

Standards and Guidelines for Preparing Plans and Regulations for the Mississippi River Critical Area Corridor

from *Executive Order 79-19*

[at 3 State Register 1692-1697]

A. Purpose and responsibility

1. Purposes. The purposes of the critical area designation and the following standards and guidelines are:
 - a. To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation;
 - b. To prevent and mitigate irreversible damage to this state, regional, and national resource;
 - c. To preserve and enhance its natural, aesthetic, cultural, and historical value for the public use;
 - d. To protect and preserve the river as an essential element in the national, state and regional transportation, sewer and water and recreational systems; and
 - e. To protect and preserve the biological and ecological functions of the corridor.
2. Responsibility. The standards and guidelines provided herein shall be:
 - a. Followed by the local units of government when preparing or updating plans, and/or modifying regulations;
 - b. Followed by state agencies, and regional agencies for permit regulation and in developing plans within their jurisdiction;
 - c. Followed by the Metropolitan Council for reviewing plans, regulations, and development permit applications;
 - d. Followed by the Council for approving plans, regulations, and development permit applications.

B. General guidelines for preparing plans and regulations

1. The Mississippi River Corridor shall be managed as a multiple-purpose resource by:

- a. Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and riverfront.
 - b. Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.
 - c. Providing for the continuation and the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.
 - d. Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.
2. In order to manage the river corridor consistent with its natural characteristics and its existing development, the following guidelines are established for each corridor district:
- a. Rural open space district. The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.
 - b. Urban diversified district. The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential, and public uses of the lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.
 - c. Urban developed district. The lands and waters within this district shall be maintained largely as residential areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.
 - d. Urban open space district. The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.

3. The Mississippi River Corridor shall be managed in accordance with the Metropolitan Council's development guide chapter, Critical Areas Act of 1973, and the Minnesota Environmental Policy Act of 1973, and other applicable state laws, and federal laws.

C. Specific standards and guidelines for preparing plans and regulations

1. Each local unit of government within the river corridor shall prepare plans and regulations to protect environmentally sensitive areas in accordance with the following guidelines.
 - a. Each local unit of government shall, with the assistance of the Metropolitan Council and state agencies:
 - (1) Identify and prepare an inventory of:
 - (a) floodplains,
 - (b) wetlands,
 - (c) slopes from 12% to 18% and over 18%,
 - (d) soils not suitable for urban development on-site waste disposal,
 - (e) significant vegetative stands, and
 - (f) natural drainage routes.
 - (2) Prepare a floodplain ordinance if it does not have a floodplain ordinance in effect;
 - (3) Prepare plans and regulations to protect wetlands;
 - (4) Prepare plans and regulations to protect bluffs greater than 18% and to provide conditions for the development of bluffs between 18% and 12% slopes;
 - (5) Prepare plans and regulations to minimize direct overland runoff and improve the quality of runoff onto adjoining streets and watercourses;
 - (6) Prepare plans and regulations to minimize site alteration and for beach and riverbank erosion control;
 - (7) Prepare regulations for management of vegetative cutting; and
 - (8) Prepare criteria for control of noise in open space and recreational areas with assistance of the PCA.

2. Each local unit of government and state agency shall prepare plans and regulations to protect and preserve the aesthetic qualities of the river corridor, which provide for the following considerations:
 - a. Site Plans. Site plans shall be required to meet the following guidelines:
 - (1) New development and expansion shall be permitted only after the approval of site plans which adequately assess and minimize adverse effects and maximize beneficial effects.
 - (2) Site plans shall be required for all developments for which a development permit is required, except for the modification of an existing single-family residential structure or the construction of one single-family residence.
 - (3) Site plans shall include, but not be limited to, the submission of an adequate and detailed description of the project, including activities undertaken to ensure consistency with the objectives of the Designation Order; maps which specify soil types, topography, and the expected physical changes in the site as the result of the development; the measures which address adverse environmental effects.
 - (4) Site plans shall include standards to ensure that structure, road, screening, landscaping, construction placement, maintenance, and storm water runoff are compatible with the character and use of the river corridor in that district.
 - (5) Site plans shall provide opportunities for open space establishment and for public viewing of the river corridor whenever applicable, and shall contain specific conditions with regard to buffering, landscaping, and re-vegetation.
 - b. Structures. Structure site and location shall be regulated to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.
 - c. Clustering. The clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality shall be encouraged. The location of clustered high-rise structures may be proposed where public services are available and adequate and compatible with adjacent land uses.
 - d. Access Routes. Commercial and industrial developments adjacent to roadways shall be required to provide off-street parking, service roads and limited controlled access points to highways. (Except in cases of extreme hardship, highway access for any development within 250 feet of a bridge or

bridge ramp shall be prohibited.)

- e. Existing Development. Local plans and regulations shall include provisions to:
 - (1) Retain existing vegetation and landscaping;
 - (2) Amortize non-conforming uses;
 - (3) Prohibit the reconstruction of non-conforming uses which are 50% market value destroyed;
 - (4) Provide for the screening of existing development which constitutes visual intrusion, wherever appropriate.
 - f. Signs. Local units of government shall adopt ordinances for the amortization and removal of non-conforming general advertising signs, and to prohibit the visibility of advertising signs from the river, except in Urban Diversified Districts.
3. Local units of government shall develop plans and regulations to ensure that developments shall not be undertaken prior to the provision of Metropolitan public facilities in adopted Metropolitan plans, in accordance with the following guidelines:
- a. Developments in areas not scheduled for the provision of municipal or metropolitan sanitary sewers shall comply with adequate on-site sewage disposal system regulations.
 - b. The density of development outside the Metropolitan Urban Service Area shall be limited to ensure that there is no need for the premature provision of local and metropolitan urban services and facilities.
4. Local units of government shall develop plans and provide guidance to ensure that the surface uses of the river is compatible with the characteristics and use of the districts in accordance with the following guidelines:
- a. The present 9-foot navigation channel shall be maintained.
 - b. Provision shall be made for the use of the river for water transportation which is consistent with adopted state and regional policies and regulations and applicable federal laws and to minimize any adverse effects associated with such facilities.
 - c. Local plans shall identify areas physically suitable for barge slips and barge fleeting, based on such considerations as safety, maneuverability, operational convenience, amount of construction and/or excavation required, and environmental impacts; and

- d. Local plans shall specify which of those areas found physically suitable may be used for barge slips and barge fleeting areas in the future. Preference should be given to those areas where new barge slips and associated facilities can be clustered, where required metropolitan services are already available, and where use of the riverfront for barge slips and fleeting areas, and access to them, is compatible with adjacent land use and public facilities.
 - e. Local plans shall identify, whenever practicable, locations where river dredge spoil can be utilized consistent with natural geological appearances or processes and adjacent land uses.
 - f. Where there is potential conflict of surface use, state and local governments shall enact appropriate water surface use regulation.
 - g. The Minnesota Energy Agency shall be responsible for recommending to the EQC a strategy for the development of a coal transportation plan for the metropolitan area.
5. Local units of government shall develop plans and regulations for industrial and commercial developments in the River Corridor in accordance with the following guidelines:
- a. Areas for new or expanded industrial and commercial developments, where urban services are available, and the premature expansion or upgrading of the Metropolitan systems will not be required, shall be identified.
 - b. The existing industrial waste discharge points, sanitary, and storm water discharge points shall be identified.
 - c. Local plans should give consideration to providing for future industrial and commercial uses that require water access including, but not limited to such uses as, transportation, water supply & waste discharge. This does not preclude the locating of non-water related uses within the Corridor.
 - d. The impact of potential mining and extraction sites or other incompatible uses shall be minimized.
 - e. Land reclamation and reforestation of the mining site shall be regulated.
6. Local units of government and regional and state agencies shall develop plans and regulations to maximize the creation and maintenance of open space and recreational potential of the Corridor in accordance with the following guidelines:
- a. Existing and potential sites for the following uses shall be identified and inventoried.

- (1) Neighborhood, municipal, county and regional parks;
- (2) Scenic overlooks, scenic views, and public observation platforms;
- (3) Protected open space areas, including islands, gorges, wildlife preservation areas, and natural areas;
- (4) Beaches and undeveloped river frontage on backwaters, which are suitable for recreation purposes;
- (5) Commercial marinas and boat launching facilities;
- (6) Public access points to the river;
- (7) Historic sites and districts.

- b. The Metropolitan Council shall prepare a general trailway plan for the entire length of the River Corridor which links regional parks.
- c. Local units of government shall identify the potential location of trails within their jurisdictions, including related problems and proposed solutions.
- d. Plans and programs to acquire sites for public access to the river and to protect open space areas shall be developed.
- e. Programs to acquire and manage undeveloped islands in their natural state and to encourage the restoration of other islands for recreation open space uses shall be adopted.
- f. In the development of residential, commercial and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public reasonable portions of appropriate riverfront access land or other lands in interest therein.

In the event of practical difficulties or physical impossibility, the developer shall be required to contribute an equivalent amount of cash to be used only for the acquisition of land for parks, open space, storm water drainage areas or other public services within the River Corridor.

7. Local units of government and state agencies shall develop plans and regulations for transportation and public utilities developments in accordance with the following guidelines:
 - a. Existing and potential utility and transportation facility crossings shall be identified and river crossings shall be minimized and concentrated at existing crossings where possible.

- b. The Corridor shall not be used merely as a convenient right-of-way and new or modified transportation and utility facilities shall complement the planned land and water uses and shall not stimulate incompatible development.
 - c. In planning and designing the construction or reconstruction of all public transportation facilities which occur within the river corridor, consideration shall be given to the provision of scenic overlooks for motorists, safe pedestrian crossings and facilities along the River Corridor, access to the riverfront in public ownership and reasonable use of the land between the river and the transportation facility.
- 8. Local units of government and regional and state agencies shall develop capital improvement programs which are consistent with the following guidelines:
 - a. A five year capital improvement program or public facilities program shall be developed which covers all public projects to be sited in the corridor.
 - b. The capital improvement program or public facilities program shall specify the sequence of actions to be undertaken by each public agency and shall be consistent with the standards and guidelines in Section B and C.
- 9. Local units of government shall reassess all lands in the River Corridor in accordance with the following guidelines:
 - a. Local units of government shall send copies of adopted plans and regulations and amendments of plans and regulations to appropriate municipal and county assessors within 30 days after adoption.
 - b. Municipal and county tax assessors shall reassess all lands in the Mississippi River Corridor for consistency with adopted plans and regulations within one year of receipt of adopted plans from local units of government.
- 10. Local units of government and regional and state agencies shall prepare plans and regulations in accordance with the natural characteristics and the character of existing development in the River Corridor in accordance with the following guidelines:
 - a. Local units of government and regional and state agencies shall prepare plans and regulations using the district boundaries as described in the Interim Development Regulations as guidelines, in accordance with the purpose of each district as described in the general guidelines Section B.
 - b. The City of St. Paul shall prepare plans and regulations to balance open space use and industrial and commercial developments for the Pig's Eye Lake area.
 - c. Local units of government may prepare modifications of the use districts boundaries as described in the interim development regulations if local units of government demonstrate to the EQC in plans and supporting documents

the consistency of the proposed modification with the general guidelines.

11. Local units of government, regional agencies and state agencies shall provide adequate opportunities for public participation in the preparation of plans and regulations.

D. Reviewing plans and regulations

1. The Metropolitan Council shall be the lead agency to coordinate the preparation, submission, review and modification of land use plans, zoning ordinances, zoning amendments, capital improvement programs and other regulations, specified in section C, which are prepared by local units of government, regional and state agencies.
2. Local units of government and regional agencies shall submit existing, modified or prepared plans and regulations that comply with the designation order to the Metropolitan Council within six months of notice of the order of designation. The EQC shall review the state plans and regulations and forward the appropriate sections to the Metropolitan Council.
3. The Metropolitan Council shall review the plans, regulations, and capital improvement programs prepared by local units of governments, regional and state agencies for consistency with regional objectives and with the order of designation. Within 45 days of receiving the plans and regulations, the Metropolitan Council shall submit its written evaluation to the EQC. Upon a request from the Metropolitan Council, the EQC may grant 30 days time extensions when the EQC determines that the Metropolitan Council has satisfactorily demonstrated that it requires more time for review.
4. The EQC shall review all plans and regulations prepared for the Mississippi River Corridor, within 45 days of receiving the plans and regulations from the Metropolitan Council. The EQC shall determine whether they are consistent with the provisions of the order of designation. When the EQC has completed the review, it shall either:
 - a. Approve the plans and regulations by a written decision and notify the local units of government and regional and state agencies, and the Metropolitan Council; or
 - b. Return them to the local units of governments, regional and state agencies, and the Metropolitan Council for modification with a written explanation of the need for modification.
5. Within 45 days of EQC's approval of the plans and regulations, local units of government, regional and state agencies shall adopt the approved plans and regulations, and shall notify the EQC.

E. Updating and re-evaluation of plans and regulations

1. Local units of government or regional and state agencies may amend their plans and regulations that have been approved by the EQC by resubmitting the plans and regulations with any recommended changes thereto, to the EQC for consideration.
2. Two years after EQC's initial approval of the plans and regulations, local units of government and regional and state agencies shall resubmit their plans and regulations with any recommended changes thereto, for review and approval by the EQC.
3. Amendments to plans and regulations shall become effective only upon the approval thereof by the EQC in the same manner as for approval of the original plans and regulations as stated in section D.

F. Development permits

1. If no plans and regulations have been adopted under the provisions of Section D, local units of government and regional and state agencies shall grant a development permit only if:
 - a. The development is specifically permitted by the Interim Development Regulations;
 - b. The development is essential to protect the public health, safety, or welfare because of an existing emergency; or
 - c. The registration, recordation, permit, or authorization of the development was issued prior to the date of legal notice of the EQC public hearing provided in Minn. Reg. MEQC 53(3).
2. When plans and regulations have been adopted under the provisions of section D, local units of government, regional and state agencies shall permit development only in accordance with those plans and regulations.

G. Notification of the development permits to the EQC

1. Local units of government, and regional and state agencies shall prepare administrative procedures for permit notification as a part of their plans and regulations. The local units of government, regional and state agencies shall notify the EQC of all the developments requiring discretionary actions under their rules and regulations at least 30 days before taking action on the application, unless the EQC informs the local unit of government and regional and state agencies in writing that the EQC need not be notified of certain types of applications.
2. Local units of government and regional and state agencies shall prepare procedures to notify the EQC of their final action on the development permits which require discretionary action.

H. Judicial Proceedings

If the EQC determines that the administration of the local plans and regulations is inadequate to protect the state or regional interest, the EQC may institute appropriate judicial proceedings to compel proper enforcement of the plans and regulations.

Note: Executive Order 79-19 was signed on February 26, 1979, published in 3 State Register 1680 ff. on March 12, 1979, and effective on March 27, 1979. Parts of Executive Order 79-19 which are not reprinted here, including the Order, Interim Development Regulations for the Mississippi River Corridor Critical Area, and Definitions, may be found at 3 State Register 1680-1710.

In 1995, responsibility for administration of the Mississippi River Critical Area Program, as described in Minnesota Statutes, Chapter 116B, Minnesota Rules, Chapter 4410, and Executive Order 79-19, was transferred from the Environmental Quality Board (formerly Environmental Quality Council or EQC) to the Minnesota Department of Natural Resources (DNR). References in Executive Order 79-19 to EQC or Council should be inferred as the responsibility of DNR.