

CHAPTER 6106
DEPARTMENT OF NATURAL RESOURCES
MISSISSIPPI RIVER CORRIDOR CRITICAL AREA

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6106.0010 POLICY.

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

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

Published Electronically: *January 19, 2017*

6106.0020 PURPOSE; DESIGNATION.

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

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

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6106.0030 SCOPE; OTHER LAW.

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

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

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

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

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

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

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6106.0050 DEFINITIONS.

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

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

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

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

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

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

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

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

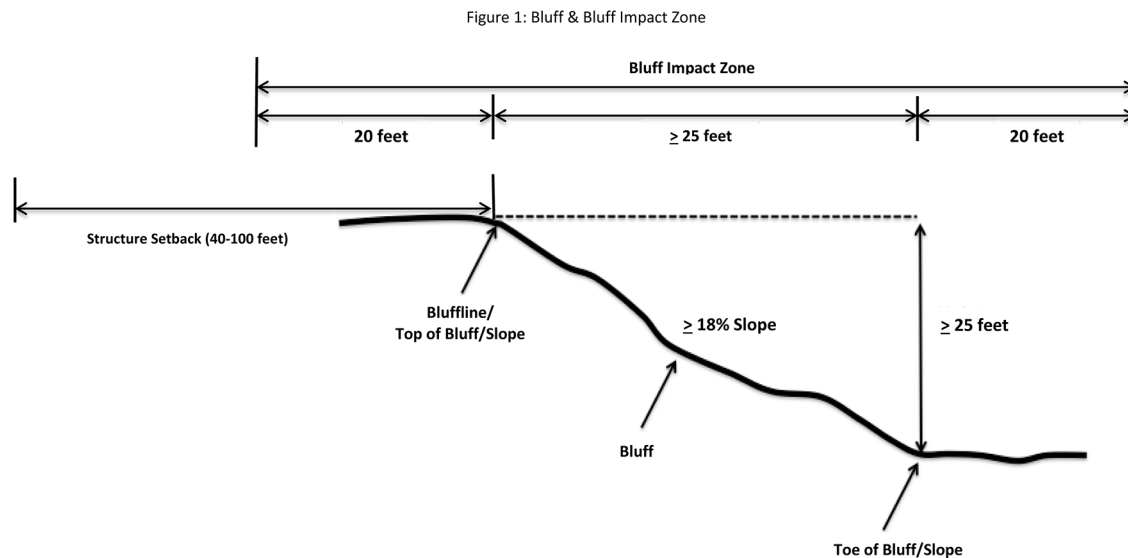
A. a slope that rises at least 25 feet and the grade of the slope averages 18 percent or greater, measured over a horizontal distance of 25 feet, as follows:

(1) where the slope begins above the ordinary high water level, from the toe of the slope to the top of the slope; or

(2) where the slope begins below the ordinary high water level, from the ordinary high water level to the top of the slope. See Figure 1; or

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.

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



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

Subp. 11. **Buildable area.** "Buildable area" means the area upon which structures may be placed on a lot or parcel of land and excludes land 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 areas restricted from development by local ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 24. **Essential services.** "Essential services" means underground or overhead gas, electrical, communications, steam, or water distribution, collection, supply, or disposal systems, including storm water. Essential services includes 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.

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

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

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

Subp. 28. **Historic property.** "Historic property" means 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 as a historic site 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; or

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

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

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

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

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

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

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

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

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

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

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

Subp. 39. **Native plant community.** "Native plant community" means a plant community that has been identified as part of the Minnesota biological survey or biological survey issued or adopted by a local, state, or federal agency.

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

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

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

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

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

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

Subp. 46. **Overlay district.** "Overlay district" means a zoning district that is 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 62. **Retaining wall.** "Retaining wall" means a vertical or nearly vertical structure 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 material.

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

Subp. 64. **River corridor boundary.** "River corridor boundary" means 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 3, pages 1681 to 1691.

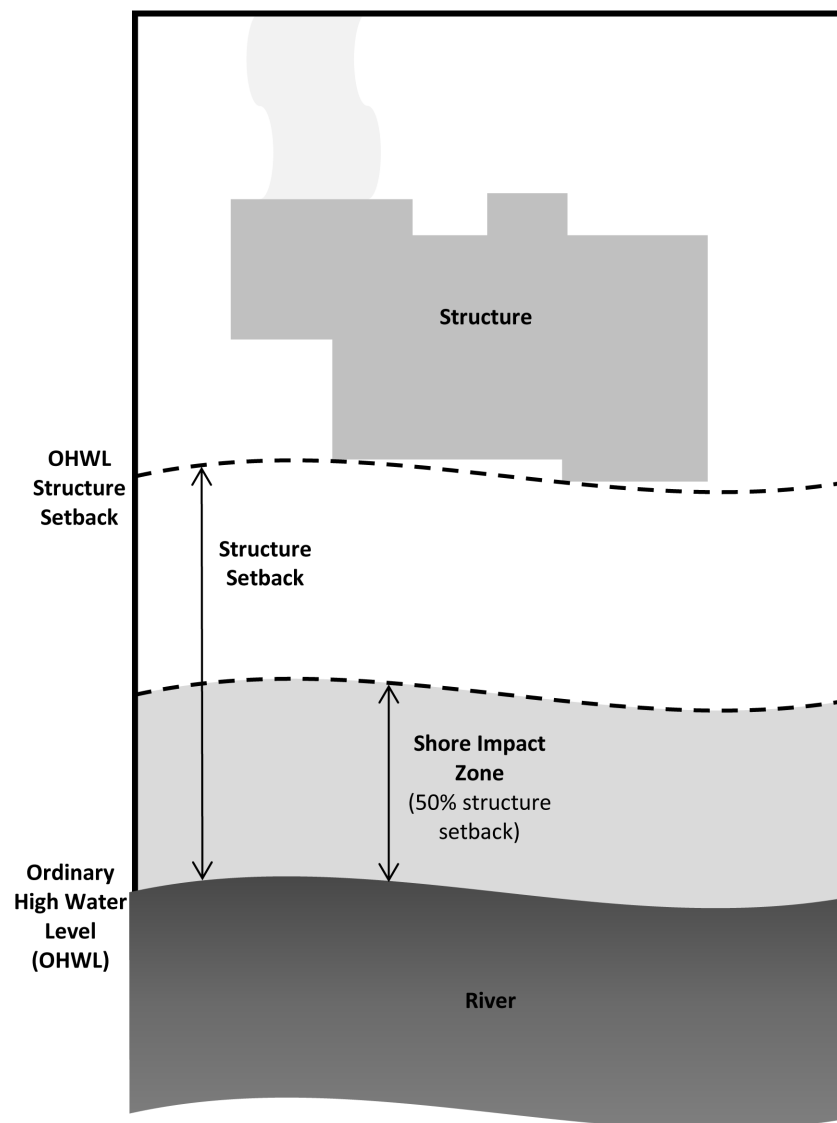
Subp. 65. **River-dependent use.** "River-dependent use" means the use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.

Subp. 66. **Selective vegetation removal.** "Selective vegetation removal" means 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.

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

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

Figure 2: Shore Impact Zone



Subp. 69. **Shoreline facilities.** "Shoreline facilities" means facilities that require a location adjoining public waters for ingress and egress, loading and unloading, and 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.

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

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

Subp. 72. **Steep slope.** "Steep slope" means a natural topographic feature with an average slope of 12 to 18 percent, measured over a horizontal distance equal to or greater than 50 feet, and any slopes greater than 18 percent that are not bluffs.

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

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

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

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

Subp. 77. **Toe of the bluff.** "Toe of the bluff" means a line along the bottom of a bluff, requiring field verification, such that the slope above the line exceeds 18 percent and the slope below the line is 18 percent or less, measured over a horizontal distance of 25 feet. See subpart 9, Figure 1.

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

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

- 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, subdivision 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.

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

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

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

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

Subp. 84. **Water-oriented accessory structure.** "Water-oriented accessory structure" means a small building or other improvement, except stairways, fences, docks, and retaining walls, that, because of the relationship of its use to public waters, needs to be located closer to public waters than the normal structure

setback. Examples include gazebos, screen houses, fish houses, pump houses, and detached decks and patios.

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

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

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

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6106.0060 ADMINISTRATION OF PROGRAM.

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

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

B. time frames are measured in calendar days.

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

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

B. the Metropolitan Council for reviewing plans and ordinances;

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

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

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

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

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

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

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

C. coordinate preparation, submission, review, and modification of plans and ordinances that are prepared by local governments as provided under part 6106.0070;

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

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

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

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

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

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

Subp. 7. Duties of cities. Cities must:

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

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

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

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

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

(2) the National Park Service; and

(3) adjoining local governments within the Mississippi River Corridor Critical Area, including those with overlapping jurisdiction and those across the river, where buildings exceed the height limits specified in part 6106.0120, as part of the conditional use permit or variance process; and

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

Subp. 8. Duties of counties and townships.

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

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

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

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

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

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

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

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6106.0070 PREPARATION, REVIEW, AND APPROVAL OF PLANS AND ORDINANCES.

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

Subp. 2. Adoption of plans and ordinances.

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

B. All plans and ordinances adopted by local governments pursuant to Executive Order 79-19 that are in existence on January 4, 2017, remain in effect and must be enforced until plans and ordinances are amended consistent with this chapter, approved by the commissioner, and adopted by the local government as provided under subpart 3.

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

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

Subp. 3. Plan and ordinance review.

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

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

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

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

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

(a) this chapter;

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

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

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

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

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

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

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

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

(2) The commissioner must grant extensions to local governments if the local government requests an extension in writing and if the local government is making a good-faith effort to meet the submittal deadline. The extension, if granted, must include a timetable and plan for completion of the plan and ordinance.

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

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

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

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

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

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

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

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

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

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

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

Subp. 4. Contents of plans.

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

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

(1) identify and protect primary conservation areas;

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

- (3) identify areas that are priorities for restoration of natural vegetation, erosion prevention, bank and slope stabilization, or other restoration activities;
- (4) minimize potential conflict of water surface uses as authorized under Minnesota Statutes, chapter 86B;
- (5) provide for commercial barge terminals, barge fleeting, and recreational marinas, if applicable;
- (6) provide for future commercial and industrial uses that require water access;
- (7) provide for and encourage creation, connection, and maintenance of open space and recreation facilities, such as parks, scenic overlooks, natural areas, islands, and wildlife areas;
- (8) identify potential public access points and trail locations; and
- (9) provide for transportation and public utility development in a manner consistent with this chapter.

Subp. 5. Contents of ordinances.

- A. Local ordinances must be consistent with the standards in this chapter and must include:
 - (1) definitions consistent with part 6106.0050;
 - (2) administrative provisions consistent with part 6106.0080;
 - (3) districts consistent with part 6106.0100;
 - (4) minimum standards and criteria consistent with parts 6106.0110 to 6106.0180; and
 - (5) alternative design methods consistent with part 6106.0170.
- B. The local ordinance must be structured as an overlay district. If a conflict exists with underlying zoning, the provisions of the overlay district govern. Where specific numeric thresholds or standards are listed in this chapter, those numeric thresholds or standards must be included in the overlay district.

Subp. 6. Flexibility requests for ordinances.

- A. Local governments may, under special circumstances and with the commissioner's prior approval, adopt ordinances that are not consistent with this chapter, provided that the purposes of Minnesota Statutes, section 116G.15, are met and the ordinance is consistent with the plan prepared by the local government and approved according to this chapter. Special circumstances include the following situations:
 - (1) areas where existing urban, residential, commercial, or industrial development patterns have been in place since before the designation of the Mississippi River Corridor Critical Area and where the majority of the development does not meet the minimum state standards;
 - (2) areas managed under other water and related land resource management programs authorized by state or federal legislation with goals compatible with this chapter;
 - (3) existing or planned wastewater, storm water, water supply, or utility facilities and similar physical or infrastructural constraints make the use of particular minimum standards impractical; and
 - (4) areas where detailed modeling of visual, physical, or other resource impacts has been completed as part of a public planning process.

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

- (1) be approved by the governing body with authority to approve the request;
- (2) include the proposed ordinance and any associated maps;
- (3) include a detailed description of the proposed alternative standards that are not consistent with this chapter, together with documentation that the alternative standards are consistent with the purposes and scope of this chapter;
- (4) describe the special circumstances that justify the use of alternative standards;
- (5) describe the potential impacts to primary conservation areas and mitigation actions proposed to address the impacts;
- (6) include documentation of any input from adjoining local governments, including those with overlapping jurisdiction and those across the river, and from other potentially affected interests, including community members; and
- (7) include any other supporting information, maps, and documents that the local government considers necessary to explain the request to the commissioner.

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

- (1) make the request publicly available;
- (2) evaluate the request based on:
 - (a) the extent to which the proposed alternative standards satisfy the purposes of Minnesota Statutes, section 116G.15, subdivision 1, and the purposes and scope of this chapter;
 - (b) the likely impact of the proposed alternative standards on primary conservation areas and public river corridor views;
 - (c) comments from adjoining local governments and other potentially affected interests; and
 - (d) the local government's identification of mitigation measures and its commitment to mitigate any adverse impacts resulting from the proposed alternative standards; and
- (3) approve or deny the request, state in writing to the local government the reasons for the approval or denial, and suggest any alternative solutions or regulatory approaches that would be granted ordinance flexibility.

Subp. 7. Plans and projects for parks and other public lands. State or regional agencies, local park agencies, special purpose units of government, and local governments with parks or other public lands within their jurisdiction must comply with the standards and criteria in this chapter. The agencies and government entities must include the following elements in plans and project designs for parks and other public lands they own or manage within the Mississippi River Corridor Critical Area:

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

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

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

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

Published Electronically: *January 19, 2017*

6106.0080 ADMINISTRATIVE PROVISIONS FOR ORDINANCES.

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

Subp. 2. **Variances.**

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

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

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

Subp. 3. **Nonconformities.**

A. The purpose of this subpart is to allow uses and structures that came into existence legally prior to January 4, 2017, and in conformance with then-applicable requirements to continue to exist and be put to productive use.

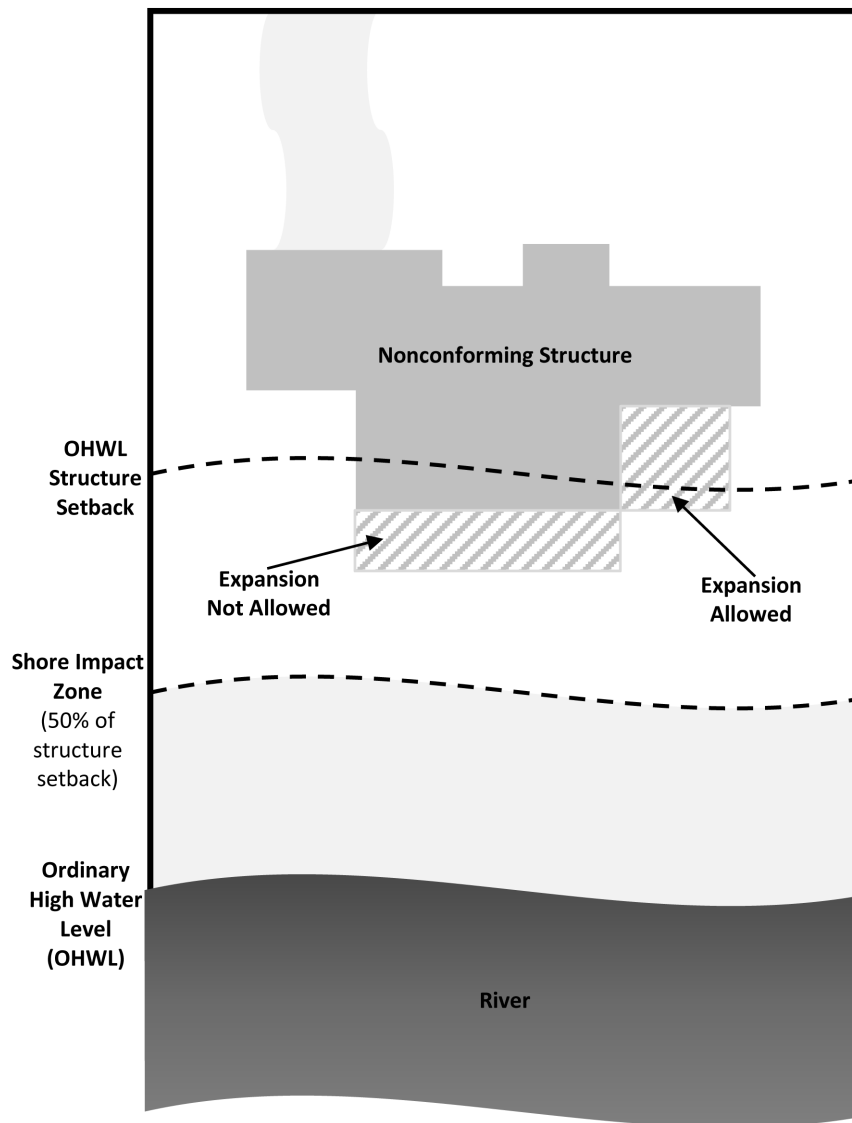
B. Nonconformities must be regulated by local governments in a manner consistent with Minnesota Statutes, sections 394.36 and 462.357, subdivision 1e.

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

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

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

Figure 3: Expansion of Nonconforming Structure within OHWL Setback



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

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

Subp. 4. Conditional and interim use permits.

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

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

Subp. 5. Mitigation.

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

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

Subp. 6. Project information.

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

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

- (1) a detailed description of the project; 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.

Subp. 7. Accommodating disabilities. 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 chapter 1341, are allowed, subject to the following standards:

- A. parts 6106.0120 to 6106.0180 must be complied with, except as provided in item B; and
- B. when parts 6106.0120 to 6106.0180 cannot be complied with, the local government may issue an interim use permit to allow ramps or other facilities that do not comply with those parts. Upon expiration of the interim use permit, the ramp or other facilities must be removed.

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

Published Electronically: *January 19, 2017*

6106.0090 INCORPORATIONS BY REFERENCE.

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

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

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

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

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

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

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

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

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

Published Electronically: *January 19, 2017*

6106.0100 DISTRICTS.

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

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

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

A. The rural and open space district (CA-ROS) 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. The CA-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.

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

A. The river neighborhood district (CA-RN) 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. The CA-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.

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

A. The river towns and crossings district (CA-RTC) 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 Mississippi River Critical Corridor Area and that include taller buildings.

B. The CA-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.

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

A. The separated from river district (CA-SR) 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. The CA-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.

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

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

B. The CA-UM district must be managed in a manner that allows for future growth and potential transition of intensely developed areas that does not negatively affect public river corridor views and that protects bluffs and floodplains. Restoring and enhancing bluff and shoreline habitat, minimizing erosion and flow of untreated storm water into the river, and providing public access to and public views of the river are priorities in the district.

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

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

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

Subp. 9. District boundaries.

A. The physical boundaries of each district are delineated in the Mississippi River Corridor Critical Area District Map, Minnesota Department of Natural Resources (2016 and as subsequently amended). The map is incorporated by reference, is not subject to frequent change, and is available on the department's Web site at www.dnr.state.mn.us/waters/watermgmt_section/critical_area/index.html. The commissioner must maintain the map and must amend the map as provided in item C.

B. The district boundary lines on the Mississippi River Corridor Critical Area District Map are intended to follow the center lines 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.

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

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

(a) be approved by the governing body with the legal authority to make the request for the state or regional agency or local government;

(b) specifically identify the proposed changes to plans and ordinances to address the proposed change;

(c) identify changes in land uses, infrastructure, or other conditions since January 4, 2017, that justify the proposed changes;

(d) identify those local comprehensive plans, regional system statements, state park and transportation master plans, and federal plans that apply to the area proposed for a district boundary amendment;

(e) address potential negative impacts of the proposed change to primary conservation areas, public river corridor views, and other resources and features identified in local governments' plans; and

(f) contain a summary of feedback from affected parties as provided under subitem (2).

(2) The local government or state or regional agency requesting the district boundary amendment must give notice of the proposed district boundary amendment to adjoining or overlapping local governments, the Metropolitan Council, the commissioner, the National Park Service, and property owners in the area directly affected by the proposed district boundary amendments and must conduct a public hearing.

(3) Upon receiving a complete request for a district boundary amendment as provided under subitem (1), the commissioner must consider the request and determine whether to initiate rulemaking to amend the boundary according to Minnesota Statutes, chapter 14. The commissioner must communicate the determination, in writing, to the local government or state or regional agency requesting the district boundary amendment within 60 days after receiving the request.

D. This subpart does not apply to the defined river corridor boundary.

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

Published Electronically: *January 19, 2017*

6106.0110 USES.

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

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

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

Subp. 4. **Forestry.** Where forestry is allowed by the local government, 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*, incorporated by reference under part 6106.0090.

Subp. 5. **Nonmetallic mining.** If allowed by the local government, 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;

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

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 operation; 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 chapter.

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

A. Structures and parking areas, except shoreline facilities and private roads and conveyances serving river-dependent uses as provided in part 6106.0180, 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 chapter 6115 and must:

- (1) be designed in a compact fashion so as to minimize the shoreline area affected; and
- (2) minimize the surface area of land occupied in relation to the number of watercraft or barges to be served.

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

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

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 the Mississippi River Corridor Critical Area;

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

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

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

Published Electronically: *January 19, 2017*

6106.0120 DIMENSIONAL STANDARDS.

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

Subp. 2. **Structure height.**

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

- (1) CA-ROS: 35 feet;
- (2) CA-RN: 35 feet;

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

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

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

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

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

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

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

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

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

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

(b) stepping back of portions of the façade;

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

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

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

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

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

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

- (1) CA-ROS: 200 feet from the Mississippi River and 150 feet from the Minnesota River and Vermillion River;
- (2) CA-RN: 100 feet from the Mississippi River and 75 feet from the Rum River and Vermillion River;
- (3) CA-RTC: 75 feet from the Mississippi River, Crow River, and Rum River;
- (4) CA-SR: 75 feet from the Vermillion River;
- (5) CA-UM: 50 feet from the Mississippi River;
- (6) CA-UC: as specified in underlying zoning; and
- (7) for all other public waters within the Mississippi River Corridor Critical Area, as specified in underlying zoning.

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

- (1) CA-ROS: 100 feet;
- (2) CA-RN: 40 feet;
- (3) CA-RTC: 40 feet;
- (4) CA-SR: 40 feet;
- (5) CA-UM: 40 feet; and
- (6) CA-UC: 40 feet.

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

D. 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, provided that the new structure's scale and bulk riverward or bluffward of the setbacks required under items A and B are consistent with adjoining development. No structures or impervious surfaces are allowed within the bluff impact zone or shore impact zone, except as specified under part 6106.0180.

E. 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 within the Mississippi River Corridor Critical Area.

Subp. 4. Standards for new lots.

A. Where lots are created after January 4, 2017, lot area and width standards must comply with the requirements of the underlying zoning, except the width of lots abutting the Mississippi River in the CA-ROS district must be at least 200 feet, unless alternative design methods are used that provide greater protection of the riparian areas.

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

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

Published Electronically: *January 19, 2017*

6106.0130 GENERAL DEVELOPMENT STANDARDS FOR PUBLIC FACILITIES.

Subpart 1. **Purpose and scope.** The purpose of this part is to establish standards for public facilities that are consistent with best management practices and that protect primary conservation areas. 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.

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

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

- A. minimize visibility of the facility to the extent consistent with the purpose of the facility;
- B. comply with the dimensional standards in part 6106.0120, except as provided in part 6106.0180;
- C. be consistent with the vegetation management standards in part 6106.0150, subpart 5, and the land alteration and storm water management standards in part 6106.0160, including use of practices identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-001, incorporated by reference under part 6106.0090, where applicable. State or regional agencies, special purpose units of government, local park agencies, and local units of government with parks within their jurisdiction are not required to obtain a vegetation management or land alteration permit under part 6106.0150 or 6106.0160, but must apply the standards and criteria that would be applied by local government, were a permit required;
- D. avoid primary conservation areas, unless no alternative exists. If no alternative exists, then disturbance to primary conservation areas must be avoided to the greatest extent practicable, and design and construction must minimize impacts; and
- E. minimize disturbance of spawning and nesting times by scheduling construction at times when local fish and wildlife are not spawning or nesting.

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

- A. vegetation currently in a natural state must be maintained to the extent feasible;
- B. where vegetation in a natural state has been removed, native plants must be planted and maintained on the right-of-way; and
- C. chemical control of vegetation must be avoided when practicable, but when chemical control is necessary, chemicals used must be in accordance with the rules, regulations, and other requirements of all state and federal agencies with authority over the chemical's use.

Subp. 5. **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. The commissioner must give primary consideration to crossings that are proposed to be located within or adjoining existing rights-of-way for public transportation and public utilities.

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

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

B. if overhead placement is necessary, utility crossings must be hidden from view as much as practicable. 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.

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

- A. providing scenic overlooks for motorists, bicyclists, and pedestrians;
- B. providing safe pedestrian crossings and facilities along the river corridor;
- C. providing access to the riverfront in public ownership; and
- D. allowing for use of the land between the river and the transportation facility.

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

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

B. Roads and driveways associated with public recreational facilities must not be placed in the bluff impact zone or shore impact zone unless no other placement alternative exists. If no alternative exists, then design and construction must minimize impacts to shoreline vegetation, erodible soils and slopes, and other sensitive resources.

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

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

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

- (a) visibility from the river;
- (b) visual impacts on public river corridor views; and
- (c) disturbance to and fragmentation of primary conservation areas.

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

- (1) watercraft access ramps must comply with parts 6115.0210 and 6280.0250; and
- (2) facilities must be designed and constructed consistent with the standards in Design Handbook for Recreational Boating and Fishing Facilities, incorporated by reference under part 6106.0090.

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

F. Public stairways, lifts, and landings must be designed as provided in part 6106.0140, subpart 5, item C.

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

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6106.0140 GENERAL DEVELOPMENT STANDARDS FOR PRIVATE FACILITIES.

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

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

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

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

- A. be designed and constructed to take advantage of natural vegetation and topography so that they are not readily visible;
- B. comply with structure setback requirements according to part 6106.0120; and
- C. not be placed within the bluff impact zone or shore impact zone, unless exempt under part 6106.0180 and designed consistent with part 6106.0130, subpart 3.

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

- A. Private access paths must be no more than:
 - (1) eight feet wide, if placed within the shore impact zone; and
 - (2) four feet wide, if placed within the bluff impact zone.
- B. Private water access ramps must:
 - (1) comply with parts 6115.0210 and 6280.0250; and
 - (2) be designed and constructed consistent with the applicable standards in Design Handbook for Recreational Boating and Fishing Facilities, incorporated by reference under part 6106.0090.
- C. Design and construction of private stairways, lifts, and landings are subject to the following standards:
 - (1) stairways and lifts must not exceed four feet in width on residential lots. Wider stairways are allowed for commercial properties and residential facilities held in common, if approved by the local government;
 - (2) landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet are allowed for commercial properties and residential facilities held in common, if approved by the local government;
 - (3) canopies or roofs are prohibited on stairways, lifts, or landings;

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

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

D. 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:

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

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

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

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

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

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

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

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

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

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

- (1) must be consistent with Minnesota Statutes, section 86B.115;
- (2) if located within the shore impact zone, must convey only the location and name of the establishment and the general types of goods and services available;
- (3) must be no greater than ten feet in height and 32 square feet in surface area; and
- (4) if illuminated, must have lighting that is shielded to prevent illumination out across the river or to the sky.

Statutory Authority: *MS s 116G.15*

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6106.0150 VEGETATION MANAGEMENT STANDARDS.

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

- A. sustain and enhance the biological and ecological functions of vegetation;
- B. preserve the natural character and topography of the Mississippi River Critical Corridor Area; and
- C. maintain stability of bluffs and steep slopes and ensure stability of other areas prone to erosion.

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

- A. shore impact zones;
- B. areas within 50 feet of a wetland or natural drainage way;
- C. bluff impact zones;
- D. areas of native plant communities; and
- E. significant vegetative stands identified in local governments' adopted plans.

Subp. 3. **General provisions.**

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

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

B. The following activities are allowed without a permit:

- (1) selective vegetation removal, including removal for those activities listed under item A, subitems (1) to (3), and removal for other purposes provided that vegetative cover remains consistent with the management purposes of districts under part 6106.0100;
- (2) maintenance of existing lawns, landscaping, and gardens;
- (3) removal of vegetation in emergency situations as determined by the local government;
- (4) right-of-way maintenance for public facilities meeting the standards of part 6106.0130, subpart 4; and
- (5) agricultural and forestry activities meeting the standards of part 6106.0110.

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

Subp. 4. **Permit process.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Reestablishment of natural vegetation is required:

- (1) as a condition of permits under subpart 5, items D and E;
- (2) upon failure to comply with this part; or
- (3) as part of the planning process for subdivisions under part 6106.0170.

B. The vegetation restoration plan must:

(1) 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;

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

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

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

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

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

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6106.0160 LAND ALTERATION AND STORM WATER MANAGEMENT STANDARDS.

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

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

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

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

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

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

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

Subp. 3. **Land alteration.**

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

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

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

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

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

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

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

B. 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 by local government permit provided that:

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

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

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

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

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

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

C. Repair of existing rock riprap retaining walls and other erosion control structures above the ordinary high water level does not require a local government permit, provided it does not involve any land alteration.

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

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

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

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

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

C. construction activity is phased when possible;

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

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

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

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

Subp. 7. Storm water management.

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

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

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

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

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

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

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

(2) if a local government is not covered by an MS4 permit, then runoff from the new or fully reconstructed impervious surface must comply with the treatment requirements in the current national pollution discharge and elimination system program permit for construction storm water;

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

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

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

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

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

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

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

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

- A. be consistent with Minnesota Statutes, chapter 103B, and local water management plans completed under chapter 8410;
- B. meet or exceed the wetland protection standards under chapter 8420; and
- C. meet or exceed the floodplain management standards under chapter 6120.

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

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6106.0170 SUBDIVISION AND LAND DEVELOPMENT STANDARDS.

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

- A. protect and enhance the natural and scenic values of the Mississippi River Critical Corridor Area during development or redevelopment of the remaining large sites within the corridor;
- B. establish standards for protecting and restoring biological and ecological functions of primary conservation areas on large sites; and
- C. encourage restoration of natural vegetation during development or redevelopment of large sites, where restoration opportunities have been identified in local plans.

Subp. 2. **Applicability.**

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

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

B. The following activities are exempt from this part:

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

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

Subp. 4. Design standards.

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

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

(1) CA-ROS: 50 percent;

(2) CA-RN: 20 percent;

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

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

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

D. If primary conservation areas exist but do not have natural vegetation, then a vegetation assessment must be completed for the areas to be protected to determine whether vegetation restoration is needed. If restoration is needed, vegetation must be restored according to part 6106.0150, subpart 6.

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

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

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

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

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

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

(3) a deed restriction; or

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

I. Permanent protection methods under item H must ensure, within the areas set aside, 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.

J. Protected open areas must connect open space, natural areas, and recreational areas, where present on adjacent parcels, as much as possible to form an interconnected network.

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

Statutory Authority: *MS s 116G.15*

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6106.0180 EXEMPTIONS FROM SETBACKS, HEIGHT LIMITS, AND OTHER REQUIREMENTS.

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

	Set-backs	Height limits	SIZ	BIZ	Standard (the use must comply with standard or referenced parts)
Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries, and railroad signaling towers)	N	E	N	N	Structure design and placement must minimize interference with public river corridor views
Barns, silos, and farm structures	N	E	N	N	
Bridges and bridge approach roadways	E	E	E	(E)	Part 6106.0130
Wireless communication facilities (towers)	E	E	N	N	Part 6106.0110, subpart 7
Chimneys, church spires, flag poles, public monuments, and mechanical service stacks and similar mechanical 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 to historic buildings or structures

Buildings and structures on the face of or abutting the bluff in the CA-UC district of St. Paul, between Chestnut Street and Highway 52	E	n/a	n/a	E	Height in the CA-UC district is governed by underlying zoning
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Public utilities

Electrical power facilities	E	E	E	(E)	Part 6106.0130
Essential services (other than storm water facilities)	E	E	E	(E)	Part 6106.0130
Storm water facilities	E	N	E	(E)	Part 6106.0160
Wastewater treatment	E	N	E	N	Part 6106.0130
Public transportation facilities	E	N	(E)	(E)	Part 6106.0130

Public recreational facilities

Accessory structures, such as monuments, flagpoles, light standards, and similar park features	E	E	(E)	(E)	Part 6106.0130; within BIZ, only on slopes averaging less than 30 percent. Exemptions do not apply to principal buildings
Picnic shelters and other open-sided structures	E	N	(E)	N	Part 6106.0130
Parking areas	(E)	N	(E)	(E)	Part 6106.0130; within BIZ, only within 20 feet of toe of bluff; not on face of bluff; and must not affect stability of bluff
Roads and driveways	(E)	N	(E)	(E)	Part 6106.0130
Natural-surfaced trails, access paths, and viewing areas	E	N	E	E	Part 6106.0130
Hard-surfaced trails and viewing platforms	E	N	E	(E)	Part 6106.0130; within BIZ, only on slopes averaging less than 30 percent
Water access ramps	E	N	E	(E)	Part 6106.0130
Public signs and kiosks for interpretive or directional purposes	E	N	E	(E)	Part 6106.0130

River-dependent uses

Shoreline facilities	E	N*	E	(E)	Part 6106.0110, subpart 6. Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility
Private roads and conveyance structures serving river-dependent uses	E	N*	E	(E)	Part 6106.0110, subpart 6
Private residential and commercial water access and use facilities					
Private roads serving 3 or more lots	(E)	N	N	(E)	Part 6106.0140; in BIZ, only on slopes averaging less than 30 percent. Exemption does not apply to private roads serving fewer than 3 lots or to private driveways and parking areas
Access paths	E	N	E	E	Part 6106.0140
Water access ramps	E	N	E	N	Part 6106.0140
Stairways, lifts, and landings	E	N	E	E	Part 6106.0140
Water-oriented accessory structures	E	N	E	N	Part 6106.0140
Patios and decks	E	N	N	N	Part 6106.0140, subpart 6
Directional signs for watercraft (private)	E	N	E	N	Part 6106.0140; exemption does not apply to off-premise advertising signs
Temporary storage of docks, boats, and other equipment during the winter months	E	N	E	N	
Erosion control structures, such as rock riprap and retaining walls	E	N	E	(E)	Part 6106.0160, subpart 4
Flood control structures	E	N	E	(E)	Part 6106.0160

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

Statutory Authority: *MS s 116G.15*

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