



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Justin Fortney, City Planner
Date: December 4, 2023
Item: First Reading: New MRCCA Ordinance with Related Amendments

Council Action Requested

Consider First Reading of the following actions amending Hastings City Codes pertaining to adopting the new MRCCA (Mississippi River Corridor Critical Area) chapter:

- 1) New City Code Chapter 152A - MRCCA (Mississippi River Corridor Critical Area) Ordinance.
- 2) Amend Chapter 155.01 - Zoning Map with proposed MRCCA overlay districts.
- 3) Amend Chapter 155.08 - Zoning code related to weeds and grasses near signs.
- 4) Amend Chapter 158.04 - Property Maintenance Requirements related to weeds and grasses.
- 5) Amend Chapter 90.05 - Grass, Weeds, And Trees In Streets
- 6) Amend Chapter 95.21 - Public Nuisances Affecting Health pertaining to vegetation

Approval of first reading would allow for 2nd reading and final consideration at the December 18, 2023, City Council meeting. A simple majority is necessary for action.

Proposed Changes

The proposed amendments accomplish the following:

- Adopt a new state mandated MRCCA plan adding additional restrictions and permits for development, redevelopment, land uses, land alteration, vegetation modification, and similar for about 170 properties within the MRCCA corridor.
- Add the state delineated MRCCA overlay districts to the zoning map.
- Modify several weed and grass ordinances to assure they are not contrary to the native and natural planting provisions of the new MRCCA ordinance. The normal weed and grass length requirements will largely not be enforceable in the corridor.

Background

The MRCCA is a 72-mile corridor along the Mississippi River through the Twin Cities, including Hastings. Originally created as The Critical Areas Act in 1973 with subsequent reiterations until the Minnesota Legislature in 2017 passed MN Rules, Chapter 6106 requiring adoption of local (i.e., City) controls to implement MRCCA development standards.

The purpose is to maintain the natural and scenic character and minimize negative impacts to riparian areas and bluffs. This is accomplished by additional development regulations beyond Zoning, Floodplain, and Shoreland Management ordinances.

See the attached November 27, 2023 Planning commission staff report for further information.

Advisory Commission Discussion:

The Planning Commission reviewed changes to the first four amendments listed at their November 27, 2023 meeting, since land use chapters require Planning Commission review. The Planning Commission recommended approval 6-0. The only one to speak during the public hearing was Colleen O'Connor Toberman with the friends of the Mississippi River. She also included the attached letter commenting that optional language should be included requiring certain additional finding beyond what is already required for variances in general and pertaining to MRCCA ordinance in general. Staff commented that the additional language for findings was included for CUPs (Conditional Use Permits). However, staff does not believe they are very relatable to variances. Additionally, State Statutes regulating variances do not include these additional burdens being suggested. The letter also commented that the template ordinance notification timeline of 10-days to required agencies should be increased. Staff commented that 10-days is a standard notification period that has worked and lengthening it will delay applications. Staff said in cases where more time or information is required, they have held back review until appropriate.

Public Input and Open House

The proposed ordinance template and district boundaries come from state legislation and the ability for municipalities to modify them is limited. Any modifications must be approved by the DNR with findings that the intent remain unchanged.

Staff held an open house on November 13 at City Hall from 5:00 pm to 6:30 pm. All 170 properties within the corridor overlay were mailed a notice explaining the proposal and provided notice of the open house and public hearing. Folks were also encouraged to reach out to staff with any questions they had related to their specific properties. There were about 20-25 people in attendance. Those in attendance listened to a summary of the proposal and asked related questions. Aside from the open house, staff has only received a couple of questions by phone.

Attachments:

- Resolution
 - New Ordinance - Chapter 152A
 - Ordinance Amendment - Chapter 155.01
 - Ordinance Amendment - Chapter 155.08
 - Ordinance Amendment - Chapter 158.04
 - Ordinance Amendment - Chapter 90.05
 - Ordinance Amendment - Chapter 95.21
- Planning Commission Staff Report - November 27, 2023
- Letter from Friends of the Mississippi River – November 22, 2023

ORDINANCE NO. XXX**AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA, ENACTING
HASTINGS CITY CODE REGARDING MISSISSIPPI RIVER CORRIDOR
CRITICAL AREA REGULATIONS, ZONING OVERLAY DISTRICTS AND
WEED AND GRASS PROVISIONS**

The City Council of the City of Hastings, Dakota County, Minnesota, does hereby ordain as follows:

SECTION 1. ENACTMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 152A, Section 152A.01: Mississippi River Corridor Critical Area, shall be enacted as follows:

152A.01 AUTHORITY, INTENT AND PURPOSE

- A. **Statutory Authorization.** This Mississippi River Corridor Critical Area (MRCCA) § 152A is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter [116G](#), Minnesota Rules, Parts [6106.0010 - 6106.0180](#), and the planning and zoning enabling legislation in Minnesota Statutes, Chapter [462](#) and [473](#).
- B. **Policy.** The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of designated critical areas and thus preserve and enhance the quality of important historic, cultural, aesthetic values, and natural systems and provide for the wise use of these areas.
- C. **Purpose.** The Mississippi River Corridor Critical Area Regulations are intended to:
1. Establish districts under which building height and structure placement are regulated to protect and enhance the Mississippi River's resources and features consistent with the natural and built character of each district.
 2. Identify development standards and considerations for land uses that have potential to negatively impact primary conservation areas and public river corridor views.
 3. Establish standards that protect primary conservation areas and public river corridor views from development impacts and ensure that new development is sited consistent with the purpose of the MRCCA.
 4. Establish design standards for private facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA Plan.
 5. Establish design standards for public facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor

views and other resources identified in the MRCCA Plan while recognizing that they serve the public interest by providing access to the Mississippi River corridor or require locations within the river corridor and therefore require some flexibility.

6. Establish standards that sustain and enhance the biological and ecological functions of vegetation; preserve the natural character and topography of the MRCCA; and maintain stability of bluffs and critical area steep slopes and ensure stability of other erosion-prone areas.
7. Establish standards that protect water quality from pollutant loadings of sediment, nutrients, bacteria, and other contaminants; and maintain stability of bluffs, shorelines, and other areas prone to erosion.
8. To create standards for subdivisions and development or redevelopment of large sites that protect and enhance the natural and scenic value of the MRCCA, protect and restore biological and ecological functions of primary conservation areas, and encourage restoration of natural vegetation where restoration opportunities have been identified in the MRCCA Plan.

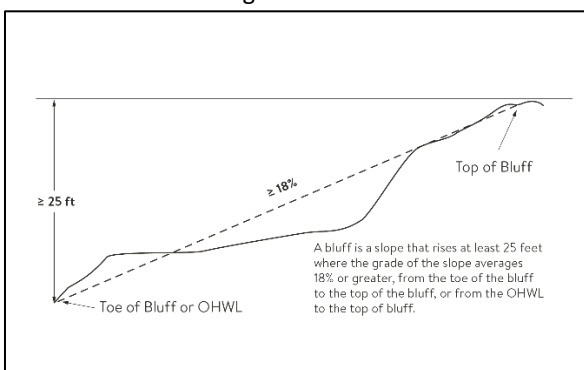
152A.02 GENERAL PROVISIONS AND DEFINITIONS

- A. **Jurisdiction.** The provisions of this § 152A apply to land within the river corridor boundary as described in the State Register, volume 43, pages 508 to 519 and shown on the **Zoning Overlay Map § 155.01**.
- B. **Enforcement.** The *City of Hastings* is responsible for the administration and enforcement of this § 152A. Any violation of its provisions or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Penalty, see § 10.99. Violations of this § 152A can occur regardless of whether or not a permit is required for a regulated activity listed in Section 152A.03,B.
- C. **Severability.** If any section, clause, provision, or portion of this § 152A is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this § 152A shall not be affected thereby.
- D. **Abrogation and Greater Restrictions.** It is not intended by this § 152A to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this § 152A imposes greater restrictions, the provisions of this § 152A shall prevail. All other § 152A inconsistent with this § 152A are hereby repealed to the extent of the inconsistency only.
- E. **Underlying Zoning.** Uses and standards of underlying zoning districts apply except where standards of this overlay district are more restrictive.
- F. **Definitions.** Unless specifically defined below, words or phrases used in this § 152A shall be interpreted to give them the same meaning they have in common usage and to give this § 152A its most reasonable application. For the purpose of this § 152A, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.
 1. **Access path.** An area designated to provide ingress and egress to public waters.
 2. **Adjacent.** Having a boundary that physically touches or adjoins.
 3. **Agricultural use.** A use having the meaning given under Minnesota Statutes, section [40A.02](#).

4. **Alternative design.** Subdivision design methods such as conservation design, transfer of development density, or similar zoning and site design techniques that protect open space and natural areas.
5. **Biological and ecological functions.** The functions of vegetation in stabilizing soils and slopes, retaining and filtering runoff, providing habitat, and recharging groundwater.
6. **Bluff. A natural topographic feature having:**

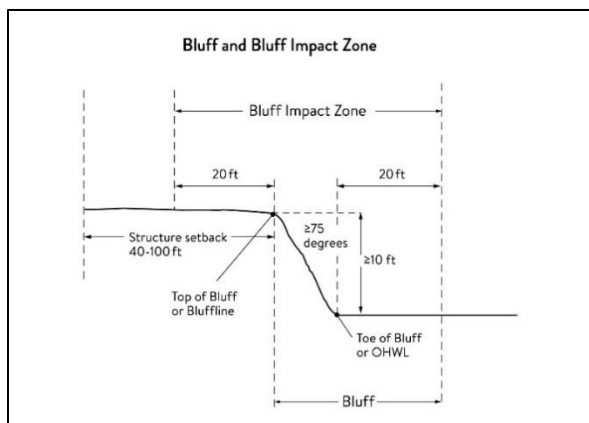
- a. A slope that rises at least 25 feet where the grade of the slope averages 18 percent or greater, from the toe of the bluff to the top of the bluff, or from the OHWL to the top of bluff, whichever is more restrictive. See Figure 1; or

Figure 1. Bluff



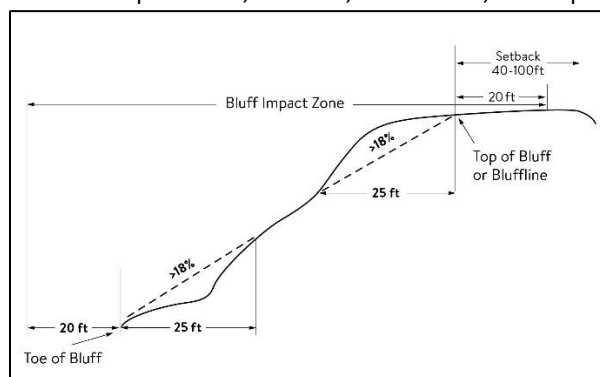
- b. A natural escarpment or cliff with a slope that rises at least ten feet above the ordinary high water level or toe of the slope, whichever is applicable, to the top of the slope, with a slope of 75 degrees or greater. See Figure 2.

Figure 2. Natural Escarpment Bluff and Bluff Impact Zone



7. **Bluff impact zone (BIZ).** A bluff and land located within 20 feet of the bluff. See Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

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

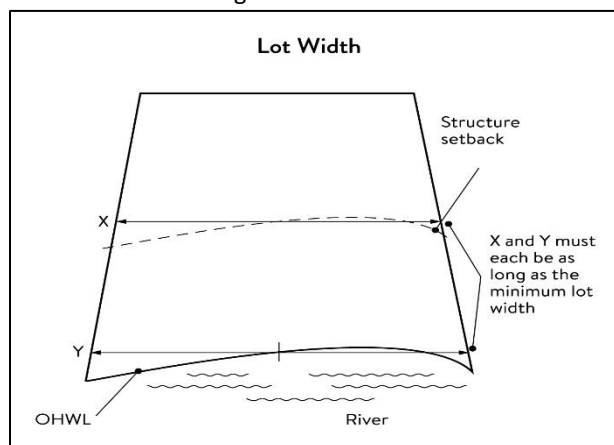


8. **Bluffline.** A line delineating the top of the bluff. More than one bluffline may be encountered proceeding landward from the river. See Figures 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.
9. **Bluff, Toe of.** The lower point of a 25-foot horizontal segment with an average slope exceeding 18 percent, requiring field verification. See Figure 3.
10. **Bluff, Top of.** The higher point of a 25-foot horizontal segment with an average slope exceeding 18 percent, requiring field verification. See Figure 3 .
11. **Buildable area.** The area upon which structures may be placed on a lot or parcel of land and excludes areas needed to meet requirements for setback, rights-of-way, bluff impact zones, historic properties, wetlands, designated floodways, land below the ordinary high water level of public waters, and other unbuildable areas.
12. **Building.** A structure with two or more outside rigid walls and a fully secured roof and affixed to a permanent site.
13. **Certificate of compliance.** A document written after a compliance inspection, certifying that the development complies with applicable requirements at the time of the inspection.
14. **Commissioner.** The commissioner of the Minnesota Department of Natural Resources.
15. **Conditional use.** A use having the meaning given under Minnesota Statutes, chapters [394](#) and [462](#).
16. **Conservation design.** A pattern of subdivision that is characterized by grouping lots within a portion of a parcel, where the remaining portion of the parcel is permanently protected as open space.
17. **Conventional subdivision.** A pattern of subdivision that is characterized by lots that are spread regularly throughout a parcel in a lot and block design.
18. **Deck.** A horizontal, unenclosed, aboveground level structure open to the sky, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.
19. **Developer.** Having the meaning given under Minnesota Statutes, section [116G.03](#).
20. **Development.** Having the meaning given under Minnesota Statutes, section [116G.03](#).
21. **Directional Sign.** signage instituted to provide site identification, directions, and basic information necessary for safe and efficient arrival.

22. **Discretionary action.** An action under this chapter related to land use that requires a public hearing by local ordinance or statute, such as preliminary plats, final subdivision plats, planned unit developments, conditional use permits, special use permits, interim use permits, variances, appeals, and rezonings.
23. **Dock.** Having the meaning given under Minnesota Rules, chapter [6115](#).
24. **Electric power facilities.** Equipment and associated facilities for generating electric power or devices for converting wind energy to electrical energy as identified and defined under Minnesota Statutes, section [216E](#).
25. **Essential services.** Underground or overhead gas, electrical, communications, steam, or water distribution, collection, supply, or disposal systems, including storm water. Essential services include poles, wires, mains, drains, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, navigational structures, aviation safety facilities or other similar equipment and accessories in conjunction with the systems. Essential services does not include buildings, treatment works as defined in Minnesota Statutes, section [115.01](#), electric power facilities or transmission services.
26. **Feedlot.** Having the meaning given for animal feedlots under Minnesota Rules chapter [7020](#).
27. **Floodplain.** Having the meaning given the meaning given under Minnesota Rules chapter [6120](#).
28. **Fully reconstructs.** The reconstruction of an existing impervious surface that involves site grading and subsurface excavation so that soil is exposed. Mill and overlay and other resurfacing activities are not considered fully reconstructed.
29. **Hard-surface trail.** A trail surfaced in asphalt, crushed aggregate, or other hard surface, for multi-purpose use, as determined by local, regional, or state agency plans.
30. **Historic property.** An archaeological site, standing structure, site, district, or other property that is:
 - a. Listed in the National Register of Historic Places or the State Register of Historic Places or locally designated under Minnesota Statutes, chapter [471](#);
 - b. determined to meet the criteria for eligibility to the National Register of Historic Places or the State Register of Historic Places as determined by the director of the Minnesota Historical Society; or
 - c. An unplatted cemetery or burial that falls under the provisions of Minnesota Statutes, chapter [307](#), in consultation with the Office of the State Archaeologist.
31. **Impervious surface.** A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, decks, sidewalks, patios, parking lots, storage areas, and driveways, including those with concrete, asphalt, paver or gravel surfaces.
32. **Intensive vegetation clearing.** The removal of all or a majority of the trees or shrubs in a contiguous patch, strip, row, or block.
33. **Interim use.** A use having the meaning given under Minnesota Statutes, chapters [394](#) and [462](#).
34. **Land alteration.** An activity that exposes the soil or changes the topography, drainage, or cross section of the land, excluding gardening or similar minor soil disturbances.

35. **Local government.** Counties, cities, and townships.
36. **Lot.** Having the meaning given under Minnesota Rules chapter [6120](#).
37. **Lot width.** The shortest distance between lot lines measured at both the ordinary high water level and at the required structure setback from the ordinary high water level. See Figure 4.

Figure 4. Lot Width

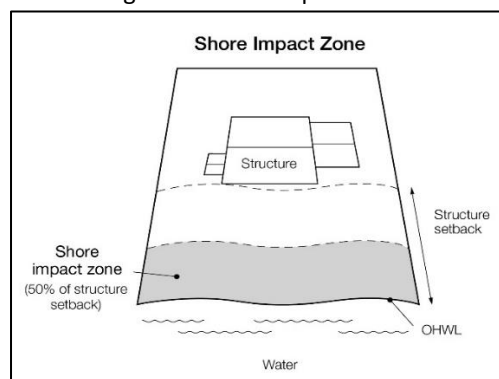


38. **Marina.** Having the meaning given under Minnesota Rules chapter [6115](#).
39. **Mississippi River Corridor Critical Area (MRCCA).** The area within the River Corridor Boundary (See § 152A.02,69).
40. **Mississippi River Corridor Critical Area (MRCCA) Plan.** A chapter in the *Hastings* comprehensive plan.
41. **Mooring facility.** Having the meaning given under Minnesota Rules part [6115.0170](#).
42. **Native plant community.** A plant community identified by the Minnesota Biological Survey or biological survey issued or adopted by a local, state, or federal agency.
43. **Natural-surface trail.** A trail composed of native soil and rock or compacted granular stone, primarily intended for hiking, equestrian, or mountain bike use, as determined by local, regional, or state agency plans.
44. **Natural vegetation.** Any combination of ground cover, understory, and tree canopy that, while it may have been altered by human activity, continues to stabilize soils, retain and filter runoff, provide habitat, and recharge groundwater.
45. **Nonconformity.** Having the meaning given under Minnesota Statutes, section [394.22](#).
46. **Nonmetallic mining.** Construction, reconstruction, repair, relocation, expansion, or removal of any facility for the extraction, stockpiling, storage, disposal, or reclamation of nonmetallic minerals such as stone, sand, and gravel. Nonmetallic mining does not include ancillary facilities such as access roads, bridges, culverts, and water level control structures. For purposes of this subpart, "facility" includes all mine pits, quarries, stockpiles, basins, processing structures and equipment, and any structures that drain or divert public waters to allow mining.
47. **Off-premises signs.** Those signs that direct attention to an item or location that is not exclusively related to the premises where the sign is located.

48. **Ordinary high water level (OHWL).** Having the meaning given under Minnesota Statutes, section [103G.005](#).
49. **Overlay district.** A zoning district applied over one or more previously established zoning districts, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zoning district. Overlay districts are often used to protect historic features and natural resources such as shoreland or floodplain.
50. **Parcel.** Having the meaning given under Minnesota Statutes, section [116G.03](#).
51. **Patio.** A constructed hard surface located at ground level with no railings and open to the sky.
52. **Picnic shelter.** A roofed structure open on all sides, accessory to a recreational use.
53. **Planned unit development (PUD).** A method of land development that merges zoning and subdivision controls, allowing developers to plan and develop a large area as a single entity, characterized by a unified site design, a mix of structure types and land uses, and phasing of development over a number of years. Planned unit development includes any conversion of existing structures and land uses that utilize this method of development.
54. **Plat.** Having the meaning given under Minnesota Statutes, sections [505](#) and [515B](#).
55. **Port.** A water transportation complex established and operated under the jurisdiction of a port authority according to Minnesota Statutes, chapter [458](#).
56. **Primary conservation areas (PCAs).** Key resources and features identified in City plans, including shore impact zones, bluff impact zones, floodplains, wetlands, gorges, areas of confluence with tributaries, natural drainage routes, unstable soils and bedrock, native plant communities, historic properties, and significant existing vegetative stands, tree canopies, and similar identified resources.
57. **Private facilities.** Private roads, driveways, and parking areas, private water access and viewing facilities, decks and patios in setback areas, and private signs.
58. **Professional engineer.** An engineer licensed to practice in Minnesota.
59. **Public facilities.** Public utilities, public transportation facilities, and public recreational facilities.
60. **Public recreation facilities.** Recreational facilities provided by the state or a local government and dedicated to public use, including parks, scenic overlooks, observation platforms, trails, docks, fishing piers, picnic shelters, water access ramps, and other similar water-oriented public facilities used for recreation.
61. **Public river corridor views (PRCVs).** Views toward the river from public parkland, historic properties, and public overlooks, as well as views toward bluffs from the ordinary high water level of the opposite shore, as seen during the summer months and documented in the MRCCA plan/chapter of the comprehensive plan.
62. **Public transportation facilities.** All transportation facilities provided by federal, state, or local government and dedicated to public use, such as roadways, transit facilities, railroads, and bikeways.
63. **Public utilities.** Electric power facilities, essential services, and transmission services.
64. **Public waters.** Having the meaning given under Minnesota Statutes, section [103G.005](#).
65. **Readily visible.** Land and development that are easily seen from the ordinary high water level of the opposite shore during summer months.

66. **Resource agency.** A federal, state, regional, or local agency that engages in environmental, natural, or cultural resource protection or restoration activities, including planning, implementation, and monitoring.
67. **Retaining wall.** Vertical or nearly vertical structures constructed of mortar and rubble masonry, rock, or stone regardless of size, vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials.
68. **Rock riprap.** Natural coarse rock placed or constructed to armor shorelines, streambeds, bridge abutments, pilings and other shoreline structures against scour, or water or ice erosion.
69. **River corridor boundary.** The boundary approved and adopted by the Metropolitan Council under Minnesota Statutes, section [116G.06](#), as approved and adopted by the legislature in Minnesota Statutes, section [116G.15](#), and as legally described in the State Register, volume 43, pages 508 to 518.
70. **River-dependent use.** The use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.
71. **Selective vegetation removal.** The removal of isolated individual trees or shrubs that are not in a contiguous patch, strip, row, or block and that does not substantially reduce the tree canopy or understory cover.
72. **Setback.** A separation distance measured horizontally.
73. **Shore impact zone (SIZ).** Land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of the required structure setback or, for agricultural use, 50 feet landward of the ordinary high water level. See Figure 4.

Figure 4. Shore Impact Zone



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

75. **Steep slope.** A natural topographic feature with an average slope of 12 to 18 percent, measured over a horizontal distance equal to or greater than 50 feet, and any slopes greater than 18 percent that are not bluffs.
76. **Storm water management facilities.** Facilities for the collection, conveyance, treatment, or disposal of storm water.
77. **Structure.** A building, sign, or appurtenance thereto, except for aerial or underground utility lines, such as sewer, electric, telephone, or gas lines, and utility line towers, poles, and other supporting appurtenances.
78. **Subdivision.** Having the meaning given under Minnesota Statutes, section [462.352](#).
79. **Subsurface sewage treatment system.** Having the meaning given under Minnesota Rules, part [7080.1100](#).
80. **Transmission services.**
- a. Electric power lines, cables, pipelines, or conduits that are:
 - (1) used to transport power between two points, as identified and defined under Minnesota Statutes, section [216E.01, Subd. 4](#); or
 - (2) for mains or pipelines for gas, liquids, or solids in suspension, used to transport gas, liquids, or solids in suspension between two points; and
 - b. Telecommunication lines, cables, pipelines, or conduits.
81. **Treeline.** The more or less continuous line formed by the tops of trees in a wooded area when viewed from a particular point. The treeline is determined during all seasons as if under full foliage.
82. **Variance.** Having the meaning given under Minnesota Statutes, section [394.22](#).
83. **Water access ramp.** A boat ramp, carry-down site, boarding dock, and approach road, or other access that allows launching and removal of a boat, canoe, or other watercraft with or without a vehicle and trailer.
84. **Water-oriented accessory structure.** A small building or other improvement, except stairways, fences, docks, and retaining walls, that, because of the relationship of its use to public waters, needs to be located closer to public waters than the normal structure setback. Examples include gazebos, screen houses, fish houses, pump houses, and detached decks and patios.
85. **Water quality impact zone.** Land within the shore impact zone or within 50 feet of the OHWL of the river, whichever is greater, AND land within 50 feet of a public water, wetland, or natural drainage route.
86. **Wetland.** Having the meaning given under Minnesota Statutes, section [103G.005](#).
87. **Wharf.** Having the meaning given under Minnesota Rules, part [6115.0170](#).

152A.03 ADMINISTRATION

- A. **Purpose.** The purpose of this Section is to identify administrative provisions to ensure this chapter is administered consistent with its purpose.
- B. **Permits.** A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, vegetation removal consistent with § 152A.09 and land alterations consistent with § 152A.10.

- C. **VariANCES.** Variances to the requirements under this § 152A may only be granted in accordance with Minnesota Statutes, Section [462.357](#), § 30.02, and must consider the potential impacts of variances on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan. In reviewing the variance application, the Board of Zoning Adjustment and Appeals shall:
1. Evaluate the impacts to these resources. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, consistent with § 152A.03,E and
 2. Make written findings that the variance is consistent with the purpose of § 30.02 and must consider the potential impacts on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan.
- D. **Conditional and interim use permits.** All conditional and interim uses, allowed under this ordinance, must comply with § 30.02 and Minnesota Statutes, section [462.3595](#) and must consider the potential impacts on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan. In reviewing the application, the *City* shall:
1. Evaluate the impacts to these resources and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, § 152A.03,E; and
 2. Make written findings that the conditional use is consistent with the purpose of this ordinance as follows.
 - a. The extent, location and intensity of the conditional use will be in substantial compliance with the MRCCA Plan;
 - b. The conditional use is consistent with the character and management purpose of the MRCCA district in which it is located;
 - c. The conditional use will not be detrimental to PCAs and PRCVs nor will it contribute to negative incremental impacts to PCAs and PRCVs when considered in the context of past, present, and reasonable future actions; and
- E. **Conditions of Approval.** The Planning Department shall evaluate the impacts to PCAs, PRCVs, and other resources identified in the MRCCA Plan, and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts. Mitigation may include:
1. Restoration of vegetation identified as “vegetation restoration priorities” identified in the MRCCA plan.
 2. Preservation of existing vegetation;
 3. Stormwater runoff management;
 4. Reducing impervious surface;
 5. Increasing structure setbacks;
 6. Wetland and drainage route restoration and/or preservation;
 7. Limiting the height of structures
 8. Modifying structure design to limit visual impacts on PRCVs; and
 9. Other conservation measures.
- F. **Application materials.** Applications for permits and discretionary actions required under this § 152A must submit the following information in addition to other items required by the

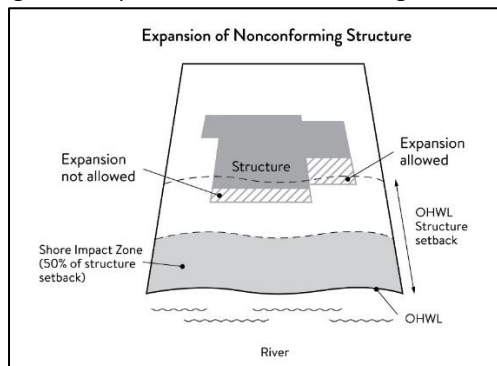
discretionary action unless the Community Development Director determines that the information is not needed.

1. A detailed project description; and
2. Scaled maps and plans, dimensional renderings, maintenance agreements, and other materials that identify and describe:
 - a. Primary conservation areas;
 - b. Public river corridor views;
 - c. Buildable area;
 - d. Existing and proposed topography and drainage patterns;
 - e. Proposed storm water and erosion and sediment control practices;
 - f. Existing and proposed vegetation to be removed and established;
 - g. Ordinary high water level, blufflines, and all required setbacks;
 - h. Existing and proposed structures;
 - i. Existing and proposed impervious surfaces; and
 - j. Existing and proposed subsurface sewage treatment systems.

G. Nonconformities.

1. All legally established nonconformities as of the date of this ordinance may continue consistent with Minnesota Statutes, section [462.357, Subd. 1e](#).
2. New structures erected in conformance with the setback averaging provisions of § 152A.06,C,4 are conforming structures.
3. Site alterations and expansion of site alterations that were legally made prior to the effective date of this ordinance are conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements.
4. Legally nonconforming principal structures that do not meet the setback requirements of § 152A.06,C may be expanded laterally provided that:
 - a. The expansion does not extend into the shore or bluff impact zone or further into the required setback than the building line of the existing principal structure (See Figure 5); and
 - b. The scale and bulk of the expansion is consistent with that of the original structure and existing surrounding development.

Figure 5. Expansion of Nonconforming Structure



H. Notifications.

1. Amendments to this section and to the MRCCA plan must be submitted to the Commissioner as provided in Minnesota Rules, part 6106.0070, Subp. 3, Items B – I.
2. Notice of public hearings for discretionary actions, including conditional and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, master plans, and PUDs, must be sent to the following entities at least ten (10) days prior to the hearing:
 - a. The Commissioner in a format prescribed by the DNR;
 - b. National Park Service; and
 - c. Where building heights exceed the height limits specified in § 152A.06,B as part of the conditional use or variance process, adjoining local governments within the MRCCA, including those with overlapping jurisdiction and those across the river.
3. Notice of final decisions for actions in § 152A.03,H.2, including findings of fact, must be sent to the agencies specified in that section within ten (10) days of the final decision.
4. Requests to amend district boundaries must follow the provisions in Minnesota Rules, part 6106.0100, Subp. 9, Item C.

I. Accommodating disabilities.

Reasonable accommodations for ramps or other facilities to provide persons with disabilities access to the persons' property, as required by the federal Americans with Disabilities Act and the federal Fair Housing Act and as provided by Minnesota Rules, chapter [1341](#), must:

1. Comply with § 152A.06 to § 152A.12; or
2. If § 152A.06 to § 152A.12 cannot be complied with, ramps or other facilities are allowed with an administrative permit provided:
 - a. The permit terminates on either a specific date or upon occurrence of a particular event related to the person requiring accommodation; and
 - b. Upon expiration of the permit, the ramp or other facilities must be removed.

- A. **Purpose.** The purpose of this Section is to establish districts under which building height and structure placement are regulated to protect and enhance the Mississippi River's resources and features consistent with the natural and built character of each district.
- B. **District description and management purpose.** The MRCCA within the *City* is divided into the following MRCCA Districts:
1. Rural and Open Space (ROS).
 - a. Description. The ROS District is characterized by rural and low-density development patterns and land uses, and includes land that is riparian or visible from the river, as well as large, undeveloped tracts of high ecological and scenic value, floodplain, and undeveloped islands. Many primary conservation areas exist in the district.
 - b. Management purpose. The ROS District must be managed to sustain and restore the rural and natural character of the corridor and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas.
 2. River Neighborhood (RN).
 - a. Description. The RN District is characterized by primarily residential neighborhoods that are riparian or readily visible from the river or that abut riparian parkland. The district includes parks and open space, limited commercial development, marinas, and related land uses.
 - b. Management purpose. The RN District must be managed to maintain the character of the river corridor within the context of existing residential and related neighborhood development, and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas. Minimizing erosion and the flow of untreated storm water into the river and enhancing habitat and shoreline vegetation are priorities in the district.
 3. River Towns and Crossings (RTC).
 - a. Description. The RTC District is characterized by historic downtown areas and limited nodes of intense development at specific river crossings, as well as institutional campuses that predate designation of the MRCCA, and that include taller buildings.
 - b. Management purpose. The RTC district must be managed in a manner that allows continued growth and redevelopment in historic downtowns and more intensive redevelopment in limited areas at river crossings to accommodate compact walkable development patterns and connections to the river. Minimizing erosion and the flow of untreated storm water into the river, providing public access to and public views of the river, and restoring natural vegetation in riparian areas and tree canopy are priorities in the district.
 4. Separated from River (SR).
 - a. Description. The SR District is characterized by its physical and visual distance from the Mississippi River. The district includes land separated from the river by distance, topography, development, or a transportation corridor. The land in this district is not readily visible from the Mississippi River.
 - b. Management purpose. The SR district provides flexibility in managing development without negatively affecting the key resources and features of the

river corridor. Minimizing negative impacts to primary conservation areas and minimizing erosion and flow of untreated storm water into the Mississippi River are priorities in the district.

- C. **MRCCA district map.** The locations and boundaries of the MRCCA districts established by this § 155.01 are shown on the *Zoning Overlay map* which is incorporated herein by reference. The district boundary lines are intended to follow the centerlines of rivers and streams, highways, streets, lot lines, and municipal boundaries, unless a boundary line is otherwise indicated on the map. Where district boundaries cross unsubdivided property, the district boundary line is determined by use of dimensions or the scale appearing on the map.

152A.05 SPECIAL LAND USE PROVISIONS

- A. **Purpose.** To identify development standards and considerations for land uses that have potential to negatively impact primary conservation areas and public river corridor views.
- B. **Underlying zoning.** Uses within the MRCCA are determined by underlying zoning, with additional provisions for the following land uses:
1. **Agricultural use.** Perennial ground cover is required within 50 feet of the ordinary high water level and within the bluff impact zone.
 2. **Feedlots.** New animal feedlots and manure storage areas are prohibited. Existing animal feedlots and manure storage areas must conform with Minnesota Rules, chapter [7020](#).
 3. **Forestry.** Tree harvesting and biomass harvesting within woodlands, and associated reforestation, must be consistent with recommended practices in [Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota](#).
 4. **Nonmetallic mining.** Nonmetallic mining requires a conditional use permit or interim use permit issued by the local government, subject to the following:
 - a. New nonmetallic mining is prohibited within the shore impact zone and bluff impact zone and within the required structure setback from the bluffline and OHWL;
 - b. Processing machinery must be located consistent with setback standards for structures as provided in § 152A.06,C;
 - c. Only one barge loading area, which must be limited to the minimum size practicable, is permitted for each mining operation;
 - d. New and, where practicable, existing nonmetallic mining operations must not be readily visible and must be screened by establishing and maintaining natural vegetation. The unscreened boundaries of nonmetallic mining areas are limited to only the barge loading area;
 - e. A site management plan must be developed by the operator and approved by the local government before new nonmetallic mining commences. Operations must be consistent with the site plan throughout the duration of operations at the site. The site management plan must:
 - (1) Describe how the site will be developed over time with an emphasis on minimizing environmental risk to public waters;
 - (2) Explain where staged reclamation may occur at certain points during the life of the site;

- (3) Address dust, noise, storm water management, possible pollutant discharges, days and hours of operation, and duration of operations; and
 - (4) Describe any anticipated vegetation and topographic alterations outside the pit, and reclamation plans consistent with the stated end use for the land; and;
- f. Existing and new nonmetallic mining operations must submit land reclamation plans to the local government compatible with the purposes of this ordinance.
5. **River-dependent uses.** River-dependent uses must comply with the following design standards:
- a. Structures and parking areas, except shoreline facilities and private roads and conveyances serving river dependent uses as provided in § 152A.12, must meet the dimensional and performance standards in this chapter, must be designed so that they are not readily visible, and must be screened by establishing and maintaining natural vegetation;
 - b. Shoreline facilities must comply with Minnesota Rules, chapter [6115](#) and must:
 - c. Be designed in a compact fashion so as to minimize the shoreline area affected; and
 - d. Minimize the surface area of land occupied in relation to the number of watercraft or barges to be served; and
 - e. Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.
6. **Wireless communication towers.** Wireless communication towers require a conditional or interim use permit and are subject to the following design standards:
- a. The applicant must demonstrate that functional coverage cannot be provided through co-location, a tower at a lower height, or a tower at a location outside of the MRCCA;
 - b. The tower must not be located in a bluff or shore impact zone; and
 - c. Placement of the tower must minimize impacts on public river corridor views.
 - d. Comply with the general design standards in § 152A.08,B.

152A.06 STRUCTURE HEIGHT AND PLACEMENT AND LOT SIZE

- A. **Purpose.** To establish standards that protect primary conservation areas and public river corridor views from development impacts and ensure that new development is sited consistent with the purpose of the MRCCA.
- B. **Structure height.** Structures and facilities must comply with the following standards unless identified as exempt in § 152A.12.
- 1. Structures and facilities must comply with the following standards unless identified as exempt in § 152A.12.
 - a. ROS District: 35 feet or lower.
 - b. RN District: 35 feet. or lower.

- c. RTC District: 47 feet or lower, provided that structure design and placement minimizes interference with public river corridor views. Structures over 47 feet and up to 65 feet are allowed as a conditional use according to § 152A.06,B,3.
- d. SR District: Height is determined by underlying zoning, provided the allowed height is not visible, as viewed from the OHWL of the opposite shore.

2. Height is measured on the side of the structure facing the Mississippi River.

3. In addition to the conditional use permit requirements of § 152A.03,D, criteria for considering whether to grant a conditional use permit for structures exceeding the height limits must include:

- a. Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;
- b. Determination that the proposed structure meets the required bluff and OHWL setbacks;
- c. Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as:
 - i. Placing the long axis of the building perpendicular to the river;
 - ii. Stepping back of portions of the facade;
 - iii. Lowering the roof pitch or use of a flat roof;
 - iv. Using building materials or mitigation techniques that will blend in with the natural surroundings such as green roofs, green walls, or other green and brown building materials;
 - v. Narrowing the profile of upper floors of the building; or
 - vi. Increasing the setbacks of the building from the Mississippi River or blufflines;
- d. Identification of techniques for preservation of those view corridors identified in the MRCCA Plan; and
- e. Opportunities for creation or enhancement of public river corridor views.

C. Structure and impervious surface placement.

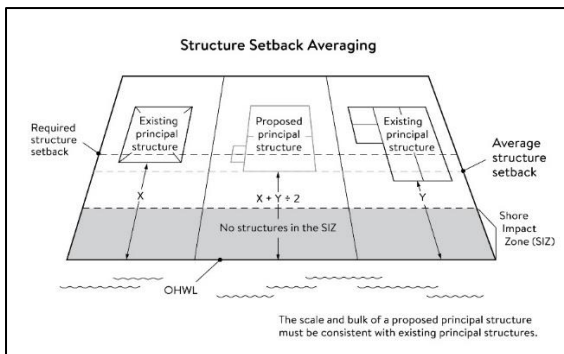
- 1. Structures and impervious surface must not be placed in the shore or bluff impact zones unless identified as an exemption in § 152A.12.
- 2. Structures, impervious surfaces, and facilities must comply with the following OHWL setback provisions unless identified as exempt in § 152A.12.
 - a. ROS District: 200 feet from the Mississippi River and 150 feet from the Vermillion River.
 - b. RN District: 100 feet from the Mississippi River.
 - c. RTC District: 75 feet from the Mississippi River.
- 3. Structures, impervious surfaces, and facilities must comply with the following bluffline setback provisions unless identified as exempt in § 152A.12:
 - a. ROS District: 100 feet.
 - b. RN District: 40 feet.

c. RTC District: 40 feet.

d. SR District: 40 feet.

4. Where principal structures exist on the adjoining lots on both sides of a proposed building site, the minimum setback may be altered to conform to the average of the adjoining setbacks, if the new structure's scale and bulk riverward or bluffward of the setbacks required under § 152A.06,C,2 and § 152A.06,C,3 are consistent with adjoining development. See Figure 6.

Figure 6. Structure Setback Averaging



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

D. Lot size and buildable area.

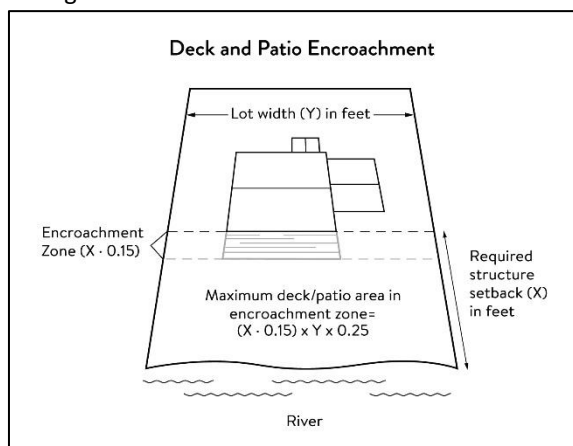
1. The width of lots abutting the Mississippi River in the ROS District must be at least 200 feet, unless alternative design methods are used that provide greater protection of the riparian area.
2. All new lots must have adequate buildable area to comply with the setback requirements of § 152A.06,C,2 and § 152A.06,C,3 so as to not require variances to use the lots for their intended purpose.

152A.07 PERFORMANCE STANDARDS FOR PRIVATE FACILITIES

- A. **Purpose.** To establish design standards for private facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan.
- B. **General design standards.** All private facilities must be developed in accordance with the vegetation management and land alteration requirements in § 152A.09 and § 152A.10.
- C. **Private roads, driveways, and parking areas.** Except as provided in § 152A.12, private roads, driveways and parking areas must:
1. Be designed to take advantage of natural vegetation and topography so that they are not readily visible;
 2. Comply with structure setback requirements according to § 152A.06,C,3; and
 3. Not be placed within the bluff impact zone or shore impact zone, unless exempt under § 152A.12 and designed consistent with § 152A.08,B.
- D. **Private water access and viewing facilities.**

1. Private access paths must be no more than:
 - a. Eight feet wide, if placed within the shore impact zone; and
 - b. Four feet wide, if placed within the bluff impact zone.
 2. Private water access ramps must:
 - a. Comply with Minnesota Rules, parts [6115.0210](#) and [6280.0250](#); and
 - b. Be designed and constructed consistent with the applicable standards in Design Handbook for Recreational Boating and Fishing Facilities.
 3. Design and construction of private stairways, lifts, and landings are subject to the following standards:
 - a. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties and residential facilities held in common, if approved by the City;
 - b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet area allowed for commercial properties and residential facilities held in common, if approved by the City;
 - c. Canopies or roofs are prohibited on stairways, lifts, or landings;
 - d. Stairways, lifts, and landings must be located in the least visible portion of the lot whenever practical; and
 - e. Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities are allowed for achieving access to shore areas according to § 152A.07,D,3 A – D, and as provided under § 152A.03,I.
 4. One water-oriented accessory structure is allowed for each riparian lot or parcel less than 300 feet in width at the ordinary high water level, with one additional water-oriented accessory structure allowed for each additional 300 feet of shoreline on the same lot or parcel. Water-oriented accessory structures are prohibited in the bluff impact zone and must:
 - a. Not exceed 12 feet in height;
 - b. Not exceed 120 square feet in area; and
 - c. Be placed a minimum of 10 feet from the ordinary high water level.
- E. Decks and patios in setback areas.** Decks and at-grade patios may encroach into the required setbacks from the ordinary high water level and blufflines without a variance, when consistent with § 152A.09 and § 152A.10, provided that:
1. The encroachment of the deck or patio into the required setback area does not exceed 15 percent of the required structure setback;
 2. The area of the deck or patio that extends into the required setback area occupies no more than 25 percent of the total area between the required setback and the 15 percent using the formula:
 [Required setback depth (feet) x 0.15 x lot width at setback (feet) x 0.25 = maximum total area]
 3. The deck or patio does not extend into the bluff impact zone. See Figure 7.

Figure 7. Deck and Patio Encroachment



F. Off-premises and directional signs.

1. Off-premises signs must:

- a. Meet required structure placement and height standards in § 152A.06,B and § 152A.06,C,3.
- b. Not be readily visible

2. **Directional signs.** Directional signs for visitors arriving at a destination by watercraft must comply with the following standards:

- a. They must be consistent with Minnesota Statutes, section [86B.115](#).

Only convey the location, name, and description of the Site, if located in a shore impact zone.

Be no greater than ten feet in height and 32 square feet in surface area; and

If illuminated, the lighting must be shielded and directed downward to prevent illumination out across the river or to the sky.

G. Fences. Fences between principal structures and the river are permitted, provided the following standards are met:

1. Subject to the fencing requirements of § 155.05
2. Compliant with the provision of the city's landscape fence and easement policy, April 2005, as amended
3. Fences shall not be higher than six feet.
4. Fences shall not be located within the SIZ and BIZ.
5. Fences shall not be located in the regulatory floodplain.

H. Lighting. Within the OHWL setback:

1. Lighting shall meet the exterior lighting standards in § 155, shielded, and directed away from the river and sky.
2. Uplighting is prohibited.

152A.08 PERFORMANCE STANDARDS FOR PUBLIC FACILITIES

- A. **Purpose.** To establish design standards for public facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan. Public facilities serve the public interest by providing public access to the Mississippi River corridor or require locations in or adjacent to the river corridor and therefore require some degree of flexibility.
- B. **General design standards.** All public facilities must be designed and constructed to:
1. Minimize visibility of the facility from the river to the extent consistent with the purpose of the facility;
 2. Comply with the structure placement and height standards in § 152A.06, except as provided in § 152A.12;
 3. Be consistent with the vegetation management standards in § 152A.09 and the land alteration and storm water management standards in § 152A.10, including use of practices identified in [Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001](#), where applicable;
 4. Avoid primary conservation areas, unless no alternative exists. If no alternative exists, then disturbance to primary conservation areas must be avoided to the greatest extent practicable, and design and construction must minimize impacts; and
 5. Minimize disturbance of spawning and nesting times by scheduling construction at times when local fish and wildlife are not spawning or nesting.
 6. During bird migration times, schedule construction, or implement mitigation measures, to minimize disturbance in primary conservation areas.
- C. **Right-of-way maintenance standards.** Right-of-way maintenance must comply with the following standards:
1. Vegetation currently in a natural state must be maintained to the extent feasible;
 2. Where vegetation in a natural state has been removed, native plants must be planted and maintained on the right-of-way; and
 3. Chemical control of vegetation must be avoided when practicable, but when chemical control is necessary, chemicals used must be in accordance with the regulations and other requirements of all state and federal agencies with authority over the chemical's use.
- D. **Crossings of public water or public land.** Crossings of public waters or land controlled by the commissioner are subject to approval by the commissioner according to Minnesota Statutes, sections [84.415](#) and [103G.245](#).
- E. **Public utilities.** Public utilities must comply with the following standards:
1. High-voltage transmission lines, wind energy conversion systems greater than five megawatts, and pipelines are regulated according to Minnesota Statutes, chapter [216E](#), [216F](#), and [216G](#) respectively; and
 2. If overhead placement is necessary, utility facility crossings must minimize visibility of the facility from the river and follow other existing right of ways as much as practicable.
 3. The appearance of structures must be as compatible as practicable with the surrounding area in a natural state with regard to height and width, materials used, and color.
 4. Wireless communication facilities, according to § 152A.05,B,6.

- F. **Public transportation facilities.** Public transportation facilities shall comply with structure placement and height standards in § 152A.06. Where such facilities intersect or abut two or more MRCCA districts, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:
1. Providing scenic overlooks for motorists, bicyclists, and pedestrians;
 2. Providing safe pedestrian crossings and facilities along the river corridor;
 3. Providing access to the riverfront in public ownership; and
 4. Allowing for use of the land between the river and the transportation facility.
- G. **Public recreational facilities.** Public recreational facilities must comply with the following standards:
1. Buildings and parking associated with public recreational facilities must comply with the structure placement and height standards in § 152A.06, except as provided in § 152A.12;
 2. Roads and driveways associated with public recreational facilities must not be placed in the bluff or shore impact zones unless no other placement alternative exists. If no alternative exists, then design and construction must minimize impacts to shoreline vegetation, erodible soils and slopes, and other sensitive resources.
 3. Trails, access paths, and viewing areas associated with public recreational facilities and providing access to or views of the Mississippi River are allowed within the bluff and shore impact zones if design, construction, and maintenance methods are consistent with the best management practice guidelines in [Trail Planning, Design, and Development Guidelines](#).
 - a. Hard-surface trails are not allowed on the face of bluffs with a slope exceeding 30 percent. Natural surface trails are allowed, provided they do not exceed eight feet in width.
 - b. Trails, paths, and viewing areas must be designed and constructed to minimize:
 - i. Visibility from the river;
 - ii. Visual impacts on public river corridor views; and
 - iii. Disturbance to and fragmentation of primary conservation areas.
 4. Public water access facilities must comply with the following requirements:
 - a. Watercraft access ramps must comply with Minnesota Rules chapters [6115.0210](#) and [6280.0250](#); and
 - b. Facilities must be designed and constructed consistent with the standards in Design Handbook for Recreational Boating and Fishing Facilities.
 5. Public signs and kiosks for interpretive or directional purposes are allowed in the bluff or shore impact zones, provided they are placed and constructed to minimize disturbance to these areas and avoid visual impacts on public river corridor views. If illuminated, the lighting must be shielded and be directed downward.
 6. Public stairways, lifts, and landings must be designed as provided in § 152A.07,D,3.

- A. **Purpose.** To establish standards that sustain and enhance the biological and ecological functions of vegetation; preserve the natural character and topography of the MRCCA; and maintain stability of bluffs and steep slopes and ensure stability of other erosion-prone areas.
- B. **Applicability.** This section applies to:
1. Shore impact zones;
 2. Areas within 50 feet of a wetland or natural drainage route;
 3. Bluff impact zones;
 4. Areas of native plant communities; and
 5. Significant existing vegetative stands identified in the MRCCA plan.
- C. **Activities allowed without a vegetation permit.**
1. Maintenance of existing lawns, landscaping and gardens;
 2. Removal of vegetation in emergency situations as determined by the City;
 3. Right-of-way maintenance for public facilities meeting the standards § 152A.08,C;
 4. Agricultural and forestry activities meeting the standards of § 152A.05,B,1 and § 152A.05,B,3;
 5. Selective vegetation removal, provided that vegetative cover remains consistent with the management purpose of the MRCCA District, including removal of:
 - a. Vegetation that is dead, diseased, dying, or hazardous;
 - b. Vegetation to prevent the spread of diseases or insect pests;
 - c. Individual trees and shrubs; and
 - d. Invasive non-native species.
- D. **Activities allowed with a vegetation permit.**
1. Only the following intensive vegetation clearing activities are allowed with a vegetation permit:
 - a. Clearing of vegetation that is dead, dying, diseased, infested, or hazardous;
 - b. Clearing to prevent the spread of diseases or insect pests;
 - c. Clearing to remove invasive non-native species.
 - d. Clearing to prepare for restoration and erosion control management activities consistent with a plan approved by the City.
 - e. The minimum necessary for development that is allowed with a building permit or as an exemption under § 152A.12.
 2. General Performance Standards. The following standards must be met, in addition to a restoration plan under § 152A.09,F, in order to approve a vegetation permit:
 - a. Development is sited to minimize removal of or disturbance to natural vegetation;
 - a. Soil, slope stability, and hydrologic conditions are suitable for the proposed work as determined by a professional engineer;
 - b. Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views;

- c. Vegetation removal activities are conducted so as to expose the smallest practical area of soil to erosion for the least possible time, and to minimize disturbance during bird migration and nesting seasons;
- d. Any other condition determined necessary to achieve the purpose of this section.

E. **Prohibited activities.** All other intensive vegetation clearing is prohibited.

F. **Vegetation restoration plan.**

1. Development of a vegetation restoration plan and reestablishment of natural vegetation is required:
 - a. For any vegetation removed with a permit under § 152A.09,D,1;
 - b. Upon failure to comply with any provisions in this section; or
 - c. As part of the planning process for subdivisions as provided in § 152A.11.
2. Restoration Plan Performance Standards. The vegetation restoration plan must satisfy the application submittal requirements in § 152A.03,F, and:
 - a. Vegetation must be restored in one or more of the following restoration priority areas:
 - i. Areas with soils showing signs of erosion, especially on or near the top and bottom of steep slopes and bluffs;
 - ii. Restoration or enhancement of shoreline vegetation;
 - iii. Revegetation of bluffs or steep slopes visible from the river; or
 - iv. Other approved priority opportunity area, including priorities identified in the MRCCA plan, if none of the above exist.
 - b. Include vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities and by Native Vegetation Establishment and Enhancement Guidelines;
 - c. Any highly erodible soils disturbed during removal and/or restoration must be stabilized with deep-rooted vegetation with a high stem density;
 - d. All vegetation removed must be restored with natural vegetation to the greatest extent practicable. The area (square feet) of the restored vegetation should be similar to that removed to the greatest extent practicable.
 - e. Native plant communities removed must be restored with biological and ecological function equivalent to the removed native plant communities. The area (square feet) of the restored vegetation should be equivalent to that removed;
 - f. Be prepared by a qualified individual; and
 - g. Include a maintenance plan that includes management provisions for controlling invasive species and replacement of plant loss for three years.
3. A certificate of compliance will be issued after the vegetation restoration plan requirements have been satisfied.

152A.10 LAND ALTERATION STANDARDS AND STORMWATER MANAGEMENT

A. **Purpose.** To establish standards that protect water quality from pollutant loadings of sediment, nutrients, bacteria, and other contaminants; and maintain stability of bluffs, shorelines, and other areas prone to erosion.

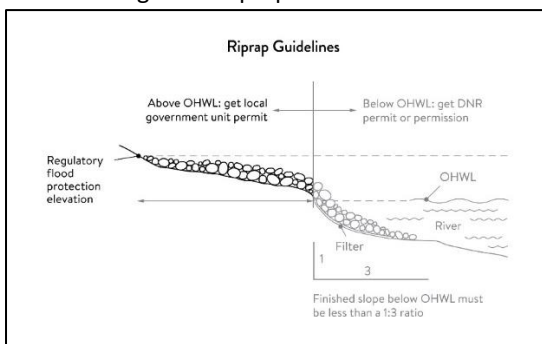
B. **Land alteration.**

1. Within the bluff impact zone, land alteration is prohibited, except for the following, which are allowed by permit.
 - a. Erosion control consistent with a plan approved by the local government or resource agency and consistent with § 152A.10,F;
 - b. The minimum necessary for development that is allowed as an exception under § 152A.12; and
 - c. Repair and maintenance of existing buildings and facilities.
2. Within the water quality impact zone, land alteration that involves more than ten cubic yards of material or affects an area greater than 1,000 square feet requires a permit.

C. **Rock riprap, retaining walls, and other erosion control structures.**

1. Construction, repair, or replacement of rock riprap, retaining walls, and other erosion control structures located at or below the OHWL must comply with Minnesota Rules, part [6115.0215, Subp. 4, item E](#), and [6115.0216, Subp. 2](#). Work must not proceed until approved by the commissioner, permitted by the US Army Corps of Engineers, and any other permits are obtained. See Figure 8.

Figure 8. Riprap Guidelines



2. Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and the water quality impact zone are allowed with a permit consistent with provisions of § 152A.10,F provided that:
 - a. If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.
 - b. The structures are used only to correct an established erosion problem as determined by the City.
 - c. The size and extent of the structures are the minimum necessary to correct the erosion problem and are not larger than the following, unless a professional engineer determines that a larger structure is needed to correct the erosion problem:

- i. Retaining walls must not exceed five feet in height and must be placed a minimum horizontal distance of ten feet apart; and
 - ii. Riprap must not exceed the height of the regulatory flood protection elevation.
3. Repair of existing rock riprap, retaining walls, and other erosion control structures above the OHWL does not require a permit provided it does not involve any land alteration.

D. Stormwater management.

- 1. In the bluff impact zone, storm water management facilities are prohibited, except by permit if:
 - a. There are no alternatives for storm water treatment outside the bluff impact zone on the subject site;
 - b. The site generating runoff is designed so that the amount of runoff reaching the bluff impact zone is reduced to the greatest extent practicable;
 - c. The construction and operation of the facility does not affect slope stability on the subject property or adjacent properties; and
 - d. Mitigation based on the best available engineering and geological practices is required and applied to eliminate or minimize the risk of slope failure.
- 2. In the water quality impact zone, development that creates new impervious surface, as allowed by exemption in § 152A.12, or fully reconstructs existing impervious surface of more than 10,000 square feet requires a storm water permit . Multipurpose trails and sidewalks are exempt if there is down gradient vegetation or a filter strip that is at least five feet wide.
- 3. In all other areas, storm water runoff must be directed away from the bluff impact zones or unstable areas.

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

- 1. The development can be accomplished without increasing erosion or storm water runoff;
- 2. The soil types and geology are suitable for the proposed development; and
- 3. Vegetation is managed according to the requirements of § 152A.09.

F. Conditions of land alteration permit approval.

- 1. Temporary and permanent erosion and sediment control measures retain sediment onsite consistent with best management practices in the [Minnesota Stormwater Manual](#);
- 2. Natural site topography, soil, and vegetation conditions are used to control runoff and reduce erosion and sedimentation;
- 3. Construction activity is phased when possible;
- 4. All erosion and sediment controls are installed before starting any land disturbance activity;
- 5. Erosion and sediment controls are maintained to ensure effective operation;
- 6. The proposed work is consistent with the vegetation standards in § 152A.09; and

7. Best management practices for protecting and enhancing ecological and water resources identified in [Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001](#).

G. Compliance with other plans and programs. All development must:

1. Be consistent with Minnesota Statutes, chapter [103B](#), and local water management plans completed under Minnesota Statutes, chapter [8410](#);
2. Meet or exceed the wetland protection standards under Minnesota Rules, chapter [8420](#); and
3. Meet or exceed the floodplain management standards under Minnesota Rules, sections [6120.5000 – 6120.6200](#).

152A.11 SUBDIVISION AND LAND DEVELOPMENT STANDARDS

A. Purpose.

1. To protect and enhance the natural and scenic values of the MRCCA during development or redevelopment of the remaining large sites
2. To establish standards for protecting and restoring biological and ecological functions of primary conservation areas on large sites; and
3. To encourage restoration of natural vegetation during development or redevelopment of large sites where restoration opportunities have been identified in MRCCA Plans.

B. Applicability.

1. The design standards in this section apply to subdivisions, planned unit developments and master-planned development and redevelopment of land involving ten or more acres for contiguous parcels that abut the Mississippi River and 20 or more acres for all other parcels, including smaller individual sites within the following developments that are part of a common plan of development that may be constructed at different times:
 - a. Subdivisions;
 - b. Planned unit developments; and
 - c. Master-planned development and redevelopment of land.
2. The following activities are exempt from the requirements of this section:
 - a. Minor subdivisions consisting of three or fewer lots;
 - b. Minor boundary line corrections;
 - c. Resolutions of encroachments;
 - d. Additions to existing lots of record;
 - e. Placement of essential services; and
 - f. Activities involving river-dependent commercial and industrial uses.

C. Application materials. Project information listed in § 152A.03,F must be submitted for all proposed developments.

D. Design standards.

1. Primary conservation areas, where they exist, must be set aside and designated as protected open space in quantities meeting the following as a percentage of total parcel area:
 - a. CA-ROS District: 50%;
 - b. CA-RN District: 20%;
 - c. CA-RTC, District: 10%;
2. If the primary conservation areas exceed the amounts specified in § 152A.11,D,1, then protection of native plant communities and natural vegetation in riparian areas shall be prioritized.
3. If primary conservation areas exist but do not have natural vegetation (identified as restoration priorities in the MRCCA Plan), then a vegetation assessment must be completed to evaluate the unvegetated primary conservation areas and determine whether vegetation restoration is needed. If restoration is needed, vegetation must be restored according to § 152A.09,F,2.
4. If primary conservation areas do not exist on the parcel and portions of the parcel have been identified in the MRCCA plan as a restoration area, vegetation must be restored in the identified areas according to § 152A.09,F,2 and the area must be set aside and designated as protected open space.
5. Storm water treatment areas or other green infrastructure may be used to meet the protected open space requirements if the vegetation provides biological and ecological functions.
6. Land dedicated under §154 for public river access, parks, or other open space or public facilities may be counted toward the protected open space requirement.
7. Protected open space areas must connect open space, natural areas, and recreational areas, where present on adjacent parcels, as much as possible to form an interconnected network.

E. Permanent protection of designated open space.

1. Designated open space areas must be protected through one or more of the following methods:
 - a. Public acquisition by a government entity for conservation purposes;
 - b. A permanent conservation easement, as provided in Minnesota Statutes, chapter 84C;
 - c. A deed restriction; and
 - d. Other arrangements that achieve an equivalent degree of protection as approved by the City.
2. Permanent protection methods must ensure the long-term management of vegetation to meet its biological and ecological functions, prohibit structures, and prohibit land alteration, except as needed to provide public recreational facilities and access to the river.

F. Alternative design standards. Alternative design standards may be considered through one or more of the following methods:

1. Individual lots in a planned unit development or cluster development are not required to meet the design standards of this section if it can be demonstrated that the overall development is in compliance with the standards and purpose of this section.

2. Protection and restoration of continuous vegetation – preventing the fragmentation of vegetation and habitat by individual lots, especially along the river and natural drainage areas and protecting it as common open space.
3. Transfer of development rights in return for protection of open space beyond the minimum identified in § 152A.11,D,1.

152A.12 EXEMPTIONS

A. **Purpose.** To provide exemptions to structure placement, height and other standards for specific river or water access dependent facilities as provided in Minnesota Statutes, section [116G.15 Subd. 4.](#)

B. **Applicability.**

1. Uses and activities not specifically exempted must comply with this *chapter*. Uses and activities exempted under shore impact zone and bluff impact zone must comply with the vegetation management and land alteration standards in § 152A.09 and § 152A.10.
2. Uses and activities in § 152A.12,C,1 are categorized as:
 - a. **Exempt – E.** This means that the use or activity is allowed;
 - b. **Exempt if no alternative - EA.** This means that the use or activity is allowed only if no alternatives exist; and
 - c. **Not exempt - N.** This means that a use or activity is not exempt and must meet the standards of this ordinance.

C. **Use and activity exemptions classification.**

1. General uses and activities.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers)	N	E	N	N	Structure design and placement must minimize interference with public river corridor views.
Barns, silos, and farm structures	N	E	N	N	
Bridges and bridge approach roadways	E	E	E	EA	§ 152A.08
Wireless communication towers	E	E	N	N	§ 152A.05,B,6
Chimneys, church spires, flag poles, public monuments, and mechanical stacks and equipment	N	E	N	N	
Historic properties and contributing properties in historic districts	E	E	E	E	Exemptions do not apply to additions or site alterations

2. Public utilities.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Electrical power facilities	E	E	E	EA	§ 152A.08
Essential services (other than storm water facilities)	E	E	E	EA	§ 152A.08
Storm water facilities	E	N	E	EA	§ 152A.10
Wastewater treatment	E	N	E	N	§ 152A.08
Public transportation facilities	E	N	EA	EA	§ 152A.08

3. Public recreational facilities.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Accessory structures, such as monuments, flagpoles, light standards, and similar park features	E	E	EA	EA	§ 152A.08; within BIZ, only on slopes averaging less than 30%. Exemptions do not apply to principal structures.
Picnic shelters and other open-sided structures	E	N	EA	N	§ 152A.08
Parking lots	EA	N	EA	EA	§ 152A.08; within BIZ, only within 20 feet of toe of bluff; not on face of bluff; and must not affect stability of bluff
Roads and driveways	EA	N	EA	EA	§ 152A.08
Natural-surfaced trails, access paths, and viewing areas	E	N	E	E	§ 152A.08
Hard-surfaced trails and viewing platforms	E	N	E	EA	§ 152A.08; within BIZ, only on slopes averaging less than 30%
Water access ramps	E	N	E	EA	§ 152A.08
Public signs and kiosks for interpretive or directional purposes	E	N	E	EA	§ 152A.08

4. River-dependent uses.

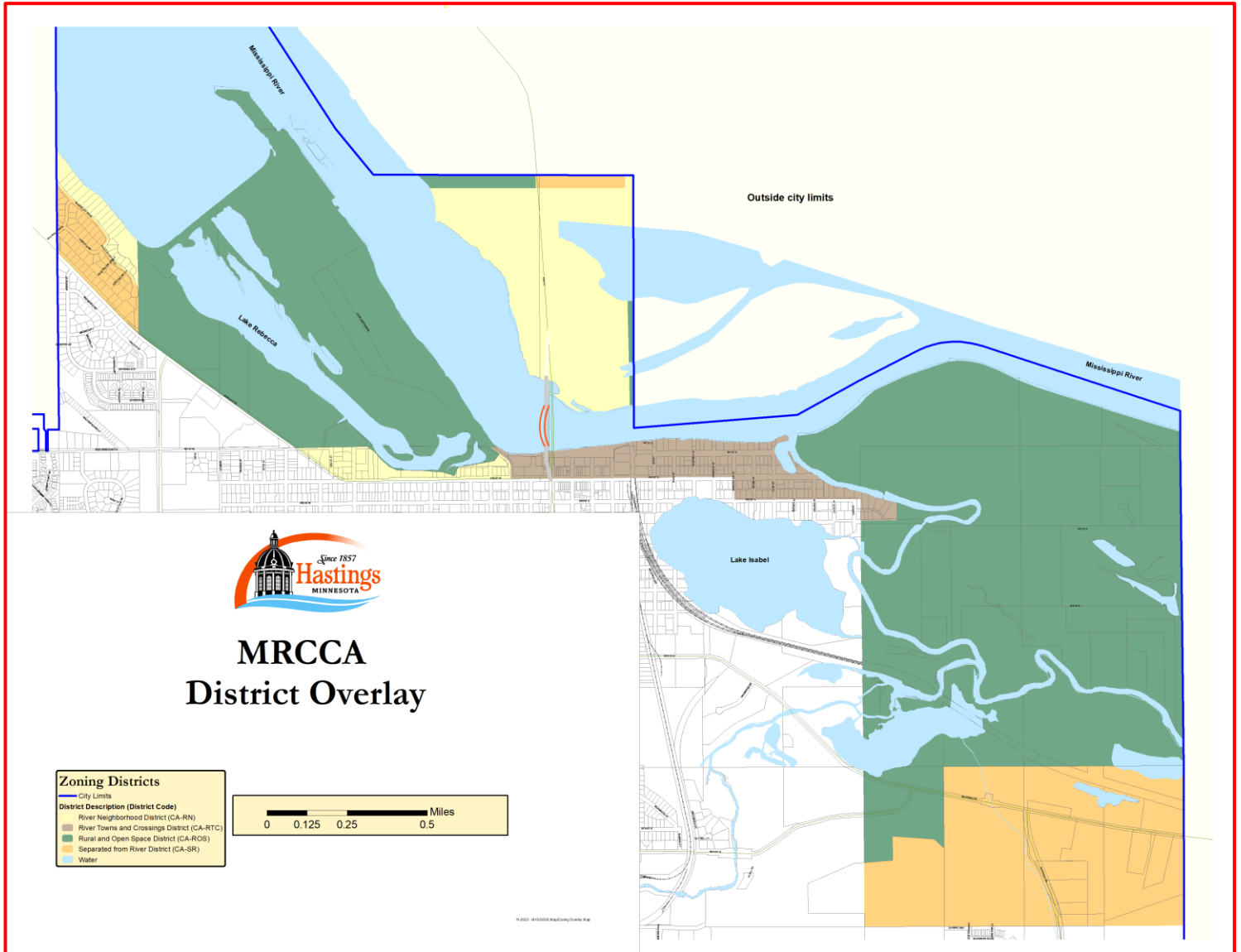
Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Shoreline facilities	E	N ¹	E	EA	§ 152A.05,B,5. Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility
Private roads and conveyance structures serving river-dependent uses	E	N1	E	EA	§ 152A.05,B,5

5. Private residential and commercial water access and use facilities.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Private roads serving 3 or more lots	EA	N	N	EA	§ 152A.07; in BIZ, only on slopes averaging less than 30%. Exemption does not apply to private roads serving fewer 3 lots or to private driveways and parking areas
Access paths	E	N	E	E	§ 152A.07
Water access ramps	E	N	E	N	§ 152A.07
Stairways, lifts, and landings	E	N	E	E	§ 152A.07
Water-oriented accessory structures	E	N	E	N	§ 152A.07
Patios and decks	E	N	N	N	§ 152A.07,E
Directional signs for watercraft (private)	E	N	E	N	§ 152A.07,F; exemption does not apply to off-premises signs
Temporary storage of docks, boats, and other equipment during the winter months	E	N	E	N	
Erosion control structures, such as rock riprap and retaining walls	E	N	E	EA	Sections § 152A.10,C, § 152A.10,E, and § 152A.10,F
Flood control structures	E	N	E	EA	§ 152A.10

¹ River-dependent commercial, industrial, and utility structures are exempt from height limits only if greater height is required for operational reasons.

SECTION 2. AMENDMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 155.01 Official Zoning Map, shall be amended by adding the following overlay districts: ROS District, RN District, RTC District, and SR District.



SECTION 3. AMENDMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 155.08 Signs, shall be amended by removal of stricken wording.

The Sign code 155.08

3.b. All signs/sign structures shall be maintained in safe and orderly condition with the areas around them kept free from debris, ~~bushes, high grass/weeds,~~ or anything else that would be a nuisance.

SECTION 4. AMENDMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 158.04 Property Maintenance Requirements, shall be amended by the addition of underlined wording.

D. Grass And Weeds On Public or Private Property.

1. It is unlawful for any owner, occupant or agent of any lot or parcel of land in the city to allow any vegetation such as weeds or grass growing upon any such lot or parcel or land to grow to a height greater than 12 inches or to allow such weeds or grass to go to seed.
2. If any such owner, occupant or agent fails to comply with this height limitation and after notice given by the Property Maintenance Inspector, or his or her agent, has not complied within 72 hours of such notice, the city shall cause such weeds or grass to be cut and the expenses thus incurred shall be a lien upon such real estate. The city shall certify to the Dakota County Auditor, a statement of cost incurred by the city. Such amount, together with interest, shall be entered as a special assessment against such lot or parcel of land and shall be collected in the same manner as real estate taxes.
3. Property owners must also comply with City Code § 90.05 regarding Grass, Weeds, and Trees in Street.
4. Exemption. Any ground cover vegetation located in the following areas is hereby exempt from height and going to seed restrictions:
 - a. Shore impact zones;
 - b. Areas within fifty feet (50') of a wetland or natural drainage way;
 - c. Bluff impact zones;
 - d. Areas of native plant communities; and
 - e. Significant vegetative stands, with said areas identified under Section 152A, Mississippi River Corridor Critical Area (MRCCA) Overlay District ordinance.

Ground cover vegetation and any vegetation management within the MRCCA Overlay District shall comply with the Vegetation Management requirements and standards of Section 152A.09 and any Vegetation Management Permits approved by the City.

SECTION 5. AMENDMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 90.05 Grass, Weeds, And Trees In Streets, shall be amended by the addition of underlined wording.

- A. *City To Control Trees And Grass Plats.* The city shall have control and supervision over all shrubs and trees upon, or overhanging all streets or other public property, and all street right-of-way or other public property.

- B. *Duty Of Property Owners To Cut Grass And Weeds And Maintain Trees And Shrubs.* Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of the property nearest to the street in the center of the street. If the grass or weeds in such a place attain a height in excess of 12 inches it shall be prima facie evidence of a failure to comply with this division (D). Every owner of property abutting on any street shall, subject to the provisions herein requiring a permit therefore, trim, cut, and otherwise maintain all trees and shrubs from the line of the property nearest to the street to the center of the street.
- C. *City May Order Work Done.* The city shall, in cases of failure to comply with division (D) above, perform the work with employees of the city, keeping an accurate account of the cost thereof for each lot, piece, or parcel of land abutting upon the street.
- D. *Assessment.* If the maintenance work is performed by the city as set forth in division (E) above, the City Clerk shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Clerk shall, at the next regular meeting thereof, present the certificate to the Council and obtain its approval thereof. When the certificate has been approved it shall be extended as to the cost therein stated as a special assessment against the abutting land and the special assessment shall, at the time of certifying the taxes to the County Auditor, be certified and collection, or in the alternative, the city may institute civil suit to collect the cost of the service.
- E. *Exemption. Any ground cover vegetation located in the following areas is hereby exempt from height and going to seed restrictions:*
- a. Shore impact zones;*
 - b. Areas within fifty feet (50') of a wetland or natural drainage way;*
 - c. Bluff impact zones;*
 - d. Areas of native plant communities; and*
 - e. Significant vegetative stands, with said areas identified under Section 152A, Mississippi River Corridor Critical Area (MRCCA) Overlay District ordinance.*
- Ground cover vegetation and any vegetation management within the MRCCA Overlay District shall comply with the Vegetation Management requirements and standards of Section 152A.09 and any Vegetation Management Permits approved by the City.*

SECTION 6. AMENDMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 95.21 Public Nuisances Affecting Health, shall be amended by the addition of underlined wording.

The following are hereby declared to be public nuisances affecting health:

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter;
- B. All diseased animals running at large;
- C. All ponds or pools of stagnant water;
- D. Carcasses of animals not buried or destroyed within 24 hours after death;
- E. Accumulations of manure, refuse, or other debris;
- F. Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- G. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;

- H. All noxious weeds and other rank growths of vegetation upon public or private property which constitute a health hazard;
- I. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- J. All unnecessary and annoying vibrations;
- K. Violations of City Code § 152.09 (Illicit Discharges and Connections)
- L. Any offensive trade or business as defined by statute not operating under local license.

SECTION 7. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text adopted by the Hastings City Council on _____, 2023 modifies the City Code to include Chapter 152A MRCCA (Mississippi River Corridor Critical Area), amends Chapter 155.01 Official Zoning to add MRCCA overly districts, amends Chapter 155.08 Signs to remove weed and grass provisions, amends Chapters 158.04 Property Maintenance Requirements and 90.05 Grass, Weeds, And Trees In Streets by adding an exemption to weed and grass provisions for certain areas with in the MRCCA, and amends Chapter 95.21 Public Nuisances Affecting Health to add clarifying language to hazardous weeds and vegetation.

SECTION 8. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this _____ day of _____, 2023.

Mary Fasbender, Mayor

Attest:

Kelly Murtaugh, City Clerk

Published in the _____ on [Date].



Planning Commission Memorandum

To: Planning Commissioners
From: Justin Fortney, City Planner
Date: November 27, 2023
Item: Public Hearing: Proposed City Code - Mississippi River Corridor Critical Area Overlay District and Related Items

Planning Commission Action Requested:

Hold a public hearing, review the following proposed ordinance amendments related to the MRCCA (Mississippi River Corridor Critical Area) ordinance, and make a recommendation to the City Council:

1. Proposed City Code Chapter 152A - MRCCA (Mississippi River Corridor Critical Area) ordinance.
2. Amend Official Zoning Map Chapter 155.01 with proposed MRCCA overlay districts.
3. Zoning Chapter 155.08 related to weeds and grasses.
4. Property Maintenance Requirements Chapter 158.04 related to weeds and grasses.

Background:

The MRCCA is a 72-mile corridor along the Mississippi River through the Twin Cities, including Hastings. Originally created as The Critical Areas Act in 1973 with subsequent reiterations until the Minnesota Legislature in 2017 passed MN Rules, Chapter 6106 requiring adoption of local (i.e., City) controls to implement MRCCA development standards.

The purpose is to maintain the natural and scenic character and minimize negative impacts to riparian areas and bluffs. This is accomplished by additional development regulations beyond Zoning, Floodplain, and Shoreland Management ordinances.

The MRCCA ordinance relates to overlay districts as provided in Minnesota Rules, part 6106.0100, subp. 9. The districts were determined based on the natural and built character of the areas. Natural areas are covered by more restrictive overlays than developed and urbanized locations.

The MRCCA chapter protects and promotes natural vegetation. For these required provisions of the proposed model ordinance to function, changes are necessary to existing regulations requiring weed and grass controls that are not compatible. This includes requirements to prohibit or cut natural vegetation.

Public Input and Open House

The proposed ordinance template and district boundaries come from state legislation and the ability for municipalities to modify them is limited. Any modifications must be approved by the DNR with findings that the intent remain unchanged. Staff believed it was still important to provide community outreach to inform the public and address any concerns.

Staff held an open house on November 13 at City Hall from 5:00 pm to 6:30 pm. All 170 properties within the corridor overlay were mailed a notice explaining the proposal and provided notice of the open house and this public hearing. Folks were also encouraged to reach out to staff with any questions they had related to their specific properties. There were about 20-25 people in attendance. Those in attendance listened to a summary of the proposal and asked related questions. Aside from the open house, staff has only received a couple of questions by phone.

MRCCA Ordinance Provisions:

The proposed ordinance includes the following:

- Setback requirements for structures and impervious surfaces
- Height regulations for structures
- Lot widths and sizing to accommodate setbacks
- Notice of public hearings for discretionary actions and amendments to the ordinance or districts require notification of the DNR and National Park Service.
- Land use regulations related to agricultural, feedlots, forestry, mining, river dependent uses, and wireless communication towers
- Performance standards for private facilities
 - Private roads, driveways, and parking areas
 - Private water access and viewing facilities
 - Water-oriented accessory structure
 - Decks and patios in setback areas
 - Signs
 - Fences
 - Lighting within the ordinary high water setback
- Performance standards for public facilities
- Vegetation management
- Land alteration standards and stormwater management
- Large subdivisions and development standards
- Additional permitting requirements
 - Land alterations
 - Vegetation removal
 - Conditional use permits
 - Additional restrictions or prohibition of uses within conservation areas.
- The end of the ordinance includes a list of exemptions to some items above

MRCCA Ordinance Districts

The corridor boundaries have been in place for decades, but the assigned districts are new. They were chosen based on the natural characteristics of each area along with the

existing built environment. Urbanized areas have less setback requirements than natural areas.

Structure setbacks from the OHWL and bluffs, building height limits, and the amount of open space required for subdivisions and redevelopment vary by district. These are the only standards in the MRCCA rules that vary by district. All other standards apply uniformly throughout the corridor.

The MRCCA corridor overlay districts within the city will be part of the official city zoning map. They can also be found on DNR and County [mapping programs online](#).

Primary Conservation Areas

Conservation areas are natural resources that require consideration from impact of an activity. Mainly, these are features that must be protected but some are points from which a setback must be taken. Some of them include SIZ (Shore Impact Zones), BIZ (Bluff Impact Zones), Native Plant Communities, and Significant Existing Vegetative Stands.

Several are generally shown on the DNR's [MRCCA Primary Conservation Areas map](#).

Weeds and Grasses

City code sections not allowing for natural vegetation within the MRCCA districts must be removed or modified to allow for the new requirements. The following highlighted areas contradict requirements of the proposed MRCCA Ordinance. The attached resolution contains amendments to remove, exempt, or clarify the provisions as they pertain to the MRCCA requirements.

The Sign code 155.08

3.b. All signs/sign structures shall be maintained in safe and orderly condition with the areas around them kept free from debris, bushes, high grass/weeds, or anything else that would be a nuisance.

Remove: bushes, high grass/weeds

Property Maintenance Requirements 158.04

D. Grass And Weeds On Public or Private Property.

1. It is unlawful for any owner, occupant or agent of any lot or parcel of land in the city to allow any vegetation such as weeds or grass growing upon any such lot or parcel or land to grow to a height greater than 12 inches or to allow such weeds or grass to go to seed.
2. If any such owner, occupant or agent fails to comply with this height limitation and after notice given by the Property Maintenance Inspector, or his or her agent, has not complied within 72 hours of such notice, the city shall cause such weeds or grass to be cut and the expenses thus incurred shall be a lien upon such real estate. The city shall certify to the Dakota County Auditor, a statement of cost incurred by the city. Such amount, together with interest, shall be entered as a special assessment against such lot or parcel of land and shall be collected in the same manner as real estate taxes.
3. Property owners must also comply with City Code § 90.05 regarding Grass, Weeds, and Trees in Street.

90.05 Grass, Weeds, And Trees In Streets

B. Duty Of Property Owners To Cut Grass And Weeds And Maintain Trees And Shrubs.

Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of the property nearest to the street in the center of the street. If the grass or weeds in such a place attain a height in excess of 12 inches it shall be prima facie evidence of a failure to comply with this division

The following exemption is proposed for the above two sections (158.04 & 90.05)

Exemption. Any ground cover vegetation located in the following areas is hereby exempt from height and going to seed restrictions:

- a. Shore impact zones;
- b. Areas within fifty feet (50') of a wetland or natural drainage way;
- c. Bluff impact zones;
- d. Areas of native plant communities; and
- e. Significant vegetative stands, with said areas identified under Section 152A,

Mississippi River Corridor Critical Area (MRCCA) Overlay District ordinance.

Ground cover vegetation and any vegetation management within the MRCCA Overlay District shall comply with the Vegetation Management requirements and standards of Section 152A.09 and any Vegetation Management Permits approved by the City.

Lastly, Chapter 95.21 Public Nuisances Affecting Health, contains provisions relating to public health nuisances including noxious weeds and other rank growths of vegetation. This section is intended to only address vegetation hazardous to public health and the legal definition of noxious weeds and other rank growths of vegetation directly relate to public health. They are defined as injurious to humans, animals, and ecosystems and vegetation which has or will attain such growth to be a fire hazard, respectively. To assure that the item is not defined and cited out of context, the key point of being a health hazard is reiterated for clarity.

The following are hereby declared to be nuisances affecting public health:

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter;
- B. All diseased animals running at large;
- C. All ponds or pools of stagnant water;
- D. Carcasses of animals not buried or destroyed within 24 hours after death;
- E. Accumulations of manure, refuse, or other debris;
- F. Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- G. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
- H. All noxious weeds and other rank growths of vegetation upon public or private property which constitute a health hazard;
- I. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- J. All unnecessary and annoying vibrations;
- K. Violations of City Code § 152.09 (Illicit Discharges and Connections)
- L. Any offensive trade or business as defined by statute not operating under local license.



Working to protect the Mississippi River
and its watershed in the Twin Cities area

101 East Fifth Street
Suite 2000
Saint Paul, MN 55101

651-222-2193
www.fmr.org
info@fmr.org

November 22, 2023

Dear Planning Commissioners:

Thank you for the opportunity to comment on Hastings' proposed Mississippi River Corridor Critical Area (MRCCA) ordinance.

Friends of the Mississippi River (FMR) is a non-profit organization with a mission to engage community members and other stakeholders to protect, restore and enhance the Mississippi River and its watershed in the Twin Cities Region. We represent thousands of people in the metropolitan area who care deeply about the river, including a growing membership of over 2,700 people and more than 3,200 volunteers and 2,000 advocates engaged each year.

The Mississippi River is a natural, cultural and historic wonder that helps define our metro area. In recognition of this, its 72-mile stretch through the Twin Cities is not only a state-designated Critical Area but also a national park afforded special protective policies.

The MRCCA ordinance adoption process is an important opportunity for communities to define their goals and expectations for years to come. A successful ordinance will guide riverfront use in a way that reflects the city's environmental, development, and recreational priorities while providing clarity for landowners and developers.

FMR appreciates Hastings' work to adopt its MRCCA ordinance. We have two recommendations for the city to consider as you finalize your ordinance.

Recommendation: add detailed finding requirements for variances (Section 152A.03,C)

We recommend that the city adopt the DNR's recommended language regarding written findings for variances so that the criteria for variances and conditional use permits (CUPs) are the same. In the city's draft ordinance, the variance requirements read:

In reviewing the variance application, the Board of Zoning Adjustment and Appeals shall:

- 1. Evaluate the impacts to these resources. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, consistent with § 152A.03,E and*

2. *Make written findings that the variance is consistent with the purpose of § 30.02 and must consider the potential impacts on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan (152A.03,C).*

However, the DNR provides more detail about required written findings for CUPs and recommends that cities use the same language for variances. The city's draft CUP language reads:

In reviewing the application, the City shall:

1. *Evaluate the impacts to these resources and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, § 152A.03,E; and*
2. *Make written findings that the conditional use is consistent with the purpose of this ordinance as follows.*
 - a. *The extent, location and intensity of the conditional use will be in substantial compliance with the MRCCA Plan;*
 - b. *The conditional use is consistent with the character and management purpose of the MRCCA district in which it is located;*
 - c. *The conditional use will not be detrimental to PCAs and PRCVs nor will it contribute to negative incremental impacts to PCAs and PRCVs when considered in the context of past, present, and reasonable future actions (152A.03,D)*

We encourage Hastings to require these findings a-c above for both variances and CUPs.

In our experience, some variance requests—especially in river areas beloved by the community—can be contentious and challenging for a planning commission and council. The more detailed written findings offer more specific criteria by which a request should be evaluated. In other cities with MRCCA ordinances, this has resulted in more clarity and predictability for property owners, neighbors, and city leaders when a variance is requested.

Recommendation: lengthen agency notification period (Section 152A.03,H,2)

If it's possible within the city's processes, FMR recommends lengthening the DNR/National Park Service notification periods for discretionary actions and public hearings. The state requires ten days' advance notice, but in FMR's experience this short notice period often means that agency input is received very close to, or even during, planning commission meetings.

When complex MRCCA questions are involved, receiving this technical and legal guidance so late in the process makes public hearings more confusing and reduces the likelihood that the commission is prepared to vote at that meeting. We have observed this many times in other cities. A longer notification period makes the process smoother for all parties by reducing the likelihood of

technical or compliance concerns being raised last-minute and improving the commission's ability to make fully informed, timely decisions.

Please don't hesitate to contact me at ctoberman@fmr.org or 651-477-0923 to discuss any of our comments further. FMR also has extensive MRCCA ordinance resources (including videos, handouts, and interactive maps) available at www.fmr.org/river-rules.

Thank you for your time and consideration.

For the river,

A handwritten signature in black ink that reads "Colleen O'Connor Toberman". The signature is written in a cursive style with a light blue highlight behind it.

Colleen O'Connor Toberman
Land Use & Planning Program Director