
Section 3: Overlay Districts

Any land which is classified by this Unified Development Ordinance as being within an Overlay District shall be subject to the regulations governing land use activities within such a district in addition to the use regulations established in Section 2.2 through Section 2.6 of this Unified Development Ordinance, and to any other regulations as applicable.

3.1.1 FP – Floodplain

(a) Statutory Authorization, Findings of Fact and Purpose

(1) Statutory Authorization

The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

- (A) Purpose. This Unified Development Ordinance regulates development in the flood hazard areas of the City of Brooklyn Center (hereinafter referred to in some cases as the “City”). These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this Unified Development Ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- (B) National Flood Insurance Program Compliance. This UDO is adopted to comply with the rules and regulations of the National Flood Insurance Program.
- (C) This UDO is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(b) General Provisions

(1) How to Use This Section

- (A) This section adopts the floodplain maps applicable to the City of Brooklyn Center and includes three floodplain districts: Floodway, Flood Fringe, and General Floodplain.
- (B) Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 3.2.1(d) and 3.2.1(e) will apply, depending on the location of a property.
- (C) Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Section 3.2.1(d) apply unless the floodway boundary is determined, according to the process outlined in Section 3.2.1(f). Once the floodway boundary is determined, the Flood Fringe District standards in Section 3.2.1(e) may apply outside the floodway.

(2) Lands to Which Section Applies

- (A) This section applies to all lands within the jurisdiction of the City of Brooklyn Center shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.
- (B) The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this Unified Development Ordinance. In case of a conflict, the more restrictive standards will apply.
- (C) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the (Planning Commission/Board of Adjustment) and to submit technical evidence.

(3) Incorporation of Maps by Reference

- (A) The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this Unified Development Ordinance. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016 and the Flood Insurance Rate Map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the offices of the Zoning Administrator and the City Clerk.
- (B) Effective Flood Insurance Rate Map panels numbers as follows: 27053C0203F; 27053C0204F; 27053C0208F; 27053C0209F; 27053C0212F; 27053C0216F

(4) Regulatory Flood Protection Elevation

The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(5) Interpretation

- (A) The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.
- (B) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
- (C) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.

(6) Abrogation and Greater Restrictions

It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this section imposes greater restrictions, the provisions of this Unified Development Ordinance prevail. All other sections inconsistent with this section are hereby repealed to the extent of the inconsistency only.

(7) Warning and Disclaimer of Liability

This Unified Development Ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Unified Development Ordinance does not create liability on the part of the City of Brooklyn Center or its officers or employees for any flood damages that result from reliance on this Unified Development Ordinance or any administrative decision lawfully made hereunder.

(8) Annexations

The Flood Insurance Rate Map panels adopted by reference into Section 3.2.1(b)(3) above may include floodplain areas that lie outside of the corporate boundaries of the City of Brooklyn Center at the time of adoption of this Unified Development Ordinance. If any of these floodplain land areas are annexed into the City of Brooklyn Center after the date of adoption of this Unified Development Ordinance, the newly annexed floodplain lands will be subject to the provisions of this Unified Development Ordinance immediately upon the date of annexation.

(9) Detachments

The Flood Insurance Rate Map panels adopted by reference into Section 3.2.1(b)(3) above will include floodplain areas that lie inside the corporate

boundaries of municipalities at the time of adoption of this Unified Development Ordinance. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of the City of Brooklyn Center after the date of adoption of this Unified Development Ordinance, the newly detached floodplain lands will be subject to the provisions of this Unified Development Ordinance immediately upon the date of detachment.

(c) **Establishment of Zoning Districts**

(1) **Districts**

(A) Floodway District

The Floodway District includes those areas within Zones AE that have a floodway delineated as shown on the Flood Insurance Rate Map adopted in Section 3.2.1(b)(3). For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the Floodway District also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005.

(B) Flood Fringe District

The Flood Fringe District includes areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map adopted in Section 3.2.1(b)(3), but are located outside of the floodway. For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the Flood Fringe District also includes those areas below the one percent (1%) annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005.

(C) General Floodplain District

The General Floodplain District includes those areas within Zone A as shown on the Flood Insurance Rate Map adopted in Section 3.2.1(b)(3).

(2) **Applicability**

Within the floodplain districts established in this Unified Development Ordinance, the use, size, type and location of development must comply with the terms of this ordinance and other applicable regulations. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the mainstream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or conditional uses in Section 3.2.1(d), Section 3.2.1(e), and Section 3.2.1(e)(f) noted herein are prohibited. In addition, critical facilities, as defined in Section 3.2.1(b)(9)(A) are prohibited in all floodplain districts.

(d) **Floodway District (FW)**

(1) **Permitted Uses**

The following uses, subject to the standards set forth in Section 3.2.1(d)(2) below are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

- (A) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- (B) Industrial-commercial loading areas, parking areas, and airport landing strips.
- (C) Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
- (D) Residential lawns, gardens, parking areas, and play areas.
- (E) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.

(2) Standards for Floodway Permitted Uses

- (A) The use must have a low flood damage potential.
- (B) The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.
- (C) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth in feet multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(3) Conditional Uses

The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 3.2.1(j)(4) of this Unified Development Ordinance and further subject to the standards set forth in Section 3.2.1(d)(4) below, if otherwise allowed in the underlying zoning district or any applicable overlay district.

- (A) Structures accessory to the uses listed in Section 3.2.1(d)(1)(A), (1)(B), and (1)(C) above and the uses listed in in Section 3.2.1(d)(3)(A) and (3)(B) below.
- (B) Extraction and storage of sand, gravel, and other materials.
- (C) Marinas, boat rentals, docks, piers, wharves, and water control structures.
- (D) Storage yards for equipment, machinery, or materials.
- (E) Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined Section 3.2.1(b)(9)(A) are permitted uses.
- (F) Travel-ready recreational vehicles meeting the exception standards in Section 3.2.1(i)(2)(B).
- (G) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

(4) Standards for Floodway Conditional Uses

(e) All Uses.

A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.

(A) Fill; Storage of Materials and Equipment:

- i. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- ii. Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
- iii. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

(B) Accessory Structures.

Accessory structures, as identified in Section 3.2.1(d)(3)(A) above may be permitted, provided that:

- i. structures are not intended for human habitation;
- ii. structures will have a low flood damage potential;
- iii. structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;

- iv. Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;
- v. Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.
- vi. As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:
 - a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- (C) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.
- (D) A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- (E) Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(f) Flood Fringe District (FF)

(1) Permitted Uses

Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Section 3.2.1(d)(2) below. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

(2) Standards for Flood Fringe Permitted Uses

- (A) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.
- (B) Accessory Structures. As an alternative to the fill requirements of Section 3.2.1(e)(2)(A) noted above, structures accessory to the uses identified in Section 3.2.1(e)(1) above may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:
 - i. The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.
 - ii. All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be:
 - a. adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls;
 - b. be constructed with materials resistant to flood damage; and
 - c. must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.
 - iii. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:
 - a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

- (C) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 3.2.1(e)(2)(A) of this Unified Development Ordinance, or if allowed as a conditional use under Section 3.2.1(e)(3)(C) below.
- (D) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
- (E) All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
- (F) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (G) All fill must be properly compacted, and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
- (H) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation or must have a flood warning / emergency evacuation plan acceptable to the City.
- (I) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
- (J) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.
- (K) Manufactured homes and recreational vehicles must meet the standards of Section 3.2.1(i) of this Unified Development Ordinance.

(3) **Conditional Uses**

The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section 3.2.1(j)(4) of this Unified Development Ordinance.

- (A) Any structure that is not elevated on fill or floodproofed in accordance with Section 3.2.1(e)(2)(A) and 2.B of this Unified Development Ordinance.
- (B) Storage of any material or equipment below the regulatory flood protection elevation.
- (C) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 3.2.1(e)(2)(A) of this Unified Development Ordinance.
- (D) The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in Section 3.2.1(e)(4)(F) below.

(4) Standards for Flood Fringe Conditional Uses

- (A) The standards listed in Section 3.2.1(e)(2)(D) through 2.J above apply to all conditional uses.
- (B) Basements, as defined by Section 3.2.1(b)(9)(A) of this Unified Development Ordinance, are subject to the following:
 - i. Residential basement construction is not allowed below the regulatory flood protection elevation; and
 - ii. Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with the below Section 3.2.1(e)(4)(C) of this Unified Development Ordinance.
- (C) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (D) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
 - i. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

- ii. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City.
- iii. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
 - (E) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
 - (F) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
 - i. Design and Certification – The structure's design and as-built condition must be certified by a registered professional engineer as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
 - ii. Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - a. The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

- b. That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(g) General Floodplain District (GF)

(1) Permitted Uses

- (A) The uses listed in Section 3.2.1(d)(1) of this Unified Development Ordinance, Floodway District Permitted Uses, are permitted uses.
- (B) All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 3.2.1(f)(2) below. Section 3.2.1(d) applies if the proposed use is determined to be in the Floodway District. Section 3.2.1(e) applies if the proposed use is determined to be in the Flood Fringe District.

(2) Procedures for Floodway and Flood Fringe Determinations

- (A) Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
- (B) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in Section 3.2.1(f)(2)(C) below.
- (C) The determination of floodway and flood fringe must include the following components, as applicable:
 - i. Estimate the peak discharge of the regional (1% chance) flood.
 - ii. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - iii. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
- (D) The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
- (E) Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Sections 3.2.1(d) and 3.2.1(e) of this Unified Development Ordinance.

(h) **Land Development Standards**

(1) **In General**

Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of Brooklyn Center.

(2) Subdivisions

- (A) No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this Unified Development Ordinance.
- (B) All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
- (C) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
- (D) For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
- (E) In the General Floodplain District, applicants must provide the information required in Section 3.2.1(f)(2) of this Unified Development Ordinance to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.
- (F) If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:
 - i. All such proposals are consistent with the need to minimize flood damage within the flood prone area;
 - ii. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - iii. Adequate drainage is provided to reduce exposure of flood hazard.

(3) Building Sites

If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

- (A) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (B) Constructed with materials and utility equipment resistant to flood damage;
- (C) Constructed by methods and practices that minimize flood damage; and
- (D) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(i) **Public Utilities, Railroads, Roads, and Bridges**

(1) **Public Utilities**

All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

(2) **Public Transportation Facilities**

Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 3.2.1(d) and 3.2.1(e) of this Unified Development Ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(3) **On-site Water Supply and Sewage Treatment Systems**

Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

(4) **Recreational Vehicles**

(A) New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this Unified Development Ordinance.

(B) Recreational vehicles are exempt from the provisions of this Unified Development Ordinance if they are placed in any of the following areas and meet the criteria listed in Section 3.2.1(i)(2)(C) below.

- i. Individual lots or parcels of record.
- ii. Existing commercial recreational vehicle parks or campgrounds.
- iii. Existing condominium-type associations.

(C) Criteria for Exempt Recreational Vehicles:

- i. The vehicle must have a current license required for highway use.
- ii. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
- iii. No permanent structural type additions may be attached to the vehicle.
- iv. The vehicle and associated use must be permissible in any preexisting, underlying zoning district.
- v. Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in Section 3.2.1(i)(1).
- vi. An accessory structure must constitute a minimal investment

(D) Recreational vehicles that are exempt in Section 3.2.1(i)(2)(C) lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of Section 3.2.1(e) of this Unified Development Ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

(j) Administration

(1) Zoning Administrator

The Zoning Administrator or other official designated by the City Manager must administer and enforce this Unified Development Ordinance.

(2) Permit Requirements

(A) Permit Required. A permit must be obtained from the Zoning Administrator prior to conducting the following activities:

- i. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this Unified Development Ordinance.
- ii. The use or change of use of a building, structure, or land.
- iii. The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this Unified Development Ordinance.
- iv. The change or extension of a nonconforming use.
- v. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
- vi. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- vii. Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for such work.
- viii. Any other type of "development" as defined in Section 3.2.1(b)(9)(A) of this Unified Development Ordinance.

(B) Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

- i. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
- ii. Location of fill or storage of materials in relation to the stream channel.
- iii. Copies of any required municipal, county, state or federal permits or approvals.
- iv. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

- (C) Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Unified Development Ordinance.
- (D) Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Unified Development Ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect.
- (E) Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- (F) Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency FEMA).
- (G) Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(3) **Variances**

- (A) Variance Applications. An application for a variance to the provisions of this Unified Development Ordinance will be processed and reviewed in accordance with applicable state statutes and Section 6.3.1 and 6.3.8 of this Unified Development Ordinance.
- (B) Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, or permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area or permit standards lower than those required by state law.
- (C) Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - i. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - ii. Variances may only be issued by a community upon the following:
 - a. a showing of good and sufficient cause;
 - b. a determination that failure to grant the variance would result in exceptional practical difficulties to the applicant; and
 - c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - iii. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (D) Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that:
 - i. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - ii. Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.
- (E) General Considerations. The community shall consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
 - i. The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - ii. The danger that materials may be swept onto other lands or downstream to the injury of others;

- iii. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
- iv. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
- v. The importance of the services to be provided by the proposed use to the community;
- vi. The requirements of the facility for a waterfront location;
- vii. The availability of viable alternative locations for the proposed use that are not subject to flooding;
- viii. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- ix. The relationship of the proposed use to the Comprehensive Land Use Plan and floodplain management program for the area;
- x. The safety of access to the property in times of flood for ordinary and emergency vehicles; and
- xi. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

(F) Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten (10) days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(G) Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(H) Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(4) **Conditional Uses**

- (A) Administrative Review. An application for a conditional use permit under the provisions of this Unified Development Ordinance will be processed and reviewed in accordance with Section 6.3.1 and Section 6.3.2 of this Unified Development Ordinance.
- (B) Factors Used in Decision-Making. In decisions on conditional use applications, the City must consider all relevant factors specified in other sections of this Unified Development Ordinance, and those factors identified in Section 3.2.1(j)(3)(E) of this Unified Development Ordinance.
- (C) Conditions Attached to Conditional Use Permits. The City may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Unified Development Ordinance. Such conditions may include, but are not limited to, the following:
 - i. Modification of waste treatment and water supply facilities.
 - ii. Limitations on period of use, occupancy, and operation.
 - iii. Imposition of operational controls, sureties, and deed restrictions.
 - iv. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - v. Floodproofing measures, in accordance with the State Building Code and this Unified Development Ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
- (D) Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten (10) days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (E) Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(k) Nonconformities

(1) Continuance of Nonconformities

- (A) A use, structure, or occupancy of land which was lawful before the passage or amendment of this Unified Development Ordinance but which is not in conformity with the provisions of this Unified Development Ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 3.2.1(b)(9)(A) of this Unified Development Ordinance, are subject to the provisions of Section 3.2.1(k)(1)(B) through (1)(G) noted below of this Unified Development Ordinance.
- (B) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in Section 3.2.1(k)(1)(C) below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.
- (C) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Section 3.2.1(k)(1)(D) and (1)(H) below.
- (D) If the cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the market value of any nonconforming structure, that shall be considered substantial improvement, and the entire structure must meet the standards of Sections 3.2.1(d) or Section 3.2.1(e) of this Unified Development Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.
- (E) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this Unified Development Ordinance. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.

- (F) If any nonconformity is substantially damaged, as defined in Section 3.2.1(b)(9)(A) of this Unified Development Ordinance, it may not be reconstructed except in conformity with the provisions of this Unified Development Ordinance. The applicable provisions for establishing new uses or new structures in Sections 3.2.1(d) or 3.2.1(e) will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
- (G) If any nonconforming use or structure experiences a repetitive loss, as defined in Section 3.2.1(b)(9)(A) of this Unified Development Ordinance, it must not be reconstructed except in conformity with the provisions of this Unified Development Ordinance.
- (H) Any substantial improvement, as defined in Section 3.2.1(b)(9)(A) of this Unified Development Ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Sections 3.2.1(d) or 3.2.1(e) of this Unified Development Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

(I) **Penalties and Enforcement**

(1) **Violation Constitutes a Misdemeanor**

Violation of the provisions of this Unified Development Ordinance 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) constitute a misdemeanor and will be punishable as defined by law.

(2) **Other Lawful Action**

Nothing in this Unified Development Ordinance restricts the City of Brooklyn Center from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this Unified Development Ordinance and will be prosecuted accordingly.

(3) **Enforcement**

Violations of the provisions of this Unified Development Ordinance will be investigated and resolved in accordance with the provisions of Sections 1.2.4 and 1.2.5 of the Unified Development Ordinance. In responding to a suspected Unified Development Ordinance violation, the Zoning Administrator and City may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City of Brooklyn Center must act in good faith to enforce these official controls and to correct

Unified Development Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(m) **Amendments**

(1) **Flood Plain Designation – Restrictions on Removal**

The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

(2) **Amendments Require DNR Approval**

All amendments to this Unified Development Ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

(3) **Map Revisions Require Code Amendments**

The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 3.2.1(b)(3) of this Unified Development Ordinance.

3.1.2 **SL – Shoreland**

(a) **Statutory Authorization and Policy**

(1) **Statutory Authorization**

This shoreland section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes Chapter 462.

(2) **Policy**

The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City of Brooklyn Center.

(b) **General Provisions and Definitions**

(1) **Jurisdiction**

The provisions of this section apply to the shorelands of the public water bodies as classified in Section 3.2.2.(d)(1) of this Unified Development Ordinance. Pursuant to Minnesota Rules, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in

unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Unified Development Ordinance.

(2) **Enforcement**

The City Manager or designee is responsible for the administration and enforcement of this Unified Development Ordinance. Any violation of the provisions of this Unified Development Ordinance 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 Unified Development Ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in Section 4 of this Unified Development Ordinance.

(3) **District Application**

The Shoreland Overlay is applied over zoning districts as identified in the official city Shoreland Areas Map. Regulations and requirements imposed by the Shoreland Overlay shall be enforced in addition to those in the base zoning district. In instances where two or more overlay districts apply, the more restrictive requirements shall apply.

(4) **Definitions**

Unless specifically defined in Section 8, words or phrases used in this Unified Development Ordinance must be interpreted according to common usage and so as to give this Unified Development Ordinance its most reasonable application.

(c) **Administration**

(1) **Purpose**

The purpose of this Section is to identify administrative provisions to ensure this (section, chapter, or article) is administered consistent with its purpose.

(2) **Permits**

- (A) 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, and those grading and filling activities not exempted by section 3.2.2(g)(3) of this Unified Development Ordinance.
- (B) A certificate of compliance, consistent with Minnesota Rules Part 7082.0700 Subp. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

(3) **Application materials.**

- (A) Application for permits and other zoning applications such as variances shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can evaluate how the application complies with the provisions of this Unified Development Ordinance.

(4) **Certificate of Zoning Compliance.**

The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 3.2.2 of this Unified Development Ordinance. This certificate will specify that the use of land conforms to the requirements of this Unified Development Ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Unified Development Ordinance and shall be punishable as provided in Section 1.2 of this Unified Development Ordinance.

(5) **Variances.**

Variances may only be granted in accordance with Minnesota Statutes, Section 462.357 and are subject to the following:

- (A) A variance may not circumvent the general purposes and intent of this Unified Development Ordinance; and
- (B) For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

(6) **Conditional Uses**

All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:

- (A) **All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:**
- (B) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- (C) The visibility of structures and other facilities as viewed from public waters is limited;
- (D) There is adequate water supply and on-site sewage treatment; and
- (E) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.

(7) **Mitigation**

(A) In evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address when appropriate the following conditions, when related to and proportional to the impact, to meet the purpose of this Unified Development Ordinance, to protect adjacent properties, and the public interest:

- i. Advanced storm water runoff management treatment;
- ii. Reducing impervious surfaces;
- iii. Increasing setbacks from the ordinary high water level;
- iv. Restoration of wetlands;
- v. Limiting vegetation removal and/or riparian vegetation restoration;
- vi. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
- vii. Other conditions the zoning authority deems necessary.

(B) In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.

(8) Notifications to the Department of Natural Resources.

- (A) All amendments to this shoreland section must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. The City of Brooklyn Center will submit the proposed amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.
- (B) All notices of public hearings to consider variances, Unified Development Ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- (C) All approved Unified Development Ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- (D) Any request to change the shoreland management classification of public waters within Brooklyn Center must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000.
- (E) Any request to reduce the boundaries of shorelands of public waters within Brooklyn Center must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

(9) **Mandatory EAW.**

An Environmental Assessment Worksheet consistent with [Minnesota Rules, Chapter 4410](#) must be prepared for projects meeting the thresholds of [Minnesota Rules, part 4410.4300](#).

(d) **Shoreland Classification System and Land Uses**

(1) **Purpose**

To ensure that shoreland development on the public waters of Brooklyn Center is regulated consistent with the classifications assigned by the commissioner under [Minnesota Rules, part 6120.3300](#).

(A) Lakes are classified as follows:

Lake Classification	DNR Public Waters I.D. #
<i>General Development</i>	
Middle Twin	27004202
Upper Twin	27004201
<i>Recreational Development</i>	
Ryan	27005800
<i>Natural Environment</i>	
Palmer	27005900

(B) Rivers and streams are classified as follows:

River and Stream Classification	Legal Description
<i>Urban</i>	
Mississippi River	See Minnesota Department of Natural Resources River and Stream Classification Map

(2) **Land Uses**

(A) Purpose. To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.

(B) Shoreland district land uses listed below are regulated as:

- i. Permitted uses (P). These uses are allowed, provided all standards in this Unified Development Ordinance are followed;
- ii. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 3.2.2(c)(5) of this Unified Development Ordinance and any additional conditions listed in this Unified Development Ordinance; and
- iii. Not permitted uses (N). These uses are prohibited.

(C) Land Uses for lake, river, and stream classifications:

	Lake Classification			Rivers & Stream Classification
Land Uses	General Development	Recreational Development	Natural Environment	Urban
Single residential	P	P	P	P
Duplex, triplex, quad residential	P	P	C	P
Residential PUD	C	C	C	C
Water-dependent commercial - As accessory to a residential planned unit development	C	C	C	C
Commercial	P	P	C	P
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 10.0 of this UDO are satisfied.	C	C	C	C
Parks & historic sites	C	C	C	C
Public, semipublic	P	P	C	P
Industrial	C	C	N	C
Agricultural: cropland and pasture	P	P	P	P
Agricultural feedlots - New	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	C	C	C	C
Forest management	P	P	P	P
Forest land conversion	C	C	C	C
Extractive use	C	C	C	C
Mining of metallic minerals and peat	P	P	P	P

(e) **Special Land Use Provisions**

(1) **Commercial, Industrial, Public, and Semipublic Use Standards**

(A) Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:

- i. The use complies with the provisions of Section 3.2.2(f).
- ii. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
- iii. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- iv. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:

- a. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and
 - b. Signs placed within the shore impact zone are:
 - i. No higher than ten feet above the ground, and no greater than 32 square feet in size; and
 - ii. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
 - c. Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.
- (B) Commercial, industrial, public, and semi-public uses that are not water-dependent must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(2) Agriculture Use Standards

(A) Buffers.

- i. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
- ii. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan that includes alternative riparian water quality practices consistent with the field office technical guides of the local soil and water conservation district or the Natural Resource Conservation Service, and as approved by the local soil and water conservation district.

(B) New animal feedlots are not allowed in shoreland.

Modifications or expansions to existing feedlots or resumption of old feedlots are conditional uses and must meet the following standards:

- i. Feedlots must be designed consistent with Minnesota Rules, Chapter 7020;

- ii. Feedlots must not further encroach into the existing ordinary high water level setback or the bluff impact zone and must not expand to a capacity of 1,000 animal units or more; and,
- iii. Old feedlots not currently in operation may resume operation consistent with Minnesota Statutes, Section 116.0711.

(3) Forest Management Standards

- (A) The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions of the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.
- (B) Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion control and sedimentation plan developed and approved by the soil and water conservation district.

(4) Extractive Use Standards

Extractive uses are conditional uses and must meet the following standards:

- (A) Site Development and Restoration Plan. A site development and restoration plan must be developed, approved, and followed over the course of operation. The plan must:
- (B) Address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations;
- (C) Identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion; and
- (D) Clearly explain how the site will be rehabilitated after extractive activities end.
- (E) Setbacks for Processing Machinery. Processing machinery must meet structure setback standards from ordinary high water levels and from bluffs.

(5) Metallic Mining Standards

Mining of metallic minerals and peat is a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

(f) Dimensional and General Performance Standards

(1) Purpose

To establish dimensional and performance standards that protect shoreland resources from impacts of development.

(2) Lot Area and Width Standards

Lot Area and Width Standards. After the effective date of this Unified Development Ordinance, all new lots must meet the minimum lot area and lot

width requirements in Sections 2.2 through 2.6, subject to the following standards:

- (A) Only lands above the ordinary high water level can be used to meet lot area and width standards;
- (B) Lot width standards must be met at both the ordinary high water level and at the building line;
- (C) The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property;
- (D) Residential subdivisions with dwelling unit densities exceeding those in Sections 2.2 through 2.5 are allowed only if designed and approved as residential PUDs under Section 2.6 of this Unified Development Ordinance; and
- (E) Lake Minimum Lot Area and Width Standards:

General Development – Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

Recreational Development – Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

Natural Environment – Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

- (F) River/Stream Minimum Lot Width Standards. There are not minimum lot area requirements for rivers and streams. The lot width standards in feet are:

Urban & Tributary – Sewered	
Single	75
Duplex	115
Triplex	150
Quad	190

(3) Special Residential Lot Provisions

(A) Subdivisions of duplexes, triplexes, and quads are conditional uses on Natural Environment Lakes and must also meet the following standards:

- i. Each building must be set back at least 200 feet from the ordinary high water level;
- ii. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
- iii. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
- iv. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.

(B) One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 3.2.2(e)(2) provided the following standards are met:

- i. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit;
- ii. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
- iii. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

(C) Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:

- i. The lot must meet the area and width requirements for residential lots, and be suitable for the intended uses of controlled access lots as provided in section iv below.
- ii. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by a percentage of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements	
<i>Ratio of Lake Size to Shore Length (acres/mile)</i>	<i>Required Percent Increase in Frontage</i>
Less than 100	25%
100 – 200	20%
201 – 300	15%
301 – 400	10%
Greater than 400	5%

- iii. The lot must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and
- iv. Covenants or other equally effective legal instruments must be developed that:
 - a. Specify which lot owners have authority to use the access lot;
 - b. Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;
 - c. Limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water;
 - d. Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and
 - e. Require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

(4) **Placement, Height, and Design of Structures**

(A) **Placement of Structures and Sewage Treatment Systems on Lots.**

When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following OHWL setback provisions:

Classification	Structures		Sewage Treatment System (ft)
	No Sewer (ft)	Sewer (ft)	
Lakes			
Natural Environment	150	150	150
Recreational Development	100	75	75
General Development	75	50	50

Rivers and Streams

Urban

100

100

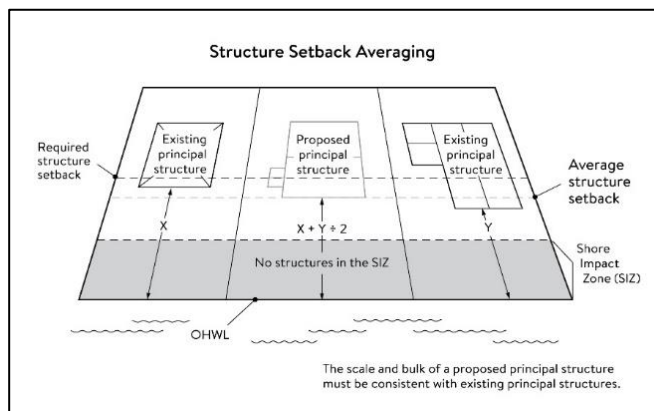
100

(B) OHWL Setbacks.

Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the Ordinary High Water Level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with Section 3.2.2(f)(3) of this Unified Development Ordinance, may be set back a minimum distance of ten (10) feet from the OHWL:

(C) Setback averaging.

Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone;

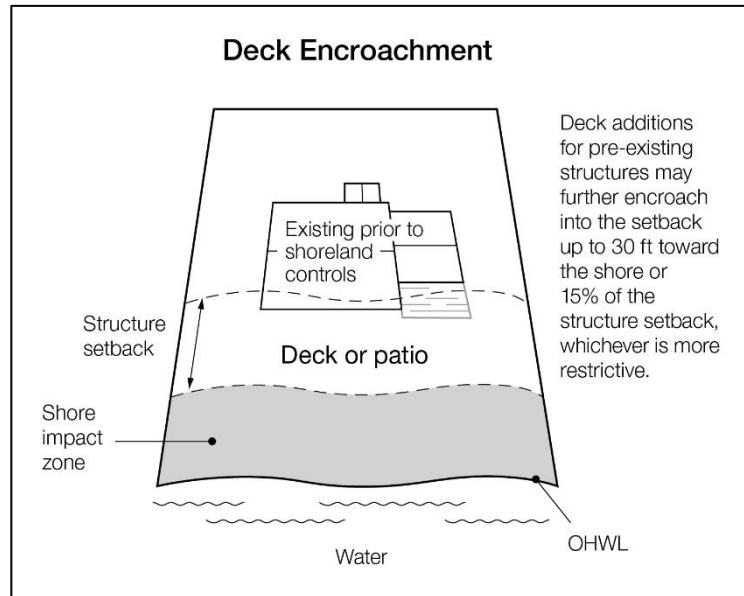


(D) Setbacks of decks.

Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria are met:

- i. The structure existed on the date the structure setbacks were established;
- ii. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- iii. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or is no closer than 30 feet from the OHWL, whichever is more restrictive; and

- iv. The deck is constructed primarily of wood and is not roofed or



screened.

(E) Additional structure setbacks.

Structures must also meet the following setbacks, regardless of the waterbody classification:

Setback from:	Setback (ft)
Top of bluff	30 (40 for Mississippi River)
Unplatted cemetery	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads not classified	20

(F) Bluff Impact Zones.

Structures, impervious surfaces, and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

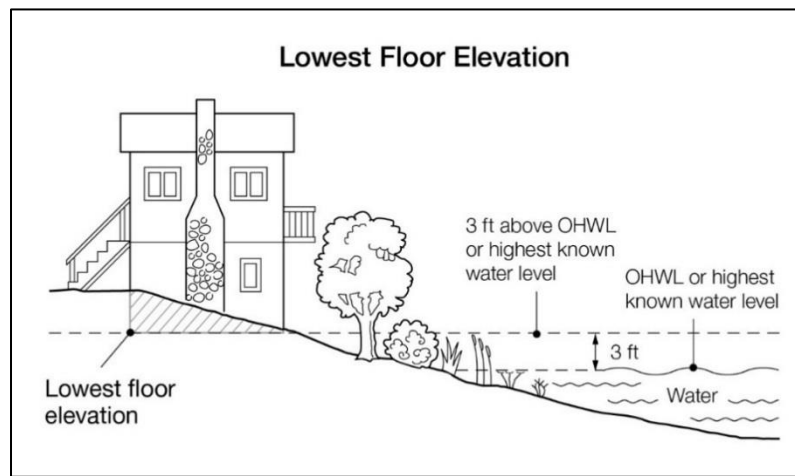
(G) Height of Structures.

All structures in residential districts in cities, except places of religious assembly and nonresidential agricultural structures, must not exceed 25 feet in height.

(H) Lowest Floor Elevation.

Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

- i. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
- ii. For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
- iii. If the structure is floodproofed instead of elevated under items i and ii above, then it must be floodproofed in accordance with Minnesota Rules, part 6120.5900.



(I) **Significant Historic Sites.**

No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(5) **Water Supply and Sewage Treatment**

(A) **Water Supply.**

Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

(B) **Sewage treatment.**

Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with Minnesota Rules, Chapters 7080 – 7081.

(g) Performance Standards for Public and Private Facilities

(1) Placement and Design of Roads, Driveways, and Parking Areas.

Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters and comply with the following standards:

- (A) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;
- (B) Watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met;
- (C) Private facilities must comply with the grading and filling provisions of subsection g (Vegetation and Land Alteration) of this Unified Development Ordinance; and
- (D) For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(2) Stairways, Lifts, and Landings.

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts, and landings must meet the following design requirements:

- (A) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
- (B) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;
- (C) Canopies or roofs are prohibited on stairways, lifts, or landings;
- (D) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (E) Stairways, lifts, and landings must be located in the least visible portion of the lot as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- (F) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of section 3.2.2(a) through (f) above, and the requirements of Minnesota Rules, Chapter 1341.

(3) **Water-oriented Accessory Structures or Facilities.**

Each residential lot may have one water-oriented accessory structure or facility if it complies with the following provisions:

- (A) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 120 square feet. The structure or facility may include detached decks not exceeding eight feet above grade at any point or at-grade patios;
- (B) The structure or facility is not in the Bluff Impact Zone;
- (C) The setback of the structure or facility from the ordinary high water level must be at least ten feet;
- (D) The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;
- (E) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- (F) The roof may be used as an open-air deck with safety rails, but must not be enclosed with a roof or sidewalls or used as a storage area;
- (G) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
- (H) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for storage of watercraft and boating-related equipment may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the shoreline; and
- (I) Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 3.2.2(f)(4)(H) if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(h) **Vegetation and Land Alterations**

(1) **Purpose.**

Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.

(2) **Vegetation Management**

- (A) Removal or alteration of vegetation must comply with the provisions of this subsection except for:
 - i. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;
 - ii. The construction of public roads and parking areas if consistent with Section 3.2.2(f)(1) of this Unified Development Ordinance;
 - iii. Forest management uses consistent with Section 3.2.2(e)(3) of this Unified Development Ordinance; and
 - iv. Agricultural uses consistent with Section 3.2.2(e)(2) of this Unified Development Ordinance.
- (B) Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards in Section 3.2.2(e)(3) of this Unified Development Ordinance.
- (C) Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - i. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - ii. Existing shading of water surfaces along rivers is preserved;
 - iii. Cutting debris or slash shall be scattered and not mounded on the ground; and
 - iv. Perennial ground cover is retained.
- (D) Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.
- (E) Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.

(3) Grading and Filling.

- (A) Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 3.2.2(g)(1) of this Unified Development Ordinance.
- (B) **Permit Requirements.**
 - i. Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, if part of an approved permit, do not require a separate grading and filling permit. However, the standards in Section 3.2.2(h)(3)(C) of this

Unified Development Ordinance must be incorporated into the permit.

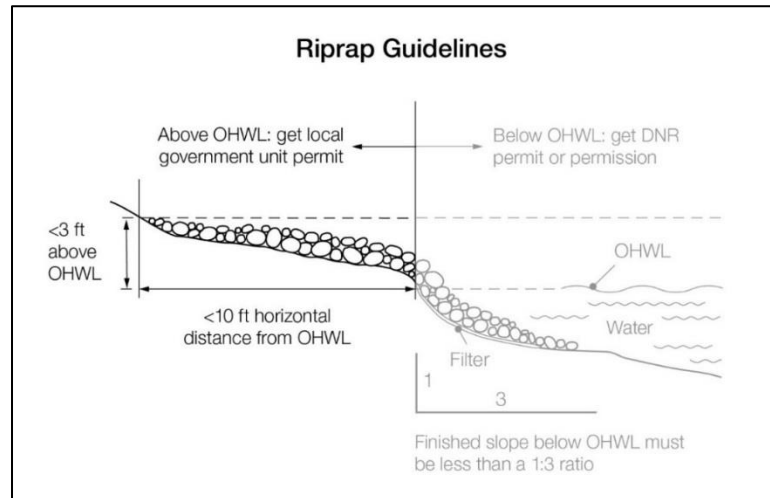
ii. For all other work, including driveways not part of another permit, a grading and filling permit is required for:

- a. the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
- b. the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

(C) Grading, filling and excavation activities must meet the following standards:

- i. Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;
- ii. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:
 - a. Limiting the amount and time of bare ground exposure;
 - b. Using temporary ground covers such as mulches or similar materials;
 - c. Establishing permanent vegetation cover as soon as possible;
 - d. Using sediment traps, vegetated buffer strips or other appropriate techniques;
 - e. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
 - f. Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
 - g. Fill or excavated material must not be placed in bluff impact zones;
 - h. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G;
 - i. Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
 - j. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:

- i. the finished slope does not exceed three feet horizontal to one foot vertical;
- ii. the landward extent of the riprap is within ten feet of the ordinary high water level; and
- iii. the height of the riprap above the ordinary high water level does



not exceed three feet.

(D) **Connections to public waters.**

Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.

(4) **Stormwater Management.**

(A) **General Standards:**

- i. When possible, existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- ii. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized as soon as possible, and appropriate facilities or methods used to retain sediment on the site.
- iii. When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

(B) Specific Standards:

- i. Impervious surfaces of lots must not exceed 25 percent of the lot area.
- ii. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.
- iii. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

(i) Subdivision/Platting Provisions

(1) Purpose

To ensure that new development minimizes impacts to shoreland resources and is safe and functional.

(2) Land Suitability

Each lot created through subdivision, including planned unit developments authorized under Section 2.6 of this Unified Development Ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

(3) Consistency with other Controls

Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.

(4) Water and Sewer Design Standards

- (A) A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081 must be provided for every lot.
- (B) Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, parts 7080.2200 to 7080.223 or site conditions described in part 7081.0270, as applicable.
- (C) Lots that would require use of holding tanks are prohibited.

(5) Information requirements.

- (A) Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;
- (B) The surface water features required in Minnesota Statutes, section 505.021, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;
- (C) Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- (D) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- (E) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
- (F) A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(6) **Dedications.**

When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

(7) **Platting.**

All subdivisions that cumulatively create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 462.358 and Section 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this Unified Development Ordinance unless the lot was previously approved as part of a formal subdivision.

(8) **Controlled Access Lots.**

Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 3.2.2f(3) of this Unified Development Ordinance.

(j) **Planned Unit Developments (PUDs)**

(1) **Purpose**

To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.

(2) **Types of PUDs Permissible**

Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of Sections 2.2 through 2.6 of this Unified Development Ordinance is allowed if the standards in this Section are met.

(3) **Processing of PUDs**

Planned unit developments must be processed as a conditional use. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this Unified Development Ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in 3.2.2(j)(5). Approval cannot occur until all applicable environmental reviews are complete.

(4) **Application for a PUD.**

The applicant for a PUD must submit the following documents prior to final action on the application request:

(A) Site plan and/or plat showing:

- i. Locations of property boundaries;
- ii. Surface water features;
- iii. Existing and proposed structures and other facilities;
- iv. Land alterations;
- v. Sewage treatment and water supply systems (where public systems will not be provided);
- vi. Topographic contours at ten-foot intervals or less; and
- vii. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).

(B) A property owners association agreement (for residential PUD's) with mandatory membership, and consistent with Section 3.2.2(j)(6) of this Unified Development Ordinance.

(C) Deed restrictions, covenants, permanent easements or other instruments that:

- i. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
- ii. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 3.2.2(j)(6) of this Unified Development Ordinance.

- (D) A master plan/site plan describing the project and showing floor plans for all commercial structures.
- (E) Additional documents necessary to explain how the PUD will be designed and will function.

(5) **Density Determination**

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.

- (A) Step 1. Identify Density Analysis Tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

Classification	Tier Depth
	Sewer (ft)
General Development Lakes – 1st tier	200
General Development Lakes – all other tiers	200
Recreational Development Lakes	267
All Rivers	300

- (B) Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.

- (C) Step 3. Determine Base Density:

- i. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.
- ii. For commercial PUDs:
 - a. Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.
 - i. For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.
 - ii. For dwelling sites (campgrounds), determine the area of each dwelling site as follows:
 - For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.
 - For recreational vehicles, campers or tents, use 400 sf.

- iii. Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in Section (C)(ii)(a) above.
- iv. Multiply the suitable area within each tier determined in (B) above by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.
- v. Divide the total floor area or dwelling site area for each tier calculated in (C)(ii)(a), (iv) above by the average inside living floor area for dwelling units or dwelling site area determined in (C)(ii), (a)(i) above. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.
 - b. Allowable densities may be transferred from any tier to any other tier further from the waterbody but must not be transferred to any tier closer to the waterbody.
 - c. All PUDs with densities at or below the base density must meet the design standards in Section 3.2.2(j)(6).

(D) Step 4. Determine if the Site can Accommodate Increased

Inside Living Floor Area or Dwelling Site Area (sq. Ft.)	Floor Area/Dwelling Site Area Ratio		
	General Development Lakes w/Sewer – all tiers, Urban Rivers	Recreational Development Lakes	Natural Environment Lakes
< 200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
> 1,500	.150	.075	.038

Density:

- i. The following increases to the dwelling unit or dwelling site base densities determined (B) above are allowed if the design criteria in

Section 3.2.2(j)(6) of this Unified Development Ordinance are satisfied as well as the standards in item ii below:

Shoreland Tier	Maximum Density Increase within Each Tier
1st	50%
2nd	100%
3rd	200%
4th	200%
5th	200%

- ii. Structure setbacks from the ordinary high water level:
 - a. Are increased to at least 50 percent greater than the minimum setback; or
 - b. The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

(6) Design Criteria

All PUDs must meet the following design criteria.

(A) General Design Standards.

- i. All residential planned unit developments must contain at least five dwelling units or sites.
- ii. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 3.2.2(f)(5) of this Unified Development Ordinance. Sewage treatment systems must meet the setback standards of Section 3.2.2(f)(4) of this Unified Development Ordinance.
- iii. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
- iv. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Section 3.2.2(e)(3) and (4)
- v. Shore recreation facilities:
 - a. Must be centralized and located in areas suitable for them based on a suitability analysis.
 - b. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).
 - c. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

- vi. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- vii. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
- viii. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 3.2.2(g) of this Unified Development Ordinance and are centralized.

(B) Open Space Requirements.

- i. Open space must constitute at least 50 percent of the total project area and must include:
 - a. Areas with physical characteristics unsuitable for development in their natural state;
 - b. Areas containing significant historic sites or unplatted cemeteries;
 - c. Portions of the shore impact zone preserved in its natural or existing state as follows:
 - i. For existing residential PUD's, at least 50 percent of the shore impact zone
 - ii. For new residential PUDs, at least 70 percent of the shore impact zone.
 - iii. For all commercial PUD's, at least 50 percent of the shore impact zone.
- ii. Open space may include:
 - a. Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
 - b. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
 - c. Non-public water wetlands.
- iii. Open space shall not include:
 - a. Dwelling sites or lots, unless owned in common by an owners' association;
 - b. Dwelling units or structures, except water-oriented accessory structures or facilities;
 - c. Road rights-of-way or land covered by road surfaces and parking areas;
 - d. Land below the OHWL of public waters; and

- e. Commercial facilities or uses.

(C) Open Space Maintenance and Administration Requirements.

- i. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means. The instruments must prohibit:
 - a. Commercial uses (for residential PUD's);
 - b. Vegetation and topographic alterations other than routine maintenance;
 - c. Construction of additional buildings or storage of vehicles and other materials; and
 - d. Uncontrolled beaching of watercraft.
- ii. Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners' association with the following features:
 - a. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;
 - b. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
 - c. Assessments must be adjustable to accommodate changing conditions; and
 - d. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

(D) Erosion Control and Stormwater Management.

- i. Erosion control plans must be developed and must be consistent with the provisions of Section 3.2.2(h)(3) of this Unified Development Ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
- ii. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff. For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area, except that 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 3.2.2(h) of this Unified Development Ordinance.

(7) Conversions

Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:

- (A) Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;
- (B) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit;
- (C) Shore and bluff impact zone deficiencies must be evaluated, and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
 - i. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - ii. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and
 - iii. Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
- (D) Existing dwelling unit or dwelling site densities that exceed standards in Section 2 of this Unified Development Ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

3.1.3 CA – Mississippi River Corridor Critical Area (MRCCA)

(a) Authority, Intent, and Purpose

(1) Statutory Authorization.

This Mississippi River Corridor Critical Area (MRCCA) (section, chapter or article) 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.

(2) 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.

(b) **General Provisions and Definitions**

(1) **Jurisdiction**

The provisions of this (section, chapter or article) apply to land within the river corridor boundary as described in the State Register, volume 43, pages 508 to 519 and shown on the zoning map (insert reference citation).

(2) **Enforcement**

The Zoning Administrator is responsible for the administration and enforcement of this section. 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 (section, chapter or article) can occur regardless of whether or not a permit is required for a regulated activity listed in Section 3.2.

(3) **Severability**

If any section, clause, provision, or portion of this (section, chapter or article) is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this (section, chapter or article) shall not be affected thereby.

(4) **Abrogation and Greater Restrictions**

It is not intended by this (section, chapter or article) to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this (section, chapter or article) imposes greater restrictions, the provisions of this (section, chapter or article) shall prevail. All other (sections, chapters or articles) inconsistent with this (section, chapter or article) are hereby repealed to the extent of the inconsistency only.

(5) **Underlying Zoning**

Uses and standards of underlying zoning districts apply except where standards of this overlay district are more restrictive.

(6) **Definitions**

Unless specifically defined in Section 8, words or phrases used in this Unified Development Ordinance must be interpreted according to common usage and so as to give this Unified Development Ordinance its most reasonable application.

(c) **Administration**

(1) **Purpose**

The purpose of this Section is to identify administrative provisions to ensure this (section, chapter, or article) is administered consistent with its purpose.

(2) **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, and land alterations consistent with this Chapter.

(3) **Variances.**

Variances to the requirements under this Section may only be granted in accordance with Minnesota Statutes, Section 462.357 and must consider the potential impacts of variances on primary conservation areas (PCAs), public river corridor views (PRVCs), and other resources identified in the MRCCA plan. In reviewing the variance application the City of Brooklyn Center shall:

- (A) 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, consistent with Section 3.2.3(e) and
- (B) Make written findings that the variance is consistent with Section 6.3 and with the following criteria.
 - i. The extent, location and intensity of the variance will be in substantial compliance with the MRCCA Plan;
 - ii. The variance is consistent with the character and management purpose of the MRCCA district in which it is located;
 - iii. The variance will not negatively impact birds and other wildlife using the Mississippi Flyway through habitat loss, collision threats, or light pollution, in compliance with Minnesota B3 guidelines version 3.2, Site and Water Guideline: S. 5 Animal Habitat Support;
 - iv. The variance will not limit public access to parklands and the River;
 - v. The variance will not be detrimental to PCAs and PRCVs nor will it contribute to negative incremental impacts to PCAs and PRCVs when considered in the context of past, present and reasonable future actions.

(4) **Conditional and Interim Use Permits**

All conditional and interim uses, required under this (section, chapter or article), must comply with Minnesota Statutes, section 462.3595 and must consider the potential impacts on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan. In reviewing the application, the City shall:

- (A) 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, consistent with Section 3.2.3(j); and
- (B) Make written findings that the conditional use is consistent with the purpose of this Section, as follows.
 - i. The extent, location and intensity of the conditional use will be in substantial compliance with the MRCCA Plan;
 - ii. The conditional use is consistent with the character and management purpose of the MRCCA district in which it is located;

- iii. The conditional use permit will not negatively impact birds and other wildlife using the Mississippi Flyway through habitat loss, collision threats, or light pollution, in compliance with Minnesota B3 guidelines version 3.2, Site and Water Guideline: S. 5 Animal Habitat Support;
- iv. The conditional use will not be detrimental to PCAs and PRCVs nor will it contribute to negative incremental impacts to PCAs and PRCVs when considered in the context of past, present and reasonable future actions.

(5) Conditions of Approval.

The City shall evaluate the impacts to PCAs, PRCVs, and other resources identified in the MRCCA Plan, and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts.

Mitigation may include:

- (A) Restoration of vegetation identified as “vegetation restoration priorities” identified in the MRCCA plan;
- (B) Preservation of existing vegetation;
- (C) Stormwater runoff management;
- (D) Reducing impervious surface;
- (E) Increasing structure setbacks;
- (F) Wetland and drainageway restoration and/or preservation; and
- (G) Other conservation measures, including;
 - i. Increasing and/or improving habitat for pollinators, birds and other wildlife using native trees, shrubs and other vegetation.

(6) Application materials.

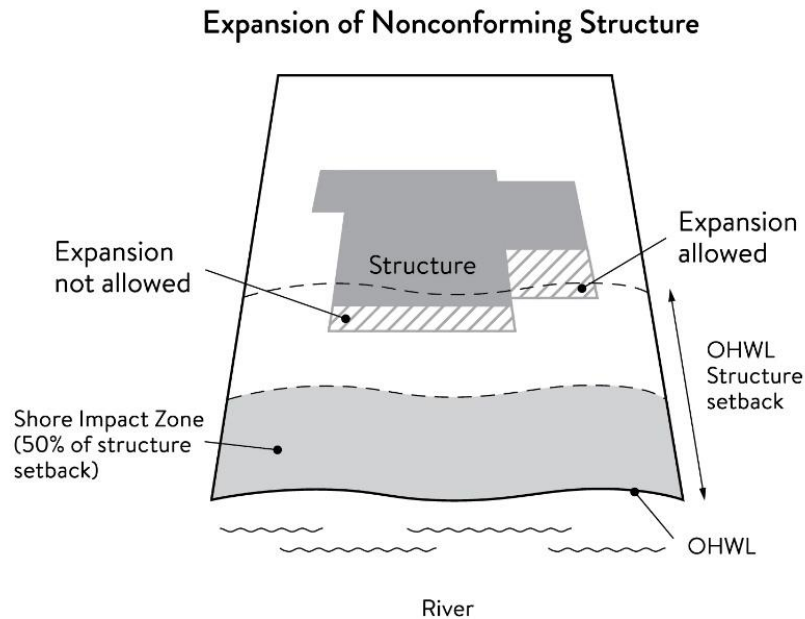
Applications for permits and discretionary actions required under this Section must submit the following information unless the City determines that the information is not needed.

- (A) A detailed project description; and
- (B) Scaled maps and plans, dimensional renderings, maintenance agreements, and other materials that identify and describe:
 - i. Primary conservation areas;
 - ii. Public river corridor views;
 - iii. Buildable area;
 - iv. Existing and proposed topography and drainage patterns;
 - v. Proposed storm water and erosion and sediment control practices;
 - vi. Existing and proposed vegetation to be removed and established;
 - vii. Ordinary high water level, blufflines, and all required setbacks;
 - viii. Existing and proposed structures;
 - ix. Existing and proposed impervious surfaces; and
 - x. Existing and proposed subsurface sewage treatment systems.

(7) **Nonconformities.**

- (A) All legally established nonconformities as of the date of this Unified Development Ordinance may continue consistent with Minnesota Statute 462.357.
- (B) New structures erected in conformance with the setback averaging provisions of Section 3.2.3(f)(4)(D) are conforming structures.
- (C) Site alterations and expansion of site alterations that were legally made prior to the effective date of this Unified Development Ordinance are conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements.
- (D) Legally nonconforming principal structures that do not meet the setback requirements of Section 3.2.3(f)(2) may be expanded laterally provided that:
 - i. The expansion does not extend into the shore or bluff impact zone or further into the required setback than the building line of the existing principal structure (See Figure 5); and
 - ii. The expanded structure's scale and bulk is consistent with that of the original structure and existing surrounding development.

Figure 5. Expansion of Nonconforming Structure



(8) **Notifications**

- (A) Amendments to this (section, chapter, or article) and to the MRCCA plan must be submitted to the Commissioner as provided in Minnesota Rules, part 6106.0070.
- (B) 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 ten (10) days prior to the hearing:
 - i. The Commissioner in a format prescribed by the DNR;
 - ii. National Park Service; and
 - iii. Where building heights exceed the height limits specified in Section 3.2.3(f)(2) 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.
- (C) Notice of final decisions for actions in Section 3.2.3(c)(8)(B), 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.
- (D) Requests to amend district boundaries must follow the provisions in Minnesota Rules, part 6106.0100.

(9) 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:

- (A) Comply with Sections 3.2.3(f) through (l); or
- (B) If Sections 3.2.3(f) through (l) cannot be complied with, ramps or other facilities are allowed with an administrative permit provided:
 - i. The permit terminates on either a specific date or upon occurrence of a particular event related to the person requiring accommodation; and
 - ii. Upon expiration of the permit, the ramp or other facilities must be removed.

(d) MRCCA Districts

(1) 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.

(2) District Application

MRCCA Districts are overlaid over zoning districts as identified in the official city Zoning Map. Regulations and requirements imposed by MRCCA Districts shall be

enforced in addition to those in the base zoning district. In instances where two or more overlay districts apply, the more restrictive requirements shall apply.

(3) **District description and management purpose.**

The MRCCA within the City is divided into the following MRCCA Districts:

(A) **River Neighborhood (RN).**

i. **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.

ii. **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.

(B) **Separated from River (SR).**

i. **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.

ii. **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) **MRCCA District Map**

The locations and boundaries of the MRCCA districts established by this Section are shown on the City Zoning Map which is incorporated herein by reference. The district boundary lines are intended to follow the center lines of rivers and streams, highways, streets, lot lines, and municipal boundaries, unless a boundary

line is otherwise indicated on the map. Where district boundaries cross unsubdivided property, the district boundary line is determined by use of dimensions or the scale appearing on the map.

(e) **Special Land Use Provisions**

(1) **Purpose**

To identify development standards and considerations for land uses that have potential to negatively impact primary conservation areas and public river corridor views.

(2) **Underlying Zoning**

Uses within the MRCCA are generally determined by underlying zoning, with additional provisions for the following land uses:

(A) **Agricultural use.**

Perennial ground cover is required within 50 feet of the ordinary high water level and within the bluff impact zone.

(B) **Feedlots.**

New animal feedlots and manure storage areas are prohibited. Existing animal feedlots and manure storage areas must conform with Minnesota Rules, chapter 7020.

(C) **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.

(D) **Nonmetallic mining.**

Nonmetallic mining requires a conditional use permit or interim use permit issued by the local government, subject to the following:

- i. 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;
- ii. Processing machinery must be located consistent with setback standards for structures as provided in Section 3.2.3(f)(3);
- iii. Only one barge loading area, which must be limited to the minimum size practicable, is permitted for each mining operation;
- iv. 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;
- v. 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:

- a. Describe how the site will be developed over time with an emphasis on minimizing environmental risk to public waters;
 - b. Explain where staged reclamation may occur at certain points during the life of the site;
 - c. Address dust, noise, storm water management, possible pollutant discharges, days and hours of operation, and duration of operations; and
 - d. Describe any anticipated vegetation and topographic alterations outside the pit, and reclamation plans consistent with the stated end use for the land; and;
- vi. Existing and new nonmetallic mining operations must submit land reclamation plans to the local government compatible with the purposes of this Unified Development Ordinance.

(E) River-dependent uses.

River-dependent uses must comply with the following design standards:

- i. Structures and parking area, except shoreline facilities and private roads and conveyances serving river-dependent uses as provided in Section 3.2.3(l), 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;
- ii. Shoreline facilities must comply with Minnesota Rules, chapter 6115 and must:
 - a. be designed in a compact fashion so as to minimize the shoreline area affected; and
 - b. minimize the surface area of land occupied in relation to the number of watercraft or barges to be served; and
- iii. Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.

(F) Wireless communication towers.

Wireless communication towers require a conditional or interim use permit and are subject to the following design standards:

- i. 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;
- ii. The tower must not be located in a bluff or shore impact zone; and
- iii. Placement of the tower must minimize impacts on public river corridor views.
- iv. Comply with the general design standards in Section 3.2.3(h)(2)

(f) **Structure Height and Placement and Lot Size**

(1) **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.

(2) **Structure Height**

Structures and facilities must comply with the following standards unless identified as exempt in Section 3.2.3(l)

(A) Structures and facilities must comply with the following standards unless identified as exempt in Section 3.2.3(l).

- i. RN District: 25 feet in residential districts, except for places of religious assembly. 35 feet for all other districts.
- ii. 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.

(3) **Height is measured of the side of the structure facing the Mississippi River.**

(4) **In addition to the conditional use permit requirements of Section 3.2.3(c)(4), criteria for considering whether to grant a conditional use permit for structures exceeding the height limits must include:**

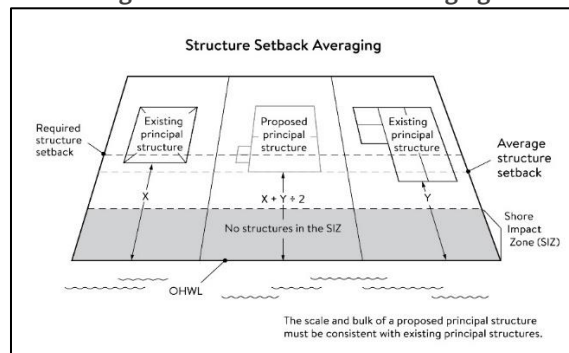
- (A) Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;
- (B) Determination that the proposed structure meets the required bluff and OHWL setbacks;
- (C) Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as:
 - i. Placing the long axis of the building perpendicular to the river;
 - ii. Stepping back of portions of the facade;
 - iii. Lowering the roof pitch or use of a flat roof;
 - iv. Using building materials or mitigation techniques that will blend in with the natural surroundings such as green roofs, green walls, or other green and brown building materials;
 - v. Compliance with the Minnesota B3 Guidelines version 3.2, Site and Water Guideline: S. 5 Animal Habitat Support;
 - vi. Narrowing the profile of upper floors of the building; or
 - vii. Increasing the setbacks of the building from the Mississippi River or blufflines;

- (D) Identification of techniques for preservation of those view corridors identified in the MRCCA Plan; and
- (E) Opportunities for creation or enhancement of public river corridor views.

(5) **Structure and impervious surface placement.**

- (A) Structures and impervious surface must not be placed in the shore or bluff impact zones unless identified as an exemption in Section 3.2.3(l).
- (B) Structures and facilities must comply with the following OHWL setback provisions unless identified as exempt in 3.2.3(l).
 - i. RN District: 100 feet from the Mississippi River.
- (C) Structures and facilities must comply with the following bluffline setback provisions unless identified as exempt in Section 3.2.3(l):
 - i. RN District: 40 feet.
 - ii. SR District: 40 feet.
- (D) Where principal structures exist on the adjoining lots on both sides of a proposed building site, the minimum setback may be altered to conform to the average of the adjoining setbacks, provided that the new structure's scale and bulk riverward or bluffward of the setbacks required under Section 3.2.3(f)(C) and (D) are consistent with adjoining development. See Figure 6. Figure 6. Structure Setback Averaging

Figure 6. Structure Setback Averaging



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

(6) **Lot size and buildable area.**

- (A) 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.
- (B) All new lots must have adequate buildable area to comply with the setback requirements of Section 3.2.3(b) and (c) so as to not require variances to use the lots for their intended purpose.

(g) **Performance Standards for Private Facilities**

(1) **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.

(2) **General Design Standards**

All private facilities must be developed in accordance with the vegetation management and land alteration requirements in Section 3.2.3(i) and Section 3.2.3(j).

(3) **Private Roads, Driveways, and Parking Areas**

Except as provided in Section 3.2.3(l), private roads, driveways and parking areas must:

- (A) Be designed to take advantage of natural vegetation and topography so that they are not readily visible;
- (B) Comply with structure setback requirements according to Section 3.2.3(c); and
- (C) Not be placed within the bluff impact zone or shore impact zone, unless exempt under Section 3.2.3(l) and designed consistent with Section 3.2.3(h).

(4) **Private water access and viewing facilities.**

(A) Private access paths must be no more than:

- i. Eight feet wide, if placed within the shore impact zone; and
- ii. Four feet wide, if placed within the bluff impact zone.

(B) Private water access ramps must:

- i. Comply with Minnesota Rules, chapters 6115.0210 and 6280.0250; and
- ii. Be designed and constructed consistent with the applicable standards in Design Handbook for Recreational Boating and Fishing Facilities.

(C) Design and construction of private stairways, lifts, and landings are subject to the following standards:

- i. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties and residential facilities held in common, if approved by the City;
- ii. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet area allowed for commercial properties and residential facilities held in common, if approved by the City Zoning Administrator;
- iii. Canopies or roofs are prohibited on stairways, lifts, or landings;
- iv. Stairways, lifts, and landings must be located in the least visible portion of the lot whenever practical; and
- v. Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities are allowed for achieving access to shore areas according to Section 3.2.3(g) and as provided under Section 3.2.3(c).

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

- i. not exceed 10 feet in height;
- ii. not exceed 120 square feet in area; and
- iii. be placed a minimum of 10 feet from the ordinary high water level.

(5) 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 Sections 3.2.3(i) and (j), provided that:

(A) **The structure existed on the date the structure setbacks were established;**

(B) **A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;**

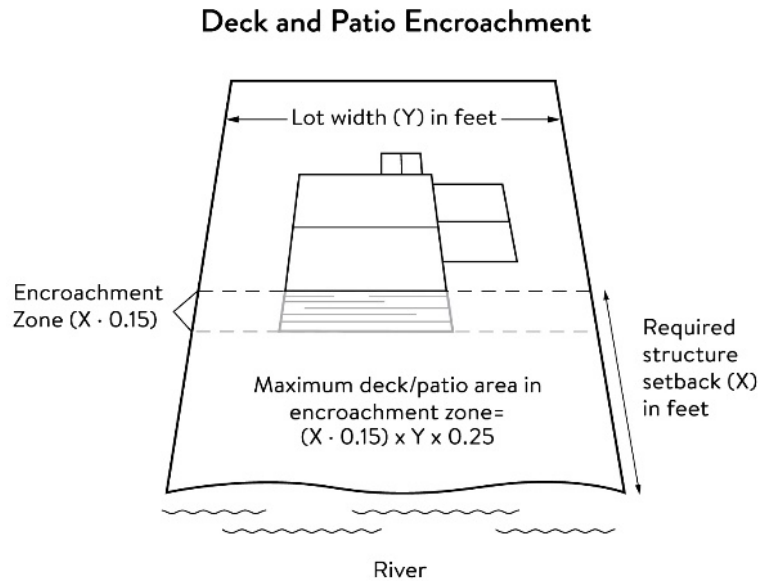
(C) **The deck is constructed primarily of wood and is not roofed or screened.**

(D) The deck or patio does not extend into the bluff impact zone.

(E) 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 15 percent using the below formula, as shown in Figure 7:

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

Figure 7. Deck and Patio Encroachment



(6) Off-premise and directional signs

(A) Off-premise advertising signs must:

- i. Meet required structure placement and height standards in Sections 3.2.3(f)(2) and (3).
- ii. Not be readily visible

(B) Directional signs for patrons arriving at a business by watercraft must comply with the following standards:

- i. They must be consistent with Minnesota Statutes, section 86B.115.
- ii. 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.
- iii. Be no greater than ten feet in height and 32 square feet in surface area; and
- iv. If illuminated, the lighting must be fully shielded and be directed downward to prevent illumination out across the river to the sky.

(C) Fences. Fences between principal structures and the river are allowed provided that fences are:

- i. Not higher than six feet;
- ii. Not located within the Bluff Impact Zone and the Shore Impact Zone;
- iii. Not located in the regulatory floodplain.

(7) Lighting

- (A) Lighting shall be fully shielded and directed away from the river.
- (B) Uplighting is prohibited.

(h) **Performance Standards for Public Facilities**

(1) **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.

(2) **General Design Standards**

All public facilities must be designed and constructed to:

- (A) Minimize visibility of the facility from the river to the extent consistent with the purpose of the facility;
- (B) Comply with the structure placement and height standards in the underlying zoning district, except as provided in Sections 3.2.3(f) and 3.2.3(l).
- (C) Be consistent with the vegetation management standards in Section 3.2.3(i) and the land alteration and storm water management standards in Section 3.2.3(j), including use of practices identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001, where applicable;
- (D) Avoid primary conservation areas, unless no alternative exists. If no alternative exists, then disturbance to primary conservation areas must be avoided to the greatest extent practicable, and design and construction must minimize impacts; and
- (E) Minimize disturbance of spawning and nesting times by scheduling construction at times when local fish, birds, and other wildlife are not spawning, nesting, or breeding.

(3) **Right-of-way maintenance standards.**

Right-of-way maintenance must comply with the following standards:

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

(4) **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.

(5) **Public utilities.**

Public utilities must comply with the following standards:

- (A) High-voltage transmission lines, wind energy conversion systems greater than five megawatts, and pipelines are regulated according to Minnesota Statutes, chapter 216E, 216F, and 216G respectively; and
- (B) If overhead placement is necessary, utility facility crossings must be hidden from view minimizing visibility of the facility from the river and follow other existing right of ways as much as practicable.
- (C) 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.
- (D) Wireless communication facilities, according to Section 3.2.3(e).

(6) **Public transportation facilities.**

Public transportation facilities shall comply with structure placement and height standards in Section 3.2.3(f). 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:

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

(7) **Public recreational facilities.**

Public recreational facilities must comply with the following standards:

- (A) Buildings and parking associated with public recreational facilities must comply with the structure placement and height standards in Section 2 and Section 4;
- (B) 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.
- (C) Trails, access paths, and viewing areas associated with public recreational facilities and providing access to or views of the Mississippi River are allowed within the bluff 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.
 - i. 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.
 - ii. Trails, paths, and viewing areas must be designed and constructed to minimize:
 - a. Visibility from the river;
 - b. Visual impacts on public river corridor views; and
 - c. Disturbance to and fragmentation of primary conservation areas.
- (D) Public water access facilities must comply with the following requirements:
 - i. Watercraft access ramps must comply with Minnesota Rules chapters 6115.0210 and 6280.0250; and
 - ii. Facilities must be designed and constructed consistent with the standards in Design Handbook for Recreational Boating and Fishing Facilities.
- (E) Public signs and kiosks for interpretive or directional purposes are allowed in the bluff or shore impact zones, provided they are placed and constructed to minimize disturbance to these areas and avoid visual impacts on public river corridor views. If illuminated, the lighting must be fully shielded and be directed downward.
- (F) Public stairways lifts, and landings must be designed as provided in Section 3.2.3(g)(4)(C).

(i) Vegetation Management

(1) 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.

(2) **Applicability**

This section applies to:

- (A) Shore impact zones
- (B) Areas within 50 feet of a wetland or natural drainage way;
- (C) Bluff impact zones;
- (D) Areas of native plant communities; and
- (E) Significant existing vegetative stands identified in the MRCCA plan.

(3) **Activities allowed without a vegetation permit.**

- (A) Maintenance of existing lawns, landscaping and gardens;
- (B) Removal of vegetation in emergency situations as determined by the City of Brooklyn Center;
- (C) Right-of-way maintenance for public facilities meeting the standards Section 3.2.3(h)(3);
- (D) Agricultural and forestry activities meeting the standards of Sections 3.2.3(e)(2)(A) and 3.2.3(e)(2)(C);
- (E) Selective vegetation removal, provided that vegetative cover remains consistent with the management purpose of the MRCCA District, including:
 - i. Vegetation that is diseased or hazardous, and/or dead or dying trees that do not provide bird or wildlife habitat;
 - ii. To prevent the spread of diseases or insect pests;
 - iii. Individual trees less than 4 inches (dbh) in circumference and shrubs; and
 - iv. For removal of invasive non-native species.

(4) **Activities allowed with a vegetation permit.**

- (A) Only the following intensive vegetation clearing activities are allowed with a vegetation permit:
 - i. Clearing of vegetation that is dead, diseased, dying, or hazardous;
 - ii. Clearing to prevent the spread of diseases or insect pests;
 - iii. Clearing to remove invasive non-native species.
 - iv. Clearing to prepare for restoration and erosion control management activities consistent with a plan approved by the City.
 - v. The minimum necessary for development that is allowed with a building permit or as an exemption under Section 2.
 - vi. Removal of healthy trees over 4 inches dbh.

(B) General Performance Standards.

The following standards must be met, in addition to a restoration plan under Section 3.2.3(i) in order to approve a vegetation permit:

- i. Development is sited to minimize removal of or disturbance to natural vegetation;
- ii. Soil, slope stability, and hydrologic conditions are suitable for the proposed work as determined by a professional engineer;
- iii. Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views and does not remove any healthy trees 4 inches or more (dbh) in circumference;
- iv. 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
- v. Any other condition determined necessary to achieve the purpose of this section.

(5) Prohibited activities.

All other intensive vegetation clearing is prohibited.

(6) Vegetation restoration plan.

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

- i. For any vegetation removed with a permit under Section 3.2.3(i)(4);
- ii. Upon failure to comply with any provisions in this section; or
- iii. As part of the planning process for subdivisions as provided in Section 3.2.3(k)

(B) Restoration Plan Performance Standards.

- i. The vegetation restoration plan must satisfy the application submittal requirements in this Chapter and:
- ii. Vegetation must be restored in one or more of the following restoration priority areas:
 - a. Stabilization of erodible soils Areas with soils showing signs of erosion, especially on or near the top and bottom of steep slopes and bluffs;
 - b. Restoration or enhancement of shoreline vegetation Shoreline areas within 25 feet of the water with no natural vegetation, degraded vegetation, or planted with turf grass;
 - c. Revegetation of bluffs or steep slopes visible from the river Areas on steep slopes and bluffs that are visible from the river with no natural vegetation, degraded vegetation, or planted with turf grass; or
 - d. Other approved priority opportunity area, including priorities identified in the MRCCA plan, if none of the above exist.

- iii. Include vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities and by Native Vegetation Establishment and Enhancement Guidelines;
- iv. Any highly erodible soils disturbed during removal and/or restoration must be stabilized with deep-rooted vegetation with a high stem density;
- v. Vegetation removed must be restored with natural native vegetation to the greatest extent practicable. The area (square feet) of the restored vegetation should be similar to that removed to the greatest extent practicable.
- vi. For restoration of removed native plant communities, restored vegetation must also provide biological and ecological function equivalent to the removed native plant communities. The area (square feet) of the restored vegetation should be equivalent to that removed;
- vii. Be prepared by a qualified individual; and
- viii. Include a maintenance plan that includes management provisions for controlling invasive species and replacement of plant loss for three years.

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

(j) Land Alteration Standards and Stormwater Management

(1) 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.

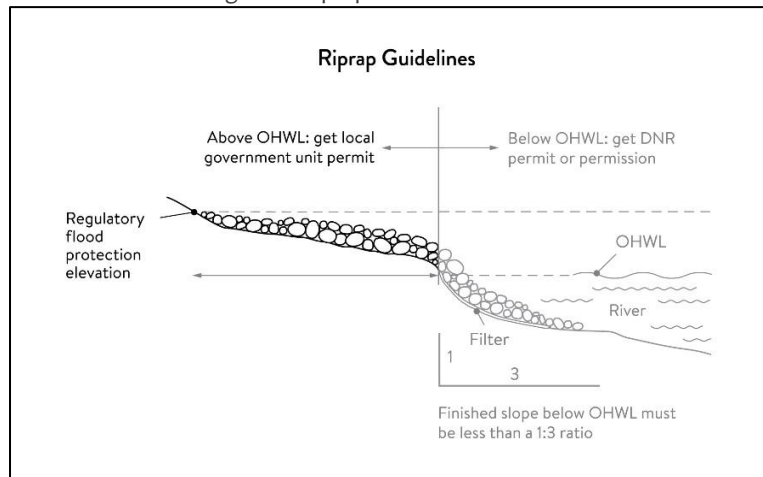
(2) Land Alteration Permit

- (A) Within the bluff impact zone, land alteration is prohibited, except for the following which are allowed by permit.
 - i. Erosion control consistent with Section 3.2.3(j)(6);
 - ii. The minimum necessary for development that is allowed as an exception under Section 3.2.3(l); and
 - iii. Repair and maintenance of existing buildings facilities.
- (B) Within the water quality impact zone, land alteration that involves more than five cubic yards of material or affects an area greater than 500 square feet requires a permit.

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

- (A) Construction, repair, or replacement of rock riprap, retaining walls, and other erosion control structures located at or below the OHWL must comply with Minnesota Rules, chapters 6115.0215, subpart 4, and 6115.0216, subpart 2. Work must not proceed until approved by the commissioner. See Figure 8.

Figure 8. Riprap Guidelines



- (B) Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and the water quality impact zone are allowed with a permit consistent with provisions of Section 3.2.3((j))(6) provided that:

- i. If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.
- ii. The structures are used only to correct an established erosion problem as determined by the (insert name of LGU and/or resource agency).
- iii. 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:
 - a. Retaining walls must not exceed five feet in height and must be placed a minimum horizontal distance of ten feet apart; and
 - b. Riprap must not exceed the height of the regulatory flood protection elevation.

- (C) 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 under Section 3.2.3(j)(2).

(4) **Stormwater Management**

- (A) In the bluff impact zone, storm water management facilities are prohibited, except by permit if:
 - i. There are no alternatives for storm water treatment outside the bluff impact zone on the subject site;
 - ii. The site generating runoff is designed so that the amount of runoff reaching the bluff impact zone is reduced to the greatest extent practicable;
 - iii. The construction and operation of the facility does not affect slope stability on the subject property or adjacent properties; and
 - iv. Mitigation based on the best available engineering and geological practices is required and applied to eliminate or minimize the risk of slope failure.
- (B) In the water quality impact zone, development that creates new impervious surface, as allowed by exemption in 3.2.3(l), or fully reconstructs existing impervious surface of more than 10,000 square feet requires a storm water permit or approved storm water plan. Multipurpose trails and sidewalks are exempt if there is down gradient vegetation or a filter strip that is at least five feet wide.
- (C) In all other areas, storm water runoff must be directed away from the bluff impact zones or unstable areas

(5) Development on steep slopes.

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

- (A) The development can be accomplished without increasing erosion or storm water runoff;
- (B) The soil types and geology are suitable for the proposed development; and
- (C) Vegetation is managed according to the requirements of Section 3.2.3(i).

(6) Conditions of land alteration permit approval.

- (A) Temporary and permanent erosion and sediment control measures retain sediment onsite consistent with best management practices in the Minnesota Stormwater Manual. ;
- (B) Natural site topography, soil, and vegetation conditions are used to control runoff and reduce erosion and sedimentation;
- (C) Construction activity is phased when possible;
- (D) All erosion and sediment controls are installed before starting any land disturbance activity;
- (E) Erosion and sediment controls are maintained to ensure effective operation;
- (F) The proposed work is consistent with the vegetation standards in Section 3.2.3(i); and
- (G) Best management practices for protecting and enhancing ecological and water resources identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001..

(7) Compliance with other plans and programs. All development must:

- (A) Be consistent with Minnesota Statutes, chapter 103B, and local water management plans completed under chapter 8410;
- (B) Meet or exceed the wetland protection standards under Minnesota Rules, chapter 8420; and
- (C) Meet or exceed the floodplain management standards under Minnesota Rules, chapter 6120. 5000 – 6120.6200

(k) Subdivision and Land Development Standards

(1) Purpose

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

(2) Applicability.

(A) The design standards in this section apply to subdivisions, planned unit developments and master- planned development and redevelopment of land involving five or more acres for contiguous parcels that abut the Mississippi River and ten 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:

- i. Subdivisions;
- ii. Planned unit developments; and
- iii. Master-planned development and redevelopment of land.

(B) The following activities are exempt from the requirements of this section:

- i. Minor subdivisions consisting of three or fewer lots;
- ii. Minor boundary line corrections;
- iii. Resolutions of encroachments;
- iv. Additions to existing lots of record;
- v. Placement of essential services; and

(3) **Application materials.**

Project information listed in Section 3.2.3(c)(6)(E) must be submitted for all proposed developments.

(4) **Design standards.**

(A) 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:

- i. CA-RN District: 20%;

ii. **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.**

- (B) If the primary conservation areas exceed the amounts specified in Section 3.2.3(k)(4), then protection of native plant communities and natural vegetation in riparian areas shall be prioritized.
- (C) 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 3.2.3(i)(6)(B).
- (D) If primary conservation areas do not exist on the parcel and portions of the parcel have been identified in the MRCCA plan as a restoration area, vegetation must be restored in the identified areas according to Section 3.2.3(i)(6)(B) and the area must be set aside and designated as protected open space.
- (E) 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.
- (F) Land dedicated for public river access, parks, or other open space or public facilities may be counted toward the protected open space requirement.
- (G) 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.

(5) **Permanent protection of designated open space.**

- (A) Designated open space areas must be protected through one or more of the following methods:
 - i. Public acquisition by a government entity for conservation purposes;
 - ii. A permanent conservation easement, as provided in Minnesota Statutes, chapter 84C;
 - iii. A deed restriction; and
 - iv. Other arrangements that achieve an equivalent degree of protection.
- (B) 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.

(I) **Exemptions**

(1) **Purpose**

To provide exemptions to structure placement, height and other standards for specific river or water access dependent facilities as provided in Minnesota Statutes 116G.15.

(2) **Applicability**

(A) Uses and activities not specifically exempted must comply with this Section . Uses and activities exempted under shore impact zone and bluff impact zone must comply with the vegetation management and land alteration standards in Sections 3.2.3(i) and 3.2.3(j).

(B) Uses and activities in Section 3.2.3(l)(3) are categorized as:

- i. Exempt – E. This means that the use or activity is allowed;
- ii. Exempt if no alternative - (E). This means that the use or activity is allowed only if no alternatives exist; and
- iii. Not Exempt - NE. This means that a use or activity is not exempt and must meet the standards of this Unified Development Ordinance.

(3) **Use and activity exemption classification**

A. General Uses and Activities					
Use or Activity	Setbacks	Height Limits	SIZ	BIZ	Applicable Standards with which the use or activity must comply
Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers)	N	E	N	N	Structure design and placement must minimize interference with public river corridor views.
Barns, silos, and farm structures	N	E	N	N	
Bridges and bridge approach roadways	E	E	E	(E)	Section 3.2.3(h)
Wireless communication towers	E		EN	N	Section 3.2.3(e)(2)(F)
Chimneys, church spires, flag poles, public monuments, and mechanical stacks and similar mechanical equipment	N	E	N	N	
Historic properties and contributing properties in historic districts	E	E	E	E	Exemptions do not apply to additions or site alterations to historic buildings or structures

C. Public Utilities					
Use or Activity	Setbacks	Height Limits	SIZ	BIZ	Applicable Standards with which the use or activity must comply
Electrical power facilities	E	E	E	(E)	Section 3.2.3(h)
Essential services (other than	E	E	E	(E)	Section 3.2.3(h)
Storm water facilities	E	N		(E)	Section 3.2.3(j)
Wastewater treatment	E	N	E	(E)	Section 3.2.3(h)
Public transportation facilities	E	N	(E)	(E)	Section 3.2.3(h)

D. River Dependent Uses					
Use or Activity	Setbacks	Height Limits	SIZ	BIZ	Applicable Standards with which the use or activity must comply
Accessory structures, such as monuments, flagpoles, light standards, and similar park features	E	N ¹	(E)	(E)	Section 3.2.3(h)(2)(E) in BIZ, only on slopes averaging less than 30%. Exception: parking areas that are not part of a shoreline facility
Private roads and conveyance structures serving river-dependent uses	E	N ¹	E	(E)	Section 3.2.3(e)(2)(E)
Parking lots	(E)	N	(E)	(E)	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			Section 3.2.3(h)
Natural-surfaced trails, access paths, and viewing areas	E	N	E	E	Section 3.2.3(h)
Hard-surfaced trails and viewing platforms	E	N	E	(E)	Section 3.2.3(h); within BIZ, only on slopes averaging less than 30%
Water access ramps	E	N	E	(E)	Section 3.2.3(h)
Public signs and kiosks for interpretive or directional purposes	E	N	E	(E)	Section 3.2.3(h)

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

E. Private Residential and Commercial Water Access and Use Facilities

Use or Activity	Setbacks	Height Limits	SIZ	BIZ	Applicable Standards with which the use or activity must comply
Private roads serving 3 or more lots	(E)	N	N	(E)	Section 3.2.3(f); 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	N	Section 3.2.3(f)
Water access ramps	E	N	E	E	Section 3.2.3(f)
Stairways, lifts, and landings	E	N	E	N	Section 3.2.3(f)
Water-oriented accessory structures	E	N	E	N	Section 3.2.3(f)
Patios and decks	E	N	N	N	Section 3.2.3(f)(5)
Directional signs for watercraft (private)	E	N	E	N	Section 3.2.3(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	
Erosion control structures, such as rock riprap and retaining walls	E	N	E	(E)	Sections 3.2.3(j)(2)(E) and 3.2.3(j)(2)(F)
Flood control structures	E	N	E	(E)	Section 3.2.3(j)