until July 14, 2016:

- GCC Alliance Concrete, Inc. and its affiliates, Minneapolis, MN

#### **NOTICE OF DEBARMENT**

**NOTICE IS HEREBY GIVEN** that MnDOT has ordered that the following vendors be debarred for a period of three (3) years, effective May 6, 2013 until May 6, 2016:

- Gary Francis Bauerly and his affiliates, Rice, MN
- Gary Bauerly, LLC and its affiliates, Rice, MN
- Watab Hauling Co. and its affiliates, Rice, MN

*Minnesota Statute* section 161.315 prohibits the Commissioner, counties, towns, or home rule or statutory cities from awarding or approving the award of a contract for goods or services to a person who is suspended or debarred, including:

- 1) any contract under which a debarred or suspended person will serve as a subcontractor or material supplier,
- 2) any business or affiliate which the debarred or suspended person exercises substantial influence or control, and
- 3) any business or entity, which is sold or transferred by a debarred person to a relative or any other party over whose actions the debarred person exercises substantial influence or control, remains ineligible during the duration of the seller's or transfer's debarment.

## Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meeting and matters of public interest.

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## Department of Agriculture

### Minnesota Rural Finance Authority

#### Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C, on Behalf of Neil and Crystal Hanson, Westford Township, Martin County

**NOTICE IS HEREBY GIVEN** that a public hearing will be held on December 30, 2009, at 9:00 A.M., Department of Agriculture Building, Agricultural Finance Division, 625 Robert Street North, Saint Paul, Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase of 80 acres of farm land with buildings located three miles south on State Highway 15, and two miles east on County Road 44 from Truman, MN; Section 25, Westford Township, Martin County; Minnesota on behalf of Neil and Crystal Hanson, (the Borrower/s).

The maximum aggregate face amount of the proposed bond issue is \$411,500.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due.

All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 2 December 2009

Peter Scheffert, RFA Director  
Minnesota Rural Finance Authority

## Official Notices

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### Minnesota Comprehensive Health Association (MCHA) Notice of Meeting of the Enrollee Appeal Committee on December 17, 2009

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA), Enrollee Appeal Committee will be held at 9:00 a.m. on Thursday, December 17, 2009, at the MCHA executive office located at 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

This meeting may be closed to the public, if so requested by the appellant(s), pursuant to *Minnesota Statutes* 62E.10, subd. 4.

For additional information, please call Lynn Gruber at (952) 593-9609.

### Board of Nursing Notice of Meetings of the Minnesota Board of Nursing

NOTICE IS HEREBY GIVEN that the 2010 meetings of the Minnesota Board of Nursing have been scheduled at 9:00 a.m., at 2829 University Avenue SE, 4<sup>th</sup> Floor, Conference Rooms A & B, Minneapolis, Minnesota on the following dates:

February	4,	2010
April	1,	2010
June	3,	2010
August	5,	2010
October	14,	2010
December	2,	2010

A portion of each meeting is review of disciplinary cases and is closed to the public. For details about time of the open meeting, the agenda or other information, please call: (612) 617-2297.

### Minnesota Department of Natural Resources (DNR) Division of Waters Request for Comments on Possible Rules Governing the Mississippi River Corridor Critical Area, *Minnesota Rules*, Chapter 6120 and Chapter 4410

**Subject of Rules.** The Minnesota Department of Natural Resources requests comments on possible rules governing the Mississippi River Corridor Critical Area (MRCCA). The Department is considering rules that will establish districts within the MRCCA and establish minimum guidelines and minimum standards for development within the districts. The rulemaking will primarily develop new language in Chapter 6120, but also may modify existing language in Chapter 4410 (parts 4410.8100 to 4410.9100) if determined necessary to facilitate administration.

The rules will provide for management of the MRCCA as a multi-purpose resource in a way that: conserves scenic, environmental recreational, mineral, economic, cultural, and historic resources and functions; maintains the river channel for transportation including barging and fleeting areas; provides for continuation and development of a variety of urban uses, including industrial, commercial and residential; uses the river for water supply and receiving water for properly treated sewage, stormwater, and industrial waste effluents, and protects biological and ecological functions of the corridor.

Rulemaking will determine the appropriate number and constitution of districts; in establishing districts, the Department will consider existing plans and policies, existing ordinances and conditions, identified resources and features, and a number of additional factors identified in the law authorizing the rulemaking.

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## Official Notices

The proposed rules will establish minimum guidelines and standards for development in the districts; and will clarify the intent of each district. The guidelines and standards will address a number of key resources and features specified in the authorizing statute: floodplains; wetlands; gorges; areas of confluence with key tributaries; natural drainage routes; shorelines and riverbanks; bluffs; steep slopes and very steep slopes; unstable soils and bedrock; significant existing vegetative stands, tree canopies, and native plant communities; scenic views and vistas; publicly owned parks, trails, and open spaces; cultural and historic sites and structures, and water quality. The Department may provide exceptions for a number of developments, including but not limited to infrastructure, hydropower, and water access. The rulemaking may address additional items related to the overall authorized scope if the need is identified during rule development.

At the outset of rulemaking, the Department is directed to develop a preliminary map of bluffs and blufflines based on guidelines in the authorizing statute. Following the rulemaking, the Department will prepare a final map of bluff-related features as listed in statute and defined in rule.

**Persons Affected.** The rules would likely affect the following persons and organizations within the MRCCA: most property owners, institutions, developers, and businesses; recreational facility users; water-oriented businesses, facilities, and navigation interests on the Mississippi River; utility providers; all local governmental units (cities, towns, and counties); state and regional agencies and institutions with facilities or property interests (such as the Metropolitan Council, Department of Natural Resources, Department of Transportation, Metropolitan Airports Commission, University of Minnesota, Saint Paul Port Authority, Minnesota Historical Society, and federal agencies such as the National Park Service, and U.S. Army Corps of Engineers.

**Statutory Authority.** *Minnesota Statutes*, section 116G.15 (2009), and *Laws 2009*, Chapter 172, Article 2, Section 5(e), require the Department to adopt rules for administration of the Mississippi River Corridor Critical Area. The Department must commence rulemaking by January 15, 2010.

**Public Comment.** Interested persons or groups may submit comments or information on these possible rules in writing until 4:30 p.m. on March 22, 2010. In addition to the 90-day public comment period announced in this notice, the Department plans to appoint one or more advisory committees to comment on the possible rules during rule development. The Department anticipates advisory committee(s) would meet 2-4 times over a 9-month period from March to December 2010. Advisory committee(s) will be selected from persons and parties known to the Department as potentially affected by or interested in the rulemaking, persons recommended by local governmental units, and persons who request to participate by contacting the agency contact person listed below. The Department will select advisory committee members to balance a variety of interests, viewpoints, and geographic perspectives.

**Rules Drafts.** The Department has not yet prepared a draft of the possible rules. When available, preliminary rule drafts and other information regarding the rulemaking will be available on the Division of Waters website <http://mndnr.gov/waters>, or can be obtained by contacting the agency contact person provided below.

**Agency Contact Person.** Written comments, questions, requests to receive a draft of the rules when it has been prepared, requests for more information on these possible rules, and requests to participate on a possible rulemaking advisory committee(s) should be directed to: Jeffrey Berg at Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4032; **phone:** (651) 259-5729; **facsimile:** (651) 296-0445; and **e-mail:** [MRCCARulemaking@dnr.state.mn.us](mailto:MRCCARulemaking@dnr.state.mn.us). **TTY** users may call the Department at (651) 296-5484, or toll-free at 1-800-657-3929.

**Alternative Format.** Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

**NOTE:** Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge if and when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed. If you submit comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

Dated: 30 November 2009

Mark Holsten, Commissioner

Department of Natural Resources

## State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts Section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

### Grants for Additional Business

The *State Register* is one of the best ways to advertise your grants - it's a required read for public works projects. And it's cost is one of the least expensive legal advertising rates in Minnesota. At \$13.60 per 1/10 of a page you cannot go wrong.

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## Department of Commerce

### Office of Energy Security

#### Notice of Grant Availability for the Energy Efficiency and Conservation Block Grant Program (EECBG)

The Minnesota Department of Commerce Office of Energy Security (OES) requests proposals from Minnesota local units of government, who are eligible as determined by U.S. Department of Energy (DOE) eligibility guidelines, for the Energy Efficiency and Conservation Block Grant Program (EECBG) as part of the American Reinvestment and Recovery Act of 2009 (ARRA). The purpose of these competitive grants is to provide funding to reduce energy use, create or retain jobs, and to reduce emissions of greenhouse gases (GHG). Eligible activities are defined in the Request for Proposals (RFP).

The RFP will be available for download on the Department's website ([www.energy.mn.gov](http://www.energy.mn.gov)) through January 25, 2010. Potential responders may also request a hard copy of the RFP by mail from this office. Requests for hard copies must be received by the Office of Energy Security no later than 12:00 p.m. Central Standard Time (CST), on January 25, 2010.

The Request for Proposal can be obtained from:

**Preferred Method:** [www.energy.mn.gov](http://www.energy.mn.gov)

**U.S. Postal Service:** Natalie Buys  
Minnesota Department of Commerce  
Office of Energy Security  
85 Seventh Place E, Suite 500  
Saint Paul, MN 55101

Proposals submitted in response to this RFP must be received no later than 4:00 p.m. CST, January 25, 2010. **Late proposals will NOT be considered.** Instructions for submitting proposals are detailed in the RFP.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

1.1 **Department of Natural Resources**

1.2 **Proposed Permanent Rules Relating to Mississippi River Corridor Critical Area**

1.3 **6106.0010 POLICY.**

1.4 It is in the interest of present and future generations to preserve and enhance the  
1.5 natural, aesthetic, economic, recreational, cultural, and historical values of the Mississippi  
1.6 River corridor within the Twin Cities metropolitan area and protect its environmentally  
1.7 sensitive areas. In furtherance of the policies declared in Minnesota Statutes, chapters  
1.8 116G, 394, 462, and 473, this chapter provides standards and criteria for the preservation,  
1.9 protection, and management of the Mississippi River Corridor Critical Area.

1.10 **6106.0020 PURPOSE; DESIGNATION.**

1.11 The minimum standards and criteria in this chapter are provided for the subdivision,  
1.12 use, and development of land within the Mississippi National River and Recreation Area,  
1.13 established pursuant to United States Code, title 16, section 460k, which is designated  
1.14 the Mississippi River Corridor Critical Area, according to the purposes described under  
1.15 Minnesota Statutes, section 116G.15, subdivision 1.

1.16 **6106.0030 SCOPE; OTHER LAW.**

1.17 Subpart 1. **Applicability.** The standards and criteria established in this chapter for  
1.18 the Mississippi River Corridor Critical Area pertain to public waters and to nonfederal  
1.19 public land and private lands within the river corridor boundary.

1.20 Subp. 2. **Government actions.** The state and all local governments, including  
1.21 councils, commissions, boards, districts, departments, and all other public authorities,  
1.22 must exercise their powers to further the purposes of this chapter.

1.23 Subp. 3. **State land.** Land owned by the state and its agencies and subdivisions must  
1.24 be administered according to this chapter.

2.1 Subp. 4. **Conflicting standards.** In case of a conflict between this chapter and any  
2.2 other rule or ordinance, the more protective provision applies.

2.3 Subp. 5. **Superseding standards.** Specific standards found in this chapter supersede  
2.4 parts 4410.8100 to 4410.9910 for management of the Mississippi River Corridor Critical  
2.5 Area.

2.6 **6106.0050 DEFINITIONS.**

2.7 Subpart 1. **Scope of terms and measurement of distances.** For the purposes of  
2.8 this chapter, the terms used have the meaning given in this part. All distances, unless  
2.9 otherwise specified, are measured horizontally.

2.10 Subp. 2. **Access path.** "Access path" means an area designated to provide ingress  
2.11 and egress to public waters.

2.12 Subp. 3. **Adjacent.** "Adjacent" means having a boundary that physically touches  
2.13 or adjoins.

2.14 Subp. 4. **Agricultural use.** "Agricultural use" has the meaning given under  
2.15 Minnesota Statutes, section 40A.02.

2.16 Subp. 5. **Alternative design.** "Alternative design" means subdivision design  
2.17 methods such as conservation design, transfer of development density, or similar zoning  
2.18 and site design techniques that protect open space and natural areas.

2.19 Subp. 6. **Barge fleeting.** "Barge fleeting" means temporarily parking and securing  
2.20 barges on the river, on or off channel, while tows are assembled or broken up.

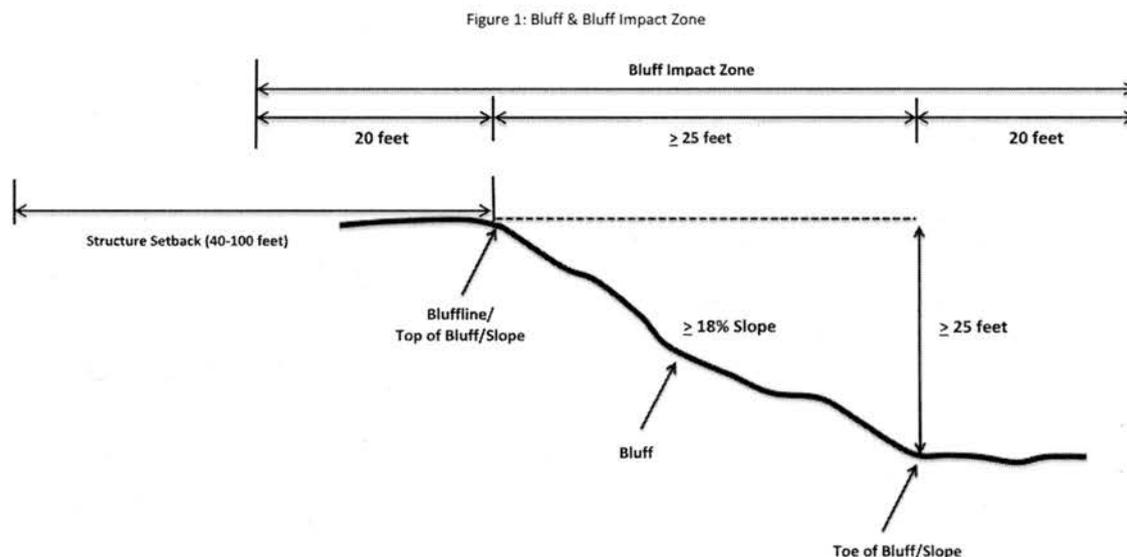
2.21 Subp. 7. **Biological and ecological functions.** "Biological and ecological functions"  
2.22 means the functions of vegetation in stabilizing soils and slopes, retaining and filtering  
2.23 runoff, providing habitat, and recharging groundwater.

2.24 Subp. 8. **Bluff.** "Bluff" means a natural topographic feature having:

3.1 A. a slope that rises at least 25 feet above the ordinary high water level or toe of  
 3.2 the slope to the top of the slope and the grade of the slope from the ordinary high water  
 3.3 level or toe of the slope to the top of the slope averages 18 percent or greater, measured  
 3.4 over a horizontal distance of 25 feet. See Figure 1; or

3.5 B. a natural escarpment or cliff with a slope that rises at least ten feet above  
 3.6 the ordinary high water level or toe of the slope to the top of the slope with an average  
 3.7 slope of 100 percent or greater.

3.8 Subp. 9. **Bluff impact zone.** "Bluff impact zone" means the bluff and land within 20  
 3.9 feet of the bluff. See Figure 1.



3.10 Subp. 10. **Bluffline.** "Bluffline" means a line delineating the top of the bluff. More  
 3.11 than one bluffline may be encountered proceeding landward from the river. See also  
 3.12 subpart 9, Figure 1, and subpart 78, "top of the bluff."

3.13 Subp. 11. **Buildable area.** "Buildable area" means the area upon which structures  
 3.14 may be placed on a lot or parcel of land and excludes land areas needed to meet  
 3.15 requirements for setback, rights-of-way, bluff impact zones, historic properties, wetlands,

4.1 designated floodways, land below the ordinary high water level of public waters, and other  
4.2 areas restricted from development by local ordinance.

4.3 Subp. 12. **Building.** A structure with two or more outside rigid walls and a fully  
4.4 secured roof and affixed to a permanent site.

4.5 Subp. 13. **Certificate of compliance.** "Certificate of compliance" means a document,  
4.6 written after a compliance inspection, certifying that the development is in compliance  
4.7 with applicable requirements at the time of the inspection.

4.8 Subp. 14. **Commissioner.** "Commissioner" means the commissioner of natural  
4.9 resources.

4.10 Subp. 15. **Conditional use.** "Conditional use" has the meaning given under  
4.11 Minnesota Statutes, section 394.22.

4.12 Subp. 16. **Conservation design.** "Conservation design" means a pattern of  
4.13 subdivision that is characterized by grouping lots within a portion of a parcel, where the  
4.14 remaining portion of the parcel is permanently protected as open space.

4.15 Subp. 17. **Conventional subdivision.** "Conventional subdivision" means a pattern  
4.16 of subdivision that is characterized by lots that are spread regularly throughout a parcel  
4.17 in a lot and block design.

4.18 Subp. 18. **Deck.** "Deck" means a horizontal, unenclosed, aboveground level  
4.19 structure open to the sky, with or without attached railings, seats, trellises, or other  
4.20 features, attached or functionally related to a principal use or site.

4.21 Subp. 19. **Developer.** "Developer" has the meaning given under Minnesota Statutes,  
4.22 section 116G.03.

4.23 Subp. 20. **Development.** "Development" has the meaning given under Minnesota  
4.24 Statutes, section 116G.03.

5.1           Subp. 21. **Discretionary action.** "Discretionary action" means an action under this  
5.2 chapter related to land use that requires a public hearing by local ordinance or statute, such  
5.3 as preliminary plats, final subdivision plats, planned unit developments, conditional use  
5.4 permits, interim use permits, variances, appeals, and rezonings.

5.5           Subp. 22. **Dock.** "Dock" has the meaning given under part 6115.0170.

5.6           Subp. 23. **Electric power facilities.** "Electric power facilities" means equipment and  
5.7 associated facilities for generating electric power as identified and defined under Minnesota  
5.8 Statutes, section 216E.01, and devices for converting wind energy to electrical energy.

5.9           Subp. 24. **Essential services.** "Essential services" means underground or overhead  
5.10 gas, electrical, communications, steam, or water distribution, collection, supply, or disposal  
5.11 systems, including storm water. Essential services includes poles, wires, mains, drains,  
5.12 pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, navigational structures,  
5.13 aviation safety facilities, or other similar equipment and accessories in conjunction with  
5.14 the systems. Essential services does not include buildings, treatment works as defined in  
5.15 Minnesota Statutes, section 115.01, electric power facilities, or transmission services.

5.16           Subp. 25. **Feedlot.** "Feedlot" has the meaning given for animal feedlot under part  
5.17 7020.0300.

5.18           Subp. 26. **Floodplain.** "Floodplain" has the meaning given under part 6120.5000.

5.19           Subp. 27. **Hard-surface trail.** "Hard-surface trail" means a trail surfaced in asphalt,  
5.20 crushed aggregate, or other hard surface, for multipurpose use, as determined by local,  
5.21 regional, or state agency plans.

5.22           Subp. 28. **Historic property.** "Historic property" means an archaeological site,  
5.23 standing structure, site, district, or other property that is:

6.1 A. listed in the National Register of Historic Places or the State Register of  
6.2 Historic Places or locally designated as a historic site under Minnesota Statutes, chapter  
6.3 471;

6.4 B. determined to meet the criteria for eligibility to the National Register of  
6.5 Historic Places or the State Register of Historic Places; or

6.6 C. an unplatted cemetery that falls under the provisions of Minnesota Statutes,  
6.7 chapter 307, in consultation with the Office of the State Archeologist.

6.8 Subp. 29. **Impervious surface.** "Impervious surface" means a constructed hard  
6.9 surface that either prevents or retards the entry of water into the soil and causes water to  
6.10 run off the surface in greater quantities and at an increased rate of flow than prior to  
6.11 development. Examples are rooftops, decks, sidewalks, patios, parking lots, storage areas,  
6.12 roads, and driveways, including those with concrete, asphalt, or gravel surfaces.

6.13 Subp. 30. **Intensive vegetation clearing.** "Intensive vegetation clearing" means  
6.14 removal of all or a majority of the trees or shrubs in a contiguous patch, strip, row, or block.

6.15 Subp. 31. **Interim use.** "Interim use" has the meaning given under Minnesota  
6.16 Statutes, sections 394.303 and 462.3597.

6.17 Subp. 32. **Land alteration.** "Land alteration" means an activity that exposes the soil  
6.18 or changes the topography, drainage, or cross section of the land, excluding gardening or  
6.19 similar minor soil disturbances.

6.20 Subp. 33. **Local government.** "Local government" means counties, cities, and  
6.21 townships.

6.22 Subp. 34. **Local park agencies.** "Local park agencies" means the Minneapolis Park  
6.23 and Recreation Board and the Three Rivers Park District.

6.24 Subp. 35. **Lot.** "Lot" has the meaning given under part 6120.2500.

7.1           Subp. 36. **Lot width.** "Lot width" means the shortest distance between lot lines  
7.2 measured at both the ordinary high water level and at the required structure setback from  
7.3 the ordinary high water level.

7.4           Subp. 37. **Marina.** "Marina" has the meaning given under chapter 6115.

7.5           Subp. 38. **Mooring facility.** "Mooring facility" has the meaning given under part  
7.6 6115.0170.

7.7           Subp. 39. **Native plant community.** "Native plant community" means a plant  
7.8 community that has been mapped as part of the Minnesota biological survey or other  
7.9 scientifically based studies.

7.10          Subp. 40. **Natural-surface trail.** "Natural-surface trail" means a trail composed  
7.11 of native soil and rock or compacted granular stone, primarily intended for hiking,  
7.12 equestrian, or mountain bike use, as determined by local, regional, or state agency plans.

7.13          Subp. 41. **Natural vegetation.** "Natural vegetation" means any combination of  
7.14 ground cover, understory, and tree canopy that, while it may have been altered by human  
7.15 activity, continues to stabilize soils, retain and filter runoff, provide habitat, and recharge  
7.16 groundwater.

7.17          Subp. 42. **Nonconformity.** "Nonconformity" has the meaning given under  
7.18 Minnesota Statutes, section 394.22.

7.19          Subp. 43. **Nonmetallic mining.** "Nonmetallic mining" means construction,  
7.20 reconstruction, repair, relocation, expansion, or removal of any facility for the extraction,  
7.21 stockpiling, storage, disposal, or reclamation of nonmetallic minerals such as stone, sand,  
7.22 and gravel. Nonmetallic mining does not include ancillary facilities such as access roads,  
7.23 bridges, culverts, and water level control structures. For purposes of this subpart, "facility"  
7.24 includes all mine pits, quarries, stockpiles, basins, processing structures and equipment,  
7.25 and any structures that drain or divert public waters to allow mining.

8.1           Subp. 44. **Off-premise advertising signs.** "Off-premise advertising signs" means  
8.2 those signs that direct attention to a product, service, business, or entertainment venue that  
8.3 is not exclusively related to the premises where the sign is located.

8.4           Subp. 45. **Ordinary high water level.** "Ordinary high water level" has the meaning  
8.5 given under Minnesota Statutes, section 103G.005.

8.6           Subp. 46. **Overlay district.** "Overlay district" means a zoning district that is applied  
8.7 over one or more previously established zoning districts, establishing additional or stricter  
8.8 standards and criteria for covered properties in addition to those of the underlying zoning  
8.9 district. Overlay districts are often used to protect historic features and natural resources  
8.10 such as shoreland or floodplain.

8.11           Subp. 47. **Parcel.** "Parcel" has the meaning given under Minnesota Statutes, section  
8.12 116G.03.

8.13           Subp. 48. **Patio.** "Patio" means a constructed hard surface located at ground level  
8.14 with no railings and open to the sky.

8.15           Subp. 49. **Picnic shelter.** "Picnic shelter" is a roofed structure open on all sides,  
8.16 accessory to a recreational use.

8.17           Subp. 50. **Planned unit development.** "Planned unit development" means a method  
8.18 of land development that merges zoning and subdivision controls, allowing developers  
8.19 to plan and develop a large area as a single entity, characterized by a unified site design,  
8.20 a mix of structure types and land uses, and phasing of development over a number of  
8.21 years. Planned unit development includes any conversion of existing structures and land  
8.22 uses that use this method of development.

8.23           Subp. 51. **Plat.** "Plat" has the meaning given under Minnesota Statutes, sections  
8.24 505.01, subdivision 3, and 515B.2-110.

9.1        Subp. 52. **Port.** "Port" means a water transportation complex established and operated  
9.2 under the jurisdiction of a port authority according to Minnesota Statutes, chapter 458.

9.3        Subp. 53. **Primary conservation areas.** "Primary conservation areas" means key  
9.4 resources and features, including shore impact zones, bluff impact zones, floodplains,  
9.5 wetlands, gorges, areas of confluence with tributaries, natural drainage routes, unstable soils  
9.6 and bedrock, native plant communities, cultural and historic properties, significant existing  
9.7 vegetative stands, tree canopies, and other resources identified in local government plans.

9.8        Subp. 54. **Professional engineer.** "Professional engineer" means an engineer  
9.9 licensed to practice in Minnesota.

9.10       Subp. 55. **Public recreational facilities.** "Public recreational facilities" means  
9.11 recreational facilities provided by the state or a local government and dedicated to public  
9.12 use, including parks, scenic overlooks, observation platforms, trails, docks, fishing piers,  
9.13 picnic shelters, water access ramps, and other similar water-oriented public facilities  
9.14 used for recreation.

9.15       Subp. 56. **Public river corridor views.** "Public river corridor views" means views  
9.16 toward the river from public parkland, historic properties, and public overlooks, as well  
9.17 as views toward bluffs from the ordinary high water level of the opposite shore, as seen  
9.18 during the summer months.

9.19       Subp. 57. **Public transportation facilities.** "Public transportation facilities" means  
9.20 all transportation facilities provided by federal, state, or local government and dedicated to  
9.21 public use, such as roadways, transit facilities, railroads, and bikeways.

9.22       Subp. 58. **Public utilities.** "Public utilities" means electric power facilities, essential  
9.23 services, and transmission services.

9.24       Subp. 59. **Public waters.** "Public waters" has the meaning given under Minnesota  
9.25 Statutes, section 103G.005.

10.1        Subp. 60. **Readily visible.** "Readily visible" means land and development that are  
10.2 easily seen from the ordinary high water level of the opposite shore during summer months.

10.3        Subp. 61. **Resource agency.** "Resource agency" means a federal, state, regional,  
10.4 or local agency that engages in environmental, natural, or cultural resource protection or  
10.5 restoration activities, including planning, implementation, and monitoring.

10.6        Subp. 62. **Retaining wall.** "Retaining wall" means a vertical or nearly vertical  
10.7 structure constructed of mortar and rubble masonry, rock, or stone regardless of size,  
10.8 vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured  
10.9 concrete, concrete blocks, or other durable material.

10.10       Subp. 63. **Riprap.** "Riprap" means coarse stones, boulders, cobbles, broken rock or  
10.11 concrete, or brick materials placed or constructed to armor shorelines, streambeds, bridge  
10.12 abutments, pilings, and other shoreline structures against scour or water or ice erosion.

10.13       Subp. 64. **River corridor boundary.** "River corridor boundary" means the boundary  
10.14 approved and adopted by the Metropolitan Council under Minnesota Statutes, section  
10.15 116G.06, as approved and adopted by the legislature in Minnesota Statutes, section  
10.16 116G.15, and as legally described in the State Register, volume 3, pages 1681 to 1691.

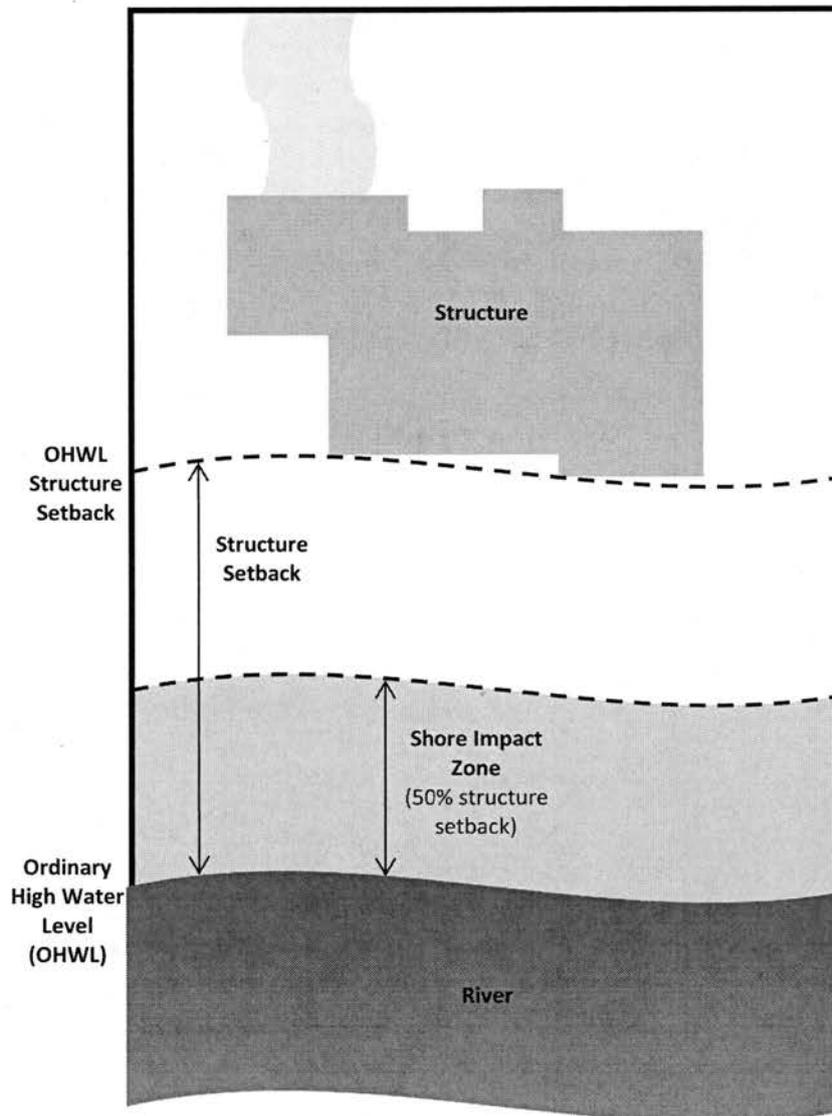
10.17       Subp. 65. **River-dependent use.** "River-dependent use" means the use of land  
10.18 for commercial, industrial, or utility purposes, where access to and use of a public  
10.19 water feature is an integral part of the normal conduct of business and where the use is  
10.20 dependent on shoreline facilities.

10.21       Subp. 66. **Selective vegetation removal.** "Selective vegetation removal" means  
10.22 removal of isolated individual trees or shrubs that are not in a contiguous patch, strip, row,  
10.23 or block and that does not substantially reduce the tree canopy or understory cover.

10.24       Subp. 67. **Setback.** "Setback" means a separation distance measured horizontally.

- 11.1 Subp. 68. **Shore impact zone.** "Shore impact zone" means land located between  
 11.2 the ordinary high water level of public waters and a line parallel to it at a setback of 50  
 11.3 percent of the required structure setback or 50 feet landward of the ordinary high water  
 11.4 level in areas of agricultural use. See Figure 2.

Figure 2: Shore Impact Zone



- 11.5 Subp. 69. **Shoreline facilities.** "Shoreline facilities" means facilities that require  
 11.6 a location adjoining public waters for ingress and egress, loading and unloading, and  
 11.7 water intake and outflow, such as barge facilities, port facilities, commodity loading and  
 11.8 unloading equipment, watercraft lifts, marinas, short-term watercraft mooring facilities

12.1 for patrons, and water access ramps. Structures that would be enhanced by a shoreline  
12.2 location, but do not require a location adjoining public waters as part of their function, are  
12.3 not shoreline facilities, such as restaurants, bait shops, and boat dealerships.

12.4 Subp. 70. **Special purpose unit of government.** "Special purpose unit of  
12.5 government" means the University of Minnesota; the St. Paul Port Authority; watershed  
12.6 management organizations established under Minnesota Statutes, chapter 103B; watershed  
12.7 districts established under Minnesota Statutes, chapter 103D; and any other unit of  
12.8 government other than those listed in subparts 33 and 71.

12.9 Subp. 71. **State or regional agency.** "State or regional agency" means the  
12.10 Metropolitan Airports Commission, Minnesota Historical Society, Department of Natural  
12.11 Resources, Department of Transportation, and Metropolitan Council and other state  
12.12 agencies.

12.13 Subp. 72. **Steep slope.** "Steep slope" means a natural topographic feature with  
12.14 an average slope of 12 to 18 percent, measured over a horizontal distance equal to or  
12.15 greater than 50 feet.

12.16 Subp. 73. **Storm water.** "Storm water" has the meaning given under part 7090.0080.

12.17 Subp. 74. **Structure.** "Structure" means a building, sign, or appurtenance thereto,  
12.18 except for aerial or underground utility lines, such as sewer, electric, telephone, telegraph,  
12.19 or gas lines, and utility line towers, poles, and other supporting appurtenances.

12.20 Subp. 75. **Subdivision.** "Subdivision" has the meaning given under Minnesota  
12.21 Statutes, section 462.352.

12.22 Subp. 76. **Subsurface sewage treatment system.** "Subsurface sewage treatment  
12.23 system" has the meaning given under part 7080.1100.

12.24 Subp. 77. **Toe of the bluff.** "Toe of the bluff" means a line along the bottom of a  
12.25 bluff, requiring field verification, such that the slope above the line exceeds 18 percent

13.1 and the slope below the line is 18 percent or less, measured over a horizontal distance of  
13.2 25 feet. See subpart 9, Figure 1.

13.3 Subp. 78. **Top of the bluff.** "Top of the bluff" means a line along the top of a bluff,  
13.4 requiring field verification, such that the slope below the line exceeds 18 percent and the  
13.5 slope above the line is 18 percent or less, measured over a horizontal distance of 25 feet.  
13.6 See subpart 9, Figure 1.

13.7 Subp. 79. **Transmission services.** "Transmission services" means:

13.8 A. **electric power lines, cables, pipelines, or conduits that are:**

13.9 (1) used to transport power between two points, as identified and defined  
13.10 under Minnesota Statutes, section 216E.01, subdivision 4; or

13.11 (2) for mains or pipelines for gas, liquids, or solids in suspension, used to  
13.12 transport gas, liquids, or solids in suspension between two points; and

13.13 B. **telecommunication lines, cables, pipelines, or conduits.**

13.14 Subp. 80. **Treeline.** "Treeline" means the more or less continuous line formed by  
13.15 the tops of trees in a wooded area when viewed from a particular point. The treeline is  
13.16 determined during all seasons as if under full foliage.

13.17 Subp. 81. **Twin Cities metropolitan area.** "Twin Cities metropolitan area" is  
13.18 the area over which the Metropolitan Council has jurisdiction according to Minnesota  
13.19 Statutes, section 473.121, subdivision 2.

13.20 Subp. 82. **Variance.** "Variance" has the meaning given under Minnesota Statutes,  
13.21 section 394.22.

13.22 Subp. 83. **Water access ramp.** "Water access ramp" means a boat ramp, carry-down  
13.23 site, boarding dock, and approach road, or other access that allows launching and removal  
13.24 of a boat, canoe, or other watercraft with or without a vehicle and trailer.

14.1 Subp. 84. **Water-oriented accessory structure.** "Water-oriented accessory  
14.2 structure" means a small building or other improvement, except stairways, fences, docks,  
14.3 and retaining walls, that, because of the relationship of its use to public waters, needs to  
14.4 be located closer to public waters than the normal structure setback. Examples include  
14.5 gazebos, screen houses, fish houses, pump houses, and detached decks and patios.

14.6 Subp. 85. **Wetlands.** "Wetlands" has the meaning given under Minnesota Statutes,  
14.7 section 103G.005.

14.8 Subp. 86. **Wharf.** "Wharf" has the meaning given under part 6115.0170.

14.9 **6106.0060 ADMINISTRATION OF PROGRAM.**

14.10 Subpart 1. **Purpose, terms, and time frames.** This part establishes the roles,  
14.11 responsibilities, and authorities for administration of this chapter. For the purposes  
14.12 of this chapter:

14.13 A. "plan," "ordinance," and "plan and ordinance" mean Mississippi River  
14.14 Corridor Critical Area plans and ordinances, and updates or amendments to the plans and  
14.15 ordinances, prepared to implement this chapter; and

14.16 B. time frames are measured in calendar days.

14.17 Subp. 2. **Responsibilities and authorities.** The standards and criteria for the  
14.18 Mississippi River Corridor Critical Area established in this chapter apply to:

14.19 A. the commissioner for reviewing and approving plans and ordinances and  
14.20 reviewing discretionary actions;

14.21 B. the Metropolitan Council for reviewing plans and ordinances;

14.22 C. local governments when preparing, amending, and administering plans  
14.23 and ordinances and reviewing and approving discretionary actions and permits required  
14.24 under this chapter; and

15.1 D. state or regional agencies, local park agencies, and special purpose units of  
15.2 government for permit regulation, plan development, and management activities within  
15.3 their jurisdiction and to the extent they have jurisdiction.

15.4 Subp. 3. **Consistent plans and ordinances.** Local governments within the  
15.5 Mississippi River Corridor Critical Area must adopt, administer, and enforce plans  
15.6 and ordinances consistent with this chapter. Plans and ordinances must be submitted  
15.7 to the Metropolitan Council for review and must be approved by the commissioner  
15.8 before they are adopted as provided under part 6106.0070. For the purpose of this part,  
15.9 "consistent" means that each local plan and ordinance, while it may be structured or  
15.10 worded differently, meets the purpose, scope, and numeric thresholds and standards set  
15.11 forth in this chapter. Plans and ordinances that are not consistent with this chapter require  
15.12 approval of flexibility, according to part 6106.0070, subpart 6.

15.13 Subp. 4. **Greater restrictions.** Nothing in this chapter shall be construed as  
15.14 prohibiting or discouraging a local government from adopting and enforcing plans and  
15.15 ordinances that are more restrictive than this chapter.

15.16 Subp. 5. **Duties of commissioner.** The commissioner must:

15.17 A. consult with the United States Army Corps of Engineers, Minnesota  
15.18 Department of Transportation, National Park Service, and Metropolitan Council and other  
15.19 state or regional agencies, special purpose units of government, local governments, and  
15.20 local parks and recreation agencies to ensure that the Mississippi River Corridor Critical  
15.21 Area is managed as a multipurpose resource, according to Minnesota Statutes, section  
15.22 116G.15, subdivision 2, paragraph (a);

15.23 B. provide advice and assistance to local governments in the Mississippi River  
15.24 Corridor Critical Area for development, adoption, administration, and enforcement of  
15.25 plans and ordinances, consistent with the purposes under part 6106.0020;

16.1 C. be the lead agency to coordinate preparation, submission, review, and  
16.2 modification of plans and ordinances that are prepared by local governments as provided  
16.3 under part 6106.0070;

16.4 D. review and approve final draft plans and ordinances before adoption by a  
16.5 local government as provided under part 6106.0070; and

16.6 E. consult with those government units identified in subpart 1 that own or  
16.7 manage land within the Mississippi River Corridor Critical Area to ensure that they  
16.8 administer lands and programs under their jurisdictions consistent with this chapter.

16.9 Subp. 6. **Duties of Metropolitan Council.** The Metropolitan Council must:

16.10 A. incorporate the standards and criteria in this chapter into the council's  
16.11 planning processes;

16.12 B. work with local governments and the commissioner to ensure that the  
16.13 standards and criteria in this chapter are adopted and implemented; and

16.14 C. provide written comments and recommendations to the commissioner on  
16.15 all proposed plans and ordinances submitted by local governments as provided under  
16.16 part 6106.0070.

16.17 Subp. 7. **Duties of cities.** Cities must:

16.18 A. prepare or amend plans and ordinances to meet or exceed the minimum  
16.19 standards and criteria in this chapter and as provided under part 6106.0070;

16.20 B. submit proposed plans and ordinances that affect lands within the river  
16.21 corridor boundary to the Metropolitan Council for review and subsequent review and  
16.22 approval by the commissioner, before adoption as provided under part 6106.0070, subpart  
16.23 3;

16.24 C. adopt, administer, and enforce plans and ordinances as provided under part  
16.25 6106.0070, subpart 3;

17.1 D. send notice of public hearings to consider plans and ordinances, and  
17.2 amendments thereto, and other development requiring discretionary action affecting lands  
17.3 within the river corridor boundary to the following parties so that the parties receive the  
17.4 notice at least ten days before the public hearing:

17.5 (1) the commissioner, in a format prescribed by the commissioner;

17.6 (2) the National Park Service; and

17.7 (3) adjoining local governments, including those with overlapping  
17.8 jurisdiction and those across the river, where buildings exceed the height limits specified  
17.9 in part 6106.0120, as part of the conditional use permit or variance process; and

17.10 E. send notice of final decisions for actions under item D, including findings  
17.11 of fact, within ten days following the final decision, to those parties listed under and in  
17.12 the manner prescribed by item D.

17.13 **Subp. 8. Duties of counties and townships.**

17.14 A. Counties must prepare or amend plans and may prepare ordinances  
17.15 consistent with this chapter under the authority of Minnesota Statutes, chapters 394 and  
17.16 473, using the process set forth in subpart 7.

17.17 B. Townships must prepare or amend plans and ordinances consistent with this  
17.18 chapter under the authority of Minnesota Statutes, chapters 394, 462, and 473, using the  
17.19 process set forth in subpart 7. If a county has adopted ordinances under this part:

17.20 (1) a township's plan and ordinances must be consistent with and at least  
17.21 as restrictive as the plan and ordinances adopted by the county in which the township is  
17.22 located, as provided under Minnesota Statutes, section 394.33;

17.23 (2) a township must provide for administration and enforcement of  
17.24 Mississippi River Corridor Critical Area ordinances; and

17.25 (3) a township may adopt a county's ordinances by reference.

18.1 Subp. 9. Duties of state or regional agencies and other government entities. Any  
18.2 state or regional agency, local park agency, or special purpose unit of government that  
18.3 owns or manages lands within the river corridor boundary must manage the lands under its  
18.4 authority in a manner consistent with this chapter.

18.5 **6106.0070 PREPARATION, REVIEW, AND APPROVAL OF PLANS AND**  
18.6 **ORDINANCES.**

18.7 Subpart 1. Purpose. The purpose of this part is to establish the process,  
18.8 responsibilities, time frames, content requirements, and evaluation criteria for preparation,  
18.9 review, and approval of plans and ordinances, in order to ensure an efficient process  
18.10 aligned with other regional and local planning processes.

18.11 Subp. 2. Adoption of plans and ordinances.

18.12 A. The commissioner, in consultation with the Metropolitan Council, shall  
18.13 notify local governments of the schedule for preparing or amending plans and ordinances  
18.14 consistent with this chapter. The schedule must align as closely as possible with the  
18.15 comprehensive plan update schedule under Minnesota Statutes, section 473.864.

18.16 B. All plans and ordinances adopted by local governments pursuant to  
18.17 Executive Order 79-19 that are in existence on the effective date of this chapter remain  
18.18 in effect and must be enforced until plans and ordinances are amended consistent with  
18.19 this chapter, approved by the commissioner, and adopted by the local government as  
18.20 provided under subpart 3.

18.21 C. Where a local government has not adopted plans and ordinances pursuant to  
18.22 Executive Order 79-19, development must be governed by this chapter until such time as  
18.23 plans and ordinances consistent with this chapter are approved by the commissioner and  
18.24 adopted by the local government as provided under subpart 3.

19.1 D. The adoption of plans and ordinances consistent with this chapter does not  
19.2 limit or modify the rights of a person to complete a development that has previously been  
19.3 authorized as provided under Minnesota Statutes, section 116G.13.

19.4 Subp. 3. Plan and ordinance review.

19.5 A. Within one year of notification from the commissioner according to subpart  
19.6 2, local governments must prepare or amend plans and ordinances consistent with this  
19.7 chapter. The commissioner shall grant extensions to local governments if requested in  
19.8 writing and if the local government demonstrates it has made a good-faith effort to meet  
19.9 the deadline specified in this subpart. The extension, if granted, must include a timetable  
19.10 and plan for completion of the ordinance.

19.11 B. Local governments must formally submit drafts of plans and ordinances to  
19.12 the Metropolitan Council and the commissioner for review, in a format prescribed by  
19.13 the commissioner.

19.14 C. If ordinances prepared under item B refer to standards in underlying zoning,  
19.15 then the underlying zoning documents must be submitted and considered in combination  
19.16 with the ordinance. Both the ordinance and underlying zoning standards must be  
19.17 consistent with this chapter. Ordinances not consistent with this chapter must be submitted  
19.18 as part of a flexibility request according to subpart 6.

19.19 D. The commissioner and the Metropolitan Council must review the plan or  
19.20 ordinance and communicate a decision to the local government as follows:

19.21 (1) within 45 days after receipt from the local government, the Metropolitan  
19.22 Council must review and comment on draft plans and ordinances for consistency with:

19.23 (a) this chapter;

19.24 (b) regional systems and policies, as specified in Minnesota Statutes,  
19.25 section 473.859; and

20.1                   (c) the council's comprehensive development guide for the  
20.2 metropolitan area, as specified in Minnesota Statutes, section 473.145; and

20.3                   (2) within 45 days after receipt of the plan and ordinance from the  
20.4 Metropolitan Council, the commissioner must review the draft plan and ordinance to  
20.5 determine their consistency with this chapter, with Minnesota Statutes, chapter 116G, and  
20.6 with the comprehensive plan adopted by a local government. The commissioner shall  
20.7 consider the comments submitted by the Metropolitan Council.

20.8                   E. Upon completing the review, the commissioner must take an action under  
20.9 subitem (1) or (2) and provide a copy of the decision to the Metropolitan Council and  
20.10 the National Park Service:

20.11                   (1) approve the draft plan and ordinance by written decision; or

20.12                   (2) return the draft plan and ordinance to the local government for  
20.13 modifications, with a written explanation of the need for modification.

20.14                   F. When the commissioner returns a draft plan and ordinance to the local  
20.15 government for modification, the local government must revise the draft plan and  
20.16 ordinance within 60 days after receipt of the commissioner's written explanation and must  
20.17 resubmit the revised draft plan and ordinance to the commissioner. Upon receiving the  
20.18 revised draft plan and ordinance from the local government, the Metropolitan Council and  
20.19 the commissioner must conduct the review as provided under item D.

20.20                   (1) If a meeting is requested by the local government or the Metropolitan  
20.21 Council, a final revision need not be made until a formal meeting has been held with the  
20.22 commissioner on the draft plan and ordinance. The request extends the 60-day time limit  
20.23 specified in this item until after the meeting has been held.

20.24                   (2) The commissioner must grant extensions to local governments if the  
20.25 local government requests an extension in writing and if the local government is making a

21.1 good-faith effort to meet the submittal deadline. The extension, if granted, must include a  
21.2 timetable and plan for completion of the plan and ordinance.

21.3 G. Within 60 days after receiving the commissioner's approval of a draft plan  
21.4 or ordinance, the local government must adopt the commissioner-approved draft plan  
21.5 and ordinance. The local government must submit a copy of the final adopted plan and  
21.6 ordinance, with evidence of adoption, to the commissioner, the Metropolitan Council, and  
21.7 the National Park Service, within ten days after the adoption.

21.8 H. Only those plans and ordinances approved by the commissioner have the  
21.9 force and effect of law.

21.10 I. Once in effect, the local government must implement and enforce the  
21.11 commissioner-approved plan and ordinance.

21.12 J. If a local government fails to prepare and submit a draft plan and  
21.13 ordinance within one year of notification as provided under item A, fails to incorporate  
21.14 necessary modifications as provided under item E, subitem (2), or fails to adopt the  
21.15 commissioner-approved plan or ordinance as provided under item G, the commissioner  
21.16 must:

21.17 (1) prepare a plan and ordinance consistent with this chapter within 90  
21.18 days of the deadline for preparation or adoption of plans and ordinances as provided under  
21.19 items A to E or G or the end date of an extension of time approved by the commissioner as  
21.20 provided under item F;

21.21 (2) conduct a public hearing as provided by Minnesota Statutes, section  
21.22 14.58, and other statutes as applicable;

21.23 (3) within 60 days after the conclusion of the public hearing, adopt by  
21.24 written order the plan and ordinance for the local government's portion of the Mississippi  
21.25 River Corridor Critical Area; and

22.1                   (4) give notice of the adopted plan and ordinance to the affected local  
22.2 government, the Metropolitan Council, and the National Park Service.

22.3                   K. Plans and ordinances that have been adopted by the commissioner under  
22.4 this subpart have the same effect as if adopted by the local government and must be  
22.5 administered and enforced by the local government.

22.6                   L. Local governments may amend plans and ordinances at any time following  
22.7 the procedures under items C to I.

22.8                   M. Plans must be updated regularly on the same schedule as other  
22.9 comprehensive plan elements according to Minnesota Statutes, section 473.864, and  
22.10 in a manner consistent with items C to I.

22.11                Subp. 4. Contents of plans.

22.12                A. The plan must be a component of the local government's comprehensive  
22.13 plan prepared according to Minnesota Statutes, section 473.859, and must be consistent  
22.14 with the purposes and scope of this chapter.

22.15                B. Plans must contain maps, policies, and implementation provisions to:

22.16                   (1) identify and protect primary conservation areas;

22.17                   (2) identify and protect those public river corridor views and other scenic  
22.18 views deemed important by the community;

22.19                   (3) identify areas that are priorities for restoration of natural vegetation,  
22.20 erosion prevention, bank and slope stabilization, or other restoration activities;

22.21                   (4) minimize potential conflict of water surface uses as authorized under  
22.22 Minnesota Statutes, chapter 86B;

22.23                   (5) provide for commercial barge terminals, barge fleeting, and recreational  
22.24 marinas, if applicable;

23.1 (6) provide for future commercial and industrial uses that require water  
23.2 access;

23.3 (7) provide for and encourage creation, connection, and maintenance of  
23.4 open space and recreation facilities, such as parks, scenic overlooks, natural areas, islands,  
23.5 and wildlife areas;

23.6 (8) identify potential public access points and trail locations; and

23.7 (9) provide for transportation and public utility development in a manner  
23.8 consistent with this chapter.

23.9 **Subp. 5. Contents of ordinances.**

23.10 **A. Local ordinances must be consistent with the standards in this chapter and**  
23.11 **must include:**

23.12 (1) definitions consistent with part 6106.0050;

23.13 (2) administrative provisions consistent with part 6106.0080;

23.14 (3) districts consistent with part 6106.0100;

23.15 (4) minimum standards and criteria consistent with parts 6106.0110 to  
23.16 6106.0180; and

23.17 (5) alternative design methods consistent with part 6106.0170.

23.18 **B. The local ordinance must be structured as an overlay district. If a conflict**  
23.19 **exists with underlying zoning, the provisions of the overlay district govern. Where**  
23.20 **specific numeric thresholds or standards are listed in this chapter, those numeric thresholds**  
23.21 **or standards must be included in the overlay district.**

23.22 **Subp. 6. Flexibility requests for ordinances.**

23.23 **A. Local governments may, under special circumstances and with the**  
23.24 **commissioner's prior approval, adopt ordinances that are not consistent with this chapter,**

24.1 provided that the purposes of Minnesota Statutes, section 116G.15, and the purposes and  
24.2 scope of this chapter are met and the ordinance is consistent with the plan prepared by  
24.3 the local government and approved according to this chapter. Special circumstances  
24.4 include the following situations:

24.5 (1) areas where existing urban, residential, commercial, or industrial  
24.6 development patterns have been in place since before the designation of the Mississippi  
24.7 River Corridor Critical Area and where the majority of the development does not meet the  
24.8 minimum state standards;

24.9 (2) areas managed under other water and related land resource management  
24.10 programs authorized by state or federal legislation with goals compatible with this chapter;

24.11 (3) existing or planned wastewater, storm water, water supply, or utility  
24.12 facilities and similar physical or infrastructural constraints make the use of particular  
24.13 minimum standards impractical; and

24.14 (4) areas where detailed modeling of visual, physical, or other resource  
24.15 impacts has been completed as part of a public planning process.

24.16 B. A local government requesting ordinance flexibility must submit a written  
24.17 request to the commissioner as part of the ordinance submittal required under subpart 3.

24.18 The request must:

24.19 (1) be approved by the governing body with authority to approve the request;

24.20 (2) include the proposed ordinance and any associated maps;

24.21 (3) include a detailed description of the proposed alternative standards that  
24.22 are not consistent with this chapter, together with documentation that the alternative  
24.23 standards are consistent with the purposes and scope of this chapter;

24.24 (4) describe the special circumstances that justify the use of alternative  
24.25 standards;

25.1 (5) describe the potential impacts to primary conservation areas and  
25.2 mitigation actions proposed to address the impacts;

25.3 (6) include documentation of any input from adjoining local governments,  
25.4 including those with overlapping jurisdiction and those across the river, and from other  
25.5 potentially affected interests, including community members; and

25.6 (7) include any other supporting information, maps, and documents that the  
25.7 local government considers necessary to explain the request to the commissioner.

25.8 C. Within 60 days after receiving a complete request for ordinance flexibility as  
25.9 provided in item B, the commissioner must:

25.10 (1) evaluate the request based on:

25.11 (a) the extent to which the proposed alternative standards satisfy  
25.12 the purposes of Minnesota Statutes, section 116G.15, subdivision 1, and the purposes  
25.13 and scope of this chapter;

25.14 (b) the likely impact of the proposed alternative standards on primary  
25.15 conservation areas and public river corridor views;

25.16 (c) comments from adjoining local governments and other potentially  
25.17 affected interests; and

25.18 (d) the local government's identification of mitigation measures and  
25.19 its commitment to mitigate any adverse impacts resulting from the proposed alternative  
25.20 standards; and

25.21 (2) approve or deny the request, state in writing to the local government  
25.22 the reasons for the approval or denial, and suggest any alternative solutions or regulatory  
25.23 approaches that would be granted ordinance flexibility.

25.24 Subp. 7. **Plans and projects for parks and other public lands.** State or regional  
25.25 agencies, local park agencies, special purpose units of government, and local governments

26.1 with parks or other public lands within their jurisdiction must comply with the standards  
26.2 and criteria in this chapter. The agencies and government entities must include the  
26.3 following elements in plans and project designs for parks and other public lands they own  
26.4 or manage within the Mississippi River Corridor Critical Area:

26.5 A. documentation of the location of the park or other owned or managed land  
26.6 within the Mississippi River Corridor Critical Area and recognition of the purposes of the  
26.7 Mississippi River Corridor Critical Area designation and this chapter;

26.8 B. standards for public utilities and facilities consistent with those in part  
26.9 6106.0130; and

26.10 C. provisions for protection of primary conservation areas and public river  
26.11 corridor views.

26.12 **6106.0080 ADMINISTRATIVE PROVISIONS FOR ORDINANCES.**

26.13 Subpart 1. Purpose. The purpose of this part is to identify administrative provisions  
26.14 that must be included in local ordinances to ensure that ordinances are administered  
26.15 consistent with the purposes of this chapter.

26.16 Subp. 2. Variances.

26.17 A. A local government must consider applications for variances in a manner  
26.18 consistent with Minnesota Statutes, sections 394.27, subdivision 7, and 462.357,  
26.19 subdivision 6. The local government's review must consider the potential impacts of a  
26.20 proposed variance on primary conservation areas, public river corridor views, and other  
26.21 resources identified in the local governments' plan.

26.22 B. If a local government determines that a variance would negatively affect  
26.23 primary conservation areas, public river corridor views, or other identified resources,  
26.24 mitigation is required. Mitigation must be proportional to, have a relationship to, and  
26.25 offset the impact on the affected resource as provided in subpart 5.

27.1 C. The local government's findings of fact accompanying the issuance of any  
27.2 variance must include a finding and evidence supporting a finding that the requested  
27.3 variance is consistent with the purposes and scope of this chapter.

27.4 Subp. 3. Nonconformities.

27.5 A. The purpose of this subpart is to allow uses and structures that came  
27.6 into existence legally prior to the effective date of this part and in conformance with  
27.7 then-applicable requirements to continue to exist and be put to productive use.

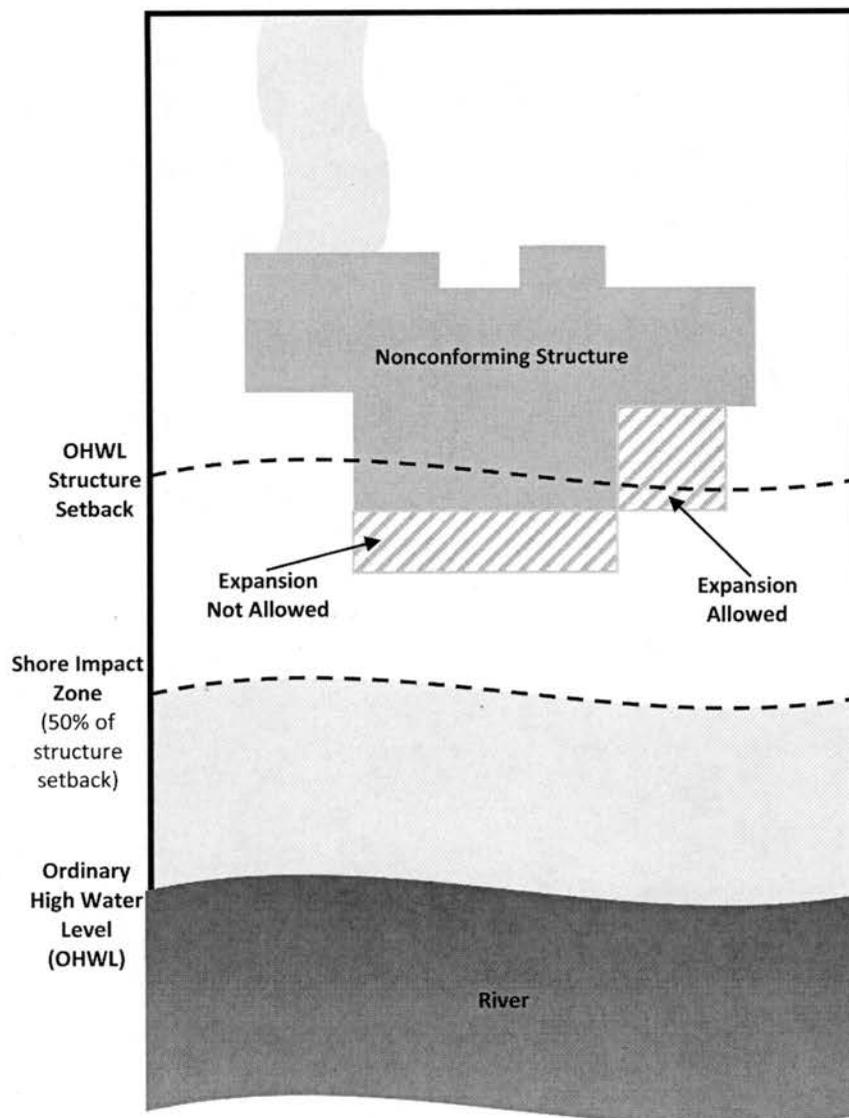
27.8 B. Nonconformities must be regulated by local governments in a manner  
27.9 consistent with Minnesota Statutes, sections 394.36 and 462.357, subdivision 1e.

27.10 C. Local governments may choose to allow lateral expansion of legally  
27.11 nonconforming principal structures that do not meet the setback requirements in part  
27.12 6106.0120, provided that:

27.13 (1) the expansion does not extend into the shore impact zone or bluff  
27.14 impact zone or further into the required setback than the building line of the existing  
27.15 principal structure. See Figure 3; and

27.16 (2) the expanded structure's scale and bulk is consistent with that of the  
27.17 original structure and existing surrounding development.

Figure 3: Expansion of Nonconforming Structure within OHWL Setback



28.1 D. New structures erected in conformance with the setback averaging provisions  
 28.2 of part 6106.0120, subpart 3, item D, are considered to be in conformance with local  
 28.3 ordinance requirements.

28.4 E. Site alterations that were legally made prior to the effective date of local  
 28.5 ordinances adopted under this chapter are considered conforming. Site alterations include  
 28.6 vegetation, erosion control, storm water control measures, and other nonstructural site  
 28.7 improvements. Expansion of site alterations must comply with this chapter.

29.1 **Subp. 4. Conditional and interim use permits.**

29.2 A. In addition to meeting the requirements of Minnesota Statutes, sections  
29.3 394.301, 394.303, 462.3595, and 462.3597, a local government's review of conditional  
29.4 and interim uses must consider potential impacts of the conditional use on primary  
29.5 conservation areas, public river corridor views, and other resources identified in a local  
29.6 government's plan.

29.7 B. When evaluation and assessment identify a negative impact under item A,  
29.8 issuance of a conditional or interim use permit must include conditions for mitigation  
29.9 according to subpart 5.

29.10 **Subp. 5. Mitigation.**

29.11 A. In evaluating a request for a variance or conditional or interim use permit, if  
29.12 a local government identifies a potential negative impact to primary conservation areas,  
29.13 public river corridor views, or other resources identified in the local government's plan,  
29.14 the variance or conditional or interim use permit must require mitigation.

29.15 B. Mitigation must be directly related to and must bear a rough proportionality  
29.16 to the impact of the project on primary conservation areas, public river corridor views, and  
29.17 other resources identified in the local government's plan.

29.18 **Subp. 6. Project information.**

29.19 A. An applicant must submit relevant information to the responsible local  
29.20 government to evaluate how any development that requires discretionary action or a permit  
29.21 under this chapter complies with the plans and ordinances adopted under this chapter.

29.22 B. In addition to local government requirements, project information must  
29.23 include the following, unless the responsible local government determines that the  
29.24 information is not necessary:

29.25 (1) a detailed description of the project; and

- 30.1                   (2) scaled maps and plans, dimensional renderings, maintenance  
30.2 agreements, and other materials that identify and describe:
- 30.3                   (a) primary conservation areas;  
30.4                   (b) public river corridor views;  
30.5                   (c) buildable area;  
30.6                   (d) existing and proposed topography and drainage patterns;  
30.7                   (e) proposed storm water and erosion and sediment control practices;  
30.8                   (f) existing and proposed vegetation to be removed and established;  
30.9                   (g) ordinary high water level, blufflines, and all required setbacks;  
30.10                  (h) existing and proposed structures;  
30.11                  (i) existing and proposed impervious surfaces; and  
30.12                  (j) existing and proposed subsurface sewage treatment systems.

30.13                Subp. 7. **Accommodating disabilities.** Ramps or other facilities to provide persons  
30.14 with disabilities access to the persons' property, as required by the federal Americans with  
30.15 Disabilities Act and the federal Fair Housing Act and as provided by chapter 1341, are  
30.16 allowed by administrative permit, subject to the following standards:

30.17                A. parts 6106.0120 to 6106.0180 must be complied with to the maximum  
30.18 extent practicable; and

30.19                B. upon expiration of the permit, the ramp or other facilities must be removed.

30.20                **6106.0090 INCORPORATIONS BY REFERENCE.**

30.21                The following documents are incorporated by reference as guidance for complying  
30.22 with the plans and ordinances adopted under this chapter. Unless specified otherwise,  
30.23 these documents are not subject to frequent change and are available through the Minitex  
30.24 interlibrary loan system:

31.1           A. The Minnesota Stormwater Manual, Minnesota Pollution Control Agency  
31.2 (2013 and as subsequently amended);

31.3           B. Conserving Wooded Areas in Developing Communities: Best Management  
31.4 Practices in Minnesota, Minnesota Department of Natural Resources (1999 and as  
31.5 subsequently amended);

31.6           C. Design Handbook for Recreational Boating and Fishing Facilities, States  
31.7 Organization for Boating Access (2006 and as subsequently amended);

31.8           D. Trail Planning, Design, and Development Guidelines, Minnesota Department  
31.9 of Natural Resources (2007 and as subsequently amended);

31.10          E. Native Vegetation Establishment and Enhancement Guidelines, Minnesota  
31.11 Board of Water and Soil Resources (2015 and as subsequently amended), available online  
31.12 at [http://www.bwsr.state.mn.us/native\\_vegetation/](http://www.bwsr.state.mn.us/native_vegetation/);

31.13          F. Shoreline Alterations: Riprap, Minnesota Department of  
31.14 Natural Resources (2012 and as subsequently amended), available online at  
31.15 [http://www.dnr.state.mn.us/publications/waters/shoreline\\_alteration.html](http://www.dnr.state.mn.us/publications/waters/shoreline_alteration.html); and

31.16          G. Best Practices for Meeting DNR General Public Waters  
31.17 Work Permit GP 2004-0001, Minnesota Department of Natural  
31.18 Resources (2014 and as subsequently amended), available online at  
31.19 [http://www.dnr.state.mn.us/waters/watermgmt\\_section/pwpermits/gp\\_2004\\_0001\\_manual.html](http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_manual.html).

31.20 **6106.0100 DISTRICTS.**

31.21          Subpart 1. Establishment of districts. For purposes of this chapter, six districts are  
31.22 established in the Mississippi River Corridor Critical Area, as described in this part, to  
31.23 protect and enhance the resources and features identified in Minnesota Statutes, section  
31.24 116G.15, subdivision 3.

32.1 Subp. 2. Purpose. The six districts are established based on the natural and built  
32.2 character of different areas of the river corridor. All districts include diverse land uses,  
32.3 including parks and open space and scenic, natural, and historic areas.

32.4 Subp. 3. Rural and open space district (CA-ROS).

32.5 A. The rural and open space district (CA-ROS) is characterized by rural and  
32.6 low-density development patterns and land uses, and includes land that is riparian or visible  
32.7 from the river, as well as large, undeveloped tracts of high ecological and scenic value,  
32.8 floodplain, and undeveloped islands. Many primary conservation areas exist in the district.

32.9 B. The CA-ROS district must be managed to sustain and restore the rural and  
32.10 natural character of the corridor and to protect and enhance habitat, parks and open space,  
32.11 public river corridor views, and scenic, natural, and historic areas.

32.12 Subp. 4. River neighborhood district (CA-RN).

32.13 A. The river neighborhood district (CA-RN) is characterized by primarily  
32.14 residential neighborhoods that are riparian or readily visible from the river or that abut  
32.15 riparian parkland. The district includes parks and open space, limited commercial  
32.16 development, marinas, and related land uses.

32.17 B. The CA-RN district must be managed to maintain the character of the river  
32.18 corridor within the context of existing residential and related neighborhood development,  
32.19 and to protect and enhance habitat, parks and open space, public river corridor views, and  
32.20 scenic, natural, and historic areas. Minimizing erosion and the flow of untreated storm  
32.21 water into the river and enhancing shoreline habitat are priorities in the district.

32.22 Subp. 5. River towns and crossings district (CA-RTC).

32.23 A. The river towns and crossings district (CA-RTC) is characterized by historic  
32.24 downtown areas and limited nodes of intense development at specific river crossings, as

33.1 well as institutional campuses that predate designation of the Mississippi River Critical  
33.2 Corridor Area and includes taller buildings.

33.3 B. The CA-RTC district must be managed in a manner that allows continued  
33.4 growth and redevelopment in historic downtowns and more intensive redevelopment in  
33.5 limited areas at river crossings to accommodate compact walkable development patterns  
33.6 and connections to the river. Minimizing erosion and the flow of untreated storm water  
33.7 into the river, providing public access to and public views of the river, and restoring  
33.8 natural vegetation in riparian areas and tree canopy are priorities in the district.

33.9 Subp. 6. Separated from river district (CA-SR).

33.10 A. The separated from river district (CA-SR) is characterized by its physical  
33.11 and visual distance from the Mississippi River. The district includes land separated from  
33.12 the river by distance, topography, development, or a transportation corridor. The land in  
33.13 this district is not readily visible from the Mississippi River.

33.14 B. The CA-SR district provides flexibility in managing development without  
33.15 negatively affecting the key resources and features of the river corridor. Minimizing  
33.16 negative impacts to primary conservation areas and minimizing erosion and flow of  
33.17 untreated storm water into the Mississippi River are priorities in the district.

33.18 Subp. 7. Urban mixed district (CA-UM).

33.19 A. The urban mixed district (CA-UM) includes large areas of highly urbanized  
33.20 mixed use that are a part of the urban fabric of the river corridor, including institutional,  
33.21 commercial, industrial and residential areas and parks and open space.

33.22 B. The CA-UM district must be managed in a manner that allows for future  
33.23 growth and potential transition of intensely developed areas that does not negatively  
33.24 affect public river corridor views and that protects bluffs and floodplains. Restoring and  
33.25 enhancing bluff and shoreline habitat, minimizing erosion and flow of untreated storm

34.1 water into the river, and providing public access to and public views of the river are  
34.2 priorities in the district.

34.3 Subp. 8. Urban core district (CA-UC).

34.4 A. The urban core district (CA-UC) includes the urban cores of Minneapolis  
34.5 and St. Paul.

34.6 B. The CA-UC district must be managed with the greatest flexibility to protect  
34.7 commercial, industrial, and other high-intensity urban uses, while minimizing negative  
34.8 impacts to primary conservation areas and minimizing erosion and flow of untreated  
34.9 storm water into the river. Providing public access to and public views of the river are  
34.10 priorities in the district.

34.11 Subp. 9. District boundaries.

34.12 A. The physical boundaries of each district are delineated in the Mississippi River  
34.13 Corridor Critical Area District Map, Minnesota Department of Natural Resources (2015).  
34.14 The map is incorporated by reference, is not subject to frequent change, and is available  
34.15 on the department's Web site at [www.dnr.state.mn.us/input/rules/mrcca/map-draft.html](http://www.dnr.state.mn.us/input/rules/mrcca/map-draft.html).  
34.16 The commissioner must maintain the map and must amend the map as provided in item C.

34.17 B. The district boundary lines on the Mississippi River Corridor Critical Area  
34.18 District Map are intended to follow the center lines of rivers and streams, highways,  
34.19 streets, lot lines, and municipal boundaries, unless a boundary line is otherwise indicated  
34.20 on the map. Where district boundaries cross unsubdivided property, the district boundary  
34.21 line is determined by use of dimensions or the scale appearing on the map.

34.22 C. The boundaries of a district established under this part must be amended  
34.23 according to subitems (1) to (3).

34.24 (1) A local government or a state or regional agency must submit a written  
34.25 request to the commissioner requesting a district boundary amendment. The request must:

- 35.1                   (a) be approved by the governing body with the legal authority to  
35.2 make the request for the state or regional agency or local government;
- 35.3                   (b) specifically identify the proposed changes to plans and ordinances  
35.4 to address the proposed change;
- 35.5                   (c) identify changes in land uses, infrastructure, or other conditions  
35.6 since the effective date of this chapter that justify the proposed changes;
- 35.7                   (d) be consistent with local, regional, state, and federal plans;
- 35.8                   (e) address potential negative impacts of the proposed change to  
35.9 primary conservation areas, public river corridor views, and other resources and features  
35.10 identified in local governments' plans; and
- 35.11                   (f) contain a summary of feedback from affected parties as provided  
35.12 under subitem (2).
- 35.13                   (2) The local government or state or regional agency requesting the district  
35.14 boundary amendment must give notice of the proposed district boundary amendment to  
35.15 adjoining or overlapping local governments, the Metropolitan Council, the commissioner,  
35.16 the National Park Service, and property owners in the area directly affected by the  
35.17 proposed district boundary amendments and must conduct a public hearing.
- 35.18                   (3) Upon receiving a complete request for a district boundary amendment  
35.19 as provided under subitem (1), the commissioner must consider the request and determine  
35.20 whether to initiate rulemaking to amend the boundary according to Minnesota Statutes,  
35.21 chapter 14. The commissioner must communicate the determination, in writing, to the  
35.22 local government or state or regional agency requesting the district boundary amendment  
35.23 within 60 days after receiving the request.
- 35.24                   D. This subpart does not apply to the defined river corridor boundary.

36.1 **6106.0110 USES.**

36.2 Subpart 1. **Underlying zoning.** Uses permissible within the Mississippi River  
36.3 Corridor Critical Area are generally determined by the local government's underlying  
36.4 zoning, with additional provisions for certain uses as specified by this part.

36.5 Subp. 2. **Agricultural use.** Where agricultural use is allowed by the local  
36.6 government, perennial ground cover is required within 50 feet of the ordinary high water  
36.7 level and within the bluff impact zone.

36.8 Subp. 3. **Feedlots.** New animal feedlots and manure storage areas are prohibited.  
36.9 Existing animal feedlots and manure storage areas must conform with chapter 7020.

36.10 Subp. 4. **Forestry.** Where forestry is allowed by the local government, tree harvesting  
36.11 and biomass harvesting within woodlands, and associated reforestation, must be consistent  
36.12 with recommended practices in Conserving Wooded Areas in Developing Communities:  
36.13 Best Management Practices in Minnesota, incorporated by reference under part 6106.0090.

36.14 Subp. 5. **Nonmetallic mining.** If allowed by the local government, nonmetallic  
36.15 mining requires a conditional use permit or interim use permit issued by the local  
36.16 government, subject to the following:

36.17 A. **new nonmetallic mining is prohibited within the shore impact zone, bluff**  
36.18 **impact zone, and within the required structure setback from the bluffline;**

36.19 B. **processing machinery must be located consistent with setback standards for**  
36.20 **structures as provided in part 6106.0120;**

36.21 C. **only one barge loading area, which must be limited to the minimum size**  
36.22 **practicable, is permitted for each mining operation;**

36.23 D. **new and, where practicable, existing nonmetallic mining operations must**  
36.24 **not be readily visible and must be screened by establishing and maintaining natural**

37.1 vegetation. The unscreened boundaries of nonmetallic mining areas are limited to only the  
37.2 barge loading area;

37.3 E. a site management plan must be developed by the operator and approved  
37.4 by the local government before new nonmetallic mining commences. Operations must  
37.5 be consistent with the site plan throughout the duration of operations at the site. The site  
37.6 management plan must:

37.7 (1) describe how the site will be developed over time with an emphasis on  
37.8 minimizing environmental risk to public waters;

37.9 (2) explain where staged reclamation may occur at certain points during  
37.10 the life of the site;

37.11 (3) address dust, noise, storm water management, possible pollutant  
37.12 discharges, days and hours of operation, and duration of operation; and

37.13 (4) describe any anticipated vegetation and topographic alterations outside  
37.14 the pit, and reclamation plans consistent with the stated end use for the land; and

37.15 F. existing and new nonmetallic mining operations must submit land  
37.16 reclamation plans to the local government compatible with the purposes of this chapter.

37.17 Subp. 6. **River-dependent uses.** River-dependent uses must comply with items A  
37.18 to C.

37.19 A. Structures and parking areas, except shoreline facilities and private roads and  
37.20 conveyances serving river-dependent uses as provided in part 6106.0180, must meet the  
37.21 dimensional and performance standards in this chapter, must be designed so that they are not  
37.22 readily visible, and must be screened by establishing and maintaining natural vegetation.

37.23 B. Shoreline facilities must comply with chapter 6115 and must:

37.24 (1) be designed in a compact fashion so as to minimize the shoreline area  
37.25 affected; and

38.1                   (2) minimize the surface area of land occupied in relation to the number of  
38.2 watercraft or barges to be served.

38.3                   C. Dredging and placement of dredged material are subject to existing federal  
38.4 and state permit requirements and agreements.

38.5                   Subp. 7. **Wireless communication facilities.** Wireless communication facilities  
38.6 require a conditional use permit or interim use permit issued by the local government.  
38.7 In addition to the conditional use permit or interim use permit requirements under part  
38.8 6106.0080, the following conditions apply:

38.9                   A. the applicant must demonstrate that functional coverage cannot be provided  
38.10 through co-location, a tower at a lower height, or a tower at a location outside the  
38.11 Mississippi River Corridor Critical Area;

38.12                   B. the tower must not be located in the bluff impact zone or shore impact  
38.13 zone; and

38.14                   C. placement of the tower must minimize impacts on public river corridor views.

38.15 **6106.0120 DIMENSIONAL STANDARDS.**

38.16                   Subpart 1. **Purpose.** The purpose of this part is to establish dimensional standards  
38.17 that protect primary conservation areas from impacts of development and ensure that new  
38.18 development is sited in locations consistent with part 6106.0020.

38.19                   Subp. 2. **Structure height.**

38.20                   A. Structures, including accessory structures, as defined by local ordinance,  
38.21 must be no taller than the heights specified for each district:

38.22                   (1) CA-ROS: 35 feet;

38.23                   (2) CA-RN: 35 feet;

39.1           (3) CA-RTC: 48 feet, provided that tiering of structures away from the  
39.2 Mississippi River and from blufflines is given priority, with lower structure heights closer  
39.3 to the river and blufflines, and that structure design and placement minimizes interference  
39.4 with public river corridor views. Taller buildings are allowed by conditional use permit, as  
39.5 provided under item D, with consideration of the relationship of building height to the  
39.6 mature treeline, where present, and existing surrounding development, as viewed from the  
39.7 ordinary high water level of the opposite shore and from public river corridor views;

39.8           (4) CA-SR: height is determined by the local government's underlying  
39.9 zoning requirements, provided the structure's height is generally consistent with the height  
39.10 of the mature treeline, where present, and existing surrounding development, as viewed  
39.11 from the ordinary high water level of the opposite shore;

39.12           (5) CA-UM: 65 feet, provided tiering of structures away from the  
39.13 Mississippi River and from blufflines is given priority, with lower structure heights closer  
39.14 to the river and blufflines, and that structure design and placement minimize interference  
39.15 with public river corridor views. Taller buildings are allowed by conditional use permit,  
39.16 as provided under item D; and

39.17           (6) CA-UC: height is determined by the local government's underlying  
39.18 zoning requirements, provided tiering of structures away from the Mississippi River and  
39.19 blufflines is given priority, with lower structure heights closer to the river and blufflines,  
39.20 and structure design and placement minimize interference with public river corridor views.

39.21           B. For the purposes of this subpart, height is determined by applicable local  
39.22 government zoning regulations, provided it is measured on the side of the structure facing  
39.23 the Mississippi River.

39.24           C. The height requirements in item A do not apply to those structures and  
39.25 facilities identified in part 6106.0180 as exempt from these requirements, but meeting the  
39.26 setback requirements of subpart 3.

40.1 D. In addition to the conditional use permit requirements in part 6106.0080,  
40.2 criteria for considering whether to grant a conditional use permit for buildings exceeding  
40.3 the height limits in item A must include:

40.4 (1) assessment of the visual impact of the proposed building on public river  
40.5 corridor views, including views from other communities;

40.6 (2) identification and application of techniques to minimize the perceived  
40.7 bulk of the proposed building, such as:

40.8 (a) placing the long axis of the building perpendicular to the river;

40.9 (b) stepping back of portions of the façade;

40.10 (c) narrowing the profile of upper floors of the building; or

40.11 (d) increasing the setbacks of the building from the Mississippi River  
40.12 or blufflines;

40.13 (3) identification of techniques for preservation of those view corridors  
40.14 identified in the local government's plan; and

40.15 (4) opportunities for creation or enhancement of public river corridor views.

40.16 **Subp. 3. Location of structures.**

40.17 A. Structures and impervious surfaces must not be located in the shore impact  
40.18 zone and must meet the following setback requirement from the ordinary high water level  
40.19 of the Mississippi River and other waters within the Mississippi River Corridor Critical  
40.20 Area, as specified for each district:

40.21 (1) CA-ROS: 200 feet from the Mississippi River and 150 feet from the  
40.22 Minnesota River and Vermillion River;

40.23 (2) CA-RN: 100 feet from the Mississippi River and 75 feet from the  
40.24 Rum River and Vermillion River;

- 41.1                   (3) CA-RTC: 75 feet from the Mississippi River, Crow River, and Rum  
41.2 River;
- 41.3                   (4) CA-SR: 75 feet from the Vermillion River;
- 41.4                   (5) CA-UM: 50 feet from the Mississippi River;
- 41.5                   (6) CA-UC: as specified in underlying zoning; and
- 41.6                   (7) for all other public waters within the Mississippi River Corridor Critical  
41.7 Area, as specified in underlying zoning.

41.8                   B. Structures and impervious surfaces must not be located in the bluff impact  
41.9 zone and must meet the following setback requirements from the bluffline as specified  
41.10 for each district:

- 41.11                   (1) CA-ROS: 100 feet;
- 41.12                   (2) CA-RN: 40 feet;
- 41.13                   (3) CA-RTC: 40 feet;
- 41.14                   (4) CA-SR: 40 feet;
- 41.15                   (5) CA-UM: 40 feet; and
- 41.16                   (6) CA-UC: 40 feet.

41.17                   C. The requirements in items A and B do not apply to those structures and  
41.18 facilities listed in part 6106.0180 as exempt from these requirements.

41.19                   D. Where principal structures exist on the adjoining lots on both sides of a  
41.20 proposed building site, the minimum setback may be altered to conform to the average  
41.21 of the adjoining setbacks, provided that the new structure's scale and bulk riverward or  
41.22 bluffward of the setbacks required under items A and B are consistent with adjoining  
41.23 development. No structures or impervious surfaces are allowed within the bluff impact  
41.24 zone or shore impact zone, except as specified under part 6106.0180.

42.1 E. Subsurface sewage treatment systems, including the septic tank and  
42.2 absorption area, must be located at least 75 feet from the ordinary high water level of  
42.3 the Mississippi River and all other public waters within the Mississippi River Corridor  
42.4 Critical Area.

42.5 Subp. 4. Standards for new lots.

42.6 A. Where lots are created after the effective date of this part, lot area and width  
42.7 standards must comply with the requirements of the underlying zoning, except the width of  
42.8 lots abutting the Mississippi River in the CA-ROS district must be at least 200 feet, unless  
42.9 alternative design methods are used that provide greater protection of the riparian areas.

42.10 B. New lots must have adequate buildable area to comply with the setback  
42.11 requirements in subpart 3.

42.12 **6106.0130 GENERAL DEVELOPMENT STANDARDS FOR PUBLIC**  
42.13 **FACILITIES.**

42.14 Subpart 1. Purpose and scope. The purpose of this part is to establish standards  
42.15 for public facilities that are consistent with best management practices and that protect  
42.16 primary conservation areas. Public facilities serve the public interest by providing public  
42.17 access to the Mississippi River corridor or require locations in or adjacent to the river  
42.18 corridor and therefore require some degree of flexibility.

42.19 Subp. 2. Definition of terms. For the purpose of this part, "public facilities" means  
42.20 public utilities, public transportation facilities, and public recreational facilities.

42.21 Subp. 3. General design standards. All public facilities must be designed and  
42.22 constructed to:

42.23 A. minimize visibility of the facility to the extent consistent with the purpose  
42.24 of the facility;

43.1 B. comply with the dimensional standards in part 6106.0120, except as provided  
43.2 in part 6106.0180;

43.3 C. be consistent with the vegetation management standards in part 6106.0150,  
43.4 subpart 5, and the land alteration and storm water management standards in part  
43.5 6106.0160, including use of practices identified in Best Practices for Meeting DNR  
43.6 General Public Waters Work Permit GP 2004-001, incorporated by reference under  
43.7 part 6106.0090, where applicable. State or regional agencies, special purpose units of  
43.8 government, local park agencies, and local units of government with parks within their  
43.9 jurisdiction are not required to obtain a vegetation management or land alteration permit  
43.10 under part 6106.0150 or 6106.0160, but must apply the standards and criteria that would  
43.11 be applied by local government, were a permit required;

43.12 D. avoid primary conservation areas, unless no alternative exists. If no  
43.13 alternative exists, then disturbance to primary conservation areas must be avoided to the  
43.14 greatest extent practicable, and design and construction must minimize impacts; and

43.15 E. minimize disturbance of spawning and nesting times by scheduling  
43.16 construction at times when local fish and wildlife are not spawning or nesting.

43.17 Subp. 4. **Right-of-way maintenance standards.** Right-of-way maintenance for  
43.18 public facilities is subject to the following standards:

43.19 A. vegetation currently in a natural state must be maintained to the extent  
43.20 feasible;

43.21 B. where vegetation in a natural state has been removed, native plants must be  
43.22 planted and maintained on the right-of-way; and

43.23 C. chemical control of vegetation must be avoided when practicable, but when  
43.24 chemical control is necessary, chemicals used must be in accordance with the rules,

44.1 regulations, and other requirements of all state and federal agencies with authority over  
44.2 the chemical's use.

44.3 Subp. 5. **Crossings of public water or public land.** Crossings of public waters  
44.4 or land controlled by the commissioner are subject to approval by the commissioner  
44.5 according to Minnesota Statutes, sections 84.415 and 103G.245. The commissioner must  
44.6 give primary consideration to crossings that are proposed to be located within or adjoining  
44.7 existing rights-of-way for public transportation and public utilities.

44.8 Subp. 6. **Public utilities.** Public utilities must, at a minimum, comply with the  
44.9 following standards:

44.10 A. high-voltage transmission lines, wind energy conversion systems greater  
44.11 than five megawatts, and pipelines are regulated according to Minnesota Statutes, chapters  
44.12 216E, 216F, and 216G, respectively; and

44.13 B. if overhead placement is necessary, utility crossings must be hidden from  
44.14 view as much as practicable. The appearance of structures must be as compatible as  
44.15 practicable with the surrounding area in a natural state with regard to height and width,  
44.16 materials used, and color.

44.17 Subp. 7. **Public transportation facilities.** Where public transportation facilities  
44.18 intersect or abut two or more of the districts established under part 6106.0100, the  
44.19 least restrictive standards apply. Public transportation facilities must be designed and  
44.20 constructed to give priority to:

44.21 A. providing scenic overlooks for motorists, bicyclists, and pedestrians;

44.22 B. providing safe pedestrian crossings and facilities along the river corridor;

44.23 C. providing access to the riverfront in public ownership; and

44.24 D. allowing for use of the land between the river and the transportation facility.

44.25 Subp. 8. **Public recreational facilities.**

45.1 A. Buildings and parking associated with public recreational facilities, except  
45.2 as provided under part 6106.0180, must meet the dimensional standards in part 6106.0120  
45.3 and must not be placed within the bluff impact zone or shore impact zone.

45.4 B. Roads and driveways associated with public recreational facilities must not be  
45.5 placed in the bluff impact zone or shore impact zone unless no other placement alternative  
45.6 exists. If no alternative exists, then design and construction must minimize impacts.

45.7 C. Trails, access paths, and viewing areas associated with public recreational  
45.8 facilities and providing access to or views of the Mississippi River are allowed within the  
45.9 bluff impact zone or shore impact zone if design, construction, and maintenance methods  
45.10 are consistent with the best management practice guidelines in Trail Planning, Design, and  
45.11 Development Guidelines, incorporated by reference under part 6106.0090.

45.12 (1) Hard-surface trails are not allowed on the face of bluffs with a slope  
45.13 exceeding 30 percent. Natural surface trails are allowed, provided they do not exceed  
45.14 eight feet in width.

45.15 (2) Trails, paths, and viewing areas must be designed and constructed to  
45.16 minimize:

45.17 (a) visibility from the river;

45.18 (b) visual impacts on public river corridor views; and

45.19 (c) disturbance to and fragmentation of primary conservation areas.

45.20 D. Public water access facilities are subject to the following requirements:

45.21 (1) watercraft access ramps must comply with parts 6115.0210 and  
45.22 6280.0250; and

45.23 (2) facilities must be designed and constructed consistent with the standards  
45.24 in Design Handbook for Recreational Boating and Fishing Facilities, incorporated by  
45.25 reference under part 6106.0090.

46.1 E. Public signs and kiosks for interpretive or directional purposes are allowed in  
46.2 the bluff impact zone or shore impact zone, provided they minimize disturbance to these  
46.3 areas and avoid visual impacts on public river corridor views.

46.4 **6106.0140 GENERAL DEVELOPMENT STANDARDS FOR PRIVATE**  
46.5 **FACILITIES.**

46.6 Subpart 1. Purpose. The purpose of this part is to provide design standards for  
46.7 private facilities within the Mississippi River Corridor Critical Area that are consistent  
46.8 with best management practices and that minimize impacts to primary conservation areas  
46.9 and other identified resources.

46.10 Subp. 2. Definition. For the purpose of this part, "private facilities" means private  
46.11 roads, driveways, and parking areas; private water access and viewing facilities; decks and  
46.12 patios in setback areas; and private signs.

46.13 Subp. 3. General design standards. All private facilities must be developed in  
46.14 accordance with the land alteration, vegetation, and storm water management requirements  
46.15 in parts 6106.0150 and 6106.0160.

46.16 Subp. 4. Private roads, driveways, and parking areas. Except as provided in part  
46.17 6106.0180, private roads, driveways, and parking areas must:

46.18 A. be designed and constructed to take advantage of natural vegetation and  
46.19 topography so that they are not readily visible;

46.20 B. comply with structure setback requirements according to part 6106.0120; and

46.21 C. not be placed within the bluff impact zone or shore impact zone, unless  
46.22 exempt under part 6106.0180 and designed consistent with part 6106.0130, subpart 3.

46.23 Subp. 5. Private water access and viewing facilities.

46.24 A. Private access paths must be no more than:

46.25 (1) eight feet wide, if placed within the shore impact zone; and

47.1                   (2) four feet wide, if placed within the bluff impact zone.

47.2                   B. Private water access ramps must:

47.3                   (1) comply with parts 6115.0210 and 6280.0250; and

47.4                   (2) be designed and constructed consistent with the applicable standards  
47.5 in Design Handbook for Recreational Boating and Fishing Facilities, incorporated by  
47.6 reference under part 6106.0090.

47.7                   C. Design and construction of private stairways, lifts, and landings are subject  
47.8 to the following standards:

47.9                   (1) stairways and lifts must not exceed four feet in width on residential lots.  
47.10 Wider stairways are allowed for commercial properties and residential facilities held in  
47.11 common, if approved by the local government;

47.12                   (2) landings for stairways and lifts on residential lots must not exceed  
47.13 32 square feet in area. Landings larger than 32 square feet are allowed for commercial  
47.14 properties and residential facilities held in common, if approved by the local government;

47.15                   (3) canopies or roofs are prohibited on stairways, lifts, or landings;

47.16                   (4) stairways, lifts, and landings must be located in the least visible portion  
47.17 of the lot; and

47.18                   (5) ramps, lifts, mobility paths, or other facilities for persons with physical  
47.19 disabilities are allowed for achieving access to shore areas according to subitems (1) to (4)  
47.20 and as provided under part 6106.0080, subpart 7.

47.21                   D. One water-oriented accessory structure is allowed for each riparian lot or  
47.22 parcel less than 300 feet in width at the ordinary high water level, with one additional  
47.23 water-oriented accessory structure allowed for each additional 300 feet of shoreline on  
47.24 the same lot or parcel. Water-oriented accessory structures are prohibited in the bluff  
47.25 impact zone and must:

- 48.1                   (1) not exceed 12 feet in height;  
48.2                   (2) not exceed 120 square feet in area; and  
48.3                   (3) be placed a minimum of ten feet from the ordinary high water level.

48.4                   Subp. 6. **Decks and patios in setback areas.** Local governments may allow  
48.5 decks and at-grade patios to encroach into the required setbacks from the ordinary high  
48.6 water level and blufflines without a variance, in compliance with parts 6106.0150 and  
48.7 6106.0160, provided that:

48.8                   A. the encroachment of the deck or patio into the required setback area does  
48.9 not exceed 15 percent of the required structure setback;

48.10                  B. the area of the deck or patio that extends into the required setback area  
48.11 occupies no more than 25 percent of the total area between the required setback and the 15  
48.12 percent allowance, using the formula below:

48.13                  [required setback depth (feet) x 0.15 x lot width (feet) x 0.25 = maximum total  
48.14 area]; and

48.15                  C. the deck or patio does not extend into the bluff impact zone.

48.16                  Subp. 7. **Private signs.** Placement of signs is guided by the local government's  
48.17 underlying zoning, with the additional provisions in items A and B.

48.18                  A. If the local government allows off-premise advertising signs, the signs must:

- 48.19                   (1) meet all required setbacks and height limits standards of this chapter; and  
48.20                   (2) not be readily visible.

48.21                  B. If the local government allows directional signs for patrons arriving at a  
48.22 business by watercraft, the signs:

- 48.23                   (1) must be consistent with Minnesota Statutes, section 86B.115;

49.1                   (2) if located within the shore impact zone, must convey only the location  
49.2 and name of the establishment and the general types of goods and services available;

49.3                   (3) must be no greater than ten feet in height and 32 square feet in surface  
49.4 area; and

49.5                   (4) if illuminated, must have lighting that is shielded to prevent illumination  
49.6 out across the river or to the sky.

49.7 **6106.0150 VEGETATION MANAGEMENT STANDARDS.**

49.8                   Subpart 1. **Purpose.** The purpose of this part is to establish standards that:

49.9                   A. sustain and enhance the biological and ecological functions of vegetation;

49.10                  B. preserve the natural character and topography of the Mississippi River  
49.11 Critical Corridor Area; and

49.12                  C. maintain stability of bluffs and steep slopes and ensure stability of other  
49.13 areas prone to erosion.

49.14                  Subp. 2. **Applicability.** This part applies to:

49.15                  A. shore impact zones;

49.16                  B. areas within 50 feet of a wetland or natural drainage way;

49.17                  C. bluff impact zones;

49.18                  D. areas of native plant communities; and

49.19                  E. significant vegetative stands identified in local governments' adopted plans.

49.20                  Subp. 3. **General provisions.**

49.21                  A. Intensive vegetation clearing is prohibited, except for the following  
49.22 activities, which are allowed by local permit:

49.23                   (1) clearing vegetation that is dead, diseased, dying, or hazardous;

- 50.1                   (2) clearing to prevent the spread of diseases or insect pests;  
50.2                   (3) removal of invasive non-native species;  
50.3                   (4) restoration and erosion control management activities consistent with a  
50.4 plan approved by the local government or resource agency; and  
50.5                   (5) the minimum necessary for development that is allowed as an exception  
50.6 under part 6106.0180.

50.7                   B. The following activities are allowed without a permit:

- 50.8                   (1) selective vegetation removal, including removal for those activities listed  
50.9 under item A, subitems (1) to (3), and removal for other purposes provided that vegetative  
50.10 cover remains consistent with the management purposes of districts under part 6106.0100;

- 50.11                   (2) maintenance of existing lawns, landscaping, and gardens;

- 50.12                   (3) removal of vegetation in emergency situations as determined by the  
50.13 local government;

- 50.14                   (4) right-of-way maintenance for public facilities meeting the standards of  
50.15 part 6106.0130, subpart 4; and

- 50.16                   (5) agricultural and forestry activities meeting the standards of part  
50.17 6106.0110.

- 50.18                   C. Local governments must not restrict the height of ground cover vegetation in  
50.19 the areas listed under subpart 2, items A to E.

50.20                   Subp. 4. Permit process.

- 50.21                   A. Local governments must regulate intensive vegetation clearing activities  
50.22 identified in subpart 3, item A, through a permit process.

51.1 B. Local government may create a new administrative permit process or use an  
51.2 existing one for intensive vegetation clearing. Appeals of local government decisions on  
51.3 permits are subject to Minnesota Statutes, section 462.357, subdivision 6.

51.4 C. Local governments may delegate the permitting responsibilities described  
51.5 in this subpart to a resource agency or other qualified agent as determined by the local  
51.6 government.

51.7 D. Local governments must require permit applicants to submit information as  
51.8 needed to evaluate permits for consistency with the standards and requirements of this part  
51.9 and parts 6106.0080, subpart 6, and 6106.0160.

51.10 E. Local governments must grant the permit, deny the permit, or grant the permit  
51.11 with conditions necessary to achieve the purposes of this part, as provided under subpart 5.

51.12 Subp. 5. Permit conditions. In reviewing and approving permit applications, the  
51.13 local government must ensure through permit conditions that the following performance  
51.14 standards are met:

51.15 A. development is sited to minimize removal of or disturbance to natural  
51.16 vegetation;

51.17 B. soil, slope stability, and hydrologic conditions are suitable for the proposed  
51.18 work as determined by an engineer or resource agency;

51.19 C. clearing is the minimum necessary and designed to blend with the natural  
51.20 terrain and minimize visual impacts to public river corridor views;

51.21 D. any native plant communities removed are replaced with vegetation that  
51.22 provides equivalent biological and ecological functions. If replaced, priorities for  
51.23 restoration are stabilization of erodible soils, restoration or enhancement of shoreline  
51.24 vegetation, and revegetation of bluffs or steep slopes visible from the river;

52.1 E. all other vegetation removed is restored with natural vegetation to the  
52.2 greatest extent practicable. Priorities for replacement are the same as under item D;

52.3 F. any disturbance of highly erodible soils is replanted with deep-rooted  
52.4 vegetation with a high stem density;

52.5 G. vegetation removal activities are conducted so as to expose the smallest  
52.6 practical area of soil to erosion for the least possible time; and

52.7 H. other conditions as determined necessary by the local government to achieve  
52.8 the purpose of this part are met.

52.9 **Subp. 6. Vegetation restoration plan requirements.**

52.10 A. Reestablishment of natural vegetation is required:

52.11 (1) as a condition of permits under subpart 5, items D and E;

52.12 (2) upon failure to comply with this part; or

52.13 (3) as part of the planning process for subdivisions under part 6106.0170.

52.14 B. The vegetation restoration plan must:

52.15 (1) include vegetation that provides suitable habitat and effective soil  
52.16 stability, runoff retention, and infiltration capability. Vegetation species, composition,  
52.17 density, and diversity must be guided by nearby patches of native plant communities;

52.18 (2) be prepared by a qualified individual as defined by the local  
52.19 government; and

52.20 (3) include a maintenance plan that includes management provisions for  
52.21 controlling invasive species and replacement of plant loss for three years.

52.22 C. The local government must issue a certificate of compliance after  
52.23 determining that the restoration requirements of item B have been satisfied.

53.1 D. Vegetation management and restoration activities must be guided by Native  
53.2 Vegetation Establishment and Enhancement Guidelines, incorporated by reference under  
53.3 part 6106.0090.

53.4 **6106.0160 LAND ALTERATION AND STORM WATER MANAGEMENT**  
53.5 **STANDARDS.**

53.6 Subpart 1. Purpose. The purpose of this part is to establish standards that:

53.7 A. protect water quality from pollutant loadings of sediment, nutrients, bacteria,  
53.8 and other contaminants; and

53.9 B. maintain stability of bluffs, shorelines, and other areas prone to erosion.

53.10 Subp. 2. Definitions. For the purpose of this part:

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

53.14 B. "storm water management facilities" means facilities for the collection,  
53.15 conveyance, treatment, or disposal of storm water; and

53.16 C. "water quality impact zone" means land within the shore impact zone  
53.17 or within 50 feet of the boundary of a public water, wetland, or natural drainage way,  
53.18 whichever is greater.

53.19 Subp. 3. Land alteration.

53.20 A. Within the bluff impact zone, land alteration is prohibited, except for the  
53.21 following which are allowed by local government permit:

53.22 (1) erosion control consistent with subpart 6 and a plan approved by the  
53.23 local government or resource agency;

54.1                   (2) the minimum necessary for development that is allowed as an exception  
54.2 under part 6106.0180; and

54.3                   (3) repair and maintenance of existing buildings and facilities.

54.4                   B. Within the water quality impact zone, land alteration that involves a volume  
54.5 of more than ten cubic yards of material or affects an area greater than 1,000 square feet  
54.6 requires a permit from the local government, meeting the standards in subparts 5 and 6.

54.7                   Subp. 4. **Rock riprap, retaining walls, and other erosion control structures.**

54.8                   A. Construction or replacement of rock riprap, retaining walls, and other erosion  
54.9 control structures located at or below the ordinary high water level must comply with parts  
54.10 6115.0215, subpart 4, item E, and 6115.0216, subpart 2. The work must not proceed unless  
54.11 approved by the commissioner as meeting all requirements for work in public waters.

54.12                   B. Construction or replacement of rock riprap, retaining walls, and other erosion  
54.13 control structures within the bluff impact zone and the water quality impact zone are  
54.14 allowed by local government permit provided that:

54.15                   (1) if the project includes work at or below the ordinary high water level,  
54.16 the local permit is not approved until the commissioner has approved or permitted the  
54.17 project according to item A;

54.18                   (2) the structures are used only to correct an established erosion problem as  
54.19 determined by the local government or resource agency;

54.20                   (3) the size and extent of the structures are the minimum necessary to  
54.21 correct the erosion problem and are not larger than the following, except as specified  
54.22 under subitem (4):

54.23                   (a) retaining walls must not exceed five feet in height and must be  
54.24 placed a minimum horizontal distance of ten feet apart; and

55.1 (b) riprap must not exceed the height of the regulatory flood protection  
55.2 elevation; and

55.3 (4) structures may exceed the height limits in subitem (3) only if a  
55.4 professional engineer determines that a larger structure is needed to correct erosion  
55.5 problems.

55.6 C. Nothing in this subpart shall be construed to waive any other permit  
55.7 requirements that are required by law.

55.8 Subp. 5. Permit process. Local governments must regulate activities identified in  
55.9 subparts 3 and 4 through a permit process consistent with subpart 6 and part 6106.0150,  
55.10 subpart 4.

55.11 Subp. 6. Permit conditions. In reviewing and approving land alteration permit  
55.12 applications, the local government must ensure that:

55.13 A. temporary and permanent erosion and sediment control measures retain  
55.14 sediment onsite consistent with best management practices in the Minnesota Stormwater  
55.15 Manual, incorporated by reference under part 6106.0090;

55.16 B. natural site topography, soil, and vegetation conditions are used to control  
55.17 runoff and reduce erosion and sedimentation;

55.18 C. construction activity is phased when possible;

55.19 D. all erosion and sediment controls are installed before starting any land  
55.20 disturbance activity;

55.21 E. erosion and sediment controls are maintained to ensure effective operation;

55.22 F. the proposed work is consistent with the vegetation standards in part  
55.23 6106.0150; and

56.1 G. best management practices for protecting and enhancing ecological and  
56.2 water resources identified in Best Practices for Meeting DNR General Public Waters Work  
56.3 Permit GP 2004-001, incorporated by reference under part 6106.0090, are implemented  
56.4 where applicable, regardless of project type.

56.5 Subp. 7. Storm water management.

56.6 A. In the bluff impact zone, storm water management facilities are prohibited,  
56.7 except by local government permit if:

56.8 (1) there are no alternatives for storm water treatment outside the bluff  
56.9 impact zone on the site in question;

56.10 (2) the site generating runoff is designed so that the amount of runoff  
56.11 reaching the bluff impact zone is reduced to the greatest extent practicable;

56.12 (3) the construction and operation of the facility does not affect slope  
56.13 stability on the subject property or adjacent properties; and

56.14 (4) mitigation based on the best available engineering and geological  
56.15 practices is required and applied to eliminate or minimize the risk of slope failure.

56.16 B. In the water quality impact zone, development that creates new impervious  
56.17 surface, as allowed by exemption in part 6106.0180, or fully reconstructs existing  
56.18 impervious surface of more than 10,000 square feet requires a postconstruction storm  
56.19 water management permit from the local government consistent with the following:

56.20 (1) if a local government is covered by a municipal separate storm sewer  
56.21 system (MS4) general or individual permit from the Minnesota Pollution Control Agency,  
56.22 then the treatment requirements of the MS4 permit for postconstruction storm water  
56.23 management for new development and redevelopment projects apply;

56.24 (2) if a local government is not covered by an MS4 permit, then runoff  
56.25 from the new or fully reconstructed impervious surface must comply with the treatment

57.1 requirements in the current national pollution discharge and elimination system program  
57.2 permit for construction storm water;

57.3 (3) local governments may adopt other treatment requirements approved  
57.4 by the Minnesota Pollution Control Agency instead of those specified in subitems (1)  
57.5 and (2); and

57.6 (4) multipurpose trails and sidewalks are exempt from subitems (1) and (2)  
57.7 if there is down gradient vegetation or a filter strip that is at least five feet wide.

57.8 C. In all other areas of the Mississippi River Critical Corridor Area, storm water  
57.9 runoff must be directed away from the bluff impact zone or unstable areas.

57.10 Subp. 8. **Development on steep slopes.** A local government may allow structures,  
57.11 impervious surfaces, land alteration, vegetation removal, or construction activities on  
57.12 steep slopes if:

57.13 A. the applicant can demonstrate that the development can be accomplished  
57.14 without increasing erosion or storm water runoff;

57.15 B. the soil types and geology are suitable for the proposed development; and

57.16 C. vegetation is managed according to the requirements of this part.

57.17 Subp. 9. **Compliance with other plans and programs.** All development must:

57.18 A. be consistent with Minnesota Statutes, chapter 103B, and local water  
57.19 management plans completed under chapter 8410;

57.20 B. meet or exceed the wetland protection standards under chapter 8420; and

57.21 C. meet or exceed the floodplain management standards under chapter 6120.

57.22 **6106.0170 SUBDIVISION AND LAND DEVELOPMENT STANDARDS.**

57.23 Subpart 1. **Purpose.** The purposes of this part are to:

58.1 A. protect and enhance the natural and scenic values of the Mississippi River  
58.2 Critical Corridor Area during development or redevelopment of the remaining large sites  
58.3 within the corridor;

58.4 B. establish standards for protecting and restoring biological and ecological  
58.5 functions of primary conservation areas on large sites; and

58.6 C. encourage restoration of natural vegetation during development or  
58.7 redevelopment of large sites, where restoration opportunities have been identified in  
58.8 local plans.

58.9 Subp. 2. Applicability.

58.10 A. Except as provided in item B, this part applies to the following developments  
58.11 involving ten or more acres for parcels that abut the Mississippi River and 20 or more  
58.12 acres for all other parcels within the river corridor boundary, including smaller individual  
58.13 sites within the following developments that are part of a common plan of development  
58.14 but may be constructed at different times:

- 58.15 (1) subdivisions;  
58.16 (2) planned unit developments; and  
58.17 (3) master-planned development and redevelopment of land.

58.18 B. The following activities are exempt from this part:

- 58.19 (1) minor subdivisions consisting of three or fewer lots;  
58.20 (2) minor boundary line corrections;  
58.21 (3) resolutions of encroachments;  
58.22 (4) additions to existing lots of record;  
58.23 (5) placement of essential services; and  
58.24 (6) activities involving river-dependent commercial and industrial uses.

59.1 Subp. 3. **Project information.** Local governments must require detailed  
59.2 project information and provide for preproject review of all proposed subdivisions,  
59.3 redevelopments, and planned unit developments as provided under part 6106.0080,  
59.4 subpart 6.

59.5 Subp. 4. **Design standards.**

59.6 A. Local government ordinances must contain provisions, including incentives,  
59.7 for alternative design methods such as conservation design, transfer of development  
59.8 density, or other zoning and site design techniques that achieve better protection or  
59.9 restoration of primary conservation areas.

59.10 B. Primary conservation areas, where they exist, must be set aside for protection  
59.11 as open areas as provided under item H. However, where primary conservation areas  
59.12 exceed the thresholds in subitems (1) to (4) as a percentage of a parcel, then only the  
59.13 percentage in subitems (1) to (4) must be set aside:

59.14 (1) CA-ROS: 50 percent;

59.15 (2) CA-RN: 20 percent;

59.16 (3) CA-RTC, CA-UM, CA-UC: ten percent; and

59.17 (4) CA-SR: ten percent, if the parcel includes native plant communities or  
59.18 provides feasible connections to a regional park or trail system, otherwise no requirement.

59.19 C. If the primary conservation areas exceed the maximum percentage  
59.20 established in item B, then the local government may determine which primary  
59.21 conservation areas are to be protected, with priority given to the protection of native plant  
59.22 communities and natural vegetation in riparian areas.

59.23 D. If primary conservation areas exist but do not have natural vegetation, then  
59.24 a vegetation assessment must be completed for the areas to be protected to determine

60.1 whether vegetation restoration is needed. If restoration is needed, vegetation must be  
60.2 restored according to part 6106.0150, subpart 6.

60.3 E. If primary conservation areas do not exist on the parcel in question, the  
60.4 local government must determine whether any portions of the site have been identified as  
60.5 potential restoration areas in local plans, according to part 6106.0070, subpart 4. When  
60.6 such areas have been identified, vegetation must be restored consistent with a restoration  
60.7 plan according to part 6106.0150, subpart 6, and the restored area must be set aside as  
60.8 specified in item B.

60.9 F. Storm water treatment areas or other green infrastructure may be used to  
60.10 meet the requirements of this subpart if the vegetation provides biological and ecological  
60.11 functions.

60.12 G. Any land dedicated for public access or public facilities according to subpart  
60.13 5 may be counted toward the set-aside requirements of this subpart at the discretion of the  
60.14 local government.

60.15 H. Areas that have been set aside under item B must be protected through:

60.16 (1) public acquisition by a government entity for conservation purposes;

60.17 (2) a permanent conservation easement, as provided in Minnesota Statutes,  
60.18 chapter 84C;

60.19 (3) a deed restriction; or

60.20 (4) other arrangements that achieve an equivalent degree of protection  
60.21 as determined by the local government.

60.22 I. Permanent protection methods under item H must ensure, within the areas  
60.23 set aside, the long-term management of vegetation to meet its biological and ecological  
60.24 functions, prohibit structures, and prohibit land alteration, except as needed to provide  
60.25 public recreational facilities and access to the river.

61.1 J. Protected open areas must connect neighboring or abutting open space, natural  
 61.2 areas, and recreational areas as much as possible to form an interconnected network.

61.3 Subp. 5. Land dedication. Local governments that require dedication of land or  
 61.4 equivalent amounts of cash for parks and open space under Minnesota Statutes, section  
 61.5 394.25, subdivision 7, or 462.358, subdivision 2b, must encourage dedication of lands  
 61.6 suitable for riverfront access, parks, open space, storm water management, or other public  
 61.7 facilities within the Mississippi River Corridor Critical Area.

61.8 **6106.0180 EXEMPTIONS FROM SETBACKS, HEIGHT LIMITS, AND OTHER**  
 61.9 **REQUIREMENTS.**

61.10 Uses and activities not specifically exempted under this part must comply with this  
 61.11 chapter. All exemptions in the shore impact zone (SIZ) and bluff impact zone (BIZ)  
 61.12 are also subject to the vegetation management standards in part 6106.0150 and the land  
 61.13 alteration and storm water management standards in part 6106.0160. In the table, "E"  
 61.14 means the use is exempt; "(E)" means that the use is allowed only if no alternatives exist,  
 61.15 and "N" means that the use is not exempt and must meet the standards in this chapter.

					<b><u>Standard (the use must comply with standard or referenced parts)</u></b>	
	<b><u>Set-</u></b>	<b><u>Height</u></b>				
	<b><u>backs</u></b>	<b><u>limits</u></b>	<b><u>SIZ</u></b>	<b><u>BIZ</u></b>		
61.20	<u>Industrial and utility structures requiring</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>N</u>	<u>Structure design and placement must minimize interference with public river corridor views</u>
61.21	<u>greater height for operational reasons</u>					
61.22	<u>(such as elevators, refineries, and</u>					
61.23	<u>railroad signaling towers)</u>					
61.24						
61.25						
61.26	<u>Barns, silos, and farm structures</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>N</u>	
61.27	<u>Bridges and bridge approach roadways</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>(E)</u>	<u>Part 6106.0130</u>
61.28	<u>Wireless communication facilities</u>	<u>E</u>	<u>E</u>	<u>N</u>	<u>N</u>	<u>Part 6106.0110,</u>
61.29	<u>(towers)</u>					<u>subpart 7</u>

62.1	<u>Chimneys, church spires, flag poles,</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>N</u>	
62.2	<u>public monuments, and mechanical</u>					
62.3	<u>service stacks and similar mechanical</u>					
62.4	<u>equipment</u>					
62.5	<u>Historic properties and contributing</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>Exemptions do not</u>
62.6	<u>properties in historic districts</u>					<u>apply to additions</u>
62.7						<u>or site alterations to</u>
62.8						<u>historic buildings or</u>
62.9						<u>structures</u>
62.10	<u>Buildings and structures on the face of or</u>	<u>E</u>	<u>n/a</u>	<u>n/a</u>	<u>E</u>	<u>Height in the</u>
62.11	<u>abutting the bluff in the CA-UC district</u>					<u>CA-UC district</u>
62.12	<u>of St. Paul, between Chestnut Street and</u>					<u>is governed by</u>
62.13	<u>Highway 52</u>					<u>underlying zoning</u>
62.14	<b><u>Public utilities</u></b>					
62.15	<u>Electrical power facilities</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>(E)</u>	<u>Part 6106.0130</u>
62.16	<u>Essential services (other than storm</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>(E)</u>	<u>Part 6106.0130</u>
62.17	<u>water facilities)</u>					
62.18	<u>Storm water facilities</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>(E)</u>	<u>Part 6106.0160</u>
62.19	<u>Wastewater treatment</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>Part 6106.0130</u>
62.20	<u>Public transportation facilities</u>	<u>E</u>	<u>N</u>	<u>(E)</u>	<u>(E)</u>	<u>Part 6106.0130</u>
62.21	<b><u>Public recreational facilities</u></b>					
62.22	<u>Accessory structures, such as</u>	<u>E</u>	<u>E</u>	<u>(E)</u>	<u>(E)</u>	<u>Part 6106.0130;</u>
62.23	<u>monuments, flagpoles, light standards,</u>					<u>within BIZ, only</u>
62.24	<u>and similar park features</u>					<u>on slopes averaging</u>
62.25						<u>less than 30 percent.</u>
62.26						<u>Exemptions do not</u>
62.27						<u>apply to principal</u>
62.28						<u>buildings</u>
62.29	<u>Picnic shelters and other open-sided</u>	<u>E</u>	<u>N</u>	<u>(E)</u>	<u>N</u>	<u>Part 6106.0130</u>
62.30	<u>structures</u>					

63.1	<u>Parking areas</u>	(E)	N	(E)	(E)	<u>Part 6106.0130;</u>
63.2						<u>within BIZ, only</u>
63.3						<u>within 20 feet of toe</u>
63.4						<u>of bluff; not on face</u>
63.5						<u>of bluff; and must</u>
63.6						<u>not affect stability</u>
63.7						<u>of bluff</u>
63.8	<u>Roads and driveways</u>	(E)	N	(E)	(E)	<u>Part 6106.0130</u>
63.9	<u>Natural-surfaced trails, access paths, and</u>	E	N	E	E	<u>Part 6106.0130</u>
63.10	<u>viewing areas</u>					
63.11	<u>Hard-surfaced trails and viewing</u>	E	N	E	(E)	<u>Part 6106.0130;</u>
63.12	<u>platforms</u>					<u>within BIZ, only</u>
63.13						<u>on slopes averaging</u>
63.14						<u>less than 30 percent</u>
63.15	<u>Water access ramps</u>	E	N	E	(E)	<u>Part 6106.0130</u>
63.16	<u>Public signs and kiosks for interpretive</u>	E	N	E	(E)	<u>Part 6106.0130</u>
63.17	<u>or directional purposes</u>					
63.18	<b><u>River-dependent uses</u></b>					
63.19	<u>Shoreline facilities</u>	E	N*	E	(E)	<u>Part 6106.0110,</u>
63.20						<u>subpart 6.</u>
63.21						<u>Exemptions do not</u>
63.22						<u>apply to buildings,</u>
63.23						<u>structures, and</u>
63.24						<u>parking areas that</u>
63.25						<u>are not part of a</u>
63.26						<u>shoreline facility</u>
63.27	<u>Private roads and conveyance structures</u>	E	N*	E	(E)	<u>Part 6106.0110,</u>
63.28	<u>serving river-dependent uses</u>					<u>subpart 6</u>
63.29	<b><u>Private residential and commercial</u></b>					
63.30	<b><u>water access and use facilities</u></b>					

64.1	<u>Private roads serving 3 or more lots</u>	<u>(E)</u>	<u>N</u>	<u>N</u>	<u>(E)</u>	<u>Part 6106.0140;</u>
64.2						<u>in BIZ, only on</u>
64.3						<u>slopes averaging</u>
64.4						<u>less than 30 percent.</u>
64.5						<u>Exemption does not</u>
64.6						<u>apply to private</u>
64.7						<u>roads serving fewer</u>
64.8						<u>than 3 lots or to</u>
64.9						<u>private driveways</u>
64.10						<u>and parking areas</u>
64.11	<u>Access paths</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>E</u>	<u>Part 6106.0140</u>
64.12	<u>Water access ramps</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>Part 6106.0140</u>
64.13	<u>Stairways, lifts, and landings</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>E</u>	<u>Part 6106.0140</u>
64.14	<u>Water-oriented accessory structures</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>Part 6106.0140</u>
64.15	<u>Patios and decks</u>	<u>E</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Part 6106.0140,</u>
64.16						<u>subpart 6</u>
64.17	<u>Directional signs for watercraft (private)</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>Part 6106.0140;</u>
64.18						<u>exemption does not</u>
64.19						<u>apply to off-premise</u>
64.20						<u>advertising signs</u>
64.21	<u>Erosion control structures, such as rock</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>(E)</u>	<u>Part 6106.0160,</u>
64.22	<u>riprap and retaining walls</u>					<u>subpart 4</u>
64.23	<u>Flood control structures</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>(E)</u>	<u>Part 6106.0160</u>
64.24	<u>* River-dependent commercial, industrial, and utility structures are exempt from</u>					
64.25	<u>height limits only if greater height is required for operational reasons.</u>					

## **INCORPORATIONS BY REFERENCE:**

Part 6106.0090:

The Minnesota Stormwater Manual, Minnesota Pollution Control Agency (2013 and as subsequently amended);

Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota, Minnesota Department of Natural Resources (1999 and as subsequently amended);

Design Handbook for Recreational Boating and Fishing Facilities, States Organization for Boating Access (2006 and as subsequently amended);

Trail Planning, Design, and Development Guidelines, Minnesota Department of Natural Resources (2007 and as subsequently amended);

Native Vegetation Establishment and Enhancement Guidelines, Minnesota Board of Water and Soil Resources (2015 and as subsequently amended), available online at [http://www.bwsr.state.mn.us/native\\_vegetation/](http://www.bwsr.state.mn.us/native_vegetation/);

Shoreline Alterations: Riprap, Minnesota Department of Natural Resources (2012 and as subsequently amended), available online at [http://www.dnr.state.mn.us/publications/waters/shoreline\\_alteration.html](http://www.dnr.state.mn.us/publications/waters/shoreline_alteration.html); and

Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001, Minnesota Department of Natural Resources (2014 and as subsequently amended), available online at [http://www.dnr.state.mn.us/waters/watermgmt\\_section/pwpermits/gp\\_2004\\_0001\\_manual.html](http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_manual.html).

Unless specified otherwise, these documents are not subject to frequent change and are available through the Minitex interlibrary loan system.

Part 6106.0100, subpart 9:

Mississippi River Corridor Critical Area District Map, Minnesota Department of Natural Resources (2015), available on the department's Web site at [www.dnr.state.mn.us/input/rules/mrcca/map-draft.html](http://www.dnr.state.mn.us/input/rules/mrcca/map-draft.html).

# Office of the Revisor of Statutes

## Administrative Rules



**TITLE:** Proposed Permanent Rules Relating to Mississippi River Corridor Critical Area

**AGENCY:** Department of Natural Resources

**MINNESOTA RULES:** Chapter 6106

**INCORPORATIONS BY REFERENCE:** [See attached]

The attached rules are approved for  
publication in the State Register

*Cindy K. Maxwell*

Cindy K. Maxwell  
Senior Assistant Revisor



STATE OF MINNESOTA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF ECOLOGICAL AND WATER RESOURCES

IN THE MATTER OF PROPOSED RULES  
RELATING TO THE  
MISSISSIPPI RIVER CORRIDOR CRITICAL AREA (MRCCA)

**STATEMENT OF NEED AND REASONABLENESS (SONAR)**

December 1, 2015



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**Exhibits..... 73**

- Exhibit A: Executive Order 130 and Amendments
- Exhibit B: Executive Order 79-19
- Exhibit C: Metropolitan Council Resolution 79-84
- Exhibit D: Reorganization Order 170
- Exhibit E: 2008 DNR Report to Legislature
- Exhibit F: 2014 DNR Report to Legislature
- Exhibit G: Proposed MRCCA District Maps

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## Introduction

### Overview

This document explains the need and reasonableness of proposed rules governing the Mississippi River Corridor Critical Area (MRCCA), and summarizes the evidence and arguments that the Minnesota Department of Natural Resources (DNR) is relying upon to justify the proposed rules. It has been prepared to satisfy the requirements of Minn. Stat. § 14.131 (2015) and Minn. R. 1400.2070 (2015).

The purpose of the proposed rules is to establish districts and minimum standards and criteria to guide land use and development within the MRCCA, consistent with the purpose of Minn. Stat. § 116G.15 (2015). Upon adoption, the proposed rules will replace Executive Order 79-19, which has guided land use and development within the MRCCA for the past 35 years.

The proposed rules cover a variety of topics including:

- the administration of the MRCCA program
- the establishment of districts within the MRCCA, taking into account:
  - the appropriate number of districts within the MRCCA in each local government unit
  - existing local plans and policies
  - existing local ordinances and conditions
  - key identified resources and features to be protected or enhanced within the MRCCA
- the establishment of minimum development guidelines and standards, taking into account:
  - the intent of each district
  - existing local plans and policies
  - existing local ordinances and conditions
  - key identified resources and features to be protected or enhanced
  - select uses
  - structure height and setbacks
  - private and public infrastructure
  - protection of bluffs and very steep slopes
  - vegetation management
  - land alteration and stormwater management
  - lot size, subdivision, and design standards

Many of these topics are currently covered by Executive Order 79-19 and are included in existing local MRCCA plans and ordinances.

The DNR has made extensive efforts to obtain input and information to develop the districts, standards, and criteria in the proposed rules. Since 2009, the DNR has met numerous times with local governments in the MRCCA (both individually and in groups), convened geographically-based multi-interest work groups, held numerous public informational meetings, published two Requests for Comments with

extended comment periods beyond the minimum required, and met with other federal and state agencies and interest groups to gain feedback on early drafts of these rules. The DNR also engaged local governments and other agencies in conducting analysis necessary to develop the rules; for example, the DNR worked with the City of St. Paul and National Park Service to develop and test a bluff mapping tool to inform the definition of bluffs, as discussed later under “Bluff Protection Standards.”

### History of the MRCCA Designation and Rulemaking Efforts

The MRCCA encompasses many of the Twin Cities metropolitan area’s most significant natural and cultural resources, including: water, navigational capabilities, scenic views, geology and soils, vegetation, minerals, flora and fauna, cultural and historic resources and land and water-based recreational resources. The MRCCA is home to a full range of residential neighborhoods, as well as river-related commerce, industry, and transportation. Though the river corridor has been extensively developed, many intact and remnant natural areas remain, including geomorphological features such as bluffs, islands, floodplains, wetlands, riparian zones, and native aquatic and terrestrial flora and fauna.<sup>1</sup>

To manage and protect these vital resources, Governor Wendell Anderson designated the MRCCA in 1976 by Executive Order 130, attached hereto as Exhibit A, under authority of the Critical Areas Act of 1973.<sup>2</sup> The designation was renewed by Governor Albert Quie in 1979 by Executive Order 79-19, and made permanent that same year by resolution of the Metropolitan Council.

The MRCCA covers a 72-mile stretch of the Mississippi River through the Twin Cities Metropolitan Area, extending from the townships of Dayton and Ramsey in Hennepin and Anoka counties to the north and extending downstream to Ravenna Township, just south of Hastings in Dakota County (Figure 1). The legal boundary of the MRCCA is established in Executive Order 79-19, attached hereto as Exhibit B. A copy is also on file at the Legislative Reference Library. The MRCCA varies in width and includes 54,000 acres of water and public and private lands. A total of 30 communities have land within the MRCCA, including 21 cities, five counties, and four townships.

Land use in the MRCCA is currently regulated by local governments through local MRCCA plans and ordinances as directed by Executive Order 79-19. Executive Order 79-19 established four land use districts within the MRCCA and set standards and guidelines to be used by local

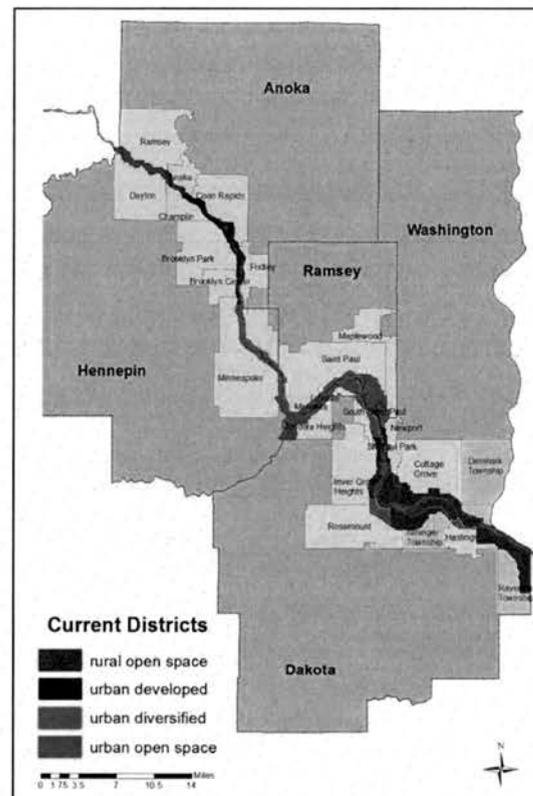


Figure 1. MRCCA boundary and current districts.

<sup>1</sup> Lafrancois, B. M., D. L. Vana-Miller, and S. P. Johnson. 2007; Anfinson, J. 2003a, 2003b.

<sup>2</sup> 1973, ch.752, 1973 Minn. Laws 2258-2265 (codified at §§ 116.01 – 116G.14).

governments when preparing plans and regulations to guide development within those districts. By the early 1980s, all local governments within the MRCCA had adopted MRCCA plans, and all but a few had adopted MRCCA ordinances. Cities and townships without adopted MRCCA ordinances are subject to the Interim Development Regulations contained in Executive Order 79-19.

In 1988, Congress established the Mississippi National River and Recreation Area (MNRRA), a unit of the National Park System. MNRRA shares the same boundaries as the MRCCA. In establishing MNRRA Congress found that *"the Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area represents a nationally significant historical, recreational, scenic, cultural, natural, economic, and scientific resource"* and that there was a national interest in the *"preservation, protection and enhancement of those resources for the benefit of the people of the United States."* (16 U.S.C. §460 zz (a) (emphasis added)). The National Park Service, in its 1995 Comprehensive Management Plan for the MNRRA, determined it would not acquire significant land holdings or establish land use regulations for the MNRRA but would instead rely on state and local administration of Executive Order 79-19 to protect the resources.

In 1991, the Minnesota Legislature reaffirmed its commitment to a permanent MRCCA designation by recognizing the MNRRA as a state-designated critical area. Minn. Stat. § 116G.06 (1985) 1991, ch. 303, § 8, 1991 Minn. Laws (page 63) codified at Minn. Stat. § 116G.15 (1991).

In 1995, Governor Arne Carlson issued Reorganization Order 170 transferring administrative responsibility for the MRCCA from the Environmental Quality Board (EQB) to the DNR. This order transfers rulemaking authority for the management of the MRCCA to the DNR, and provides that all rules adopted by EQB remain in effect until they are amended or repealed by the DNR.

More recently, citizens and interest groups have raised concerns around the adequacy of the MRCCA program regulatory framework, perceptions of inconsistent regulation of development in the MRCCA, and the belief that key resources within the MRCCA are not always protected.

#### **Report to Legislature, 2008**

Based on the concerns noted above, in 2007 the Legislature directed the DNR to prepare a report on the status of the MRCCA. The report summarized the status of local governments' MRCCA plans and ordinances and their experiences with the program, and identified several approaches to accomplish the preservation and protection goals for the MRCCA as set forth by the Legislature in Minn. Stat. § 116G.15 (1995). The DNR delivered the report to the Legislature in 2008.

#### **Rulemaking Project, 2009-2011**

In 2009, the Legislature amended Minn. Stat. § 116G.15 and directed the DNR to establish rules for the MRCCA. 2009, ch. 172, art. 2, §27, subd. 4, 2009 Minn. Laws (pages 2484 - 2485). The DNR launched the rulemaking process by creating a project website and notifying local government within the MRCCA by letter of the rulemaking and requesting their assistance with outreach. In December 2009, the DNR published a Request for Comments on the scope of the proposed MRCCA rules. The DNR accepted public comments through March 22, 2010.

During the comment period, DNR staff met with local governments and other stakeholders within the MRCCA to learn how MRCCA plans and ordinances had been administered and to identify local stakeholders to participate in work groups.

In February 2010, the DNR formed four geographically-focused work groups consisting of stakeholders representing the diverse interests in the MRCCA, including:

- local governments
- builders and developers
- property owners
- economic development authorities
- commercial and industrial businesses
- recreational and environmental protection interests
- other local, regional, and national interests

Each committee met four times and was tasked with identifying issues and ideas, providing expert input, and providing feedback on draft districts and standards. In late 2010, the DNR held two public open houses to receive input on preliminary draft districts and standards.

Based on the input throughout the entire public involvement process, the DNR completed draft rules in 2011. However, the rulemaking process was put on hold that same year before a notice of intent to adopt rules was issued. The DNR was unable to publish a notice of intent to adopt rules or notice of hearing within 18 months of the date of the legislative directive authorizing DNR to adopt the MRCCA rules, and its authority to complete the rulemaking lapsed. Minn. Stat. § 14.125 (2015).

#### **Rulemaking Project, 2013 – Present**

In 2013, the Legislature again revised Minn. Stat. § 116G.15 and directed the DNR to resume rulemaking, with the following key changes to the rulemaking process:

- required DNR to consult with local governments before adopting rules;
- added “redevelopment” of a variety of urban and recreational uses to the existing list of multiple resources for which the corridor is to be managed;
- modified the considerations for creating new districts by removing the consideration of those river features in existence in 1979 and the intent of the districts in Executive Order 79-19 and adding consideration of both the natural character and the existing development of the river corridor, as well as the potential for new commercial, industrial, and residential development;
- added commercial, industrial, and residential resources to the existing list of resources that must be protected or enhanced through guidelines and standards;
- eliminated the 2009 requirement to establish regulatory bluff maps, while continuing to insure that bluff protection remains a priority; and
- required the DNR to submit a status report to the Legislature by January 2014.

The Legislature also waived the 18 month time constraint imposed by Minn. Stat § 14.125 to publish a notice of intent to adopt rules or a notice of hearing within 18 months after the effective date of the law authorizing the new rulemaking effort.

The DNR launched this new rulemaking effort in 2013 shortly after the close of the legislative session. The DNR again met with local governments (individually and in groups), other agencies, and interest groups to discuss the draft rules created in 2011 and to obtain input on the new draft rules. A status report on the rulemaking process was provided to the Legislature in January 2014.

After consultation with local government, other agencies, and interest groups, the DNR extensively revised the 2011 draft rules, creating "working draft rules." In June 2014, the DNR published a second Request for Comments, asking for input on these working draft rules. During this comment period the DNR held three public information meetings and met with numerous local governments and interest groups to receive input on the working draft rules. The informal comment period closed in September 2014. Based on input received during this period, the DNR made additional revisions to the working draft rules and produced a final draft of the proposed MRCCA rules.

### **Summary of MRCCA Designation & Rulemaking**

- 1973** Minnesota passes Critical Areas Act of 1973. Minn. Stat. §§ 116G.01 – 116G.14 (1973)  
EQB adopts rules to implement Act. Minn. R. 4410.8100 – 4410.9910.
- 1976** Governor Wendell Anderson designates 72-mile stretch of the Mississippi River through the metro area and its adjacent corridor a Critical Area. Executive Order 130. (Exhibit A)
- 1979** Governor Albert Quie continues the designation. Executive Order 79-19. (Exhibit B)  
Metropolitan Council acts to make designation permanent. Metropolitan Council Resolution 79-48. (Exhibit C)
- 1988** Congress establishes the Mississippi National River and Recreational Area (MNRRA) as unit of NPS (MNRRA shares same boundary as MRCCA). 16 U.S.C. §460 zz (a).
- 1991** MNRRA designated a state critical area per Critical Areas Act. Minn. Stat. § 116G.15 (1991).
- 1995** Governor Arne Carlson shifts administrative responsibility for the MRCCA from EQB to DNR. Reorganization Order 170. (Exhibit D)
- 2007** Legislature directs DNR to prepare report on the MRCCA. DNR Report to Legislature, January 2008. (Exhibit E)
- 2009** Legislature amends MN Statutes, § 116G.15 and directs DNR to conduct rulemaking for the MRCCA. 2009, ch. 172, art. 2, §27, subd. 4, 2009 Minn. Laws (pages 2484 – 2485) codified at Minn. Stat. § 116G.15 (2009).
- 2011** DNR develops draft rule after participatory stakeholder process, but rulemaking authority lapses pursuant to Minn. Stat. § 14.125.
- 2013** Legislature directs DNR to resume rulemaking process in consultation with local governments. 2013, ch. 137, art. 2, § 18-21, 2013 Minn. Laws (pages 2327-2329), codified at Minn. Stat. § 116G. 15 (2015).
- 2014** DNR prepares report to Legislature on goals and status of rulemaking. DNR Report to Legislature, January 2014. (Exhibit F)

## Need for the Proposed Rules

The MRCCA program has been administered under Executive Order 79-19 for over 35 years. The executive order brings with it a variety of issues that this rulemaking effort seeks to resolve:

- **Executive Order 79-19 cannot be readily changed or updated.** There is no mechanism for revising an executive order, short of issuing a new executive order. Executive orders are not a desirable method for regulating or managing state programs that affect local land use. State rulemaking offers a more transparent process for developing a state program that affects local land use because it includes opportunities for public participation and provides an appropriate foundation for local land use regulation.
- **Executive Order 79-19 provides insufficient guidance to local governmental units for developing local plans and ordinances, and to the DNR for reviewing and approving them.** The Standards and Guidelines in Executive Order 79-19 are written as “performance standards” that describe a goal or desired end state. Performance standards lack specificity and, therefore, provide insufficient guidance for local plans and ordinances. This has led to the application of a broad range of standards and approaches across the MRCCA, as well as uncertainty in the approval process over time. This rulemaking effort has provided an open and transparent process for developing more specific and consistent standards across the MRCCA, and more specific and consistent criteria for the review and approval of local plans and ordinances.
- **Executive Order 79-19 limits redevelopment and reinvestment.** Executive Order 79-19 categorizes all land in the corridor into four districts based on general land use characteristics. Land use regulations specific to each district are the primary means for achieving protection goals within the MRCCA. These districts were defined based on land uses in 1976 and are legally described in the State Register. Because executive orders are not regularly updated, the districts and associated land use restrictions put in place in 1976 still govern development activity today.

These 1976 land use districts have limited the ability of communities to redevelop and encourage reinvestment. For example, the City of Champlin plans to redevelop the area at the Highway 169 bridge crossing as a walkable mixed-use development with both housing and new commercial buildings. Some of these buildings will be up to five stories in height and have reduced river setbacks. This plan deviates considerably from the 35' height limit that currently applies to the Urban Developed District, and from the current management purpose of the district as set forth in the Executive Order, which is “to maintain the largely residential character, and to limit expansion of commercial use” within the land use district.

It is difficult for local governments and the DNR to equitably evaluate development proposals like the Champlin proposal, which conflicts with the outdated management purposes and associated standards developed in 1976. This leaves local governments uncertain about what they can or cannot do within the MRCCA, and limits their ability to achieve more sustainable development patterns and a stronger tax base.

- **The MRCCA is costly and complex to administer.** Unlike the state's other shoreland protection programs (Shoreland, Wild and Scenic River, and Lower St. Croix River), which are governed by Minn. Stat. Ch. 103F, the MRCCA program requires local governments to adopt a plan in addition to a zoning ordinance, and it requires the administration and oversight of two state agencies – the DNR and Metropolitan Council. The exact contents and submittal requirements for plans and ordinances are not clearly laid out, which has led to confusion by local governments. Furthermore, the Metropolitan Council has an established process and timeline for updating comprehensive land use plans, but it is unclear how local MRCCA plans relate to comprehensive land use plans or whether comprehensive land use plans need to be updated regularly to reflect identified land use changes within the MRCCA.
- **Poor resource protection due to vague and outdated language.** Many natural resources are not adequately protected by Executive Order 79-19 because the Standards and Guidelines are too vague to implement effectively. Examples of words or phrases that are not defined, too vague to interpret and implement, or outdated include the following italicized phrases:
  - Provision C. 2.a (1). "New development and expansion shall be permitted only after the approval of site plans which *adequately assess and minimize adverse effects and maximize beneficial effect*" (emphasis added).
  - Provision C.2.e (2). This standard dealing with existing development requires that "local plans and regulations shall include provisions to *amortize non-conforming use*" (emphasis added). Amortization of most nonconforming uses was prohibited by statute in 1999. See Minn. Stat. §§ 462.357, subd. 1c and 394.21, subd. 1a.
  - Provision C. 2.e (4). "Local plans and ordinances shall include provisions to provide for the screening of existing development which constitutes *visual intrusion*, wherever appropriate" (emphasis added).
  - Provision C.6.f. "In the development of residential, commercial, and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public *reasonable portions of appropriate riverfront access land or other lands in interest therein*" (emphasis added).
- **No resource protection priority.** Neither Minn. Stat. § 116G.15 nor Executive Order 79-19 prioritizes resources for protection. Both call for the equal protection of a list of natural, cultural, historical, scenic, recreational, and economic resources in the corridor. Priorities are important for guiding rulemaking that achieves meaningful resource protection, and to help resolve conflicts in ongoing program administration.

## Alternative Format

Upon request, this SONAR can be made available in an alternative format, such as large print, braille, or audio. To make such a request, contact Jennifer Shillcox at the Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4025, phone 651-259-5727 and fax 651-296-0445, or [mrcca.rulemaking@state.mn.us](mailto:mrcca.rulemaking@state.mn.us). TTY users may call the Department of Natural Resources at 651-296-5484 or 1-800-657-3929.

## Statutory Authority

The statutory authority for all critical areas for the state of Minnesota is set out in Minn. Stat. Ch. 116G. Minn. Stat. §§ 116G.01 – 116G.14 comprise the “Critical Areas Act of 1973.” These sections establish the general procedures for designating and administering Critical Areas. Section 116G.15 was added to Ch. 116G in 1991 to designate the MNRRA as a Minnesota State Critical Area. 1991, Ch. 303, §8, Minn. Laws (page 210) codified at Minn. Stat. § 116G.15, and *supra* at page 2 (for a discussion of the history of the MRCCA).

Section 116G.15 sets out the parameters of the MRCCA program, including the scope and purpose of the MRCCA and the obligation of the commissioner to work cooperatively with the U.S. Army Corps of Engineers, the National Park Service, the Metropolitan Council, local governments and other agencies to assure that the MRCCA is managed as a multipurpose resource. Minn. Stat. § 116G.15, subd.3 (2015). The statute further provides for the establishment of districts within the MRCCA to protect natural, recreational and interpretive improvements; to protect the resources identified in the MNRRA Comprehensive Management Plan; to protect the use of the Mississippi River as a source of drinking water; to assure management of the river corridor consistent with its natural characteristics, its existing development and its consideration for new development; and to protect identified scenic, geologic, and ecological resources. Minn. Stat. § 116G.15, subd. 3 (2015). The statute directs the commissioner to adopt standards and guidelines for the management of each district that enhance and protect key enumerated statutorily identified resources and features. Minn. Stat. § 116G.15, subd. 4 (2015).

Section 116G.15, subd. 7 authorizes the DNR to adopt rules for the MRCCA and to commence the rulemaking process on or before January 15, 2010.<sup>3</sup> Minn. Stat. § 116G.15, subd. 7 (2015). Specifically, the statute provides that:

- The DNR, after consultation with affected local governments within the MRCCA, may adopt rules under chapter 14 as necessary for the administration of the MRCCA program, any duties of the EQB referenced in the chapter, rules, and Executive Order 79-19 within the MRCCA are transferred to the commissioner. Minn. Stat. § 116G.15, subd.2;
- The DNR shall establish, by rule, districts within the MRCCA. Minn. Stat. § 116G.15, subd. 3; and
- The DNR shall establish, by rule, minimum guidelines and standards for the districts to protect key resources and features, including commercial, industrial, and residential resources within the MRCCA. Minn. Stat. § 116.15, subd. 4.

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<sup>3</sup> This rule making requirement is specifically exempted from the requirements of Minn. Stat. § 14.125 (2015).

## Regulatory Analysis

Minn. Stat., § 14.131, sets out nine factors for a regulatory analysis that must be included in the SONAR. These factors are addressed as follows:

- 1. A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

The rules will likely affect the following persons and organizations within the MRCCA: private and public property owners, developers, businesses, real estate interests, recreational users, environmental interests, navigation interests on the Mississippi River, utility providers, all local governmental units (cities, towns, and counties), and agencies and institutions with facilities or property interests (such as the Metropolitan Council, Minnesota Department of Natural Resources, Minnesota Department of Transportation, Metropolitan Airports Commission, University of Minnesota, Saint Paul Port Authority, Minnesota Historical Society, and federal agencies such as the National Park Service and U.S. Army Corps of Engineers).

The proposed rules will directly affect all local governments having jurisdiction over or owning and managing land within the MRCCA including:

- the counties of Anoka, Dakota, Hennepin, Ramsey, and Washington
- the townships of Grey Cloud, Denmark, Nininger, and Ravenna
- the cities of Dayton, Ramsey, Anoka, Champlin, Coon Rapids, Brooklyn Park, Brooklyn Center, Fridley, Minneapolis, St. Paul, Lilydale, Mendota, Mendota Heights, Maplewood, South St. Paul, Newport, St. Paul Park, Inver Grove Heights, Rosemount, Cottage Grove, and Hastings

Specifically, local governments within the MRCCA must update their local plans and ordinances to incorporate the new districts and standards in these rules. Local governments must establish a permit program for vegetation management and land alterations in specific environmentally sensitive areas. Local governments will bear these initial costs, particularly if they need to make substantial changes to their existing plans and ordinances. Local governments may benefit in the long run, however, from the establishment of districts that are more consistent with community character and planned future development, and the flexibility to meet multiple community objectives. The proposed rules will support local governments already working to address Mississippi River conservation issues and provide improved guidance to those local governments not yet addressing these issues.

The proposed rules establish standards to guide new development and redevelopment in the corridor, which may change how property is developed. Thus, all persons who own, manage, or develop lands within the MRCCA could experience potential costs and benefits associated with the proposed rules.

These persons, as well as members of the public, will benefit because the MRCCA rules will require management of the MRCCA as a multi-purpose resource, providing for:

- conservation of the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor;
- maintenance of the river channel for transportation by providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the Mississippi River and riverfront;
- the continuation and development of a variety of urban areas, including industrial, commercial, and residential uses, where appropriate, within the MRCCA;
- use of certain reaches of the river for water supply and as a receiving water for properly treated sewage, stormwater, and industrial waste effluents; and
- protection and preservation of the biological and ecological functions of the MRCCA.

Additionally, the proposed rules clarify the standards imposed by Executive Order 79-19, which will benefit all persons with a property interest in the corridor as well as members of the public. Most aspects of the rules will not result in substantive changes and are not expected to have an effect on persons with property interests within the MRCCA. The rules are designed to ease implementation, increase efficiency, eliminate ambiguity, and simplify administrative procedures for local governments and agencies to administer. Substantive changes in the proposed rules compared to the standards in Executive Order 79-19 are identified in the rule-by-rule analysis.

**2. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**

Both the DNR and certain state and regional agencies will incur costs to implement and enforce the proposed rules.

DNR administrative costs for the MRCCA program currently include the cost of: providing technical assistance to local governments, reviewing discretionary actions, and reviewing and approving amendments to local plans and ordinances. These costs are presently incurred by the DNR as part of its operating budget and would continue after rule adoption. These costs vary depending on the number of local plan and ordinance amendments submitted to the DNR for review, the number of projects requiring discretionary actions by local governments and review by the DNR, and the number of DNR appeals of local decisions. This regular work undertaken by the DNR to administer the program is anticipated to be no greater under the proposed rules than under the Executive Order and, therefore, does not require an increase in DNR costs, except to the extent that local plans and ordinances will need to be brought into compliance with the proposed rules as described below.

The DNR will have additional costs as the 30 local governments in the MRCCA prepare or amend plans and ordinances to comply with the proposed rules. DNR review and approval of these plans and ordinances will require a substantial commitment of staff time. To moderate the impact of these costs, adoption will be spread out over a number of years. The DNR also intends to facilitate the transition to the new rules by:

- developing model plans and ordinances, model mitigation measures, maps, and other tools to aid local implementation;
- working with the Metropolitan Council and local government staff to develop a notification/adoption schedule;
- working with the Metropolitan Council to provide guidance, training and resources to local governments;
- developing a review and tracking system to monitor progress;
- assisting local governments with preparing and submitting updated plans and ordinances;
- coordinating with Metropolitan Council staff to review and approve local plans and ordinances; and
- assisting with local education and outreach efforts once ordinances are adopted.

There will be costs to develop these materials. These costs would be covered either with additional funding or by reassigning staff.

The Metropolitan Council is currently charged with reviewing plans and ordinances. The proposed rules would not change or add new responsibilities to the Metropolitan Council. As such, the costs for the Metropolitan Council are anticipated to continue at current levels and are a part of the agency's budget. Metropolitan Council costs largely depend on the number of local plan and ordinance amendments, which will increase when local plans and ordinances are brought into compliance with the proposed rules as described above.

Aside from the requirements noted above, the proposed rules should not result in significant additional costs to other state or regional agencies, since these agencies are not required to submit plans to the DNR for properties they own or manage within the MRCCA. However, state and regional agencies such as the Minnesota Department of Transportation and the Metropolitan Airports Commission may incur nominal costs to ensure that their site plans and projects comply with these rules.

The proposed rules would not be expected to have a positive or negative impact on state revenues.

**3. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.**

The Legislature, in 2009 and again in 2013, directed the DNR to develop rules to protect and preserve the MRCCA and adjacent lands that the legislature believed to be unique and a significant resource to the state while recognizing the historical, cultural, transportation, economic and resource values of the MRCCA to the state and the nation. Minn. Stat. § 116G. 15, subd. 1 (2015). Meeting the purpose and objectives of the statute requires a mechanism for assuring a certain degree of uniformity in land use across a 72- mile river corridor encompassing five counties and 25 cities and townships. Accomplishing the necessary uniformity across this landscape without engaging in rulemaking would be virtually impossible as demonstrated by the inability of Executive Order 79-19 to adequately address the objectives of the MRCCA.

The framework for rule development for the MRCCA is set forth in Minn. Stat. § 116G.15. In developing the rules, the DNR:

- looked at those provisions in the Executive Order 79-19 that have historically worked well in protecting the MRCCA;
- looked at other land use rules and regulations in other programs that have historically been successful at protecting similar resources as those sought to be protected in the MRCCA;
- identified those provisions in Executive Order 79-19 that have not historically worked well and modified them to make them functional; and
- identified key issues not addressed in Executive Order 79-19 but identified in Minn. Stat. § 116G.15 as requiring protection and developed rules to provide the required protection.

This approach enabled the DNR to determine less costly or less intrusive methods for achieving the purpose of the proposed rules as identified by the Legislature.

Using those provisions of Executive Order 79-19 that have historically worked well as a baseline for the rules will reduce the scope and cost of the changes imposed on communities within the MRCCA and is less intrusive than imposing completely new standards. Thus the proposed rules are based on the existing administrative framework established by Executive Order 79-19 that is already familiar to local governments.

Many of the proposed rules are clarifications or refinements of Executive Order 79-19 or are based on existing local, regional, and state regulations that also apply within the MRCCA. Those provisions of Executive Order 79-19 that were retained were reviewed to insure that they addressed current conditions within the MRCCA. The proposed rules include modernized standards, clearer provisions, and flexibility within districts that achieve the regulatory purpose of Minn. Stat. § 116G.15.

A primary goal of the rules is to reduce complexity and be less intrusive for property owners, developers, and local governments wherever possible by focusing on the specific development impacts on those key resources and features identified in Minn. Stat. § 116G.15. The proposed rules recognize the diversity of development across the MRCCA by establishing districts that better reflect existing and planned future development, while deferring to local governments' underlying zoning where local zoning meets the purposes of the rules, and by providing flexibility to local governments to address special circumstances where it is possible to do so and still meet the underlying the purpose of the MRCCA. This approach is a less intrusive method for achieving the purposes of the MRCCA.

For those issues not adequately addressed by Executive Order 79-19 or that were inadequately addressed by other existing regulations, new standards were developed. In these cases, it was necessary to establish new provisions to address these issues that meet the requirements in Minn. Stat. § 116G.15. DNR was mindful of costs and potential intrusion on local control and property rights when developing these necessary provisions.

Specific standards and evaluation of other methods considered are described in greater detail in the rule-by-rule analysis.

**4. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.**

The 2008 DNR report to the Legislature identified several non-rulemaking approaches to accomplish the preservation and protection goals for the MRCCA set forth by the Legislature in Minn. Stat. § 116G.15. Those approaches included:

- moving MRCCA administration to other DNR programs/units or to other state or local agencies;
- enhancing the existing program structure and authorities;
- modifying the current program or process;
- increasing oversight of local decisions;
- educating local governments about the importance of protecting properties within the MRCCA;
- providing financial incentives to encourage adoption of land use practices to protect critical areas within the MRCCA;
- acquiring easements and property of particularly critical natural, aesthetic, cultural, historic or other resources within the MRCCA; and/or
- providing voluntary standards for local governments to adopt.

The 2009 and 2013 Minnesota Legislatures determined that these mechanisms would not adequately protect the state's broad interests across the MRCCA and determined that the best and most equitable mechanism to protect the MRCCA was through a uniform rule applied across the MRCCA. The Legislatures, therefore, directed the DNR to develop rules establishing new districts within the MRCCA, standards and guidelines for development within each district, and rules for administration of the MRCCA program. Minn. Stat. § 116G.15, subds. 2-4 (2015).

**5. The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.**

The DNR has conducted an analysis to assess the potential cost of complying with the proposed rules. Local governmental units and other agencies already expend resources to comply with the requirements of Executive Order 79-19, therefore, it is anticipated that these governmental units will only incur modest changes in the direct or indirect costs of complying with the proposed rule. Changes that may require additional effort on the part of these governmental units include:

- new permit requirements proposed for management of vegetation and land alteration/ stormwater in specified areas, ADA-compliant facilities, aggregate mining and extraction, and wireless communication facilities;
- notification of the National Park Service and adjoining local governments of certain discretionary actions, such as variances and conditional uses; and
- likely updates to local government MRCCA plans and ordinances as a result of district and standard changes. However, DNR intends to assist local governments by developing model

ordinances, providing educational materials and training, and assisting local governments directly in development of plans and ordinances.

In October 2014, the DNR sent a cost survey to all local governments within the MRCCA asking them to estimate the cost to update their MRCCA plan and ordinance. With a few exceptions, total costs per local government were under \$20,000. (See Table 1.)

**Table 1: Cost Estimates for Local Governments to Amend MRCCA Plans and Ordinances**

Local Government	Critical Area Plan Amendment Cost	Critical Area Ordinance Amendment Cost	Total	Small City (<10 FTE)
City of Anoka	\$3,925	\$26,775	\$30,700	N
Anoka County	NA	NA	NA	N
Brooklyn Center	\$6,750	\$10,000	\$16,750	N
Brooklyn Park	\$50,000	\$50,000	\$100,000	N
Champlin	\$7,250	\$2,850	\$10,100	N
Coon Rapids	\$2,650	\$2,650	\$5,300	N
Cottage Grove	\$2,960	\$5,920	\$8,880	N
Dakota County	NA	NA	NA	N
Dayton	\$2,370	\$1,360	\$3,730	N
Denmark Township	\$5,440	\$8,100	\$13,540	Y
Fridley	\$3,750	\$4,500	\$8,250	N
Grey Cloud Island Township	\$30,000	\$25,000	\$55,000	Y
Hastings	\$1,060	\$1,860	\$2,920	N
Hennepin County	NA	NA	NA	N
Inver Grove Heights	\$4,375	\$5,515	\$9,890	N
Lilydale	\$5,000	\$15,000	\$20,000	Y
Maplewood	\$4,500	\$4,500	\$9,000	N
Mendota	\$6,850	\$3,500	\$10,350	Y
Mendota Heights	\$3,350	\$4,650	\$8,000	N
Minneapolis	\$190,896	\$19,184	\$210,080	N
Newport	\$7,190	\$9,990	\$14,990	N

Nininger Township	TBD	TBD	TBD	Y
City of Ramsey	TBD	TBD	TBD	N
Ramsey County	NA	NA	NA	N
Ravenna Township	TBD	TBD	TBD	Y
Rosemount	\$19,470	\$8,470	\$27,940	N
St. Paul	TBD	TBD	TBD	N
St. Paul Park	\$5,430	\$6,690	\$12,120	N
South St. Paul	\$10,450	\$8,600	\$19,050	N
Washington County	NA	NA	NA	

6. The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.

A body of literature entitled *Lakeshore Property Values and Water Quality: Evidence from Property Sales in the Mississippi Headwaters Region* establishes that there is a positive relationship between water quality and natural landscapes and property values.<sup>4</sup> Thus it is anticipated that persons owning or developing property within the MRCCA (all affected parties identified in question #1) will benefit economically from the amenities that the proposed MRCCA rules are intended to preserve. The failure to adopt the proposed standards and the protections they afford to the resources within the MRCCA could result in damage to those resources and an associated economic loss in benefits presently existing within the MRCCA.

The public would also bear the consequences of insufficient protection of, and access to, the river and surrounding corridor should these rules not be adopted. These consequences may include poor water quality, erosion and sedimentation from improperly managed shorelines, less resilient fish and wildlife populations, alteration of scenic resources, limited recreational resources, and the loss of natural shorelines, bluffs, and native plant communities. These consequences, in many cases, translate to economic costs including increased costs of water purification for drinking water, invasive species control, and increased dredging costs to maintain transportation channels.

There may also be indirect costs to the public and property owners if the proposed rules are not adopted, including restoration and remediation expenses for degraded resources, fewer tourism and recreational dollars spent in local communities, and decreased economic development potential.

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<sup>4</sup> Krysel, C., E. Marsh Boyer, C. Parson, and P. Welle. 2003. *Trust for Public Land*, 2007.

Additional consequences of not adopting the proposed rule are:

- the DNR may need to assess the current oversight and/or enforcement of MRCCA plans and ordinances adopted under Executive Order 79-19, and take action to compel compliance with the MRCCA program;
- the application of outdated and ambiguous development standards in the MRCCA;
- the application of inconsistent local ordinances across communities in the MRCCA;
- inflexible and outdated districts in the MRCCA that do not reflect changing land uses;
- reduced water quality protection from nonpoint sources in the MRCCA;
- weakened protection of shorelines and bluffs;
- lack of open space protection during the subdivision process;
- uncertainty for businesses, developers, and stakeholders of rule standards; and
- an uneven playing field for regulators and regulated parties.

**7. An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.**

The proposed rules do not conflict with federal regulations. Other regulations that apply within the MRCCA that are subject to federal standards, such as floodplain regulations, would not be affected by the proposed rules. The proposed rules do not regulate facilities or properties owned or managed by the federal government.

**8. An assessment of the cumulative effect of the rule with other state regulations related to the specific purpose of the rule.**

A "cumulative effect" assessment requires the assessment of the incremental impact of the proposed rule in conjunction with other rules, regardless of the state or federal agency that adopted the other rules. Minn. R. 14.131. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time. Generally, the proposed rules refer to, rather than add to, other federal and state regulations (i.e. feedlots, stormwater, etc.) to minimize conflict and cumulative effects. In the event that there is a conflict, the proposed rules clarify that the more restrictive regulation applies. The sole exception is the state's shoreland management rules.

The MRCCA rules will overlap with the state shoreland management rules set forth in Minn. R. Ch. 6120, which are implemented by communities through local shoreland management ordinances. The boundary of the shoreland district in the shoreland rules is 300 feet from the ordinary high water level of rivers or the outer extent of any existing floodplain, whichever is greater. Minn. R. 6120.2500, subp. 15 (2015). The boundary of the MRCCA varies throughout the corridor but is almost always greater than the shoreland district established in the shoreland rules. On land covered by both the MRCCA and shoreland districts, both sets of standards will apply, with the more restrictive standards taking precedence.

For example, in some instances the proposed MRCCA rules have more restrictive standards for structure and bluff setbacks, subdivisions, vegetation removal, and land alteration than the shoreland management program. Thus in the MRCCA these standards would take precedence over

the shoreland requirements. On the other hand, both rules regulate stormwater management but do not have overlapping regulations. The shoreland rules limit impervious surface to 25% of a lot area, whereas the proposed MRCCA rules do not limit impervious surface coverage as a percentage of lot area. However, the proposed MRCCA rules prohibit impervious surfaces in certain areas and require stormwater treatment for new or fully reconstructed impervious surface of more than 10,000 square feet in near shore areas. Thus it is possible in this case to fully comply with both rules on a single property.

Finally, in a number of areas there is no overlap between the proposed MRCCA rules and the statewide shoreland rules. For example, the shoreland management program regulates lot area and width while, with one exception, the proposed MRCCA rules do not. Thus, there may be no issue in applying both sets of regulations to a single property.

## **Performance-Based Rules**

To best achieve the goals of the MRCCA, the DNR incorporated numerous performance-based standards, including:

- standards designed to prevent negative impacts of development on MRCCA resources;
- a visual impact standard (“readily visible”) that is intended to assess the visibility of a proposed structure from the river from specified areas;
- requirements for on-site mitigation for variances and conditional use permits that are proportionate to the environmental impacts associated with the activities permitted by the variance or conditional use permit;
- regulations for nonconformities that are consistent with current land use statutes and provide additional flexibility for local governments and property owners;
- stormwater runoff reduction standards that are performance-based, providing flexibility in the means to achieve the standards; and
- incentives to create conservation subdivisions and developments that protect or enhance key features and resources.

## **Additional Notice Plan**

Additional notice of the proposed rules will be provided to individuals or groups who could be affected by the rules, using the following methods:

- Emailing the Notice of Intent to the same individuals and groups who were sent the Request for Comments in June 2014, and to additional individuals and groups, including the following:
  - GovDelivery subscribers to the DNR MRCCA Rulemaking Project
  - property owners who signed up to receive notifications via U.S. mail
  - local governments within the MRCCA
  - agencies listed in Minn. Stat. § 103F.211
  - U.S. Army Corps of Engineers

- U.S. Department of Interior, National Park Service
  - Metropolitan Council
  - persons who submitted comments or participated in work groups, public open houses, or other meetings
  - persons who have previously expressed an interest in or who are known to likely be interested in the rule amendments
- Distributing a news release to newspapers of major circulation within the MRCCA announcing the notice, hearing schedule, and proposed rules; and
  - Using the DNR website to inform the public of the hearing schedule and provide access to related documents.

The Additional Notice Plan also includes giving the following statutory notices:

- Mailing the rules and Notice of Intent to all persons registered on DNR's rulemaking mailing list established pursuant to Minn. Stat. § 14.14, subd. 1a.
- Mailing the draft rules to all persons who request a copy of the draft rules.
- Providing notice to the Legislature as required by Minn. Stat. § 14.116.
- The MRCCA has the potential to impact farming operations, thus a copy of the proposed rules will be provided to the Commissioner of Agriculture at least 30 days prior to publication of the rules in the State Register pursuant to Minn. Stat. § 14.111.

The Additional Notice Plan does not include notifying the state Council on Affairs of Chicano/Latino People because the MRCCA rules do not have a primary effect on Chicano/Latino persons (Minn. Stat. § 3.922).

### **Consultation With MMB on Impacts to Local Government**

The department will consult with Minnesota Management and Budget (MMB) as required by Minn. Stat. § 14.131. Prior to publishing the Notice of Intent, the DNR submitted the MRCCA rule package to MMB simultaneously with submission of the MRCCA rule package to the Governor's Office for review and approval. The documents included in the MRCCA rule package are: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The final submission to the Office of Administrative Hearing (OAH) shall include the MRCCA rule package and all correspondence between DNR and Management and Budget pertaining to the proposed MRCCA rule.

### **Determination About Rules Requiring Local Implementation**

The proposed rules require local governments to prepare or amend their MRCCA plans and ordinances, implement new districts, and meet or exceed the proposed MRCCA standards. The DNR, in consultation with the Metropolitan Council, will notify local governments to prepare or amend plans and ordinances, subject to the timeframes in the proposed rules.

## Cost of Complying for Small Business or City

Minn. Stat. § 14.127, subd. 1, provides<sup>5</sup> that:

An agency must determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$25,000 for: (1) any one business that has less than 50 full-time employees; or (2) any one statutory or home rule charter city that has less than ten full-time employees. For purposes of this section, "business" means a business entity organized for profit or as a nonprofit, and includes an individual, partnership, corporation, joint venture, association, or cooperative.

The timing of a rule's effect is set forth in Minn. Stat. § 14.38, which provides that a rule is effective five working days after the publication of the notice of adoption in the State Register.<sup>6</sup>

Proposed rule 6106.0070 requires the commissioner, in consultation with the Metropolitan Council, to develop an adoption schedule to be used for amending local plans and ordinances consistent with these rules. The schedule will align as closely as possible to the local governments' comprehensive plan update schedule set forth in Min. Stat. § 473.858 (2015). The commissioner must then notify local governments across the MRCCA of the schedule for adopting the provisions required by these rules. Zoning changes are not required to be made prior to publication of the adoption schedule.

It will take the commissioner time to develop the adoption schedule, prepare model plan and ordinance language, and provide training and other resources to aid local governments in updating their plans and ordinances to comply with the rules. As such, local governments across the MRCCA will not be required to begin work to amend and adopt MRCCA plans and ordinances to meet or exceed the standards set forth in these proposed MRCCA rules until the second year after adoption of these rules, at the earliest. According to the proposed rules, each local unit of government will be given at least one year to adopt their amended plans and ordinances after being notified by the commissioner to do so.

To establish the cost to local governments to implement the proposed MRCCA rules, the DNR surveyed local governments across the MRCCA to estimate implementation costs. The results of that survey are set out in Table 1 and indicate that the costs incurred by the individual local governments to accomplish this work may exceed \$25,000 depending on the complexity of their existing ordinances and the scope of changes needed to establish the new districts and applicable standards within their jurisdiction. Of those communities surveyed, only five small cities in the MRCCA are statutory or home rule cities as defined by Minn. Stat. § 14.127. Of these cities, Lilydale and Mendota indicated that the

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<sup>6</sup> Generally rules like these proposed rules, which require adoption or amendment of an ordinance, do not take effect upon publication in the State Register but require the agency to comply with a statutory waiting period set forth in Minn. Stat. § 14.128, subd. 1 and 2. In this instance, however, the rules are exempted from the statutory waiting period because the DNR was directed by law to adopt the rule. Minn. Stat. § 14.128, subd. 3 and Minn. Stat. § 116.15, subd. 3 and 4 (directing the commissioner to establish, by rule, districts and standards for districts within the MRCCA).

estimated costs of complying with the proposed MRCCA rule do not exceed \$25,000. Grey Cloud Island Township estimates that its costs will exceed the \$25,000 limit. Neither Nininger nor Ravenna townships provided cost estimates; however, the DNR does not anticipate that the costs of these townships to implement the rules will exceed \$25,000. Based on a comparison of existing to proposed zoning provisions such as height and setbacks in both townships, it appears that although the proposed MRCCA rules will add one new district in Nininger Township and two new districts in Ravenna Township, the proposed standards in those districts will not result in much change from current standards since the new proposed districts match current standards or refer to underlying zoning.

Because local governments will not be revising their local plans and ordinances one year after adoption of these rules, the proposed rules will not impact businesses within the MRCCA until, at the earliest, the second year after adoption of these rules. Therefore, Minn. Stat. § 14.127, subd. 1 is not applicable to the MRCCA rules as it pertains to small businesses. Notwithstanding the fact that the proposed MRCCA rules will not impact small businesses in the first year after the rules become effective, the DNR considered ways to minimize impacts to small businesses. Small businesses in the MRCCA are currently subject to local MRCCA plans and ordinances under Executive Order 79-19. In undertaking this analysis, the DNR used as a baseline those local plans and ordinances currently in effect within the MRCCA. While there is some variability among MRCCA communities, most ordinances include setbacks from shoreline and blufflines, and restrictions on placement of structures on bluffs consistent with the guidelines in Executive Order 79-19. Small businesses are already subject to zoning restrictions within the MRCCA, thus the proposed rules will not significantly change the regulations faced by small businesses, in most instances.

The DNR considered the following factors to minimize the impacts of the proposed rules on small businesses and other landowners within the MRCCA:

- MRCCA districts are designed to recognize current and planned land uses. Districts such as the Urban Mixed (CA-UM), Urban Core (CA-UC), and the River Towns and Crossings (CA-RTC) districts are designed to provide flexibility in height and structure placement in highly developed, redeveloping, or transitional areas where most commercial and industrial uses are located. Proposed Minn. R. 6106.0100.
- The proposed rules include numerous exemptions from height and setback requirements for river-dependent uses, including businesses such as marinas and barge operations. Proposed Minn. R. 6106.0110, subp. 6 and 6106.0180.
- At the request of business interests, the proposed rules allow for the maintenance and repair of existing buildings in the bluff impact zone. Proposed Minn. R. 6106.0160, subp. 3.A.(3)
- Limitations on development and expansion in the bluff impact zone will provide increased protection for businesses with structures close to the bluffline against slope failure, a demonstrated hazard within the MRCCA, as discussed below under "Bluff Protection Standards." Proposed Minn. R. 6106.0120, subp. 3. These protections will result in a decrease in property damage and may result in a decrease in insurance premiums.

Finally, small businesses already in existence would not be subject to additional restrictions, except in cases where these businesses choose to expand or redevelop. In cases where these businesses include

nonconforming structures, those structures are already protected under Minn. Stat. §§ 394.36 and 462.357, subd. 1e (2015). In addition, the proposed rules provide local governments with the option of allowing nonconforming principal structures to expand laterally into required setbacks, consistent with many local MRCCA ordinances. Proposed Minn. R. 6106.0080, subp. 3.C. Expansion of structures, driveways and parking areas would also be subject to the vegetation management standards in proposed Minn. R. 6106.0150, and to land alteration and storm water management standards in proposed Minn. R. 6106.0160. Costs associated with these activities are not expected to differ significantly from costs already incurred in applying for local permits.

Some impacts to businesses, including small development firms and builders, could occur in conjunction with subdivision of land for residential development. The requirements for open space set-asides in most MRCCA districts could result in additional costs for management of the open space and design and construction of trails or other common amenities. However, these additional costs are typically offset by lower costs for development of roads and installation of utilities, since more compact development patterns equate to shorter roads and utility runs. Under most conservation design ordinances, density is the same, or even higher, than under conventional development, so the development value of a parcel is not diminished. Moreover, the presence of common open space, trails and other amenities can result in increased property values over time.

## List of Witnesses

If these rules go to a public hearing, as proposed, the department anticipates having the following personnel involved in representing the DNR at the administrative hearing on the need for and reasonableness of the rules:

Legal Counsel: Sherry A. Enzler  
DNR General Counsel

Witnesses:	Julie Ekman Manager, Conservation Assistance & Regulation Section	Jennifer Shillcox Supervisor Land Use Programs Unit
	Dan Petrik Land Use Specialist	Suzanne Rhees Water Policy Consultant

## Bluff Protection Standards

### Purpose

Protection of bluffs in the MRCCA was a major focus of this rulemaking, and the subject of much debate, input, and analysis. Protection of bluffs is important to reduce erosion and slope failure within the MRCCA, as well as to maintain habitat and the MRCCA's iconic scenic character. The proposed bluff protection standards in these rules prohibit structures, impervious surfaces, vegetation removal, and land alteration on bluffs and in the bluff impact zone, with some exceptions. The proposed standards also require structures to be set back from the top of bluffs. Standards implementing these protections are described in the rule-by-rule analysis. This section establishes the need for these standards and consolidates the key bluff-related definitions and the underlying technical parameters used to develop the standards.

### Bluff Erosion and Failure Concerns

The geology across the MRCCA is variable, with both glacial sediments and bedrock at the surface. These geological features are prone to erosion and natural instability. The northern portion of the MRCCA has more glacial deposits, including outwash, alluvium, colluviums, and terraces. These unconsolidated materials are sensitive to disturbance and susceptible to erosion. Downstream in the gorge area between Minneapolis and St. Paul, bedrock deposits are more prevalent. In the southern portion of the MRCCA, limestone, shale and sandstones form cliffs and outcroppings. These rocks are susceptible to fracturing, sliding, and other stressors. These glacial and bedrock materials can be unstable and are subject to slumping, sliding, creep, and erosion when exposed to stresses such as construction activities, stormwater runoff, structure placement, vegetation removal, and land alteration. Springs and seeps are the natural outlets of ground water in bluff environments, and are common in these bedrock outcroppings and cliff areas, where they contribute to slope creep, erosion and failure. (Figure 2 illustrates a bluff face with seeps.)

Slope erosion is a concern throughout the MRCCA. In August 2008, the Mississippi Water Management Organization (MWMO) conducted an inventory of toe, bank, and upland erosion along the east and west banks of the Mississippi River from I-694 south to the Ford Dam. A number of the inventoried riverbank sub-reaches showed signs of erosion and were identified as highly susceptible to future erosion<sup>7</sup>.



Figure 2. These icicles form at "the weeping wall" and emerge from beds within the Platteville Limestone. This photo was taken just down-river from the 2014 Fairview Hospital landslide in Minneapolis. Photo by Carrie Jennings.

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<sup>7</sup> Mississippi Watershed Management Organization, 2010.

Actively eroding and/or failing bluffs have also been identified as problems by citizens and government officials in the Lilydale, Mendota, and Mendota Heights area. Heavy rains over the past decade - including those in June 2014 - led to significant erosion and the failure of some bluffs within the MRCCA, including failures off Highway 13 in Mendota Heights (see Figure 3) and below Fairview University Hospital in Minneapolis. With FEMA funding, the DNR conducted an investigation<sup>8</sup> of these and other bluff failures associated with the June 2014 rain events in the Mississippi and Minnesota River valleys<sup>9</sup>. The structural geologist conducting this evaluation found that all failed bluffs within the MRCCA had slopes had been modified for building foundations, stormwater management facilities, or road construction, and that these modifications contributed to bluff failure. In these particular instances the bluff failures also resulted in significant damages to built infrastructure.



Figure 3. Highway 13, Great Rivers Trail failure in Mendota Heights. Photo from <http://www.myfoxtwincities.com/story/25740202/mudslide-closes-highway-13-in-mendota>.

Bluffs also need protection because they provide wildlife habitat and support native plant communities. As illustrated by Minnesota's Land Cover Classifications System (MLCCS), a GIS-based classification system, there is a greater occurrence of native flora and fauna along bluffs and steep slopes<sup>10</sup>.

Better corridor-wide management practices addressing structure placement and vegetation, land alteration, and stormwater management can reduce the risk of soil erosion and bluff failure as well as economic loss and human injury.

### Current Regulatory Status

Executive Order 79-19 does provide special protection of "bluffs with a slope greater than 18 percent," but does not define the term "bluff." Executive Order 79-19 does, however, define a bluffline as "a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent" and establishes a 40 foot structure setback from the bluffline. Executive Order 79-19 also limits certain vegetation and land alteration activities within the bluffline setback and prohibits new structures on slopes 18 percent or greater.

An examination of local ordinances within the MRCCA indicates that currently bluff definitions and standards vary widely across communities, as does administration of those requirements in local zoning ordinances. Many communities simply define a bluff as any slope greater than 18 percent, while others define them as slopes ranging from 12 percent to 40 percent. Some communities have specified the spatial extent of bluffs through use of minimum horizontal and/or vertical distances over which the

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<sup>8</sup> Jennings, C. 2015.

<sup>9</sup> <http://www.dnr.state.mn.us/mlccs/index.html>

<sup>10</sup> <http://www.dnr.state.mn.us/mlccs/index.html>

defined slope percentage is measured. Many local government definitions do not address the difference between natural and man-made slopes. Because of vague definitions and variations in the administration of local ordinances, the placement of buildings along bluffs, land alterations on bluffs, and vegetation management practices on bluffs are all inconsistent across the MRCCA. These inconsistencies coupled with the potential catastrophic impacts of unsafe bluff development support the need to redefine and reestablish development guidelines for those areas of the MRCCA with bluffs.

### Determining New Bluff Definitions

The development of the bluff definition in the proposed MRCCA rules was premised on the dual goal of protecting sensitive bluff features while minimizing the creation of new nonconforming structures within areas of significant existing development. In an effort to achieve the latter goal, the 18 percent slope parameter was retained from Executive Order 79-19 because it was a standard widely adopted by local governments and accepted by environmental organizations. The DNR in consultation with local governments and other stakeholders then used GIS imaging to evaluate six combinations of bluff height and width parameters within the MRCCA. The purpose of this analysis was to determine which height and width parameters would meet the dual goals of minimizing nonconformities while protecting bluff systems.

The analysis began with a preliminary bluff map that had been prepared by the DNR in 2009 in response to a legislative directive that defined bluffs as having a slope of 18 percent or greater with a vertical rise of at least 10 feet. Minn. Laws 2009, ch. 172, art. 2, § 27, subd. 4 (pages 2484 - 2485) codified at Minn. Stat. § 116G.15 (2010). During the 2009/2010 rulemaking process local governments pointed out that this definition would create many nonconforming structures. While the 2013 Legislature repealed this bluff definition, the 2009 map was used as baseline for comparing other alternatives. *Cf. Id.* and Minn. Stat. § 116G.15 (2015).

Figure 4 compares the 2009 baseline definition and the proposed bluff definition. It shows that many existing structures (building footprints outlined in red) are captured by the 2009 bluff definition (shown in purple) and would thus be nonconforming structures under that definition, creating problems for property owners and local governments.

Alternatively, significantly fewer structures were captured by the proposed bluff definition (shown in green), but the definition still

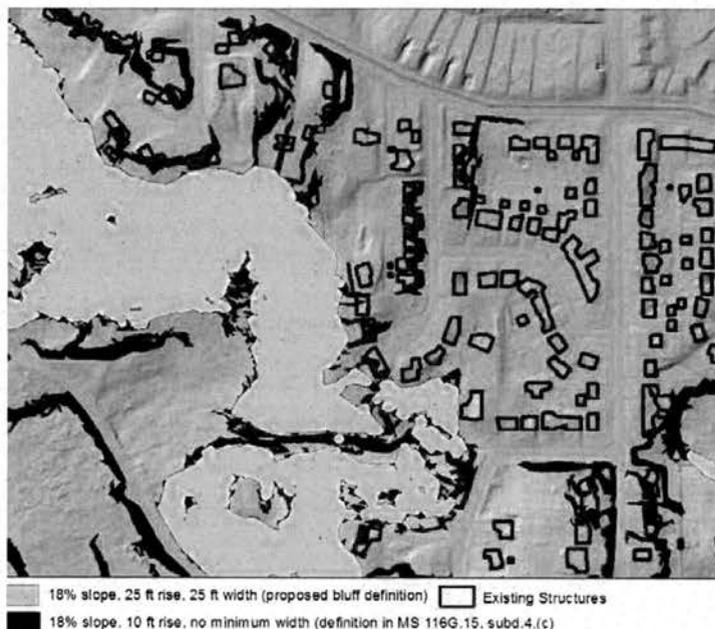


Figure 4: Comparison of bluff definitions. The areas shown in purple would be covered under the 2009 (baseline) definition; the areas in green are covered by the proposed definition.

protects the major bluff systems. Figure 4 shows the analysis for a portion of the Highwood neighborhood in St. Paul. Similar results were found when analyzing other sites in six other local governments across the MRCCA.

After many analytical iterations and field verification, it was determined that a bluff defined as a feature with an 18% slope rising 25 feet over a 25 foot width would provide the best balance between resource protection and minimizing the creation of new nonconforming structures. This definition (as shown in green in Figure 4) eliminated most minor topographic variations such as grading for driveways, yet encompassed the iconic bluffs that characterize the river corridor, as well as natural vegetation and habitat systems.

Before advancing this definition for inclusion in the MRCCA rules, DNR staff conducted field visits to understand how different bluff definitions might affect topographic, ecological, and scenic resources. Examples of structures located on 18% slopes with a vertical rise of at least 10 feet (indicated by the red outlined structures overlapping the purple shaded area in Figure 4) are shown below in Figures 5 and 6.



**Figure 5: Example of property on 18% slope rising at least 10 feet.**



**Figure 6: Example of property on 18% slope rising at least 10 feet.**

These properties are in established urban neighborhoods, on isolated 18% slopes with little natural vegetation. These properties have very similar topography and vegetation to other nearby properties that are not in the MRCCA. The DNR did not find any significant erosion risks in these areas or ecological or scenic resources to protect. Most of these properties are not visible from the river; however, some are located within 40 feet of bluffs as defined by the proposed definition, and would need to meet the bluff setback requirements set forth in proposed Minn. R. 6106.0120 or would be considered nonconforming.

Figures 7 and 8 show examples of properties that are in the bluff impact zone (BIZ) and would thus be regulated under the proposed rules. Figure 7 shows structures built on the top of the bluff overlooking the river corridor. Figure 8 shows structures built into the toe of the bluff. In these areas, bluffward expansion and future vegetation and land alteration activities would need to conform to the proposed rules.



Figure 7: Existing structures near top of bluff under proposed bluff definition.



Figure 8: Existing structures near bottom of bluff under proposed bluff definition.

## Rule Proposal

The proposed rules provide a uniform set of specific bluff and bluff related definitions to insure consistent and equitable treatment of development across the MRCCA. The definitions also allow bluff features to be easily mapped by local governments using widely available mapping software. The DNR has developed a bluff mapping tool that can be used by local governments with ArcMap, a GIS mapping software, to map defined bluff features within their communities.

The proposed bluff definition retains the 18 percent slope criterion established in Executive Order 79-19, but adds additional parameters to ensure that bluff complexes, rather than isolated slopes, are protected:

Proposed Minn. R. 6106.0050, subp. 10 defines a *bluff* as a natural topographic feature having either of the following characteristics:

- A. a slope that rises at least 25 feet above the ordinary high water level or toe of the slope to the top of the slope; and the grade of the slope from the ordinary high water level or toe of the slope to the top of the slope averages 18 percent or greater, measured over a horizontal distance of 25 feet; or
- B. a natural escarpment or cliff with a slope that rises at least 10 feet above the ordinary high water level or toe of the slope to the top of the slope with an average slope of 100% or greater.

Subpart 10.B. was added to ensure that isolated cliffs and rock outcrops such as Robinson's Rocks in Gray Cloud Island Township are protected. These features, which are often nearly vertical, would otherwise not be captured by the bluff definition.

The proposed definition also clarifies that a *bluff* is a "natural topographic feature" to differentiate natural features, which the rules seek to protect, from man-made features. The various bluff protection standards do not apply to man-made features such as highway and railroad embankments, road ditches, and reclaimed slopes.

A variety of bluff-related definitions are used to define the specific spatial extent of a *bluff*, the scope of required bluff protections, and to improve the ability of local governments to administer the rules. When determining the limits of a *bluff* it is important to clearly define where the *bluff* begins and ends. The following definitions were developed to aid in this determination. These definitions will be used to map bluff features when reviewing development proposals and for accurate delineation by surveyors "in the field":

- A *bluffline*, which is a line delineating the top of the bluff. Proposed Minn. R. 6106.0050, subp. 10. More than one bluffline may be encountered proceeding landward from the river. *Id.*
- The *toe of the bluff* is 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. Proposed Minn. R. 6105.0050, subp. 77.
- The *top of the bluff* is 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. Proposed Minn. R. 6105.0050, subp. 78.

While bluff mapping software can estimate the general location of *bluffs*, field verification by a land surveyor is needed to identify *blufflines*. The location of the *bluffline* is particularly important in determining the placement of a structure on a lot and determining the height of a structure. *See e.g.* Proposed Minn. R. 6106.0120, subps. 2 and 3B (regarding the height of structures in relation to the *bluffline* and *bluffline* setback requirements).

The *toe of bluff* and *top of bluff* definitions are derived from the state shoreland rules. Minn. R. 6120.2500, subps. 1b and 1c (2015). However, the proposed MRCCA rule uses a 25-foot horizontal segment instead of the 50-foot horizontal segment used in the statewide shoreland rules. *Cf.* Minn. R. 6120.2500, subp. 1b (2015) and Proposed Minn. R. 6105.0050, subp. 11. The 25-foot horizontal segment was used to provide a finer resolution of these features systems within the MRCCA, which is more heavily developed than the typical shoreland district.

The concept of the *bluff impact zone* is the bluff and area around the bluff that will be protected by the proposed MRCCA rules. As illustrated in Figure 9, the *bluff impact zone* includes the bluff and land within 20 feet (from the top, sides, and toe) of the bluff. Proposed Minn. R. 6105.0050, subp. 9. The *bluff impact zone* is based on the definition used in the shoreland rules but includes the sides and toe of the bluff as protected areas. *Cf.* Minn. R. 6120.2500, subp. 1c (2015) and Proposed Minn. R. 6106.0050, subp. 9.

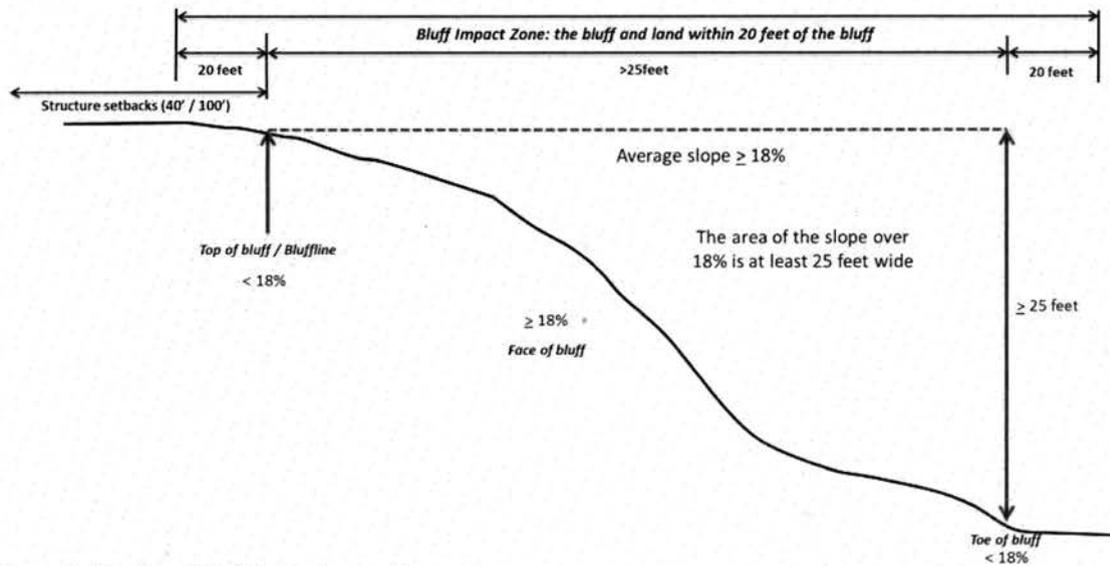


Figure 9. Bluff and bluff impact zone diagram.

The development and land use standards tied to the *bluff impact zone* in the proposed MRCCA rules are more restrictive than those in the shoreland rules. Minn. R. 6120.3300, subp. 4 (2015), Proposed Minn. R. 6106.0120, subp. 3 and 6106.0150. The proposed MRCCA rules prohibit the placement of structures, land alteration, vegetation clearing, stormwater management facilities, and most construction activities in the bluff impact zone. The proposed MRCCA rules do, however, allow some limited exceptions to these restrictions such as for public utilities and recreational access to the river. This greater degree of protection is necessitated by development pressures on bluffs throughout the river corridor, and the susceptibility of these features to erosion and slope failure.

## Rule-By-Rule Analysis

### 6106.0010 Policy

The policy statement for the proposed MRCCA rules is derived from and consistent with Executive Order 79-19 and the original Executive Order 130 (1976), which established the MRCCA within the Twin Cities Metropolitan area. The MRCCA rules are intended to use coordinated planning to “achieve development [within the MRCCA] as a multipurpose resource, resolve the conflicts of use of land and water, preserve and enhance its natural, aesthetic, cultural, and historical value for the public use, and protect its environmentally sensitive areas.”

### 6106.0020 Purpose

The five statements of purpose for the MRCCA rules are drawn from Minn. Stat. § 116G.15, Subd. 1 (2015) and reflect the purposes of the MRCCA designation as set forth in Executive Order 79-19 (Section A, 3 S.R. 1692, Standards and Guidelines for Preparing Plans and Regulations).

### 6106.0030 Scope

This part lays out the jurisdiction and scope of the rules, the general roles and responsibilities of governmental entities with jurisdiction or property within the MRCCA in furthering the purposes of the rules, and the applicability of conflicting rules, ordinances and regulations to the MRCCA:

**Subpart 1: Applicability.** The proposed MRCCA rules are applicable to all lands and public waters within the jurisdictional boundaries of the MRCCA.

**Subparts 2 and 3: Government actions and state land.** These subparts specify the general responsibilities of all governmental units with jurisdiction or property within the MRCCA for furthering the purposes of the proposed MRCCA rules as provided by Minn. Stat. § 116G.15, subd. 5 (2015). These rules are applicable to state and local units of government.

**Subpart 4: Conflicting standards.** This subpart addresses the issue of conflicts between the proposed MRCCA rules and local ordinances, state rules, or any other regulation. Where such a conflict exists, the most protective provisions apply. This is consistent with similar provisions in many other state rules.

**Subpart 5: Superseding standards.** This subpart clarifies that the proposed MRCCA rules supersede the Environmental Quality Board (EQB) rules with respect to management of the MRCCA. The EQB rules, Minn. R. 4410.8100 to 4410.9910 (2015), will remain, however, as they are applicable to the designation and administration of other critical areas in general. The MRCCA is the only critical area in existence at the time that these rules are being proposed.

### 6106.0050 Definitions

In the course of developing the proposed MRCCA rules, 86 terms were identified as requiring definitions. It was important to define these particular terms because many will be incorporated into local zoning ordinances, and consistency in terminology across the MRCCA is essential. Many of the definitions borrowed heavily from definitions already used by local government in existing ordinances. Of these terms and definitions:

- Fifteen of the terms and their associated definitions refer to or are derived from Minn. Stat. § 116G.15 (2015) or Executive Order 79-19. These include the definitions for: *adjacent*; *barge fleeting*; *bluffline*; *developer*; *development*; *discretionary action*; *essential services*; *local government*; *off-premise advertising signs*; *parcel*; *public transportation facilities*; *setback*; *steep slope*; *transmission services*; and *treeline*. Because Minn. Stat. § 116G.15 (2015) and Executive Order 79-19 are the guiding documents for this rulemaking, using existing definitions from these documents provides consistency across rules and statutes and continuity over time.
- Twenty-one of the terms and their associated definitions were derived from existing terms and definitions in other state statutes or rules, including: *agricultural use*; *conditional use*; *dock*; *electric power facilities*; *feedlot*; *floodplain*; *interim use*; *lot*; *marina*; *mooring facility*; *nonconformity*; *ordinary high water level*; *plat*; *port*; *public waters*; *storm water*; *subdivision*; *subsurface sewage treatment system*; *variance*; *wetlands*; and *wharf*.
- The remaining terms and definitions are new. Many of these new terms and definitions are derived from current terms and definitions in other state statutes or rules and have been modified to achieve the purposes of the MRCCA rules.

Proposed definitions that are central to the proposed MRCCA rules and that differ from existing definitions in Minnesota Statutes, Minnesota Rules, or Executive Order 79-19 (beyond minor grammatical changes or technical updates) or that require an explanation are described in more detail below.

#### ***Bluffs and Related Terms***

Bluff protection was one of the most closely analyzed issues in the rule development process. The proposed rules provide a uniform set of specific bluff and bluff related terms and definitions - including *bluff*, *bluff impact zone*, *bluffline*, *toe of bluff* and *top of bluff* - to ensure consistent and equitable treatment of development across the MRCCA. As defined, bluffs and bluff features can be easily mapped by local governments using widely available mapping software, including a bluff mapping tool the DNR has developed for use with ArcMap, a GIS mapping software.

The proposed terms, definitions, and associated protection standards for bluffs and bluff features are described in detail in the "Bluff Protection Standards" section of this SONAR. See *Supra* at 22-28 discussing the need for bluff protection, proposed terms and definitions, and the rationale for specific bluff standards within the MRCCA.

#### ***Buildable Area***

This term identifies areas that are available for development on a lot or parcel within the MRCCA as provided in the proposed MRCCA rules. *Buildable area* does not include the resources and features identified for protection in Minn. Stat. § 116G.15, subd. 4 (2015), and does not include setback areas and other areas specified for protection by the MRCCA rules. This term is used in proposed dimensional standards in 6106.0120, subp. 4.B. to ensure that newly created lots have adequate room for development without needing a variance. Local governments requested that this definition be provided to minimize confusion and disputes over whether certain areas are suitable for development.

### **Conservation Design and Conventional Subdivision**

Both *conservation design* and *conventional subdivisions* are allowed under the proposed rules. *Conservation design* is a pattern of subdivision that is characterized by grouping lots within a portion of the parcel to permit the remaining portions of the parcel to be protected as open space. Proposed Minn. R. 6106.0050, subp. 16. *Conventional subdivision* is a traditional lot and block type of development that was the primary method of development when the MRCCA was designated. *Conservation design* provides local government with the option of allowing smaller lot sizes within the MRCCA in exchange for increased protection of primary conservation areas within the MRCCA as open space, and replaces the outdated term “clustering” used in Executive Order 79-19 (see Figure 10). Proposed Minn. R. 6106.0050, subp. 17. This term is used the proposed subdivision and land development standards in proposed Minn. R. 6106.0170, subp. 4, which require local governments to provide incentives for alternative design standards such as *conservation design* in local ordinances.

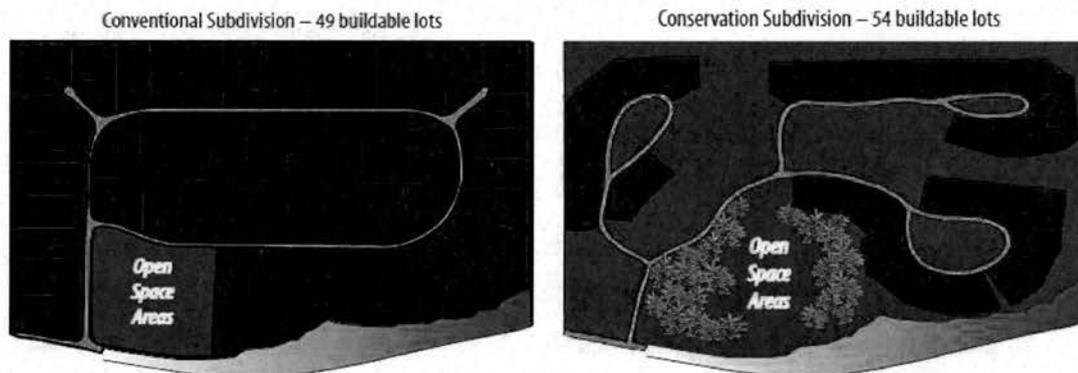


Figure 10. Conventional subdivision compared to conservation design subdivision.

### **Impervious Surface**

The term *impervious surface* refers to constructed or hard surfaces that impede the infiltration of water into soils and increase runoff into surface waters. Proposed Minn. R. 6106.0050, subp. 29. This definition is consistent with that used in the Pollution Control Agency’s Application for General Stormwater Permit for Construction Activity, and is used in the proposed setback and storm water standards in proposed Minn. R. 6106.0120, subp. 3.B. and 6106.0160.

### **Intensive Vegetation Clearing**

*Intensive vegetation clearing* replaces the term “clear cutting” as used in Executive Order 79-19. The term *clear cutting* is a forest management term. *Intensive vegetation clearing* expands on the concept of clear cutting to include the type of vegetative clearing that is typically conducted on developed lots including those in the MRCCA. The concept includes activities such as extending lawns, landscaping, or opening views. Proposed Minn. R. 6106.0050, subp. 30. This term is used in the proposed vegetation management standards in proposed Minn. R. 6106.0150.

### **Hard Surface Trail/Natural Surface Trail**

The terms *hard surface trail* and *natural surface trail* are proposed to differentiate between trails that are suitable in sensitive bluff areas (natural surface) and trails that are not (hard surface). Cf. Proposed

Minn. R. 6106.0050, subp. 27 and subp. 40. These definitions were developed to address concerns raised about the negative impacts of intensive (hard surface) trail development due to extensive grading and clearing of vegetation in sensitive bluff areas. The definitions are derived from the DNR's Trail Planning, Design, and Development Guidelines referenced in proposed Minn. R. 6106.0090, D. These terms are used in the proposed design standards for public recreational facilities in proposed Minn. R. 6106.0130, subp. 8.

***Land Alteration***

*Land alteration* refers to changing the contours of or disturbing the earth surface. It includes earth-moving activities such as filling and grading that leave soil exposed and susceptible to erosion but excludes gardening and other minor disturbances. Proposed Minn. R. 6106.0050, subp. 32. The term is used in the proposed standards for land alterations in proposed Minn. R. 6106.0160, subps. 3 and 4.

***Lot Width***

The term *lot width* is provided to ensure sufficient river frontage to protect riparian areas for new lots that abut the Mississippi River in the proposed Rural and Open Space (CA-ROS) district, and to add clarity to the lot width measurement proposed in proposed Minn. R. 6106.0170, subp. 4. Proposed Minn. R. 6106.0050, subp. 36. The definition is derived from the state shoreland rules. Minn. R. 6120.2500, subp. 9 (2015).

***Natural Vegetation***

*Natural vegetation* refers to the types of plant growth within the MRCCA that stabilize soils, retain and filter run off, provide habitat and recharge ground water. Proposed Minn. R. 6106.0050, subp. 41. This term is intended to address the biological and ecological functions provided by natural vegetation, even though the vegetation may have been altered by human activity. The definition provides the basis for the proposed standards encouraging the retention and restoration of natural vegetation found throughout the proposed MRCCA rules.

***Planned Unit Development***

The proposed definition for *Planned Unit Development* is based on that found in the state shoreland rules. Minn. R. 6120.2500, subp. 11 (2015). However, the definition proposed for the MRCCA rules is broader and does not distinguish between residential and commercial planned unit developments or distinguish between the types of structures. Proposed Minn. R. 6106.0050, subp. 50. Given the frequent use of this type of development in the MRCCA, it is reasonable to have an inclusive and consistent definition of the term that is applicable across the MRCCA.

***Primary Conservation Areas***

The term *primary conservation areas* defines the key natural and cultural resources and features that are addressed by the MRCCA proposed rules. Proposed Minn. R. 6106.0050, subp. 53. The resources and features listed in the definition are derived from Minn. Stat. § 116.15, subd. 4(b)(2015). This definition consolidates natural and cultural resources and features listed in the statute into a single definition to shorten the rules. The term is used in several parts of the rules to ensure that key resources and features are given priority consideration for protection, including contents of local plans proposed in proposed Minn. R. 6106.0070, subp. 4, project submittal information proposed in proposed

Minn. R. 6106.0080, subp. 6, and the proposed subdivision and land development standards in proposed Minn. R. 6106.0170, subp. 4.

#### ***Public River Corridor Views***

The term *public river corridor views* was developed to assist local governments and other stakeholders to identify and protect scenic resources through their planning processes. It recognizes that many of the most highly valued views within the river corridor are “views toward the river from public parkland, historic properties, and public overlooks,” as well as views towards bluffs from the opposite shore (a subset of the “readily visible” definition below). Proposed Minn. R. 6106.0050, subp. 56. The term is used throughout the proposed MRCCA rules. The definition is intended to provide local governments with an opportunity to identify specific views deemed important to that community, and to protect such views through the development review process.

#### ***Readily Visible***

The term *readily visible* was developed to create a performance based standard to clarify visual standards and replace the outdated and vague term “*visual intrusion*” from Executive Order 79-19. This clarification was requested by local governments and other stakeholders. The term refers to development that is easily seen from the ordinary high water level at the opposite shore of the Mississippi River. Proposed Minn. R. 6106.0050, subp. 60. This term is used throughout the proposed MRCCA rules, and the definition describes an appropriate level of visibility for structures from a specified vantage point and during specified conditions. The definition is not used to prohibit development, but to ensure that visual resources are considered in development review by local governments.

#### ***River-dependent Uses***

The term *river-dependent uses* clarifies those types of commercial, industrial and utility land uses that require a riverfront location and shoreline facilities in order to conduct business. Proposed Minn. R. 6106.0050, subp. 65. This term is consistent with the goal of preservation and enhancement of economic, recreational, cultural, and historical resources within the river corridor to meet the purposes set forth in Minn. Stat. § 116G.15, subd. 1 (2015). Specific standards apply to these uses as provided by proposed Minn. R. 6106.0110, subp. 6, and 6106.0180.

#### ***Selective Vegetation Removal***

The proposed MRCCA rules specifically allow *selective vegetation removal* without a permit while requiring a permit for *intensive vegetation clearing*. See Proposed Minn. R. 6106.0150, subp. 3. *Selective vegetation removal* is vegetation removal that does not substantially reduce tree canopy or understory cover. Proposed Minn. R. 6106.0050, subp. 66. The definition is based on that found in Executive Order 79-19 and modified with input from local governments, most of whom already regulate removal of vegetation using similar definitions.

### **Shore Impact Zone**

The land along the water's edge is environmentally sensitive and needs special protection from development and vegetation removal. The *shore impact zone* is a "buffer" area between the water's edge and the area where development is permitted (see Figure 11). Proposed Minn. R. 6106.0050, subp. 68. The *shore impact zone* is the focus of many of the MRCCA rule standards for land alteration and vegetation management. This definition establishes defined boundaries for the *shore impact zone*, which are derived from the state shoreland rules. Minn. R. 6120.2500, subp. 14.c. (2015). The term is used in the proposed structure location standards, vegetation management standards, and land alteration standards in proposed Minn. R. 6106.0120, subp. 3, 6106.0150, subp. 2, and 6106.0160, subp. 2.C., respectively.

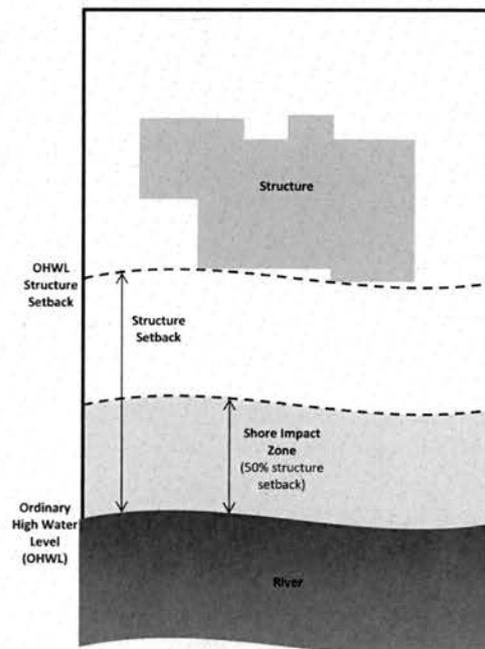


Figure 11. Shore impact zone diagram.

### **Shoreline Facilities**

The term *shoreline facilities* is used to clarify what types of facilities are river-dependent and require a riverfront location, consistent with the economic purposes of the river corridor as described in Minnesota Statutes, § 116G.15 (2015). The term is used in several parts of the draft rules, including the proposed design standards for river-dependent uses in proposed Minn. R. 6106.0110, subp. 6, and the proposed list of exceptions to the ordinary high water level (OHWL) setbacks in proposed Minn. R. 6106.0180.

### **Steep Slope**

A *steep slope* is a natural topographic feature with an average slope of 12 -18 percent measured over 50 feet or more. Proposed Minn. R. 6106.0050, subp. 72. This term has a specific definition because protections afforded steep slopes differ from those established for bluffs. Executive Order 79-19 includes performance standards that govern development on slopes between 12-18 percent, and similar standards are proposed in proposed Minn. R. 6106.0160, subp. 8. The 50-foot horizontal measurement is a commonly used standard and ensures that minor undulations in the landscape are not regulated as steep slopes. The use of the term "natural" also ensures man-made features such as road embankments are not treated as steep slopes for regulatory purposes under the proposed MRCCA rules.

### **Structure**

The definition of *structure* is derived from the state wild and scenic river management rules. Minn. R. 6105.0040, subp. 23 (2015). A structure includes buildings, signs, and appurtenances with some limited exceptions. Proposed Minn. R. 6106.0050, subp. 74. This definition is used to define buildings, signs and appurtenances that will be subject to the proposed dimensional standards in proposed Minn. R. 6105.0120.

### ***Water Oriented Accessory Structure***

A *water oriented accessory structure* refers to recreational amenities that are commonly constructed closer to the shoreline than a typical structure. Proposed Minn. R. 6106.0050, subp. 84. Under the proposed rules, these structures are allowed on riparian lots within the required setback from the ordinary high water level subject to specific standards in proposed Minn. R. 6106.0140, subp. 5.D. It is reasonable to clarify the types of structures that are allowed closer to the water, and to place limits on the dimensions of these structures to minimize negative impacts to sensitive shoreline areas. The dimensions chosen are consistent with the sizes of many existing structures within the MRCCA.

### **6106.0060 Administration of Program**

Part 6106.0060 of the proposed MRCCA rules lay out the specific roles, responsibilities, and authorities for administering the proposed rules. Many provisions are drawn directly from Minn. Stat. § 116.15, subd. 2 (2015), Executive Order 79-19, and/or the state environmental review rules set out in Minn. R. Ch. 4410. Below, by subpart, is a brief description of the pertinent requirements for the administration of the MRCCA program with special emphasis on new or revised provisions.

***Subpart 1. Purpose, terms, and timeframes.*** This subpart clarifies that the “plan[s] and ordinance[s]” specified in the MRCCA rules only pertain to those plans and ordinances prepared by local governments to implement the rules in the MRCCA. It is not the intent of the MRCCA rules that the provisions in the rules should apply to any other local plans or ordinances. The subpart also clarifies that all time frames referenced in the MRCCA rules are measured in calendar days.

***Subpart 2. Responsibilities and authorities.*** This subpart establishes the roles and responsibilities of the governmental authorities involved in implementing the MRCCA program, including the commissioner of natural resource; the Metropolitan Council; local governments; and state or regional agencies, local park agencies, and special purpose units of government. Proposed Minn. R. 6106.0060, subp. 2. Most local governments currently have MRCCA plans and ordinances in place. This is consistent with Executive Order 79-19 and the MRCCA program’s administration.

***Subpart 3. Consistent plans and ordinances.*** Consistency is a fundamental element of the MRCCA program thus, under this subpart, local governments must adopt, administer, and enforce plans and ordinances within the MRCCA that are consistent with the MRCCA rules. For purposes of the MRCCA rules, “consistency,” means that local plans and ordinances must meet the purpose, scope, and the numeric thresholds set forth in the MRCCA rules, but may vary in structure or wording. To deviate from this consistency standard the local government must request flexibility, as provided in proposed Minn. R. 6106.0070, subp. 6.B. This provision is necessary in order to provide local governments with the explicit standards that DNR will use when it reviews local plans and ordinances. Local governments expressly requested this provision. The concept of consistency is a reasonable expectation for local plans and ordinances.

***Subpart 4. Greater restrictions.*** Although the MRCCA rules require consistency with minimum standards, local governments are allowed to adopt and enforce plans and ordinances that are more restrictive than the standards in the MRCCA rules. The MRCCA rules are intended as minimum standards. It is reasonable to allow local governments to adopt and enforce more restrictive standards

to achieve a higher level of protection of the resources within the MRCCA consistent with other local goals. This clarification and permission was sought by local governments and other stakeholders during the rule development process.

**Subpart 5. Duties of the commissioner.** The duties of the commissioner (hereinafter referred to as the DNR) set forth in proposed Minn. R. 6106.0060, subp. 5 are largely unchanged from current statute, Minn. R. 4410.8100 – 4410.9910, and Executive Order 79-19. Those duties include:

- **Consultation.** Both this subpart and Minn. Stat. § 116G.15, subd. 2 (2015) require that the DNR consult with the named agencies and others that have a significant role in the MRCCA to ensure the corridor is managed in a manner consistent with the purposes of the statute. This subpart also requires that the DNR play a special consultative role with those units of government that manage land within the MRCCA to ensure that they administer public lands in a manner consistent with the MRCCA program.
- **Technical assistance and advice.** Local governments requested that the DNR provide them with technical assistance and advice in the development, administration, and enforcement of the plans and ordinances necessary to implement the MRCCA program. This subpart reflects DNR's commitment to provide that requested advice and assistance as an important mechanism to foster coordination and cooperation between the DNR and local governments.
- **Review and approval of local plans and ordinances.** Finally, this subpart specifies that the DNR will coordinate the preparation, submittal, review and approval of all local plans and ordinances submitted by local governments as specified in Minn. Stat. § 116G.15, subd. 5(30 and (4) (2015). This is an essential responsibility of the DNR under the current MRCCA program.

**Subpart 6. Duties of Metropolitan Council.** The duties of the Metropolitan Council remain largely unchanged from statute and Executive Order 79-19. In addition to its responsibilities in the MRCCA program administration, the Metropolitan Council is charged with the oversight of local government comprehensive plans in the Metropolitan area to assure consistency with metropolitan system plans. Minn. Stat. §473.175, subd. 1 (2015). The review process set out in proposed Minn. R. 6106.0060, subp. 6 is designed to ensure that the MRCCA review process outlined herein is incorporated into the Metropolitan Council's planning process for efficient planning. The process is also designed to integrate comments from the Metropolitan Council into the final plans and ordinances approved by the DNR.

**Subpart 7. Duties of cities.** The duties of cities too are substantially unchanged from statute and Executive Order 79-19. This subpart continues these duties for the 25 cities in the MRCCA, including:

- preparing, amending, and adopting plans and ordinances that meet or exceed the minimum standards of the MRCCA rules;
- submitting plans and ordinances to the Metropolitan Council for review and comment, and to the DNR for review and approval; and
- informing the DNR about discretionary actions taken under an approved plan or ordinance so that the DNR can provide technical assistance to the local government, comment on proposed actions, and monitor compliance with the MRCCA rules.

A new requirement provided in this subpart requires cities to notify the National Park Service and adjoining local governments, including those with overlapping jurisdiction and those across the river, of public hearings on discretionary actions and plan and ordinance amendments. The National Park Service must be notified of all discretionary actions taken by a city, while adjoining local governments only need be notified in cases where buildings are proposed to exceed the height limits established in the rules. The National Park Service and neighboring local governments have a vested interest in the MRCCA and the local decisions that can affect the MRCCA resources and features. The height and resulting visibility of buildings is of particular concern to many local governments. Unlike the prescribed format for notice to the DNR, the rule allows cities discretion regarding the method of notice given to the National Park Service and adjoining local governments.

**Subpart 8. Duties of counties and townships.** There are five counties and four townships in the MRCCA that have unique obligations under this subpart. Both counties and townships must prepare plans; however, whether a county adopts an ordinance is discretionary, while townships are required to adopt ordinances. All four townships in the MRCCA currently exercise zoning authority and it is appropriate that they adopt and enforce plans and ordinances in the same manner as cities. It is a requirement of Minn. Stat. § 394.33, subd. 1 (2015) that a township's plans and ordinances must be consistent with and at least as restrictive as those of the county in which it is located.

**Subpart 9. Duties of state and regional agencies and other government entities.** There are a number of state and regional agencies, local park agencies and special purpose units of government that own and manage land within the MRCCA. This subpart sets out their responsibilities under the MRCCA program. The obligations of these entities are relatively unchanged from Executive Order 79-19. To assure that the resources in the MRCCA are protected and to assure consistency across the MRCCA it is reasonable and necessary that state or regional agencies, local park and recreation agencies, and special purpose units of government such as watershed districts that own or manage lands within the MRCCA be required to manage their lands consistent with the MRCCA rules. In addition, agencies through their actions have the potential to influence other MRCCA stakeholders.

## **6106.0070 Preparation, Review, and Approval of Plans and Ordinances**

**Subpart 1. Purpose.** Local governments with land in the MRCCA are required to adopt local plans and ordinances pursuant to Minn. Stat. § 116G.07 (2015), Minn. R. 4410.9000 (2015), and Executive Order 79-19. The purpose for this part is to clearly lay out the processes, responsibilities, and other requirements for the preparation, review, and approval of plans and ordinances to assure consistency with the proposed MRCCA rules. The MRCCA program has been in effect for over 35 years and the DNR has managed the MRCCA program since 1995. Historically, problems with administration of the MRCCA program largely stem from the vague or outdated language in Executive Order 79-19 or from a lack of program clarity or flexibility for local governments. Therefore, while many provisions in this part are identical to those set forth in statute, rule, and Executive Order 79-19, some procedures and criteria are clarified to better assist local governments to implement the MRCCA program.

**Subpart 2. Adoption of plans and ordinances.** The procedures for the adoption of local plans and ordinances required to implement the MRCCA rules are set forth in this subpart. Local governments' incorporation of the requirements of the MRCCA rules into local plans and ordinances will be

undertaken according to an implementation adoption schedule developed by the DNR in consultation with the Metropolitan Council. The provisions proposed under this subpart address the adoption schedule, program implementation prior to plan and ordinance adoption, and the impact of the adoption schedule on pending development projects:

- **Adoption schedule.** The DNR will, in consultation with the Metropolitan Council, develop an adoption schedule for the development and adoption of plans and ordinances under the MRCCA rules by local governments. The schedule shall align “as closely as possible,” with the local governments’ comprehensive plan update schedule set forth in Minn. Stat. § 473.858 (2015). The DNR will notify local governments of the schedule for updating their MRCCA plans and ordinances. Consultation with the Metropolitan Council is necessary to ensure that the schedule is workable for all parties and aligns with Metropolitan Council planning requirements. The flow of plans and ordinances needs to be staggered so that both the DNR and the Metropolitan Council are able to provide a timely and thorough review of local plans and ordinances.
- **Program implementation prior to plan and ordinance adoption.** To ensure seamless regulatory coverage prior to plan and ordinance adoption, existing plans and ordinances will remain in effect until new ones are adopted. Those local governments that have not previously adopted ordinances under Executive Order 79-19 must comply with the requirements of the newly adopted MRCCA rules until the local government adopts plans and ordinances consistent with the MRCCA rules and approved by the DNR. This latter requirement affects three communities within the MRCCA, all of which are currently subject to the Interim Development Regulations in Executive Order 79-19. Since these rules replace the Interim Development Regulations in Executive Order 79-19, it is reasonable to apply the standards in these rules rather than in Executive Order 79-19.
- **Impact of the adoption schedule on pending development.** It is not the intent of the MRCCA rules to halt development within the MRCCA pending the adoption of revised plans and ordinances. Development projects that conform to a local government’s existing plans and ordinances for the MRCCA and that were authorized under those plans and ordinances can continue, as provided in Minn. Stat. § 116G.13 (2015). This is a standard land use practice and is necessary to provide developers with certainty during the MRCCA program implementation phase, and also to limit exposure to takings claims.

**Subpart 3. Plan and ordinance review.** The procedures for the preparation, review, approval, and adoption of plans and ordinances are set out in this subpart. With the exception of minor modifications to address legislative changes made since establishment of the MRCCA, these procedures are largely unchanged from those in statute, EQB rules, and Executive Order 79-19.

- **Plan and ordinances adoption, review, and approval.** The requirements for plan and ordinance adoption, review, and approval align with the general critical area plan and ordinance review process in Minn. Stat. §§ 116G.04 – 116G.10 (2015) and adopted by the EQB in Minn. R. 4410.9000 through 4410.9400 (2015). As requested by local governments, this subpart does, however, provide greater detail and clarification of the process. Once notified by the DNR under

proposed Minn. R. 6106.0070, subp. 2, local governments will have one year to prepare or amend plans and ordinances for consistency with the MRCCA rules, and will be able to request extensions if needed. Local governments generally felt that this was a reasonable amount of time to complete their plans and ordinances.

- **Underlying ordinances.** Because both the MRCCA ordinance and the underlying standards upon which the ordinance relies must be consistent with each other and the requirements of the MRCCA rules, where a proposed plan or ordinance references underlying zoning standards, those underlying zoning documents must be submitted for review during the plan and ordinance review process.
- **Role of National Park Service in the review process.** The National Park Service was added to the review list for plans and ordinances. The MRCCA became a unit of the National Park System, known as the MNRRA, in 1988, 12 years after the original executive order. Thus, the perspectives of the National Park Service may be relevant to the review process.
- **Failure to adopt a plan and ordinance.** This subpart also establishes provisions for local governments that fail to adopt a plan and ordinance as required by the proposed MRCCA rules, consistent with Minn. Stat. § 116G.09 (2015), Minn. R. 4410.9300 (2015), and Executive Order 79-19. Specifically where a local government fails to adopt a plan and ordinance in conformance with the MRCCA rules, the DNR is authorized to use the procedures set forth in proposed Minn. R. 6106.0070, subp.3.J. to adopt rules on behalf of the local government. This authorization is intended to assure that all portions of the MRCCA are protected in accordance with the proposed MRCCA rules.

**Subpart 4. Contents of plans.** This subpart is intended to provide guidance to local governments in the preparation and revision of local plans necessary to implement the proposed MRCCA rules.

- **Component of local comprehensive plan.** This subpart requires that the MRCCA plan adopted by the local government be a component of the local government's comprehensive plan. This requirement is intended to ensure coordination between the MRCCA plan and other elements of the local comprehensive plan. Since plans guide local ordinance development and administration, this requirements is also intended to ensure consistency between the local MRCCA ordinance and other local ordinances.
- **Plan contents.** This subpart contains the required contents of local plans necessary to implement the proposed MRCCA rules. These include maps, policies, and implementation provisions to: identify and protect primary conservation areas and public river corridor views, restore sensitive natural areas, minimize conflicts in water surface use, provide for barge facilities and recreational marinas, provide for commercial and industrial water uses and access, provide for recreational facilities and open space, identify potential public access points and trails, and provide for transportation and utility development within the MRCCA.

**Subpart 5. Contents of ordinances.** The requirements of this subpart are intended to provide guidance to local governments in the preparation and revision of local ordinances necessary to implement the proposed MRCCA rules. As set forth in this subpart, local ordinances are required to be consistent with the requirements of the proposed MRCCA rules, including definitions, administrative provisions,

districts, and minimum standards and criteria. Because existing MRCCA ordinances, as well as shoreland and floodplain ordinances, are generally treated by local governments within the MRCCA as overlay districts, this subpart requires that updated MRCCA ordinances also be structured as overlay districts. The MRCCA ordinance adopted by the local units of government must reference any underlying zoning standards that govern development in a MRCCA district, such as building height.

**Subpart 6. Flexibility requests for ordinances.** A number of commenters and interest groups requested that the proposed rules include detailed criteria that would allow local governments, under special circumstances, to adopt standards that meet the intent or purpose of the proposed MRCCA rules but that are not necessarily "consistent" with the proposed MRCCA rules as defined in proposed Minn. R. 6106.0060, subp. 3. This so called flexibility provision is based on the flexibility process used effectively for many years in the state shoreland rules. This subpart sets out the special circumstances in which the flexibility provision may be used, lays out the process that a local government must follow to obtain flexibility, and establishes criteria that the DNR will use to evaluate the request.

**Subpart 7. Plans and projects for parks and other public lands.** While state and regional agencies and other governmental entities owning or managing property within the MRCCA are not required to adopt either plans or ordinances for these properties under the proposed MRCCA rules, they are required to manage their properties in accordance with the proposed rules. This subpart establishes the standards for plans and projects of state and regional agencies and other government entities.

## **6106.0080 Administrative Provisions for Ordinances**

This part consolidates the administrative provisions for local zoning ordinances to ensure their consistency with these rules. As with proposed Minn. R. 6106.0070, many of these provisions are unchanged from Executive Order 79-19, but are spelled out in greater detail in the proposed MRCCA rules. The ordinance provisions were revised to be consistent with other applicable state and federal laws such as those governing local planning set forth in Minn. Stat. Chs. 394 and 462, the Americans with Disabilities Act 42 U.S.C. §§ 12111 *et seq.*, and the Fair Housing Act 42 U.S.C. §§ 3601 *et seq.*

**Subpart 1. Purpose.** The purpose of this part is to clearly identify the administrative provisions required to be included in local ordinances adopted pursuant to the proposed MRCCA rules.

**Subpart 2. Variances.** While the proposed MRCCA rules are designed to assure that the plans and ordinances adopted by local governments are consistent with the requirements in the rules and protect the key resources and features within the MRCCA, requests for variances from local ordinance requirements are a common component of ordinance administration. They are particularly necessary in those instances where development activities cannot be conducted without varying from state and local standards. This subpart is designed to assure that variances addressing such instances are issued in conformance with the requirements of Minn. Stat. §§ 394.27, subd. 7 and 462.357, subd. 6(2) (2015) and address through mitigation the potential impacts of a proposed variance on MRCCA key resources and features. To insure consistent protection of resources and features across the MRCCA, it is reasonable to require mitigation of impacts to these resources in those situations where a variance is granted. Thus, this subpart requires that mitigation is proportional to and bears a relationship to the impact on the affected resource where a variance is granted that adversely impacts an MRCCA resource.

Many local governments currently use similar mitigation systems or place conditions on development to address the consequences of granting variances to developers.

**Subpart 3. Nonconformities.** This subpart addresses how local governments are to address nonconformities. Nonconformities were a significant concern to local governments, interest groups, and property owners during the rule development process, especially the concern that the proposed rules would create new nonconforming structures, uses, or lots. Throughout the district mapping process and analysis of bluff definition alternatives, the DNR worked closely with local governments to minimize the creation of nonconforming structures, and in some cases to reduce the number of existing nonconformities.

Although the proposed MRCCA rules were drafted to avoid creating legal nonconformities, it is inevitable that the adoption and implementation of these rules will create some legal nonconformities in the MRCCA, primarily nonconforming structures. Minn. Stat. § 116G.15, subd. 2(c) (2015) expressly permits the continuation of legally established nonconformities to the extent they are consistent with Minn. Stat. §§ 394.36 and 462.357, subd. 1e (2015). Where nonconforming principal structures do exist within the MRCCA, this subpart gives local governments the option of allowing limited lateral expansion of the nonconforming principal structure into required setbacks, consistent with defined criteria.

This subpart also clarifies that new structures built in accordance with the setback averaging provisions in proposed Minn. R. 6106.0120, subp. 3, or site alterations such as landscaping, erosion control, and stormwater control structures legally made prior to adoption of these rules, are considered conforming structures and site features.

**Subpart 4. Conditional and interim use permits.** A conditional use permit is a discretionary permit granted by a zoning authority that allows certain uses in a particular zoning district only after a public hearing and with specified conditions. An interim use permit is similar but zoning authorities can impose time limits on the use. This subpart allows local governments to issue conditional or interim use permits within the MRCCA provided the local government evaluates, assesses, and applies appropriate mitigation for potential impacts on key resources and features that may arise as a result of issuing the permit. Specific mitigation standards are set forth in subpart 5 of this part. This subpart pertains only to those conditional and interim uses specified in the proposed MRCCA rules.

**Subpart 5. Mitigation.** This subpart establishes mitigation measures intended to offset adverse impacts associated with the issuance of a variance under subpart 3 or an interim or conditional use permit under subpart 4 of this part. Local governments are responsible for determining mitigation measures that are related and proportional to the negative impact of the action allowed by the variance, conditional use, or interim use. Rather than mandating specific mitigation measures, this provision allows local governments to determine the appropriate measures that meet the intent of these rules, provided that the mitigation proportionally compensates for the adverse impact of the approved activity.

**Subpart 6. Project information.** This subpart contains a list of materials an applicant is expected to submit to apply for a discretionary action or permit required under the proposed MRCCA rules. A discretionary action, as defined in proposed Minn. R. 6106.0050, subp. 21, includes actions that require a hearing under local ordinance or statute.

The applicant must provide the local government with all relevant information that may be needed by the local government to evaluate compliance with the local MRCCA ordinance and the potential impact of the request to determine appropriate mitigation as provided in subpart 5 of this part. The list is not intended to be exhaustive; the designated local government official may determine which of the listed information is necessary for project review or if additional information is necessary to properly evaluate the impact of the requested action.

**Subpart 7. Accommodating disabilities.** Facilities to accommodate persons with disabilities consistent with state and federal law are permitted within the MRCCA even if inconsistent with the requirements of the proposed MRCCA rules. This subpart recognizes that development within the MRCCA must comply with the Americans with Disabilities Act 42 U.S.C. §§ 12111 *et seq.*, and the Fair Housing Act 42 U.S.C. §§ 3601 *et. seq.* This subpart allows local governments to regulate compliance with these federal requirements by administrative permit, thereby minimizing administrative burdens. This subpart also requires removal of accommodating facilities once the disabled person is no longer using the property.

### **6106.0090 Incorporations by Reference**

The proposed MRCCA rules rely on standards set in a number of guidance documents developed by the DNR, the Minnesota Board of Water and Soil Resources (BWSR) and the Minnesota Pollution Control Agency (MPCA). This section adopts these guidance documents and the standards set in those documents. Rather than repeating the content of these guidance documents in the proposed MRCCA rules, they are included by reference. These documents are readily available through inter-library loan.

### **6106.0100 Districts**

**Subpart 1. Establishment of districts.** Minn. Stat. § 116G.15, subd. 3, requires establishment of new land use districts within the MRCCA.

**Subpart 2. Purpose.** Executive Order 79-19 established four land use districts based on generalized land use patterns and natural resources within the corridor 35 years ago:

- Rural Open Space
- Urban Open Space
- Urban Developed
- Urban Diversified

Over time, these four districts have become less consistent with actual development within their boundaries as the region has evolved, and they no longer reflect the diversity of development patterns and resources within the MRCCA.

For example, the “Rural Open Space District” was intended to restrict density in rural areas. However, expansion of urban services such as the metropolitan wastewater system has occurred over the past 30 years in many of these areas, or is currently planned to occur under the Metropolitan Council’s metropolitan regional plan, Thrive MSP 2040 (2014). The “Urban Developed District” was designed for suburban densities, with a 35-foot height limit, which now conflicts with the goals of many suburban communities to create new, high-density town center development that takes advantage of river amenities.

The broad-brush nature of these districts and the inability to update them to reflect changing conditions identified in local land use plans has been challenging for local governments interested in redevelopment and enhancements to their riverfront districts.

As such, the 2009 and 2013 Legislatures directed the DNR to establish new districts within the MRCCA. Minn. Stat. § 116.15, subd. 3 (2015). The DNR is authorized to determine the appropriate number of districts within any one municipality, taking into account municipal plans and policies, existing ordinances, and existing conditions. In establishing the districts the DNR is required to consider: the protection of public recreational and interpretive resources; drinking water supply functions of the Mississippi River; the protection of resources identified in the MNRRRA plan and local comprehensive plans; management of the corridor consistent with natural characteristics, existing development and the potential for new development; and protection of scenic, geologic and ecological resources. Minn. Stat. § 116G.15, subd. 3 (2015).

**Subparts 3-8. Proposed districts.** An important focus of implementing this directive through the rule making process has been to design land use districts that are more responsive to unique resource conditions within the MRCCA and existing and proposed land uses identified in local plans. The DNR began the process of developing district types by examining the landscape character within the corridor including, but not limited to, an evaluation of topography, existing vegetation cover, and existing development patterns. This led to the identification of more than twenty different land types over the 72-mile corridor. Similar land types were then grouped together, reducing the number from twenty to ten. These ten land types formed the basis for the creation of ten draft districts which were developed further for public presentation at multiple venues. After receiving input from work groups, local governments, and other interests, the original ten districts were revised and ultimately consolidated into the six districts described in the proposed MRCCA rules. As outlined in subparts 3 - 8, these six districts include:

- Rural and Open Space (CA-ROS)
- River Neighborhood (CA-RN)
- River Towns and Crossings (CA-RTC)
- Separated from River (CA-SR)
- Urban Mixed (CA-UM)
- Urban Core (CA-UC)

The intent and level of protection for each of the six districts is based on the natural resource values within the district, with the greatest levels of protection in those areas that abut the river and still retain natural features. Greater flexibility is provided in those districts that contain areas with more limited resource values, areas that are separated from the river, and fully developed areas of the two major cities – downtown Minneapolis and downtown St. Paul. This array of districts more accurately reflects the different land uses existing within the MRCCA, current development patterns, and proposed future development. The diversity of the districts supports the different dimensional standards needed to enhance the corridor's character and to protect the resources and features identified for special protection in Minn. Stat. § 116G.15, subd. 1 (2015). For a more detailed description of the district, their boundaries, and their location within the MRCCA see [the proposed MRCCA district maps](#) (Exhibit G).

**Subpart 9. District boundaries.** One shortcoming of Executive Order 79-19 is the static nature of the original four districts. The districts established in Executive Order 79-19 cannot be modified to reflect changes in the MRCCA over the last 35 years. This subpart establishes a process to amend district boundaries. A request to amend the boundaries of a district must meet the amendment criteria to ensure local and state review and to assure that an amendment decision balances resource protection and local control. During rule development, local governments strongly supported the creation of an administrative process to amend district boundaries. Because the physical boundaries of the districts are part of this rule, amendments to district boundaries would need to be made through rulemaking. Since this can be a cumbersome process for boundary adjustments, particularly minor boundary adjustments, the DNR intends to seek statutory changes to Minn. Stat. § 116G.15, to give it the authority to change boundaries by written order of the commissioner, or for expedited rulemaking pursuant to Minn. Stat. § 14.389.

### **6106.0110 Uses**

**Subpart 1. Underlying zoning.** This subpart provides that uses will generally be guided by a local government's underlying zoning, except for select land uses considered to have potential negative impacts on the MRCCA's resources. The Interim Development Regulations adopted under Executive Order 79-19, which were intended to guide local governments in creating their MRCCA ordinances, restricted a limited number of land uses considered to have potential negative resource impacts. For example, mining and extractive uses were allowed in most districts with screening, and commercial and industrial uses were allowed in all districts with some limitations (i.e., on the landward side of blufflines in urban open space districts).

This subpart updates this list of uses to include: agricultural use, feedlots, forestry, aggregate mining and extraction, river-dependent uses, and wireless communication facilities. For these uses the proposed MRCCA rules provide specific standards and requirements to mitigate negative impacts.

**Subparts 2 and 3. Agricultural uses and feedlots.** Agricultural uses have a significant potential to impact water quality. There are several areas of agricultural land use within the MRCCA, particularly in the northern and southern stretches of the corridor. Many studies have documented the value of perennial vegetation adjacent to water bodies in protecting water quality. It is also well documented that steeper slopes have a higher potential for erosion, and perennial vegetation can mitigate this erosion potential. (USDA Agricultural Handbook No. 703). To restrict agricultural runoff from moving into the river, this subpart requires perennial vegetation within the highly sensitive shore impact zone and bluff impact zone. The proposed rule is consistent with the state shoreland rules. Minn. R. 6120.3300, subp. 7 (2015). To protect water quality, the proposed rules prohibit new feedlots and manure storage areas within the MRCCA. Existing feedlots must conform to the permitting and design requirements of MPCA's feedlot program as set forth in Minn. R. Ch. 7020 (2015).

**Subpart 4. Forestry.** Forestry activities, where permitted by underlying zoning, must follow current best management practices set forth in the DNR publication *Conserving Wooded Areas in Developing Communities*, incorporated by reference in proposed Minn. R. 6106.0090. This manual was developed by DNR and other stakeholders to encourage best management practices to conserve the ecological integrity and function of wooded areas, including habitat preservation, within communities as they are

developed. Application of these best management practices for forestry activities is intended to insure protection of the floodplains, significant existing vegetative stands, tree canopies, native plant communities, and scenic views and vistas.

**Subpart 5. Nonmetallic mining.** This subpart prohibits new nonmetallic mining within the shore impact zone, bluff impact zone, and required setback areas. There are a number of aggregate mining and extraction operations in the southern portion of the MRCCA. Local units of government had requested the ability to continue to allow some nonmetallic mining through conditional or interim use permits. Consistent with these requests, the standards allow local regulation of nonmetallic mining while minimizing the impact of potential mining and extraction activities within the MRCCA. Both existing mines and any new nonmetallic mines must, however, meet established standards for location, site management, and reclamation. These restrictions are consistent with the Interim Development Regulations adopted under Executive Order 79-19 and existing local government requirements.

**Subpart 6. River dependent uses.** The MRCCA governing statute presumes that the MRCCA will continue to be used for multiple purposes, including use as a transportation corridor, an economic resource, for water supply, and for storm water and wastewater treatment facilities. Minn. Stat. § 116G.15, subd. 2 (2015). For this reason, river access within certain districts must be maintained and shoreline facilities, private roads, and conveyances serving these uses are exempt from structure setbacks, subject to the provisions of proposed Minn. R. 6106.0180. The standards set out in this subpart apply to these facilities as well as to other parking areas and structures, and the placement of dredged material within the MRCCA. The subpart also makes clear that dredging and placement of dredged material within the MRCCA requires a DNR permit for work in public waters. Additionally, activities in the immediate riverfront area are solely limited to those that must be placed near the river for operational reasons.

**Subpart 7. Wireless communication facilities.** Local governments currently regulate the placement of wireless communication facilities, including towers. This subpart ensures that these regulations minimize the visual impacts of towers and restricts their placement in sensitive natural areas. Additionally, new facilities must demonstrate that functional coverage cannot be provided through co-location, a lower tower, or a tower located outside the MRCCA.

## **6106.0120 Dimensional Standards**

**Subpart 1. Purpose.** To protect primary conservation areas from development impacts, this part establishes dimensional standards for structures within the MRCCA.

**Subpart 2. Structure height.** The height restrictions set out in this subpart are designed to allow development within the MRCCA while protecting “views of and from the river” as directed in Executive Order 79-19 and as set forth in the National Park Service’s MNRRA Comprehensive Management Plan. Structure height is one of the factors that varies the most by district, and has been the subject of considerable discussion and public input. In establishing the proposed structure height limitations, the DNR considered a variety of factors, including existing regulations, natural and scenic resources, existing and planned land uses, and standards already in place in local government ordinances.

**Heights by district.** The proposed rules use a graduated scale for structure height that varies by district depending on the district's character and values intended to be protected:

- **CA-ROS:** The "rural and open space" district has the lowest level of development of all of the proposed districts within the MRCCA. To preserve the rural and open space characteristics of this district and its unique recreational value, a structure height of 35' is proposed for this district. This district includes agricultural and rural residential areas, parkland and natural areas adjacent to the river. This height is intended to keep structures at or below the level of the treeline and is consistent with height restrictions in most of the local zoning standards that apply in these areas.
- **CA-RN:** A 35-foot height limit is proposed for the predominantly residential "river neighborhood" district. The height limit is intended to allow a two-story single-family dwelling without breaking the top of the treeline. This height restriction is consistent with existing structure heights in residentially zoned neighborhoods and height restrictions in most of the local zoning standards that apply in these areas.
- **CA-RTC:** The "river towns and crossings" district includes existing historic commercial areas, commercial nodes at bridge crossings, and existing institutional campuses that predate the establishment of the MRCCA. In this district, a maximum 48-foot height limit is proposed, with tiering of structures away from the river and blufflines to protect public river corridor views. Taller buildings may be allowed by conditional use permit, using the criteria set out in this subpart. The use of conditional use permits to deviate from established height requirements in this district provides an additional level of flexibility for local governments as well as opportunities for public review.

The height limit was chosen for consistency with existing structures within the proposed districts in order to prevent or minimize nonconformities. This height would allow a three-to-four story commercial, mixed use or residential building. This standard is generally consistent with local plans and ordinances

- **CA-SR:** The "separated from river" district includes non-riparian land that is separated from the Mississippi River by distance, development, or transportation infrastructure. Because of this separation, underlying zoning standards govern height, with the stipulation that structure height must be compatible with the existing treeline, where present, and surrounding development.
- **CA-UM:** The "urban mixed" district includes many industrial, commercial, and mixed use areas, as well as areas in transition to a more urbanized and mixed use character. Structures of up to 65 feet in height are proposed in this district, compatible with existing and planned development. As with the "river towns and crossings" district, tiering of structures away from the river and blufflines is required to minimize interference with public river corridor views, and taller buildings may be allowed by conditional use permit provided they meet the criteria set out in this subpart.

- **CA-UC:** The urban cores of both Minneapolis and St. Paul are highly developed, with redevelopment planned in the future. In the “urban core” district that applies to these areas, height is governed by underlying zoning standards, with consideration given to building placement to minimize visual impacts of new development.

**Measurement methods.** To assure consistency across the MRCCA, this subpart establishes a protocol for measuring structure heights across the MRCCA. Height is measured relative to the Mississippi River. Since managing the impact of development on river views is a high priority for the MRCCA program, structure height is measured from the side of the structure facing the river.

**Exempt structures.** The DNR is allowed by statute to provide exceptions to guidelines and standards governing individual districts. Minn. Stat. § 116G.15, subd. 4 (2015). Subpart 2 recognizes the need to exempt certain properties from the height requirements for individual districts. Part 6106.0180 of the proposed MRCCA rules lists the types of structures that would be exempt from the height requirements of this subpart. These exemptions are based on exceptions that already exist in local MRCCA ordinances, and on stakeholder input during the rulemaking process.

**Conditional use permit criteria.** A conditional use permit is a discretionary permit granted by a zoning authority that allows certain uses in a particular zoning district only as permitted by the zoning authority and with specified conditions. In two of the districts (CA-RTC and CA-UM) structures with heights exceeding the building height requirements of the district may be allowed by conditional use permit. This subpart sets out the criteria that should be used by local governments when determining whether to grant a conditional use permit allowing deviation from these height requirements. The criteria are designed to assure that the visual impact of buildings that are proposed to exceed the height limits are minimized to the greatest extent possible, and provide examples of techniques that can be used to minimize the visual impacts of the proposed buildings. These provisions are designed to inform and guide local governments in their consideration of conditional use applications.

**Subpart 3. Location of structures.** Structure setbacks from the river and from bluffs are essential to protect the natural resource values of primary conservation areas and to protect public safety across the MRCCA. The proposed setback requirements will result in minimal changes to zoning requirements already in place in local MRCCA ordinances. Specific setback requirements imposed by the rule include:

**OHWL setbacks and the shore impact zone.** A near shore area is a sensitive and complex natural system that sustains fish and wildlife and protects the water body from erosion and non-point pollution. This subpart establishes setback requirements from the Ordinary High Water Level (OHWL) and prohibits structures and impervious surfaces in the particularly sensitive shore impact zone (the area located halfway between the OHWL and required OHWL setback as defined in proposed Minn. R. 6106.0050, subp. 68) to protect these vital resources.

Setbacks from the OHWL were originally set out in Executive Order 79-19. These setbacks were the subject of much discussion and concern during the rulemaking process. One of the primary concerns was the possible creation of nonconforming structures. The DNR evaluated a variety of potential setback standards, including the Interim Development Regulations in Executive Order 79-

19, standards currently contained in local ordinances, statewide shoreland rules, community plans, park plans, natural resource inventory data, and existing development patterns. The DNR also considered the existing character and development pattern within each proposed district.

**OHWL setbacks by district.** Setbacks from the OHWL vary by district:

- **CA-ROS:** The “rural and open space” district contains the greatest concentration of native plant communities and other riparian habitat to be protected, and is the least developed of all districts. The proposed setback is 200 feet from the OHWL. This setback is the same as river setbacks for the “rural open space” district in the Interim Development Regulations in Executive Order 79-19 and is consistent with many existing local ordinances. The shore impact zone for this district is 100 feet from the OHWL.
- **CA-RN:** The proposed setback for the “river neighborhood” district, which is primarily residential in character, is 100 feet from the OHWL, with a shore impact zone of 50 feet from the OHWL. This standard was based on river setbacks for the “urban developed” and “urban open space” districts in the Interim Development Regulations in Executive Order 79-19. This standard is also consistent with many existing local ordinances in these areas and the standards for urban rivers in the statewide shoreland rules.
- **CA-RTC:** The proposed setback for the “river towns and crossings” district is 75 feet from the OHWL, with a shore impact zone of 37.5 feet from the OHWL. This standard is consistent with existing development patterns and planned redevelopment within the district. The standard is also consistent with standards set in the state shoreland rules for unsewered general development and sewer recreational development waters.
- **CA-SR:** There is no land in this district with riparian frontage on the Mississippi River and thus setbacks are governed by underlying zoning. A few properties in this district are located on a backwater of the Vermillion River, a key tributary of the Mississippi River, with a required setback of 75 feet and a shore impact zone of 37.5 feet. Setbacks from key tributaries are discussed below.
- **CA-UM:** In districts classified as “urban mixed,” which feature largely developed or redeveloping urban areas, the proposed setback is 50 feet from the OHWL, with a shore impact zone of 25 feet. This setback is consistent with the standards in the statewide shoreland rules for sewer urban rivers.
- **CA-UC:** In the intensively-developed “urban core” district, setbacks are governed by underlying zoning. The intent is to allow these areas to develop and redevelop riverfront uses consistent with historical patterns of riverfront use. This standard was adopted to protect the character of these urban riverfronts and to respond to interest expressed by the cities of Minneapolis and Saint Paul to bring activity to the riverfront through recreational and river-oriented commercial development that improves public access to the river.

**Setbacks for key tributaries:** Areas of confluence between key tributaries and the Mississippi River are identified as key resources in the MRCCA enabling legislation. Minn. Stat. § 116G.15,

subd. 5 (2015). While the statute does not name specific tributaries, the DNR, with input from local governments and interest groups, identified the Crow, Minnesota, Rum and Vermillion rivers as the key tributaries with confluences with the Mississippi River within the MRCCA. These four watercourses are the only major rivers with a confluence with the Mississippi River within the MRCCA. Because not all communities have enacted shoreland protection as required by statute for those tributary rivers, it is important to provide comparable protection for those portions of these tributaries that lie within the boundaries of the MRCCA.

The proposed setbacks for these tributaries are consistent with the state shoreland and scenic river standards, and with setbacks currently in place in local zoning ordinances. The setbacks for these tributaries are controlled by the MRCCA district in which they lie. The 150-foot setback in the "rural and open space" district (CA-ROS) is consistent with the Wild and Scenic River setback for scenic rivers. See Minn. R. 6105.0110, subp. 3.B. (2015). The 75-foot setback in the "river neighborhood" (CA-RN), "river towns and crossings" (CA-RTC), and "separated from river" (CA-SR) districts is consistent with the state shoreland rules setbacks for unsewered general development and seweried recreational development river segments. Minn. R. 6120.3300, subp. 3 (2015).

**Bluff setbacks and the bluff impact zone.** The MRCCA contains major geological bluff features that are prone to erosion and natural instability. Bluff failure and erosion are significant concerns in the MRCCA, as evidenced by slope failures in recent years in Mendota Heights, Mendota, Lilydale, and Minneapolis. Bluff setback requirements are necessary to protect steep, unstable slopes, to limit the visual impact of structures on scenic resources, to protect property investments, and for the health, safety and welfare of the public. Setbacks can prevent severe environmental consequences such as slope failures and ongoing problems such as erosion.

The prohibition of structures within a certain distance from the top edge of a bluff (the bluffline) promotes bluff stability by minimizing disturbance, maintaining natural vegetation, and preventing excessive runoff. Setbacks are commonly used to address runoff from the top of a bluff and land alteration that can exacerbate instability, while protecting structures from dangers of slope failure. This rule also assures uniform bluff setback requirements across the MRCCA corridor, a concern raised by local units of government. Subpart 3 establishes both a bluff impact zone and a bluff setback within the MRCCA corridor. The bluff impact zone includes the bluff and an area within 20 feet of all sides of the bluff as defined in proposed Minn. R. 6106.0050, subp. 9. The construction or expansion of structures within this highly sensitive area is prohibited. The bluff setback area extends back from the bluffline. Development between the bluff impact zone and the bluff setback line is restricted but is not necessarily prohibited (see Exemptions below).

**Bluff setbacks by district.** The width of the bluff setback varies across the districts:

- **CA-ROS:** The greatest bluff setback, 100 feet, is proposed in the "rural and open space" district, an area characterized by public parklands and rural residential development. This standard is derived from the standards for the rural open space district in the Interim Development Regulations in Executive Order 79-19, and is also consistent with setback standards in many local ordinances in these areas.

- **All Other Districts:** A 40-foot bluff setback is proposed for all other districts in the MRCCA. The 40-foot setback was designed to accommodate disturbances that commonly occur during construction while, at the same time, protecting an undisturbed area at the top of the bluff. This 40-foot setback requirement is derived from the standards for the “urban open space”, “urban developed”, and “urban diversified districts” in the Interim Development Regulations in Executive Order 79-19. This standard is also consistent with the bluffline setback in Minn. R. 6105.0110, subp. 3 (2015) for wild rivers and with standards set by many local ordinances.

**Exemptions.** The DNR is allowed by statute to establish exceptions to guidelines and standards governing individual districts. Minn. Stat. § 116G.15, subd. 4 (2015). Subpart 3 recognizes the need to exempt certain uses and activities from the bluff setback requirements for individual districts. These uses and activities are listed in proposed Minn. R. 6106.0180. These exceptions are designed to address uses, structures, and activities that cannot meet the river or bluff setback requirements and serve their intended purpose.

**Setback averaging.** In developed areas there are multiple structures in place that predate these proposed rules and that may be inconsistent with the proposed OHWL and bluff setback requirements. This subpart allows local governments to use setback averaging where principal structures exist on adjoining lots on both sides of a proposed building site. In these cases the minimum setback can be altered to equal the average of the setbacks of the adjoining lots provided no impervious surface or structure is allowed in the shore impact zone or bluff impact zone. This allows equitable treatment for the new development and helps maintain a consistent community character. This averaging mechanism was derived from a similar standard in the state shoreland rules and is needed to provide flexibility and to minimize concern over nonconformities.

**Subsurface sewage treatment systems.** A river setback standard for subsurface sewage treatment systems is necessary to protect water quality. Consistent with standards in the state shoreland rules, this section adopts a 75-foot setback standard for subsurface sewage treatment systems.

**Subpart 4. Standards for new lots.** With the exception of the “rural and open space” district (CA-ROS), new lots in conventional subdivisions are subject to underlying zoning requirements for both lot area and width. In the CA-ROS district, however, new lots abutting the Mississippi River must be at least 200 feet in width, unless alternative design methods are used (i.e., conservation subdivision or similar methods). The 200-foot width standard is similar to (and in some cases less than) the standards currently in place in townships in rural areas in the southern stretch of the MRCCA. Undeveloped land in this district, if developed at a large scale with small riparian lots, could threaten habitat, ecosystem functions, water quality, and the scenic and rural character that defines this district.

In all cases, new lots must have adequate buildable area to comply with the setback requirements in subpart 3 so as not to require a variance in the future. The term “buildable area” for any given lot does not include sensitive natural areas, lands below the OHWL, rights-of-way, and other areas typically restricted from development by local ordinance as defined in proposed Minn. R. 6106.0050, subp. 11. This is a common requirement in most local zoning ordinances.

## **6106.0130 General Development Standards for Public Facilities**

There are a number of unique public facilities within the MRCCA corridor, many of which are owned or managed by state or regional agencies and are not subject to local zoning requirements. This part provides detailed standards for specific types of public development within the MRCCA.

**Subparts 1-2. Purpose and scope and definition of "public facilities".** These subparts establish the purpose of providing differing standards for public facilities and clarify which public facilities are covered by the standards. Public facilities include public infrastructure, transportation, and recreational facilities. The rule is designed to provide some degree of flexibility for such facilities given the services, amenities, and community benefits they provide, but still require best management practices to protect the MRCCA's key features and resources.

**Subpart 3. General design standards.** This subpart sets forth general design standards applicable to all public facilities. As a matter of equity, to preserve the character of the MRCCA, and to protect the identified resources, many of the standards that local governments are expected to incorporate in their local zoning ordinances are also expressly made applicable to these public facilities. Public facilities are also required to comply with Best Practices for Meeting DNR General Public Waters Work Permit GP-001. These entities are exempted from obtaining local permits but are required to comply with the standards that such permits would impose.

**Subparts 4 - 7. Standards for select public utility and transportation facilities.** Design and development standards for transportation facilities and utilities are set out in subparts 4 through 7. These standards apply to public road right-of-way maintenance standards, crossings of public water or public land, public utility placement, roads and railroads. These facilities are for the public benefit and are likely to receive high levels of use. Therefore, where these facilities abut more than one district, the rules apply the standards of the less restrictive district. These standards are largely consistent with those in the Interim Development Regulations in Executive Order 79-19.

**Subpart 8. Standards for public recreational facilities.** Public recreational facilities must also comply with the proposed development standards within the MRCCA in order to avoid or minimize negative impacts to the resources that the MRCCA designation is intended to protect. Negative impacts may include erosion, increased bluff instability, and damage to near shore habitat.

- **Buildings and parking lots.** Public recreational facilities, such as parks, within the MRCCA are uniquely positioned to serve a public benefit within the corridor by providing public access to MRCCA resources. Allowing the construction of buildings and parking lots in areas that have the potential to affect scenic and natural values runs counter to the public interest. There is no public need to allow public buildings and parking lots to be located closer to the river and bluffs than private facilities. Therefore, these buildings and parking facilities must meet the dimensional standards for private development in proposed Minn. R. 6106.0120 unless the facility has been granted an exception to those standards in proposed Minn. R. 6106.0180.
- **Roads and driveways.** While public access to the natural and undeveloped areas within the MRCCA provides an important public benefit, access points such as roads and driveways should be designed to minimize runoff and negative impacts to vegetation. Therefore, roads and

driveways providing access public recreational facilities are prohibited in the bluff impact zone and shore impact zone, except in cases where no alternative placement is available to provide access to the site.

- **Trails, access paths, and viewing areas.** Trails, access paths, and viewing areas are key features providing public access to and views of the river and bluffs. To permit public enjoyment of the MRCCA resource, these facilities must frequently be placed within the bluff impact or shore impact zones. The best management practices in *Trail Planning Design and Development Guidelines*, incorporated by reference under proposed Minn. R. 6106.0090, must be used when designing and constructing these facilities within the MRCCA. These guidelines are designed to mitigate adverse impacts from these types of facilities on natural and scenic resources. Because of the high potential for erosion and associated slope failures that can result from construction of hard surface trails, this subpart prohibits the placement of hard surface trails on bluff faces with a slope exceeding 30% -- the steepest slopes in the MRCCA.
- **Water access facilities.** Water access facilities, including boat ramps, carry-in sites, and fishing piers, are key features providing public access to the river. To allow public enjoyment of the MRCCA resource, these facilities must be placed within the shore impact zone. The best management practices in the *Design Handbook for Recreational Boating and Fishing Facilities*, incorporated by reference in proposed Minn. R. 6106.0090, must be used when designing and constructing these facilities. The guidelines in this handbook are designed to mitigate adverse impacts from these types of facilities on natural and scenic resources. Additionally, water access ramps must be constructed to comply with Minn. R. 6115.0210 and Minn. R. 6280.0250 (2015).
- **Public wayfinding and interpretation devices.** Public wayfinding and interpretive devices are designed to facilitate the public's use and enjoyment of recreational facilities within the MRCCA. The proposed MRCCA rules allow public interpretive or directional signs and kiosks in the bluff and shore impact zones to assist in wayfinding and interpretation, provided visual impacts and disturbances are minimized.

### **6106.0140 General Development Standards for Private Facilities**

*Subparts 1-3. Purpose, definition of "private facilities", and general design standards.* "Private facilities," including private roads, driveways, parking areas, water access, viewing facilities, decks and patios, and signs, all have the potential to negatively impact the resources intended to be protected by the MRCCA designation. Many of these facilities are constructed with impervious materials that increase runoff and, therefore, have the potential to adversely impact water quality and decrease bluff stability. Additionally, constructing these facilities can adversely affect adjacent vegetation, which in turn can impact both bluff stability and scenic vistas within the corridor. Conversely, these types of facilities provide residents and businesses with needed access to the river and other amenities. This section sets out standards for the private development of roads, driveways, parking areas, water access and viewing facilities, decks and patios, and signs within the MRCCA. The standards proposed for these facilities are similar to those proposed for public facilities in proposed Minn. R. 6106.0130, but are adjusted to address the particular needs of residents and businesses. The proposed rule also attempts to

balance those needs with the need to protect the corridor's natural, scenic, and recreational values. These standards are intended to serve as minimum standards.

**Subp. 4. Private roads, driveways, and parking areas.** Private facilities are required to meet the land alteration, vegetation, and stormwater management requirements set forth in proposed Minn. R. 6106.0150 and 6106.0160. Additionally private roads, driveways, and parking are required to meet structure setback requirements set forth in proposed rule 6106.0120 and may not be placed in either the bluff impact zone or the shore impact zone, except where necessary for access to shoreline facilities, river-dependent uses, and subdivisions, as specified in proposed rule 6106.0180. These facilities are also required to use natural vegetation and topography to reduce their visibility.

**Subpart 5. Private water access and viewing facilities.** The proposed MRCCA rules recognize the need for riparian property owners to have facilities such as access paths, water access ramps, stairways, lifts and landings to access the river, and also recognize the need to regulate the construction and design of these facilities to reduce their negative impacts on the public resources the MRCCA designation is intended to protect. Additionally, many local governments, particularly in the northern part of the MRCCA, requested that DNR provide clear design standards for these facilities.

- **Access paths, staircases, lifts and landings.** This subpart establishes design criteria for access paths, staircases, lifts and landings to ensure that riparian property owners are able to access the river with minimal disruption to sensitive bluffs and shoreline areas. The standards for these facilities are consistent with those found in the state shoreland rules. See Minn. R. 6120.3300, subp. 4 (2015).
- **Water access ramps.** The standards proposed for private water access ramps are similar to those proposed for public access ramps. The best management practices in the *Design Handbook for Recreational Boating and Fishing Facilities*, incorporated by reference in proposed Minn. R. 6106.0090, must be used when designing and constructing these facilities. The guidelines in this handbook are designed to mitigate adverse impacts from these types of facilities on natural and scenic resources. Additionally, water access ramps must be constructed to comply with Minn. R. 6115.0210 and Minn. R. 6280.0250 (2015).
- **Water-oriented accessory structures.** The standards proposed for water-oriented accessory structures are similar to, but more restrictive than the standards in the state shoreland rules, since these standards are based on evaluation of typical lot and structure sizes in the river corridor which show a higher density or more intensive development pattern than that in most shoreland areas.

**Subpart 6. Decks and patios in setback areas.** Decks and patios were an important issue for many riparian property owners who have purchased property on the river with the intent to be able to view and enjoy the river from their deck and/or patio. These rules are intended to permit decks and patios to be placed to permit enjoyment of the MRCCA attributes while minimizing their impact on the MRCCA resources and the public's enjoyment of those public resources. The standards proposed in this subpart give local governments the flexibility to allow minimal encroachment into the required setbacks from the OHWL and from blufflines without a variance, provided the encroachment is limited to 15 percent of the required setback and is limited in size based on a formula that takes into account the lot width.

Because of safety concerns, encroachment is prohibited into the bluff impact zone. The proposed rule is a modification of Minn. R. 6120.3300, subp. 3.J (2015), adapted to recognize the more intensive development patterns and the typical placement and size of existing decks and patios on residential lots within the MRCCA.

**Subpart 7. Private signs.** There are a number of businesses that use off-premise advertising signs or directional signs for patrons accessing their business by watercraft. It is widely recognized that these types of signs, if unregulated, may adversely impact scenic views within the MRCCA. Throughout the rulemaking process, stakeholders expressed concerns about signs and billboards in the MRCCA. Stakeholders were particularly concerned that the proposed standards should not weaken existing protections.

- **Off-premise advertising signs.** The standards set forth in Executive Order 79-19 currently provide that signs “must not be visible” from the river. This subpart modifies the Executive Order 79-19 standard by requiring that off-premise signs must meet setback standards and height limits and must not be “readily visible” from the river as defined in proposed Minn. R. 6106.0050, subp. 60. This modification was made because many local governments have struggled with determining how the “must not be visible” standard can be met. Some stakeholders have contended “must not be visible” means that the sign should not be visible from anywhere in the corridor at any time of the year. This standard is impossible to meet and is not reasonable in those portions of the MRCCA where there is already intensive development. For this reason the standard was modified to prohibit signs that are “readily visible”. This standard ensures that signs are not so visible that they are dominant or readily noticed features of the river vista.
- **Directional signs for patrons arriving at a business by watercraft.** This subpart also recognizes that directional signs for watercraft, such as marina signs, are important for directing river traffic. These signs are, therefore, permitted within the MRCCA but limited in size and lighting to avoid dominating the river view. The standards for wayfinding signs was derived from the state shoreland rules, Minn. R. 6120.3300, subp. 10.C (2015), and are largely performance-based.

### **6106.0150 Vegetation Management**

Vegetation in the MRCCA plays an important role in slowing storm water runoff, preventing erosion, filtering nonpoint source pollution, preventing establishment of invasive species, protecting habitat, maintaining stability of bluffs and steep slopes, and maintaining corridor character consistent with each management district.

Executive Order 79-19 relied on this principal to protect the important resource values of the MRCCA. Executive Order 79-19 prohibits clearcutting on the slope or face of bluffs and areas within 40 feet landward from blufflines, as well as on islands and public recreation areas. In other sensitive areas, Executive Order 79-19 regulates clearcutting through a variety of performance standards. Clear cutting is a forest management term and is adopted in Executive Order 79-19 to prohibit the removal of an entire stand of trees or shrubs. Under Executive Order 79-19 selective cutting of trees greater than 4 inches in diameter is permitted if continuous cover is maintained. Selective cutting, another forest

management term, is used in Executive Order 79-19 to establish the management practice of removing single scattered trees or shrubs throughout a stand of trees or vegetated area. Executive Order 79-19 has no provision for protecting riparian vegetation, an important element for both water quality and ecosystem health.

The use of these forest management concepts has not served the MRCCA particularly well, especially in developed areas, which are different from traditional forestry settings. Also, vegetation management standards across the MRCCA are inconsistent and do not adequately protect important MRCCA resources or public safety. Most local MRCCA ordinances currently include provisions prohibiting clearcutting as required by Executive Order 79-19; beyond this, they vary considerably. In many local MRCCA ordinances it is not clear what vegetation management activities are allowed where and what vegetation management practices are restricted. As a result, expectations for administration and enforcement of vegetation management across the MRCCA are unclear.

Additionally, the removal of riparian vegetation is not specifically addressed, either in the executive order or in most local MRCCA ordinances. These deficiencies become especially problematic when property owners clear vegetation on riverbanks or in areas that are highly visible from adjacent property or property across the river. Not only does this adversely impact views in the MRCCA, but removal of riparian vegetation adversely impacts water quality, increases the likelihood of shoreline erosion, decreases habitat, and adversely impacts aquatic ecosystems.

From an ecological perspective, maintaining shoreline vegetation is very important, as riparian zones are the interfaces between terrestrial and aquatic ecosystems and support many ecological processes and plant communities.<sup>11</sup> The nearshore areas adjacent to lakes and rivers are considered among the richest zones for aquatic organisms, mammals, and birds.<sup>12</sup> Maintaining riparian vegetative is also beneficial to water quality because it filters and reduces nutrient and sediment pollution and mitigates temperature increases.<sup>13</sup> It is also well documented that steeper slopes have a higher potential for erosion, and perennial vegetation can mitigate this erosion potential by stabilizing soils.<sup>14</sup>

Local government staff regularly receive complaints about the removal of riparian vegetation but have a limited ability to address the problems because of vague ordinance language and the lack of enforcement mechanisms.

The proposed vegetation management standards were developed in close collaboration with local governments, resource professionals, and other interests, including private property owners. These standards seek to correct current regulatory deficiencies and improve vegetation protection by designating specific areas on the landscape for protection and adopting stronger performance

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<sup>11</sup> Gregory et al. 1991

<sup>12</sup> Castelle et al. 1992

<sup>13</sup> Castelle et al. 1994

<sup>14</sup> U.S. Department of Agriculture. 1997

standards. The rules establish a vegetation permit system and restoration requirements for vegetation removed in violation of the permit. The rules also eliminate the concept of "clearcutting" by relying instead on the concept of "intensive vegetation clearing." The concept of "selective vegetation removal" replaces the concept of "selective cutting."

**Subparts 1 and 2. Purpose and applicability.** These subparts clarify the purpose of the proposed vegetation management standards and where they apply. Because of its forestry-based framework, Executive Order 79-19, and most local ordinances adopted in accordance with the executive order, do not adequately protect vegetation in riparian areas. While the proposed vegetation standards continue the practice established in Executive Order 79-10 of prohibiting intensive vegetation clearing in the bluff impact zone, the standards also prohibit intensive vegetation clearing in shore impact zones, land within 50 feet of a wetland or natural drainageway, areas of native plant communities, and other areas of significant vegetation identified by local governments in their MRCCA plans. Maintaining vegetation in these sensitive areas provides habitat for fish and wildlife and protects against erosion and subsequent runoff related water pollution, including sediment and nutrients, and maintains the scenic qualities of the corridor.

**Subpart 3. General provisions.** Specific standards and permitting requirements for vegetation clearing across the MRCCA are set forth in this subpart.

- **Limits on intensive vegetation clearing; activities that are prohibited and activities that require a permit.** Intensive clearing, regardless of the purpose, disrupts soil stability and increases the risk of soil erosion, sedimentation, and nutrient loading into drainage systems and surface waters. While activities such as removal of diseased, dying or hazardous vegetation, or restoration and erosion control projects are usually beneficial, the manner in which these activities are conducted may increase the risk of soil erosion and sedimentation. For this reason, intensive vegetation clearing is generally prohibited across the MRCCA, while some intensive vegetation clearing is allowed by local permit, to be issued by a local government or resource agency, such as a soil and water conservation district. Requiring a permit for these activities ensures guidance by qualified professionals and use of appropriate management practices to reduce the risk of erosion and water pollution.
- **Vegetation removal without a permit.** The proposed MRCCA rules do, however, allow some types of limited vegetation removal without a local permit. These limited exemptions were requested by local governments and property owners, and are intended to clarify the scope of the regulations and to reduce administrative burdens to local governments. Thus, activities that are considered a part of routine property management are permitted without a permit, including: selective removal of diseased, dying or hazardous vegetation, maintenance of existing yards, and gardening. Agricultural and forestry activities that meet the standards in proposed Minn. R. 6106.0110, subp. 2 through 4 are also allowed without a permit
- **Vegetation height.** Local governments are prohibited from restricting the height of groundcover vegetation in the shore impact zone, on land within 50 feet of a wetland or natural drainage way, in native plant communities, and in other areas of significant vegetation identified by local governments in their MRCCA plans. The intent of this provision is to prevent application

of local "weed" ordinances in areas where natural vegetation is desirable for achieving the purposes of these rules.

**Subparts 4 and 5. Permit process and conditions.** The vegetation management permit is a new concept in the MRCCA. The permit concept was adopted to more closely manage vegetation and vegetation removal across the MRCCA, to assure the process of removal does not further damage sensitive resources, and to provide flexibility to local governments to design and permit vegetation removal on a site specific basis. Local governments have the option of adopting and managing the permit program themselves or of delegating the management of the permit program to an existing process or to a resource agency or other qualified agent. To assure non-degradation across the MRCCA, intensive vegetation clearing is only allowed by permit and is only allowed under limited specified conditions. Performance standards or best management practices for vegetation management permits are set out in subpart 5. These standards include erosion and sediment control practices. These standards are required to be included as conditions in the permit. Other performance standards include measures to:

- Minimize disturbance to or removal of natural vegetation.
- Assure that an engineer or resource agency determines that site conditions are suitable for the proposed clearing activity. This is particularly important for work in bluff areas and areas near water or with a high water table.
- Minimize the visual impact of clearing by blending clearing with surrounding terrain.
- Given the limited number of remaining native plant communities in the corridor, assure that any native plant communities removed are replaced with vegetation of equivalent quality and establish priority locations for restoration of native plant communities.
- Require replacement of other removed vegetation with natural vegetation to the greatest extent practicable, particularly on bluffs, steep slopes, areas requiring soil stabilization, shorelines, and where natural vegetation provides some ecological services and enhances the scenic character of the corridor.

**Subpart 6. Vegetation restoration plan requirements.** Because of the importance of vegetation to the preservation of the MRCCA and its ecological and natural systems and to public health, vegetation restoration is required in all instances where vegetation has been removed without a permit where one is required, or upon failure to comply with an existing permit condition. Restoration is required to be conducted according to an approved restoration plan designed by a qualified individual. The plan must include vegetation that provides suitable habitat and effective soil stability, runoff retention and infiltration; and includes a maintenance plan. This provision, along with the permit program, provides local governments with a mechanism to require and enforce restoration activities.

### **6106.0160 Land Alteration and Storm Water Management Standards**

Uncontrolled land disturbance near water increases the probability of sediment and phosphorus pollution to surface waters.<sup>15</sup> Small construction sites are a large source of sediment erosion, yielding up to 10 times the typical loads from rural and urban land uses.<sup>16</sup> Executive Order 79-19 requires that all land alteration activities be regulated by local governments according to best management practices that were typical in the 1970s. Executive Order 79-19 does not regulate storm water runoff, storm water management structures, or erosion control structures such as retaining walls and riprap. Regulations adopted pursuant to Executive Order 79-19 for land alterations are overly broad and apply the same management practices across the MRCCA, regardless of the proximity of the alteration to sensitive natural resources. The erosion control practices of the 1970s era do not provide adequate resource protection consistent with contemporary development and, in most cases, are less protective than current local government regulations.

Most local governments have adopted land alteration and storm water management regulations consistent with standards developed by the relevant watershed management authority and/or the National Pollution Discharge Elimination System (NPDES)/State Disposal System (SDS) permits for construction activities. The minimum land disturbance threshold triggering a local land alteration permit varies considerably across the MRCCA. The majority of communities in the MRCCA do not require a land alteration permit until at least 10,000 square feet of soil are disturbed. No community requires a permit for all land alteration activity, as required by Executive Order 79-19. The minimum impervious surface threshold triggering a local storm water permit also varies considerably. One acre is the most common threshold, as this is consistent with the NPDES/SDS permit for construction-related activities. Most communities do not vary their land alteration or storm water requirements based on proximity to sensitive natural resources.

While most local regulations include contemporary best management practices, they do not regulate small to medium size land disturbance activities (i.e. disturbing less than 10,000 square feet), which can occur in sensitive bluff and near shore areas. Thus, there is often no permitting oversight in the most sensitive areas in the MRCCA.

In response to identified erosion problems, especially in the northern reaches of the corridor, erosion control structures have been used to stabilize riverbanks and reduce erosion. The Anoka Conservation District, for example, found that most of the erosion problems along the Coon Rapids Dam Pool occur on public land containing few erosion control structures, while few erosion problems are found on private shores protected by manmade features such as rip rap and retaining walls.<sup>17</sup> In the Coon Rapids Dam pool, riprap has been shown to be effective in controlling erosion at the toe of the slope. Riprap can also be effective in reducing sediment loading to the river. However, many of these features were

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<sup>15</sup> Walsh. 2005.

<sup>16</sup> Owens. 2000.

<sup>17</sup> Anoka Conservation District. 2012.

constructed without DNR approval or a work in public waters permit as required by Minn. Stat. § 103G.245, subd. 1 (2015). The work in public waters permit is intended to ensure that work or alterations to a public water below the OHWL do not obstruct navigation or water flow or negatively impact aquatic and near shore habitat. There are many instances where retaining walls and riprap have been installed at a scale significantly larger than that needed to correct erosion problems. The overuse of these mechanisms negatively impacts both riparian vegetation and habitat. (See Figure 12.)



**Figure 12.** Example of riprap installation extent greater than needed to control erosion, with significant impacts on riparian vegetation and habitat.

Management of activities located further from the shoreline can also significantly reduce storm water runoff. It is well documented that increases in impervious surfaces on the landscape affect both water quantity and quality. Negative impacts to the water quality of a river or stream typically occur when the impervious coverage of the watershed approaches 10 to 15%.<sup>18</sup> Increased storm water runoff can affect the stability of slopes and bluffs and give rise to significant safety concerns.

The improper placement of storm water facilities can also increase the risk of slope failure. When placed on or near the tops of slopes, infiltration of storm water can saturate the soil around and below the facility, which can increase slope instability. High intensity rainfall events may load slopes, filling soil pores and reducing the capacity of soil to infiltrate water. Geologic factors are important factors in slope stability but the presence of saturated soils that receive additional, intense precipitation increases the risk of instability and failure.<sup>19</sup>

**Subpart 1. Purpose.** This part establishes standards to protect sensitive resource areas from disturbance and adopts a permitting process to regulate both land disturbance and storm water runoff in sensitive bluff and shore areas to prevent the negative impacts associated with these types of disturbances, including degradation of water quality and bluff instability.

**Subpart 2. Definitions.** This part rule relies on the following terms:

- “Water quality impact zone” is used to identify areas at risk of erosion and of transmitting sediment into a public water. It includes the shore impact zone.
- “Fully reconstructs” refers to the reconstruction of existing impervious surface. The definition is consistent with the definition used by MPCA’s Minimal Impact Development Standards (MIDS)

<sup>18</sup> Schueler et al. 1994.

<sup>19</sup> Jennings. 2015.

program, a voluntary program that encourages local governments to adopt higher development standards for storm water management.

- “Storm water management facility” is any facility that collects, conveys, treats or disposes of storm water. This definition is consistent with the Minnesota Stormwater Manual.

**Subpart 3. Land alteration.** Because of the importance and sensitivity of both the bluff impact zone and the water quality impact zone, this subpart establishes standards for their ongoing protection.

**Bluff Impact Zones.** Bluffs are especially susceptible to erosion and potential failure (see pages 22 to 28 on bluffs). Prohibiting land alteration activities that could destabilize bluffs reduces erosion risks and helps protect public bluffs from slumping or failure. Thus, Supb. 3.A. prohibits all land alteration activity in the bluff impact zone except as authorized by local permit. Permissible exceptions are limited to those activities, approved by local government or the appropriate resource agency, necessary for erosion control management or for the repair and maintenance of existing structures.

**Water Quality Impact Zones.** Land alterations, as defined, particularly within the water quality impact zone, have the potential to increase sedimentation and nutrient pollution in adjacent water bodies. This subpart is intended to prevent or decrease sediment and nutrient pollution within the MRCCA due to land alteration by using a permitting process and best management practices. Subpart 3.B. requires a local permit for activities in the water quality impact zone involving the alteration of more than 10 cubic yards of materials or an alteration of an area greater than 1,000 square feet. Activities in the water quality impact zone within the MRCCA are not currently regulated by most local governments. This permit requirement gives local government oversight over alteration activities, requires the use of best management practices, and thus reduces risks of erosion and water pollution. The 1,000 square foot threshold adopted in the rule is consistent with standards applied by the Capitol Region Watershed District.

**Subpart 4. Rock riprap, retaining walls, and other erosion control structures.** In-stream and streambank erosion control structures such as riprap and retaining walls can positively reduce the impacts of erosion, but these structures may also negatively impact stream and bank habitat in certain situations. Therefore, subpart 4 allows these structures in the bluff impact and water quality impact zones only with a permit issued by a local government and with DNR approval for work in public waters as set forth in Minn. R. 6115.0190 through 6115.0255 (2015). This subpart further specifies that these structures may only be used to correct an existing erosion problem and limits the size of the structures to the minimum needed to correct the problem. Structures larger than the specified dimensional limits are allowed only if an engineer determines that a larger structure is needed to correct the erosion problem. This issue drew extensive public comments, especially in the Coon Rapids Pool area. These standards acknowledge a need for riprap to address erosion in this area but places limits on the size of structures.

**Subpart 5. Permit process.** This subpart sets out procedures for obtaining a local permit for erosion control structures that local governments are required to adopt. The process parallels the process for obtaining a vegetation management permit set forth in proposed Minn. R. 6106.0150, subp. 4.

**Subpart 6. Permit conditions.** To assure the protection of those resources intended to be protected through the establishment of the MRCCA, land alteration permits are designed to meet minimum performance standards. These standards are best management practices, typical of contemporary erosion control practices, and include:

- temporary and permanent erosion and sediment control;
- maximizing natural site topography, soil and vegetation to minimize runoff and reduce erosion and sedimentation;
- phasing of construction; and
- placement of controls prior to land disturbance, and other BMPs identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-001.

**Subpart 7. Storm water management.** Because of the adverse impact of runoff on bluff and slope stability, this subpart requires that, except as described below, storm water throughout the MRCCA must be directed away from bluff impact zones and other unstable areas.

- **Storm water management facilities in the bluff impact zone.** A contributing factor to slope failure and slumping and the associated economic, ecological and human costs is the poor construction and placement of storm water management facilities, such as pipes, outfalls, and treatment facilities. For this reason, the placement of storm water management facilities in the bluff impact zone is prohibited except in rare circumstances as permitted by local government, including where there are no alternatives, the facility is designed to reduce runoff in the bluff impact zone to the greatest extent practicable, the facility does not affect slope stability, and mitigation measures are incorporated into the permit to eliminate or minimize the risk of slope failure.
- **Impervious surfaces in the water quality impact zone.** Because of the potential adverse water quality impacts attributed to impervious surfaces, proposed Minn. R. 6106.0120, subp. 3 prohibits the placement of impervious coverage in the shore impact zone or bluff impact zone except as expressly provided in proposed Minn. R. 6106.0180, the exceptions. For these exceptions that create new impervious coverage, or for projects that fully reconstruct more than 10,000 square feet of existing impervious coverage, this subpart requires a local government to permit these projects according to the treatment standards in the local government's MPCA-approved Municipal Separate Storm Sewer System Permit (MS4) NPDES permit. If the local government does not have a MS4 NPDES permit, then the treatment standards in the applicable NPDES Construction Storm Water General permit apply. Alternatively, local governments may apply other MPCA-approved treatment standards such as those in the MPCA's voluntary Minimal Impacts Design Standards (MIDS)<sup>20</sup> program.

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<sup>20</sup> <http://www.pca.state.mn.us/index.php/water/water-types-and-programs/stormwater/stormwater-minimal-impact-design-standards-mids.html>

These treatment standards ensure that runoff from impervious surfaces in the water quality impact zone will meet current standards. The 10,000 square foot threshold is consistent with standards used by the Capitol Region Watershed District. The area of this threshold is roughly equivalent to a 30-space parking lot.

**Subpart 8. Development on steep slopes.** To address the impact of land alterations on steep slopes (i.e. slopes between 12 and 18%) this subpart retains the best management practices for development set forth in Executive Order 79-19. Most local governments in the MRCCA have adopted ordinances that include these provisions.

**Subpart 9. Compliance with other plans and programs.** Many watershed management organizations and watershed districts exist within the MRCCA, and each prepares its own water plan to comprehensively address water quality within its watershed. Most local governments also participate in the National Flood Insurance Program (NFIP) and have local floodplain ordinances to reduce the risk of flood damage and loss. Finally, most local governments also have local wetland ordinances under the Wetland Conservation Act to protect wetlands within their jurisdiction. This subpart requires all development in the MRCCA to comply with these local water plans and floodplain and wetland standards, which focus on protecting these key features and resources in the MRCCA.

### **6106.0170 Subdivision and Land Development Standards**

Conventional subdivisions, with their uniform lots and blocks, are inadequate to achieve the purposes of the MRCCA. The division of a tract of land into individual lots without regard to the corridor's natural or cultural resources often leads to fragmentation and degradation of natural vegetation and habitat.

Land development patterns within the MRCCA over the past 35 years have historically been guided by the general performance standards and guidelines set forth in Executive Order 79-19. These standards and guidelines encouraged "the clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality." In addition, local governments and regional and state agencies were directed by Executive Order 79-19 to "develop plans and regulations to maximize the creation and maintenance of open space." Additionally, developers were required to dedicate a reasonable portion of "appropriate" riverfront access land or other lands for public use when developing residential, commercial or industrial subdivisions within the MRCCA. Executive Order 79-19 also permitted contribution of cash in lieu of land as an alternative to land dedication.

Executive Order 79-19's general performance standards and guidelines for subdivision and development within the MRCCA were advisory and have not consistently resulted in the intended preservation of open space. Proposed Minn. R. 6106.0170 seeks to correct this shortcoming by requiring either conservation design or other alternative design standards within the MRCCA.

The inclusion of alternative design standards such as conservation design in the MRCCA rules is intended to protect the multiple resource values of the MRCCA while providing a framework for future development of those large private landholdings that remain within the MRCCA.

Conservation design is a valuable tool for protecting water quality and wildlife habitat when appropriately applied, and also provide amenities to residents. An evaluation of 50 matched pairs of

conservation and conventional developments across the United States found that alternative development practices (e.g., conservation design and low impact development practices) were more likely to protect sensitive areas and restore degraded stream environments than the conventional developments. Conservation design can also protect important wildlife habitat in shoreland areas, if designed to minimize land disturbance in those sensitive areas.<sup>21</sup> Finally, if planned in unison with neighboring developments or in the context of a comprehensive plan, conservation design helps preserve wildlife corridors between areas of high quality habitat.<sup>22</sup>

There are additional benefits of conservation design, including creating a greater sense of community, increased connections to the natural environment, and more pleasing aesthetics<sup>23</sup>. Conservation design has been shown to reduce both development costs and long-term maintenance costs of infrastructure, since the land area given over to infrastructure (such as shorter sewer and water connections and arterial roads) is reduced.

**Subpart 1. Purpose.** This rule establishes minimum standards for the subdivision and development of land to protect and enhance the natural and scenic values of the MRCCA, protect and restore biological and ecological functions of primary conservation areas within the MRCCA from the impact of development and redevelopment, and encourage restoration of natural vegetation particularly in those areas within the corridor yet to be developed or subject to redevelopment.

**Subpart 2. Applicability.** This subpart establishes thresholds above which the requirements of this rule apply. The development restrictions applied by this rule were of significant concern to local governments and other interests because of perceived challenges in managing protected open space on small parcels. After consultation with these interests, and after analyzing actual parcel sizes within each district to assess the potential impacts of the rule, the DNR proposes to limit the application of this rule to large scale developments. As such, the requirements for open space protection and restoration are limited to those developments of twenty or more acres, unless the proposed project abuts the Mississippi River, in which case a ten acre threshold applies. The decision to focus only on large parcels was made because most of the remaining developable parcels within the MRCCA are above these size thresholds, and because managing development on those parcels will yield the greatest benefits for the protection of resources within the MRCCA. This approach also limits the administrative burden of administering numerous small, unconnected parcels for both landowners and local governments.

The standards apply to subdivisions, planned unit development, and other large-scale master-planned developments. Developments involving three or fewer lots and minor adjustments are exempted from the requirements established by this rule. The three-lot threshold is consistent with the definition of "development" contained in Minn. Stat. § 116G.03, Subd. 7 (2015), which defines development as the

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<sup>21</sup> Milder. 2007.

<sup>22</sup> Arendt. 1996.

<sup>23</sup> Nassauer et al. 2004

“dividing of land into three or more parcels.” This is also the typical threshold for a major subdivision in most local ordinances.

Likewise, developments or improvements involving river-dependent commercial and industrial uses are also exempt from the provisions of this rule, as these types of development typically take place on large sites that are unsuitable for open space preservation or public access.

**Subpart 3. Project information.** In order to assure an adequate evaluation of the impacts of proposed development or redevelopment within the MRCCA on the natural resource assets of the corridor, the local government will be required to obtain adequate data from the project developer. This subpart specifies that this information must be provided and reviewed by the local government prior to project authorization. The specifics of these requirements are provided in proposed Minn. R. 6106.0080, subpart 6.

**Subpart 4. Design standards.** Local ordinances are required to include design standards and other tools that are intended to achieve or heighten protection or restoration of primary conservation areas – those areas containing key resources and featuring important to the character of the MRCCA. These design standards and tools include incentives for alternative design standards such as conservation design. Incentives are intended to encourage developers to employ conservation design or other innovative development methods, such as transfer of development rights from sensitive to less sensitive lands, which will afford greater protection to the public assets within the MRCCA.

- **Protection of primary conservation areas during development and redevelopment.** Because of the importance of the remaining primary conservation areas within the MRCCA, local governments are required to protect those areas as open space. The proposed rule recognizes, however, that in some circumstances protection of a primary conservation area may unduly burden a developer, particularly where the primary conservation area encompasses the majority of the parcel. This subpart, therefore, sets protection thresholds or a maximum percentage of land in a parcel that must be protected as open space to conserve primary conservation areas. The percentage of land that must be conserved as open space is tied to the conditions in and nature of each district. (See Table 2.)

**Table 2: Percentage of Open Space by District**

Corridor District	Maximum % of Open Space Required	Rationale for Maximum
Rural and Open Space (CA-ROS)	50%	District includes the majority of remaining primary conservation areas and potentially developable land.
River Neighborhood (CA-RN)	20%	District is largely developed; open space percentage is similar to existing open space patterns.
River Towns and Crossings (RTC)	10%	District is largely developed or already preserved as public parkland.
Separated from River (SR)	10%*	District is largely developed or already preserved as public parkland; fewer

Corridor District	Maximum % of Open Space Required	Rationale for Maximum
		opportunities for protection exist, and this district could be a "receiving area" for density transferred from other districts (see footnote).
Urban Mixed (CA-UM)	10%	District is largely developed or already preserved as public parkland; few primary conservation areas exist, but some potential for restoration.
Urban Core (CA-UC)	10%	District is largely developed or already preserved as public parkland.

\* Only required if parcel includes native plant communities or provides feasible connections to a regional park or trail system.

If the primary conservation areas on any given parcel proposed for development or redevelopment exceed the maximum percentages established for the district, the local government has the flexibility to determine which resources on the parcel shall be protected. The proposed rules allow land used for storm water treatment, green infrastructure, land dedicated to public access, and public facilities to be included in any open space requirements imposed by this rule. Proposed Minn. R. 6106.0170, subp. 4.F. and G.

If a primary conservation area where development is proposed lacks natural vegetation, it must be evaluated for potential restoration of natural vegetation. If there are no primary conservation areas on a site proposed for development or redevelopment that meets the minimum size threshold in proposed Minn. R. 6106.0170, subp. 3, the local government must determine whether the site was identified for potential restoration in the local plan and, if so, apply the guidelines for restoration of vegetation set out in proposed Minn. R. 6106.0150, subp. 6.

- **Protection mechanisms.** Primary conservation areas set aside under the proposed rules must be protected using a legal mechanism that assures their long term protection. Those mechanisms are: public acquisition, a conservation easement, a deed restriction, or other arrangements that achieve the same degree of protection as the three legal mechanisms. Proposed Minn. R. 6106.0170, subp. 4 H. This approach is consistent with many local ordinances that already employ conservation design, and gives local governments and developers the flexibility to determine which mechanism will best suit the needs of the local community. This approach was recommended by local governments and other stakeholders who opposed previous draft rule proposals that primary conservation areas be dedicated to the public by a fee simple conveyance or easement.

While local governments retain the ability to select the mechanism they will employ to protect primary conservation areas, the rules makes it clear that, regardless of the method selected, a long-term vegetation management must be provided to assure that the set-aside area continues to meet the biological and ecological functions that resulted in its designation as a primary conservation area. Proposed Minn. R. 6106.0170, subp. 4(I). This includes a preference for connecting open

space and natural areas to create interconnected patches of habitat and corridors for both wildlife movement and recreational use.

- **Connecting protected open space.** The rules identify a preference for a connecting open space and natural areas to create interconnected patches of habitat and corridors for both wildlife movement and recreational use. Contiguous open space and habitat has been demonstrated to result in improved native flora and fauna and associated habitat<sup>24</sup>.

**Subpart 5. Land dedication.** Minnesota statute authorizes local governments to require developers to dedicate a “reasonable portion of buildable lands” as public amenities, including land for parks, recreational facilities, trails, wetlands and open space. Minn. Stat. § 462.358, subd. 2b(a) (2015) and Minn. Stat. § 394.25, subd. 7 (2015). The establishment of the MRCCA predates these statutory requirements; however, Executive Order 79-19 did include a requirement for dedication of riverfront access land, or cash in lieu of such land, to the public. This provision was included in proposed Minn. R 6106.0170 to be consistent with the current statutory requirements. This subpart only applies to those local governments that require land dedication under Minn. Stat. §§ 394.25, subd. 7 and 462.358, subd. 2b(a) (2015).

### **6106.0180 Exemptions from Setbacks, Height Limits, and Other Requirements**

The MRCCA authorizing statute authorizes the DNR to “provide certain exceptions and criteria for standards, including, but not limited to, exceptions for river access facilities, water supply facilities, storm water facilities, and wastewater treatment facilities, and hydropower facilities.” Minn. Stat. § 116 G.15, subd. 4 (2015). This rule sets forth the exemptions from the proposed MRCCA rules, including the exemptions of certain structures and uses from the setback requirements, structure height standards, and restrictions imposed within the shore impact and bluff impact zones.

The Interim Development Regulations in Executive Order 79-19 include many similar exemptions, including: water-related commercial recreational uses, public facilities such as transmission services, transportation facilities, and water and wastewater facilities. These exemptions have been updated and carried forward to the proposed MRCCA rules. Other factors used in creating new exemptions included: consistency with exemptions in current local government ordinances, stakeholder comments, the potential impact of the activity proposed for exemption on MRCCA resources, the current character of land use within the various districts, the public purpose of the activity proposed for exemption, and the needs of property owners and river-dependent uses.

The exemptions are listed in table format in order to assist readers in locating specific structures and uses. The table also cross-references other parts of the proposed MRCCA rules that provide additional standards for these structures and uses.

Details of specific exemptions include:

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<sup>24</sup> Milder, 2007.

- **Historic properties.** Historic properties and properties that contribute to historic districts may be located in areas where other structures would be restricted or prohibited. In most instances the presence of these properties predates the MRCCA and there is a significant public interest in maintain these properties particularly as they pertain to the development of the state and the history of development within the MRCCA.
- **Buildings and structures on the face of the St. Paul downtown bluff in the Urban Core district.** There is currently extensive development on the face of the St. Paul downtown bluff, and the City is planning to add a major public amenity, a “river balcony” along the bluffline. The bluff itself has been structurally reinforced to support development. For this reason these facilities have been exempted from certain standards imposed by these rules.
- **Public recreational facilities.** Some but not all improvements within public recreational facilities are exempted from certain standards imposed by these rules. In the case of public recreational facilities these exemptions were permitted either because their impact was negligible or the exemption was necessary to permit public access to the MRCCA.
  - **Monuments and flagpoles.** Accessory structures such as monuments, flagpoles and similar park features have a negligible impact on resources within the MRCCA. These accessory structures are permitted within the shore impact zone and bluff impact zone (restricted to slopes averaging less than 30% to minimize the threat of erosion). According to local and regional park managers, these accessories are typically placed in proximity to the river for interpretive or commemorative purposes.
  - **Picnic shelters and related visitor structures.** These structures are often sought after by public visitors to a park or recreational facility and are strategically placed to permit views of the river and other MRCCA protected resources. These structures are generally open-sided and do not present a barrier to floodwaters.
  - **Parking areas and roads.** Road access and parking are necessary amenities in public parks and at recreational facilities and water access sites. There are instances where it is necessary, because of site size or layout, that roads and parking areas be placed within the shore impact zone or close to the toe of the bluff.
  - **Trails and viewing areas.** Trails and viewing areas enhance the public enjoyment of the resources within the MRCCA. These typical park features that are often located close to the shoreline or on bluff faces to maximize public enjoyment and are exempted from a number of the provisions of the proposed MRCCA rules. Because of concerns about impacts of construction on vegetation and slope stability, hard surface trails are generally not permitted on the steepest slopes within the MRCCA.
- **River-dependent uses:** Where a business or property is connected to the river or dependent on the river, those shoreline facilities necessary for the operation of the businesses or use are exempt from shore and bluff impact zone restrictions. This exemption does not extend to buildings, structures, and parking that do not require a shoreline location for their operations. Private roads and conveyance structures serving these facilities may also be placed in the bluff impact zone or shore impact zone if there is no alternative location.

- **Private residential and commercial water access and use facilities:** There are limited exceptions for private residential and commercial activities.
  - **Private roads.** Private roads serving three or more lots may be constructed in the bluff impact zone if doing so is the only means of accessing level land on a terrace or at the foot of the bluff. This exemption, however, applies only to roads serving three or more lots – i.e., subdivisions – not individual parcels.
  - **Access paths.** Access paths, stairways, lifts, and landings are permitted within the shore impact zone and bluff impact zone as necessary to permit private land owners to enjoy the amenities of their property. This exemption is consistent with the access exemptions permitted by Minn. R. 6120.3300, subp. 3 I (2015), which permits shoreland property owners to construct access paths, stairs, lifts and landings within the shore impact zone.
  - **Water-oriented accessory structures.** Water oriented accessory structures such as gazebos, decks, patios, fish houses, screen houses and pump houses are often used by private land owners to enjoy the amenities of the MRCAA corridor and are exempted from certain requirements of the proposed MRCCA rules. These exemptions are consistent with the requirements in the state shoreland rules, chapter 6120.3300, subp.3.H. (2015).

## Conclusion

Based on the foregoing, the proposed rules are both needed and reasonable.

Date: December 9, 2015

/s/Tom Landwehr  
Commissioner

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**MRCCA SONAR**

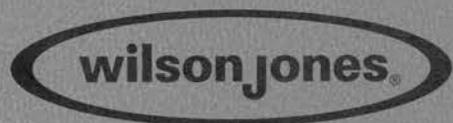
**Exhibits**

G-009

MRCCA SONAR

Executive Order 130 and Amendments

STATE OF MISSISSIPPI  
DEPARTMENT OF STATE  
FILED  
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Exhibit A – Executive Order 130 and Amendments

G-009

pg

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
OCT 18 1976

*John Anderson*  
Secretary of State



EXECUTIVE ORDER NO. 130

Designating the Mississippi River  
Corridor as a Critical Area

I, Wendell R. Anderson, Governor of the State of Minnesota, by virtue of the authority vested in me by the Critical Area Act of 1973, Minnesota Statutes, Chapter 116G, hereby issue this Executive Order:

WHEREAS, the Mississippi River Corridor through the seven-county Twin Cities Metropolitan Area satisfies the following characteristics as outlined in MEQC 52(a) and pursuant to M.S., Chapter 116G:

- (1) It is an Area affected by existing or proposed major governmental development including: four major lock and dams across the River and a nine-foot navigational channel built and operated by the federal government; seven large industrial projects built with the help of public funds; six regional parks; a major regional sewage treatment plant and discharge points for six other existing or proposed waste treatment plants; one major

airport and the facilities of another major airport; at least 22 river crossings for major roadways; and other governmental facilities, all of which facilities serve persons outside of the proposed corridor; and all of which generate substantial development or urbanization.

- (2) It is an area containing historic, natural, scientific, or cultural resources of regional or statewide importance.
  - (a) The corridor contains historical resources of statewide or regional significance, including five areas listed on the National Register of Historic Places and twelve areas identified by the Minnesota Historical Society.
  - (b) The corridor contains natural resources of statewide or regional significance, including the river itself used for transportation, waste assimilation, recreation, sand and gravel deposits, and habitat suitable for the maintenance of fish and wildlife.
  - (c) The corridor contains cultural resources of statewide and regional significance, including Indian burial grounds, parks, water recreational facilities, and early settlements.
  - (d) The corridor contains scientific resources of statewide and regional significance including opportunities for floodplain and hydrological investigation, geological investigation, and historic investigation.

WHEREAS, the Mississippi River Corridor meets all of the criteria outlined in MEQC 52(b) to be designated as a critical area as follows:

- (1) The area was recognized to be of significant regional or statewide public interest because it is a regional transportation corridor, a regional recreational area, and it has been or is being studied by a number of local, state and federal agencies and commissions;
- (2) Other legal powers are unavailable to provide coordinated regulation of the area to protect the public interest:
  - (a) Four townships, twenty cities, five counties, three regional agencies, five special purpose governmental districts, four state agencies, and four federal agencies have regulatory or planning authority in the corridor.
  - (b) No state agency, or local government has the legal authority to coordinate the regulatory and planning authority of the state and local agencies involved.
  - (c) The Metropolitan Council has no zoning authority in the area and can only suspend particular development for a limited period of time.
  - (d) The Floodplain Management Act regulated floodplain development, but is primarily aimed at reducing flood damage. The Act will not control development outside of the floodplain.
  - (e) The Shoreland Management Act only regulates development

within three hundred feet of the river or to the landward extent of the floodplain, whichever is greater. It does not assist in regulating development outside of this area which may have a major effect on the river.

- (f) The State Wild, Scenic, and Recreational Rivers Act is unavailable for most of the corridor. Nor does it provide for coordination of planning among state and local governments.
- (3) The area is one of a limited number within the state. No other area in Minnesota provides such important transportation, recreational, and water-related functions as the River does as it flows through the Metropolitan Area. Thus, it is a unique resource in Minnesota because of its importance and in its proximity to the large number of people in the Metropolitan Area.
- (4) The area has been specifically identified by legal description.

WHEREAS, unregulated development and uncoordinated planning threatens the public interest in the Mississippi River Corridor; many decisions affecting the use of the River Corridor are made by local governmental units without adequate regard for protecting the regional interest in the regional resource; and

WHEREAS, the advantages of coordinated planning for the area will achieve development of the River Corridor as a regional multi-purpose resource, resolve the conflicts of use of land and

water, preserve and enhance its natural, aesthetic, cultural, and historical value for the public use, and protect its environmentally sensitive areas;

NOW, THEREFORE, I order the Mississippi River Corridor located within the Twin Cities Metropolitan Area designated a critical area.

1. The boundaries of the Mississippi River Corridor Critical Area are delineated in the legal description which is attached and incorporated hereby into this Order.
2. The Standards and Guidelines to be followed by local units of government, regional agencies and state agencies in the preparation and adoption of plans and regulations for the Critical Area are attached and incorporated hereby into this Order.
3. The Interim Development Regulations to be followed in granting development permits during the Interim Period are attached and incorporated hereby into this Order.
4. The Department of Natural Resources shall prepare the Scenic and Recreational Plan for the eight mile stretch of the river corridor in the Cities of Dayton and Ramsey. The Cities of Dayton and Ramsey shall prepare regulations for the implementation of the plan and both the regulations and the plan shall conform to the critical area standards and guidelines.

The DNR plan and the local regulations shall be submitted to the EQC for approval, and once approval is granted, the

critical area designation order for the eight mile stretch of the river corridor shall lapse. At that time, the Department of Natural Resources shall assume management responsibilities under the authority of the State Wild and Scenic River Act.

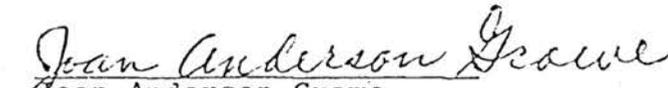
5. The State Planning Agency shall determine and administer the amount of funds needed for the preparation and adoption of plans and regulations.
6. The designation order for the remainder of the critical area corridor shall be effective for no longer than three years pending final approval by the Legislature or the Metropolitan Council.

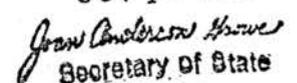
This Order shall be effective immediately and shall be in force until rescinded by the proper authority.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 18th day of October, 1976.

  
Wendell R. Anderson

Filed according to law:

  
Joan Anderson Growe  
Secretary of State

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
OCT 18 1976  
  
Secretary of State

APPENDIX A

LEGAL DESCRIPTION OF THE RIVER CORRIDOR

Ramsey

Commencing at the point where the west boundary line of Anoka County intersects with the north boundary line of Hennepin County;

Thence north along said Anoka County west boundary line to the NW corner of the NW quarter of the SW quarter of Section 19 (T32N, R25W);

Thence east along the north side of the NW quarter of the SW quarter of Section 19 (T32N, R25W), to its intersection with the center line of U.S. Highway 10;

Thence along said center line in a southeasterly direction to the intersection with the north side of Section 30 (T32N, R25W);

Thence eastward along the north side of Section 30 to the NW corner of Section 29, (T32N, R25W);

Thence south along the west side of Section 29 to the SW corner of the NW quarter of said Section 29;

Thence east along the south side of the NW quarter of said Section 29 to the NW corner of the NE quarter of the SW quarter of said Section 29;

Thence south along the west side of the NE quarter of the SW quarter of said Section 29 to SW corner of the NE quarter of the SW quarter of said Section 29;

Thence east along the north line of the south quarter of said Section 29; to the west boundary line of Section 28; (T32N, R25W);

Thence east along the northern boundary of Government Lot 1, Section 28, (T32N, R25W) to the NE corner of said lot;

Thence south to the SE corner of said Government Lot 1, Section 28, (T32N, R25W);

Thence east along the north side of Section 33 (T32N, R25W) to the NE corner of Government Lot 2 in said Section;

Thence south along the east side of Government Lot 2, Section 33 (T32N, R25W) to the SW corner of the northern half of the NE quarter of the NE quarter of Section 33;

Thence east to the west side of Section 34 (T32N, R25W);

Thence south to the SW corner of the NW quarter of the SW quarter of the NW quarter of Section 34 (T32N, R25W);

Thence east to the west side of Section 35 (T32N, R25W);

Thence south along the west side of Section 35 (T32N, R25W)  
to the NW corner of Government Lot 1, Section 35 (T32N, R25W);

Thence east to the NW corner of the SW quarter of the NE  
quarter of the SW quarter of Section 35 (T32N, R25W);

Thence south to the SW corner of the SW quarter of the NE  
quarter of the SW quarter of Section 35 (T32N, R25W);

Thence east along the south side of the NE quarter of the  
SW quarter of Section 35 (T32N, R25W) to its intersection with the  
west boundary of Anoka;

Thence northeasterly along the west boundary of Anoka to the  
intersection with the center line of U.S. Highway 10.

Anoka

Thence southeasterly along said center line to the  
intersection with the center line of Park Street in  
the City of Anoka; south along the center line of Park  
Street to the intersection with the west side of Section  
1 (T31N, R25W);

Thence south along said west side to the intersection  
with the center line of Benton Street;

Thence southeasterly along said center line to the  
intersection with the center line of State Avenue;

Thence south along the center line of State Avenue  
to the intersection with the center line of Rice  
Street;

Thence east along the center line of said street to  
the intersection with the center line of Ferry Street;

Thence easterly along a line from said intersection to  
the intersection of the center lines of Madison Street  
and River Avenue;

Thence east from said point along the center line of  
Madison Street to the intersection with the center  
line of 1st Avenue;

Thence south along 1st Avenue to the intersection with  
the center line of Jefferson Street;

Thence east along the center line of said street to the  
intersection with the center line of 2nd Avenue;

Thence south along said center line to the intersection  
with the center line of Adams Street;

Thence east along said center line to the intersection  
with the center line of 3rd Avenue;

Thence south along said center line to the intersection  
with the center line of Oakwood Drive;

Thence easterly along said center line to the intersection with the center line of Kings Lane;

Thence southwesterly along said center line to the intersection with the center line of Birch Street;

Thence southeasterly along said center line to the intersection with the center line of Queens Avenue;

Thence south along said center line to the intersection with the center line of Pine Street;

Thence southeasterly along said center line to the intersection with the center line of 9th Avenue;

Coon Rapids

Thence from this point, a straight line to the intersection of the center line of 115th Avenue with the west side of Section 17 (T31N, R24W);

From this point, east along a line to the intersection of the east side of the NW quarter of said Section 17 with the center line of Coon Rapids Boulevard;

From said point southeasterly along the center line of Coon Rapids Boulevard to the intersection with the center line of Mississippi Boulevard;

Thence southerly along said center line to the intersection with the center line of Hansen Boulevard;

Thence south along said center line to the intersection with the center line of 99th Avenue NW;

Thence east along said center line to the SW corner of the NW quarter of the NW quarter of Section 26 (T31N, R24W);

Thence east along the south side of the north half of the NW quarter of said Section 26;

Thence continuing east along the south side of the NW quarter of the NE quarter of said Section 26 to the intersection with the center line of East River Boulevard. (Anoka County Highway 1);

Thence south along said center line to the intersection with the west side of the east half of the SE quarter of said Section 26;

Thence south along said line to the SW corner of the SE quarter of the SE quarter of said Section 26;

Thence continuing south along the west side of the east half of the NE quarter of Section 35 (T31N, R24W);

Thence continuing south along the west side of the NE quarter of the SE quarter of said Section 35 to the SW corner of the NE quarter of the SE quarter of said Section 35;

Fridley  
Minneapolis

From this point, southeasterly along a diagonal to the NW corner of Section 3 (T30N, R24W);

From said corner, east along the north side of said Section 3 to the intersection with the center line of Anoka County Trunk Highway 1;

Thence south along the center line of said highway to the Anoka-Hennepin County common boundary line;

Thence continuing south along the center line of now Hennepin County Trunk Highway 23 to the center line of 30th Avenue NE;

Thence east along said center line to the intersection with the center line of Randolph Street;

Thence south along said center line to the intersection with the center line of 26th Avenue NE;

Thence east along said center line to the intersection with the center line of Grand Street;

Thence south along said center line to the intersection with the center line of 13th Avenue NE;

Thence southwesterly along said center line to the intersection with the center line of Ramsey Street;

Thence southeasterly along said center line to the intersection with the center line of 7th Avenue NE;

Thence northeasterly along said center line to the intersection with the center line of Main Street;

Thence southeasterly along said center line to the intersection with the center line of 5th Avenue NE;

Thence northeasterly along said center line to the intersection with the center line of University Avenue;

Thence southeasterly along said center line to the intersection with the center line of Oak Street;

Thence south along said center line to the intersection with the center line of Fulton Street;

Thence east along said center line to the intersection with the center line of Huron Street;

Thence southerly along said center line to the intersection with the center line of Interstate 94;

Thence southeasterly along said center line to the intersection with the Minneapolis-St. Paul common boundary line;

St. Paul Thence south along said line to the intersection with the center line of Otis Avenue;

Thence southeasterly along Otis Avenue to the intersection with the center line of Exeter Place;

Thence south along said center line to the intersection with the center line of Mississippi River Boulevard;

Thence east along said center line to the intersection with the center line of Cretin Avenue;

Thence south along said center line to the intersection with the center line of Goodrich Avenue;

Thence west along said center line to the intersection with the center line of Woodlawn Avenue;

Thence south along said center line to the intersection with the center lines of Randolph Avenue, Woodlawn Avenue and Mount Curve Boulevard;

Thence south along the center line of Mount Curve Boulevard to the intersection with the center line of Ford Parkway;

From this point southeasterly along a diagonal to the intersection of the center lines of Hampshire Avenue and Finn Street;

Thence south along the center line of Finn Street to the intersection with the center line of Magoffin Avenue;

Thence east along said center line to the intersection with the center line of Cleveland Avenue;

Thence south along said center line to the intersection with the center line of Norfolk Avenue;

Thence southeasterly and easterly along said center line to the intersection of the center line of Stewart Avenue;

Thence northeasterly along said center line to the intersection with the center line of Alton Street;

Thence southeasterly along said center line to the intersection with the center line of Youngman Avenue;

Thence northeasterly along said center line to the intersection with the center line of Rankin Street;

Thence northwesterly along said center line to the intersection with the center line of Stewart Avenue;

Thence northeasterly along said center line to the intersection with the center line of Homer Avenue;

Thence northwesterly along said center line to the intersection with the south boundary line of the right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad;

Thence northeasterly along said boundary to the intersection with the center line of Watson Avenue;

Thence east along said center line to the intersection with the center line of Drake Street;

From this point, northeasterly along a diagonal to the intersection of the center lines of Randolph Avenue and Erie Street;

Thence north along the center line of Erie Street to the intersection with the center line of Jefferson Avenue;

Thence east along said center line to the intersection with the center line of Colburne Avenue;

From this point, northeasterly along a diagonal to the intersection of the center lines of St. Clair Avenue and Western Avenue;

Thence east along the center line of St. Clair Avenue to the intersection with the center line of Ann Street;

Thence north along said center line to the intersection with the center line of Superior Street;

Thence east along said center line to the intersection with center line of Dousman Street;

Thence north along said center line to the intersection with the center line of Banfil Avenue;

Thence east along said center line to the intersection with the center line of Smith Street;

Thence north along said center line to the intersection with the center line of Goodrich Avenue;

Thence east along said center line to the intersection with the center line of Lech Street;

Thence north along said center line to the intersection with the center line of McBoal Street;

Thence east along said center line to the intersection with the center line of Wilkin Street;

Thence north along said center line to the intersection with the center line of Exchange Street;

Thence northeasterly along said center line to the intersection with the center line of Kellogg Boulevard;

Thence easterly and northeasterly along said center line to the intersection with the center line of Interstate 94;

Thence southeasterly along said center line to the intersection with the center line of Maria Avenue;

Thence southeasterly along said center line to the intersection with the south side of Section 33 (T20N, R22W);

Thence east along said line to the intersection with the center line of Burns Avenue;

Thence east along said center line to the intersection with the center line of Upper Afton Road;

Thence southeasterly along said center line to the intersection with the center line of Hazel Avenue;

Thence south along said center line to the intersection with the north side of Section 11 (T28N, R22W);

Thence east along said side to the NE corner of the NW quarter of said Section 11;

Thence south along the east side of the NW quarter of said Section 11 to the SE corner of the NW quarter of said Section 11;

Thence east along the north side of the SE quarter of said Section 11 to the NW corner of the east half of the SE quarter of said Section 11;

Thence south along the west side of the east half of the SE quarter of said Section 11 to the south line of said Section 11;

Thence east along the south side of said Section 11 to the intersection with the center line of McKnight Road;

Thence south along said center line to the intersection with the center line of Carver Avenue;

Maplewood Thence east along said center line to the intersection with the west side of the east half of the NW quarter of Section 24, (T28N, R22W);

Thence south along said side continuing along the west side of the east half of the SW quarter of said Section 24, to the intersection with the center line of Interstate 494;

Thence southwesterly along said center line to the intersection with the centerline of 1st Avenue in Newport;

Newport Thence south along said center line to the intersection with the center line of 17th Street;

Thence east along said center line to the intersection with the center line of 3rd Avenue;

Thence south along said center line to the intersection with the center line of 12th Street West;

Thence east along said center line to the intersection with the center line of 4th Avenue;

Thence south along said center line to the intersection with the south side of the north half of Section 1 (T27N, R22W);

St. Paul Park Thence east along said side to the center line of Third Street, City of St. Paul Park;

Thence south along said center line to the intersection of 6th Avenue (commonly known as Broadway);

Thence west along said center line to the intersection of the center line of Main Street;

Thence south along said center line to the intersection of the center line of Pullman Avenue;

Thence east along said center line to the intersection with the center line of 3rd Street;

Thence south along said center line to the South city limits of St. Paul Park;

Grey Cloud Thence south along said center line to the intersection with the center line of Grey Cloud Trail;

Thence southeasterly along said center line to the intersection with the south side of Section 19 (T27N, R21W);

Cottage Grove Thence east along said side to the SE corner of said Section 19;

Thence south along the west side of Section 29 (T27N, R21W) to the intersection with the NW corner of the SW quarter of the NW quarter of said Section 29;

Thence east along the north side of the SW quarter of the NW quarter of said Section 29 to the NE corner of the SW quarter of the NW quarter of said Section 29;

Thence south along the east side of the SW quarter of the NW quarter and along the east side of the NW quarter of the SW quarter of said Section 29 to the NW corner of the SE quarter of the SW quarter of said Section 29;

Thence east along the north side of the SE quarter of the SW quarter of said Section 29 to the NE corner of the SE quarter of the SW quarter of said Section 29;

Thence south along the east side of the SW quarter of said Section 29 to the south side of said Section 29;

Thence east along the south side of Sections 29 and 28 to the southwestern corner of Section 27;

Thence north along the west side of said Section 27 to the NW corner of the SW quarter of said Section 27;

Thence east along the north side of the south half of said Section 27 to the east side of said Section 27;

Thence south along the east side of said Section 27 to the SE corner of said Section;

Thence east along the south side of Section 26 (T27N, R21W),  
to the intersection with the center line of U.S. Highway 61;

Denmark Thence southeasterly along said center line to the intersection  
with the center line of U.S. Highway 10;

Thence easterly along said center line to the intersection  
with the south side of Section 6 (T26N, R20W);

Thence east to the SE corner of said Section 6;

Thence southeasterly along a diagonal to the SE corner of the  
north half of the NW quarter of Section 8 (T26N, R20W);

Thence east along the south side of the north half of the NE  
quarter of said Section 8 to the east side of said Section 8;

Thence south along the east side of Section 8 to the intersection  
with the northeasterly boundary of Dakota County;

Ravenna Thence southeasterly along the Dakota County boundary to the  
intersection with the Dakota County-Goodhue County common  
boundary;

Thence south along said boundary to the intersection with  
the south side of Section 21 (T114N, R16W);

Thence west along the south side of said Section to the SW  
corner of said Section;

Thence north along the west side of said Section to the  
NW corner of said Section;

Thence north along the west side of Section 16 (T114N,  
R16W) to the intersection with the center line of Dakota  
CSAH 54;

Thence northwesterly along said center line to the intersection  
with the south side of Section 31 (T115N, R16W);

Thence west along said line to the SW corner of said Section 31;

Thence north along the east side of Section 36 (T115N, R17W)  
to the NE corner of the SE quarter of the SE quarter of said  
Section 36;

Thence west along the south side of the NE quarter of the SE  
quarter of said Section 36 to the SW corner of the NE quarter  
of the SE quarter of said Section 36;

Thence north along the west side of the east half of the SE  
quarter of said Section 36 to the NW corner of the NE  
quarter of the SE quarter of said Section 36;

Thence west along the north side of the south half of said Section 36 and Section 35 (T115N, R16W) to the west side of said Section 35;

Hastings Thence north along the west side of said Section 35 and Section 26 (T115N, R16W) to the intersection with the center line of 3rd Street;

Thence west along said center line to the intersection with the center line of Washington Street;

Thence north along said center line to the intersection with the center line of 2nd Street;

Thence west along said center line to the intersection with the center line of Dakota County Road 42;

Nininger Thence northwesterly along said center line to the intersection with the center line of Dakota County Highway 87;

Thence northwesterly along said center line to the intersection with the center line of 125th Street east;

Thence west along said center line to the intersection with the center line of Isadore Avenue;

Thence south along said center line to the intersection with the center line of 127th Street east;

Thence west along said center line to the intersection with the center line of Idell Avenue;

Thence south along said center line to the intersection with the center line of Dakota County Road 42;

Thence southwesterly along said center line to the intersection with the center line of Minnesota Highway 55;

Rosemount Heights Thence west and then north along said center line to the Inver Grove intersection with the center line of Dakota County Road 77;

Thence north along said center line to the intersection with the center line of Minnesota State Highway 56;

Thence north along said center line to the intersection with the center line of 70th Street east;

Thence west along said center line to the intersection with the centerline of Delany Avenue east;

Thence north along said center line to the intersection with the center line of 69th Street east;

Thence west along said center line to the east side of Section 3 (T27N, R18W);

Thence north along said side to the NE corner of said Section 3;

Thence west along the north side of said Section 3 to the intersection with the center line of Henry Avenue;

South St. Thence north along said center line to the intersection  
Paul with the center line of Chestnut Street;

Thence east along said center line to a point directly in line with the southerly extension of Eldridge Avenue;

From this point, northwesterly along a diagonal to the intersection of the center lines of Spruce Street and Eldridge Avenue;

Thence north along the center line of Eldridge Avenue to the intersection with the center line of Dale Street;

Thence west along said center line to the intersection with the center line of Syndicate Avenue;

Thence north along said center line to the intersection with the center line of Warburton Street;

From this point, northwesterly, along a diagonal to the intersection of the center lines of 8th Street South and 1st Avenue South;

Thence north along the center line of 1st Avenue South to the intersection with the center line of Southview Boulevard;

Thence west along said center line to the intersection with the center line of 2nd Avenue South;

Thence north along said center line to the intersection with the center line of Marie Avenue;

Thence west along said center line to the intersection with the center line of 3rd Avenue North;

Thence north along said center line to the intersection with the center line of 2nd Street North;

Thence west along said center line to the intersection with the center line of 4th Avenue North;

Thence north along said center line to the intersection with the center line of 3rd Street North and Grand Avenue;

Thence north along the center line of Grand Avenue to the intersection with the center line of 5th Avenue North;

From this point northwesterly along a diagonal to the intersection of the center lines of Turin and Stewart Avenues;

Thence north along the center line of Stewart Avenue to the intersection of the center lines of 8th Avenue North and Thompson Avenue;

From this point northwesterly along a diagonal to the intersection of the center lines of Highland Avenue and 10th Avenue North;

From this point, northwesterly along a diagonal to the intersection of the center lines of Bryant and Summit Avenues;

Thence north along the center line of Summit Avenue to the intersection with the center line of Orme Avenue;

From this point northwesterly along a diagonal to the intersection of the center lines of Butler and Stickney Avenues;

From this point northwesterly along a diagonal to the intersection of the center lines of Stanley and Evans Avenues;

Thence north along the center line of Evans Avenue to the intersection of the center lines of Stickney Avenue and Lewis Street;

Thence north along the center line of Stickney Avenue to the intersection with the St. Paul-South St. Paul common boundary;

St. Paul Thence west along said boundary to the intersection with the center line of new State Highway 56;

Thence north along said center line to the intersection with the center line of East Page Street;

Thence west along said center line to the intersection with the center line of Woodbury Street;

Thence north along said center line to the intersection with the center line of Prescott Street;

Thence west along said center line to the intersection with the center line of Oakdale Avenue;

Thence north along said center line to the intersection with the center line of East King Street;

Thence west along said center line to the intersection with the center line of Robert Street;

Thence north along said center line to the intersection with the center line of George Street;

Thence west along said center line to the intersection with the center line of Humboldt Avenue;

Thence north along said center line to the intersection with the center line of Winifred Street;

Thence west along said center line to the intersection with the center line of Hall Street;

Thence north along said center line to the intersection with the center line of Delos Street;

Thence west along said center line to the intersection with the center line of Bidwell Street;

Thence south along said center line to the intersection with the center line of W. Congress Street;

Thence west along said center line to the intersection with the center line of Ohio Street;

Thence south along said center line to the intersection with the center line of Robje Street;

Thence west along said center line to the intersection with the center line of Manomin Avenue;

Thence south along said center line to the intersection with the center line of West George Street;

Thence west along said center line to the intersection with the center line of Smith Ave-ue;

Thence south along said center line to the intersection with the center line of West Stevens Street;

Thence west along said center line to the intersection with the center line of Ottawa Avenue;

Thence south along said center line to the intersection with the center line of Morton Street;

Thence west along said center line to the intersection with the center line of Delaware Avenue;

Thence south along said center line to the intersection with the center line of State Highway 13;

Mendota  
Heights

Thence west and southwesterly along said center line to the intersection with the center line of Sylvandale Road;

Thence south along said center line to the intersection with the center line of Woodridge Drive;

Thence southwesterly along said center line to the intersection with the center line of Cascade Lane;

Thence south along said center line to the intersection with the center line of Arcadia Drive;

From this point southwesterly along a diagonal to the northwest corner of Section 24 (T28N, R22W);

Thence west along the north side of Section 23 (T28N, R22W), to the intersection with the center line of the Northern States Power Company utility easement;

Thence south along said center line to the intersection with the south side of the north half of the NE quarter of said Section 23;

From this point, southwesterly along a diagonal to the intersection of the center lines of Victoria Road and Caren Road;

Thence westerly along the center line of Caren Road to the intersection with the center line of James Road;

Thence southwesterly along said center line to the intersection with the center line of Douglas Road;

Thence westerly along said center line to the intersection with the center line of James Road;

Thence westerly along said center line to the intersection with the center line of Lexington Avenue;

Thence south along said center line to the intersection with the center line of Orchard Place;

Thence westerly along said center line to the intersection with the center line of Hunter Lane;

Thence south along said center line to the intersection with the center line of State Highway 110;

Thence west along said center line to the intersection with the center line of Minnesota Highway 13;

Thence southerly along said center line to the intersection with the center line of Interstate 494;

Thence westerly along said center line to the intersection with the center line of State Highway 5;

Thence northeasterly along said center line to the intersection with the boundary line of the Fort Snelling State Park;

Thence northerly along said boundary line to the intersection with the center line of State Highway 55;

#### Minneapolis

Thence northwesterly along said center line to the intersection with the center line of 47th Avenue South;

Thence north along said center line to the intersection with the center line of Minnehaha Avenue;

Thence northwesterly along said center line to the intersection with the center line of Nawadaha Boulevard;

Thence easterly along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of E. 46th Street;

Thence east along said center line to the intersection with the center line of 47th Avenue South;

Thence north along the center line of 47th Avenue South to the intersection with the center line of East 44th Street;

From this point north along a straight line to the intersection of the center lines of Dowling Street and 47th Avenue South;

Thence north along the center line of 47th Avenue South to the intersection with the center line of East 32½ Street;

Thence west along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of East 35th Street;

Thence east along said center line to the intersection with the center line of 47th Avenue South;

Thence north along said center line to the intersection with the center line of East Lake Street;

Thence west along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of Dorman Avenue;

Thence northwesterly along said center line to the intersection with the center line of 40th Avenue South;

Thence in a straight line northwest to the intersection of the center lines of Minneapolis Avenue and 34th Avenue South;

Thence northwest along the center line of Minneapolis Avenue to the intersection with the center line of 31st Avenue South;

Thence north along said center line to the intersection with the center line of Franklin Avenue;

Thence west along said center line to the intersection with the center line of Riverside Avenue;

Thence northwest along said center line to the intersection with the center line of 19th Avenue South;

Thence north along said center line to the intersection with the center line of 2nd Street South;

Thence northwest along the center line of 2nd Street South to the intersection of the center lines of 2nd Street South and Hennepin Avenue;

Thence north-northwest along the center line of 2nd Street North to the intersection with the center line of Mississippi Drive;

Thence north-northeast along said center line to the intersection with the center line of Lyndale Avenue North;

Thence north along said center line to the intersection with the center line of Interstate 94;

Thence north along said center line to the intersection with the center line of 52nd Avenue North;

Thence west along said center line to the intersection with the center line of 4th Street North;

Thence northwesterly along said center line to the intersection with the center line of 55th Avenue North;

Brooklyn Center Thence westerly along said center line to the intersection with the center line of Camden Avenue North;

Thence north along said center line to the intersection with the center line of 62nd Avenue North;

Brooklyn  
Park

Thence in a straight line northeasterly to the intersection of the center lines of State Highway 196 and Interstate 94;

Thence north along the center line of State Highway 196 to the intersection with the center line of 89th Avenue North;

Thence west along said center line to the west side of Section 13 (T1N, R24W);

Thence north along said side of said Section 13 to the NW corner of said Section 13;

From this point west along the south side of Section 11 (T31N, R24W) to the SW corner of the SE quarter of the SE quarter of said Section 11;

Thence north to the NW corner of the SE quarter of the SE quarter of said Section 11;

Thence in a straight line northwest to the intersection of the center lines of Logan Avenue North and 95th Avenue North;

Thence northeast along the center line of Logan Avenue North to the intersection with the center line of 96th Avenue North;

Thence northwest along said center line to the intersection with the center line of Newton Avenue North;

Thence north along said center line to the intersection with the center line of 97th Avenue North;

Thence west along said center line to the SE corner of the NW quarter of said Section 11;

Thence north along the east side of the NW quarter of said Section 11 to the intersection with the center line of State Highway 169;

Thence northwest along said center line to the north side of the south half of the SW quarter of Section 2 (T31N, R24W);

Thence west along the said side to the west side of said Section 3;

Thence north-northwest in a straight line to the intersection of the center lines of Riverside Place and Sunset Road;

Thence northwest along the center line of Riverside Place to the intersection with the center line of France Avenue North;

Champlin

intersection with the center line of U.S. Highway 169;

Thence northwest along said center line to the intersection with the center line of Hayden Lake Road;

Thence west along said center line to the intersection with the center line of U.S. Highway 52;

Thence north along said center line to the intersection with the center line of U.S. Highway 169;

Thence northwest along said center line to the intersection with the center line of Hennepin County Road 12;

Thence northwest along said center line to the intersection with the east side of Section 14 (T120N, R22W);

Dayton

Thence north along said side of Section 14 to the SE corner of the NE quarter of the NE quarter of Section 14 (T120N, R22W);

Thence west along the south side of the NE quarter of the NE quarter of Section 14 to the SW corner of the NE quarter of the NE quarter of Section 14 (T120N, R22W);

Thence north along the west side of the NE quarter of the NE quarter of Section 14 to the south side of Section 11 (T120N, R22W);

Thence west along the south side of Section 11 (T120N, R22W) to the SW corner of the SE quarter of said Section;

Thence north along the west side of the SE quarter of Section 11 to the NW corner of the SW quarter of the SE quarter of Section 11 (T120N, R22W);

Thence west along the north side of the south quarter of Section 11 to the intersection with the east side of Section 10 (T120, R22W);

Thence south along the west side of Section 11 to the SW corner of the N one-half of the NW quarter of the SW quarter of the SW quarter of Section 11 (T120N, R22W);

Thence west across Government Lot 6 to the east boundary of Government Lot 5, Section 10 (T120N, R22W);

Thence south along the east boundary of Government Lot 5 to the NE corner of the south 20 acres of Government Lot 5, (T120N, R22W);

Thence west to the SW corner of the NE quarter of the SE quarter of the SW quarter of Section 10 (T120N, R22W);

Thence north to the south side of Government Lot 4, Section 10 (T120N, R22W);

Thence west to the SW corner of Government Lot 4, Section 10 (T120N, R22W);

Thence north along the west side of Government Lot 4 to the NW corner of Government Lot 4, Section 10 (T120N, R22W);

Thence west to the east side of Section 9 (T120N, R22W);

Thence north along the east side of Section 9 to the SE corner of Government Lot 1, Section 9 (T120N, R22W);

Thence west along the south side of Government Lot 1 to the SW corner of Government Lot 1 within Section 9 (T120N, R22W);

Thence north along the west side of Government Lot 1 in Section 9 to the north side of Section 9 (T120N, R22W);

Thence west along the north side of Section 9 to the NE corner of the NE quarter of the NW quarter of Section 9 (T120N, R22W);

Thence south along the east side of the NE quarter of the NW quarter to the SE corner of the NE quarter of the NW quarter of Section 9 (T120N, R22W);

Thence west along the south side of the north quarter of Section 9 to the SW corner of the NW quarter of the NW quarter of Section 9 (T120N, R22W);

Thence north along the east side of Section 8 (T120N, R22W) to the SE corner of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W);

Thence west along the south side of the northern half of the NE quarter of the NE quarter in Section 8 to the SW corner of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W);

Thence north along the west side of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W) to the south side of Section 5 (T120N, R22W);

Thence west to the SW corner of Government Lot 4 in Section 5;

Thence north along the west side of Government Lot 4 to the SE corner of Government Lot 3, Section 5 (T120N, R22W);

Thence west along the north side of the south quarter of Section 5 to the SW corner of the NW quarter of the SW quarter of Section 5;

Thence north to the SW corner of Government Lot 2, Section 5;

Thence west to the SW corner of Government Lot 3, Section 6 (T120N, R22W);

Thence north along the western boundary of Government Lot 3 in Section 6 (T120N, R22W) to its intersection with the center line of Hennepin County Road 12;

Thence in a northwesterly direction along said center line traversing Government Lot 2 in Section 6 and continuing through Section 31 (T120N, R22W) to the intersection with the Hennepin-Wright County common boundary line at the mouth of the Crow River.

Thence northerly along said line to the Hennepin County-Sherburne County common boundary line;

Thence easterly along said line to the point where the west boundary line of Anoka County intersects with the north boundary line of Hennepin County.

## APPENDIX B

### Mississippi River Corridor Districts

#### 1. Rural Open Space Districts

##### a. On the east side of the river:

- (1) From the Anoka County-Sherburne County common boundary to the west side of Section 35 (T32N, R25W) in Ramsey.
- (2) From the St. Paul Park-Grey Cloud Township common boundary to the east side of Section 8 (T26N, R20W) in Denmark Township.

##### b. On the west side of the river:

- (1) From the Dakota County-Goodhue County common boundary to the west sides of Sections 23, 26, and 35 (T115N, R17W) in Hastings.
- (2) From the Hastings-Nininger common boundary to the west side of Section 21 (T115N, R18W) in Rosemount.
- (3) From the south side of the north half of Section 34 (T27N, R22W) to the north side of Section 14 (T27N, R22N) in Inver Grove Heights.

#### 2. Urban Developed Districts

##### a. On the east side of the river:

- (1) From the west side of Section 35 (T32N, R25W) in Ramsey to the center line of Interstate 694 in Fridley.
- (2) From the south side of Section 26 (T28N, R22W) in Newport to the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary.
- (3) From the center line of Eight Avenue in St. Paul Park to the St. Paul Park-Grey Cloud Township common boundary.

##### b. On the west side of the river:

- (1) From the north side of Section 14 (T27N, R22W) in Inver Grove Heights to the South St. Paul-Inver Grove Heights common boundary.
- (2) From the eastern extension of the center line of 48th Avenue North in Minneapolis to the eastern extension of the center line of Hennepin County Highway 49.

### 3. Urban Open Space Districts

#### a. On the east side of the river:

- (1) From the center line of Franklin Avenue in Minneapolis to the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul.
- \* (2) From the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul to the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul.

#### b. On the west side of the river:

- (1) From the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul to the center line of Interstate 494 in Mendota Heights on the Minnesota River.
- (2) From the center line of Interstate 494 in Bloomington on the Minnesota River to the center line of Franklin Avenue in Minneapolis.

### 4. Urban Diversified Districts

#### a. On the east side of the river:

- (1) From the center line of Interstate 694 in Fridley to the center line of Franklin Avenue in Minneapolis.
- (2) From the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul to the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul and including Twin City Barge and Towing Co's. turning basin, about 11.5 acres at the Northwest corner of Red Rock Industrial Park.
- (3) From the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul, to the south side of Section 26 (T28N, R22W) in Newport.
- (4) From the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary, to the center line of Eight Avenue in St. Paul Park.

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\*With the exception of that area needed for the future approved expansion of the Metropolitan Waste Water Treatment Plant at Pig's Eye.

b. On the west side of the river:

- (1) From the west sides of Sections 23, 26, and 35 (T115N, R17W) in Hastings to the Hastings-Nininger common boundary.
- (2) From the west side of Section 21 (T115N, R18W) in Rosemount to the south side of the north half of Section 34 (T27N, R22W) in Inver Grove Heights.
- (3) From the South St. Paul-Inver Grove Heights common boundary to the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul.
- (4) From the center line of Franklin Avenue in Minneapolis to a line collinear with the center line of 48th Avenue North in Minneapolis.

## APPENDIX C

### DEFINITIONS

The following terms as used in these Regulations shall have the following meanings, unless otherwise defined:

1. "Act" means the Critical Areas Act of 1973, Minn. Stat. Sections 116G.01 to 116G.14 (Supp. 1974).
2. "Accessory Use" means a use or portion of a use or structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.
3. "Adjacent" means having a boundary which physically touches or adjoins.
4. "Agriculture" means the utilization of land and structures thereon for production of farm crops, including but not limited to vegetables, fruit trees, grain, poultry and domestic farm animals and uses necessary or customarily incidental thereto.
5. "Backwater" means a body of water connected with, but little affected by the main stream.
6. "Barge Fleeting Area" means an area on the river, on or off channel, where barges are temporarily parked and secured while tows are assembled or broken up.
7. "Barge Slip" means a basin, usually adjacent to a wharf, jetty, dock or other cargo handling facility, where barges are brought for the purpose of loading or unloading cargo.
8. "Bluffline" means a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent. More than one bluffline may be encountered proceeding landward from the water.
9. "Building Height" means the vertical distance to be measured from the grade of a building line to the top to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.
10. "Clear Cutting" means the removal of an entire stand of trees and shrubs.
11. "Cluster Development" means a pattern of subdivision which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.
12. "Council" means the Minnesota Environmental Quality Council established pursuant to Minn. Stat. Sect. 116C.01 to 116C.08 (Supp. 1974).

13. "Development" means the making of any material change in the use or appearance of any structure or land including, but not limited to: a reconstruction, alteration of the size, or material change in the external appearance of a structure on the land; a change in the intensity of use of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples), mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; the dividing of land into two or more parcels.
14. "Development Permit" means a building permit, zoning permit, water use permit, discharge permit, permit for dredging, filling, or altering any portion of a watercourse; plat approval, re-zoning, certification, variance or other action having the effect of permitting any development as defined in the Act or these Interim Development Regulations.
15. "Dimension Variance" means a modification or variation of the height or setback provisions of the Interim Development Regulations where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of the provisions would cause an undue or unnecessary hardship, or that strict conformity with the provisions would be unreasonable, impractical or unfeasible under the circumstances.
16. "Dwelling Unit" means a residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses or tourist homes.
17. "Essential Services" means underground or overhead gas, electrical, steam or water distribution systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, and other similar equipment and accessories in conjunction therewith, but not including buildings or transmission services.
18. "Feedlots" means a confined unenclosed area for the feeding, breeding, raising or holding of livestock, where livestock manure can accumulate, and where there is no vegetation.
19. "Floodway" means the river channel and the portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.
20. "Floodplain" means the areas adjoining a watercourse which has been or hereafter may be covered by a regional flood.
21. "Regional Flood" means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.
22. "General Advertising Signs" means those signs which direct attention to a product, service, business or entertainment not exclusively related to the premises where such sign is located.
23. "Government Development" means any development financed in whole, or in more than 50 percent of its total financing, directly or indirectly, by the United States, the State of Minnesota, or any agency or political subdivision thereof.

24. "Historic Preservation" means the protection by various means of buildings or other structures, land areas, or districts which are identified by the Minnesota Historical Society or the National Register of Historic Places.
25. "Industrial Use" includes without limitation, factory, office building, warehouse, elevators, material transfer site, pipeline, refuse and material storage areas.
26. "Interim Development Regulations" means the regulations in the Order which indicate the development that shall be permitted pending the adoption of plans and regulations consistent with the policies of the Act and Minnesota Regulations MEQC 51 through MEQC 57.
27. "Landscaping" means plants such as trees, grass, and shrubs.
28. "Livestock" includes, but is not limited to horses, cattle, pigs and turkeys.
29. "Local Unit of Government" means any political subdivision of the State, including but not limited to counties, municipalities, townships, and all agencies and boards thereof.
30. "Lot" means a parcel, piece, or portion of land designated by metes and bounds, registered land survey, plat, or other means and separated from other parcels or portions by said description that is recorded or to be recorded in the Office of the Register of Deeds (or Registrar of Titles).
31. "Major Expansion" means an expansion involving a 20% or greater addition to the total land area presently covered or used by an industrial, commercial, recreational or public facility.
32. "Metropolitan Development Framework" means that chapter of the Metropolitan Development Guide which deals primarily with the physical development of the metropolitan area.
33. "Metropolitan Plans, Guides, and Standards" means and refers to all documents, reports, and materials which have been adopted by the Metropolitan Council and includes, but is not limited to Metropolitan Development Guide Sections, including the Development Framework Chapter and policy plans for Development Programs of all Metropolitan Commissions.
34. "Metropolitan Systems" means those facilities for which the Metropolitan Council has planning responsibility including, but not limited to interceptor sanitary sewers, sewage treatment plants, transit facilities, regional parks, and major highways.
35. "Metropolitan Urban Service Area (MUSA)" means the portion of the Metropolitan Area having metropolitan sewer service available, good highway access, transit service, and most municipal services as designated in the Development Framework chapter of the Metropolitan Development Guide.
36. "Mining" means the extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand cubic yards or more and the removing thereof from the site without processing with the exception of the removal of materials associated with construction of a building, which is approved in a building permit.

37. "Mississippi River Corridor" means that area within the boundaries of the Mississippi River Corridor Critical Area.
38. "Mobile Home Court" means any area on which spaces are rented for the placement of occupied mobile homes.
39. "Mobile Home" means a housing unit designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like.
40. "Multi-family Development" means three or more dwelling units in one structure, including but not limited to an apartment building.
41. "Normal Highwater Mark" means a mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence of the level upon the landscape. It is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. When the normal highwater mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs. At the option of the local unit of government, the normal highwater mark may be delineated as the 100-year floodway line as defined by the Minnesota Department of Natural Resources.
42. "Non-conforming Use" means any use of land established before the effective date of the Interim Development Regulations, which does not conform to the use restrictions of a particular use district of the Interim Development Regulations. This should not be confused with substandard dimensions of a conforming use.
43. "Order" means the Governor's Executive Order that formally designates the Mississippi River Corridor as a Critical Area.
44. "Plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public of the county, municipality, and township. It may include, but not be limited to the following: statement of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan implementation.
45. "Public Facility" means all public buildings, including schools, libraries, fire stations, administrative offices, roads, bridges.
46. "Public Safety Facilities" means hydrants, fire alarm boxes, street lights, railway crossing signals, and similar facilities and accessories, but not including buildings.
47. "Public Transportation" means all modes of transportation provided by or dedicated to public use including, but not limited to roadways, transit facilities, railroads, and bikeways.
48. "Regional Agencies" means the Metropolitan Council, Metropolitan Waste Control Commission, Metropolitan Airport Commission, Metropolitan Transit Commission, and Metropolitan Park Board.

49. "Recreation Open Space" means recreation uses particularly oriented to and utilizing the outdoor character of an area; including, but not limited to hiking, riding trails, primitive campsites, campgrounds, parks, and recreation areas.
50. "Rules and Regulations" means the instruments by which state and local units of government control the physical development of the Mississippi River Corridor or any part or detail thereof. Regulations include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and the adoption of official maps.
51. "Re-zone" means a change of permitted uses within a local zoning district or of the boundaries of a local zoning district, adopted by ordinance by the local government unit.
52. "Selective Cutting" means the removal of single scattered trees or shrubs. Selective cutting shall not be construed to mean the removal of all trees or shrubs in a given area resulting in the clearing of the land.
53. "Compatible Use" means a use which may be compatible or desirable in a specified district, but requires special conditions for approval because if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.
54. "Setback" means the minimum horizontal landward distance between any part of a structure and the normal highwater mark or the established bluffline.
55. "Sewage Disposal System" means any system for the collection, treatment, and dispersion of sewage including, but not limited to, septic tank soil absorption systems.
56. "Single Family Unit" means a detached building containing one (1) dwelling unit.
57. "Structure" means anything constructed or installed or portable, the use of which requires a location on a parcel of land. It includes a movable structure which can, while it is located on land, be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. Structure also includes roads, billboards, swimming pools, poles, pipelines, transmission lines, tracks and advertising signs.
58. "Subdivision" means the division of any parcel of land into two or more lots, including re-subdivision.
59. "Transmissions Services" means electric power, telephone, and telegraph lines, cables, pipelines or conduits that are used to transport large blocks of power between two points. In the case of electrical power, this will generally mean 69 kilovolts or more. For mains or pipelines for gas, liquids, or solids in suspension, this means those that are used to transport large amounts of gas, liquids, or solids in suspension between two points.

60. "Treeline" means the more or less continuous line formed by the tops of trees in a wooded area when viewed from a particular point. Such line shall be determined during all seasons as if under full foilage.
61. "Wetlands" are low-lying areas which may be covered with shallow water. They are frequently associated with a highwater table. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands. They may occur adjacent to or within natural drainageways or as free-standing low areas. Wetlands shall consist of Types 1 to 8 as defined in U.S.D.I. Fish and Wildlife Service Circular 39.

# EXECUTIVE ORDERS

## Executive Order No. 130 (As Amended)

Effective November 23, 1976

### Designating the Mississippi River Corridor as a Critical Area

I, Wendell R. Anderson, Governor of the State of Minnesota, by virtue of the authority vested in me by the Critical Area Act of 1973, Minn. Stat. ch. 116G, hereby issue this Executive Order:

WHEREAS, the Mississippi River Corridor through the seven-county Twin Cities Metropolitan Area satisfies the following characteristics as outlined in MEQC 52(a) and pursuant to Minn. Stat. ch. 116G:

(1) It is an Area affected by existing or proposed major governmental development including: four major lock and dams across the River and a nine-foot navigational channel built and operated by the federal government; seven large industrial projects built with the help of public funds; six regional parks; a major regional sewage treatment plant and discharge points for six other existing or proposed waste treatment plants; one major airport and the facilities of another major airport; at least 22 river crossings for major roadways; and other governmental facilities, all of which facilities serve persons outside of the proposed corridor; and all of which generate substantial development or urbanization.

(2) It is an area containing historic, natural, scientific, or cultural resources of regional or statewide importance.

(a) The corridor contains historical resources of statewide or regional significance, including five areas listed on the National Register of Historic Places and twelve areas identified by the Minnesota Historical Society.

(b) The corridor contains natural resources of statewide or regional significance, including the river itself used for transportation, waste assimilation, recreation, sand and gravel deposits, and habitat suitable for the maintenance of fish and wildlife.

(c) The corridor contains cultural resources of statewide and regional significance, including Indian burial grounds, parks, water recreational facilities, and early settlements.

(d) The corridor contains scientific resources of statewide and regional significance including opportunities for floodplain and hydrological investigation, geological investigation, and historic investigation.

WHEREAS, the Mississippi River Corridor meets all of the criteria outlined in MEQC 52(b) to be designated as a critical area as follows:

(1) The area was recognized to be of significant regional or statewide public interest because it is a regional transportation corridor, a regional recreational area, and it has been or is being studied by a number of local, state and federal agencies and commissions;

(2) Other legal powers are unavailable to provide coordinated regulation of the area to protect the public interest:

(a) Four townships, twenty cities, five counties, three regional agencies, five special pur-

## EXECUTIVE ORDERS

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pose governmental districts, four state agencies, and four federal agencies have regulatory or planning authority in the corridor.

(b) No state agency, or local government has the legal authority to coordinate the regulatory and planning authority of the state and local agencies involved.

(c) The Metropolitan Council has no zoning authority in the area and can only suspend particular development for a limited period of time.

(d) The Floodplain Management Act regulated floodplain development, but is primarily aimed at reducing flood damage. The Act will not control development outside of the floodplain.

(e) The Shoreland Management Act only regulates development within three hundred feet of the river or to the landward extent of the floodplain, whichever is greater. It does not assist in regulating development outside of this area which may have a major effect on the river.

(f) The State Wild, Scenic, and Recreational Rivers Act is unavailable for most of the corridor. Nor does it provide for coordination of planning among state and local government.

(3) The area is one of a limited number within the state. No other area in Minnesota provides such important transportation, recreational, and water-related functions as the River does as it flows through the Metropolitan Area. Thus, it is a unique resource in Minnesota because of its importance and in its proximity to the large number of people in the Metropolitan Area.

(4) The area has been specifically identified by legal description.

WHEREAS, unregulated development and uncoordinated planning threatens the public interest in the Mississippi River Corridor; many decisions affecting the use of the River Corridor are made by local governmental units without adequate regard for protecting the regional interest in the regional resource; and

WHEREAS, the advantages of coordinated planning for the area will achieve development of the River Corridor as a regional multi-purpose resource, resolve the conflicts of use of land and water, preserve and enhance its natural, aesthetic, cultural, and historical value for the public use, and protect its environmentally sensitive areas;

NOW, THEREFORE, I order the Mississippi River Corridor located within the Twin Cities Metropolitan Area designated a critical area.

1. The boundaries of the Mississippi River Corridor Critical Area are delineated in the legal description which is attached and incorporated hereby into this Order.

2. The Standards and Guidelines to be followed by local units of government, regional agencies and state agencies in the preparation and adoption of plans and regulations for the Critical Area are attached and incorporated hereby into this Order.

3. The Interim Development Regulations to be followed in granting development permits during the Interim Period are attached and incorporated hereby into this Order.

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4. The Department of Natural Resources shall prepare the Scenic and Recreational Plan for the eight mile stretch of the river corridor in the Cities of Dayton and Ramsey. The Cities of Dayton and Ramsey shall prepare regulations for the implementation of the plan and both the regulations and the plan shall conform to the critical area standards and guidelines.

The DNR plan and the local regulations shall be submitted to the EQC for approval, and once approval is granted, the critical area designation order for the eight mile stretch of the river corridor shall lapse. At that time, the Department of Natural Resources shall assume management responsibilities under the authority of the State Wild and Scenic River Act.

5. The State Planning Agency shall determine and administer the amount of funds needed for the preparation and adoption of plans and regulations.

6. The Designation Order for the remainder of the critical area corridor shall be effective for no longer than three years pending final approval by the Legislature or the Metropolitan Council.

This Order shall be effective immediately and shall be in force until rescinded by the proper authority.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 18th day of October, 1976.

*Wendell R. Anderson*

### Standards and Guidelines for Preparing Plans and Regulations

#### A. Purpose and responsibility.

1. Purposes. The purposes of the Critical Area designation and the following standards and guidelines are:

a. To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation;

b. To prevent and mitigate irreversible damage to this state, regional, and national resource;

c. To preserve and enhance its natural, aesthetic, cultural, and historical value for the public use;

d. To protect and preserve the river as an essential element in the national, state and regional transportation, sewer and water and recreational systems; and

e. To protect and preserve the biological and ecological functions of the corridor.

2. Responsibility. The standards and guidelines provided herein shall be:

a. Followed by the local units of government when preparing or updating plans, and/or modifying regulations;

b. Followed by state agencies, and regional agencies for permit regulation and in developing plans within their jurisdiction;

c. Followed by the Metropolitan Council for reviewing plans, regulations, and development permit applications;

d. Followed by the Council for approving plans, regulations, and development permit applications.

B. General guidelines for preparing plans and regulations.

1. The Mississippi River Corridor shall be managed as a multiple-purpose resource by:

a. Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and the riverfront.

b. Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.

## EXECUTIVE ORDERS

c. Providing for the continuation and the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.

d. Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.

2. In order to manage the river corridor consistent with its natural characteristics and its existing development, the following guidelines are established for each corridor district:

a. Rural open space district. The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.

b. Urban diversified district. The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential, and public uses of the lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.

c. Urban developed district. The lands and waters within this district shall be maintained largely as residential areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.

d. Urban open space district. The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.

3. The Mississippi River Corridor shall be managed in accordance with the Metropolitan Council's Development Guide Chapter, Critical Areas Act of 1973, and the Minnesota Environmental Policy Act of 1973, and other applicable state laws, and federal laws.

C. Specific standards and guidelines for preparing plans and regulations.

1. Each local unit of government within the river corridor shall prepare plans and regulations to protect environmentally sensitive areas in accordance with the following guidelines.

a. Each local unit of government shall, with the assistance of the Metropolitan Council and state agencies:

(1) Identify and prepare an inventory of:

(a) floodplains,

(b) wetlands,

(c) slopes from 12% to 18% and over 18%,

(d) soils not suitable for urban development on-site waste disposal

(e) significant vegetative stands, and

(f) natural drainage routes.

(2) Prepare a floodplain ordinance if it does not have a floodplain ordinance in effect;

(3) Prepare plans and regulations to protect wetlands;

(4) Prepare plans and regulations to protect bluffs greater than 18% and to provide conditions for the development of bluffs between 18% and 12% slopes;

(5) Prepare plans and regulations to minimize direct overland runoff and improve the quality of runoff onto adjoining streets and watercourses;

(6) Prepare plans and regulations to minimize site alteration and for beach and riverbank erosion control;

(7) Prepare regulations for management of vegetative cutting; and

(8) Prepare criteria for control of noise in open space and recreational areas with assistance of the PCA.

2. Each local unit of government and state agency shall prepare plans and regulations to protect and preserve the aesthetic qualities of the river corridor, which provide for the following considerations:

a. Site plans. Site plans shall be required to meet the following guidelines:

(1) New development and expansion shall be permitted only after the approval of site plans which

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adequately assess and minimize adverse effects and maximize beneficial effects.

(2) Site plans shall be required for all developments for which a development permit is required, except for the modification of an existing single-family residential structure or the construction of one single-family residence.

(3) Site plans shall include, but not be limited to, the submission of an adequate and detailed description of the project, including activities undertaken to ensure consistency with the objectives of the Designation Order; maps which specify soil types, topography, and the expected physical changes in the site as a result of the development; the measures which address adverse environmental effects.

(4) Site plans shall include standards to ensure that structure, road, screening, landscaping, construction placement, maintenance, and storm water runoff are compatible with the character and use of the river corridor in that district.

(5) Site plans shall provide opportunities for open space establishment and for public viewing of the river corridor whenever applicable, and shall contain specific conditions with regard to buffering, landscaping, and re-vegetation.

b. Structures. Structure site and location shall be regulated to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.

c. Clustering. The clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality shall be encouraged. The location of clustered high-rise structures may be proposed where public services are available and adequate and compatible with adjacent land uses.

d. Access routes. Commercial and industrial developments adjacent to roadways shall be required to provide off-street parking, service roads and limited controlled access points to highways. (Except in cases of extreme hardship, highway access for any development within 250 feet of a bridge or bridge ramp shall be prohibited.)

e. Existing development. Local plans and regulations shall include provisions to:

(1) Retain existing vegetation and landscaping;

(2) Amortize non-conforming uses;

(3) Prohibit the reconstruction of non-conforming uses which are 50% market value destroyed;

(4) Provide for the screening of existing development which constitutes visual intrusion, wherever appropriate.

f. Signs. Local units of government shall adopt ordinances for the amortization and removal of non-conforming general advertising signs, and to prohibit the visibility of advertising signs from the river, except in urban diversified districts.

3. Local units of government shall develop plans and regulations to ensure that developments shall not be undertaken prior to the provision of Metropolitan public facilities in adopted Metropolitan plans, in accordance with the following guidelines:

a. Developments in areas not scheduled for the provision of municipal or metropolitan sanitary sewers shall comply with adequate on-site sewage disposal system regulations.

b. The density of development outside the metropolitan urban service area shall be limited to ensure that there is no need for the premature provision of local and metropolitan urban services and facilities.

4. Local units of government shall develop plans and provide guidance to ensure that the surface uses of the river is compatible with the characteristics and use of the districts in accordance with the following guidelines:

a. The present 9-foot navigation channel shall be maintained.

b. Provision shall be made for the use of the river for water transportation which is consistent with adopted state and regional policies and regulations and applicable federal laws and to minimize any adverse effects associated with such facilities.

c. Local plans shall identify areas physically suitable for barge slips and barge fleeting, based on such considerations as safety, maneuverability, operational convenience, amount of construction and/or excavation required, and environmental impacts; and

d. Local plans shall specify which of those areas found physically suitable may be used for barge slips and barge fleeting areas in the future. Preference should be given to those areas where new barge slips and associated facilities can be clustered, where required metropolitan services are already available, and where use of the riverfront for barge slips and fleeting areas, and access to them, is compatible with adjacent land use and public facilities.

e. Local plans shall identify, whenever practicable, locations where river dredge spoil can be utilized consistent

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with natural geological appearances or processes and adjacent land uses.

f. Where there is potential conflict of surface use, state and local governments shall enact appropriate water surface use regulation.

g. The Minnesota Energy Agency shall be responsible for recommending to the EQC a strategy for the development of a coal transportation plan for the metropolitan area.

5. Local units of government shall develop plans and regulations for industrial and commercial developments in the River Corridor in accordance with the following guidelines:

a. Areas for new or expanded industrial and commercial developments, where urban services are available, and the premature expansion or upgrading of the metropolitan systems will not be required, shall be identified.

b. The existing industrial waste discharge points, sanitary, and storm water discharge points shall be identified.

c. Local plans should give consideration to providing for future industrial and commercial uses that require water access including, but not limited to such uses as, transportation, water supply and waste discharge. This does not preclude the locating of non-water related uses within the Corridor.

d. The impact of potential mining and extraction sites or other incompatible uses shall be minimized.

e. Land reclamation and reforestation of the mining site shall be regulated.

6. Local units of government and regional and state agencies shall develop plans and regulations to maximize the creation and maintenance of open space and recreational potential of the Corridor in accordance with the following guidelines:

a. Existing and potential sites for the following uses shall be identified and inventoried.

(1) Neighborhood, municipal, county and regional parks;

(2) Scenic overlooks, scenic views, and public observation platforms;

(3) Protected open space areas, including islands, gorges, wildlife preservation areas, and natural areas;

(4) Beaches and undeveloped river frontage on backwaters, which are suitable for recreation purposes;

(5) Commercial marinas and boat launching facilities;

(6) Public access points to the river;

(7) Historic sites and districts.

b. The Metropolitan Council shall prepare a general trailway plan for the entire length of the River Corridor which links regional parks.

c. Local units of government shall identify the potential location of trails within their jurisdictions, including related problems and proposed solutions.

d. Plans and programs to acquire sites for public access to the river and to protect open space areas shall be developed.

e. Programs to acquire and manage undeveloped islands in their natural state and to encourage the restoration of other islands for recreation open space uses shall be adopted.

f. In the development of residential, commercial and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public reasonable portions of appropriate riverfront access land or other lands in interest therein.

g. In the event of practical difficulties or physical impossibility, the developer shall be required to contribute an equivalent amount of cash to be used only for the acquisition of land for parks, open space, storm water drainage areas or other public services within the River Corridor.

7. Local units of government and state agencies shall develop plans and regulations for transportation and public utilities developments in accordance with the following guidelines:

a. Existing and potential utility and transportation facility crossings shall be identified and river crossings shall be minimized and concentrated at existing crossings where possible.

b. The Corridor shall not be used merely as a convenient right-of-way and new or modified transportation and utility facilities shall complement the planned land and water uses and shall not stimulate incompatible development.

c. In planning and designing the construction or reconstruction of all public transportation facilities which

## EXECUTIVE ORDERS

occur within the river corridor, consideration shall be given to the provision of scenic overlooks for motorists, safe pedestrian crossings and facilities along the River Corridor, access to the riverfront in public ownership and reasonable use of the land between the river and the transportation facility.

8. Local units of government and regional and state agencies shall develop capital improvement programs which are consistent with the following guidelines:

a. A five year capital improvement program or public facilities program shall be developed which covers all public projects to be sited in the corridor.

b. The capital improvement program or public facilities program shall specify the sequence of actions to be undertaken by each public agency and shall be consistent with the Standards and Guidelines in sections B. and C.

9. Local units of government shall reassess all lands in the River Corridor in accordance with the following guidelines:

a. Local units of government shall send copies of adopted plans and regulations and amendments of plans and regulations to appropriate municipal and county assessors within 30 days after adoption.

b. Municipal and county tax assessors shall reassess all lands in the Mississippi River Corridor for consistency with adopted plans and regulations within one year of receipt of adopted plans from local units of government.

10. Local units of government and regional and state agencies shall prepare plans and regulations in accordance with the natural characteristics and the character of existing development in the River Corridor in accordance with the following guidelines:

a. Local units of government and regional and state agencies shall prepare plans and regulations using the district boundaries as described in the Interim Development Regulations as guidelines, in accordance with the purpose of each district as described in the General Guidelines section B.

b. The City of St. Paul shall prepare plans and regulations to balance open space use and industrial and commercial developments for the Pig's Eye Lake area.

c. Local units of government may prepare modifications of the use districts boundaries as described in the Interim Development Regulations if local units of government demonstrate to the EQC in plans and supporting documents the consistency of the proposed modification with the General Guidelines.

11. Local units of government, regional agencies and state agencies shall provide adequate opportunities for public participation in the preparation of plans and regulations.

D. Reviewing plans and regulations.

1. The Metropolitan Council shall be the lead agency to coordinate the preparation, submission, review and modification of land use plans, zoning ordinances, zoning amendments, capital improvement programs and other regulations, specified in section C, which are prepared by local units of government, regional and state agencies.

2. Local units of government and regional agencies shall submit existing, modified or prepared plans and regulations that comply with the Designation Order to the Metropolitan Council within six months of notice of the Order of Designation. The EQC shall review the state plans and regulations and forward the appropriate sections to the Metropolitan Council.

3. The Metropolitan Council shall review the plans, regulations, and capital improvement programs prepared by local units of governments, regional and state agencies for consistency with regional objectives and with the Order of Designation. Within 45 days of receiving the plans and regulations, the Metropolitan Council shall submit its written evaluation to the EQC. Upon a request from the Metropolitan Council, the EQC may grant 30 days time extensions when the EQC determines that the Metropolitan Council has satisfactorily demonstrated that it requires more time for review.

4. The EQC shall review all plans and regulations prepared for the Mississippi River Corridor, within 45 days of receiving the plans and regulations from the Metropolitan Council. The EQC shall determine whether they are consistent with the provisions of the Order of Designation. When the EQC has completed the review, it shall either:

a. Approve the plans and regulations by a written decision and notify the local units of government and regional and state agencies, and the Metropolitan Council; or

b. Return them to the local units of governments, regional and state agencies, and the Metropolitan Council for modification with a written explanation of the need for modification.

5. Within 45 days of EQC's approval of the plans and regulations, local units of government, regional and state agencies shall adopt the approved plans and regulations, and shall notify the EQC.

E. Updating and re-evaluation of plans and regulations.

1. Local units of government or regional and state

## EXECUTIVE ORDERS

agencies may amend their plans and regulations that have been approved by the EQC by resubmitting the plans and regulations with any recommended changes thereto, to the EQC for consideration.

2. Two years after EQC's initial approval of the plans and regulations, local units of government and regional and state agencies shall resubmit their plans and regulations with any recommended changes thereto, for review and approval by the EQC.

3. Amendments to plans and regulations shall become effective only upon the approval thereof by the EQC in the same manner as for approval of the original plans and regulations as stated in section D.

### F. Development permits.

1. If no plans and regulations have been adopted under the provisions of section D, local units of government and regional and state agencies shall grant a development permit only if:

a. The development is specifically permitted by the Interim Development Regulations;

b. The development is essential to protect the public health, safety, or welfare because of an existing emergency; or

c. The registration, recordation, permit, or authorization of the development was issued prior to the date of legal notice of the EQC public hearing provided in MEQC 53(3).

2. When plans and regulations have been adopted under the provisions of section D, local units of government, regional and state agencies shall permit development only in accordance with those plans and regulations.

### G. Notification of the development permits to the EQC.

1. Local units of government, and regional and state agencies shall prepare administrative procedures for permit notification as a part of their plans and regulations. The local units of government, regional and state agencies shall notify the EQC of all the developments requiring discretionary actions under their rules and regulations at least 30 days before taking action on the application, unless the EQC informs the local unit of government and regional and state agencies in writing that the EQC need not be notified of certain types of applications.

2. Local units of government and regional and state agencies shall prepare procedures to notify the EQC of their final action on the development permits which require discretionary action.

### H. Judicial proceedings.

If the EQC determines that the administration of the local plans and regulations is inadequate to protect the state or regional interest, the EQC may institute appropriate judicial proceedings to compel proper enforcement of the plans and regulations.

## Interim Development Regulations for the Mississippi River Corridor Critical Area

### A. General provisions.

1. Authority. These procedures are prescribed by the Minnesota Environmental Quality Council (Council) pursuant to authority granted to the Council in Minn. Stat. §§ 116G.01 to 116G.14 (1974).

### 2. Purpose. The purposes of these regulations are:

a. To protect the public health, safety, comfort, convenience and general welfare;

b. To promote orderly development of the residential, commercial, industrial, recreational and public areas within the corridor;

c. To conserve the natural and scenic beauty of the river corridor;

d. To conserve and develop the natural resources of the river corridor; and

e. To provide for the compatibility of different land uses and the most appropriate use of land throughout the river corridor.

### 3. Scope.

a. These Interim Development Regulations shall apply to public and private lands and waters within the Mississippi River Corridor, as set forth and legally described in Appendixes A and B of the recommendation for designation of the Mississippi River Corridor as a critical area.

b. The Interim Development Regulations shall govern; but wherever there is a conflict between the Interim Development Regulations and existing laws, regulations, ordinances, or other provisions of the Interim Development Regulations, the more restrictive provision shall apply.

c. The Interim Development Regulations should not be used as a complete model ordinance for adoption by

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local units of government. At the options of local units of government, they may be used as guidance for the preparation of plans and regulations.

d. The Interim Development Regulations shall remain in effect from the date of issuance of the Governor's Designation Order for each local unit of government in the critical area until it adopts plans and regulations approved by the Council.

e. State and regional agencies and local units of government shall approve development only in conformance with these Interim Development Regulations until the adoption of plans and regulations approved by the Council.

f. Development which was approved by a state or regional agency or a local unit of government after April 25, 1975 shall be subject to these Interim Development Regulations and subsequently adopted plans and regulations only to the extent provided in MEQC 57.

g. State and regional agencies and local units of government shall be responsible for the administration and enforcement of the Interim Development Regulations as of the effective date of the Governor's Designation Order.

h. Any regulations or procedure not specified in these Interim Development Regulations shall follow the applicable local unit of government regulations or the appropriate state and regional agency's rules and regulations.

### B. Use district designations.

1. Because the river should be managed as a multiple-purpose resource, and it possesses a variation in both natural characteristics and types of urban development, the Corridor has been segmented into the following four districts which shall be applied throughout the interim period as described in Appendixes A and B of the recommendation for designation of the Mississippi River Corridor as a critical area.

- a. Rural open space districts
- b. Urban diversified districts
- c. Urban developed districts
- d. Urban open space districts

2. During the interim period, no changes shall be made of the district boundaries set forth by these Interim Development Regulations.

### C. Permitted uses.

1. Any land or water use development which is in

conformance with the standards and guidelines of the Interim Development Regulations shall be permitted.

2. During the interim period, no changes shall be made of the permitted uses allowed by these Interim Development Regulations.

3. Residential development. Residential development shall be permitted in all the districts. All structures and accessory uses or appurtenances of residential development shall be subject to the Dimensional Standards and Criteria in section F of these Interim Development Regulations.

### 4. Commercial and industrial uses.

a. In rural open space districts and urban developed districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted if:

(1) it does not require expansion or upgrading of metropolitan systems prior to the schedule set forth in adopted metropolitan plans;

(2) it meets the Dimensional Standards and Criteria in section F;

(3) it will not encroach upon future local or regional parks and recreation open space identified in the Metropolitan Council's Development Guide/Policy Plan for Recreation Open Space or in local plans and programs.

b. In urban open space districts, the development of new and expansion of existing commercial and industrial uses and development shall be permitted on lands which are on the landward side of all blufflines, if it meets the Dimensional Standards and Criteria in section F.

c. In urban diversified districts, new and expansion of existing industrial and commercial developments shall be allowed, if it meets the Dimensional Standards and Criteria in section F.

d. In Rosemount and Inver Grove Heights urban diversified district, new and expansion of existing industrial and commercial development shall be permitted, if it does not require premature expansion of metropolitan public services.

5. Agricultural uses. All agricultural uses except new feedlots may be permitted in all the districts.

### 6. Mining and extraction.

a. In rural open space, urban developed, and urban diversified districts,

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(1) new mining and extraction may be permitted and shall be subject to the Dimensional Standards and Criteria in section F;

(2) new and, where practicable, existing extraction uses shall be appropriately screened from view of the river by establishing and maintaining natural screen devices;

(3) The unscreened boundaries of mining and extraction areas shall be limited to only the loading area;

(4) existing and future extractive uses shall be required to submit land reclamation and reforestation plans compatible with these Interim Development Regulations; and

(5) only one barge loading area which shall be limited to the minimum size practicable shall be permitted for each mining or extraction operation.

b. In urban open space districts, new mining and extraction operations shall not be permitted.

### 7. Recreational uses.

a. In all districts, recreational uses and structures and accessory uses or appurtenances shall be permitted and shall be subject to the Dimensional Standards and Criteria in section F. Water-related commercial recreation uses shall not be subject to the Dimensional Standards and Criteria in section F.

b. Within urban open space districts, recreation uses on islands and lands between the river and blufflines shall be only for public recreation uses, historic preservation, and wildlife preserves.

### 8. Signs.

a. In rural open space, urban developed, and urban open space districts:

(1) general advertising signs not visible from the river are permitted;

(2) all other general advertising signs shall be prohibited.

b. In urban diversified districts, general advertising signs are permitted.

### D. Permitted public facilities.

1. Transmission services. In all the districts, the construction of new and reconstruction of existing transmission services shall meet the following standards.

a. The Department of Natural Resources (DNR) in reviewing permit applications for all transmission service crossings on the Mississippi River, Minnesota River, or of State lands requiring a permit from the DNR pursuant to Minn. Stat. §§ 84.415 or 105.42 shall give primary consideration to crossings that are proposed to be located within or adjacent to existing right-of-ways for public facilities, such as railroads, roadways, bridges, and existing transmission services.

b. Transmission services of under 200 kilovolts, which cross lands within the River Corridor shall require a special use permit from the local unit of government. Local units of government shall apply the standards set forth in sections D.1.c through h when processing applications for a special use permit.

c. When routing transmission services of under 200 kilovolts, the following shall be avoided where practicable:

(1) steep slopes;

(2) scenic intrusions into streams, valleys, and open exposures of water;

(3) scenic intrusions into areas such as ridge crests and high points;

(4) creating tunnel vistas by, for example, building deflections into the route;

(5) wetlands;

(6) forests by running along fringe rather than through them. If necessary to route through forests, utilize open areas in order to minimize cutting;

(7) soils susceptible to erosion, which would create sedimentation and pollution problems;

(8) areas of unstable soils which would be subject to extensive slippages;

(9) areas with highwater tables, especially if construction requires excavation;

(10) open space recreation areas.

d. Transmission services shall be subject to the Dimensional Standards and Criteria in section F, except at crossing points.

e. Structure design of transmission services. With regard to locating the utility, overhead or underground:

(1) primary considerations shall be given to underground placement in order to minimize visual impact.

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When considering overhead placement, the proposers shall explain the economic, technological or land characteristic factors which make underground placement infeasible. Economic considerations alone shall not justify overhead placement.

(2) if overhead placement is necessary, the crossing should be hidden from view as much as practicable;

(3) with regard to the appearance of the structures, they shall be made as compatible as practicable with the natural area with regard to: height and width, materials used, and color;

(4) with regard to the width of the right-of-way, the cleared portion of the right-of-way should be kept to a minimum.

f. In the construction of transmission services, the following guidelines shall be applied whenever practicable:

(1) construction in wetlands shall minimize damage to vegetation, prevent erosion and sedimentation;

(2) construction shall be undertaken at times when local fish and wildlife are not spawning or nesting;

(3) effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and adjacent lands.

g. Safety considerations. Developers must adhere to applicable Federal and State safety regulations, both with regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill clean-up).

h. Right-of-way maintenance.

(1) If possible, natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way;

(2) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and low growing trees, shall be planted and maintained on the right-of-way;

(3) Chemical control of vegetation should be avoided when practicable, but where such methods are necessary, chemicals used and the manner of their use must be in accordance with rules, regulations, and other requirements of all state and federal agencies with authority over the use.

2. Sewage treatment plants — sewage outfalls, water intake facilities.

a. In rural open space, urban developed and urban diversified districts the provision of sewage treatment plants, sewage outfalls and water intake facilities:

(1) wherever practicable, shall conform with the Dimensional Standards and Criteria in section F;

(2) shall dedicate the unused river frontage after construction, for public access or recreation open space use;

(3) shall not include new combined storm and sanitary sewer outfalls.

b. In urban open space district:

(1) no new sewage treatment plants shall be permitted in this district. However, the Metropolitan Waste Control Commission may expand the Metropolitan Wastewater Treatment Plant at the Pig's Eye Lake area, if the expansion plans are approved by the Metropolitan Council and they are consistent with the City of St. Paul's riverfront plan approved by the Council under section D. of the Standards and Guidelines for Preparing Plans and Regulations;

(2) no new water intake facilities shall be permitted;

(3) no new combined storm water and sanitary sewer outfalls shall be permitted.

3. Essential services and public safety facilities. Essential services and public safety facilities are permitted in all the districts. They are subject to Regulation D(1).

4. Transportation facilities. The construction or reconstruction of all transportation facilities shall be permitted in all the districts, subject to the following standards and criteria:

a. The following guidelines shall be applied whenever practicable in selecting routes for transportation facilities.

(1) careful consideration should be given to the provision of scenic overlooks for motorists, safe pedestrian crossing and safe pedestrian pathways along the river;

(2) if possible, provide access to the riverfront in public ownership, and allow reasonable public use of the land between the river and the transportation facility;

(3) steep slopes shall be avoided;

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(4) scenic intrusion into stream, valley and open exposures of water shall be avoided;

(5) scenic intrusion into areas such as ridge crests and high points shall be avoided

(6) wetlands shall be avoided;

(7) run along fringes of forests rather than through them. But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest;

(8) soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction shall be avoided;

(9) areas of unstable soils which would be subject to extensive slippage shall be avoided;

(10) areas with highwater tables, especially if construction requires excavation, shall be avoided;

(11) locate new roads to avoid cuts and fills so as to blend into the natural terrain so that it appears to be a part of the natural landscape;

(12) open space recreation areas shall be avoided.

b. Transportation facilities shall be subject to the Dimensional Standards and Criteria in section F, except at crossing points.

c. The following guidelines shall be applied when practicable in constructing transportation facilities:

(1) reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect on the natural beauty and environment of the river;

(2) effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of the river and its adjacent lands;

(3) construction across wetlands shall take place in a manner which minimizes damage to vegetation, and in a manner preventing erosion and sedimentation;

(4) construct at times when local fish and wildlife are not spawning or nesting.

d. Safety considerations. Developers must adhere to applicable Federal and State safety regulations with regard to new road construction or reconstruction of an existing road.

e. The following guidelines shall be applied when practicable for right-of-way maintenance:

(1) if possible, natural vegetation of value to fish or wildlife, and which does not pose a safety hazard, shall be allowed to grow in the roadside right-of-way;

(2) where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees shall be planted and maintained on the roadside right-of-way;

(3) chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all State and Federal agencies with authority over their use.

### 5. Barge facilities.

a. In rural open space and urban developed districts, the following standards shall apply:

(1) the expansion of existing barge slips within these districts shall be permitted;

(2) no new barge slips shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in MEQC 55(c).

b. In urban open space districts, the following standards shall apply:

(1) no new barge slips shall be permitted;

(2) no barge fleeting areas shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in MEQC 55(c).

c. In urban diversified districts all barge facilities are permitted.

### E. Earthwork and vegetation.

1. Grading and filling. In all districts, the following provisions shall apply to grading and filling:

a. Grading, filling, excavating, or otherwise changing the topography landward of the ordinary high water mark shall not be conducted without a permit from the local authority. A permit may be issued only if:

(1) earthmoving, erosion, vegetative cutting, and the destruction of natural amenities is minimized;

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(2) the smallest amount of ground is exposed for as short a time as feasible;

(3) temporary ground cover, such as mulch, is used and permanent ground cover, such as sod is planted;

(4) methods to prevent erosion and trap sediment are employed; and

(5) fill is established to accepted engineering standards.

b. A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a building site, essential services, sewage disposal systems, and private road and parking areas undertaken pursuant to a validly issued building permit.

### 2. Vegetation management.

a. In rural open space, urban developed and urban open space districts, the following standards shall apply:

(1) on developed islands, public recreation lands, the slope or face of bluffs, within 200 feet of the normal high water mark of the river, and within the area 40 feet landward from blufflines, clear cutting shall not be permitted;

(2) on all other lands within these districts, clear cutting shall be guided by the following provisions:

(a) clear cutting shall not be used where soil, slope, or other watershed conditions are fragile and subject to injury;

(b) clear cutting shall be conducted only where clear cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain;

(c) the size of clear cut blocks, patches, or strips shall be kept at the minimum necessary;

(d) 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.

(3) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

b. In urban diversified district:

(1) on the slope or face of bluffs and within areas 40 feet landward from established blufflines, clear cutting shall not be permitted;

(2) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

c. These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of essential services and utility transmission services which are permitted uses.

### F. Dimensional standards and criteria.

1. Objectives. The objectives of Dimensional Standards and Criteria are: to maintain the aesthetic integrity and natural environment of certain districts, to reduce the effects of poorly planned shoreline and bluffline development, to provide sufficient setback for sanitary facilities, to prevent pollution of surface and ground water, to minimize flood damage, to prevent soil erosion, and to implement Metropolitan Plans, Guides and Standards.

2. Substandard lot. The local unit of government may approve any proposed new structure or changes to existing structure when the following findings are made:

a. The lot was recorded in the Office of the County Register of Deeds (or Registrar of Titles) prior to the date of legal notice of the EQC public hearing, April 25, 1975.

b. The lot was in separate ownership from all abutting land on April 25, 1975.

c. The proposed use is consistent with the provisions of the Interim Development Regulations and local ordinance.

d. It can be demonstrated that a proper and adequate sewage disposal system can be installed according to interim regulations, Health Department's and PCA's regulations.

e. The lot size is within sixty (60) percent of the size required in the Interim Development Regulations.

### 3. Lot size.

a. In the rural open space and urban developed districts, the following minimum lot sizes shall be required:

(1) in unsewered areas, the minimum lot size shall be five acres per single family unit;

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(2) in sewered areas, the minimum lot size shall be consistent with the local zoning ordinance.

b. In the urban open space and urban diversified districts, the minimum lot size shall be consistent with the local zoning ordinance.

### 4. Structure setback.

a. All required setbacks shall be applicable to each bluffline proceeding landward from the river.

b. All new structures and roads shall meet the following minimum setbacks:

(1) in the rural open space district, no structure or road shall be placed less than 200 feet from the normal highwater mark, and no less than 100 feet from blufflines;

(2) in the urban developed district, and urban open space district, the structure or road shall be placed no less than 100 feet from the normal highwater mark of the river, and no less than 40 feet from blufflines;

(3) in the urban diversified district, the structure or road shall be placed no less than 40 feet from the bluffline.

c. Exceptions to setback provisions shall be:

(1) public safety facilities, public bridges and their roadway approaches, railroad sidings, minor public and private roadways serving water-related uses on the riverfront;

(2) public recreation facilities, scenic overlooks, public observation platforms, and the regional trail system, docks, boat launching facilities;

(3) approved river crossings of essential service, and essential services distribution systems which are primarily underground except for terminal and metering devices not exceeding six feet in height, and supporting structures for transmission crossing spans;

(4) the construction of above-ground pumping stations for sewer lines which shall be screened from view of the river;

(5) the reconstruction or restoration of historical structures or sites on the inventory of the State Historical Society or the National Register of Historic Places.

### 5. Height of structures.

a. In the rural open space, urban developed and urban open space districts:

(1) new structures and additions to existing structures shall be limited to a maximum of 35 feet;

(2) the following exceptions to height limits shall be permitted:

(a) expansion of existing industrial complexes, such as refineries and storage areas;

(b) barns, silos and similar farm structures;

(c) essential service distribution systems;

(d) bridges, bridge approach roadways, and transmission services;

(e) restoration or reconstruction of historical structures and sites on the inventory of the State Historical Society or the National Register of Historical Places.

b. In the urban diversified district, there are no restrictions on the height of structures.

### 6. Placement of structures.

a. The following standards shall apply in any district:

(1) no new structures shall be placed on slopes which are 18 percent or greater;

(2) structures may be permitted on slopes which are greater than 12 percent, but less than 18 percent, when the following conditions are met:

(a) the developer can prove that the development on the slope can be accomplished without increasing erosion;

(b) the soil types and the geology are suitable for slope development;

(c) there is proper management of vegetation to control runoff.

(3) when an approved floodplain ordinance exists, structure placement shall be governed by that ordinance. Where an approved floodplain ordinance does not exist, the elevation at which the lowest floor of a structure, including basement, may be placed shall be consistent with the Minnesota statewide standards and criteria for management of floodplain areas;

(4) in rural open space, urban developed and urban open space districts, no development shall be permitted on presently undeveloped islands, except those developments specifically related to wildlife preservation and

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recreation open space uses, and bridge piers when other considerations dictate that bridge crossing alignment;

(5) in urban diversified districts, the development on islands related to recreation open space uses and historical preservation of sites and areas on the Inventory of the Minnesota State Historical Society and the National Register of Historic Places shall be permitted; new industry, commercial, residential and other uses shall be permitted on islands if they are consistent with local zoning ordinances and with the historical character.

7. Line of sight. In rural open space districts, urban developed districts, and urban open space districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted, if it cannot be seen from the normal highwater mark on the opposite side of the river. Water-related commercial and industrial uses shall not be subject to this requirement.

### G. Sanitary standards and criteria.

#### 1. The following standards shall apply to all districts:

a. All parts of on-site sewage disposal systems shall be located at least 75 feet from the normal highwater mark.

b. No on-site sewage disposal system shall be placed within designated floodplains.

### H. Non-conforming uses and structures.

1. Any structure or use existing upon the effective date of these Interim Development Regulations which does not conform to the use restrictions of a particular use district of the Interim Development Regulations shall automatically continue as a non-conforming use or structure.

2. Whenever a non-conforming building or structure has been damaged by fire, flood, explosion, earthquake, war, riot, or other disaster, it may be reconstructed to its prior use when the damage to the building or structure is fifty percent (50%) or less of its fair market value. Where the damage is fifty percent (50%) or more, reconstruction shall not be permitted for any structure that does not meet the minimum required standards.

3. When any non-conforming use of a building or structure has been changed to a conforming use, it shall not be changed to a non-conforming use.

4. If a non-conforming use is discontinued for 6 consecutive months, any future use of the building or premises shall conform to the Interim Development Regulations.

### I. Administration.

#### 1. Local units of government and regional and state

agencies shall notify the Council of the following types of proposed development within the Mississippi River Corridor:

a. Development permit applications for the development of a new or major expansion of an industrial, commercial facility in the rural open space, urban developed and urban open space districts.

b. All government developments.

c. Inside the 1975 Metropolitan Urban Service Area (MUSA), development permit applications for the development of:

(1) 50 or more dwelling units in a multi-family project;

(2) 25 or more lots in a mobile home court;

(3) 25 or more lots in a residential project.

d. Outside the MUSA, development permit applications for the development of:

(1) 25 or more dwelling units in a multi-family project;

(2) 10 or more lots in a mobile home court;

(3) 10 or more lots in a residential project;

(4) any residential developments in rural open space districts.

e. Any development on or involving the alteration of:

(1) a wetland;

(2) a floodplain;

(3) an island;

(4) a slope of greater than 12 percent;

(5) the removal of 5 contiguous acres or more of vegetative cover;

(6) the grading or filling of 20 contiguous acres of land;

(7) the deposit of dredge spoil;

(8) more than 50 linear feet of a riverbank.

f. Any development involving the establishment of

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a public or private structure, facility or other which crosses the river.

g. The development or expansion of any commercial harbor or barge loading or fleeting area.

h. Any development which would result in the discharge of water into or withdrawal of water from the Mississippi River which would require a state permit.

i. Any developments within the historical districts established by the State Legislature.

j. Development for which Metropolitan Council review is requested by:

(1) the local unit of government with jurisdiction;

(2) resolution from two or more local units of government adjacent to the local units of government within which the proposed development is sited.

k. Any development which requires a rezoning or compatible use permit.

### 2. Procedures for reviewing proposed development.

a. Local units of government and regional and state agencies shall notify the Council in writing of any proposed development listed in section I.1, at least 30 days before the local units of government and regional and state agencies take final action to approve or deny the development. In the event the Metropolitan Council elects to hold a hearing under section I.2.e., no final action to approve or deny the proposed development may be taken until 15 days after the Council receives the Metropolitan Council recommendation.

b. The Council shall send a copy of the proposed development to the Metropolitan Council for review no later than 2 days after the date of the Council's receipt of the application.

c. The Metropolitan Council shall review the proposed development and transmit a written recommendation with reasons for approving, modifying, or denying the proposed development to the Council no later than 18 days after the Metropolitan Council's receipt of the application, except when a public hearing is required by the Metropolitan Council, in which case, sections I.2.e(1) and (2) shall be followed.

d. Other local units of government and regional and state agencies may transmit to the Council their written comments on the proposed development published in the EQC Monitor within 15 days of date of the publication.

e. When the Metropolitan Council decides to hold a public hearing on a proposed development application, the public hearing shall be conducted in accordance with the Metropolitan Council's statutory requirements, and notice of the hearing shall be filed with the Council and affected municipalities, counties, and applicants.

f. The Metropolitan Council shall submit its final recommendation on the proposed development to the Council within 30 days of closing date of the hearing record. The Council shall accept or modify the Metropolitan Council's recommendations and shall consider the comments of the local units of government and regional and state agencies and transmit the recommendation to the local unit of government and regional and state agencies no later than 10 days after the date of receipt of the Metropolitan Council's recommendation.

g. The Council may extend the 30 days time for a particular proposed development if the Metropolitan Council, the developer, any local unit of government and regional and state agencies with jurisdiction agree to the extension.

h. Failure of the Council to act on the notice of a proposed development within the prescribed period of time shall constitute acceptance by the Council of the final action on the proposed development by the local unit of government, regional or state agency.

i. Within 30 days after the final action, local units of government and regional and state agencies shall notify the Council of the final action on all proposed development listed in section I.1, or of emergency actions approved under the provisions of section I.5.

j. When the Council has recommended to a local government unit, regional or state agency to modify or to deny a proposed development, and that recommendation is not followed, the proposed development shall not be approved for 30 days after the Council receives notice of final action. If the Council appeals the decision to district court, the appeal shall be made within 30 days of receipt notice of final action. When an appeal is made, the development shall not be approved until the appeal process is scheduled.

### 3. Dimension variance.

a. Local units of government may grant a dimension variance from strict compliance with the setback, or height restrictions, or lot size or line of sight requirement contained in the Interim Development Regulations after an administrative hearing that shall be conducted according to the regulations of the local unit of government.

b. A dimension variance may be granted only when the following findings are made:

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(1) the strict enforcement of the setback or height restrictions, or lot size or line of sight will result in unnecessary hardship. "Hardship" as used in the consideration of a dimension variance means that the property in question cannot be put to a reasonable use under the dimension provisions of these Interim Development Regulations;

(2) there are exceptional circumstances unique to the property that were not created by a landowner after April 25, 1975;

(3) the dimension variance does not allow any use that is not a compatible use in the land use district in which the property is located;

(4) the dimension variance will not alter the essential character of the locality as established by these Interim Development Regulations;

(5) the dimension variance would not be contrary to the intent of the Order.

#### 4. Compatible use permit.

a. Local units of government may grant a compatible use permit after an administrative hearing that shall be conducted according to the regulations of the local unit of government for conditional or special use permits.

b. A compatible use permit may be granted for a proposed development only when the following findings are made:

(1) it is consistent with the intent of the Order, and the adopted policies of the Metropolitan Council and the Environmental Policy Act; and

(2) it is compatible with uses in the immediate vicinity; and

(3) it is permitted by the ordinances of the local unit of government.

5. Emergency actions. In accordance with the Act, local units of government, regional and state agencies may grant a development permit when certified in writing by the local unit of government, regional and state agencies, or the County Zoning Administration with the existing authority that the development is essential to protect the public health, safety or welfare in an existing emergency and that a local ordinance or state regulation was in effect immediately prior to April 25, 1975 and a development permit would have been granted thereunder.

## Appendix A

### Legal Description of the River Corridor

#### Ramsey

Commencing at the point where the west boundary line of Anoka County intersects with the north boundary line of Hennepin County;

Thence north along said Anoka County west boundary line to the NW corner of the NW quarter of the SW quarter of Section 19 (T32N, R25W);

Thence east along the north side of the NW quarter of the SW quarter of Section 19 (T32N, R25W), to its intersection with the center line of U.S. Highway 10;

Thence along said center line in a southeasterly direction to the intersection with the north side of Section 30 (T32N, R25W);

Thence eastward along the north side of Section 30 to the NW corner of Section 29, (T32N, R25W);

Thence south along the west side of Section 29 to the SW corner of the NW quarter of said Section 29;

Thence east along the south side of the NW quarter of said Section 29 to the NW corner of the NE quarter of the SW quarter of said Section 29;

Thence south along the west side of the NE quarter of the SW quarter of said Section 29 to SW corner of the NE quarter of the SW quarter of said Section 29;

Thence east along the north line of the southeast quarter of the southwest quarter of said Section 29; to the west boundary line of Section 28; (T32N, R25W);

Thence east along the northern boundary of Government Lot 1, Section 28, (T32N, R25W) to the NE corner of said lot;

Thence south to the SE corner of said Government Lot 1, Section 28, (T32N, R25W);

Thence east along the north side of Section 33 (T32N, R25W) to the NE corner of Government Lot 2 in said Section;

Thence south along the east side of Government Lot 2, Section 33 (T32N, R25W) to the SW corner of the northern half of the NE quarter of the NE quarter of Section 33;

Thence east to the west side of Section 34 (T32N, R25W);

Thence south to the SW corner of the NW quarter of the SW quarter of the NW quarter of Section 34 (T32N, R25W);

Thence east to the west side of Section 35 (T32N, R25W);

Thence south along the west side of Section 35 (T32N, R25W) to the NW corner of Government Lot 1, Section 35 (T32N, R25W);

Thence east to the NW corner of the SW quarter of the NE quarter of the SW quarter of Section 35 (T32N, R25W);

Thence south to the SW corner of the SW quarter of the NE quarter of the SW quarter of Section 35 (T32N, R25W);

Thence east along the south side of the NE quarter of the SW quarter of Section 35 (T32N, R25W) to its intersection with the west boundary of Anoka;

## EXECUTIVE ORDERS

Thence northeasterly along the west boundary of Anoka to the intersection with the center line of U.S. Highway 10.

### Anoka

Thence southeasterly along said center line to the intersection with the center line of Park Street in the City of Anoka; south along the center line of Park Street to the intersection with the west side of Section 1 (T31N, R25W);

Thence south along said west side to the intersection with the center line of Benton Street;

Thence southeasterly along said center line to the intersection with the center line of State Avenue;

Thence south along the center line of State Avenue to the intersection with the center line of Rice Street;

Thence east along the center line of said street to the intersection with the center line of Ferry Street;

Thence easterly along a line from said intersection to the intersection of the center lines of Madison Street and River Avenue;

Thence east from said point along the center line of Madison Street to the intersection with the center line of 1st Avenue;

Thence south along 1st Avenue to the intersection with the center line of Jefferson Street;

Thence east along the center line of said street to the intersection with the center line of 2nd Avenue;

Thence south along said center line to the intersection with the center line of Adams Street;

Thence east along said center line to the intersection with the center line of 3rd Avenue;

Thence south along said center line to the intersection with the center line of Oakwood Drive;

Thence easterly along said center line to the intersection with the center line of Kings Lane;

Thence southwesterly along said center line to the intersection with the center line of Birch Street;

Thence southeasterly along said center line to the intersection with the center line of Queens Avenue;

Thence south along said center line to the intersection with the center line of Pine Street;

Thence southeasterly along said center line to the intersection with the center line of 9th Avenue;

### Coon Rapids

Thence from this point, a straight line to the intersection of the center line of 115th Avenue with the west side of Section 17 (T31N, R24W);

From this point, east along a line to the intersection of the east side of the NW quarter of said Section 17 with the center line of Coon Rapids Boulevard;

From said point southeasterly along the center line of Coon Rapids Boulevard to the intersection with the center line of Mississippi Boulevard;

Thence southerly along said center line to the intersection with the center line of Hansen Boulevard;

Thence south along said center line to the intersection with the center line of 99th Avenue NW;

Thence east along said center line to the SW corner of the NW quarter of the NW quarter of Section 26 (T31N, R24W);

Thence east along the south side of the north half of the NW quarter of said Section 26;

Thence continuing east along the south side of the NW quarter of the NE quarter of said Section 26 to the intersection with the center line of East River Boulevard. (Anoka County Highway 1);

Thence south along said center line to the intersection with the west side of the east half of the SE quarter of said Section 26;

Thence south along said line to the SW corner of the SE quarter of the SE quarter of said Section 26;

Thence continuing south along the west side of the east half of the NE quarter of Section 35 (T31N, R24W);

Thence continuing south along the west side of the NE quarter of the SE quarter of said Section 35 to the SW corner of the NE quarter of the SE quarter of said Section 35;

From this point, southeasterly along a diagonal to the NW corner of Section 3 (T30N, R24W);

From said corner, east along the north side of said Section 3 to the intersection with the center line of Anoka County Trunk Highway 1;

### Fridley Minneapolis

Thence south along the center line of said highway to the Anoka-Hennepin County common boundary line;

Thence continuing south along the center line of now Hennepin County Trunk Highway 23 to the center line of 30th Avenue NE;

Thence east along said center line to the intersection with the center line of Randolph Street;

Thence south along said center line to the intersection with the center line of 26th Avenue NE;

Thence east along said center line to the intersection with the center line of Grand Street;

Thence south along said center line to the intersection with the center line of 13th Avenue NE;

Thence southwesterly along said center line to the intersection with the center line of Ramsey Street;

Thence southeasterly along said center line to the intersection with the center line of 7th Avenue NE;

Thence northeasterly along said center line to the intersection with the center line of Main Street;

Thence southeasterly along said center line to the intersection with the center line of 5th Avenue NE;

## EXECUTIVE ORDERS

Thence northeasterly along said center line to the intersection with the center line of University Avenue;

Thence southeasterly along said center line to the intersection with the center line of Oak Street;

Thence south along said center line to the intersection with the center line of Fulton Street;

Thence east along said center line to the intersection with the center line of Huron Street;

Thence southerly along said center line to the intersection with the center line of Interstate 94;

Thence southeasterly along said center line to the intersection with the Minneapolis-St. Paul common boundary line;

### St. Paul

Thence south along said line to the intersection with the center line of Otis Avenue;

Thence southeasterly along Otis Avenue to the intersection with the center line of Exeter Place;

Thence south along said center line to the intersection with the center line of Mississippi River Boulevard;

Thence east along said center line to the intersection with the center line of Cretin Avenue;

Thence south along said center line to the intersection with the center line of Goodrich Avenue;

Thence west along said center line to the intersection with the center line of Woodlawn Avenue;

Thence south along said center line to the intersection with the center lines of Randolph Avenue, Woodlawn Avenue and Mount Curve Boulevard;

Thence south along the center line of Mount Curve Boulevard to the intersection with the center line of Ford Parkway;

From this point southeasterly along a diagonal to the intersection of the center lines of Hampshire Avenue and Finn Street;

Thence south along the center line of Finn Street to the intersection with the center line of Magoffin Avenue;

Thence east along said center line to the intersection with the center line of Cleveland Avenue;

Thence south along said center line to the intersection with the center line of Norfolk Avenue;

Thence southeasterly and easterly along said center line to the intersection of the center line of Stewart Avenue;

Thence northeasterly along said center line to the intersection with the center line of Alton Street;

Thence southeasterly along said center line to the intersection with the center line of Youngman Avenue;

Thence northeasterly along said center line to the intersection with the center line of Rankin Street;

Thence northwesterly along said center line to the intersection with the center line of Stewart Avenue;

Thence northeasterly along said center line to the intersection with the center line of Homer Avenue;

Thence northwesterly along said center line to the intersection with the south boundary line of the right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad;

Thence northeasterly along said boundary to the intersection with the center line of Watson Avenue;

Thence east along said center line to the intersection with the center line of Drake Street;

From this point, northeasterly along a diagonal to the intersection of the center lines of Randolph Avenue and Erie Street;

Thence north along the center line of Erie Street to the intersection with the center line of Jefferson Avenue;

Thence east along said center line to the intersection with the center line of Colburne Avenue;

From this point, northeasterly along a diagonal to the intersection of the center lines of St. Clair Avenue and Western Avenues;

Thence east along the center line of St. Clair Avenue to the intersection with the center line of Ann Street;

Thence north along said center line to the intersection with the center line of Superior Street;

Thence east along said center line to the intersection with center line of Dousman Street;

Thence north along said center line to the intersection with the center line of Banfil Avenue;

Thence east along said center line to the intersection with the center line of Smith Street;

Thence north along said center line to the intersection with the center line of Goodrich Avenue;

Thence east along said center line to the intersection with the center line of Leech Street;

Thence north along said center line to the intersection with the center line of McBoal Street;

Thence east along said center line to the intersection with the center line of Wilkin Street;

Thence north along said center line to the intersection with the center line of Exchange Street;

Thence northeasterly along said center line to the intersection with the center line of Kellogg Boulevard;

Thence easterly and northeasterly along said center line to the intersection with the center line of Interstate 94;

Thence southeasterly along said center line to the intersection with the center line of Maria Avenue;

Thence southeasterly along said center line to the intersection with the south side of Section 33 (T20N, R22W);

## EXECUTIVE ORDERS

Thence east along said line to the intersection with the center line of Burns Avenue;

Thence east along said center line to the intersection with the center line of Upper Afton Road;

Thence southeasterly along said center line to the intersection with the center line of Hazel Avenue;

Thence south along said center line to the intersection with the north side of Section 11 (T28N, R22W);

Thence east along said side to the NE corner of the NW quarter of said Section 11;

Thence south along the east side of the NW quarter of said Section 11 to the SE corner of the NW quarter of said Section 11;

Thence east along the north side of the SE quarter of said Section 11 to the NW corner of the east half of the SE quarter of said Section 11;

Thence south along the west side of the east half of the SE quarter of said Section 11 to the south line of said Section 11;

Thence east along the south side of said Section 11 to the intersection with the center line of McKnight Road;

Thence south along said center line to the intersection with the center line of Carver Avenue;

### Maplewood

Thence east along said center line to the intersection with the west side of the east half of the NW quarter of Section 24, (T28N, R22W);

Thence south along said side continuing along the west side of the east half of the SW quarter of said Section 24, to the intersection with the center line of Interstate 494;

Thence southwesterly along said center line to the intersection with the centerline of 1st Avenue in Newport;

### Newport

Thence south along said center line to the intersection with the center line of 17th Street;

Thence east along said center line to the intersection with the center line of 3rd Avenue;

Thence south along said center line to the intersection with the center line of 12th Street West;

Thence east along said center line to the intersection with the center line of 4th Avenue;

Thence south along said center line to the intersection with the south side of the north half of Section 1 (T27N, R22W);

### St. Paul Park

Thence east along said side to the center line of Third Street, City of St. Paul Park;

Thence south along said center line to the intersection of 6th Avenue (commonly known as Broadway);

Thence west along said center line to the intersection of the center line of Main Street;

Thence south along said center line to the intersection of the center line of Pullman Avenue;

Thence east along said center line to the intersection with the center line of 3rd Street;

Thence south along said center line to the South city limits of St. Paul Park;

### Grey Cloud

Thence south along said center line to the intersection with the center line of Grey Cloud Trail;

Thence southeasterly along said center line to the intersection with the south side of Section 19 (T27N, R21W);

### Cottage Grove

Thence east along said side to the SE corner of said Section 19;

Thence south along the west side of Section 29 (T27N, R21W) to the intersection with the NW corner of the SW quarter of the NW quarter of said Section 29;

Thence east along the north side of the SW quarter of the NW quarter of said Section 29 to the NE corner of the SW quarter of the NW quarter of said Section 29;

Thence south along the east side of the SW quarter of the NW quarter and along the east side of the NW quarter of the SW quarter of said Section 29 to the NW corner of the SE quarter of the SW quarter of said Section 29;

Thence east along the north side of the SE quarter of the SW quarter of said Section 29 to the NE corner of the SE quarter of the SW quarter of said Section 29;

Thence south along the east side of the SW quarter of said Section 29 to the south side of said Section 29;

Thence east along the south side of Sections 29 and 28 to the southwestern corner of Section 27;

Thence north along the west side of said Section 27 to the NW corner of the SW quarter of said Section 27;

Thence east along the north side of the south half of said Section 27 to the east side of said Section 27;

Thence south along the east side of said Section 27 to the SE corner of said Section;

Thence east along the south side of Section 26 (T27N, R21W) to the intersection with the center line of U.S. Highway 61;

### Denmark

Thence southeasterly along said center line to the intersection with the center line of U.S. Highway 10;

Thence easterly along said center line to the intersection with the south side of Section 6 (T26N, R20W);

Thence east to the SE corner of said Section 6;

## EXECUTIVE ORDERS

Thence southeasterly along a diagonal to the SE corner of the north half of the NW quarter of Section 8 (T26N, R20W);

Thence east along the south side of the north half of the NE quarter of said Section 8 to the east side of said Section 8;

Thence south along the east side of Section 8 to the intersection with the northeasterly boundary of Dakota County;

### Ravenna

Thence southeasterly along the Dakota County boundary to the intersection with the Dakota County-Goodhue County common boundary;

Thence south along said boundary to the intersection with the south side of Section 21 (T114N, R16W);

Thence west along the south side of said Section to the SW corner of said Section;

Thence north along the west side of said Section to the NW corner of said Section;

Thence north along the west side of Section 16 (T114N, R16W) to the intersection with the center line of Dakota CSAH 54;

Thence northwesterly along said center line to the intersection with the south side of Section 31 (T115N, R16W);

Thence west along said line to the SW corner of said Section 31;

Thence north along the east side of Section 36 (T115N, R17W) to the NE corner of the SE quarter of the SE quarter of said Section 36;

Thence west along the south side of the NE quarter of the SE quarter of said Section 36 to the SW corner of the NE quarter of the SE quarter of said Section 36;

Thence north along the west side of the east half of the SE quarter of said Section 36 to the NW corner of the NE quarter of the SE quarter of said Section 36;

Thence west along the north side of the south half of said Section 36 and Section 35 (T115N, R16W) to the west side of said Section 35;

### Hastings

Thence north along the west side of said Section 35 and Section 26 (T115N, R16W) to the intersection with the center line of 3rd Street;

Thence west along said center line to the intersection with the center line of Washington Street;

Thence north along said center line to the intersection with the center line of 2nd Street;

Thence west along said center line to the intersection with the center line of Dakota County Road 42;

### Nininger

Thence northwesterly along said center line to the intersection with the center line of Dakota County Highway 87;

Thence northwesterly along said center line to the intersection with the center line of 125th Street east;

Thence west along said center line to the intersection with the center line of Isadore Avenue;

Thence south along said center line to the intersection with the center line of 127th Street east;

Thence west along said center line to the intersection with the center line of Idell Avenue;

Thence south along said center line to the intersection with the center line of Dakota County Road 42;

Thence southwesterly along said center line to the intersection with the center line of Minnesota Highway 55;

### Rosemount Inver Grove Heights

Thence west and then north along said center line to the intersection with the center line of Dakota County Road 77;

Thence north along said center line to the intersection with the center line of Minnesota State Highway 56;

Thence north along said center line to the intersection with the center line of 70th Street east;

Thence west along said center line to the intersection with the center line of Delany Avenue east;

Thence north along said center line to the intersection with the center line of 69th Street east;

Thence west along said center line to the east side of Section 3 (T27N, R18W);

Thence north along said side to the NE corner of said Section 3;

Thence west along the north side of said Section 3 to the intersection with the center line of Henry Avenue;

### South St. Paul

Thence north along said center line to the intersection with the center line of Chestnut Street;

Thence east along said center line to a point directly in line with the southerly extension of Eldridge Avenue;

From this point, northwesterly along a diagonal to the intersection of the center lines of Spruce Street and Eldridge Avenue;

Thence north along the center line of Eldridge Avenue to the intersection with the center line of Dale Street;

Thence west along said center line to the intersection with the center line of Syndicate Avenue;

Thence north along said center line to the intersection with the center line of Warburton Street;

From this point, northwesterly, along a diagonal to the intersection of the center lines of 8th Street South and 1st Avenue South;

Thence north along the center line of 1st Avenue South to the intersection with the center line of Southview Boulevard;

Thence west along said center line to the intersection with the center line of 2nd Avenue South;

## EXECUTIVE ORDERS

Thence north along said center line to the intersection with the center line of Marie Avenue;

Thence west along said center line to the intersection with the center line of 3rd Avenue North;

Thence north along said center line to the intersection with the center line of 2nd Street North;

Thence west along said center line to the intersection with the center line of 4th Avenue North;

Thence north along said center line to the intersection with the center line of 3rd Street North and Grand Avenue;

Thence north along the center line of Grand Avenue to the intersection with the center line of 5th Avenue North;

From this point northwesterly along a diagonal to the intersection of the center lines of Turin and Stewart Avenues;

Thence north along the center line of Stewart Avenue to the intersection of the center lines of 8th Avenue North and Thompson Avenue;

From this point northwesterly along a diagonal to the intersection of the center lines of Highland Avenue and 10th Avenue North;

From this point, northwesterly along a diagonal to the intersection of the center lines of Bryant and Summit Avenues;

Thence north along the center line of Summit Avenue to the intersection with the center line of Orme Avenue;

From this point northwesterly along a diagonal to the intersection of the center lines of Butler and Stickney Avenues;

From this point northwesterly along a diagonal to the intersection of the center lines of Stanley and Evans Avenues;

Thence north along the center line of Evans Avenue to the intersection of the center lines of Stickney Avenue and Lewis Street;

Thence north along the center line of Stickney Avenue to the intersection with the St. Paul-South St. Paul common boundary;

### St. Paul

Thence west along said boundary to the intersection with the center line of new State Highway 56;

Thence north along said center line to the intersection with the center line of East Page Street;

Thence west along said center line to the intersection with the center line of Woodbury Street;

Thence north along said center line to the intersection with the center line of Prescott Street;

Thence west along said center line to the intersection with the center line of Oakdale Avenue;

Thence north along said center line to the intersection with the center line of East King Street;

Thence west along said center line to the intersection with the center line of Robert Street;

Thence north along said center line to the intersection with the center line of George Street;

Thence west along said center line to the intersection with the center line of Humboldt Avenue;

Thence north along said center line to the intersection with the center line of Winifred Street;

Thence west along said center line to the intersection with the center line of Hall Street;

Thence north along said center line to the intersection with the center line of Delos Street;

Thence west along said center line to the intersection with the center line of Bidwell Street;

Thence south along said center line to the intersection with the center line of W. Congress Street;

Thence west along said center line to the intersection with the center line of Ohio Street;

Thence south along said center line to the intersection with the center line of Robie Street;

Thence west along said center line to the intersection with the center line of Manomin Avenue;

Thence south along said center line to the intersection with the center line of West George Street;

Thence west along said center line to the intersection with the center line of Smith Avenue;

Thence south along said center line to the intersection with the center line of West Stevens Street;

Thence west along said center line to the intersection with the center line of Ottawa Avenue;

Thence south along said center line to the intersection with the center line of Morton Street;

Thence west along said center line to the intersection with the center line of Delaware Avenue;

Thence south along said center line to the intersection with the center line of State Highway 13;

### Mendota Heights

Thence west and southwesterly along said center line to the intersection with the center line of Sylvandale Road;

Thence south along said center line to the intersection with the center line of Woodridge Drive;

Thence southwesterly along said center line to the intersection with the center line of Cascade Lane;

Thence south along said center line to the intersection with the center line of Arcadia Drive;

From this point southwesterly along a diagonal to the northwest corner of Section 24 (T28N, R22W);

Thence west along the north side of Section 23 (T28N, R22W), to the intersection with the center line of the Northern States Power Company utility easement;

## EXECUTIVE ORDERS

Thence south along said center line to the intersection with the south side of the north half of the NE quarter of said Section 23;

From this point, southwesterly along a diagonal to the intersection of the center lines of Victoria Road and Caren Road;

Thence westerly along the center line of Caren Road to the intersection with the center line of James Road;

Thence southwesterly along said center line to the intersection with the center line of Douglas Road;

Thence westerly along said center line to the intersection with the center line of James Road;

Thence westerly along said center line to the intersection with the center line of Lexington Avenue;

Thence south along said center line to the intersection with the center line of Orchard Place;

Thence westerly along said center line to the intersection with the center line of Hunter Lane;

Thence south along said center line to the intersection with the center line of State Highway 110;

Thence west along said center line to the intersection with the center line of Minnesota Highway 13;

Thence southerly along said center line to the intersection with the center line of Interstate 494;

Thence westerly along said center line to the intersection with the center line of State Highway 5;

Thence northeasterly along said center line to the intersection with the boundary line of the Fort Snelling State Park;

Thence northerly along said boundary line to the intersection with the center line of State Highway 55;

### Minneapolis

Thence northwesterly along said center line to the intersection with the center line of 47th Avenue South;

Thence north along said center line to the intersection with the center line of Minnehaha Avenue;

Thence northwesterly along said center line to the intersection with the center line of Nawadaha Boulevard;

Thence easterly along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of E. 46th Street;

Thence east along said center line to the intersection with the center line of 47th Avenue South;

Thence north along the center line of 47th Avenue South to the intersection with the center line of East 44th Street;

From this point north along a straight line to the intersection of the center lines of Dowling Street and 47th Avenue South;

Thence north along the center line of 47th Avenue South to the intersection with the center line of East 32½ Street;

Thence west along said center line to the intersection with the center line of 46 Avenue South;

Thence north along said center line to the intersection with the center line of East 35th Street;

Thence east along said center line to the intersection with the center line of 47th Avenue South;

Thence north along said center line to the intersection with the center line of East Lake Street;

Thence west along said center line to the intersection with the center line of 46th Avenue South;

Thence north along said center line to the intersection with the center line of Dorman Avenue;

Thence northwesterly along said center line to the intersection with the center line of 40th Avenue South;

Thence in a straight line northwest to the intersection of the center lines of Minneapolis Avenue and 34th Avenue South;

Thence northwest along the center line of Minneapolis Avenue to the intersection with the center line of 31st Avenue South;

Thence north along said center line to the intersection with the center line of Franklin Avenue;

Thence west along said center line to the intersection with the center line of Riverside Avenue;

Thence northwest along said center line to the intersection with the center line of 19th Avenue South;

Thence north along said center line to the intersection with the center line of 2nd Street South;

Thence northwest along the center line of 2nd Street South to the intersection of the center lines of 2nd Street South and Hennepin Avenue;

Thence north-northwest along the center line of 2nd Street North to the intersection with the center line of Mississippi Drive;

Thence north-northeast along said center line to the intersection with the center line of Lyndale Avenue North;

Thence north along said center line to the intersection with the center line of Interstate 94;

Thence north along said center line to the intersection with the center line of 52nd Avenue North;

Thence west along said center line to the intersection with the center line of 4th Street North;

Thence northwesterly along said center line to the intersection with the center line of 55th Avenue North;

### Brooklyn Center

Thence westerly along said center line to the intersection with the center line of Camden Avenue North;

Thence north along said center line to the intersection with the center line of 62nd Avenue North;

## EXECUTIVE ORDERS

Thence in a straight line northeasterly to the intersection of the center lines of State Highway 196 and Interstate 94;

### Brooklyn Park

Thence north along the center line of State Highway 196 to the intersection with the center line of 89th Avenue North;

Thence west along said center line to the west side of Section 13 (T31N, R24W);

Thence north along said side of said Section 13 to the NW corner of said Section 13;

From this point west along the south side of Section 11 (T31N, R24W) to the SW corner of the SE quarter of the SE quarter of said Section 11;

Thence north to the NW corner of the SE quarter of the SE quarter of said Section 11;

Thence in a straight line northwest to the intersection of the center lines of Logan Avenue North and 95th Avenue North;

Thence northeast along the center line of Logan Avenue North to the intersection with the center line of 96th Avenue North;

Thence northwest along said center line to the intersection with the center line of Newton Avenue North;

Thence north along said center line to the intersection with the center line of 97th Avenue North;

Thence west along said center line to the SE corner of the NW quarter of said Section 11;

Thence north along the east side of the NW quarter of said Section 11 to the intersection with the center line of State Highway 169;

Thence northwest along said center line to the north side of the south half of the SW quarter of Section 2 (T31N, R24W);

Thence west along the said side to the west side of said Section 3;

Thence north-northwest in a straight line to the intersection of the center lines of Riverside Place and Sunset Road;

Thence northwest along the center line of Riverside Place to the intersection with the center line of France Avenue North;

Thence north-northeast along said center line to the intersection with the center line of U.S. Highway 169;

### Champlin

Thence northwest along said center line to the intersection with the center line of Hayden Lake Road;

Thence west along said center line to the intersection with the center line of U.S. Highway 52;

Thence north along said center line to the intersection with the center line of U.S. Highway 169;

Thence northwest along said center line to the intersection with the center line of Hennepin County Road 12;

Thence northwest along said center line to the intersection with the east side of Section 14 (T120N, R22W);

### Dayton

Thence north along said side of Section 14 to the SE corner of the NE quarter of the NE quarter of Section 14 (T120N, R22W);

Thence west along the south side of the NE quarter of the NE quarter of Section 14 to the SW corner of the NE quarter of the NE quarter of Section 14 (T120N, R22W);

Thence north along the west side of the NE quarter of the NE quarter of Section 14 to the south side of Section 11 (T120N, R22W);

Thence west along the south side of Section 11 (T120N, R22W) to the SW corner of the SE quarter of said Section;

Thence north along the west side of the SE quarter of Section 11 to the NW corner of the SW quarter of the SE quarter of Section 11 (T120N, R22W);

Thence west along the north side of the south quarter of Section 11 to the intersection with the east side of Section 10 (T120N, R22W);

Thence south along the west side of Section 11 to the SW corner of the N one-half of the NW quarter of the SW quarter of the SW quarter of Section 11 (T120N, R22W);

Thence west across Government Lot 6 to the east boundary of Government Lot 5, Section 10 (T120N, R22W);

Thence south along the east boundary of Government Lot 5 to the NE corner of the south 20 acres of Government Lot 5, (T120N, R22W);

Thence west to the SW corner of the NE quarter of the SE quarter of the SW quarter of Section 10 (T120N, R22W);

Thence north to the south side of Government Lot 4, Section 10 (T120N, R22W);

Thence west to the SW corner of Government Lot 4, Section 10 (T120N, R22W);

Thence north along the west side of Government Lot 4 to the NW corner of Government Lot 4, Section 10 (T120N, R22W);

Thence west to the east side of Section 9 (T120N, R22W);

Thence north along the east side of Section 9 to the SE corner of Government Lot 1, Section 9 (T120N, R22W);

Thence west along the south side of Government Lot 1 to the SW corner of Government Lot 1 within Section 9 (T120N, R22W);

Thence north along the west side of Government Lot 1 in Section 9 to the north side of Section 9 (T120N, R22W);

Thence west along the north side of Section 9 to the NE corner of the NE quarter of the NW quarter of Section 9 (T120N, R22W);

Thence south along the east side of the NE quarter of the NW quarter to the SE corner of the NE quarter of the NW quarter of Section 9 (T120N, R22W);

Thence west along the south side of the north quarter of Section 9 to the SW corner of the NW quarter of the NW quarter of Section 9 (T120N, R22W);

Thence north along the east side of Section 8 (T120N, R22W) to the SE corner of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W);

## EXECUTIVE ORDERS

Thence west along the south side of the northern half of the NE quarter of the NE quarter in Section 8 to the SW corner of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W);

Thence north along the west side of the northern half of the NE quarter of the NE quarter of Section 8 (T120N, R22W) to the south side of Section 5 (T120N, R22W);

Thence west to the SW corner of Government Lot 4 in Section 5;

Thence north along the west side of Government Lot 4 to the SE corner of Government Lot 3, Section 5 (T120N, R22W);

Thence west along the north side of the south quarter of Section 5 to the SW corner of the NW quarter of the SW quarter of Section 5;

Thence north to the SW corner of Government Lot 2, Section 5;

Thence west to the SW corner of Government Lot 3, Section 6 (T120N, R22W);

Thence north along the western boundary of Government Lot 3 in Section 6 (T120N, R22W) to its intersection with the center line of Hennepin County Road 12;

Thence in a northwesterly direction along said center line traversing Government Lot 2 in Section 6 and continuing through Section 31 (T120N, R22W) to the intersection with the Hennepin-Wright County common boundary line at the mouth of the Crow River.

Thence northerly along said line to the Hennepin County-Sherburne County common boundary line;

Thence easterly along said line to the point where the west boundary line of Anoka County intersects with the north boundary line of Hennepin County.

### Appendix B Mississippi River Corridor Districts

#### 1. Rural open space districts.

##### a. On the east side of the river:

(1) From the Anoka County-Sherburne County common boundary to the west side of Section 35 (T32N, R25W) in Ramsey.

(2) From the St. Paul Park-Grey Cloud Township common boundary to the east side of Section 8 (T26N, R20W) in Denmark Township.

##### b. On the west side of the river:

(1) From the Dakota County-Goodhue County common boundary to the west sides of Sections 23, 26, and 35 (T115N, R17W) in Hastings.

(2) From the Hastings-Nininger common boundary to the west side of Section 21 (T115N, R18W) in Rosemount.

(3) From the south side of the north half of Section 34 (T27N, R22W) to the north side of Section 14 (T27N, R22N) in Inver Grove Heights.

#### 2. Urban developed districts.

##### a. On the east side of the river:

(1) From the west side of Section 35 (T32N, R25W) in Ramsey to the center line of Interstate 694 in Fridley.

(2) From the south side of Section 26 (T28N, R22W) in Newport to the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary.

(3) From the center line of Eight Avenue in St. Paul Park to the St. Paul Park-Grey Cloud Township common boundary.

##### b. On the west side of the river:

(1) From the north side of section 14 (T27N, R22W) in Inver Grove Heights to the South St. Paul-Inver Grove Heights common boundary.

(2) From the eastern extension of the center line of 48th Avenue North in Minneapolis to the eastern extension of the center line of Hennepin County Highway 49.

#### 3. Urban open space districts.

##### a. On the east side of the river:

(1) From the center line of Franklin Avenue in Minneapolis to the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul.

\*(2) From the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul to the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul.

##### b. On the west side of the river:

(1) From the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul to the center line of Interstate 494 in Mendota Heights on the Minnesota River.

\*With the exception of that area needed for the future approved expansion of the Metropolitan Waste Water Treatment Plant at Pig's Eye.

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(2) From the center line of Interstate 494 in Bloomington on the Minnesota River to the center line of Franklin Avenue in Minneapolis.

4. Urban diversified districts.

a. On the east side of the river:

(1) From the center line of Interstate 694 in Fridley to the center line of Franklin Avenue in Minneapolis.

(2) From the north side of Section 14 (T28N, R23W) (Otto Avenue) in St. Paul to the west sides of Sections 3 and 10 (T28N, R22W) and the east boundary of the Chicago and Northwestern Railroad right-of-way in St. Paul and including Twin City Barge and Towing Co's. turning basin, about 11.5 acres at the Northwest corner of Red Rock Industrial Park.

(3) From the western and northern boundaries of the Red Rock Industrial District, the western boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way, and the south side of Section 14 (T28N, R22W) in St. Paul, to the south side of Section 26 (T28N, R22W) in Newport.

(4) From the south side of the north half of Section 1 (T27N, R22W) which is the Newport and St. Paul Park common boundary, to the center line of Eight Avenue in St. Paul Park.

b. On the west side of the river:

(1) From the west sides of Sections 23, 26, and 35 (T115N, R17W) in Hastings to the Hastings-Nininger common boundary.

(2) From the west side of Section 21 (T115N, R18W) in Rosemount to the south side of the north half of Section 34 (T27N, R22W) in Inver Grove Heights.

(3) From the South St. Paul-Inver Grove Heights common boundary to the north side of Section 7 (T28N, R22W) and the center line of Ohio Street in St. Paul.

(4) From the center line of Franklin Avenue in Minneapolis to a line collinear with the center line of 48th Avenue North in Minneapolis.

### Appendix C Definitions

The following terms as used in these Regulations shall have the following meanings, unless otherwise defined:

(CITE 1 S.R. 793)

1. "Act" means the Critical Areas Act of 1973, Minn. Stat. §§ 116G.01 to 116G.14 (Supp. 1974).

2. "Accessory Use" means a use or portion of a use or structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

3. "Adjacent" means having a boundary which physically touches or adjoins.

4. "Agriculture" means the utilization of land and structures thereon for production of farm crops, including but not limited to vegetables, fruit trees, grain, poultry and domestic farm animals and uses necessary or customarily incidental thereto.

5. "Backwater" means a body of water connected with, but little affected by the main stream.

6. "Barge Fleeting Area" means an area on the river, on or off channel, where barges are temporarily parked and secured while tows are assembled or broken up.

7. "Barge Slip" means a basin, usually adjacent to a wharf, jetty, dock or other cargo handling facility, where barges are brought for the purpose of loading or unloading cargo.

8. "Bluffline" means a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent. More than one bluffline may be encountered proceeding landward from the water.

9. "Building Height" means the vertical distance to be measured from the grade of a building line to the top to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.

10. "Clear Cutting" means the removal of an entire stand of trees and shrubs.

11. "Cluster Development" means a pattern of subdivision which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

12. "Council" means the Minnesota Environmental Quality Council established pursuant to Minn. Stat. § 116C.01 to 116C.08 (Supp. 1974).

13. "Development" means the making of any material change in the use or appearance of any structure or land including, but not limited to: a reconstruction, alteration of the size, or material change in the external appearance of a

## EXECUTIVE ORDERS

structure on the land; a change in the intensity of use of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples), mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; the dividing of land into two or more parcels.

14. "Development Permit" means a building permit, zoning permit, water use permit, discharge permit, permit for dredging, filling, or altering any portion of a watercourse; plat approval, re-zoning, certification, variance or other action having the effect of permitting any development as defined in the Act or these Interim Development Regulations.

15. "Dimension Variance" means a modification or variation of the height or setback provisions of the Interim Development Regulations where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of the provisions would cause an undue or unnecessary hardship, or that strict conformity with the provisions would be unreasonable, impractical or unfeasible under the circumstances.

16. "Dwelling Unit" means a residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses or tourist homes.

17. "Essential Services" means underground or overhead gas, electrical, steam or water distribution systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, and other similar equipment and accessories in conjunction therewith, but not including buildings or transmission services.

18. "Feedlots" means a confined unenclosed area for the feeding, breeding, raising or holding of livestock, where livestock manure can accumulate, and where there is no vegetation.

19. "Floodway" means the river channel and the portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.

20. "Floodplain" means the areas adjoining a watercourse which has been or hereafter may be covered by a regional flood.

21. "Regional Flood" means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

22. "General Advertising Signs" means those signs

which direct attention to a product, service, business or entertainment not exclusively related to the premises where such sign is located.

23. "Government Development" means any development financed in whole, or in more than 50 percent of its total financing, directly or indirectly, by the United States, the State of Minnesota, or any agency or political subdivision thereof.

24. "Historic Preservation" means the protection by various means of buildings or other structures, land areas, or districts which are identified by the Minnesota Historical Society or the National Register of Historic Places.

25. "Industrial Use" includes without limitation, factory, office building, warehouse, elevators, material transfer site, pipeline, refuse and material storage areas.

26. "Interim Development Regulations" means the regulations in the Order which indicate the development that shall be permitted pending the adoption of plans and regulations consistent with the policies of the Act and Minnesota Regulations MEQC 51 through MEQC 57.

27. "Landscaping" means plants such as trees, grass, and shrubs.

28. "Livestock" includes, but is not limited to horses, cattle, pigs and turkeys.

29. "Local Unit of Government" means any political subdivision of the State, including but not limited to counties, municipalities, townships, and all agencies and boards thereof.

30. "Lot" means a parcel, piece, or portion of land designated by metes and bounds, registered land survey, plat, or other means and separated from other parcels or portions by said description that is recorded or to be recorded in the Office of the Register of Deeds (or Registrar of Titles).

31. "Major Expansion" means an expansion involving a 20% or greater addition to the total land area presently covered or used by an industrial, commercial, recreational or public facility.

32. "Metropolitan Development Framework" means that chapter of the Metropolitan Development Guide which deals primarily with the physical development of the metropolitan area.

33. "Metropolitan Plans, Guides, and Standards" means and refers to all documents, reports, and materials which have been adopted by the Metropolitan Council and includes, but is not limited to Metropolitan Development Guide Sections, including the Development Framework

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Chapter and policy plans for Development Programs of all Metropolitan Commissions.

34. "Metropolitan Systems" means those facilities for which the Metropolitan Council has planning responsibility including, but not limited to interceptor sanitary sewers, sewage treatment plants, transit facilities, regional parks, and major highways.

35. "Metropolitan Urban Service Area (MUSA)" means the portion of the metropolitan area having metropolitan sewer service available, good highway access, transit service, and most municipal services as designated in the Development Framework chapter of the Metropolitan Development Guide.

36. "Mining" means the extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand cubic yards or more and the removing thereof from the site without processing with the exception of the removal of materials associated with construction of a building, which is approved in a building permit.

37. "Mississippi River Corridor" means that area within the boundaries of the Mississippi River Corridor Critical Area.

38. "Mobile Home Court" means any area on which spaces are rented for the placement of occupied mobile homes.

39. "Mobile Home" means a housing unit designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like.

40. "Multi-family Development" means three or more dwelling units in one structure, including but not limited to an apartment building.

41. "Normal Highwater Mark" means a mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence of the level upon the landscape. It is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. When the normal highwater mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs. At the option of the local unit of government, the normal highwater mark may be delineated as the 100-year floodway line as defined by the Minnesota Department of Natural Resources.

42. "Non-conforming Use" means any use of land established before the effective date of the Interim Development Regulations, which does not conform to the use restrictions of a particular use district of the Interim Development Regulations. This should not be confused with sub-standard dimensions of a conforming use.

43. "Order" means the Governor's Executive Order that formally designates the Mississippi River Corridor as a Critical Area.

44. "Plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public of the county, municipality, and township. It may include, but not be limited to the following: statement of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan implementation.

45. "Public Facility" means all public buildings, including schools, libraries, fire stations, administrative offices, roads, bridges.

46. "Public Safety Facilities" means hydrants, fire alarm boxes, street lights, railway crossing signals, and similar facilities and accessories, but not including buildings.

47. "Public Transportation" means all modes of transportation provided by or dedicated to public use including, but not limited to roadways, transit facilities, railroads, and bikeways.

48. "Regional Agencies" means the Metropolitan Council, Metropolitan Waste Control Commission, Metropolitan Airport Commission, Metropolitan Transit Commission, and Metropolitan Park Board.

49. "Recreation Open Space" means recreation uses particularly oriented to and utilizing the outdoor character of an area; including, but not limited to hiking, riding trails, primitive campsites, campgrounds, parks, and recreation areas.

50. "Rules and Regulations" means the instruments by which state and local units of government control the physical development of the Mississippi River Corridor or any part or detail thereof. Regulations include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and the adoption of official maps.

51. "Re-zone" means a change of permitted uses within a local zoning district or of the boundaries of a local zoning district, adopted by ordinance by the local government unit.

52. "Selective Cutting" means the removal of single

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scattered trees or shrubs. Selective cutting shall not be construed to mean the removal of all trees or shrubs in a given area resulting in the clearing of the land.

53. "Compatible Use" means a use which may be compatible or desirable in a specified district, but requires special conditions for approval because if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.

54. "Setback" means the minimum horizontal landward distance between any part of a structure and the normal highwater mark or the established bluffline.

55. "Sewage Disposal System" means any system for the collection, treatment, and dispersion of sewage including, but not limited to, septic tank soil absorption systems.

56. "Single Family Unit" means a detached building containing one (1) dwelling unit.

57. "Structure" means anything constructed or installed or portable, the use of which requires a location on a parcel of land. It includes a movable structure which can, while it is located on land, be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. Structure also includes roads, billboards,

swimming pools, poles, pipelines, transmission lines, tracks and advertising signs.

58. "Subdivision" means the division of any parcel of land into two or more lots, including re-subdivision.

59. "Transmissions Services" means electric power, telephone, and telegraph lines, cables, pipelines or conduits that are used to transport large blocks of power between two points. In the case of electrical power, this will generally mean 69 kilovolts or more. For mains or pipelines for gas, liquids, or solids in suspension, this means those that are used to transport large amounts of gas, liquids, or solids in suspension between two points.

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

61. "Wetlands" are low-lying areas which may be covered with shallow water. They are frequently associated with a highwater table. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands. They may occur adjacent to or within natural drainageways or as free-standing low areas. Wetlands shall consist of Types 1 to 8 as defined in U.S.D.I. Fish and Wildlife Service Circular 39.

## **Executive Order No. 130A**

### **Amending Executive Order 130 by Correcting the Legal Description of the River Corridor and Adding Two Sections.**

I, Wendell R. Anderson, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order.

WHEREAS, a correction is necessary in the ninth paragraph of Appendix A, the Legal Description of the River Corridor; and,

WHEREAS, the Standards and Guidelines for Preparing Plans and Regulations, and the Interim Development Regulations were omitted from the original Executive Order:

NOW, THEREFORE, I order that:

1. Paragraph nine of Appendix A be amended to read:  
Thence east along the north line of the southeast quarter of the southwest quarter of said Section 29; to the west boundary line of Section 28; (T32N, R25W);
2. The Standards and Guidelines for Preparing Plans and Regulations and the Interim Development Regulations attached are hereby incorporated into Executive Order No. 130.

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This order shall be effective immediately upon publication in the State Register and shall remain in force until rescinded by the proper authority.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 5th day of November, 1976.

*Wendell R. Anderson*

### Standards and Guidelines for Preparing Plans and Regulations

#### A. Purpose and responsibility.

1. Purposes. The purposes of the Critical Area designation and the following standards and guidelines are:

a. To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation;

b. To prevent and mitigate irreversible damage to this state, regional, and national resource;

c. To preserve and enhance its natural, aesthetic, cultural, and historical value for the public use;

d. To protect and preserve the river as an essential element in the national, state and regional transportation, sewer and water and recreational systems; and

e. To protect and preserve the biological and ecological functions of the corridor.

2. Responsibility. The standards and guidelines provided herein shall be:

a. Followed by the local units of government when preparing or updating plans, and/or modifying regulations;

b. Followed by state agencies, and regional agencies for permit regulation and in developing plans within their jurisdiction;

c. Followed by the Metropolitan Council for reviewing plans, regulations, and development permit applications;

d. Followed by the Council for approving plans, regulations, and development permit applications.

B. General guidelines for preparing plans and regulations.

1. The Mississippi River Corridor shall be managed as a multiple-purpose resource by:

a. Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and the riverfront.

b. Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.

c. Providing for the continuation of the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.

d. Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.

2. In order to manage the river corridor consistent with its natural characteristics and its existing development, the following guidelines are established for each corridor district:

a. Rural open space district. The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.

b. Urban diversified district. The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential, and public uses of the lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.

c. Urban developed district. The lands and waters within this district shall be maintained largely as residential

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areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.

d. Urban open space district. The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.

3. The Mississippi River Corridor shall be managed in accordance with the Metropolitan Council's Development Guide Chapter, Critical Areas Act of 1973, and the Minnesota Environmental Policy Act of 1973, and other applicable state laws, and federal laws.

C. Specific standards and guidelines for preparing plans and regulations.

1. Each local unit of government within the river corridor shall prepare plans and regulations to protect environmentally sensitive areas in accordance with the following guidelines.

a. Each local unit of government shall, with the assistance of the Metropolitan Council and state agencies:

(1) Identify and prepare an inventory of:

- (a) floodplains,
- (b) wet lands,
- (c) slopes from 12% to 18% and over 18%,
- (d) soils not suitable for urban development on-site waste disposal
- (e) significant vegetative stands, and
- (f) natural drainage routes.

(2) Prepare a floodplain ordinance if it does not have a floodplain ordinance in effect;

(3) Prepare plans and regulations to protect wetlands;

(4) Prepare plans and regulations to protect bluffs greater than 18% and to provide conditions for the development of bluffs between 18% and 12% slopes;

(5) Prepare plans and regulations to minimize direct overland runoff and improve the quality of runoff onto adjoining streets and watercourses;

(6) Prepare plans and regulations to minimize site alteration and for beach and riverbank erosion control;

(7) Prepare regulations for management of vegetative cutting; and

(8) Prepare criteria for control of noise in open space and recreational areas with assistance of the PCA.

2. Each local unit of government and state agency shall prepare plans and regulations to protect and preserve the aesthetic qualities of the river corridor, which provide for the following considerations:

a. Site plans. Site plans shall be required to meet the following guidelines:

(1) New development and expansion shall be permitted only after the approval of site plans which adequately assess and minimize adverse effects and maximize beneficial effects.

(2) Site plans shall be required for all developments for which a development permit is required, except for the modification of an existing single-family residential structure or the construction of one single-family residence.

(3) Site plans shall include, but not be limited to, the submission of an adequate and detailed description of the project, including activities undertaken to ensure consistency with the objectives of the Designation Order; maps which specify soil types, topography, and the expected physical changes in the site as a result of the development; the measures which address adverse environmental effects.

(4) Site plans shall include standards to ensure that structure, road, screening, landscaping, construction placement, maintenance, and storm water runoff are compatible with the character and use of the river corridor in that district.

(5) Site plans shall provide opportunities for open space establishment and for public viewing of the river corridor whenever applicable, and shall contain specific conditions with regard to buffering, landscaping, and re-vegetation.

b. Structures. Structure site and location shall be regulated to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.

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c. Clustering. The clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality shall be encouraged. The location of clustered high-rise structures may be proposed where public services are available and adequate and compatible with adjacent land uses.

d. Access routes. Commercial and industrial developments adjacent to roadways shall be required to provide off-street parking, service roads and limited controlled access points to highways. (Except in cases of extreme hardship, highway access for any development within 250 feet of a bridge or bridge ramp shall be prohibited.)

e. Existing development. Local plans and regulations shall include provisions to:

- (1) Retain existing vegetation and landscaping;
- (2) Amortize non-conforming uses;
- (3) Prohibit the reconstruction of non-conforming uses which are 50% market value destroyed;
- (4) Provide for the screening of existing development which constitutes visual intrusion, wherever appropriate.

f. Signs. Local units of government shall adopt ordinances for the amortization and removal of non-conforming general advertising signs, and to prohibit the visibility of advertising signs from the river, except in urban diversified districts.

3. Local units of government shall develop plans and regulations to ensure that developments shall not be undertaken prior to the provision of metropolitan public facilities in adopted metropolitan plans, in accordance with the following guidelines:

a. Developments in areas not scheduled for the provision of municipal or metropolitan sanitary sewers shall comply with adequate onsite sewage disposal system regulations.

b. The density of development outside the metropolitan urban service area shall be limited to ensure that there is no need for the premature provision of local and metropolitan urban services and facilities.

4. Local units of government shall develop plans and provide guidance to ensure that the surface uses of the river is compatible with the characteristics and use of the districts in accordance with the following guidelines:

a. The present 9-foot navigation channel shall be maintained.

b. Provision shall be made for the use of the river for water transportation which is consistent with adopted state and regional policies and regulations and applicable federal laws and to minimize any adverse effects associated with such facilities.

c. Local plans shall identify areas physically suitable for barge slips and barge fleeting, based on such considerations as safety, maneuverability, operational convenience, amount of construction and/or excavation required, and environmental impacts; and

d. Local plans shall specify which of those areas found physically suitable may be used for barge slips and barge fleeting areas in the future. Preference should be given to those areas where new barge slips and associated facilities can be clustered, where required metropolitan services are already available, and where use of the river-front for barge slips and fleeting areas, and access to them, is compatible with adjacent land use and public facilities.

e. Local plans shall identify, whenever practicable, locations where river dredge spoil can be utilized consistent with natural geological appearances or processes and adjacent land uses.

f. Where there is potential conflict of surface use, state and local governments shall enact appropriate water surface use regulation.

g. The Minnesota Energy Agency shall be responsible for recommending to the EQC a strategy for the development of a coal transportation plan for the metropolitan area.

5. Local units of government shall develop plans and regulations for industrial and commercial developments in the River Corridor in accordance with the following guidelines:

a. Areas for new or expanded industrial and commercial developments, where urban services are available, and the premature expansion or upgrading of the metropolitan systems will not be required, shall be identified.

b. The existing industrial waste discharge points, sanitary, and storm water discharge points shall be identified.

c. Local plans should give consideration to providing for future industrial and commercial uses that require water access including, but not limited to such uses as, transportation, water supply and waste discharge. This does not preclude the locating of non-water related uses within the Corridor.

d. The impact of potential mining and extraction sites or other incompatible uses shall be minimized.

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e. Land reclamation and reforestation of the mining site shall be regulated.

6. Local units of government and regional and state agencies shall develop plans and regulations to maximize the creation and maintenance of open space and recreational potential of the Corridor in accordance with the following guidelines:

a. Existing and potential sites for the following uses shall be identified and inventoried.

(1) Neighborhood, municipal, county and regional parks;

(2) Scenic overlooks, scenic views, and public observation platforms;

(3) Protected open space areas, including islands, gorges, wildlife preservation areas, and natural areas;

(4) Beaches and undeveloped river frontage on backwaters, which are suitable for recreation purposes;

(5) Commercial marinas and boat launching facilities;

(6) Public access points to the river;

(7) Historic sites and districts.

b. The Metropolitan Council shall prepare a general trailway plan for the entire length of the River Corridor which links regional parks.

c. Local units of government shall identify the potential location of trails within their jurisdictions, including related problems and proposed solutions.

d. Plans and programs to acquire sites for public access to the river and to protect open space areas shall be developed.

e. Programs to acquire and manage undeveloped islands in their natural state and to encourage the restoration of other islands for recreation open space uses shall be adopted.

f. In the development of residential, commercial and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public reasonable portions of appropriate riverfront access land or other lands in interest therein.

g. In the event of practical difficulties or physical impossibility, the developer shall be required to contribute an equivalent amount of cash to be used only for the acquisi-

tion of land for parks, open space, storm water drainage areas or other public services within the River Corridor.

7. Local units of government and state agencies shall develop plans and regulations for transportation and public utilities developments in accordance with the following guidelines:

a. Existing and potential utility and transportation facility crossings shall be identified and river crossings shall be minimized and concentrated at existing crossings where possible.

b. The Corridor shall not be used merely as a convenient right-of-way and new or modified transportation and utility facilities shall complement the planned land and water uses and shall not stimulate incompatible development.

c. In planning and designing the construction or reconstruction of all public transportation facilities which occur within the river corridor, consideration shall be given to the provision of scenic overlooks for motorists, safe pedestrian crossings and facilities along the River Corridor, access to the riverfront in public ownership and reasonable use of the land between the river and the transportation facility.

8. Local units of government and regional and state agencies shall develop capital improvement programs which are consistent with the following guidelines:

a. A five year capital improvement program or public facilities program shall be developed which covers all public projects to be sited in the corridor.

b. The capital improvement program or public facilities program shall specify the sequence of actions to be undertaken by each public agency and shall be consistent with the Standards and Guidelines in sections B and C.

9. Local units of government shall reassess all lands in the River Corridor in accordance with the following guidelines:

a. Local units of government shall send copies of adopted plans and regulations and amendments of plans and regulations to appropriate municipal and county assessors within 30 days after adoption.

b. Municipal and county tax assessors shall reassess all lands in the Mississippi River Corridor for consistency with adopted plans and regulations within one year of receipt of adopted plans from local units of government.

10. Local units of government and regional and state agencies shall prepare plans and regulations in accordance

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with the natural characteristics and the character of existing development in the River Corridor in accordance with the following guidelines:

a. Local units of government and regional and state agencies shall prepare plans and regulations using the district boundaries as described in the Interim Development Regulations as guidelines, in accordance with the purpose of each district as described in the General Guidelines section B.

b. The City of St. Paul shall prepare plans and regulations to balance open space use and industrial and commercial developments for the Pig's Eye Lake area.

c. Local units of government may prepare modifications of the use districts boundaries as described in the Interim Development Regulations if local units of government demonstrate to the EQC in plans and supporting documents the consistency of the proposed modification with the General Guidelines.

11. Local units of government, regional agencies and state agencies shall provide adequate opportunities for public participation in the preparation of plans and regulations.

### D. Reviewing plans and regulations.

1. The Metropolitan Council shall be the lead agency to coordinate the preparation, submission, review and modification of land use plans, zoning ordinances, zoning amendments, capital improvement programs and other regulations, specified in section C, which are prepared by local units of government, regional and state agencies.

2. Local units of government and regional agencies shall submit existing, modified or prepared plans and regulations that comply with the Designation Order to the Metropolitan Council within six months of notice of the Order of Designation. The EQC shall review the state plans and regulations and forward the appropriate sections to the Metropolitan Council.

3. The Metropolitan Council shall review the plans, regulations, and capital improvement programs prepared by local units of governments, regional and state agencies for consistency with regional objectives and with the Order of Designation. Within 45 days of receiving the plans and regulations, the Metropolitan Council shall submit its written evaluation to the EQC. Upon a request from the Metropolitan Council, the EQC may grant 30 days time extensions when the EQC determines that the Metropolitan Council has satisfactorily demonstrated that it requires more time for review.

4. The EQC shall review all plans and regulations prepared for the Mississippi River Corridor, within 45 days of

receiving the plans and regulations from the Metropolitan Council. The EQC shall determine whether they are consistent with the provisions of the Order of Designation. When the EQC has completed the review, it shall either:

a. Approve the plans and regulations by a written decision and notify the local units of government and regional and state agencies, and the Metropolitan Council; or

b. Return them to the local units of governments, regional and state agencies, and the Metropolitan Council for modification with a written explanation of the need for modification.

5. Within 45 days of EQC's approval of the plans and regulations, local units of government, regional and state agencies shall adopt the approved plans and regulations, and shall notify the EQC.

### E. Updating and re-evaluation of plans and regulations.

1. Local units of government or regional and state agencies may amend their plans and regulations that have been approved by the EQC by resubmitting the plans and regulations with any recommended changes thereto, to the EQC for consideration.

2. Two years after EQC's initial approval of the plans and regulations, local units of government and regional and state agencies shall resubmit their plans and regulations with any recommended changes thereto, for review and approval by the EQC.

3. Amendments to plans and regulations shall become effective only upon the approval thereof by the EQC in the same manner as for approval of the original plans and regulations as stated in section D.

### F. Development permits.

1. If no plans and regulations have been adopted under the provisions of section D, local units of government and regional and state agencies shall grant a development permit only if:

a. The development is specifically permitted by the Interim Development Regulations;

b. The development is essential to protect the public health, safety, or welfare because of an existing emergency; or

c. The registration, recordation, permit, or authorization of the development was issued prior to the date of legal notice of the EQC public hearing provided in MEQC 53(3).

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2. When plans and regulations have been adopted under the provisions of section D, local units of government, regional and state agencies shall permit development only in accordance with those plans and regulations.

### G. Notification of the development permits to the EQC.

1. Local units of government, and regional and state agencies shall prepare administrative procedures for permit notification as a part of their plans and regulations. The local units of government, regional and state agencies shall notify the EQC of all the developments requiring discretionary actions under their rules and regulations at least 30 days before taking action on the application, unless the EQC informs the local unit of government and regional and state agencies in writing that the EQC need not be notified of certain types of applications.

2. Local units of government and regional and state agencies shall prepare procedures to notify the EQC of their final action on the development permits which require discretionary action.

H. Judicial proceedings. If the EQC determines that the administration of the local plans and regulations is inadequate to protect the state or regional interest, the EQC may institute appropriate judicial proceedings to compel proper enforcement of the plans and regulations.

### Interim Development Regulations for the Mississippi River Corridor Critical Area

#### A. General provisions.

1. Authority. These procedures are prescribed by the Minnesota Environmental Quality Council (Council) pursuant to authority granted to the Council in Minn. Stat. §§ 116G.01 to 116G.14 (1974).

2. Purpose. The purposes of these regulations are:

a. To protect the public health, safety, comfort, convenience and general welfare;

b. To promote orderly development of the residential, commercial, industrial, recreational and public areas within the corridor;

c. To conserve the natural and scenic beauty of the river corridor;

d. To conserve and develop the natural resources of the river corridor; and

e. To provide for the compatibility of different land uses and the most appropriate use of land throughout the river corridor.

#### 3. Scope.

a. These Interim Development Regulations shall apply to public and private lands and waters within the Mississippi River Corridor, as set forth and legally described in Appendixes A and B of the recommendation for designation of the Mississippi River Corridor as a critical area.

b. The Interim Development Regulations shall govern; but wherever there is a conflict between the Interim Development Regulations and existing laws, regulations, ordinances, or other provisions of the Interim Development Regulations, the more restrictive provision shall apply.

c. The Interim Development Regulations should not be used as a complete model ordinance for adoption by local units of government. At the options of local units of government, they may be used as guidance for the preparation of plans and regulations.

d. The Interim Development Regulations shall remain in effect from the date of issuance of the Governor's designation order for each local unit of government in the critical area until it adopts plans and regulations approved by the Council.

e. State and regional agencies and local units of government shall approve development only in conformance with these Interim Development Regulations until the adoption of plans and regulations approved by the Council.

f. Development which was approved by a state or regional agency or a local unit of government, after April 25, 1975 shall be subject to these Interim Development Regulations and subsequently adopted plans and regulations only to the extent provided in MEQC 57.

g. State and regional agencies and local units of government shall be responsible for the administration and enforcement of the Interim Development Regulations as of the effective date of the Governor's Designation Order.

h. Any regulations or procedure not specified in these Interim Development Regulations shall follow the applicable local unit of government regulations or the appropriate state and regional agency's rules and regulations.

#### B. Use district designations.

1. Because the river should be managed as a multiple-purpose resource, and it possesses a variation in

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both natural characteristics and types of urban development, the Corridor has been segmented into the following four districts which shall be applied throughout the Interim Period as described in Appendixes A and B of the recommendation for designation of the Mississippi River Corridor as a critical area.

- a. Rural open space districts
- b. Urban diversified districts
- c. Urban developed districts
- d. Urban open space districts

2. During the interim period, no changes shall be made of the district boundaries set forth by these Interim Development Regulations.

### C. Permitted uses.

1. Any land or water use development which is in conformance with the standards and guidelines of the Interim Development Regulations shall be permitted.

2. During the interim period, no changes shall be made of the permitted uses allowed by these Interim Development Regulations.

3. Residential development. Residential development shall be permitted in all the districts. All structures and accessory uses or appurtenances of residential development shall be subject to the Dimensional Standards and Criteria in section F of these Interim Development Regulations.

### 4. Commercial and industrial uses.

a. In rural open space districts and urban developed districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted if:

(1) it does not require expansion or upgrading of metropolitan systems prior to the schedule set forth in adopted metropolitan plans;

(2) it meets the Dimensional Standards and Criteria in section F;

(3) it will not encroach upon future local or regional parks and recreation open space identified in the Metropolitan Council's Development Guide/Policy Plan for Recreation Open Space or in local plans and programs.

b. In urban open space districts, the development of new and expansion of existing commercial and industrial uses and development shall be permitted on lands which are

on the landward side of all blufflines, if it meets the Dimensional Standards and Criteria in Section F.

c. In urban diversified districts, new and expansion of existing industrial and commercial developments shall be allowed, if it meets the Dimensional Standards and Criteria in Section F.

d. Rosemount and Inver Grove Heights urban diversified district, new and expansion of existing industrial and commercial development shall be permitted, if it does not require premature expansion of metropolitan public services.

5. Agricultural uses. All agricultural uses except new feedlots may be permitted in all the districts.

### 6. Mining and extraction.

a. In rural and open space, urban developed, and urban diversified districts,

(1) new mining and extraction may be permitted and shall be subject to the Dimensional Standards and Criteria in section F;

(2) new and, where practicable, existing extraction uses shall be appropriately screened from view of the river by establishing and maintaining natural screen devices;

(3) The unscreened boundaries of mining and extraction areas shall be limited to only the loading area;

(4) existing and future extractive uses shall be required to submit land reclamation and reforestation plans compatible with these Interim Development Regulations; and

(5) only one barge loading area which shall be limited to the minimum size practicable shall be permitted for each mining or extraction operation.

b. In urban open space districts, new mining and extraction operations shall not be permitted.

### 7. Recreational uses.

a. In all districts, recreational uses and structures and accessory uses or appurtenances shall be permitted and shall be subject to the Dimensional Standards and Criteria in section F. Water-related commercial recreation uses shall not be subject to the Dimensional Standards and Criteria in section F.

b. Within urban open space districts, recreation uses on islands and lands between the river and blufflines

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shall be only for public recreation uses, historic preservation, and wildlife preserves.

### 8. Signs.

a. In rural open space, urban developed, and urban open space districts:

(1) general advertising signs not visible from the river are permitted;

(2) all other general advertising signs shall be prohibited.

b. In urban diversified districts, general advertising signs are permitted.

### D. Permitted public facilities.

1. Transmission services. In all the districts, the construction of new and reconstruction of existing transmission services shall meet the following standards.

a. The Department of Natural Resources (DNR) in reviewing permit applications for all transmission service crossings on the Mississippi River, Minnesota River, or of State lands requiring a permit from the DNR pursuant to Minn. Stat. §§ 84.415 or 105.42 shall give primary consideration to crossings that are proposed to be located within or adjacent to existing right-of-ways for public facilities, such as railroads, roadways, bridges, and existing transmission services.

b. Transmission services of under 200 kilovolts, which cross lands within the River Corridor shall require a special use permit from the local unit of government. Local units of government shall apply the standards set forth in sections D.1.c. through h. when processing applications for a special use permit.

c. When routing transmission services of under 200 kilovolts, the following shall be avoided where practicable:

(1) steep slopes;

(2) scenic intrusions into streams, valleys, and open exposures of water;

(3) scenic intrusions into areas such as ridge crests and high points;

(4) creating tunnel vistas by, for example, building deflections into the route;

(5) wetlands;

(6) forests by running along fringe rather than

through them. If necessary to route through forests, utilize open areas in order to minimize cutting;

(7) soils susceptible to erosion, which would create sedimentation and pollution problems;

(8) areas of unstable soils which would be subject to extensive slippages;

(9) areas with highwater tables, especially if construction requires excavation;

(10) open space recreation areas.

d. Transmission services shall be subject to the Dimensional Standards and Criteria in section F, except at crossing points.

e. Structure design of transmission services. With regard to locating the utility, overhead or underground:

(1) primary considerations shall be given to underground placement in order to minimize visual impact. When considering overhead placement, the proposers shall explain the economic, technological or land characteristic factors which make underground placement infeasible. Economic considerations alone shall not justify overhead placement.

(2) if overhead placement is necessary, the crossing should be hidden from view as much as practicable;

(3) with regard to the appearance of the structures, they shall be made as compatible as practicable with the natural area with regard to: height and width, materials used, and color;

(4) with regard to the width of the right-of-way, the cleared portion of the right-of-way should be kept to a minimum.

f. In the construction of transmission services, the following guidelines shall be applied whenever practicable:

(1) construction in wetlands shall minimize damage to vegetation, prevent erosion and sedimentation;

(2) construction shall be undertaken at times when local fish and wildlife are not spawning or nesting;

(3) effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and adjacent lands.

g. Safety considerations. Developers must adhere to applicable Federal and State safety regulations, both with

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regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill clean-up).

### h. Right-of-way maintenance.

(1) If possible, natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way;

(2) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and low growing trees, shall be planted and maintained on the right-of-way;

(3) Chemical control of vegetation should be avoided when practicable, but where such methods are necessary, chemicals used and the manner of their use must be in accordance with rules, regulations, and other requirements of all state and federal agencies with authority over the use.

### 2. Sewage treatment plants — sewage outfalls, water intake facilities.

a. In rural open space, urban developed and urban diversified districts the provision of sewage treatment plants, sewage outfalls and water intake facilities:

(1) wherever practicable, shall conform with the Dimensional Standards and Criteria in section F;

(2) shall dedicate the unused river frontage after construction, for public access or recreation open space use;

(3) shall not include new combined storm and sanitary sewer outfalls.

### b. In urban open space district:

(1) no new sewage treatment plants shall be permitted in this district. However, the Metropolitan Waste Control Commission may expand the Metropolitan Wastewater Treatment Plant at the Pig's Eye Lake area, if the expansion plans are approved by the Metropolitan Council and they are consistent with the City of St. Paul's riverfront plan approved by the Council under section D of the Standards and Guidelines for Preparing Plans and Regulations;

(2) no new water intake facilities shall be permitted;

(3) no new combined storm water and sanitary sewer outfalls shall be permitted.

3. Essential services and public safety facilities. Essential services and public safety facilities are permitted in all the districts, subject to Regulation D(1).

4. Transportation facilities. The construction or reconstruction of all transportation facilities shall be permitted in all the districts, subject to the following standards and criteria:

a. The following guidelines shall be applied whenever practicable in selecting routes for transportation facilities:

(1) careful consideration should be given to the provision of scenic overlooks for motorists, safe pedestrian crossing and safe pedestrian pathways along the river;

(2) if possible, provide access to the riverfront in public ownership, and allow reasonable public use of the land between the river and the transportation facility;

(3) steep slopes shall be avoided;

(4) scenic intrusion into stream, valley and open exposures of water shall be avoided;

(5) scenic intrusion into areas such as ridge crests and high points shall be avoided

(6) wetlands shall be avoided;

(7) run along fringes of forests rather than through them. But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest;

(8) soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction shall be avoided;

(9) areas of unstable soils which would be subject to extensive slippage shall be avoided;

(10) areas with highwater tables, especially if construction requires excavation, shall be avoided;

(11) locate new roads to avoid cuts and fills so as to blend into the natural terrain so that it appears to be a part of the natural landscape;

(12) open space recreation areas shall be avoided.

b. Transportation facilities shall be subject to the Dimensional Standards and Criteria in section F, except at crossing points.

c. The following guidelines shall be applied when practicable in constructing transportation facilities:

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(1) reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect on the natural beauty and environment of the river;

(2) effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of the river and its adjacent lands;

(3) construction across wetlands shall take place in a manner which minimizes damage to vegetation, and in a manner preventing erosion and sedimentation;

(4) construct at times when local fish and wildlife are not spawning or nesting.

d. Safety considerations. Developers must adhere to applicable Federal and State safety regulations with regard to new road construction or reconstruction of an existing road.

e. The following guidelines shall be applied when practicable for right-of-way maintenance:

(1) if possible, natural vegetation of value to fish or wildlife, and which does not pose a safety hazard, shall be allowed to grow in the roadside right-of-way;

(2) where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees shall be planted and maintained on the roadside right-of-way;

(3) chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all State and Federal agencies with authority over their use.

### 5. Barge facilities.

a. In rural open space and urban developed districts, the following standards shall apply:

(1) the expansion of existing barge slips within these districts shall be permitted;

(2) no new barge slips shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in MEQC 55(c).

b. In urban open space districts, the following standards shall apply:

(1) no new barge slips shall be permitted;

(2) no barge fleeting areas shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in MEQC 55(c).

c. In urban diversified districts all barge facilities are permitted.

### E. Earthwork and vegetation.

1. Grading and filling. In all districts, the following provisions shall apply to grading and filling:

a. Grading, filling, excavating, or otherwise changing the topography landward of the ordinary high water mark shall not be conducted without a permit from the local authority. A permit may be issued only if:

(1) earthmoving, erosion, vegetative cutting, and the destruction of natural amenities is minimized;

(2) the smallest amount of ground is exposed for as short a time as feasible;

(3) temporary ground cover, such as mulch, is used and permanent ground cover, such as sod is planted;

(4) methods to prevent erosion and trap sediment are employed; and

(5) fill is established to accepted engineering standards.

b. A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a building site, essential services, sewage disposal systems, and private road and parking areas undertaken pursuant to a validly issued building permit.

### 2. Vegetation management.

a. In rural open space, urban developed and urban open space districts, the following standards shall apply:

(1) on developed islands, public recreation lands, the slope or face of bluffs within 200 feet of the normal high water mark of the river, and within the area 40 feet landward from blufflines, clear cutting shall not be permitted;

(2) on all other lands within these districts, clear cutting shall be guided by the following provisions:

(a) clear cutting shall not be used where soil, slope, or other watershed conditions are fragile and subject to injury;

(b) clear cutting shall be conducted only where clear

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cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain;

(c) the size of clear cut blocks, patches, or strips shall be kept at the minimum necessary;

(d) 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.

(3) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

b. In urban diversified district:

(1) on the slope or face of bluffs and within areas 40 feet landward from established blufflines, clear cutting shall not be permitted;

(2) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

c. These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of essential services and utility transmission services which are permitted uses.

F. Dimensional standards and criteria.

1. Objectives. The objectives of Dimensional Standards and Criteria are: to maintain the aesthetic integrity and natural environment of certain districts, to reduce the effects of poorly planned shoreline and bluffline development, to provide sufficient setback or sanitary facilities, to prevent pollution of surface and ground water, to minimize flood damage, to prevent soil erosion, and to implement Metropolitan Plans, Guides and Standards.

2. Substandard lot. The local unit of government may approve any proposed new structure or changes to existing structure when the following findings are made:

a. The lot was recorded in the Office of the County Register of Deeds (or Registrar of Titles) prior to the date of legal notice of the EQC public hearing, April 25, 1975.

b. The lot was in separate ownership from all abutting land on April 25, 1975.

c. The proposed use is consistent with the provisions of the Interim Development Regulations and local ordinance.

d. It can be demonstrated that a proper and adequate sewage disposal system can be installed according to interim regulations, Health Department's and PCA's regulations.

e. The lot size is within sixty (60) percent of the size required in the Interim Development Regulations.

3. Lot size.

a. In the rural open space and urban developed districts, the following minimum lot sizes shall be required:

(1) in unsewered areas, the minimum lot size shall be five acres per single family unit;

(2) in sewerred areas, the minimum lot size shall be consistent with the local zoning ordinance.

b. In the urban open space and urban diversified districts, the minimum lot size shall be consistent with the local zoning ordinance.

4. Structure setback.

a. All required setbacks shall be applicable to each bluffline proceeding landward from the river.

b. All new structures and roads shall meet the following minimum setbacks:

(1) in the rural open space district, no structure or road shall be placed less than 200 feet from the normal highwater mark, and no less than 100 feet from blufflines;

(2) in the urban developed district, and urban open space district, the structure or road shall be placed no less than 100 feet from the normal highwater mark of the river, and no less than 40 feet from blufflines;

(3) in the urban diversified district, the structure or road shall be placed no less than 40 feet from the bluffline.

c. Exceptions to setback provisions shall be:

(1) public safety facilities, public bridges and their roadway approaches, railroad sidings, minor public and private roadways serving water-related uses on the riverfront;

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(2) public recreation facilities, scenic overlooks, public observation platforms, and the regional trail system, docks, boat launching facilities;

(3) approved river crossings of essential service, and essential services distribution systems which are primarily underground except for terminal and metering devices not exceeding six feet in height, and supporting structures for transmission crossing spans;

(4) the construction of above-ground pumping stations for sewer lines which shall be screened from view of the river;

(5) the reconstruction or restoration of historical structures or sites on the inventory of the State Historical Society or the National Register of Historic Places.

### 5. Height of structures.

a. In the rural open space, urban developed and urban open space districts:

(1) new structures and additions to existing structures shall be limited to a maximum of 35 feet;

(2) the following exceptions to height limits shall be permitted:

(a) expansion of existing industrial complexes, such as refineries and storage areas;

(b) barns, silos and similar farm structures;

(c) essential service distribution systems;

(d) bridges, bridge approach roadways, and transmission services;

(e) restoration or reconstruction of historical structures and sites on the inventory of the State Historical Society or the National Register of Historic Places.

b. In the urban diversified district, there are no restrictions on the height of structures.

### 6. Placement of structures.

a. The following standards shall apply in any district:

(1) no new structures shall be placed on slopes which are 18 percent or greater;

(2) structures may be permitted on slopes which are greater than 12 percent, but less than 18 percent, when the following conditions are met:

(a) the developer can prove that the development on the slope can be accomplished without increasing erosion;

(b) the soil types and the geology are suitable for slope development;

(c) there is proper management of vegetation to control runoff.

(3) when an approved floodplain ordinance exists, structure placement shall be governed by that ordinance. Where an approved floodplain ordinance does not exist, the elevation at which the lowest floor of a structure, including basement, may be placed shall be consistent with the Minnesota statewide standards and criteria for management of floodplain areas;

(4) in rural open space, urban developed and urban open space districts no development shall be permitted on presently undeveloped islands, except those developments specifically related to wildlife preservation and recreation open space uses, and bridge piers when other considerations dictate that bridge crossing alignment;

(5) in urban diversified districts, the development on islands related to recreation open space uses and historical preservation of sites and areas on the Inventory of the Minnesota State Historical Society and the National Register of Historic Places shall be permitted. New industry, commercial, residential and other uses shall be permitted on islands if they are consistent with local zoning ordinances and with the historical character.

7. Line of sight. In rural open space districts, urban developed districts, and urban open space districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted, if it cannot be seen from the normal highwater mark on the opposite side of the river. Water-related commercial and industrial uses shall not be subject to this requirement.

### G. Sanitary standards and criteria.

1. The following standards shall apply to all districts:

a. All parts of on-site sewage disposal systems shall be located at least 75 feet from the normal highwater mark.

b. No on-site sewage disposal system shall be placed within designated floodplains.

### H. Non-conforming uses and structures.

1. Any structure or use existing upon the effective date of these Interim Development Regulations which does not conform to the use restrictions of a particular use district of

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the Interim Development Regulations shall automatically continue as a non-conforming use or structure.

2. Whenever a non-conforming building or structure has been damaged by fire, flood, explosion, earthquake, war, riot, or other disaster, it may be reconstructed to its prior use when the damage to the building or structure is fifty percent (50%) or less of its fair market value. Where the damage is fifty percent (50%) or more, reconstruction shall not be permitted for any structure that does not meet the minimum required standards.

3. When any non-conforming use of a building or structure has been changed to a conforming use, it shall not be changed to a non-conforming use.

4. If a non-conforming use is discontinued for 6 consecutive months, any future use of the building or premises shall conform to the Interim Development Regulations.

### I. Administration.

1. Local units of government and regional and state agencies shall notify the Council of the following types of proposed development within the Mississippi River Corridor:

a. Development permit applications for the development of a new or major expansion of an industrial, commercial facility in the rural open space, urban developed and urban open space districts.

b. All government developments.

c. Inside the 1975 Metropolitan Urban Service Area (MUSA), development permit applications for the development of:

(1) 50 or more dwelling units in a multi-family project;

(2) 25 or more lots in a mobile home court;

(3) 25 or more lots in a residential project.

d. Outside the MUSA, development permit applications for the development of:

(1) 25 or more dwelling units in a multi-family project;

(2) 10 or more lots in a mobile home court;

(3) 10 or more lots in a residential project;

(4) any residential developments in Rural Open Space Districts.

e. Any development on or involving the alteration of:

(1) a wetland;

(2) a floodplain;

(3) an island;

(4) a slope of greater than 12 percent;

(5) the removal of 5 contiguous acres or more of vegetative cover;

(6) the grading or filling of 20 contiguous acres of land;

(7) the deposit of dredge spoil;

(8) more than 50 linear feet of a riverbank.

f. Any development involving the establishment of a public or private structure, facility or other which crosses the river.

g. The development or expansion of any commercial harbor or barge loading or fleeting area.

h. Any development which would result in the discharge of water into or withdrawal of water from the Mississippi River which would require a state permit.

i. Any developments within the historical districts established by the State Legislature.

j. Development for which Metropolitan Council review is requested by:

(1) the local unit of government with jurisdiction;

(2) resolution from two or more local units of government adjacent to the local units of government within which the proposed development is sited.

k. Any development which requires a rezoning or compatible use permit.

### 2. Procedures for reviewing proposed development.

a. Local units of government and regional and state agencies shall notify the Council in writing of any proposed development listed in section I.1, at least 30 days before the local units of government and regional and state agencies take final action to approve or deny the development. In the event the Metropolitan Council elects to hold a hearing under section I.2.e., no final action to approve or deny the proposed development may be taken until 15 days after the

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Council receives the Metropolitan Council recommendation.

b. The Council shall send a copy of the proposed development to the Metropolitan Council for review no later than 2 days after the date of the Council's receipt of the application.

c. The Metropolitan Council shall review the proposed development and transmit a written recommendation with reasons for approving, modifying, or denying the proposed development to the Council no later than 18 days after the Metropolitan Council's receipt of the application, except when a public hearing is required by the Metropolitan Council, in which case, sections I.2.e(1) and (2) shall be followed.

d. Other local units of government and regional and state agencies may transmit to the Council their written comments on the proposed development published in the EQC Monitor, within 15 days of date of the publication.

e. When the Metropolitan Council decides to hold a public hearing on a proposed development application, the public hearing shall be conducted in accordance with the Metropolitan Council's statutory requirements, and notice of the hearing shall be filed with the Council and affected municipalities, counties, and applicants.

f. The Metropolitan Council shall submit its final recommendation on the proposed development to the Council within 30 days of closing date of the hearing record. The Council shall accept or modify the Metropolitan Council's recommendations and shall consider the comments of the local units of government and regional and state agencies and transmit the recommendation to the local unit of government and regional and state agencies no later than 10 days after the date of receipt of the Metropolitan Council's recommendation.

g. The Council may extend the 30 days time for a particular proposed development if the Metropolitan Council, the developer, any local unit of government and regional and state agencies with jurisdiction agree to the extension.

h. Failure of the Council to act on the notice of a proposed development within the prescribed period of time shall constitute acceptance by the Council of the final action on the proposed development by the local unit of government, regional or state agency.

i. Within 30 days after the final action, local units of government and regional and state agencies shall notify the Council of the final action on all proposed development listed in section I.1, or of emergency actions approved under the provisions of section I.5.

j. When the Council has recommended to a local government unit, regional or state agency to modify or to deny a proposed development, and that recommendation is not followed, the proposed development shall not be approved for 30 days after the Council receives notice of final action. If the Council appeals the decision to district court, the appeal shall be made within 30 days of receipt notice of final action. When an appeal is made, the development shall not be approved until the appeal process is scheduled.

### 3. Dimension variance.

a. Local units of government may grant a dimension variance from strict compliance with the setback, or height restrictions, or lot size or line of sight requirement contained in the Interim Development Regulations after an administrative hearing that shall be conducted according to the regulations of the local unit of government.

b. A dimension variance may be granted only when the following findings are made:

(1) the strict enforcement of the setback or height restrictions, or lot size or line of sight will result in unnecessary hardship. "Hardship" as used in the consideration of a dimension variance means that the property in question cannot be put to a reasonable use under the dimension provisions of these Interim Development Regulations;

(2) there are exceptional circumstances unique to the property that were not created by a landowner after April 25, 1975;

(3) the dimension variance does not allow any use that is not a compatible use in the land use district in which the property is located;

(4) the dimension variance will not alter the essential character of the locality as established by these Interim Development Regulations;

(5) the dimension variance would not be contrary to the intent of the Order.

### 4. Compatible use permit.

a. Local units of government may grant a compatible use permit after an administrative hearing that shall be conducted according to the regulations of the local unit of government for conditional or special use permits.

b. A compatible use permit may be granted for a proposed development only when the following findings are made:

(1) it is consistent with the intent of the Order,

## EXECUTIVE ORDERS

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and the adopted policies of the Metropolitan Council and the Environmental Policy Act; and

(2) it is compatible with uses in the immediate vicinity; and

(3) it is permitted by the ordinances of the local unit of government.

5. Emergency actions. In accordance with the Act, local units of government, regional and state agencies may grant a development permit when certified in writing by the local unit of government, regional and state agencies, or the County Zoning Administration with the existing authority that the development is essential to protect the public health, safety or welfare in an existing emergency and that a local ordinance or state regulation was in effect immediately prior to April 25, 1975 and a development permit would have been granted thereunder.



EXECUTIVE ORDER NO. 130B

Amending Executive Order 130 by correcting the legal description of the river corridor and adding one paragraph to the legal description of the Mississippi River Corridor Districts

I, Wendell R. Anderson, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, hereby issue this Executive Order:

WHEREAS, certain corrections have been found necessary in the legal description of Executive Order No. 130:

NOW, THEREFORE, I order that:

- 1. Appendix A, the third paragraph of the Brooklyn Center portion of the Legal Description of the River Corridor be amended to read:

Thence in a straight line northeasterly to the intersection of the center lines of State Highway 169 and Interstate 94;

2. Appendix A, the first paragraph of the Brooklyn Park portion of the Legal Description of the River Corridor be amended to read:

Thence north along the center line of State Highway 169 to the intersection with the center line of 89th Avenue North;

3. Appendix A, the thirteenth paragraph of the Brooklyn Park portion of the Legal Description be amended to read:

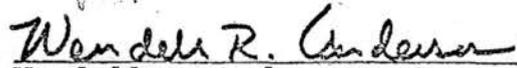
Thence west along the said side to the west side of Section 2;

4. The following paragraph be added to Appendix B, Section 1.b. "On the west side of the river":

(4) From the eastern extension of the center line of Hennepin County Highway 49 to the Hennepin County - Wright County common boundary.

This order shall be effective immediately upon publication in the State Register and shall remain in force until rescinded by the proper authority.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 1st day of December, 1976.

  
Wendell R. Anderson, Governor

Filed according to law:

  
Joan Anderson Grove  
Secretary of State

## STANDARDS AND GUIDELINES FOR PREPARING PLANS AND REGULATIONS

### A. PURPOSE AND RESPONSIBILITY

1. Purposes. The purposes of the Critical Area designation and the following standards and guidelines are:
  - a. To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation;
  - b. To prevent and mitigate irreversible damage to this state, regional, and national resource;
  - c. To preserve and enhance its natural, aesthetic, cultural, and historical value for the public use;
  - d. To protect and preserve the river as an essential element in the national, state and regional transportation, sewer and water and recreational systems; and
  - e. To protect and preserve the biological and ecological functions of the corridor.
2. Responsibility. The standards and guidelines provided herein shall be:
  - a. Followed by the local units of government when preparing or updating plans, and/or modifying regulations;
  - b. Followed by state agencies, and regional agencies for permit regulation and in developing plans within their jurisdiction;
  - c. Followed by the Metropolitan Council for reviewing plans, regulations, and development permit applications;
  - d. Followed by the Council for approving plans, regulations, and development permit applications.

### B. GENERAL GUIDELINES FOR PREPARING PLANS AND REGULATIONS

1. The Mississippi River Corridor shall be managed as a multiple-purpose resource by:
  - a. Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and the riverfront.
  - b. Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.

- c. Providing for the continuation and the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.
  - d. Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.
2. In order to manage the river corridor consistent with its natural characteristics and its existing development, the following guidelines are established for each corridor district:
- a. Rural Open Space District. The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.
  - b. Urban Diversified District. The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential, and public uses of the lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.
  - c. Urban Developed District. The lands and waters within this district shall be maintained largely as residential areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.
  - d. Urban Open Space District. The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.
3. The Mississippi River Corridor shall be managed in accordance with the Metropolitan Council's Development Guide Chapter, Critical Areas Act of 1973, and the Minnesota Environmental Policy Act of 1973, and other applicable state laws, and federal laws.

C. SPECIFIC STANDARDS AND GUIDELINES FOR PREPARING PLANS AND REGULATIONS

1. Each local unit of government within the river corridor shall prepare plans and regulations to protect environmentally sensitive areas in accordance with the following guidelines.

a. Each local unit of government shall, with the assistance of the Metropolitan Council and state agencies:

(1) Identify and prepare an inventory of:

- (a) floodplains,
- (b) wetlands,
- (c) slopes from 12% to 18% and over 18%,
- (d) soils not suitable for urban development on-site waste disposal,
- (e) significant vegetative stands, and
- (f) natural drainage routes.

(2) Prepare a floodplain ordinance if it does not have a floodplain ordinance in effect;

(3) Prepare plans and regulations to protect wetlands;

(4) Prepare plans and regulations to protect bluffs greater than 18% and to provide conditions for the development of bluffs between 18% and 12% slopes;

(5) Prepare plans and regulations to minimize direct overland runoff and improve the quality of runoff onto adjoining streets and watercourses;

(6) Prepare plans and regulations to minimize site alteration and for beach and riverbank erosion control;

(7) Prepare regulations for management of vegetative cutting; and

(8) Prepare criteria for control of noise in open space and recreational areas with assistance of the PCA.

2. Each local unit of government and state agency shall prepare plans and regulations to protect and preserve the aesthetic qualities of the river corridor, which provide for the following considerations:

a. Site Plans. Site plans shall be required to meet the following guidelines:

(1) New development and expansion shall be permitted only after the approval of site plans which adequately assess and minimize adverse effects and maximize beneficial effects.

(2) Site plans shall be required for all developments for which a development permit is required, except for the modification of an existing single-family residential structure or the construction of one single-family residence.

- (3) Site plans shall include, but not be limited to, the submission of an adequate and detailed description of the project, including activities undertaken to ensure consistency with the objectives of the Designation Order; maps which specify soil types, topography, and the expected physical changes in the site as a result of the development; the measures which address adverse environmental effects.
  - (4) Site plans shall include standards to ensure that structure, road, screening, landscaping, construction placement, maintenance and storm water runoff are compatible with the character and use of the river corridor in that district.
  - (5) Site plans shall provide opportunities for open space establishment and for public viewing of the river corridor whenever applicable, and shall contain specific conditions with regard to buffering, landscaping, and re-vegetation.
- b. Structures. Structure site and location shall be regulated to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.
  - c. Clustering. The clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality shall be encouraged. The location of clustered high-rise structures may be proposed where public services are available and adequate and compatible with adjacent land uses.
  - d. Access Routes. Commercial and industrial developments adjacent to roadways shall be required to provide off-street parking, service roads and limited controlled access points to highways. (Except in cases of extreme hardship, highway access for any development within 250 feet of a bridge or bridge ramp shall be prohibited.)
  - e. Existing Development. Local plans and regulations shall include provisions to:
    - (1) Retain existing vegetation and landscaping;
    - (2) Amortize non-conforming uses;
    - (3) Prohibit the reconstruction of non-conforming uses which are 50% market value destroyed;
    - (4) Provide for the screening of existing development which constitutes visual intrusion, wherever appropriate.
  - f. Signs. Local units of government shall adopt ordinances for the amortization and removal of non-conforming general advertising signs, and to prohibit the visibility of advertising signs from the river, except in Urban Diversified Districts.
3. Local units of government shall develop plans and regulations to ensure that developments shall not be undertaken prior to the provision of Metropolitan public facilities in adopted Metropolitan plans, in accordance with the following guidelines:

or metropolitan sanitary sewers shall comply with adequate on-site sewage disposal system regulations.

- b. The density of development outside the Metropolitan Urban Service Area shall be limited to ensure that there is no need for the premature provision of local and metropolitan urban services and facilities.
4. Local units of government shall develop plans and provide guidance to ensure that the surface uses of the river is compatible with the characteristics and use of the districts in accordance with the following guidelines:
    - a. The present 9-foot navigation channel shall be maintained.
    - b. Provision shall be made for the use of the river for water transportation which is consistent with adopted state and regional policies and regulations and applicable federal laws and to minimize any adverse effects associated with such facilities.
    - c. Local plans shall identify areas physically suitable for barge slips and barge fleeting, based on such considerations as safety, maneuverability, operational convenience, amount of construction and/or excavation required, and environmental impacts; and
    - d. Local plans shall specify which of those areas found physically suitable may be used for barge slips and barge fleeting areas in the future. Preference should be given to those areas where new barge slips and associated facilities can be clustered, where required metropolitan services are already available, and where use of the riverfront for barge slips and fleeting areas, and access to them, is compatible with adjacent land use and public facilities.
    - e. Local plans shall identify, whenever practicable, locations where river dredge spoil can be utilized consistent with natural geological appearances or processes and adjacent land uses.
    - f. Where there is potential conflict of surface use, state and local governments shall enact appropriate water surface use regulation.
    - g. The Minnesota Energy Agency shall be responsible for recommending to the EQC a strategy for the development of a coal transportation plan for the metropolitan area.
  5. Local units of government shall develop plans and regulations for industrial and commercial developments in the River Corridor in accordance with the following guidelines:
    - a. Areas for new or expanded industrial and commercial developments, where urban services are available, and the premature expansion or upgrading of the Metropolitan systems will not be required, shall be identified.
    - b. The existing industrial waste discharge points, sanitary, and storm water discharge points shall be identified.

- c. Local plans should give consideration to providing for future industrial and commercial uses that require water access including, but not limited to such uses as, transportation, water supply & waste discharge. This does not preclude the locating of non-water related uses within the Corridor.
  - d. The impact of potential mining and extraction sites or other incompatible uses shall be minimized.
  - e. Land reclamation and reforestation of the mining site shall be regulated.
6. Local units of government and regional and state agencies shall develop plans and regulations to maximize the creation and maintenance of open space and recreational potential of the Corridor in accordance with the following guidelines:
- a. Existing and potential sites for the following uses shall be identified and inventoried.
    - (1) Neighborhood, municipal, county and regional parks;
    - (2) Scenic overlooks, scenic views, and public observation platforms;
    - (3) Protected open space areas, including islands, gorges, wildlife preservation areas, and natural areas;
    - (4) Beaches and undeveloped river frontage on backwaters, which are suitable for recreation purposes;
    - (5) Commercial marinas and boat launching facilities;
    - (6) Public access points to the river;
    - (7) Historic sites and districts.
  - b. The Metropolitan Council shall prepare a general trailway plan for the entire length of the River Corridor which links regional parks.
  - c. Local units of government shall identify the potential location of trails within their jurisdictions, including related problems and proposed solutions.
  - d. Plans and programs to acquire sites for public access to the river and to protect open space areas shall be developed.
  - e. Programs to acquire and manage undeveloped islands in their natural state and to encourage the restoration of other islands for recreation open space uses shall be adopted.

- f. In the development of residential, commercial and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public reasonable portions of appropriate riverfront access land or other lands in interest therein.

In the event of practical difficulties or physical impossibility, the developer shall be required to contribute an equivalent amount of cash to be used only for the acquisition of land for parks, open space, storm water drainage areas or other public services within the River Corridor.

7. Local units of government and state agencies shall develop plans and regulations for transportation and public utilities developments in accordance with the following guidelines:
  - a. Existing and potential utility and transportation facility crossings shall be identified and river crossings shall be minimized and concentrated at existing crossings where possible.
  - b. The Corridor shall not be used merely as a convenient right-of-way and new or modified transportation and utility facilities shall complement the planned land and water uses and shall not stimulate incompatible development.
  - c. In planning and designing the construction or reconstruction of all public transportation facilities which occur within the river corridor, consideration shall be given to the provision of scenic overlooks for motorists, safe pedestrian crossings and facilities along the River Corridor, access to the riverfront in public ownership and reasonable use of the land between the river and the transportation facility.
8. Local units of government and regional and state agencies shall develop capital improvement programs which are consistent with the following guidelines:
  - a. A five year capital improvement program or public facilities program shall be developed which covers all public projects to be sited in the corridor.
  - b. The capital improvement program or public facilities program shall specify the sequence of actions to be undertaken by each public agency and shall be consistent with the Standards and Guidelines in Section B and C.
9. Local units of government shall reassess all lands in the River Corridor in accordance with the following guidelines:
  - a. Local units of government shall send copies of adopted plans and regulations and amendments of plans and regulations to appropriate municipal and county assessors within 30 days after adoption.
  - b. Municipal and county tax assessors shall reassess all lands in the Mississippi River Corridor for consistency with adopted plans and regulations within one year of receipt of adopted plans from local units of government.

10. Local units of government and regional and state agencies shall prepare plans and regulations in accordance with the natural characteristics and the character of existing development in the River Corridor in accordance with the following guidelines:
  - a. Local units of government and regional and state agencies shall prepare plans and regulations using the district boundaries as described in the Interim Development Regulations as guidelines, in accordance with the purpose of each district as described in the General Guidelines Section B.
  - b. The City of St. Paul shall prepare plans and regulations to balance open space use and industrial and commercial developments for the Pig's Eye Lake area.
  - c. Local units of government may prepare modifications of the use districts boundaries as described in the Interim Development Regulations if local units of government demonstrate to the EQC in plans and supporting documents the consistency of the proposed modification with the General Guidelines.
11. Local units of government, regional agencies and state agencies shall provide adequate opportunities for public participation in the preparation of plans and regulations.

#### D. REVIEWING PLANS AND REGULATIONS

1. The Metropolitan Council shall be the lead agency to coordinate the preparation, submission, review and modification of land use plans, zoning ordinances, zoning amendments, capital improvement programs and other regulations, specified in Section C, which are prepared by local units of government, regional and state agencies.
2. Local units of government and regional agencies shall submit existing, modified or prepared plans and regulations that comply with the Designation Order to the Metropolitan Council within six months of notice of the Order of Designation. The EQC shall review the state plans and regulations and forward the appropriate sections to the Metropolitan Council.
3. The Metropolitan Council shall review the plans, regulations, and capital improvement programs prepared by local units of governments, regional and state agencies for consistency with regional objectives and with the Order of Designation. Within 45 days of receiving the plans and regulations, the Metropolitan Council shall submit its written evaluation to the EQC. Upon a request from the Metropolitan Council, the EQC may grant 30 days time extensions when the EQC determines that the Metropolitan Council has satisfactorily demonstrated that it requires more time for review.
4. The EQC shall review all plans and regulations prepared for the Mississippi River Corridor, within 45 days of receiving the plans and regulations from the Metropolitan Council. The EQC shall determine whether they are consistent with the provisions of the Order of Designation. When the EQC has completed the review, it shall either:
  - a. Approve the plans and regulations by a written decision and notify the local units of government and regional and state agencies, and the Metropolitan Council; or

- b. Return them to the local units of governments, regional and state agencies, and the Metropolitan Council for modification with a written explanation of the need for modification.
5. Within 45 days of EQC's approval of the plans and regulations, local units of government, regional and state agencies shall adopt the approved plans and regulations, and shall notify the EQC.

#### E. UPDATING AND RE-EVALUATION OF PLANS AND REGULATIONS

1. Local units of government or regional and state agencies may amend their plans and regulations that have been approved by the EQC by resubmitting the plans and regulations with any recommended changes thereto, to the EQC for consideration.
2. Two years after EQC's initial approval of the plans and regulations, local units of government and regional and state agencies shall resubmit their plans and regulations with any recommended changes thereto, for review and approval by the EQC.
3. Amendments to plans and regulations shall become effective only upon the approval thereof by the EQC in the same manner as for approval of the original plans and regulations as stated in Section D.

#### F. DEVELOPMENT PERMITS

1. If no plans and regulations have been adopted under the provisions of Section D, local units of government and regional and state agencies shall grant a development permit only if:
  - a. The development is specifically permitted by the Interim Development Regulations;
  - b. The development is essential to protect the public health, safety, or welfare because of an existing emergency; or
  - c. The registration, recordation, permit, or authorization of the development was issued prior to the date of legal notice of the EQC public hearing provided in Minn. Reg. MEQC 53(3).
2. When plans and regulations have been adopted under the provisions of Section D, local units of government, regional and state agencies shall permit development only in accordance with those plans and regulations.

#### G. NOTIFICATION OF THE DEVELOPMENT PERMITS TO THE EQC

1. Local units of government, and regional and state agencies shall prepare administrative procedures for permit notification as a part of their plans and regulations. The local units of government, regional and state agencies shall notify the EQC of all the developments requiring discretionary actions under their rules and regulations at least 30 days before taking action on the application, unless the EQC informs the local unit of government and regional and state agencies in writing that the EQC need not be notified of certain types of applications.

2. Local units of government and regional and state agencies shall prepare procedures to notify the EQC of their final action on the development permits which require discretionary action.

#### H. JUDICIAL PROCEEDINGS

If the EQC determines that the administration of the local plans and regulations is inadequate to protect the state or regional interest, the EQC may institute appropriate judicial proceedings to compel proper enforcement of the plans and regulations.

INTERIM DEVELOPMENT REGULATIONS  
FOR THE MISSISSIPPI RIVER CORRIDOR CRITICAL AREA

A. GENERAL PROVISIONS

1. Authority. These procedures are prescribed by the Minnesota Environmental Quality Council (Council) pursuant to authority granted to the Council in Minn. Stat. Sections 116G.01 to 116G.14 (1974).

2. Purpose

The purposes of these regulations are:

- a. To protect the public health, safety, comfort, convenience and general welfare;
- b. To promote orderly development of the residential, commercial, industrial, recreational and public areas within the corridor;
- c. To conserve the natural and scenic beauty of the river corridor;
- d. To conserve and develop the natural resources of the river corridor; and
- e. To provide for the compatibility of different land uses and the most appropriate use of land throughout the river corridor.

3. Scope.

- a. These Interim Development Regulations shall apply to public and private lands and waters within the Mississippi River Corridor, as set forth and legally described in Appendix A & B of the recommendation for designation of the Mississippi River Corridor as a critical area.
- b. The Interim Development Regulations shall govern; but wherever there is a conflict between the Interim Development Regulations and existing laws, regulations, ordinances, or other provisions of the Interim Development Regulations, the more restrictive provision shall apply.
- c. The Interim Development Regulations should not be used as a complete model ordinance for adoption by local units of government. At the options of local units of government, they may be used as guidance for the preparation of plans and regulations.
- d. The Interim Development Regulations shall remain in effect from the date of issuance of the Governor's designation order for each local unit of government in the critical area until it adopts plans and regulations approved by the Council.

- e. State and regional agencies and local units of government shall approve development only in conformance with these Interim Development Regulations until the adoption of plans and regulations approved by the Council.
- f. Development which was approved by a state or regional agency or a local unit of government after April 25, 1975 shall be subject to these Interim Development Regulations and subsequently adopted plans and regulations only to the extent provided in Minn. Reg. MEQC 57.
- g. State and regional agencies and local units of government shall be responsible for the administration and enforcement of the Interim Development Regulations as of the effective date of the Governor's Designation Order.
- h. Any regulations or procedure not specified in these Interim Development Regulations shall follow the applicable local unit of government regulations or the appropriate state and regional agency's rules and regulations.

#### USE DISTRICT DESIGNATIONS

- 1. Because the river should be managed as a multiple-purpose resource, and it possesses a variation in both natural characteristics and types of urban development, the Corridor has been segmented into the following four districts which shall be applied throughout the Interim Period as described in Appendix A & B of the recommendation for designation of the Mississippi River Corridor as a critical area.
  - a. Rural Open Space Districts
  - b. Urban Diversified Districts
  - c. Urban Developed Districts
  - d. Urban Open Space Districts
- 2. During the Interim Period, no changes shall be made of the district boundaries set forth by these Interim Development Regulations.

#### PERMITTED USES

- 1. Any land or water use development which is in conformance with the standards and guidelines of the Interim Development Regulations shall be permitted.
- 2. During the Interim Period, no changes shall be made of the permitted uses allowed by these Interim Development Regulations.

### 3. Residential Development

Residential development shall be permitted in all the districts. All structures and accessory uses or appurtenances of residential development shall be subject to the Dimensional Standards and Criteria in Section F of these Interim Development Regulations.

### 4. Commercial and Industrial Uses

- a. In Rural Open Space Districts and Urban Developed Districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted if:
  - (1) it does not require expansion or upgrading of Metropolitan Systems prior to the schedule set forth in adopted Metropolitan Plans;
  - (2) it meets the Dimensional Standards and Criteria in Section F;
  - (3) it will not encroach upon future local or regional parks and recreation open space identified in the Metropolitan Council's Development Guide/Policy Plan for Recreation Open Space or in local plans and programs.
- b. In Urban Open Space Districts, the development of new and expansion of existing commercial and industrial uses and development shall be permitted on lands which are on the landward side of all blufflines, if it meets the Dimensional Standards and Criteria in Section F.
- c. In Urban Diversified Districts, new and expansion of existing industrial and commercial developments shall be allowed, if it meets the Dimensional Standards and Criteria in Section F.
- d. In Rosemount and Inver Grove Heights Urban Diversified District, new and expansion of existing industrial and commercial development shall be permitted, if it does not require premature expansion of Metropolitan public services.

### 5. Agricultural Uses

All agricultural uses except new feedlots may be permitted in all the districts.

### 6. Mining and Extraction

- a. In Rural Open Space, Urban Developed, and Urban Diversified Districts,
  - (1) new mining and extraction may be permitted and shall be subject to the Dimensional Standards and Criteria in Section F;
  - (2) new and, where practicable, existing extraction uses shall be appropriately screened from view of the river by establishing and maintaining natural screen devices;
  - (3) The unscreened boundaries of mining and extraction areas shall be limited to only the loading area;

(4) existing and future extractive uses shall be required to submit land reclamation and reforestation plans compatible with these Interim Development Regulations; and

(5) only one barge loading area which shall be limited to the minimum size practicable shall be permitted for each mining or extraction operation.

b. In Urban Open Space Districts, new mining and extraction operations shall not be permitted.

#### 7. Recreational Uses

a. In all districts, recreational uses and structures and accessory uses or appurtenances shall be permitted and shall be subject to the Dimensional Standards and Criteria in Section F. Water-related commercial recreation uses shall not be subject to the Dimensional Standards and Criteria in Section F.

b. Within Urban Open Space Districts, recreation uses on islands and lands between the river and blufflines shall be only for public recreation uses, historic preservation, and wildlife preserves.

#### 8. Signs

a. In Rural Open Space, Urban Developed, and Urban Open Space Districts:

(1) general advertising signs not visible from the river are permitted;

(2) all other general advertising signs shall be prohibited.

b. In Urban Diversified Districts, general advertising signs are permitted.

### D. PERMITTED PUBLIC FACILITIES

#### 1. Transmission Services

In all the districts, the construction of new and reconstruction of existing transmission services shall meet the following standards.

a. The Department of Natural Resources (DNR) in reviewing permit applications for all transmission service crossings on the Mississippi River, Minnesota River, or of State lands requiring a permit from the DNR pursuant to Minnesota Statutes 84.415 or 105.42 shall give primary consideration to crossings that are proposed to be located within or adjacent to existing right-of-ways for public facilities, such as railroads, roadways, bridges, and existing transmission services.

b. Transmission services of under 200 kilovolts, which cross lands within the River Corridor shall require a special use permit from the local unit of government. Local units of government shall apply the standards set forth in Sections D.1.c through h when processing applications for a special use permit.

c. When routing transmission services of under 200 kilovolts, the following shall be avoided where practicable:

- (2) scenic intrusions into streams, valleys, and open exposures of water;
  - (3) scenic intrusions into areas such as ridge crests and high points;
  - (4) creating tunnel vistas by, for example, building deflections into the route;
  - (5) wetlands;
  - (6) forests by running along fringe rather than through them. If necessary to route through forests, utilize open areas in order to minimize cutting;
  - (7) soils susceptible to erosion, which would create sedimentation and pollution problems;
  - (8) areas of unstable soils which would be subject to extensive slippages;
  - (9) areas with highwater tables, especially if construction requires excavation;
  - (10) open space recreation areas.
- d. Transmission services shall be subject to the Dimensional Standards and Criteria in Section F, except at crossing points.
- e. Structure design of transmission services.

With regard to locating the utility, overhead or underground:

- (1) primary considerations shall be given to underground placement in order to minimize visual impact. When considering overhead placement, the proposers shall explain the economic, technological or land characteristic factors which make underground placement infeasible. Economic considerations alone shall not justify overhead placement.
  - (2) if overhead placement is necessary, the crossing should be hidden from view as much as practicable;
  - (3) with regard to the appearance of the structures, they shall be made as compatible as practicable with the natural area with regard to: height and width, materials used, and color;
  - (4) with regard to the width of the right-of-way, the cleared portion of the right-of-way should be kept to a minimum.
- f. In the construction of transmission services, the following guidelines shall be applied whenever practicable:
- (1) construction in wetlands shall minimize damage to vegetation, prevent erosion and sedimentation;

- (2) construction shall be undertaken at times when local fish and wildlife are not spawning or nesting;
- (3) effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and adjacent lands.

g. Safety Considerations

Developers must adhere to applicable Federal and State safety regulations, both with regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill clean-up).

h. Right-of-way Maintenance

- (1) If possible, natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way;
- (2) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and low growing trees, shall be planted and maintained on the right-of-way;
- (3) Chemical control of vegetation should be avoided when practicable, but where such methods are necessary, chemicals used and the manner of their use must be in accordance with rules, regulations, and other requirements of all state and federal agencies with authority over the use.

2. Sewage Treatment Plants - sewage outfalls, water intake facilities

a. In Rural Open Space, Urban Developed and Urban Diversified Districts the provision of sewage treatment plants, sewage outfalls and water intake facilities:

- (1) wherever practicable, shall conform with the Dimensional Standards and Criteria in Section F;
- (2) shall dedicate the unused river frontage after construction, for public access or recreation open space use;
- (3) shall not include new combined storm and sanitary sewer outfalls.

b. In Urban Open Space District:

- (1) no new sewage treatment plants shall be permitted in this district. However, the Metropolitan Waste Control Commission may expand the Metropolitan Wastewater Treatment Plant at the Pig's Eye Lake area, if the expansion plans are approved by the Metropolitan Council and they are consistent with the City of St. Paul's riverfront plan approved by the Council under Section D of the Standards and Guidelines for Preparing Plans and Regulations;

- (2) no new water intake facilities shall be permitted;
- (3) no new combined storm water and sanitary sewer outfalls shall be permitted.

### 3. Essential Services and Public Safety Facilities

Essential services and public safety facilities are permitted in all the districts. They are subject to D(1) Regulation.

### 4. Transportation Facilities

The construction or reconstruction of all transportation facilities shall be permitted in all the districts, subject to the following standards and criteria:

- a. The following guidelines shall be applied whenever practicable in selecting routes for transportation facilities:
  - (1) careful consideration should be given to the provision of scenic overlooks for motorists, safe pedestrian crossing and safe pedestrian pathways along the river;
  - (2) if possible, provide access to the riverfront in public ownership, and allow reasonable public use of the land between the river and the transportation facility;
  - (3) steep slopes shall be avoided;
  - (4) scenic intrusion into stream, valley and open exposures of water shall be avoided;
  - (5) scenic intrusion into areas such as ridge crests and high points shall be avoided
  - (6) wetlands shall be avoided;
  - (7) run along fringes of forests rather than through them. But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest;
  - (8) soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction shall be avoided;
  - (9) areas of unstable soils which would be subject to extensive slippage shall be avoided;
  - (10) areas with highwater tables, especially if construction requires excavation, shall be avoided;
  - (11) locate new roads to avoid cuts and fills so as to blend into the natural terrain so that it appears to be a part of the natural landscape;
  - (12) open space recreation areas shall be avoided.

- b. Transportation facilities shall be subject to the Dimensional Standards and Criteria in Section F, except at crossing points.
- c. The following guidelines shall be applied when practicable in constructing transportation facilities:
  - (1) reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect on the natural beauty and environment of the river;
  - (2) effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of the river and its adjacent lands;
  - (3) construction across wetlands shall take place in a manner which minimizes damage to vegetation, and in a manner preventing erosion and sedimentation;
  - (4) construct at times when local fish and wildlife are not spawning or nesting.

d. Safety Considerations

Developers must adhere to applicable Federal and State safety regulations with regard to new road construction or reconstruction of an existing road.

- e. The following guidelines shall be applied when practicable for right-of-way maintenance:
  - (1) if possible, natural vegetation of value to fish or wildlife, and which does not pose a safety hazard, shall be allowed to grow in the roadside right-of-way;
  - (2) where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees shall be planted and maintained on the roadside right-of-way;
  - (3) chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all State and Federal agencies with authority over their use.

5. Barge Facilities

- a. In Rural Open Space and Urban Developed Districts, the following standards shall apply:
  - (1) the expansion of existing barge slips within these districts shall be permitted;

(2) no new barge slips shall be permitted until local riverfront plan and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in Minn. Regs. MEQC 55(c).

b. In Urban Open Space Districts, the following standards shall apply:

(1) no new barge slips shall be permitted;

(2) no barge fleeting areas shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in Minn. Regs. MEQC 55(c).

c. In Urban Diversified Districts all barge facilities are permitted.

## E. EARTHWORK AND VEGETATION

### 1. Grading and Filling

In all districts, the following provisions shall apply to grading and filling:

a. Grading, filling, excavating, or otherwise changing the topography landward of the ordinary high water mark shall not be conducted without a permit from the local authority. A permit may be issued only if:

(1) earthmoving, erosion, vegetative cutting, and the destruction of natural amenities is minimized;

(2) the smallest amount of ground is exposed for as short a time as feasible;

(3) temporary ground cover, such as mulch, is used and permanent ground cover, such as sod is planted;

(4) methods to prevent erosion and trap sediment are employed; and

(5) fill is established to accepted engineering standards.

b. A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a building site, essential services, sewage disposal systems, and private road and parking areas undertaken pursuant to a validly issued building permit.

### 2. Vegetation Management

a. In Rural Open Space, Urban Developed and Urban Open Space Districts, the following standards shall apply:

(1) on developed islands, public recreation lands, the slope or face of bluffs within 200 feet of the normal high water mark of the river, and within the area 40 feet landward from blufflines, clear cutting shall not be permitted;

- (2) on all other lands within these districts, clear cutting shall be guided by the following provisions:
  - (a) clear cutting shall not be used where soil, slope, or other watershed conditions are fragile and subject to injury;
  - (b) clear cutting shall be conducted only where clear cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain;
  - (c) the size of clear cut blocks, patches, or strips shall be kept at the minimum necessary;
  - (d) 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.
- (3) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

b. In Urban Diversified District:

- (1) on the slope or face of bluffs and within areas 40 feet landward from established blufflines, clear cutting shall not be permitted;
- (2) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

- c. These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of essential services and utility transmission services which are permitted uses.

F. DIMENSIONAL STANDARDS AND CRITERIA

1. Objectives

The objectives of Dimensional Standards and Criteria are: to maintain the aesthetic integrity and natural environment of certain districts, to reduce the effects of poorly planned shoreline and bluffline development, to provide sufficient setback for sanitary facilities, to prevent pollution of surface and ground water, to minimize flood damage, to prevent soil erosion, and to implement Metropolitan Plans, Guides and Standards.

2. Substandard Lot.

The local unit of government may approve any proposed new structure or changes to existing structure when the following findings are made:

- a. The lot was recorded in the Office of the County Register of Deeds (or Registrar of Titles) prior to the date of legal notice of the EQC public hearing, April 25, 1975.
- b. The lot was in separate ownership from all abutting land on April 25,
- c. The proposed use is consistent with the provisions of the Interim Development Regulations and local ordinance.
- d. It can be demonstrated that a proper and adequate sewage disposal system can be installed according to interim regulations, Health Department's and PCA's regulations.
- e. The lot size is within sixty (60) percent of the size required in the Interim Development Regulations.

3. Lot Size.

- a. In the Rural Open Space and Urban Developed Districts, the following minimum lot sizes shall be required:
  - (1) in unsewered areas, the minimum lot size shall be five acres per single family unit;
  - (2) in sewerred areas, the minimum lot size shall be consistent with the local zoning ordinance.
- b. In the Urban Open Space and Urban Diversified Districts, the minimum lot size shall be consistent with the local zoning ordinance.

4. Structure Setback.

- a. All required setbacks shall be applicable to each bluffline proceeding landward from the river.
- b. All new structures and roads shall meet the following minimum setbacks:
  - (1) in the Rural Open Space District, no structure or road shall be placed less than 200 feet from the normal highwater mark, and no less than 100 feet from blufflines;
  - (2) in the Urban Developed District, and Urban Open Space District, the structure or road shall be placed no less than 100 feet from the normal highwater mark of the river, and no less than 40 feet from blufflines;
  - (3) in the Urban Diversified District, the structure or road shall be placed no less than 40 feet from the bluffline.

c. Exceptions to setback provisions shall be:

- (1) public safety facilities, public bridges and their roadway approaches, railroad sidings, minor public and private roadways serving water-related uses on the riverfront;
- (2) public recreation facilities, scenic overlooks, public observation platforms, and the regional trail system, docks, boat launching facilities;
- (3) approved river crossings of essential service, and essential services distribution systems which are primarily underground except for terminal and metering devices not exceeding six feet in height, and supporting structures for transmission crossing spans;
- (4) the construction of above-ground pumping stations for sewer lines which shall be screened from view of the river;
- (5) the reconstruction or restoration of historical structures or sites on the inventory of the State Historical Society or the National Register of Historic Places.

5. Height of Structures.

a. In the Rural Open Space, Urban Developed and Urban Open Space Districts:

- (1) new structures and additions to existing structures shall be limited to a maximum of 35 feet;
- (2) the following exceptions to height limits shall be permitted:
  - (a) expansion of existing industrial complexes, such as refineries and storage areas;
  - (b) barns, silos and similar farm structures;
  - (c) essential service distribution systems;
  - (d) bridges, bridge approach roadways, and transmission services;
  - (e) restoration or reconstruction of historical structures and sites on the inventory of the State Historical Society or the National Register of Historical Places.

b. In the Urban Diversified District, there are no restrictions on the height of structures.

6. Placement of Structures.

a. The following standards shall apply in any district:

- (1) no new structures shall be placed on slopes which are 18 percent or greater;
- (2) structures may be permitted on slopes which are greater than 12 percent, but less than 18 percent, when the following conditions are met:

- (a) the developer can prove that the development on the slope can be accomplished without increasing erosion;
  - (b) the soil types and the geology are suitable for slope development;
  - (c) there is proper management of vegetation to control runoff.
- (3) when an approved floodplain ordinance exists, structure placement shall be governed by that ordinance. Where an approved floodplain ordinance does not exist, the elevation at which the lowest floor of a structure, including basement, may be placed shall be consistent with the Minnesota statewide standards and criteria for management of floodplain areas;
- (4) in Rural Open Space, Urban Developed and Urban Open Space Districts, no development shall be permitted on presently undeveloped islands except those developments specifically related to wildlife preservation and recreation open space uses, and bridge piers when other considerations dictate that bridge crossing alignment;
- (5) in Urban Diversified Districts, the development on islands related to recreation open space uses and historical preservation of sites and areas on the Inventory of the Minnesota State Historical Society and the National Register of Historic Places shall be permitted. New industry, commercial, residential and other uses shall be permitted on islands if they are consistent with local zoning ordinances and with the historical character.

#### 7. Line of Sight

In Rural Open Space Districts, Urban Developed Districts, and Urban Open Space Districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted, if it cannot be seen from the normal highwater mark on the opposite side of the river. Water-related commercial and industrial uses shall not be subject to this requirement.

#### G. SANITARY STANDARDS AND CRITERIA

1. The following standards shall apply to all districts:
  - a. All parts of on-site sewage disposal systems shall be located at least 75 feet from the normal highwater mark.
  - b. No on-site sewage disposal system shall be placed within designated floodplains.

#### H. NON-CONFORMING USES AND STRUCTURES

1. Any structure or use existing upon the effective date of these Interim Development Regulations which does not conform to the use restrictions of a particular use district of the Interim Development Regulations shall automatically continue as a non-conforming use or structure.
2. Whenever a non-conforming building or structure has been damaged by fire, flood, explosion, earthquake, war, riot, or other disaster, it may be reconstructed to its prior use when the damage to the building or

structure is fifty percent (50%) or less of its fair market value. Where the damage is fifty percent (50%) or more, reconstruction shall not be permitted for any structure that does not meet the minimum required standards.

3. When any non-conforming use of a building or structure has been changed to a conforming use, it shall not be changed to a non-conforming use.
4. If a non-conforming use is discontinued for 6 consecutive months, any future use of the building or premises shall conform to the Interim Development Regulations.

#### I. ADMINISTRATION

1. Local units of government and regional and state agencies shall notify the Council of the following types of proposed development within the Mississippi River Corridor:
  - a. Development permit applications for the development of a new or major expansion of an industrial, commercial facility in the Rural Open Space, Urban Developed and Urban Open Space Districts.
  - b. All government developments.
  - c. Inside the 1975 Metropolitan Urban Service Area (MUSA), development permit applications for the development of:
    - (1) 50 or more dwelling units in a multi-family project;
    - (2) 25 or more lots in a mobile home court;
    - (3) 25 or more lots in a residential project.
  - d. Outside the MUSA, development permit applications for the development of:
    - (1) 25 or more dwelling units in a multi-family project;
    - (2) 10 or more lots in a mobile home court;
    - (3) 10 or more lots in a residential project;
    - (4) any residential developments in Rural Open Space Districts.
  - e. Any development on or involving the alteration of:
    - (1) a wetland;
    - (2) a floodplain;
    - (3) an island;
    - (4) a slope of greater than 12 percent;
    - (5) the removal of 5 contiguous acres or more of vegetative cover;
    - (6) the grading or filling of 20 contiguous acres of land;
    - (7) the deposit of dredge spoil;
    - (8) more than 50 linear feet of a riverbank.
  - f. Any development involving the establishment of a public or private structure, facility or other which crosses the river.
  - g. The development or expansion of any commercial harbor or barge loading or fleeting area.

- h. Any development which would result in the discharge of water into or withdrawal of water from the Mississippi River which would require a state permit.
- i. Any developments within the historical districts established by the State Legislature.
- j. Development for which Metropolitan Council review is requested by:
  - (1) the local unit of government with jurisdiction;
  - (2) resolution from two or more local units of government adjacent to the local units of government within which the proposed development is sited.
- k. Any development which requires a rezoning or compatible use permit.

## 2. Procedures for Reviewing Proposed Development

- a. Local units of government and regional and state agencies shall notify the Council in writing of any proposed development listed in Section I.1, at least 30 days before the local units of government and regional and state agencies take final action to approve or deny the development. In the event the Metropolitan Council elects to hold a hearing under Section I.2.e., no final action to approve or deny the proposed development may be taken until 15 days after the Council receives the Metropolitan Council recommendation.
- b. The Council shall send a copy of the proposed development to the Metropolitan Council for review no later than 2 days after the date of the Council's receipt of the application.
- c. The Metropolitan Council shall review the proposed development and transmit written recommendation with reasons for approving, modifying, or denying the proposed development to the Council no later than 18 days after the Metropolitan Council's receipt of the application, except when a public hearing is required by the Metropolitan Council, in which case, Section I.2.e(1) and (2) shall be followed.
- d. Other local units of government and regional and state agencies may transmit to the Council their written comments on the proposed development published in the EQC Monitor ~~within 15 days of date of the publication.~~ within 15 days of date of the publication.
- e. (1) When the Metropolitan Council decides to hold a public hearing on a proposed development application, the public hearing shall be conducted in accordance with the Metropolitan Council's statutory requirements, and notice of the hearing shall be filed with the Council and affected municipalities, counties, and applicants.  
(2) The Metropolitan Council shall submit its final recommendation on the proposed development to the Council within 30 days of closing date of the hearing record.

- f. The Council shall accept or modify the Metropolitan Council's recommendations and shall consider the comments of the local units of government and regional and state agencies and transmit the recommendation to the local unit of government and regional and state agencies no later than 10 days after the date of receipt of the Metropolitan Council's recommendation.
- g. The Council may extend the 30 days time for a particular proposed development if the Metropolitan Council, the developer, any local unit of government and regional and state agencies with jurisdiction agree to the extension.
- h. Failure of the Council to act on the notice of a proposed development within the prescribed period of time shall constitute acceptance by the Council of the final action on the proposed development by the local unit of government, regional or state agency.
- i. Within 30 days after the final action, local units of government and regional and state agencies shall notify the Council of the final action on all proposed development listed in Section 11, or of emergency actions approved under the provisions of Section 15.
- j. When the Council has recommended to a local government unit, regional or state agency to modify or to deny a proposed development, and that recommendation is not followed, the proposed development shall not be approved for 30 days after the Council receives notice of final action. If the Council appeals the decision to district court, the appeal shall be made within 30 days of receipt notice of final action. When an appeal is made, the development shall not be approved until the appeal process is scheduled.

### 3. Dimension Variance

- a. Local units of government may grant a dimension variance from strict compliance with the setback, or height restrictions, or lot size or line of sight requirement contained in the Interim Development Regulations after an administrative hearing that shall be conducted according to the regulations of the local unit of government.
- b. A dimension variance may be granted only when the following findings are made:
  - (1) the strict enforcement of the setback or height restrictions, or lot size or line of sight will result in unnecessary hardship. "Hardship" as used in the consideration of a dimension variance means that the property in question cannot be put to a reasonable use under the dimension provisions of these Interim Development Regulations;
  - (2) there are exceptional circumstances unique to the property that were not created by a landowner after April 25, 1975;
  - (3) the dimension variance does not allow any use that is not a compatible use in the land use district in which the property is located;
  - (4) the dimension variance will not alter the essential character of the locality as established by these Interim Development Regulations;

- (5) the dimension variance would not be contrary to the intent of the Order.

#### 4. Compatible Use Permit

- a. Local units of government may grant a compatible use permit after an administrative hearing that shall be conducted according to the regulations of the local unit of government for conditional or special use permits.
- b. A compatible use permit may be granted for a proposed development only when the following findings are made:
  - (1) it is consistent with the intent of the Order, and the adopted policies of the Metropolitan Council and the Environmental Policy Act; and
  - (2) it is compatible with uses in the immediate vicinity; and
  - (3) it is permitted by the ordinances of the local unit of government.

#### 5. Emergency Actions.

In accordance with the Act, local units of government, regional and state agencies may grant a development permit when certified in writing by the local unit of government, regional and state agencies, or the County Zoning Administration with the existing authority that the development is essential to protect the public health, safety or welfare in an existing emergency and that a local ordinance or state regulation was in effect immediately prior to April 25, 1975 and a development permit would have been granted thereunder.