

From: [Monika Mann](#)
To: [MN Ordinance Review \(DNR\)](#)
Cc: [Petrik, Daniel \(DNR\)](#); [Michael Healy](#); [Huinker, Taylor \(DNR\)](#)
Subject: South St. Paul MRCCA Ordinance Rough Draft With Request for Flexibility
Date: Wednesday, January 11, 2023 8:45:55 AM
Attachments: [image001.png](#)
[Proposed MRCCA Ordinance With Flexibility In Red.docx](#)
[10.D- Request for Flexibility.pdf](#)
[Resolution 2022-179.pdf](#)
[Invitation to Comment Request for Flexibility from Model MRCCA Ordinance.msg](#)
[RE Invitation to Comment Request for Flexibility from Model MRCCA Ordinance .msg](#)
[Ltr. S St Paul MRCCA Exception 12-19-22- Washington County.docx](#)
[Zoning Flexibility Areas 10-27-22.pdf](#)

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Good Morning,

The city of South St. Paul would like to formally submit our draft ordinance, including our requests for flexibility, to the Department of Natural Resources for preliminary review.

In summary:

- The City is requesting flexibility from Sections 6.31 and 6.33 in the model ordinance due to the impact these provisions would have on areas of the City where there is existing commercial and industrial development that predates the designation of the Mississippi River Critical Corridor Area.
- The City is requesting flexibility from Section 6.31 to allow structures within Zoning Area A (see the Zoning Flexibility Areas attachment. This attachment can also be found in PDF labeled "10.D-Request for Flexibility") to be placed up to the toe of a bluff with a conditional use permit.
 - Many of the existing businesses along Concord Street and Concord Exchange were built right up to the toe of the bluff or into the bluff in the late 1880s and early 1900s
 - Many of the properties on the west side of Concord Street and Concord Exchange have retaining wall systems that stabilize the toe of the bluff.
 - A conditional use permit requirement for any incursion into the bluff impact zone would allow the City to review each of these projects "case by case" and attach conditions. The DNR and the National Park Service will be provided with a public hearing notice for all MRCCA-related conditional use permits and will be able to provide the City with technical assistance in evaluating these projects and formulating conditions.
 - This request would allow the City to pursue its redevelopment goals that are spelled out in the City's 2040 [Comprehensive Plan](#) and the City's [Concord/Grand Gateway Redevelopment Plan](#) while balancing the need to protect and preserve the stability of the bluffs.

- The City is requesting flexibility from Section 6.31 to allow structures within Zoning Area B (see the Zoning Flexibility Areas attachment) to be placed within 20 feet of the top of the bluff up to the bluff line with a conditional use permit as long as the structures does not impact the stability of the bluff and meets land alteration and vegetation removal standards.
 - Zoning Area B encompasses a strip of developed land on the east side of Concord Street North with incredibly narrow parcels whose rear yard is a natural railroad embankment which just barely meets the zoning definition of a bluff.
 - The buildings on this strip of land are all “grandfathered” to be closer than 40 feet to the edge of the bluff. However, no building additions or infill development are possible without variances
 - The conditional use permit tool was chosen for allowing flexibility because the tool allows case-by-case conditions to be attached to projects and because it involves formal input from the DNR and the National Park Service
 - This proposed flexibility would allow the city to work with property owners “case by case” to achieve sensitive infill
- The City is requesting flexibility from Section 6.35 to allow properties within Zoning Area B to be subdivided even if the resulting lot does not meet the setback requirement in Section 6.31 and 6.33. This request is specifically for the properties in Zoning Area B, where the parcels are so shallow that many become unbuildable if a 40-foot setback requirement is enforced since their rear yard is a natural railroad embankment which just barely meets the zoning definition of a bluff.

I have attached the following documents related to our draft ordinance and our request for flexibility:

- A copy of the staff memo that was brought to the South St. Paul City Council on December 19th
 - This report provides some background on the City’s development pattern, additional information on the City’s request for flexibility, and addresses any potential impacts to PCAs and mitigation actions to address any potential impacts.
- A copy of the resolution passed by the City Council on December 19th formally requesting flexibility from the MRCCA model ordinance
- Copies of the comments we received from the adjacent and affected jurisdictions regarding South St. Paul’s request for flexibility.
 - In short, South St. Paul only received “no comment” feedback on our request.
 - Copies of the responses from the National Park Service, MnDOT, and Washington County are attached.

It is my understanding that South St. Paul has already requested an extension for the February 2023 deadline for codifying our updated MRCCA ordinance. We anticipate holding a public hearing within two months of receiving conditional approval of our draft ordinance from the DNR. Because ordinances in South St. Paul require two city council meetings, we anticipate needing an additional month after the public hearing for the ordinance to be formally adopted. We hope to have our MRCCA ordinance update complete by June or July of 2023.

Please let me know if you have questions or require any additional materials to complete your review.

Respectfully,

Monika Miller | Associate Planner

125 Third Avenue North | South St. Paul, MN 55075

p. 651.554.3273 | www.southstpaul.org/



City Council Agenda

Date: December 19, 2022

Department: Community Development- Planning

Prepared by: Monika Mann, Associate Planner

Administrator: _____

10-D

Agenda Item: Request for Flexibility from MRCCA Model Ordinance

Action to be considered:

Approve Resolution 2022-179 requesting flexibility from the Mississippi River Critical Corridor Area Model Ordinance

Overview:

Background

The Mississippi River Critical Corridor Area (MRCCA) is an area near the Mississippi River that is protected by statewide environmental regulations which govern land use planning and development. The State adopted its first set of MRCCA regulations in the late 1970's and required all communities with land in the protected area to adopt a local ordinance to implement the Statute. The Department of Natural Resources (DNR) is responsible for working with each community to develop and maintain the local ordinance. Each community's local MRCCA ordinance is slightly different and reflects local development conditions, political realities, and the character of the river as it passes through the community. South St. Paul's current MRCCA ordinance was put into place in 1982.

In 2017, the Minnesota Department of Natural Resources adopted updated MRCCA rules. These rules replaced Executive Order 79-19 as the state regulation governing local land use and zoning regulations in the MRCCA. These rules made significant changes to the way development is regulated in the protected area. They direct the DNR to work with all communities with land in the MRCCA to update their comprehensive plans and zoning ordinances to comply with the new rules. South St. Paul was required to update their MRCCA Critical Area Plan to comply with the new Statute for the 2040 Comprehensive Plan. The City's Critical Area Plan was approved by the DNR and enacted in 2020.

The City of South St. Paul needs to adopt an updated MRCCA ordinance that complies with the 2017 rules by February 17, 2023 or request an extension.

DNR Model Ordinance and Potential for Flexibility

The DNR has drafted a model ordinance based on the 2017 rules that they would like all communities with land in the MRCCA to adopt. Generally, most of the new MRCCA language will have either a positive or neutral effect on development activity in South St. Paul. However, there are two standards related to development in the bluff impact zone that conflict with the City's economic development and land use goals.

The City can either adopt the model ordinance or it can request flexibility from the model ordinance using a process that is laid out in Minn. R. 6106.0070 Subp. 6. The City Council discussed the model ordinance at a work session meeting on May 23, 2022. At that time, they instructed Staff to work with the DNR to seek flexibility from the parts of the model ordinance that conflict with City goals. Since that time, Staff has worked with the DNR to develop a "flexibility proposal" that meets the City needs in a way that the DNR can hopefully support.

Bluff Impact Zone

One of the new features in the updated MRCCA ordinance is the concept of the bluff impact zone. The bluff impact zone is described as “a bluff and the land located within 20 feet of the bluff.” A visualization of the bluff impact zone can be found as Attachment A. The bluff impact zone is designated as a primary conservation area under the new MRCCA ordinance, meaning that the bluff and the 20 feet around the bluff is designated as a key resource/feature that will receive special protection to ensure the longevity of the resource. There have been several cases of river bluff collapse within the MRCCA in the last decade which likely contributed to the designation of this resource and the emphasis on bluff stability in the ordinance.

History of Development in the MRCCA Near the Toe of the River Bluffs

South St. Paul is a fully developed city and its development pattern in the area between the bluffs and the Mississippi River predates MRCCA designation by almost 100 years. The city’s history of development in this area started in 1885 when Alpheus Beede Stickney purchased the land along the Mississippi River and created the Saint Paul Union Stockyards. Railways and roads were constructed in the flat areas near the toe of the bluffs in the late 1800s and early 1900s and buildings were constructed on both sides of the new roads. Concord Street became the main street through the city and to the stockyards. Hotels, shops, restaurants, car dealerships and other businesses popped up wherever there was space along both sides of Concord Street to take advantage of the influx of visitors. Due to space constraints, most of the original buildings along the west side of Concord Street were either built right up to the toe of the bluff or built into the bluff. Many of the properties on the west side of Concord Street have retaining wall systems that stabilize the toe of the bluff.

In the 1970’s, the City undertook a massive urban renewal project and condemned and demolished many buildings along both sides of Concord Street to acquire land for redevelopment. Those efforts have taken longer than anticipated but, over the last 50 years, the City has successfully redeveloped many of the larger properties. The City continues to own numerous vacant properties that sit between existing buildings along the corridor. The City’s land use plan calls for Concord Street (and its parallel sister street Concord Exchange) to be a dense, walkable, mixed-use corridor with residential and commercial development. To achieve this goal, the remaining holes in the urban fabric which were created by building demolitions in the 1970’s need to be filled with new buildings. Most of these holes in the urban fabric are surface parking lots today. Additionally, some of the initial redevelopment of the corridor that occurred in the 1970’s and 1980’s has poor urban design and the City would like to see these properties continue to improve and evolve.

Since the original MRCCA rules went into effect in the 1980’s, redevelopment along Concord Street and Concord Exchange has generally been prohibited from cutting into the bluffs. However, many of the parcels on the west side of Concord Street and Concord Exchange are so shallow that it is only possible to redevelop them if every last foot of land is used right up to the toe of the bluff. Most development approved in recent years has featured a pedestrian-oriented building built right up against the public sidewalk with a parking lot placed next to it and/or behind it. Almost all new development has gone right up to the toe of the bluff and most projects would not have been possible if they needed to stay 20 feet away from the toe of the bluff to avoid the bluff impact zone, as is contemplated by the new MRCCA rules. Because of this, the City is seeking flexibility from the bluff impact zone regulations to allow it to continue its redevelopment efforts in this corridor. Without this flexibility, most development and redevelopment projects on the corridor will need to seek variances from the bluff impact zone regulations. The uncertainty that accompanies the variance process will deter investment and make it much more difficult for the City to attract redevelopment partners.

Request for Flexibility #1: Structures in the Bluff Impact Zone near the Toe of the Bluff in a Designated Zoning Area

While the new MRCCA rules do not explicitly create a setback requirement from the toe of the bluff, the creation of the bluff impact zone and the prohibition of structures in the bluff impact zone effectively creates a 20-foot setback requirement from the toe of any bluff. The current MRCCA rules do not require a setback from the toe of the bluff. If the City were to adopt the language in the model ordinance, all the properties along the west side of Concord Street and Concord Exchange would essentially become 20 feet shallower for the purposes of development. Many of these properties are already challenging to develop due to their shallowness so losing another 20 feet would be very problematic. The City has an officially adopted long term goal of extending Concord Exchange further north through several existing private parking lots to create a new development area and the new requirement would undermine that goal.

The City is requesting flexibility from this standard in the area outlined as *Zoning Area A* (outlined in purple) on the map found as Attachment B. This area spans along the west side of Concord Street and Concord Exchange, starting at Annapolis Street on the north and spanning south to approximately the Doug Woog Arena. The area also includes a section south of I-494, starting just south of Fury Motors and spanning to the City's southerly border, again following the bluff on the west side of Concord Street. The City is requesting that in Zoning Area A, structures including retaining walls and impervious surfaces, may be placed within 20 feet of the toe of the bluff and up to the toe of the bluff with a conditional use permit. The replacement of an existing retaining wall in the same location or a new retaining wall needed to address an emergency situation would be "permitted" and would not require a conditional use permit.

A conditional use permit requirement for any incursion into the bluff impact zone would allow the City to review each of these projects "case by case" and attach conditions. The DNR and the National Park Service will be provided with a public hearing notice for all MRCCA-related conditional use permits and will be able to provide the City with technical assistance in evaluating these projects and formulating conditions. In some cases, these conditional use permit requests may be denied if it does not appear that the project can be completed without destabilizing the bluff. In other cases, it may be appropriate to approve the project but attach strict conditions which prioritize bluff stability. Such conditions might include erosion control, revegetation, requiring structures to be designed or sited a certain way, and/or requiring a professional engineer to conduct a study of soil conditions and submit a report before a building permit can be released.

There are relatively few areas along the Concord Street and Concord Exchange corridor where the toe of the bluff does not already have some type of retaining wall system to support the stability of the bluff and most existing development already goes right to the toe of the bluff. Request for Flexibility #1 would have no impact on river corridor views. The area where flexibility is being requested is not visible from the river due to the positioning of the levee that extends along much of the river's shoreline and the fact that the Mississippi River is at least 350 feet away from all parts of Zoning Area A and almost 3,000 feet away from the main redevelopment areas along Concord Exchange.

Request for Flexibility #2: Structures Near the Top of the Bluff in a Designated Zoning Area

The existing MRCCA zoning rules prohibit structures from being placed closer than 40 feet to the top of a bluff. The 2017 MRCCA rules keep this requirement and also state that the City cannot approve the creation of new lots that would need a variance from this requirement to be buildable. There is a strip of developed land on the east side of Concord Street North where the parcels are so shallow that many become unbuildable if a 40-foot setback requirement is enforced since their rear yard is a natural railroad embankment which just barely meets the zoning definition of a bluff. The buildings on this strip of land, such as Las Islas restaurant, are all "grandfathered" to be closer than 40 feet to the edge of the bluff. However, no building additions or infill development are possible without variances.

The City is requesting flexibility for this area which is shown as *Zoning Area B* (outlined in orange) in the map that is Attachment B. The City is proposing to allow structures and impervious surfaces to go right to the edge of the bluff in this area with a conditional use permit. Again, the conditional use permit tool was chosen for allowing flexibility because the tool allows case-by-case conditions to be attached to projects and because it involves formal input from the DNR and the National Park Service. The case-by-case conditions would allow the City to address potential negative impacts. Conditions of approval could include requiring additional infrastructure to prevent erosion, requiring building or structure design that is sensitive to the bluffs, or calling for additional stormwater infrastructure. Zoning Area B is already developed and the proposed flexibility would give the City the ability to work with the property owners “case by case” to achieve sensitive infill development without the need to resort to the uncertainty of the variance process. This request for flexibility would have a positive impact on users of these properties by potentially allowing for increased scenic views of the river from the properties. This is a commercial-retail area with one existing restaurant and a vacant building that will hopefully soon be converted into a second restaurant so scenic views of the river are important.

Purpose of the Proposed Resolution

Staff have discussed these areas of flexibility with staff members from the Department of Natural Resources (DNR). These DNR staff members have expressed that they believe the City’s request is reasonable and the City Council should now take the step of formally requesting flexibility from the model ordinance by approving a resolution. This will trigger a formal review by the DNR to determine whether the flexibility can be granted.

The City IS NOT approving an update to its MRCCA ordinance at this time. Any update to the MRCCA ordinance will require a public hearing and review by the Planning Commission. Whether or not the DNR agrees to grant flexibility, the City will still need to go through the formal process of updating its MRCCA ordinance in 2023.

Request for Flexibility to Be Included on DNR’s Website

The DNR has a large section of its website dedicated to information about the MRCCA program and the process for cities to adopt the updated rules. A section of the MRCCA webpage is dedicated to information about flexibility and the process for requesting flexibility. This staff report, its attachments, other supporting documentation, and comments from adjacent communities and interests will be posted on this [webpage](#) once a resolution requesting flexibility is approved.

Staff Recommendation

If the City Council is still supportive of requesting flexibility, Staff recommends approval of Resolution 2022-179 submitting an official request for flexibility to the DNR.

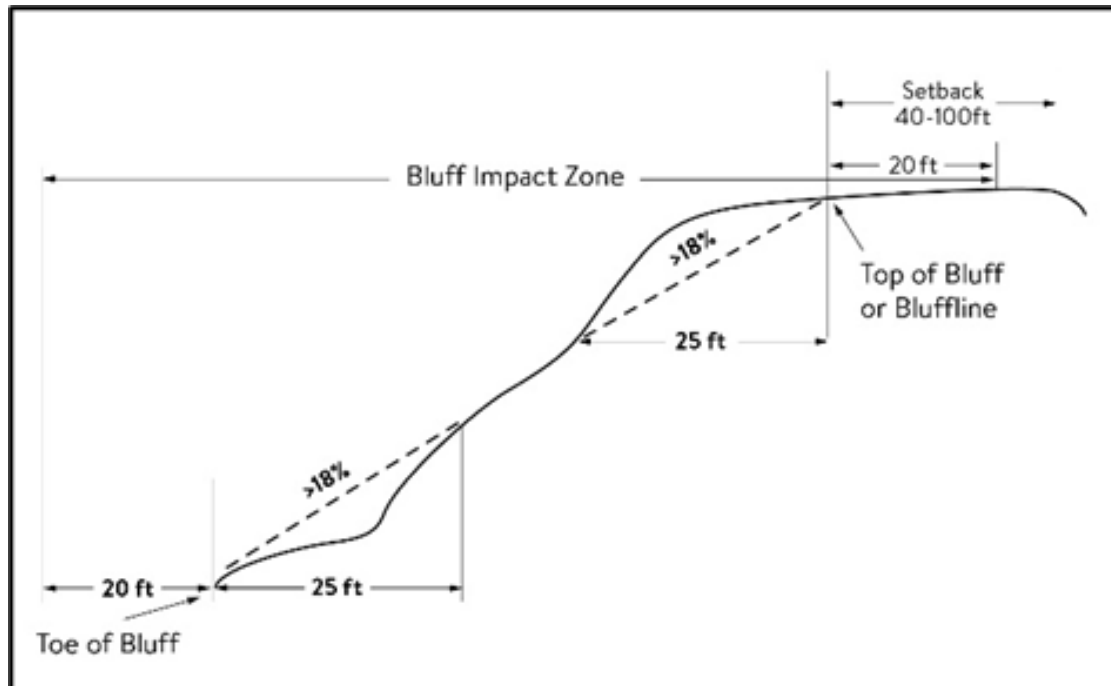
Source of Funds:

N/A

Attachments:

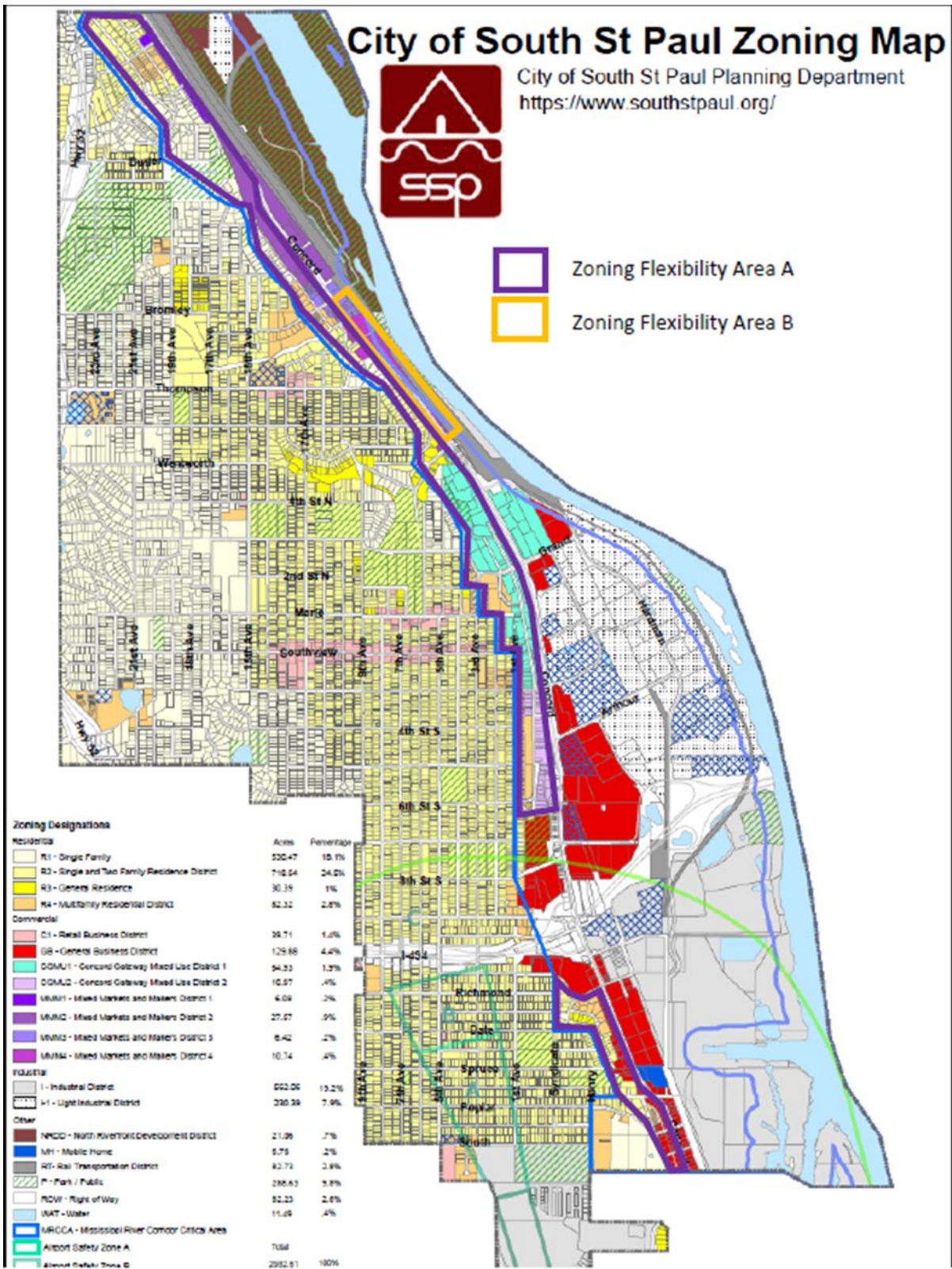
- A- Bluff and Bluff Impact Zone Diagram
- B- Map of Zoning Areas Where Flexibility is Being Requested
- C- Proposed MRCCA Ordinance with Areas of Flexibility in Red

ATTACHMENT A
BLUFF AND BLUFF IMPACT ZONE DIAGRAM



ATTACHMENT B

MAP OF ZONING AREAS WHERE FLEXIBILITY IS BEING REQUESTED



ATTACHMENT C
PROPOSED MRCCA ORDINANCE WITH AREAS OF FLEXIBILITY IN RED

City of South St. Paul
Dakota County, Minnesota
Ordinance No. ____

**AN ORDINANCE UPDATING THE STANDARDS FOR THE MISSISSIPPI RIVER
CRITICAL COORIDOR AREA (MRCCA) ZONING RULES**

SECTION 1. REPEAL AND REPLACE. Division 2 of Article IV of the South St. Paul City Code is hereby repealed and replaced as follows:

**DIVISION 2. MISSISSIPPI RIVER CRITICAL COORIDOR AREA OVERLAY
DISTRICT**

Sec. 118-165. Authority, Intent, and Purpose

- (a) *Statutory Authorization.* This Mississippi River Corridor Critical Area (MRCCA) section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter [116G](#), Minnesota Rules, Parts [6106.0010 - 6106.0180](#), and the planning and zoning enabling legislation in Minnesota Statutes, Chapter [462](#) and [473](#).
- (b) *Policy.* The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of designated critical areas and thus preserve and enhance the quality of important historic, cultural, aesthetic values, and natural systems and provide for the wise use of these areas.

Sec. 118-166. General Provisions

- (a) *Jurisdiction.* The provisions of this division shall apply to land within the river corridor boundary as described in the State Register, volume 43, pages 508 to 519 and shown on the official zoning map.
- (b) *Enforcement.* The City of South St. Paul is responsible for the administration and enforcement of this division. Any violation of its provisions or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this division can occur regardless of whether or not a permit is required for a regulated activity listed in Section 118-168 (b).
- (c) *Severability.* If any section, clause, provision, or portion of this division is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this division shall not be affected thereby.

- (d) *Abrogation and Greater Restrictions*. It is not intended by this division to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this division imposes greater restrictions, the provisions of this division shall prevail. All other sections inconsistent with this division are hereby repealed to the extent of the inconsistency only.
- (e) *Underlying zoning*. Uses and standards of underlying zoning districts apply except where standards of this overlay district are more restrictive.

Sec. 118-167. Definitions.

Access path means an area designated to provide ingress and egress to public waters.

Adjacent means having a boundary that physically touches or adjoins.

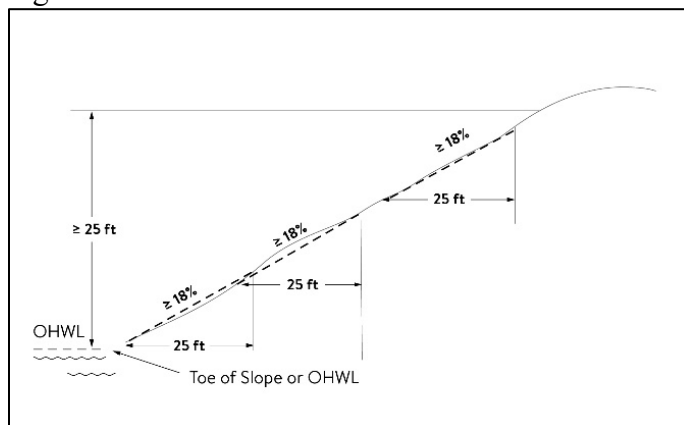
Alternative design means subdivision design methods such as conservation design, transfer of development density, or similar zoning and site design techniques that protect open space and natural areas.

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

Bluff means a natural topographical feature having:

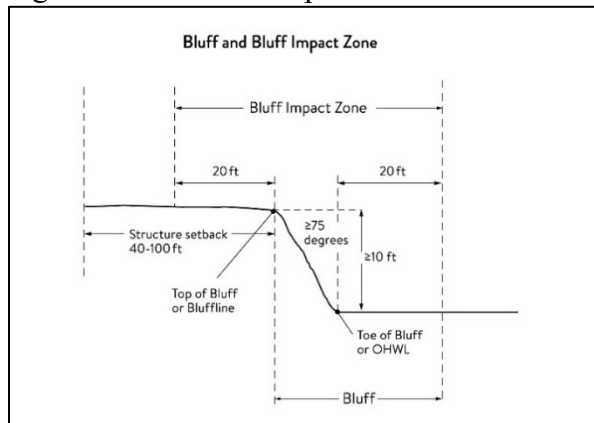
(A.) A slope that rises at least 25 feet where the grade of the slope averages 18 percent or greater, measured over any horizontal distance of 25 feet, from the toe of the slope to the top of the slope. Where the slope begins below the ordinary high water level, the ordinary high water level is the toe of the slope. See Figure 1; or

Figure 1. Bluff



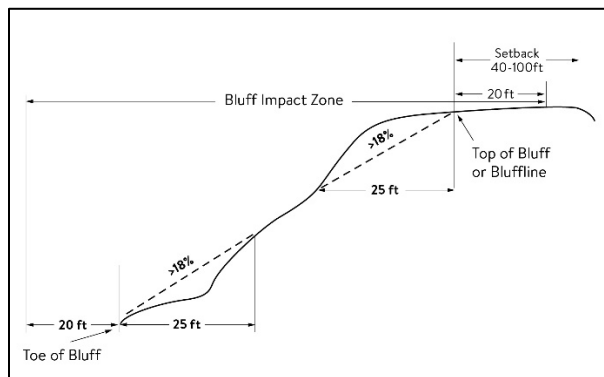
(B.) A natural escarpment or cliff with a slope that rises at least ten feet above the ordinary high water level or toe of the slope, whichever is applicable, to the top of the slope, with a slope of 75 degrees or greater. See Figure 2.

Figure 2. Natural Escarpment Bluff and Bluff Impact Zone



Bluff impact zoning (BIZ) means a bluff and land located within 20 feet of the bluff. See Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

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



Bluffline means a line delineating the top of the bluff. More than one bluffline may be encountered proceeding landward from the river. See Figures 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Bluff, Toe of 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 Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Bluff, Top of 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 Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Buildable area means the area upon which structures may be placed on a lot or parcel of land and excludes areas needed to meet requirements for setback, rights-of-way, bluff impact zones, historic properties, wetlands, designated floodways, land below the ordinary high water level of public waters, and other unbuildable areas.

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

Certificate of compliance means a document written after a compliance inspection, certifying that the development complies with applicable requirements at the time of the inspection.

Commissioner means the commissioner of the Department of Natural Resources.

Conditional use means a use having the meaning given under Minnesota Statutes, chapters 394 and 462.

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.

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.

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.

Developer means as defined under Minnesota Statutes, section [116G.03](#).

Development means as defined under Minnesota Statutes, section 116G.03.

Discretionary action means an action under this division 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.

Dock means as defined under Minnesota Rules, chapter 6115.

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

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

Feedlot means as defined under as animal feedlots under Minnesota Rules chapter 7020

Floodplain means as defined under Minnesota Rules chapter 6120.

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.

Hard-surface trail means a trail surfaced in asphalt, crushed aggregate, or other hard surface, for multi-purpose use, as determined by local, regional, or state agency plans.

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 as determined by the director of the Minnesota Historical Society; or
- C. An unplatted cemetery that falls under the provisions of Minnesota Statutes, chapter 307, in consultation with the Office of the State Archaeologist.

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 include rooftops, decks, sidewalks, patios, parking lots, storage areas, and driveways, including those with concrete, asphalt, or gravel surfaces.

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

Interim use means a use having the meaning given under Minnesota Statutes, chapters [394](#) and [462](#).

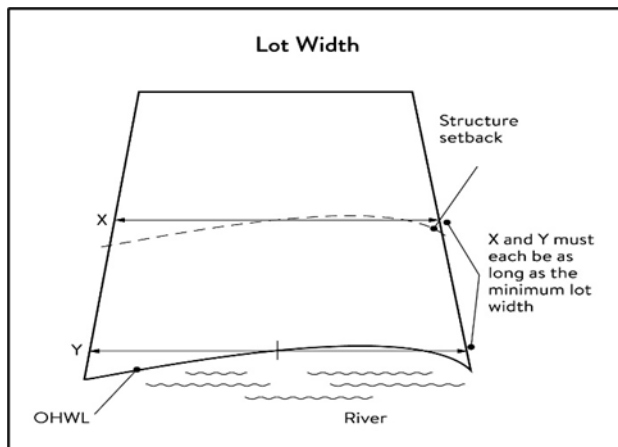
Land alteration means an activity that exposes the soil or changes the topography, drainage, or cross section of the land, excluding gardening or similar minor soil disturbances

Local government means counties, cities, and townships

Lot means as defined under Minnesota Rules chapter [6120](#).

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. See Figure 4.

Figure 4. Lot Width



Marina means having the meaning given under Minnesota Rules chapter 6115.

Mississippi River Corridor Critical Area (MRCCA) means the area within the River Corridor Boundary

Mississippi River Corridor Critical Area (MRCCA) Plan means a chapter in the City of South St. Paul's comprehensive plan.

Mooring facility means as defined under Minnesota Rules part [6115.0170](#).

Native plant community means a plant community identified by the Minnesota Biological Survey or biological survey issued or adopted by a local, state, or federal agency.

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.

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.

Nonconformity means as defined under Minnesota Statutes, section [394.22](#).

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.

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.

Ordinary high water level (OHWL) means as defined under Minnesota Statutes, section 103G.005.

Overlay district means a zoning district applied over one or more previously established zoning districts, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zoning district. Overlay districts are often used to protect historic features and natural resources such as shoreland or floodplain.

Parcel means as defined under Minnesota Statutes, section 116G.03.

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

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

Planned unit development (PUD) 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 utilize this method of development.

Plat means as defined under Minnesota Statutes, sections 505 and 515B.

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

Primary conservation areas (PCAs) mean 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, and significant existing vegetative stands, tree canopies, and other resources identified in local government plans.

Private facilities means private roads, driveways, and parking areas, private water access and viewing facilities, decks and patios in setback areas, and private signs.

Professional engineer means an engineer licensed to practice in Minnesota.

Public facilities means public utilities, public transportation facilities, and public recreational facilities.

Public recreation 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.

Public river corridor views (PRCVs) 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 and documented in the MRCCA plan/chapter of the comprehensive plan.

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.

Public utilities means electric power facilities, essential services, and transmission services.

Public waters means as defined under Minnesota Statutes, section 103G.005.

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

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.

Retaining wall means a vertical or nearly vertical structures constructed of mortar and rubble masonry, rock, or stone regardless of size, vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials.

Rock riprap means a natural coarse rock placed or constructed to armor shorelines, streambeds, bridge abutments, pilings and other shoreline structures against scour, or water or ice erosion.

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 43, pages 508 to 518.

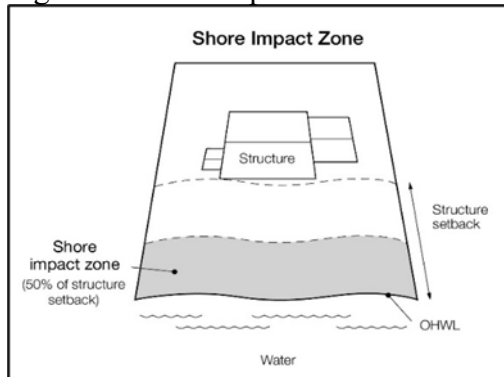
River-dependent use means the use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.

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

Setback means a separation distance measured horizontally.

Shore impact zone (SIZ) 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 agricultural use, 50 feet landward of the ordinary high water level. See Figure 5.

Figure 5. Shore Impact Zone



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

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.

Storm water management facilities means facilities for the collection, conveyance, treatment, or disposal of storm water.

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

Subdivision means as defined under Minnesota Statutes, section 462.352.

Subsurface sewage treatment system means as defined under Minnesota Rules, part 7080.1100.

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, Subd. 4; or
 - (2) For mains or pipelines for gas, liquids, or solids in suspension, used to transport gas, liquids, or solids in suspension between two points; and
- B. Telecommunication lines, cables, pipelines, or conduits.

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.

Variance means as defined under Minnesota Statutes, section 394.22.

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.

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.

Water quality impact zone means land within the shore impact zone or within 50 feet of a public water, wetland, or natural drainage route.

Wetland means as defined under Minnesota Statutes, section 103G.005.

Wharf means as defined under Minnesota Rules, part 6115.0170.

Sec. 118-168.- Administration

- (a) *Purpose.* The purpose of this section is to identify administrative provisions to ensure this division is administered consistent with its purpose.
- (b) *Permits.* A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, vegetation removal consistent with Section 118-174 and land alterations consistent with Section 118-175.
- (c) *Variances.* Variances to the requirements under this section may only be granted in accordance with Section 118-38 and must consider the potential impacts of variances on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan. In reviewing the variance application, the governing body shall:
 - (1) Evaluate the impacts to these resources. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, and
 - (2) Make written findings that the variance is consistent with the purpose of this division.

(d) *Conditional and interim use permits.* All conditional and interim uses, required under this division, must only be granted in accordance with Sections 118-40 and 118-41 respectively and must consider the potential impacts on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan. In reviewing the application, the City Council shall:

- (1) Evaluate the impacts to these resources and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts.

(e) *Application materials.* Applications for permits and discretionary actions required under this division must submit the following information in addition to the material requirements elsewhere in the zoning code unless the Zoning Administrator determines that the information is not needed:

- (1) A detailed project description; and
- (2) Scaled maps and plans, dimensional rendering, maintenance agreements, and other materials that identify and described:
 - 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.

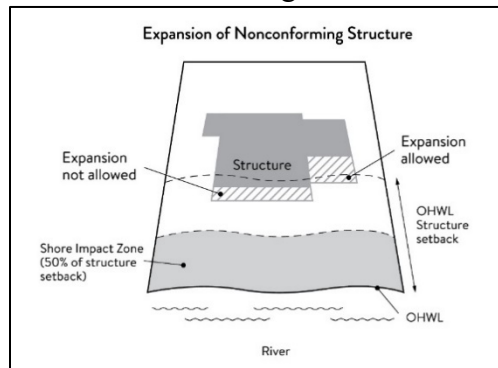
(f) *Nonconformities*

- (1) All legally established nonconformities as of the date of this ordinance may continue consistent with City Code Section 118, Article II, Division 2.

- (2) New structures erected in conformance with the setback averaging provisions of Section 118-171 (c) (4) are conforming structures.

- (3) Site alterations and expansion of site alterations that were legally made prior to the effective date of this ordinance are conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements.
- (4) Legally nonconforming principal structures that do not meet the setback requirements of Section 118-171 (c) may be expanded laterally provided that:
 - a. The expansion does not extend into the shore or bluff impact zone or further into the required setback than the building line of the existing principal structure (See Figure 6); and
 - b. The expanded structure's scale and bulk is consistent with that of the original structure and existing surrounding development.

Figure 6. Expansion of Nonconforming Structure



(g) *Notifications*

- (1) Amendments to this division and to the MRCCA plan must be submitted to the Commissioner as provided in Minnesota Rules, part 6106.0070, Subp. 3, Items B – I.
- (2) Notice of public hearings for discretionary actions, including conditional and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, and PUDs, must be sent to the following entities at least (10) days prior to the hearing:
 - a. The Commissioner in a format prescribed by the DNR;
 - b. National Park Service; and

- c. Where building heights exceed the height limit specified in Section 118-171 (b) as part of the conditional use or variance process, adjoining local governments within the MRCCA, including those with overlapping jurisdiction and those across the river.
- (3) Notice of final decisions for conditional and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, and PUDs, including findings of fact, must be sent to the Commissioner, the National Park Service, and adjoining local governments within the MRCCA within ten (10) days of the final decision.
- (4) Requests to amend district boundaries must follow the provisions in Minnesota Rules, part 6106.0100, Subp. 9, Item C.
- (h) *Accommodating Disabilities.* Reasonable accommodations for ramps or other facilities to provide persons with disabilities access to the persons' property, as required by the federal Americans with Disabilities Act and the federal Fair Housing Act and as provided by Minnesota Rules, chapter 1341, must:
 - (1) Comply with Sections 118-171 to 118-177; or
 - (2) If Sections 118-171 to 118-177 cannot be complied with, ramps or other facilities are allowed with an administrative permit provided:
 - a. The permit terminates on either a specific date or upon occurrence of a particular event related to the person requiring accommodation; and
 - b. Upon expiration of the permit, the ramp or other facilities must be removed.

Sec. 118-169.- MRCCA Districts

- (a) *Purpose.* The purpose of this section is to establish districts under which building height and structure placement are regulated to protect and enhance the Mississippi River's resources and features consistent with the natural and built character of each district.
- (b) *District description and management purpose.* The MRCCA within the City of South St. Paul is divided into the following MRCCA Districts:
 - (1) Rural and Open Space (ROS)
 - a. Description. The ROS district is characterized by rural and low-density development patterns and land uses, and includes land that is riparian or visible from the river, as well as large, undeveloped tracts of high

ecological and scenic value, floodplain, and undeveloped islands. Many primary conservation areas exist in the district.

- b. Management purpose. The ROS district must be managed to sustain and restore the rural and natural character of the corridor and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas.

(2) River Neighborhood (RN)

- a. Description. The RN district is characterized by primarily residential neighborhoods that are riparian or readily visible from the river or that abut riparian parkland. The district includes parks and open space, limited commercial development, marinas, and related land uses.
- b. Management purpose. The RN district must be managed to maintain the character of the river corridor within the context of existing residential and related neighborhood development, and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas. Minimizing erosion and the flow of untreated storm water into the river and enhancing habitat and shoreline vegetation are priorities in the district.

(3) Separated from River (SR)

- a. Description. The SR district is characterized by its physical and visual distance from the Mississippi River. The district includes land separated from the river by distance, topography, development, or a transportation corridor. The land in this district is not readily visible from the Mississippi River.
- b. Management purpose. The SR district provides flexibility in managing development without negatively affecting the key resources and features of the river corridor. Minimizing negative impacts to primary conservation areas and minimizing erosion and flow of untreated storm water into the Mississippi River are priorities in the district. The RTC district must be managed in a manner that allows continued growth and redevelopment in historic downtowns and more intensive redevelopment in limited areas at river crossings to accommodate compact walkable development patterns and connections to the river. Minimizing erosion and the flow of untreated storm water into the river, providing public access to and public views of the river, and restoring natural vegetation in riparian areas and tree canopy are priorities in the district.

(4) Urban Mixed (UM)

- a. Description. The UM district 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. Management purpose. The 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.

(c) *MRCCA District Map*. The locations and boundaries of the MRCCA districts established by this section are shown on MRCCA District in South St. Paul map which is incorporated herein by reference. The district boundary lines are intended to follow the centerlines of rivers and streams, highways, streets, lot lines, and municipal boundaries, unless a boundary line is otherwise indicated on the map. Where district boundaries cross unsubdivided property, the district boundary line is determined by use of dimensions or the scale appearing on the map.

Sec. 118-170.-Special Land Use Provisions

- (a) *Purpose*. To identify development standards and considerations for land uses that have potential to negatively impact primary conservation areas and public river corridor views.
- (b) *Underlying Zoning*. Uses within the MRCCA are generally determined by underlying zoning, with additional provisions for the following land uses:
 - (1) *Agricultural use*. Perennial ground cover is required within 50 feet of the ordinary high water level and within the bluff impact zone.
 - (2) *Feedlots*. New animal feedlots and manure storage areas are prohibited. Existing animal feedlots and manure storage areas must conform with Minnesota Rules, chapter 7020
 - (3) *Forestry*. Tree harvesting and biomass harvesting within woodlands, and associated reforestation, must be consistent with recommended practices in

Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota.

(4) *Nonmetallic mining.* Nonmetallic mining requires a conditional use permit or interim use permit issued by the local government, subject to the following:

- a. New nonmetallic mining is prohibited within the shore impact zone and bluff impact zone and within the required structure setback from the bluffline and OHWL;
- b. Processing machinery must be located consistent with setback standards for structures as provided in Section 118-171 (c);
- c. Only one barge loading area, which must be limited to the minimum size practicable, is permitted for each mining operation;
- d. New and, where practicable, existing nonmetallic mining operations must not be readily visible and must be screened by establishing and maintaining natural vegetation. The unscreened boundaries of nonmetallic mining areas are limited to only the barge loading area;
- e. A site management plan must be developed by the operator and approved by the local government before new nonmetallic mining commences. Operations must be consistent with the site plan throughout the duration of operations at the site. The site management plan must:
 1. Describe how the site will be developed over time with an emphasis on minimizing environmental risk to public waters;
 2. Explain where staged reclamation may occur at certain points during the life of the site;
 3. Address dust, noise, storm water management, possible pollutant discharges, days and hours of operation, and duration of operations; and
 4. Describe any anticipated vegetation and topographic alterations outside the pit, and reclamation plans consistent with the stated end use for the land;
- f. Existing and new nonmetallic mining operations must submit land reclamation plans to the local government compatible with the purposes of this ordinance.

(5) *River-dependent uses.* River-dependent uses must comply with the following design standards:

- a. Structures and parking areas, except shoreline facilities and private roads and conveyances serving river-dependent uses as provided in Section 118-177 must meet the dimensional and performance standards in this section, must be designed so that they are not readily visible, and must be screened by establishing and maintaining natural vegetation;
 - b. Shoreline facilities must comply with Minnesota Rules, chapter 6115 and must:
 - 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; and
 - c. Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.
- (6) Wireless communication towers. Wireless communication towers as regulated in Section 118- 271 require a conditional or interim use permit within the boundaries of the MRCCA district and are subject to the following design standards:
- a. The applicant must demonstrate that functional coverage cannot be provided through co-location, a tower at a lower height, or a tower at a location outside of the MRCCA;
 - b. The tower must not be located in a bluff or shore impact zone; and
 - c. Placement of the tower must minimize impacts on public river corridor views.
 - d. Comply with the general design standards in Section 118-173(b).

Section 118-171.-Structure Height and Placement and Lot Size

- (a) Purpose. To establish standards that protect primary conservation areas and public river corridor views from development impacts and ensure that new development is sited consistent with the purpose of the MRCCA.
- (b) Structure height. Structures and facilities must comply with the following standards unless identified as exempt in Section 118-177
 - (1) Structures and facilities must comply with the following standards unless identified as exempt in Section 118-177:

- a. ROS District: 35 feet
- b. RN District: 35 feet
- c. SR District: Height is determined by underlying zoning, provided the allowed height is consistent with that of the mature treeline, where present, and existing surrounding development, as viewed from the OHWL of the opposite shore.
- d. UM district: 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. Structures over 65 feet are allowed as a conditional use according to Section 118-171 (b)(3).

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

(3) In addition to the conditional use permit requirements of Section 118-168 (d), criteria for considering whether to grant a conditional use permit for structures exceeding the height limits must include:

- a. Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;
- b. Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as:
 - 1. Placing the long axis of the building perpendicular to the river;
 - 2. Stepping back of portions of the facade;
 - 3. Narrowing the profile of upper floors of the building; or
 - 4. Increasing the setbacks of the building from the Mississippi River or blufflines;

(4) Identification of techniques for preservation of those view corridors identified in the MRCCA Plan; and

(5) Opportunities for creation or enhancement of public river corridor views.

(c) Structure and impervious surface placement

(1) Structures and impervious surface must not be placed in the shore or bluff impact zones unless identified as an exemption in Section 118-177.

- a. On properties in Zoning Area A, structures, retaining walls, and impervious surfaces may be placed within the bluff impact zone at the toe of the bluff but not in the bluff by conditional use permit meeting the standards in Section 118-171(c). By conditional use permit, a new retaining wall may be allowed for the purpose of stabilizing the toe of a bluff. Retaining walls in the following situations do not require a conditional use permit:
 - 1. The replacement or modification of an existing retaining wall in the same location as long as the replacement wall does not have a substantially larger exposed face than the existing wall and does not encroach further into the bluff than the existing wall.
 - 2. Retaining walls located on or adjacent to the right-of-way of an existing improved public street or alley if the City determines the wall is necessary for continued functionality and safety.
 - 3. New retaining walls to address an emergency situation determined by the City.
- b. On properties in Zoning Area B, structures and impervious surfaces may be placed within 20 feet of the top of the bluff up to the top of the bluff or bluffline by conditional use permit meeting the standards in Section 118-171(c). No structure or impervious surface may extend beyond the bluffline.
- c. Conditional Use Permit Standards
 - 1. Plans must demonstrate that structures, retaining walls, and impervious surface can be installed without compromising the stability of the bluff.
 - 2. Compliance with land alteration conditions of approval in Section 118-175 (f)
 - 3. Compliance with vegetation removal and restoration standards in Section 118-174 (d)

(2) Structures, impervious surfaces, and facilities must comply with the following OHWL setback provisions unless identified as exempt in Section 118-177.

- a. ROS District: 200 feet from the Mississippi River.
- b. RN District: 100 feet from the Mississippi River.
- c. UM District: 50 feet from the Mississippi River.

(3) Structures, impervious surfaces, and facilities must comply with the following bluffline setback provisions unless identified as exempt in Section 118-177:

a. ROS District: 100 feet.

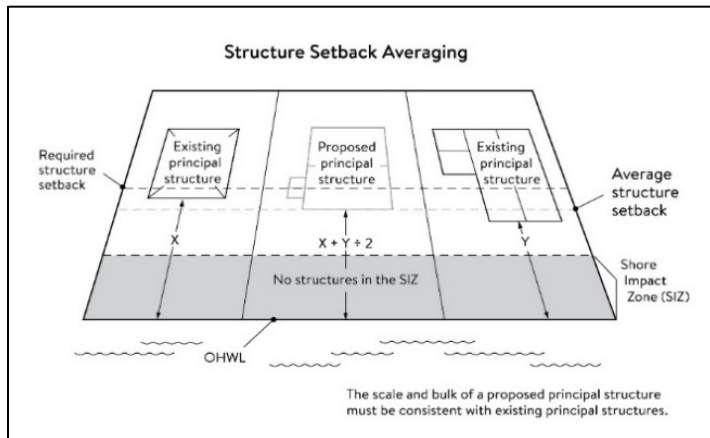
b. RN District: 40 feet.

c. SR District: 40 feet.

d. UM District: 40 feet.

(4) Where principal structures exist on the adjoining lots on both sides of a proposed building site, the minimum setback may be altered to conform to the average of the adjoining setbacks, if the new structure's scale and bulk riverward or bluffward of the setbacks required under Section 118-171 (c) (2) and Section 118 (171)(c)(3) are consistent with adjoining development. See Figure 7.

Figure 7. Structure Setback Averaging



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

(d) Lot Size and Buildable area

(1) The width of lots abutting the Mississippi River in the ROS District must be at least 200 feet, unless alternative design methods are used that provide greater protection of the riparian area.

(2) All new lots must have adequate buildable area to comply with the setback requirements of Section 118-171 (c)(2) and Section 118 -171(c)(3) so as to not

require variances to use the lots for their intended purpose **except for land in Zoning Area B.**

Sec. 118-172.- Performance Standards for Private Facilities

- (a) Purpose. To establish design standards for private facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan.
- (b) General design standards. All private facilities must be developed in accordance with the vegetation management and land alteration requirements in Section 118-174 and Section 118-175
- (c) Private roads, driveways, and parking areas. Except as provided in Section 118-177, private roads, driveways and parking areas must:
 - (1) Be designed to take advantage of natural vegetation and topography so that they are not readily visible;
 - (2) Comply with structure setback requirements according to Section 118-171 (c); and
 - (3) Not be placed within the bluff impact zone or shore impact zone, **unless compliant with Section 118-171 (c)(1)**, exempt under Section 118-177 and designed consistent with Section 118-173 (b).
- (d) Private water access and viewing facilities
 - (1) Private access paths must be no more than:
 - a. Eight feet wide, if placed within the shore impact zone; and
 - b. Four feet wide, if placed within the bluff impact zone.
 - (2) Private water access ramps must:
 - a. Comply with Minnesota Rules, parts 6115.0210 and 6280.0250; and
 - b. Be designed and constructed consistent with the applicable standards in Design Handbook for Recreational Boating and Fishing Facilities.
 - (3) Design and construction of private stairways, lifts, and landings are subject to the following standards:

- a. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties and residential facilities held in common, if approved by conditional use permit.
- b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet area are allowed for commercial properties and residential facilities held in common, if approved by conditional use permit
- c. Canopies or roofs are prohibited on stairways, lifts, or landings;
- d. Stairways, lifts, and landings must be located in the least visible portion of the lot whenever practical; and
- e. Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities are allowed for achieving access to shore areas according to Section 7.43 A. – D, and as provided under 118-168 (h).

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

- a. Not exceed 12 feet in height;
- b. Not exceed 120 square feet in area; and
- c. Be placed a minimum of 10 feet from the ordinary high water level.

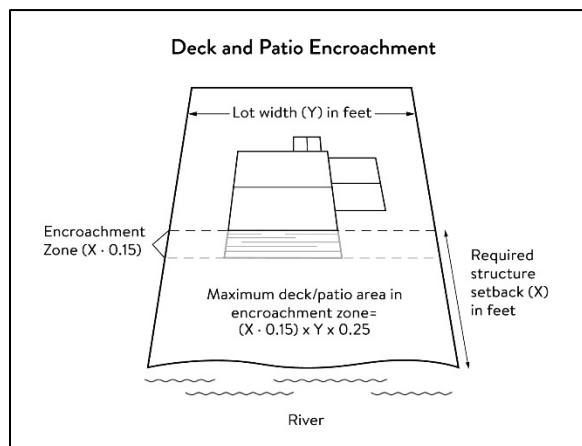
(e) Decks and patios in setback areas. Decks and at-grade patios may encroach into the required setbacks from the ordinary high water level and blufflines without a variance, when consistent with Section 118-174 and 118-175, provided that:

- (1) The encroachment of the deck or patio into the required setback area does not exceed 15 percent of the required structure setback;
- (2) The area of the deck or patio that extends into the required setback area occupies no more than 25 percent of the total area between the required setback and the 15 percent using the formula:

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

- (3) The deck or patio does not extend into the bluff impact zone, except as listed in Section 118-172(e)(4). See Figure 8.

Figure 8. Deck and Patio Encroachment



- (4) Decks and at-grade patios in Zoning Area B may exceed the limits in Section 118-172(e)(1), Section 118-172(e)(2), and may extend into the bluff impact zone consistent with Section 118-171(c)(1) and Section 118-177.
- (f) Off-premises and directional signs.
- (1) Off-premises advertising signs must:
- Comply with the regulation of Section 118 Article VI
 - Meet required structure placement and height standards in Section 118-171(b) and 118-171(c).
 - Not be readily visible
- (2) Directional signs for patrons arriving at a business by watercraft must comply with the following standards:
- They must be consistent with Minnesota Statutes, section 86B.115.
 - Only convey the location and name of the establishment and the general types of goods and services available, if located in a shore impact zone.
 - Be no greater than ten feet in height and 32 square feet in surface area; and
 - If illuminated, the lighting must be shielded to prevent illumination out across the river or to the sky.

Sec. 118-173.- Performance Standards for Public Facilities

- (a) **Purpose.** To establish design standards for public facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan. Public facilities serve the public interest by providing public access to the Mississippi River corridor or

require locations in or adjacent to the river corridor and therefore require some degree of flexibility.

(b) **General design standards.** All public facilities must be designed and constructed to:

- (1) Minimize visibility of the facility to the extent consistent with the purpose of the facility;
- (2) Comply with the structure placement and height standards in Section 118-171, except as provided in Section 118-177;
- (3) Be consistent with the vegetation management standards in Section 118-174 and the land alteration and storm water management standards in Section 118-175, including use of practices identified, where applicable;
- (4) Avoid primary conservation areas, unless no alternative exists. If no alternative exists, then disturbances to primary conservation areas must be avoided to the greatest extent practicable, and design and construction must minimize impacts; and
- (5) Minimize disturbance of spawning and nesting times by scheduling construction at times when local fish and wildlife are not spawning or nesting.

(c) **Right-of-way maintenance standards.** Right-of-way maintenance must comply with the following standards:

- (1) Vegetation currently in a natural state must be maintained to the extent feasible;
- (2) Where vegetation in a natural state has been removed, native plants must be planted and maintained on the right-of-way; and
- (3) Chemical control of vegetation must be avoided when practicable, but when chemical control is necessary, chemicals used must be in accordance with the regulations and other requirements of all state and federal agencies with authority over the chemical's use.

(d) **Crossings of public water or public land.** Crossings of public waters or land controlled by the commissioner are subject to approval by the commissioner according to Minnesota Statutes, sections 84.415 and 103G.245.

(e) **Public utilities.** Public utilities must comply with the following standards:

- (1) High-voltage transmission lines, wind energy conversion systems greater than five megawatts, and pipelines are regulated according to Minnesota Statutes, chapter 216E, 216F, and 216G respectively; and

- (2) If overhead placement is necessary, utility crossings must minimize visibility of the facility from the river be hidden from view and follow other existing right of ways as much as practicable.
- (3) The appearance of structures must be as compatible as practicable with the surrounding area in a natural state with regard to height and width, materials used, and color.
- (4) Wireless communication facilities, according to Section 118-170 (b)(6)

(f) **Public transportation facilities.** Public transportation facilities shall comply with structure placement and height standards in Section 118-171. Where such facilities intersect or about two or more MRCCA districts, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:

- (1) Providing scenic overlooks for motorists, bicyclists, and pedestrians;
- (2) Providing safe pedestrian crossings and facilities along the river corridor;
- (3) Providing access to the riverfront in public ownership; and
- (4) Allowing for use of the land between the river and the transportation facility.

(g) **Public recreational facilities.** Public recreational facilities must comply with the following standards:

- (1) Buildings and parking associated with public recreational facilities must comply with the structure placement and height standards in Section 118-171, except as provided in Section 118-177;
- (2) Roads and driveways associated with public recreational facilities must not be placed in the bluff or shore impact zones unless no other placement alternative exists. If no alternative exists, then design and construction must minimize impacts to shoreline vegetation, erodible soils and slopes, and other sensitive resources.
- (3) Trails, access paths, and viewing areas associated with public recreational facilities and providing access to or views of the Mississippi River are allowed within the bluff and shore impact zones if design, construction, and maintenance methods are consistent with the best management practice guidelines in Trail Planning, Design, and Development Guidelines.
 - a. Hard-surface trails are not allowed on the face of bluffs with a slope exceeding 30 percent. Natural surface trails are allowed, provided they do not exceed eight feet in width
 - b. Trails, paths, and viewing areas must be designed and constructed to minimize:

1. Visibility from the river;
 2. Visual impacts on public river corridor views; and
 3. Disturbance to and fragmentation of primary conservation areas.
- (4) Public water access facilities must comply with the following requirements:
- a. Watercraft access ramps must comply with Minnesota Rules chapters 6115.0210 and 6280.0250; and
 - b. Facilities must be designed and constructed consistent with the standards in Design Handbook for Recreational Boating and Fishing Facilities
- (5) Public signs and kiosks for interpretive or directional purposes are allowed in the bluff or shore impact zones, provided they are placed and constructed to minimize disturbance to these areas and avoid visual impacts on public river corridor views.
- (6) Public stairways, lifts, and landings must be designed as provided in Section 118-172(e).

Sec. 118-174.- Vegetation Management

- (a) Purpose. To establish standards that sustain and enhance the biological and ecological functions of vegetation; preserve the natural character and topography of the MRCCA; and maintain stability of bluffs and steep slopes and ensure stability of other erosion-prone areas.
- (b) Applicability. This section applies to:
- (1) Shore impact zones;
 - (2) Areas within 50 feet of a wetland or natural drainage route;
 - (3) Bluff impact zones;
 - (4) Areas of native plant communities; and
 - (5) Significant existing vegetative stands identified in the MRCCA plan.
- (c) Activities allowed without a vegetation permit.
- (1) Maintenance of existing lawns, landscaping and gardens;
 - (2) Removal of vegetation in emergency situations as determined by the City of South St. Paul
 - (3) Right-of-way maintenance for public facilities meeting the standards of Section 118-173(c)
 - (4) Agricultural and forestry activities meeting the standards of Sections (118-170(b)(1) and 118-170 (b)(3);

(5) Selective vegetation removal, provided that vegetative cover remains consistent with the management purpose of the MRCCA District, including removal of:

- a. Vegetation that is dead, diseased, dying, or hazardous;
- b. Vegetation to prevent the spread of diseases or insect pests;
- c. Individual trees and shrubs; and
- d. Invasive non-native species.

(d) Activities allowed with a vegetation permit.

(1) Only the following intensive vegetation clearing activities are allowed with a vegetation permit

- a. Clearing of vegetation that is dead, diseased, dying, or hazardous;
- b. Clearing to prevent the spread of diseases or insect pests;
- c. Clearing to remove invasive non-native species.
- d. Clearing to prepare for restoration and erosion control management activities consistent with a plan approved by the City of South St. Paul
- e. The minimum necessary for development that is allowed with a building permit or as an exemption under 118-177.

(2) General Performance Standards. The following standards must be met, in addition to a restoration plan under 118-174(f), in order to approve a vegetation permit:

- 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 (insert name of resource agency, if someone other than professional engineer is desired);
- c. Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views and other scenic views;
- d. Vegetation removal activities are conducted so as to expose the smallest practical area of soil to erosion for the least possible time, and to avoid bird migration and nesting seasons; and

- e. Any other condition determined necessary to achieve the purpose of this section.

(e) Prohibited Activities. All other vegetation clearing is prohibited.

(f) Vegetation restoration plan.

(1) Development of a vegetation restoration plan and reestablishment of natural vegetation is required:

- a. For any vegetation removed with a permit under 118-174 (d)(1)
- b. Upon failure to comply with any provisions in this section; or
- c. As part of the planning process for subdivisions as provided in Section 118-176.

(2) Restoration Plan Performance Standards. The vegetation restoration plan must satisfy the application submittal requirements in Section 118-168(e) and

- a. Vegetation should be restored in one or more of the restoration priority areas as identified in the crucial area plan.
- b. Include vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities;
- c. Any highly erodible soils disturbed during removal and/or restoration must be stabilized with deep-rooted vegetation with a high stem density;
- d. Vegetation removed must be restored with native vegetation to the greatest extent practicable.
- e. For restoration of removed native plant communities, restored vegetation must also provide biological and ecological function equivalent to the removed native plant communities.
- f. Be prepared by a qualified individual; and
- g. Include a maintenance plan that includes management provisions for controlling invasive species and replacement of plant loss for three years.

(3) A certificate of compliance will be issued after the vegetation restoration plan requirements have been satisfied

Sec. 118-175.- Land Alteration Standards and Stormwater Management

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

(b) Land Alteration

(1) Within the bluff impact zone, land alteration is prohibited, except for the following, which are allowed by permit.

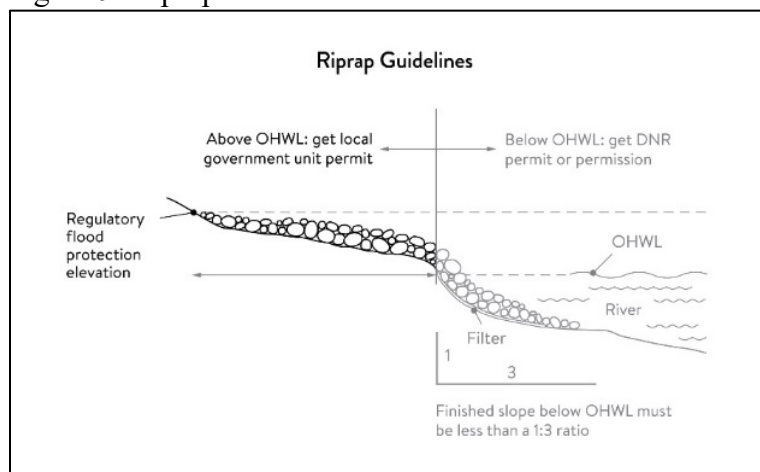
- a. Erosion control consistent with a plan approved by the local government or resource agency and consistent with 118-175(f);
- b. The minimum necessary for development that is allowed as an exception under Section 118-177; and
- c. Repair and maintenance of existing buildings and facilities

(2) Within the water quality impact zone, land alteration that involves more than ten cubic yards of material or affects an area greater than 1,000 square feet requires a permit.

(c) Rock riprap, retaining walls, and other erosion control structures.

(1) Construction, repair, or replacement of rock riprap, retaining walls, and other erosion control structures located at or below the OHWL must comply with Minnesota Rules, part 6115.0215, Subp. 4, item E, and 6115.0216, Subp. 2. Work must not proceed until approved by the commissioner, permitted by the US Army Corps of Engineers, and any other permits are obtained. See Figure 9.

Figure 9. Riprap Guidelines



(2) Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and the water quality impact zone

are allowed with a permit consistent with provisions of Section 10.6 provided that:

- a. If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.
- b. The structures are used only to correct an established erosion problem as determined by the City of South St. Paul.
- c. The size and extent of the structures are the minimum necessary to correct the erosion problem and are not larger than the following, unless a professional engineer determines that a larger structure is needed to correct the erosion problem:
 1. Retaining walls must not exceed five feet in height and must be placed a minimum horizontal distance of ten feet apart; and
 2. Riprap must not exceed the height of the regulatory flood protection elevation.
- d. Repair of existing rock riprap, retaining walls, and other erosion control structures above the OHWL does not require a permit provided it does not involve any land alteration.

(d) Stormwater management

(1) In the bluff impact zone, storm water management facilities are prohibited, except by permit if:

- a. There are no alternatives for storm water treatment outside the bluff impact zone on the subject site;
- b. The site generating runoff is designed so that the amount of runoff reaching the bluff impact zone is reduced to the greatest extent practicable;
- c. The construction and operation of the facility does not affect slope stability on the subject property or adjacent properties; and
- d. Mitigation based on the best available engineering and geological practices is required and applied to eliminate or minimize the risk of slope failure.

(2) In the water quality impact zone, development that creates new impervious surface, as allowed by exemption in Section 118-177, or fully reconstructs existing impervious surface of more than 10,000 square feet requires a storm water permit. Multipurpose trails and sidewalks are exempt if there is down gradient vegetation or a filter strip that is at least five feet wide.

- (3) In all other areas, storm water runoff must be directed away from the bluff impact zones or unstable areas
- (e) Development on steep slopes. Construction of structures, impervious surfaces, land alteration, vegetation removal, or other construction activities are allowed on steep slopes if:
 - (1) The development can be accomplished without increasing erosion or storm water runoff;
 - (2) The soil types and geology are suitable for the proposed development; and
 - (3) Vegetation is managed according to the requirements of Section 118-174.
- (f) Conditions of land alteration permit approval
 - (1) Temporary and permanent erosion and sediment control measures retain sediment onsite consistent with best management practices in the Minnesota Stormwater Manual;
 - (2) Natural site topography, soil, and vegetation conditions are used to control runoff and reduce erosion and sedimentation;
 - (3) Construction activity is phased when possible;
 - (4) All erosion and sediment controls are installed before starting any land disturbance activity;
 - (5) Erosion and sediment controls are maintained to ensure effective operation;
 - (6) The proposed work is consistent with the vegetation standards in Section 118-174; and
 - (7) Best management practices for protecting and enhancing ecological and water resources [identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001](#).
- (g) Compliance with other plans and programs. All development must:
 - (1) Be consistent with Minnesota Statutes, chapter 103B, and local water management plans completed under Minnesota Statutes, chapter 8410;
 - (2) Meet or exceed the wetland protection standards under Minnesota Rules, chapter 8420; and
 - (3) Meet or exceed the floodplain management standards under Minnesota Rules, sections 6120.5000 – 6120.6200.
 - (4)

Sec. 118-176.- Subdivision and Land Development Standards

(a) Purpose

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

(b) Applicability

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

(c) Application Materials. Project information listed in Section 118-167(d)(6) must be submitted for all proposed developments

(d) Design standards.

- (1) Primary conservation areas, where they exist, must be set aside and designated as protected open space in quantities meeting the following as a percentage of total parcel area:
 - a. CA-ROS District: 50%;
 - b. CA-RN District: 20%;
 - c. CA-UM: 10%
 - d. CA-SR District: 10% if the parcel includes native plant communities or provides feasible connections to a regional park or trail system, otherwise no requirement.
 - (2) If the primary conservation areas exceed the amounts specified in Section 118-176(d), then protection of native plant communities and natural vegetation in riparian areas shall be prioritized
 - (3) If primary conservation areas exist but do not have natural vegetation (identified as restoration priorities in the MRCCA Plan), then a vegetation assessment must be completed to evaluate the unvegetated primary conservation areas and determine whether vegetation restoration is needed. If restoration is needed, vegetation must be restored according to Section 118-174 (f)(2).
 - (4) Storm water treatment areas or other green infrastructure may be used to meet the protected open space requirements if the vegetation provides biological and ecological functions.
 - (5) Land dedicated under Article IV of Chapter 42 for public river access, parks, or other open space or public facilities may be counted toward the protected open space requirement.
 - (6) Protected open space areas must connect open space, natural areas, and recreational areas, where present on adjacent parcels, as much as possible to form an interconnected network
- (e) **Permanent protection of dedicated open space**
- (1) Designated open space areas must be protected through one or more of the following methods:
 - a. Public acquisition by a government entity for conservation purposes;
 - b. A permanent conservation easement, as provided in Minnesota Statutes, chapter 84C;
 - c. A deed restriction; and

- d. Other arrangements that achieve an equivalent degree of protection.
- e. Permanent protection methods must ensure the long-term management of vegetation to meet its biological and ecological functions, prohibit structures, and prohibit land alteration, except as needed to provide public recreational facilities and access to the river.

(f) Alternative Design Standards

- (1) Alternative design standards may be considered through a Planned Unit Development approval.

Sec. 118-177.- Exemptions.

- (a) Purpose. To provide exemptions to structure placement, height and other standards for specific river or water access dependent facilities as provided in Minnesota Statutes, section 116G.15 Subd. 4.
- (b) Applicability. Uses and activities not specifically exempted must comply with this (section, chapter, or article). Uses and activities exempted under shore impact zone and bluff impact zone must comply with the vegetation management and land alteration standards in Section 118-174 and section 118-175.

(c) Uses and Activities Exemption Classification

(1) General Uses and Activities

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers)	N	E	N	N	Structure design and placement must minimize interference with public river corridor views.
Barns, silos, and farm structures	N	E	N	N	
Bridges and bridge approach roadways	E	E	E	(E)	Section 118-173
Wireless communication towers	E	E	N	N	Section 118-170 (b)(6)
Chimneys, church spires, flag poles, public monuments, and mechanical stacks and equipment	N	E	N	N	
Historic properties and contributing properties in historic districts	E	E	E	E	Exemptions do not apply to additions or site alterations

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Within Zoning Area A, structures and impervious surfaces (including driveways and parking areas).	N	n/a	n/a	E	Section 118-171(c)(1) (a), Section 118-172; within BIZ, structures & impervious surfaces only within 20 feet of toe of bluff, not on face of bluff; and must not affect stability of bluff.
Within Zoning Area B, structures, decks, and impervious surfaces (including driveways, parking areas and at-grade patios).	E	n/a	n/a	(E)	Section 118-171(c)(1) (a), Section 118-172; within BIZ, structures & impervious surfaces only within 20 feet of top of bluff, not on face of bluff; and must not affect stability of bluff

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

(2) Public Utilities

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Electrical power facilities	E	E	E	(E)	Section 118-173
Essential services (other than storm water facilities)	E	E	E	(E)	Section 118-173
Storm water facilities	E	N	E	(E)	Section 118-175
Wastewater treatment	E	N	E	N	Section 118-173
Public transportation facilities	E	N	(E)	(E)	Section 118-173

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

(3) Public Recreation Facilities

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Accessory structures, such as monuments, flagpoles, light standards, and similar park features	E	E	(E)	(E)	Section 118-173; within BIZ, only on slopes averaging less than 30%. Exemptions do not apply to principal structures.
Picnic shelters and other open-sided structures	E	N	(E)	N	Section 118-173
Parking lots	(E)	N	(E)	(E)	Section 118-173; 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)	Section 118-173
Natural-surfaced trails, access paths, and viewing areas	E	N	E	E	Section 118-173
Hard-surfaced trails and viewing platforms	E	N	E	(E)	Section 118-173; within BIZ, only on slopes averaging less than 30%
Water access ramps	E	N	E	(E)	Section 118-173
Public signs and kiosks for interpretive or directional purposes	E	N	E	(E)	Section 118-173

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

(4) River-dependent uses

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Shoreline facilities	E	N ¹	E	(E)	Section 118-170(b)(5). Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility
Private roads and conveyance structures serving river-dependent uses	E	N1	E	(E)	Section 118-170(b)(5)

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

(5) Private residential and commercial water access and use facilities

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Private roads serving 3 or more lots	(E)	N	N	(E)	Section 118-172; in BIZ, only on slopes averaging less than 30%. Exemption does not apply to private roads serving fewer 3 lots or to private driveways and parking areas
Access paths	E	N	E	E	Section 118-172
Water access ramps	E	N	E	N	Section 118-172
Stairways, lifts, and landings	E	N	E	E	Section 118-172
Water-oriented accessory structures	E	N	E	N	Section 118-172
Patios and decks	E	N	N	N	Section 118-172(e)
Directional signs for watercraft (private)	E	N	E	N	Section (118-172(f); 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	

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

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Erosion control structures, such as rock riprap and retaining walls	E	N	E	(E)	Section 118-175 (c), (e), and (f)
Flood control structures	E	N	E	(E)	Section 118-175

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

City of South St. Paul
Dakota County, Minnesota

RESOLUTION NO. 2022-179

**RESOLUTION REQUESTING FLEXIBILITY FROM THE MRCCA MODEL
ORDINANCE**

WHEREAS, in 2017, the State Legislature rewrote the statutes that govern the Mississippi River Critical Corridor Areas (MRCCA);

WHEREAS, the State directed the Department of Natural Resources (DNR) to work with communities with land with the MRCCA to update their comprehensive plans and local ordinance to comply with the new state statutes;

WHEREAS, the DNR has created a model ordinance that cities can adopt to bring their local ordinances into compliance with the new state statute;

WHEREAS, the City has reviewed the model ordinances and has highlighted certain provisions which are detrimental to the City's economic development and land use goals;

WHEREAS, the City has proposed alternative language that would preserve and enhance the resources found in the MRCCA while still allowing the city to meet its economic development and land use goals;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of South St. Paul, Minnesota that the City formally requests flexibility from the model MRCCA ordinance as found in Attachment C in the staff report dated December 19, 2022.

Adopted this 19th day of December 2022

Deanna Werner, City Clerk

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Dakota County, Minnesota

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Deanna Werner, City Clerk

ATTACHMENT C
PROPOSED MRCCA ORDINANCE WITH AREAS OF FLEXIBILITY IN RED

City of South St. Paul
Dakota County, Minnesota
Ordinance No. ____

**AN ORDINANCE UPDATING THE STANDARDS FOR THE MISSISSIPPI RIVER
CRITICAL CORRIDOR AREA (MRCCA) ZONING RULES**

SECTION 1. REPEAL AND REPLACE. Division 2 of Article IV of the South St. Paul City Code is hereby repealed and replaced as follows:

**DIVISION 2. MISSISSIPPI RIVER CRITICAL CORRIDOR AREA OVERLAY
DISTRICT**

Sec. 118-165. Authority, Intent, and Purpose

- (a) *Statutory Authorization.* This Mississippi River Corridor Critical Area (MRCCA) section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter [116G](#), Minnesota Rules, Parts [6106.0010 - 6106.0180](#), and the planning and zoning enabling legislation in Minnesota Statutes, Chapter [462](#) and [473](#).
- (b) *Policy.* The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of designated critical areas and thus preserve and enhance the quality of important historic, cultural, aesthetic values, and natural systems and provide for the wise use of these areas.

Sec. 118-166. General Provisions

- (a) *Jurisdiction.* The provisions of this division shall apply to land within the river corridor boundary as described in the State Register, volume 43, pages 508 to 519 and shown on the official zoning map.
- (b) *Enforcement.* The City of South St. Paul is responsible for the administration and enforcement of this division. Any violation of its provisions or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this division can occur regardless of whether or not a permit is required for a regulated activity listed in Section 118-168 (b).
- (c) *Severability.* If any section, clause, provision, or portion of this division is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this division shall not be affected thereby.

- (d) *Abrogation and Greater Restrictions.* It is not intended by this division to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this division imposes greater restrictions, the provisions of this division shall prevail. All other sections inconsistent with this division are hereby repealed to the extent of the inconsistency only.
- (e) *Underlying zoning.* Uses and standards of underlying zoning districts apply except where standards of this overlay district are more restrictive.

Sec. 118-167. Definitions.

Access path means an area designated to provide ingress and egress to public waters.

Adjacent means having a boundary that physically touches or adjoins.

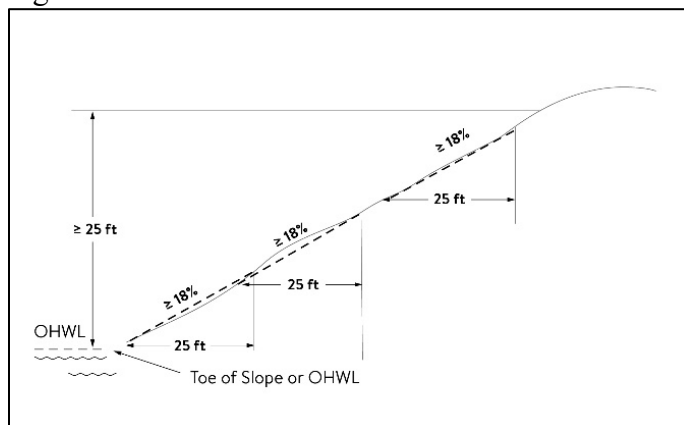
Alternative design means subdivision design methods such as conservation design, transfer of development density, or similar zoning and site design techniques that protect open space and natural areas.

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

Bluff means a natural topographical feature having:

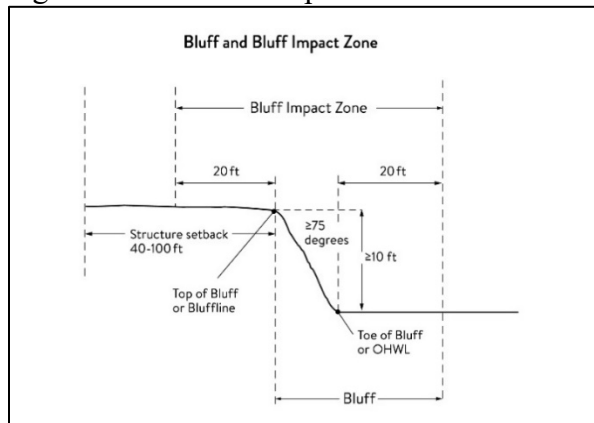
(A.) A slope that rises at least 25 feet where the grade of the slope averages 18 percent or greater, measured over any horizontal distance of 25 feet, from the toe of the slope to the top of the slope. Where the slope begins below the ordinary high water level, the ordinary high water level is the toe of the slope. See Figure 1; or

Figure 1. Bluff



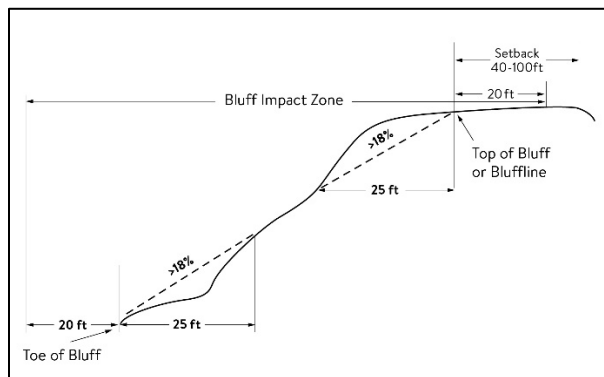
(B.) A natural escarpment or cliff with a slope that rises at least ten feet above the ordinary high water level or toe of the slope, whichever is applicable, to the top of the slope, with a slope of 75 degrees or greater. See Figure 2.

Figure 2. Natural Escarpment Bluff and Bluff Impact Zone



Bluff impact zoning (BIZ) means a bluff and land located within 20 feet of the bluff. See Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

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



Bluffline means a line delineating the top of the bluff. More than one bluffline may be encountered proceeding landward from the river. See Figures 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Bluff, Toe of 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 Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Bluff, Top of 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 Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Buildable area means the area upon which structures may be placed on a lot or parcel of land and excludes areas needed to meet requirements for setback, rights-of-way, bluff impact zones, historic properties, wetlands, designated floodways, land below the ordinary high water level of public waters, and other unbuildable areas.

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

Certificate of compliance means a document written after a compliance inspection, certifying that the development complies with applicable requirements at the time of the inspection.

Commissioner means the commissioner of the Department of Natural Resources.

Conditional use means a use having the meaning given under Minnesota Statutes, chapters 394 and 462.

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.

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.

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.

Developer means as defined under Minnesota Statutes, section [116G.03](#).

Development means as defined under Minnesota Statutes, section 116G.03.

Discretionary action means an action under this division 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.

Dock means as defined under Minnesota Rules, chapter 6115.

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

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

Feedlot means as defined under as animal feedlots under Minnesota Rules chapter 7020

Floodplain means as defined under Minnesota Rules chapter 6120.

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.

Hard-surface trail means a trail surfaced in asphalt, crushed aggregate, or other hard surface, for multi-purpose use, as determined by local, regional, or state agency plans.

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 as determined by the director of the Minnesota Historical Society; or
- C. An unplatted cemetery that falls under the provisions of Minnesota Statutes, chapter 307, in consultation with the Office of the State Archaeologist.

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 include rooftops, decks, sidewalks, patios, parking lots, storage areas, and driveways, including those with concrete, asphalt, or gravel surfaces.

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

Interim use means a use having the meaning given under Minnesota Statutes, chapters [394](#) and [462](#).

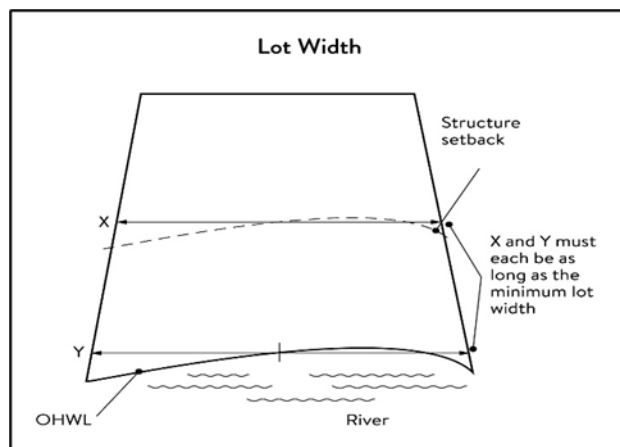
Land alteration means an activity that exposes the soil or changes the topography, drainage, or cross section of the land, excluding gardening or similar minor soil disturbances

Local government means counties, cities, and townships

Lot means as defined under Minnesota Rules chapter [6120](#).

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. See Figure 4.

Figure 4. Lot Width



Marina means having the meaning given under Minnesota Rules chapter 6115.

Mississippi River Corridor Critical Area (MRCCA) means the area within the River Corridor Boundary

Mississippi River Corridor Critical Area (MRCCA) Plan means a chapter in the City of South St. Paul's comprehensive plan.

Mooring facility means as defined under Minnesota Rules part [6115.0170](#).

Native plant community means a plant community identified by the Minnesota Biological Survey or biological survey issued or adopted by a local, state, or federal agency.

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.

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.

Nonconformity means as defined under Minnesota Statutes, section [394.22](#).

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.

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.

Ordinary high water level (OHWL) means as defined under Minnesota Statutes, section 103G.005.

Overlay district means a zoning district applied over one or more previously established zoning districts, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zoning district. Overlay districts are often used to protect historic features and natural resources such as shoreland or floodplain.

Parcel means as defined under Minnesota Statutes, section 116G.03.

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

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

Planned unit development (PUD) 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 utilize this method of development.

Plat means as defined under Minnesota Statutes, sections 505 and 515B.

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

Primary conservation areas (PCAs) mean 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, and significant existing vegetative stands, tree canopies, and other resources identified in local government plans.

Private facilities means private roads, driveways, and parking areas, private water access and viewing facilities, decks and patios in setback areas, and private signs.

Professional engineer means an engineer licensed to practice in Minnesota.

Public facilities means public utilities, public transportation facilities, and public recreational facilities.

Public recreation 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.

Public river corridor views (PRCVs) 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 and documented in the MRCCA plan/chapter of the comprehensive plan.

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.

Public utilities means electric power facilities, essential services, and transmission services.

Public waters means as defined under Minnesota Statutes, section 103G.005.

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

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.

Retaining wall means a vertical or nearly vertical structures constructed of mortar and rubble masonry, rock, or stone regardless of size, vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials.

Rock riprap means a natural coarse rock placed or constructed to armor shorelines, streambeds, bridge abutments, pilings and other shoreline structures against scour, or water or ice erosion.

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 43, pages 508 to 518.

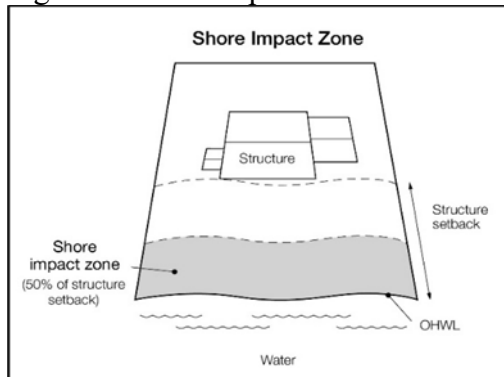
River-dependent use means the use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.

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

Setback means a separation distance measured horizontally.

Shore impact zone (SIZ) 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 agricultural use, 50 feet landward of the ordinary high water level. See Figure 5.

Figure 5. Shore Impact Zone



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

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.

Storm water management facilities means facilities for the collection, conveyance, treatment, or disposal of storm water.

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

Subdivision means as defined under Minnesota Statutes, section 462.352.

Subsurface sewage treatment system means as defined under Minnesota Rules, part 7080.1100.

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, Subd. 4; or
 - (2) For mains or pipelines for gas, liquids, or solids in suspension, used to transport gas, liquids, or solids in suspension between two points; and
- B. Telecommunication lines, cables, pipelines, or conduits.

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.

Variance means as defined under Minnesota Statutes, section 394.22.

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.

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.

Water quality impact zone means land within the shore impact zone or within 50 feet of a public water, wetland, or natural drainage route.

Wetland means as defined under Minnesota Statutes, section 103G.005.

Wharf means as defined under Minnesota Rules, part 6115.0170.

Sec. 118-168.- Administration

- (a) *Purpose.* The purpose of this section is to identify administrative provisions to ensure this division is administered consistent with its purpose.
- (b) *Permits.* A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, vegetation removal consistent with Section 118-174 and land alterations consistent with Section 118-175.
- (c) *Variances.* Variances to the requirements under this section may only be granted in accordance with Section 118-38 and must consider the potential impacts of variances on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan. In reviewing the variance application, the governing body shall:
 - (1) Evaluate the impacts to these resources. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, and
 - (2) Make written findings that the variance is consistent with the purpose of this division.

(d) *Conditional and interim use permits.* All conditional and interim uses, required under this division, must only be granted in accordance with Sections 118-40 and 118-41 respectively and must consider the potential impacts on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan. In reviewing the application, the City Council shall:

- (1) Evaluate the impacts to these resources and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts.

(e) *Application materials.* Applications for permits and discretionary actions required under this division must submit the following information in addition to the material requirements elsewhere in the zoning code unless the Zoning Administrator determines that the information is not needed:

- (1) A detailed project description; and
- (2) Scaled maps and plans, dimensional rendering, maintenance agreements, and other materials that identify and described:
 - 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.

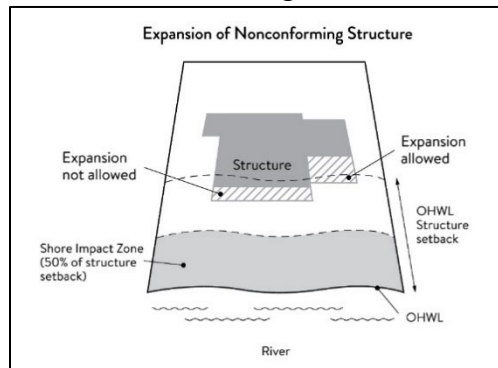
(f) *Nonconformities*

- (1) All legally established nonconformities as of the date of this ordinance may continue consistent with City Code Section 118, Article II, Division 2.

- (2) New structures erected in conformance with the setback averaging provisions of Section 118-171 (c) (4) are conforming structures.

- (3) Site alterations and expansion of site alterations that were legally made prior to the effective date of this ordinance are conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements.
- (4) Legally nonconforming principal structures that do not meet the setback requirements of Section 118-171 (c) may be expanded laterally provided that:
 - a. The expansion does not extend into the shore or bluff impact zone or further into the required setback than the building line of the existing principal structure (See Figure 6); and
 - b. The expanded structure's scale and bulk is consistent with that of the original structure and existing surrounding development.

Figure 6. Expansion of Nonconforming Structure



(g) *Notifications*

- (1) Amendments to this division and to the MRCCA plan must be submitted to the Commissioner as provided in Minnesota Rules, part 6106.0070, Subp. 3, Items B – I.
- (2) Notice of public hearings for discretionary actions, including conditional and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, and PUDs, must be sent to the following entities at least (10) days prior to the hearing:
 - a. The Commissioner in a format prescribed by the DNR;
 - b. National Park Service; and

- c. Where building heights exceed the height limit specified in Section 118-171 (b) as part of the conditional use or variance process, adjoining local governments within the MRCCA, including those with overlapping jurisdiction and those across the river.
- (3) Notice of final decisions for conditional and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, and PUDs, including findings of fact, must be sent to the Commissioner, the National Park Service, and adjoining local governments within the MRCCA within ten (10) days of the final decision.
- (4) Requests to amend district boundaries must follow the provisions in Minnesota Rules, part 6106.0100, Subp. 9, Item C.
- (h) *Accommodating Disabilities.* Reasonable accommodations for ramps or other facilities to provide persons with disabilities access to the persons' property, as required by the federal Americans with Disabilities Act and the federal Fair Housing Act and as provided by Minnesota Rules, chapter 1341, must:
 - (1) Comply with Sections 118-171 to 118-177; or
 - (2) If Sections 118-171 to 118-177 cannot be complied with, ramps or other facilities are allowed with an administrative permit provided:
 - a. The permit terminates on either a specific date or upon occurrence of a particular event related to the person requiring accommodation; and
 - b. Upon expiration of the permit, the ramp or other facilities must be removed.

Sec. 118-169.- MRCCA Districts

- (a) *Purpose.* The purpose of this section is to establish districts under which building height and structure placement are regulated to protect and enhance the Mississippi River's resources and features consistent with the natural and built character of each district.
- (b) *District description and management purpose.* The MRCCA within the City of South St. Paul is divided into the following MRCCA Districts:
 - (1) Rural and Open Space (ROS)
 - a. Description. The ROS district is characterized by rural and low-density development patterns and land uses, and includes land that is riparian or visible from the river, as well as large, undeveloped tracts of high

ecological and scenic value, floodplain, and undeveloped islands. Many primary conservation areas exist in the district.

- b. Management purpose. The ROS district must be managed to sustain and restore the rural and natural character of the corridor and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas.

(2) River Neighborhood (RN)

- a. Description. The RN district is characterized by primarily residential neighborhoods that are riparian or readily visible from the river or that abut riparian parkland. The district includes parks and open space, limited commercial development, marinas, and related land uses.
- b. Management purpose. The RN district must be managed to maintain the character of the river corridor within the context of existing residential and related neighborhood development, and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas. Minimizing erosion and the flow of untreated storm water into the river and enhancing habitat and shoreline vegetation are priorities in the district.

(3) Separated from River (SR)

- a. Description. The SR district is characterized by its physical and visual distance from the Mississippi River. The district includes land separated from the river by distance, topography, development, or a transportation corridor. The land in this district is not readily visible from the Mississippi River.
- b. Management purpose. The SR district provides flexibility in managing development without negatively affecting the key resources and features of the river corridor. Minimizing negative impacts to primary conservation areas and minimizing erosion and flow of untreated storm water into the Mississippi River are priorities in the district. The RTC district must be managed in a manner that allows continued growth and redevelopment in historic downtowns and more intensive redevelopment in limited areas at river crossings to accommodate compact walkable development patterns and connections to the river. Minimizing erosion and the flow of untreated storm water into the river, providing public access to and public views of the river, and restoring natural vegetation in riparian areas and tree canopy are priorities in the district.

(4) Urban Mixed (UM)

- a. Description. The UM district 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. Management purpose. The 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.

(c) *MRCCA District Map*. The locations and boundaries of the MRCCA districts established by this section are shown on MRCCA District in South St. Paul map which is incorporated herein by reference. The district boundary lines are intended to follow the centerlines of rivers and streams, highways, streets, lot lines, and municipal boundaries, unless a boundary line is otherwise indicated on the map. Where district boundaries cross unsubdivided property, the district boundary line is determined by use of dimensions or the scale appearing on the map.

Sec. 118-170.-Special Land Use Provisions

- (a) *Purpose*. To identify development standards and considerations for land uses that have potential to negatively impact primary conservation areas and public river corridor views.
- (b) *Underlying Zoning*. Uses within the MRCCA are generally determined by underlying zoning, with additional provisions for the following land uses:
 - (1) *Agricultural use*. Perennial ground cover is required within 50 feet of the ordinary high water level and within the bluff impact zone.
 - (2) *Feedlots*. New animal feedlots and manure storage areas are prohibited. Existing animal feedlots and manure storage areas must conform with Minnesota Rules, chapter 7020
 - (3) *Forestry*. Tree harvesting and biomass harvesting within woodlands, and associated reforestation, must be consistent with recommended practices in

Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota.

(4) *Nonmetallic mining.* Nonmetallic mining requires a conditional use permit or interim use permit issued by the local government, subject to the following:

- a. New nonmetallic mining is prohibited within the shore impact zone and bluff impact zone and within the required structure setback from the bluffline and OHWL;
- b. Processing machinery must be located consistent with setback standards for structures as provided in Section 118-171 (c);
- c. Only one barge loading area, which must be limited to the minimum size practicable, is permitted for each mining operation;
- d. New and, where practicable, existing nonmetallic mining operations must not be readily visible and must be screened by establishing and maintaining natural vegetation. The unscreened boundaries of nonmetallic mining areas are limited to only the barge loading area;
- e. A site management plan must be developed by the operator and approved by the local government before new nonmetallic mining commences. Operations must be consistent with the site plan throughout the duration of operations at the site. The site management plan must:
 1. Describe how the site will be developed over time with an emphasis on minimizing environmental risk to public waters;
 2. Explain where staged reclamation may occur at certain points during the life of the site;
 3. Address dust, noise, storm water management, possible pollutant discharges, days and hours of operation, and duration of operations; and
 4. Describe any anticipated vegetation and topographic alterations outside the pit, and reclamation plans consistent with the stated end use for the land;
- f. Existing and new nonmetallic mining operations must submit land reclamation plans to the local government compatible with the purposes of this ordinance.

(5) *River-dependent uses.* River-dependent uses must comply with the following design standards:

- a. Structures and parking areas, except shoreline facilities and private roads and conveyances serving river-dependent uses as provided in Section 118-177 must meet the dimensional and performance standards in this section, must be designed so that they are not readily visible, and must be screened by establishing and maintaining natural vegetation;
 - b. Shoreline facilities must comply with Minnesota Rules, chapter 6115 and must:
 - 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; and
 - c. Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.
- (6) Wireless communication towers. Wireless communication towers as regulated in Section 118- 271 require a conditional or interim use permit within the boundaries of the MRCCA district and are subject to the following design standards:
- a. The applicant must demonstrate that functional coverage cannot be provided through co-location, a tower at a lower height, or a tower at a location outside of the MRCCA;
 - b. The tower must not be located in a bluff or shore impact zone; and
 - c. Placement of the tower must minimize impacts on public river corridor views.
 - d. Comply with the general design standards in Section 118-173(b).

Section 118-171.-Structure Height and Placement and Lot Size

- (a) Purpose. To establish standards that protect primary conservation areas and public river corridor views from development impacts and ensure that new development is sited consistent with the purpose of the MRCCA.
- (b) Structure height. Structures and facilities must comply with the following standards unless identified as exempt in Section 118-177
 - (1) Structures and facilities must comply with the following standards unless identified as exempt in Section 118-177:

- a. ROS District: 35 feet
- b. RN District: 35 feet
- c. SR District: Height is determined by underlying zoning, provided the allowed height is consistent with that of the mature treeline, where present, and existing surrounding development, as viewed from the OHWL of the opposite shore.
- d. UM district: 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. Structures over 65 feet are allowed as a conditional use according to Section 118-171 (b)(3).

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

(3) In addition to the conditional use permit requirements of Section 118-168 (d), criteria for considering whether to grant a conditional use permit for structures exceeding the height limits must include:

- a. Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;
- b. Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as:
 - 1. Placing the long axis of the building perpendicular to the river;
 - 2. Stepping back of portions of the facade;
 - 3. Narrowing the profile of upper floors of the building; or
 - 4. Increasing the setbacks of the building from the Mississippi River or blufflines;

(4) Identification of techniques for preservation of those view corridors identified in the MRCCA Plan; and

(5) Opportunities for creation or enhancement of public river corridor views.

(c) Structure and impervious surface placement

(1) Structures and impervious surface must not be placed in the shore or bluff impact zones unless identified as an exemption in Section 118-177.

- a. On properties in Zoning Area A, structures, retaining walls, and impervious surfaces may be placed within the bluff impact zone at the toe of the bluff but not in the bluff by conditional use permit meeting the standards in Section 118-171(c). By conditional use permit, a new retaining wall may be allowed for the purpose of stabilizing the toe of a bluff. Retaining walls in the following situations do not require a conditional use permit:
 - 1. The replacement or modification of an existing retaining wall in the same location as long as the replacement wall does not have a substantially larger exposed face than the existing wall and does not encroach further into the bluff than the existing wall.
 - 2. Retaining walls located on or adjacent to the right-of-way of an existing improved public street or alley if the City determines the wall is necessary for continued functionality and safety.
 - 3. New retaining walls to address an emergency situation determined by the City.
- b. On properties in Zoning Area B, structures and impervious surfaces may be placed within 20 feet of the top of the bluff up to the top of the bluff or bluffline by conditional use permit meeting the standards in Section 118-171(c). No structure or impervious surface may extend beyond the bluffline.
- c. Conditional Use Permit Standards
 - 1. Plans must demonstrate that structures, retaining walls, and impervious surface can be installed without compromising the stability of the bluff.
 - 2. Compliance with land alteration conditions of approval in Section 118-175 (f)
 - 3. Compliance with vegetation removal and restoration standards in Section 118-174 (d)

(2) Structures, impervious surfaces, and facilities must comply with the following OHWL setback provisions unless identified as exempt in Section 118-177.

- a. ROS District: 200 feet from the Mississippi River.
- b. RN District: 100 feet from the Mississippi River.
- c. UM District: 50 feet from the Mississippi River.

(3) Structures, impervious surfaces, and facilities must comply with the following bluffline setback provisions unless identified as exempt in Section 118-177:

a. ROS District: 100 feet.

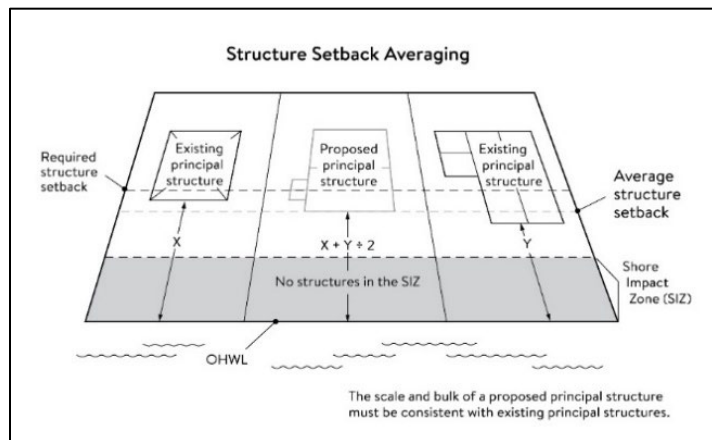
b. RN District: 40 feet.

c. SR District: 40 feet.

d. UM District: 40 feet.

(4) Where principal structures exist on the adjoining lots on both sides of a proposed building site, the minimum setback may be altered to conform to the average of the adjoining setbacks, if the new structure's scale and bulk riverward or bluffward of the setbacks required under Section 118-171 (c) (2) and Section 118 (171)(c)(3) are consistent with adjoining development. See Figure 7.

Figure 7. Structure Setback Averaging



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

(d) Lot Size and Buildable area

(1) The width of lots abutting the Mississippi River in the ROS District must be at least 200 feet, unless alternative design methods are used that provide greater protection of the riparian area.

(2) All new lots must have adequate buildable area to comply with the setback requirements of Section 118-171 (c)(2) and Section 118 -171(c)(3) so as to not

require variances to use the lots for their intended purpose **except for land in Zoning Area B.**

Sec. 118-172.- Performance Standards for Private Facilities

- (a) Purpose. To establish design standards for private facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan.
- (b) General design standards. All private facilities must be developed in accordance with the vegetation management and land alteration requirements in Section 118-174 and Section 118-175
- (c) Private roads, driveways, and parking areas. Except as provided in Section 118-177, private roads, driveways and parking areas must:
 - (1) Be designed to take advantage of natural vegetation and topography so that they are not readily visible;
 - (2) Comply with structure setback requirements according to Section 118-171 (c); and
 - (3) Not be placed within the bluff impact zone or shore impact zone, **unless compliant with Section 118-171 (c)(1)**, exempt under Section 118-177 and designed consistent with Section 118-173 (b).
- (d) Private water access and viewing facilities
 - (1) Private access paths must be no more than:
 - a. Eight feet wide, if placed within the shore impact zone; and
 - b. Four feet wide, if placed within the bluff impact zone.
 - (2) Private water access ramps must:
 - a. Comply with Minnesota Rules, parts 6115.0210 and 6280.0250; and
 - b. Be designed and constructed consistent with the applicable standards in Design Handbook for Recreational Boating and Fishing Facilities.
 - (3) Design and construction of private stairways, lifts, and landings are subject to the following standards:

- a. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties and residential facilities held in common, if approved by conditional use permit.
- b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet area are allowed for commercial properties and residential facilities held in common, if approved by conditional use permit
- c. Canopies or roofs are prohibited on stairways, lifts, or landings;
- d. Stairways, lifts, and landings must be located in the least visible portion of the lot whenever practical; and
- e. Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities are allowed for achieving access to shore areas according to Section 7.43 A. – D, and as provided under 118-168 (h).

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

- a. Not exceed 12 feet in height;
- b. Not exceed 120 square feet in area; and
- c. Be placed a minimum of 10 feet from the ordinary high water level.

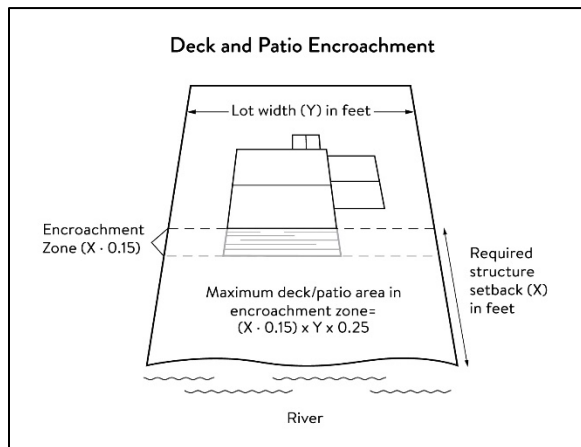
(e) Decks and patios in setback areas. Decks and at-grade patios may encroach into the required setbacks from the ordinary high water level and blufflines without a variance, when consistent with Section 118-174 and 118-175, provided that:

- (1) The encroachment of the deck or patio into the required setback area does not exceed 15 percent of the required structure setback;
- (2) The area of the deck or patio that extends into the required setback area occupies no more than 25 percent of the total area between the required setback and the 15 percent using the formula:

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

- (3) The deck or patio does not extend into the bluff impact zone, except as listed in Section 118-172(e)(4). See Figure 8.

Figure 8. Deck and Patio Encroachment



- (4) Decks and at-grade patios in Zoning Area B may exceed the limits in Section 118-172(e)(1), Section 118-172(e)(2), and may extend into the bluff impact zone consistent with Section 118-171(c)(1) and Section 118-177.
- (f) Off-premises and directional signs.
- (1) Off-premises advertising signs must:
- Comply with the regulation of Section 118 Article VI
 - Meet required structure placement and height standards in Section 118-171(b) and 118-171(c).
 - Not be readily visible
- (2) Directional signs for patrons arriving at a business by watercraft must comply with the following standards:
- They must be consistent with Minnesota Statutes, section 86B.115.
 - Only convey the location and name of the establishment and the general types of goods and services available, if located in a shore impact zone.
 - Be no greater than ten feet in height and 32 square feet in surface area; and
 - If illuminated, the lighting must be shielded to prevent illumination out across the river or to the sky.

Sec. 118-173.- Performance Standards for Public Facilities

- (a) **Purpose.** To establish design standards for public facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan. Public facilities serve the public interest by providing public access to the Mississippi River corridor or

require locations in or adjacent to the river corridor and therefore require some degree of flexibility.

(b) **General design standards.** All public facilities must be designed and constructed to:

- (1) Minimize visibility of the facility to the extent consistent with the purpose of the facility;
- (2) Comply with the structure placement and height standards in Section 118-171, except as provided in Section 118-177;
- (3) Be consistent with the vegetation management standards in Section 118-174 and the land alteration and storm water management standards in Section 118-175, including use of practices identified, where applicable;
- (4) Avoid primary conservation areas, unless no alternative exists. If no alternative exists, then disturbances to primary conservation areas must be avoided to the greatest extent practicable, and design and construction must minimize impacts; and
- (5) Minimize disturbance of spawning and nesting times by scheduling construction at times when local fish and wildlife are not spawning or nesting.

(c) **Right-of-way maintenance standards.** Right-of-way maintenance must comply with the following standards:

- (1) Vegetation currently in a natural state must be maintained to the extent feasible;
- (2) Where vegetation in a natural state has been removed, native plants must be planted and maintained on the right-of-way; and
- (3) Chemical control of vegetation must be avoided when practicable, but when chemical control is necessary, chemicals used must be in accordance with the regulations and other requirements of all state and federal agencies with authority over the chemical's use.

(d) **Crossings of public water or public land.** Crossings of public waters or land controlled by the commissioner are subject to approval by the commissioner according to Minnesota Statutes, sections 84.415 and 103G.245.

(e) **Public utilities.** Public utilities must comply with the following standards:

- (1) High-voltage transmission lines, wind energy conversion systems greater than five megawatts, and pipelines are regulated according to Minnesota Statutes, chapter 216E, 216F, and 216G respectively; and

- (2) If overhead placement is necessary, utility crossings must minimize visibility of the facility from the river be hidden from view and follow other existing right of ways as much as practicable.
- (3) The appearance of structures must be as compatible as practicable with the surrounding area in a natural state with regard to height and width, materials used, and color.
- (4) Wireless communication facilities, according to Section 118-170 (b)(6)

(f) **Public transportation facilities.** Public transportation facilities shall comply with structure placement and height standards in Section 118-171. Where such facilities intersect or about two or more MRCCA districts, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:

- (1) Providing scenic overlooks for motorists, bicyclists, and pedestrians;
- (2) Providing safe pedestrian crossings and facilities along the river corridor;
- (3) Providing access to the riverfront in public ownership; and
- (4) Allowing for use of the land between the river and the transportation facility.

(g) **Public recreational facilities.** Public recreational facilities must comply with the following standards:

- (1) Buildings and parking associated with public recreational facilities must comply with the structure placement and height standards in Section 118-171, except as provided in Section 118-177;
- (2) Roads and driveways associated with public recreational facilities must not be placed in the bluff or shore impact zones unless no other placement alternative exists. If no alternative exists, then design and construction must minimize impacts to shoreline vegetation, erodible soils and slopes, and other sensitive resources.
- (3) Trails, access paths, and viewing areas associated with public recreational facilities and providing access to or views of the Mississippi River are allowed within the bluff and shore impact zones if design, construction, and maintenance methods are consistent with the best management practice guidelines in Trail Planning, Design, and Development Guidelines.
 - a. Hard-surface trails are not allowed on the face of bluffs with a slope exceeding 30 percent. Natural surface trails are allowed, provided they do not exceed eight feet in width
 - b. Trails, paths, and viewing areas must be designed and constructed to minimize:

1. Visibility from the river;
 2. Visual impacts on public river corridor views; and
 3. Disturbance to and fragmentation of primary conservation areas.
- (4) Public water access facilities must comply with the following requirements:
- a. Watercraft access ramps must comply with Minnesota Rules chapters 6115.0210 and 6280.0250; and
 - b. Facilities must be designed and constructed consistent with the standards in Design Handbook for Recreational Boating and Fishing Facilities
- (5) Public signs and kiosks for interpretive or directional purposes are allowed in the bluff or shore impact zones, provided they are placed and constructed to minimize disturbance to these areas and avoid visual impacts on public river corridor views.
- (6) Public stairways, lifts, and landings must be designed as provided in Section 118-172(e).

Sec. 118-174.- Vegetation Management

- (a) Purpose. To establish standards that sustain and enhance the biological and ecological functions of vegetation; preserve the natural character and topography of the MRCCA; and maintain stability of bluffs and steep slopes and ensure stability of other erosion-prone areas.
- (b) Applicability. This section applies to:
- (1) Shore impact zones;
 - (2) Areas within 50 feet of a wetland or natural drainage route;
 - (3) Bluff impact zones;
 - (4) Areas of native plant communities; and
 - (5) Significant existing vegetative stands identified in the MRCCA plan.
- (c) Activities allowed without a vegetation permit.
- (1) Maintenance of existing lawns, landscaping and gardens;
 - (2) Removal of vegetation in emergency situations as determined by the City of South St. Paul
 - (3) Right-of-way maintenance for public facilities meeting the standards of Section 118-173(c)
 - (4) Agricultural and forestry activities meeting the standards of Sections (118-170(b)(1) and 118-170 (b)(3);

(5) Selective vegetation removal, provided that vegetative cover remains consistent with the management purpose of the MRCCA District, including removal of:

- a. Vegetation that is dead, diseased, dying, or hazardous;
- b. Vegetation to prevent the spread of diseases or insect pests;
- c. Individual trees and shrubs; and
- d. Invasive non-native species.

(d) Activities allowed with a vegetation permit.

(1) Only the following intensive vegetation clearing activities are allowed with a vegetation permit

- a. Clearing of vegetation that is dead, diseased, dying, or hazardous;
- b. Clearing to prevent the spread of diseases or insect pests;
- c. Clearing to remove invasive non-native species.
- d. Clearing to prepare for restoration and erosion control management activities consistent with a plan approved by the City of South St. Paul
- e. The minimum necessary for development that is allowed with a building permit or as an exemption under 118-177.

(2) General Performance Standards. The following standards must be met, in addition to a restoration plan under 118-174(f), in order to approve a vegetation permit:

- 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 (insert name of resource agency, if someone other than professional engineer is desired);
- c. Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views and other scenic views;
- d. Vegetation removal activities are conducted so as to expose the smallest practical area of soil to erosion for the least possible time, and to avoid bird migration and nesting seasons; and

- e. Any other condition determined necessary to achieve the purpose of this section.

(e) Prohibited Activities. All other vegetation clearing is prohibited.

(f) Vegetation restoration plan.

(1) Development of a vegetation restoration plan and reestablishment of natural vegetation is required:

- a. For any vegetation removed with a permit under 118-174 (d)(1)
- b. Upon failure to comply with any provisions in this section; or
- c. As part of the planning process for subdivisions as provided in Section 118-176.

(2) Restoration Plan Performance Standards. The vegetation restoration plan must satisfy the application submittal requirements in Section 118-168(e) and

- a. Vegetation should be restored in one or more of the restoration priority areas as identified in the crucial area plan.
- b. Include vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities;
- c. Any highly erodible soils disturbed during removal and/or restoration must be stabilized with deep-rooted vegetation with a high stem density;
- d. Vegetation removed must be restored with native vegetation to the greatest extent practicable.
- e. For restoration of removed native plant communities, restored vegetation must also provide biological and ecological function equivalent to the removed native plant communities.
- f. Be prepared by a qualified individual; and
- g. Include a maintenance plan that includes management provisions for controlling invasive species and replacement of plant loss for three years.

(3) A certificate of compliance will be issued after the vegetation restoration plan requirements have been satisfied

Sec. 118-175.- Land Alteration Standards and Stormwater Management

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

(b) Land Alteration

(1) Within the bluff impact zone, land alteration is prohibited, except for the following, which are allowed by permit.

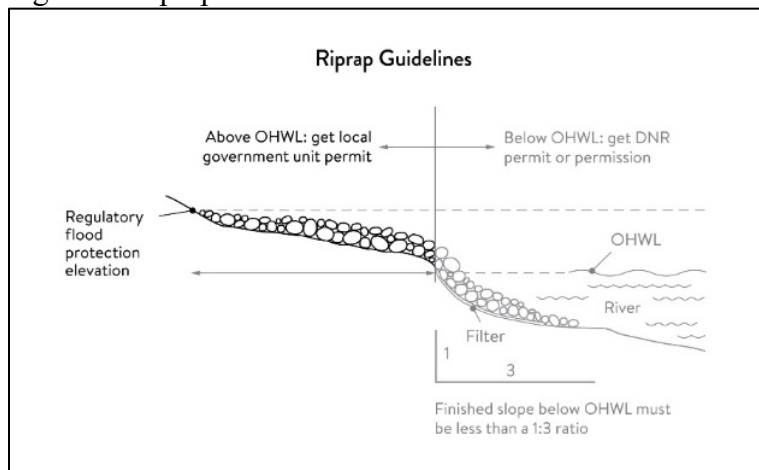
- a. Erosion control consistent with a plan approved by the local government or resource agency and consistent with 118-175(f);
- b. The minimum necessary for development that is allowed as an exception under Section 118-177; and
- c. Repair and maintenance of existing buildings and facilities

(2) Within the water quality impact zone, land alteration that involves more than ten cubic yards of material or affects an area greater than 1,000 square feet requires a permit.

(c) Rock riprap, retaining walls, and other erosion control structures.

(1) Construction, repair, or replacement of rock riprap, retaining walls, and other erosion control structures located at or below the OHWL must comply with Minnesota Rules, part 6115.0215, Subp. 4, item E, and 6115.0216, Subp. 2. Work must not proceed until approved by the commissioner, permitted by the US Army Corps of Engineers, and any other permits are obtained. See Figure 9.

Figure 9. Riprap Guidelines



(2) Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and the water quality impact zone

are allowed with a permit consistent with provisions of Section 10.6 provided that:

- a. If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.
- b. The structures are used only to correct an established erosion problem as determined by the City of South St. Paul.
- c. The size and extent of the structures are the minimum necessary to correct the erosion problem and are not larger than the following, unless a professional engineer determines that a larger structure is needed to correct the erosion problem:
 1. Retaining walls must not exceed five feet in height and must be placed a minimum horizontal distance of ten feet apart; and
 2. Riprap must not exceed the height of the regulatory flood protection elevation.
- d. Repair of existing rock riprap, retaining walls, and other erosion control structures above the OHWL does not require a permit provided it does not involve any land alteration.

(d) Stormwater management

(1) In the bluff impact zone, storm water management facilities are prohibited, except by permit if:

- a. There are no alternatives for storm water treatment outside the bluff impact zone on the subject site;
- b. The site generating runoff is designed so that the amount of runoff reaching the bluff impact zone is reduced to the greatest extent practicable;
- c. The construction and operation of the facility does not affect slope stability on the subject property or adjacent properties; and
- d. Mitigation based on the best available engineering and geological practices is required and applied to eliminate or minimize the risk of slope failure.

(2) In the water quality impact zone, development that creates new impervious surface, as allowed by exemption in Section 118-177, or fully reconstructs existing impervious surface of more than 10,000 square feet requires a storm water permit. Multipurpose trails and sidewalks are exempt if there is down gradient vegetation or a filter strip that is at least five feet wide.

- (3) In all other areas, storm water runoff must be directed away from the bluff impact zones or unstable areas
- (e) Development on steep slopes. Construction of structures, impervious surfaces, land alteration, vegetation removal, or other construction activities are allowed on steep slopes if:
 - (1) The development can be accomplished without increasing erosion or storm water runoff;
 - (2) The soil types and geology are suitable for the proposed development; and
 - (3) Vegetation is managed according to the requirements of Section 118-174.
- (f) Conditions of land alteration permit approval
 - (1) Temporary and permanent erosion and sediment control measures retain sediment onsite consistent with best management practices in the Minnesota Stormwater Manual;
 - (2) Natural site topography, soil, and vegetation conditions are used to control runoff and reduce erosion and sedimentation;
 - (3) Construction activity is phased when possible;
 - (4) All erosion and sediment controls are installed before starting any land disturbance activity;
 - (5) Erosion and sediment controls are maintained to ensure effective operation;
 - (6) The proposed work is consistent with the vegetation standards in Section 118-174; and
 - (7) Best management practices for protecting and enhancing ecological and water resources [identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001](#).
- (g) Compliance with other plans and programs. All development must:
 - (1) Be consistent with Minnesota Statutes, chapter 103B, and local water management plans completed under Minnesota Statutes, chapter 8410;
 - (2) Meet or exceed the wetland protection standards under Minnesota Rules, chapter 8420; and
 - (3) Meet or exceed the floodplain management standards under Minnesota Rules, sections 6120.5000 – 6120.6200.
 - (4)

Sec. 118-176.- Subdivision and Land Development Standards

(a) Purpose

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

(b) Applicability

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

(c) Application Materials. Project information listed in Section 118-167(d)(6) must be submitted for all proposed developments

(d) Design standards.

- (1) Primary conservation areas, where they exist, must be set aside and designated as protected open space in quantities meeting the following as a percentage of total parcel area:
 - a. CA-ROS District: 50%;
 - b. CA-RN District: 20%;
 - c. CA-UM: 10%
 - d. CA-SR District: 10% if the parcel includes native plant communities or provides feasible connections to a regional park or trail system, otherwise no requirement.
 - (2) If the primary conservation areas exceed the amounts specified in Section 118-176(d), then protection of native plant communities and natural vegetation in riparian areas shall be prioritized
 - (3) If primary conservation areas exist but do not have natural vegetation (identified as restoration priorities in the MRCCA Plan), then a vegetation assessment must be completed to evaluate the unvegetated primary conservation areas and determine whether vegetation restoration is needed. If restoration is needed, vegetation must be restored according to Section 118-174 (f)(2).
 - (4) Storm water treatment areas or other green infrastructure may be used to meet the protected open space requirements if the vegetation provides biological and ecological functions.
 - (5) Land dedicated under Article IV of Chapter 42 for public river access, parks, or other open space or public facilities may be counted toward the protected open space requirement.
 - (6) Protected open space areas must connect open space, natural areas, and recreational areas, where present on adjacent parcels, as much as possible to form an interconnected network
- (e) **Permanent protection of dedicated open space**
- (1) Designated open space areas must be protected through one or more of the following methods:
 - a. Public acquisition by a government entity for conservation purposes;
 - b. A permanent conservation easement, as provided in Minnesota Statutes, chapter 84C;
 - c. A deed restriction; and

- d. Other arrangements that achieve an equivalent degree of protection.
- e. Permanent protection methods must ensure the long-term management of vegetation to meet its biological and ecological functions, prohibit structures, and prohibit land alteration, except as needed to provide public recreational facilities and access to the river.

(f) Alternative Design Standards

- (1) Alternative design standards may be considered through a Planned Unit Development approval.

Sec. 118-177.- Exemptions.

- (a) Purpose. To provide exemptions to structure placement, height and other standards for specific river or water access dependent facilities as provided in Minnesota Statutes, section 116G.15 Subd. 4.
- (b) Applicability. Uses and activities not specifically exempted must comply with this (section, chapter, or article). Uses and activities exempted under shore impact zone and bluff impact zone must comply with the vegetation management and land alteration standards in Section 118-174 and section 118-175.

(c) Uses and Activities Exemption Classification

(1) General Uses and Activities

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers)	N	E	N	N	Structure design and placement must minimize interference with public river corridor views.
Barns, silos, and farm structures	N	E	N	N	
Bridges and bridge approach roadways	E	E	E	(E)	Section 118-173
Wireless communication towers	E	E	N	N	Section 118-170 (b)(6)
Chimneys, church spires, flag poles, public monuments, and mechanical stacks and equipment	N	E	N	N	
Historic properties and contributing properties in historic districts	E	E	E	E	Exemptions do not apply to additions or site alterations

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Within Zoning Area A, structures and impervious surfaces (including driveways and parking areas).	N	n/a	n/a	E	Section 118-171(c)(1) (a), Section 118-172; within BIZ, structures & impervious surfaces only within 20 feet of toe of bluff, not on face of bluff; and must not affect stability of bluff.
Within Zoning Area B, structures, decks, and impervious surfaces (including driveways, parking areas and at-grade patios).	E	n/a	n/a	(E)	Section 118-171(c)(1) (a), Section 118-172; within BIZ, structures & impervious surfaces only within 20 feet of top of bluff, not on face of bluff; and must not affect stability of bluff

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

(2) Public Utilities

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Electrical power facilities	E	E	E	(E)	Section 118-173
Essential services (other than storm water facilities)	E	E	E	(E)	Section 118-173
Storm water facilities	E	N	E	(E)	Section 118-175
Wastewater treatment	E	N	E	N	Section 118-173
Public transportation facilities	E	N	(E)	(E)	Section 118-173

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

(3) Public Recreation Facilities

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Accessory structures, such as monuments, flagpoles, light standards, and similar park features	E	E	(E)	(E)	Section 118-173; within BIZ, only on slopes averaging less than 30%. Exemptions do not apply to principal structures.
Picnic shelters and other open-sided structures	E	N	(E)	N	Section 118-173
Parking lots	(E)	N	(E)	(E)	Section 118-173; 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)	Section 118-173
Natural-surfaced trails, access paths, and viewing areas	E	N	E	E	Section 118-173
Hard-surfaced trails and viewing platforms	E	N	E	(E)	Section 118-173; within BIZ, only on slopes averaging less than 30%
Water access ramps	E	N	E	(E)	Section 118-173
Public signs and kiosks for interpretive or directional purposes	E	N	E	(E)	Section 118-173

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

(4) River-dependent uses

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Shoreline facilities	E	N ¹	E	(E)	Section 118-170(b)(5). Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility
Private roads and conveyance structures serving river-dependent uses	E	N1	E	(E)	Section 118-170(b)(5)

E- Exempt

(E)- Exemption if no alternative

N- non-exempt

(5) Private residential and commercial water access and use facilities

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Private roads serving 3 or more lots	(E)	N	N	(E)	Section 118-172; in BIZ, only on slopes averaging less than 30%. Exemption does not apply to private roads serving fewer 3 lots or to private driveways and parking areas
Access paths	E	N	E	E	Section 118-172
Water access ramps	E	N	E	N	Section 118-172
Stairways, lifts, and landings	E	N	E	E	Section 118-172
Water-oriented accessory structures	E	N	E	N	Section 118-172
Patios and decks	E	N	N	N	Section 118-172(e)
Directional signs for watercraft (private)	E	N	E	N	Section (118-172(f); 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	

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

Use or Activity	Set backs	Height Limits	SIZ	BI Z	Applicable standards with which the use or activity must comply
Erosion control structures, such as rock riprap and retaining walls	E	N	E	(E)	Section 118-175 (c), (e), and (f)
Flood control structures	E	N	E	(E)	Section 118-175

E- Exempt

(E)- Exemption if no alternative



N- non-exempt

City of South St Paul Zoning Map



City of South St Paul Planning Department

<https://www.southstpaul.org/>

-  Zoning Flexibility Area A
-  Zoning Flexibility Area B

Zoning Designations

- Residential**
- R1 - Single Family
 - R2 - Single and Two Family Residence District
 - R3 - General Residence
 - R4 - Multifamily Residential District

- Commercial**
- C1 - Retail Business District
 - GB - General Business District
 - CGMU1 - Concord Gateway Mixed Use District 1
 - CGMU2 - Concord Gateway Mixed Use District 2
 - MMM1 - Mixed Markets and Makers District 1
 - MMM2 - Mixed Markets and Makers District 2
 - MMM3 - Mixed Markets and Makers District 3
 - MMM4 - Mixed Markets and Makers District 4

- Industrial**
- I - Industrial District
 - I-1 - Light Industrial District

- Other**
- NRDD - North Riverfront Development District
 - MH - Mobile Home
 - RT - Rail Transportation District
 - P - Park / Public
 - ROW - Right of Way
 - WAT - Water
 - MRCCA - Mississippi River Corridor Critical Area
 - ASZ - Airport Safety Zone A
 - ASZ - Airport Safety Zone B

Acres

Percentage

530.47

18.1%

718.54

24.5%

30.39

1%

82.32

2.8%

39.71

1.4%

129.88

4.4%

54.93

1.9%

10.97

.4%

6.08

.2%

27.57

.9%

6.42

.2%

10.74

.4%

562.06

19.2%

230.39

7.9%

21.06

.7%

6.76

.2%

82.73

2.8%

288.63

9.8%

82.23

2.8%

11.49

.4%

From: [Muilenburg, Adam J](#)
To: [Monika Mann](#)
Cc: [Robbins-Fenger, Alan R](#); [Petrik, Daniel \(DNR\)](#)
Subject: Invitation to Comment: Request for Flexibility from Model MRCCA Ordinance
Date: Monday, December 19, 2022 1:46:52 PM
Attachments: [image.png](#)

Hello Monika,

Thank you for including the Mississippi National River and Recreation Area (NRRA) in on the discussion on your MRCCA ordinance adoption. We appreciate being notified to these proceedings and any variance and CUP requests that come in. The Mississippi NRRA thinks this is a reasonable flexibility from the model ordinance as outlined below and as described in the map you sent out on Dec. 7, 2022.

Good Evening,

You are receiving this email because your organization is an adjoining local government or organization to the City of South St. Paul. The City of South St. Paul will be formally requesting flexibility from the MRCCA rules that are found in [Minn. Rule 6106.0070 Subp. 6](#). I am required to notify you of this request for flexibility and to solicit any feedback you may have about our request. The South St. Paul City Council will be reviewing the formal request for flexibility at their December 19th City Council meeting. The City Council will not be voting on an update to the MRCCA ordinance at this meeting. Instead, the City Council would be taking a step to formally request flexibility from the DNR MRCCA model ordinance by approving a resolution formally requesting flexibility. This would trigger a formal review by the DNR to determine whether flexibility could be granted.

The DNR's MRCCA website has a [webpage](#) dedicated to communities that are requesting flexibility from the DNR's model ordinance. A copy of the attached staff report, any other supporting documentation, and any comments from adjacent communities/organizations will be posted on this webpage once a resolution requesting flexibility is approved.

In summary:

- *The City is requesting flexibility from Sections 6.31 and 6.33 in the model ordinance due to the impact these provisions would have on areas of the City where there is existing commercial and industrial development that predates the designation of the Mississippi River Critical Corridor Area.*
- *The City is requesting flexibility from Section 6.31 to allow structures within Zoning Area A (see the Zoning Flexibility Areas attachment) to be placed up to the toe of a bluff with a conditional use permit.*
 - *Many of the existing businesses along Concord Street and Concord Exchange were built right up to the toe of the bluff or into the bluff in the late 1880s and early 1900s*
 - *Many of the properties on the west side of Concord Street and Concord Exchange have*

retaining wall systems that stabilize the toe of the bluff.

- A conditional use permit requirement for any incursion into the bluff impact zone would allow the City to review each of these projects “case by case” and attach conditions. The DNR and the National Park Service will be provided with a public hearing notice for all MRCCA-related conditional use permits and will be able to provide the City with technical assistance in evaluating these projects and formulating conditions.*
- This request would allow the City to pursue its redevelopment goals that are spelled out in the City’s 2040 [Comprehensive Plan](#) and the City’s [Concord/Grand Gateway Redevelopment Plan](#) while balancing the need to protect and preserve the stability of the bluffs.*

- The City is requesting flexibility from Section 6.31 to allow structures within Zoning Area B (see the Zoning Flexibility Areas attachment) to be placed within 20 feet of the top of the bluff up to the bluff line with a conditional use permit as long as the structures does not impact the stability of the bluff and meets land alteration and vegetation removal standards.*
 - Zoning Areas B encompasses a strip of developed land on the east side of Concord Street North with incredibly narrow parcels whose rear yard is a natural railroad embankment which just barely meets the zoning definition of a bluff.*
 - The buildings on this strip of land are all “grandfathered” to be closer than 40 feet to the edge of the bluff. However, no building additions or infill development are possible without variances*
 - The conditional use permit tool was chosen for allowing flexibility because the tool allows case-by-case conditions to be attached to projects and because it involves formal input from the DNR and the National Park Service*
 - This proposed flexibility would allow the city to work with property owners “case by case” to achieve sensitive infill*

- The City is requesting flexibility from Section 6.35 to allow properties within Zoning Area B to be subdivided even if the resulting lot does not meet the setback requirement in Section 6.31 and 6.33. This request is specifically for the properties in Zoning Area B, where the parcels are so shallow that many become unbuildable if a 40-foot setback requirement is enforced since their rear yard is a natural railroad embankment which just barely meets the zoning definition of a bluff.*

I have attached the staff memo that will be brought to the City Council on December 19th which gives some background on City’s development pattern and the City’s request for flexibility. I have also attached a copy of the model ordinance with our proposed areas of flexibility shown in red text and a map showing the designated zoning areas where the City is requesting flexibility from the model ordinance for.

*If you have any feedback on the proposed request for flexibility that you would like shared with the City Council before their vote, please let me know by **no later than noon on Monday, December 19th**.*

Best,



Monika Miller | Associate Planner

125 Third Avenue North | South St. Paul, MN 55075

p. 651.554.3273 | www.southstpaul.org/

Sincerely,

Adam Muilenburg

Outdoor Recreation Planner

Mississippi National River and Recreation Area

111 Kellogg Blvd E, Suite 105

St. Paul, MN 55101

202-753-3068 Teams Phone

507-469-2524 telework

651-293-8440

www.nps.gov/miss



ADMINISTRATION

Kevin Corbid, County Administrator
Jan Lucke, Deputy County Administrator
Jennifer Wagenius, Deputy County Administrator

December 19, 2022

City of South St. Paul
125 Third Avenue North
South St. Paul, MN 55075

RE: South St. Paul Flexibility Request from MRCCA Rules

Dear Ms. Miller:

Washington County has received and reviewed the information provided on December 7, 2022, regarding South St. Paul's request for flexibility from the MRCCA rules. Washington County does not have any comments on the request.

Thank you for the opportunity to review and comment.

Sincerely,

Kelli Matzek
Senior Planner

C: Emily Jorgensen, Washington County Planning Manager

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P: 651-430-6001 | F: 651-430-6017 | TTY: 651-430-6246
www.co.washington.mn.us

Washington County is an equal opportunity organization and employer

From: [MN_DOT_MetroDevReviews](#)
To: [Monika Mann](#)
Subject: RE: Invitation to Comment: Request for Flexibility from Model MRCCA Ordinance
Date: Friday, December 9, 2022 9:42:15 AM
Attachments: [image002.png](#)

Hi Monika,

Thanks very much for sending this in to the MetroDevReviews inbox. I've looked it over and as MnDOT turned Concord Street over to the County in November 2020 its now outside our jurisdiction.

Hope you have a great weekend!

Cordially,

Cameron Muhic
651-234-7797
Cameron.Muhic@state.mn.us

From: Monika Mann <mmann@southstpaul.org>
Sent: Friday, December 9, 2022 8:16 AM
To: MN_DOT_MetroDevReviews <metrodevreviews.dot@state.mn.us>
Subject: FW: Invitation to Comment: Request for Flexibility from Model MRCCA Ordinance

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Good Morning,

You are receiving this email because your organization is an adjoining local government or organization to the City of South St. Paul. The City of South St. Paul will be formally requesting flexibility from the MRCCA rules that are found in [Minn. Rule 6106.0070 Subp. 6](#). I am required to notify you of this request for flexibility and to solicit any feedback you may have about our request. The South St. Paul City Council will be reviewing the formal request for flexibility at their December 19th City Council meeting. The City Council will not be voting on an update to the MRCCA ordinance at this meeting. Instead, the City Council would be taking a step to formally request flexibility from the DNR MRCCA model ordinance by approving a resolution formally requesting flexibility. This would trigger a formal review by the DNR to determine whether flexibility could be granted.

The DNR's MRCCA website has a [webpage](#) dedicated to communities that are requesting flexibility from the DNR's model ordinance. A copy of the attached staff report, any other supporting documentation, and any comments from adjacent communities/organizations will be posted on this webpage once a resolution requesting flexibility is approved.

In summary:

- The City is requesting flexibility from Sections 6.31 and 6.33 in the model ordinance due to the impact these provisions would have on areas of the City where there is existing commercial and industrial development that predates the designation of the Mississippi River Critical Corridor Area.
- The City is requesting flexibility from Section 6.31 to allow structures within Zoning Area A (see the Zoning Flexibility Areas attachment) to be placed up to the toe of a bluff with a conditional use permit.
 - Many of the existing businesses along Concord Street and Concord Exchange were built right up to the toe of the bluff or into the bluff in the late 1880s and early 1900s
 - Many of the properties on the west side of Concord Street and Concord Exchange have retaining wall systems that stabilize the toe of the bluff.
 - A conditional use permit requirement for any incursion into the bluff impact zone would allow the City to review each of these projects “case by case” and attach conditions. The DNR and the National Park Service will be provided with a public hearing notice for all MRCCA-related conditional use permits and will be able to provide the City with technical assistance in evaluating these projects and formulating conditions.
 - This request would allow the City to pursue its redevelopment goals that are spelled out in the City’s 2040 [Comprehensive Plan](#) and the City’s [Concord/Grand Gateway Redevelopment Plan](#) while balancing the need to protect and preserve the stability of the bluffs.
- The City is requesting flexibility from Section 6.31 to allow structures within Zoning Area B (see the Zoning Flexibility Areas attachment) to be placed within 20 feet of the top of the bluff up to the bluff line with a conditional use permit as long as the structures does not impact the stability of the bluff and meets land alteration and vegetation removal standards.
 - Zoning Areas B encompasses a strip of developed land on the east side of Concord Street North with incredibly narrow parcels whose rear yard is a natural railroad embankment which just barely meets the zoning definition of a bluff.
 - The buildings on this strip of land are all “grandfathered” to be closer than 40 feet to the edge of the bluff. However, no building additions or infill development are possible without variances
 - The conditional use permit tool was chosen for allowing flexibility because the tool allows case-by-case conditions to be attached to projects and because it involves formal input from the DNR and the National Park Service
 - This proposed flexibility would allow the city to work with property owners “case by case” to achieve sensitive infill
- The City is requesting flexibility from Section 6.35 to allow properties within Zoning Area B to be subdivided even if the resulting lot does not meet the setback requirement in Section 6.31

and 6.33. This request is specifically for the properties in Zoning Area B, where the parcels are so shallow that many become unbuildable if a 40-foot setback requirement is enforced since their rear yard is a natural railroad embankment which just barely meets the zoning definition of a bluff.

I have attached the staff memo that will be brought to the City Council on December 19th which gives some background on City's development pattern and the City's request for flexibility. I have also attached a copy of the model ordinance with our proposed areas of flexibility shown in red text and a map showing the designated zoning areas where the City is requesting flexibility from the model ordinance for.

If you have any feedback on the proposed request for flexibility that you would like shared with the City Council before their vote, please let me know by **no later than noon on Monday, December 19th**.

Best,

Monika Miller | Associate Planner

125 Third Avenue North | South St. Paul, MN 55075

p. 651.554.3273 | www.southstpaul.org/