



Planning Commission Meeting

June 21, 2023

7:00 PM

7071 University Avenue NE Fridley, MN 55432

Agenda

Call to Order

Roll Call

Approval of Meeting Minutes

- [1.](#) Approval of the April 19, 2023, Planning Commission Meeting Minutes

Public Hearing

- [2.](#) Public Hearing to Consider Special Use Permit, SP #23-01 to allow a daycare use at 6425 Hwy 65 N.E.
- [3.](#) Public Hearing for TA #23-01 Proposing Updates to City Code Chapters 205-28 Critical Area District, 205-32 Shoreland Overlay District, and 205-30 Telecommunications Towers and Facilities District to conform with new Mississippi River Corridor and Critical Area rules

Other Business

Adjournment

Upon request, accommodation will be provided to allow individuals with disabilities to participate in any City of Fridley services, programs, or activities. Hearing impaired persons who need an interpreter or other persons who require auxiliary aids should contact the City at (763) 572-3450.



AGENDA REPORT

Meeting Date: June 21, 2023

Meeting Type: Planning Commission

Submitted By: Julianne Beberg, Office Coordinator

Title

Approval of the April 19, 2023, Planning Commission Meeting Minutes

Background

Attached are the April 19, 2023, minutes from the meeting for the Commission's consideration

Financial Impact

None

Recommendation

Staff recommend the approval of the April 19, 2023, Planning Commission Meeting Minutes

Attachments and Other Resources

- April 19, 2023, Planning Commission Meeting Minutes

Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.



Planning Commission

April 19, 2023

7:00 PM

Fridley City Hall, 7071 University Avenue NE

Minutes

Call to Order

Chair Hansen called the Planning Commission Meeting to order at 7:00 p.m.

Present

Pete Borman

John Buyse II

Mark Hansen

Mike Heuchert

Terry McClellan

Nancy Abts, Associate Planner

Scott Hickok, Community Development Director

Peter Pfister, Superintendent of Minneapolis Water Treatment Plant Operations and Maintenance

Ann Bolkom, Councilmember Ward 3

Approval of Meeting Minutes

1. Approve January 4, 2023, Planning Commission Minutes

Motion by Commissioner McClellan to approve the minutes. Seconded by Commissioner Borman.

Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously.

Public Hearing

2. Public Hearing to Consider Plat Request, LS #23-01 for the City of Minneapolis

Motion by Commissioner Buyse to open the public hearing. Seconded by Commissioner Borman.

Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was opened at 7:01 p.m.

Nancy Abts, Associate Planner, presented a plat request from the City of Minneapolis for the property generally located at 4300 Marshall Street. The replat will create one new lot that will better define the property lines for the Minneapolis Waterworks and the Minneapolis Emergency Operations Training Facility. She reviewed the analysis of the request and stated that staff recommends approval of the plat request.

The Commission asked for details related to right-of-way and details on the ownership and occupancy of the property. Ms. Abts provided additional details on the right-of-way and explained that Minneapolis owns the land and facilities.

Scott Hickok, Community Development Director, provided additional details on the right-of-way process including details on utility easements.

Councilmember Bolkom asked if the area would be cleaned up noting trash, abandoned vehicles, etc.

Peter Pfister, representing the applicant, provided additional details on the master planning for the property they are going through and addressing outdoor storage concerns in the area would be considered as part of that process.

Mr. Hickok commented that staff has been in contact with staff from Minneapolis. He explained how some vehicles are used in training incidents. He agreed that improvements could be made to the site or additional screening could be added.

A Commission member noted that the City of Minneapolis has owned the property for longer than the City of Fridley has been incorporated and asked for more details. Mr. Hickok provided some historical background.

Motion by Commissioner Borman to close the public hearing. Seconded by Commissioner Buyse.

Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was closed at 7:19 p.m.

The Commission asked the land use guidance for this property under the Comprehensive Plan. Mr. Hickok replied that the property is guided industrial and the use is appropriate for the property. Ms. Abts provided additional details on the zoning and land use, noting that is not proposed to change under this request.

The Commission noted that this request makes sense and commented that it would be nice to have the site cleaned up or better screened.

Motion by Commissioner Borman recommending approval of plat request, LS #23-01 for the City of Minneapolis. Seconded by Commissioner Buyse.

Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously.

3. Public Hearing for Comprehensive Plan Amendment, CPA #23-01 by the City to Amend the Parks and Trails Chapter in the 2040 Comprehensive Plan and Update the Future Land Use Map

Motion by Commissioner Borman to open the public hearing. Seconded by Commissioner McClellan.

Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was opened at 7:27 p.m.

Ms. Abts presented a request to update the 2040 Comprehensive Plan for consistency with the Park System Improvement Plan and in conjunction with the termination of the Joint Powers Agreement (JPA) with Anoka County regarding parks traversed by the Rice Creek West Regional Trail. She stated that they would also update the future land use map to change the guidance for a parcel that will be developed as a park/trail facility. She provided an overview of the requested updates.

The Commission asked how the size of the parks was determined. Ms. Abts replied that is based on the most recent parcel data of Anoka County. Mr. Hickok provided additional details on the concept for the new park/trail facility and how development will occur as funding becomes available.

A Commission member asked for details on the JPA with the County and why that is being dissolved. Mr. Hickok provided additional background information on the history and dissolution of the JPA as well as the plans going forward for those properties.

Motion by Commissioner McClellan to close the public hearing. Seconded by Commissioner Heuchert.

Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was closed at 7:37 p.m.

The Commission noted that this makes sense to update the plans with the new information and expressed excitement for the new pocket park. Mr. Hickok provided additional details on the development of the pocket park which will use alternate funding and will not take away from the planned improvements identified in the master plan process for the parks. He confirmed that updates would also be made to the bus rapid transit stop.

Motion by Commissioner Buyse recommending approval of CPA #23-01. Seconded by Commissioner McClellan.

Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously.

Other Business

The Commission asked for an update on potholes. Councilmember Bolkcom stated that public works staff will be working on that once the flood prevention efforts are completed. She noted that some streets are the responsibility of the County. Residents can report potholes to public works.

Mr. Hickok commented that staff is completing cold patching. He noted that there will be a town hall meeting on Saturday and invited residents to attend. The town hall will be followed by the environmental fun fair.

Adjournment

Motion by Commissioner Borman to adjourn the meeting. Seconded by Commissioner Buyse.

Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the meeting adjourned at 7:51 p.m.

Respectfully submitted,
Amanda Staple, Recording Secretary



LAND USE APPLICATION SUMMARY

Item: SP #23-01

Meeting Date: June 21, 2023

General Information

Applicant:

Dreamers Child Care
Tarek Menesi
6304 Hwy 65 N.E.
Fridley, MN 55432

Requested Action:

Public Hearing to Consider Special Use Permit,
SP #23-01 to allow a daycare use at 6425 Hwy
65 N.E.

Location:

6425 Hwy 65 N.E.

Existing Zoning:

R-3, Multi-Family

Size:

29,620 sq. ft. .68 acres

Existing Land Use:

Chiropractic Clinic

Surrounding Land-use & Zoning:

N: Single Family & R-1
E: Single Family & R-1
S: Apartment Building & R-2
W: Hwy 65 & ROW

Comprehensive Plan Conformance:

Existing and Future Land Use Map designates
the property as Multi-Family

Zoning Ordinance Conformance:

Section 205.09.01.C allows daycare centers in
an R-3, Multi-Family zoning district, provided
certain conditions can be met.

Building and Zoning History:

1948 – Lot platted.
1999 – Special Use Permit approved to allow a
chiropractic clinic.
1999 – Variance approved to reduce the
setback from the ROW to a driveway.

Special Information

2001 – Chiropractic clinic constructed.

2002 – Sign size variance approved.

Legal Description of Property:

The South One Hundred Fifty (150) feet, front
and rear, of Lot 9, Auditor's Subdivision No. 88.

Public Utilities:

Building is connected.

Transportation:

The property receives access off the Hwy 65 N.E.
Service Road.

Physical Characteristics:

Building, hard surface parking and driveways, and
landscaping.

Summary of Request:

The petitioner, Tarek Menesi, who is the owner of
Dreamers Child Care is requesting that a special
use permit be issued to allow a daycare use
within the existing building at 6425 Hwy 65 N.E.

Staff Recommendation:

City staff recommends approval of the special use
permit, provided certain code requirements are
met, subject to stipulations.

City Council Action/60 Day Action Date:

City Council – July 10, 2023

60 Day Date – July 17, 2023

Staff Report Prepared by Stacy Stromberg

Written Report –

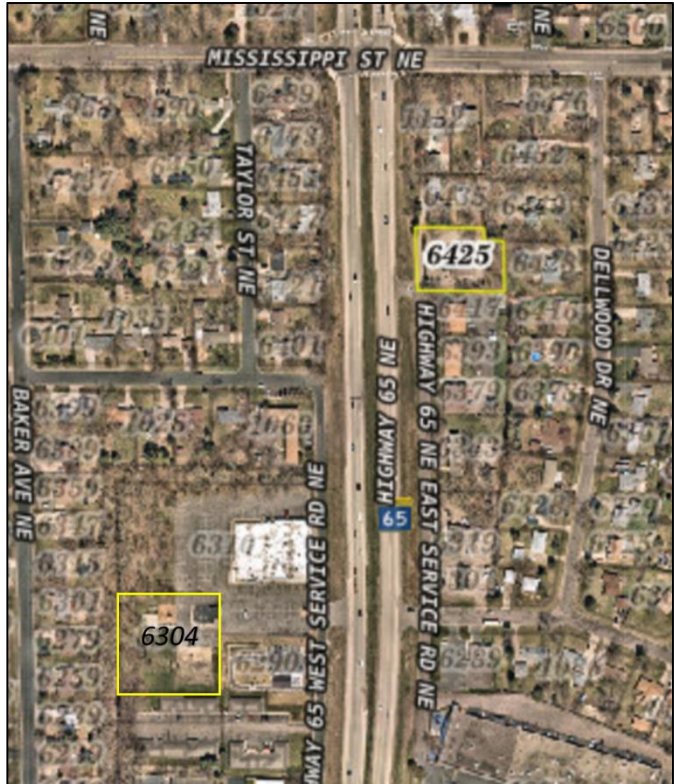
The Request

The petitioner, Tarek Menesi, who is the owner of Dreamers Child Care is requesting that a special use permit be issued to allow a daycare use within the existing building at 6425 Hwy 65 N.E.

Dreamers Child Care currently operates at 6304 Hwy 65 N.E. They have been in business at this location for 6 years and have grown to the point where they need to expand. If this special use permit is approved, they will operate out of both locations.

Site Description and History

The subject property is located off the Highway 65 N.E. East Service Drive, north of 63rd Avenue. It is zoned R-3, Multi-Family. In 1999, the City Council approved a special use permit to allow a chiropractic clinic, which is a permitted special use in the R-3, Multi-Family zoning district. In addition to the special use permit approval, the Council also approved a variance to reduce the required setback for a driveway from 20 ft. to 0 ft. In 2002, the Council approved a variance to reduce the setback of a free-standing sign from 10 ft. to 2 ft. There is an ingress/egress driveway easement across the subject property, that allow access to the single-family home at 6435 Hwy 65 N.E.



The use of the property has remained as a chiropractic clinic since the building was constructed in 2001.

Code Requirements and Analysis

A daycare used is a permitted special use in the R-3, Multi-Family zoning district, provided lot size and parking requirements can be met. Dreamers Day Care plans to remodel the existing 2,048 sq. ft. building to create two infant rooms upstairs and a toddler room downstairs. There will also be a lobby, restroom, office, break room, storage, and utility space. Code requires a minimum size lot of 12,000 sq. ft. for a daycare use. The subject property is 29,620 sq. ft., therefore meeting the code requirement. Based on the square footage of space to be used for the daycare and office use, code requires 26 parking stalls. The petitioner submitted an old site plan and aerial of the property that shows approximately 15 parking stalls. There is adequate hard surface on-site to stripe the remaining

11 stalls. An updated site plan, meeting code requirements will be required at the time of building permit application submittal.



The petitioner plans to remove the hard surface on the east side of the building to provide an area for a playground and outdoor play space for the daycare children.

Staff Recommendation

Staff recommends the Planning Commission hold a public hearing for Special Use Permit, SP #23-01.

Staff further recommends approval of Special Use Permit, SP #23-01, with stipulations.

Stipulations

Staff recommends that if the special use permit is approved, the following stipulations be attached.

1. The petitioner shall obtain any permits required to alter the building for the proposed use.
2. The petitioner shall meet all requirements set forth by:
 - a. The Building code, including the Americans with Disabilities Act (ADA).
 - b. The Fire code.
 - c. The City's Engineering division, including but not limited to plans that show restoration of the hard surface space being removed for playground space and how stormwater is being managed on-site.
 - d. The City's Planning division, including but not limited to an updated site plan showing the required amount of parking stalls, site circulation during drop-off and pick-up times, the location of the solid waste/recycling enclosure, and the sign code.
 - e. The Rice Creek Watershed District.
3. The petitioner shall obtain any required State and/or County licenses to operate the proposed use.
4. The petitioner is strongly encouraged to participate in Xcel Energy's Energy Efficient Buildings program to identify energy and cost-saving strategies.

Attachments

1. Petitioner's narrative and drawings
2. Public Hearing notice and mailing labels to properties within 350 ft.



PUBLIC NOTICE

City of Fridley Planning Commission Notice of Public Hearing to Consider a Special Use Permit by Dreamers Daycare

Notice is hereby given that the Planning Commission of the City of Fridley will hold a public hearing on June 21, 2023 at 7:00 pm at Fridley City Hall, 7071 University Avenue N.E.

The public hearing will consider a Special Use Permit, SP #23-01, by Dreamers Daycare to allow a daycare use at 6425 Highway 65 NE, which is zoned R-3 Multi-Family, the legal description is on file and available at Fridley City Hall.

Any person desiring to be heard shall be given an opportunity at the above stated time and place. Or, comments may be submitted before the meeting to stacy.stromberg@fridleymn.gov or 763-572-3595. Publication date(s): June 9, 2023.

The City Council will consider this item on July 10, 2023.



Fridley Civic Campus

7071 University Ave N.E. Fridley, MN 55432
763-571-3450 | FAX: 763-571-1287 | FridleyMN.gov

PUBLIC HEARING NOTICE

To: Property Owners and Residents within 350 feet of 6425 Hwy 65 NE

Applicant: Dreamers Daycare

Request: Special Use Permit #23-01, by Dreamers Daycare, to allow a daycare use at 6425 Highway 65 NE, which is zoned R-3 Multi-Family, the legal description is on file and available at Fridley Civic Campus.

Date of Hearings: Planning Commission Meeting, Wednesday, June 21, 2023 at 7:00 p.m.
The Planning Commission meeting is televised live the night of the meeting on Channel 17.

Location of Planning Commission Hearing: Meeting will be held in person at Fridley Civic Campus located at 7071 University Avenue NE.

How to Participate: 1. You may attend the public hearing in person and testify.
2. You may submit a letter in advance of the meeting to Stacy Stromberg, Planning Manager at the address above or by email at stacy.stromberg@fridleymn.gov

Questions: Call or Email Stacy Stromberg, Planning Manager at 763-572-3595 or stacy.stromberg@fridleymn.gov

Mailing date: June 9, 2023 Publication date: June 9, 2023

**If you require auxiliary aids or services to participate to communicate in the meeting, please contact Roberta Collins at 763-572-3500 or roberta.collins@fridleymn.gov no later than June 14, 2023, for the Planning Commission meeting and June 30, 2023, for City Council meeting. The TDD # is: 763-572-3534.*



Community Development Department Public Hearing Notice



SOURCES
Fridley Engineering and Planning
Fridley GIS
Anoka County GIS

Map Date: June 7, 2023

Special Use Permit Request, SP #23-01
Petitioner: Dreamers Daycare
Address: 6425 Hwy 65 N.E.



LABELS FOR
Current Resident

Current Resident
6428 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6379 HIGHWAY 65 NE
FRIDLEY MN 55432

Item 2.

Current Resident
6473 TAYLOR ST NE
FRIDLEY MN 55432

Current Resident
6476 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6343 HIGHWAY 65 NE
FRIDLEY MN 55432

Current Resident
6489 TAYLOR ST NE
FRIDLEY MN 55432

Current Resident
6452 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6417 HIGHWAY 65 NE
FRIDLEY MN 55432

Current Resident
6431 TAYLOR ST NE
FRIDLEY MN 55432

Current Resident
6440 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6393 HIGHWAY 65 NE
FRIDLEY MN 55432

Current Resident
6447 TAYLOR ST NE
FRIDLEY MN 55432

Current Resident
FRIDLEY MN 55432

Current Resident
6425 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6451 TAYLOR ST NE
FRIDLEY MN 55432

Current Resident
6435 HIGHWAY 65 NE
FRIDLEY MN 55432

Current Resident
6413 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6411 TAYLOR ST NE
FRIDLEY MN 55432

Current Resident
1200 MISSISSIPPI ST NE
FRIDLEY MN 55432

Current Resident
6390 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6421 TAYLOR ST NE
FRIDLEY MN 55432

Current Resident
6391 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6416 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6401 TAYLOR ST NE
FRIDLEY MN 55432

Current Resident
6379 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6449 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
1150 MISSISSIPPI ST NE
FRIDLEY MN 55432

Current Resident
6401 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6437 DELLWOOD DR NE
FRIDLEY MN 55432

LABELS FOR
Current Resident

Item 2.

Current Resident
6366 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
6378 DELLWOOD DR NE
FRIDLEY MN 55432

Current Resident
1140 MISSISSIPPI ST NE
FRIDLEY MN 55432

Current Resident
6425 HIGHWAY 65 NE
FRIDLEY MN 55432

Current Resident
1132 MISSISSIPPI ST NE
FRIDLEY MN 55432

LABELS FOR
Parcel Owner

SMITH CYNTHIA
6430 DELLWOOD DR NE
FRIDLEY MN 55432

JULIDA LLC
PO BOX 274
CEDAR MN 55011

Item 2.

MCLEOD, JENNIFER
6473 TAYLOR ST NE
FRIDLEY MN 55432

KACHINA, KENT A
6476 DELLWOOD DR NE
FRIDLEY MN 55432

1031 SUNRISE PROPERTIES LLC
948 CURRY TRAIL
EAGAN MN 55123

SHACKLETON SARAH A
6489 TAYLOR ST NE
FRIDLEY MN 55432

DEUSER, THOMAS EDWARD
6452 DELLWOOD DR NE
FRIDLEY MN 55432

ELMQUIST, NICHOLAS A
5976 RIDGE CREEK RD
SHOREVIEW MN 55126

FROOM DARRYL R
6431 TAYLOR ST NE
FRIDLEY MN 55432

JOHNSON, DARRELL D
6440 DELLWOOD DR NE
FRIDLEY MN 55432

ELMQUIST NICHOLAS A
5976 RIDGE CREEK ROAD
SHOREVIEW MN 55126

HADI JAVEED
5485 LAKE AVE
SHOREVIEW MN 55126

FRIDLEY CITY OF
7071 UNIVERSITY AVE NE
FRIDLEY MN 55432

SCHMIDTKE NICHOLAS
6425 DELLWOOD DR NE
FRIDLEY MN 55432

GONZALEZ HECTOR
6451 TAYLOR ST NE
FRIDLEY MN 55432

DAYTON DAVID M & LINDA L
6435 HIGHWAY 65 NE
FRIDLEY MN 55432

HELAL, LIALA
6413 DELLWOOD DR NE
FRIDLEY MN 55432

ALNABI, JEWAD
6411 TAYLOR ST NE
FRIDLEY MN 55432

JANES, BRIAN
1200 MISSISSIPPI ST NE
FRIDLEY MN 55432

LIEB WILLIAM JR & KIMBERLY
6390 DELLWOOD DR NE
FRIDLEY MN 55432

MOGES, GENET A
6421 TAYLOR NE
FRIDLEY MN 55432

REDEPENNING DARREL & DONNA
6391 DELLWOOD DR NE
FRIDLEY MN 55432

SENKO, CAROLYN J
6416 DELLWOOD DR NE
FRIDLEY MN 55432

BREFFLE, ANDREW R
6401 TAYLOR ST NE
FRIDLEY MN 55432

TOURVILLE, ROBERT BENEDICT
6379 DELLWOOD DR
FRIDLEY MN 55432

KOVACH, TIM
6449 DELLWOOD DR NE
FRIDLEY MN 55432

OLATEJU, SUNDAY
1150 MISSISSIPPI ST NE
FRIDLEY MN 55432

GUTTORMSON HANNAH M
6401 DELLWOOD DR NE
FRIDLEY MN 55432

BRAUN, ANGELA
6437 DELLWOOD DR NE
FRIDLEY MN 55432

LABELS FOR
Parcel Owner

Item 2.

KRAUT, KEVIN
6366 DELLWOOD DR NE
FRIDLEY MN 55432

BRYTOWSKI MICHAEL J & LAURA A
6378 DELLWOOD DR NE
FRIDLEY MN 55432

PRESUHN, KRISTIN E
1140 MISSISSIPPI ST NE
FRIDLEY MN 55432

WESTBY PAUL A
8320 BROAD AVE
FRIDLEY MN 55432

MCCARTHY BRANDON
1132 MISSISSIPPI ST NE
FRIDLEY MN 55432



LETTER FOR SPECIAL USE PERMIT

Monday, May 19, 2023

RE: 6425 Highway 65 NE

Tarek Menesi has my permission to submit a special use permit from the city of Fridley for the property located at 6425 Highway 65 NE, Fridley, MN 55432.

Property Owner:

Paul A Westby

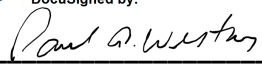
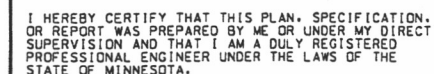
DocuSigned by:

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6425 Highway 65 Ne, Fridley MN 55432

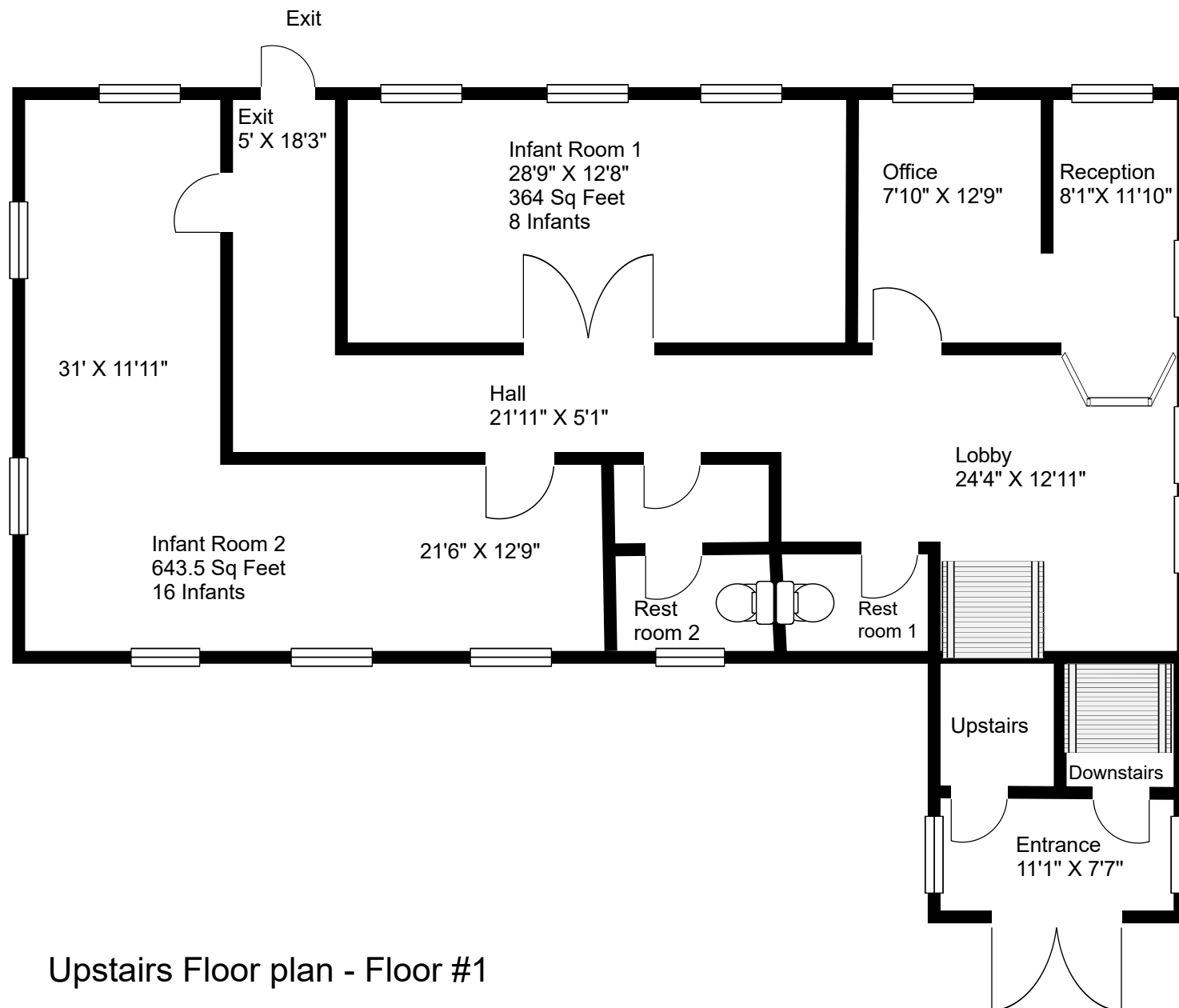
Pages:

1. Site Plan
2. Floor Plan Upstairs
3. Floor Plan Downstairs
4. Parking plan
5. Narrative

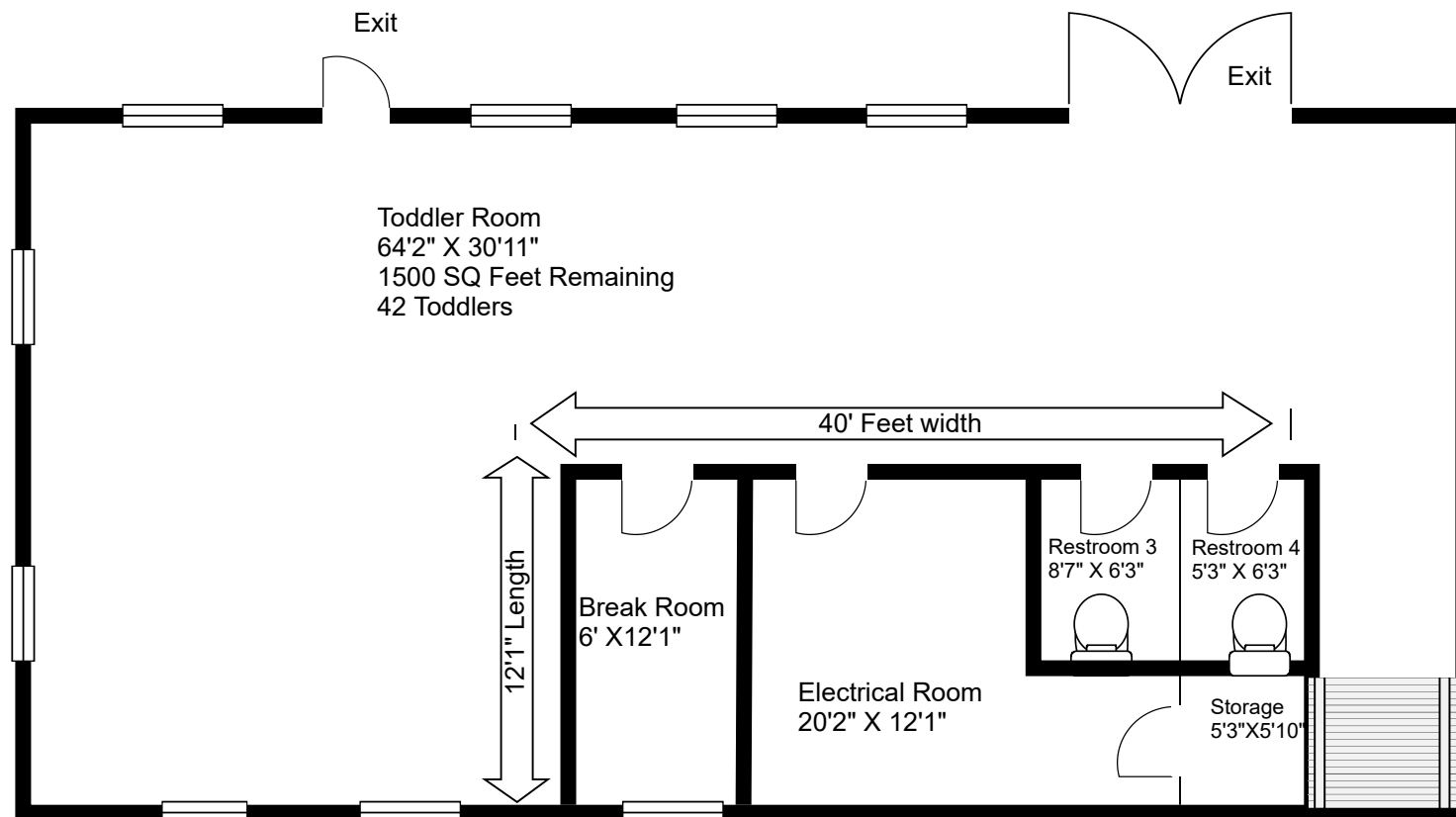


DATE _____ REG. NO. _____

Figure 1 



Upstairs Floor plan - Floor #1



Downstairs Floor plan - Floor #2

Anoka County Parcel Viewer

Item 2.



Parcel Information:

13-30-24-31-0085
6425 HIGHWAY 65 NE
FRIDLEY
MN 55432
Plat: AUD SUB NO 88

Approx. Acres: 0.68

Commissioner: MANDY MEISNER

Owner Information:

WESTBY PAUL A
8320 BROAD AVE
FRIDLEY
MN
55432



My name is Tarek, owner and founder of Dreamers Child Care in Fridley at 6304 Hwy 65 Ne. Our day care has been in business for 6 years. We currently have 50 enrolled children and 14 staff members. Most of our staff and parents live in Fridley. We have been a pillar of the community and our google reviews reflect how much we value the parents who trust us with the care of their children. Our business has now reached a point in which we need to expand.

The reason I'm writing to you is because we are interested in purchasing a nearby building at 6425 Hwy 65 Ne. We have the proper team, experience and financing available to turn it into another successful day care. The issue is its zoned for R3 with a special use permit for chiropractic clinic. We are formally requesting a special use permit for day care which is a permitted use under the municipal code (section 205.09).

Overall, it will be a net positive for the city and the community. Governor Walz has emphasized the need for investing in child care as its one of the pillars of a healthy economy. Attached you will find the site plan, parking plan and floor plan of the building so you can see how the building will be used. We are very excited to hear back from you.

Thank you,

Tarek Menesi
Dreamers Child Care
612-900-2222



AGENDA REPORT

Meeting Date: June 21, 2023

Meeting Type: Planning Commission

Submitted By: Stacy Stromberg, Planning Manager
Rachel Workin Environmental Planner

Title

Public Hearing for TA #23-01 Proposing Updates to City Code Chapters 205-28 Critical Area District, 205-32 Shoreland Overlay District, and 205-30 Telecommunications Towers and Facilities District to conform with new Mississippi River Corridor and Critical Area rules

Background

The Mississippi River Corridor Critical Area (MRCCA) is a corridor of land along a 72-mile stretch of the Mississippi River through the Twin Cities Metropolitan which has been designated for special protection due to the river's natural, cultural, and scenic value. Within the MRCCA, special land use planning and zoning regulations have been developed by the State of Minnesota (State) to protect these resources. As the local land use authority, the City of Fridley (City) is responsible for implementing these regulations within its jurisdiction. This is accomplished through a zoning overlay district outlined in City Code Chapter 205.28 O-2 Critical Area District Regulations.

In 2017, the State approved new rules for the MRCCA that were put forth by the Minnesota Department of Natural Resources (DNR) following significant input from numerous stakeholders. The DNR then developed a model ordinance that outlines the minimum standards that communities must adopt to be compliant with the new rules. Since January 2020, all 30 communities within the MRCCA have been updating their codes to meet the new MRCCA standards. Due to the extensiveness of these changes in both substance and formatting, staff recommends repealing and replacing the existing Critical Area Chapter with the proposed code language. Significant changes to the rules include:

- Design and placement requirements for non-building structures (decks, patios, stairways, etc.)
- Increased consideration of Public River Corridor Views during variances, special use permits, and interim use permits
- Changes to the definition of bluff
- Reduction in the setback requirement from the Ordinary High Water Line in the Urban Mixed district from 100 feet to 50 feet
- Increased regulation over vegetation management within primary conservation areas
- Increased regulation of subdivisions

These new rules will most impact properties that contain primary conservation areas which include riparian areas, bluffs, significant existing vegetation stands, and tributaries (Springbrook Creek, Stonybrook Creek, Oak Glen Creek, and Rice Creek). Example scenarios of how the proposed changes will

Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

impact properties along the river are attached to this report. While the majority of the ordinance language is required by state statute, there are some discretionary provisions in the text amendment that provide a higher degree of protection than required. These include:

Section	Optional Language	Justification
205.28.03	Adds definitions for "biological and ecological functions", "lifts", Mississippi Flyway	Term used within chapter
204.28.04.02	Adds consideration of impacts on wildlife using the Mississippi Flyway and public access as a requirement when reviewing variances	Ensures variances do not harm the corridor's ecological and recreational value
204.28.04.02	Requires that written findings for variances evaluate consistency with the MRCCA Plan and underlying MRCCA District	Ensures consistency with the underlying plans and determine the merit of the variance application
204.28.04.03	Adds consideration of impacts on wildlife using the Mississippi Flyway and public access as a requirement when reviewing special use permits	Ensures special use permits do not harm the corridor's ecological and recreational value
204.28.04.03	Requires that written findings for special use permits evaluate consistency with the MRCCA Plan and underlying MRCCA District	Ensures consistency with the underlying plans and determine the merit of the special use permit application
204.28.04.04	Requires mitigation of impacts to primary conservation areas and public river corridor views occurring due to variances, special use permits, or interim use permits and provides example mitigation methods	Offsets negative ecological impacts occurring during discretionary items to preserve the MRCCA's resources
204.28.04.07	Provides potential mitigation methods for height variances	Provides direction for mitigation of visual impacts due to building height
205.28.08	Requires lighting to be fully shield and prohibits uplighting within the Shore Impact Zone	Protects wildlife habitat, particularly migratory birds using the Mississippi Flyway, that are vulnerable to light pollution as well as the natural character of the area
205.28.08	Prohibits interfering with the line of sight to the river	Existing code language; minimizes opportunities for conflict and preserves neighborhood character
205.28.10	Requires that public access provided on new development where called for in a city plan	Modified version of existing code; allows for strategically increasing river access

Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

205.2811	Requires replacement when trees greater than four inches are removed from primary conservation areas, except in cases of approved habitat and erosion control plans; adds a date that restorations be approved by; establishes a fee in lieu program for tree replacement	Modified version of existing code that required replacement when trees greater than four inches are removed anywhere in the MRCCA, but only during development. These updates ensure the maintenance of the canopy and the corridor's ecological integrity in strategic areas. Additionally, since a vegetation restoration plan as part of the vegetative permit, this requirement provides guidance on how to fulfill the restoration plan's requirements
	Requires that habitat and erosion control plans be prepared by a professional accepted and approved by the City	Completion of habitat and erosion control plans should be done by a professional to minimize the risk of erosion and protect shoreline stability.
None	The model ordinance allows for structure setback averaging in which the setback for a new principal structure can be closer to the river than the MRCCA setback if the average structure setback of the of the adjoining structures is less than required.	This provision was not included since it was considered to be exacerbating nonconformities and a lack of consistency in implementation of the rules.

In addition to the changes in the Critical Area District Chapter, staff are proposing updates to the Telecommunications Towers and Facilities District Chapter to reference applicable requirements in the Critical Area District Chapter. Staff are also proposing updates to the Shoreland Overlay District Chapter to streamline permitting for properties that fall within both the Critical Area District and the Shoreland Overlay Districts. Currently, residents must reference both chapters when planning a project in areas of overlapping jurisdictions. Under permitting flexibility allowed by the DNR, staff is proposing to update the Shoreland Overlay District Chapter to state that residents only need to reference the Critical Area District Chapter.

The proposed changes were recommended for approval by the Environmental Quality and Energy Commission at their meeting on May 9, 2023. Notice of the public hearing was sent to property owners and residents on properties with a primary conservation area. A website has been set up at FridleyMN.gov/CriticalArea

Financial Impact

Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

None

Recommendation

Staff recommend the approval of TA#23-01 Proposing Updates to the City Code Chapters 205-City Code Chapters 205-28 Critical Area District, 205-32 Shoreland Overlay District, and 205-30 Telecommunications Towers and Facilities District to conform with new Mississippi River Corridor and Critical Area rules.

The Council is scheduled to review this item at their July 10, 2023 meeting.

Attachments and Other Resources

- Proposed Critical Area District Code
- Summary of Code Changes
- Example Project Scenarios
- Proposed Shoreland Overlay District Code (impacted page only)
- Proposed Telecommunications Overlay District Code (impacted page only)
- Public comments from DNR and Friends of the Mississippi River
- Notice to Residents

Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

Fridley City Code
Section 205.28. O-2 Critical Area District Regulations

205.28.01 Purpose and Intent

The Mississippi River Corridor Critical Area (MRCCA) Chapter is adopted pursuant to the authorization and policies contained in Minnesota Statutes (M.S.) Chapter [116G](#), Minnesota Rules Parts [6106.0010 - 6106.0180](#), and the planning and zoning enabling legislation in M.S. Chapters [462](#) and [473](#).

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.

205.28.02 General Provisions

1. Jurisdiction. The provisions of this Chapter apply to land within the O-2 District, which is land within the river corridor boundary as described in the State Register, volume 43, pages 508 to 519 and shown on the City zoning map.
2. Severability. If any section, clause, provision, or portion of this Chapter is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
3. Abrogation and Greater Restrictions. It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail. All other Chapters inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.
4. Underlying Zoning. Use and standards of underlying zoning apply except where standards of this overlay district are more restrictive.
5. Enforcement. The City is responsible for the administration and enforcement of this Chapter. 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 special uses constitutes a misdemeanor and is punishable as defined by law. Violations of this Chapter can occur regardless of whether or not a permit is required for a regulated activity listed in Section 205.28.04.01.

205.28.03 Definitions

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted to give them the same meaning they have in common usage and to give this Chapter its most reasonable application. For the purpose of this Chapter, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

Access path: An area designated to provide ingress and egress to public waters.

Adjacent: Having a boundary that physically touches or adjoins.

Agricultural use: A use having the meaning given under M.S. § [40A.02](#).

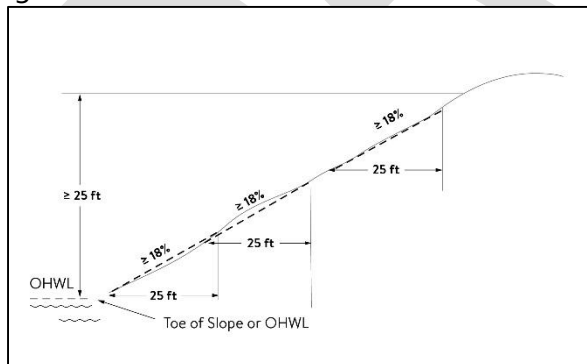
Alternative design: Subdivision design methods such as conservation design, transfer of development density, or similar zoning and site design techniques that protect open space and natural areas.

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

Bluff:

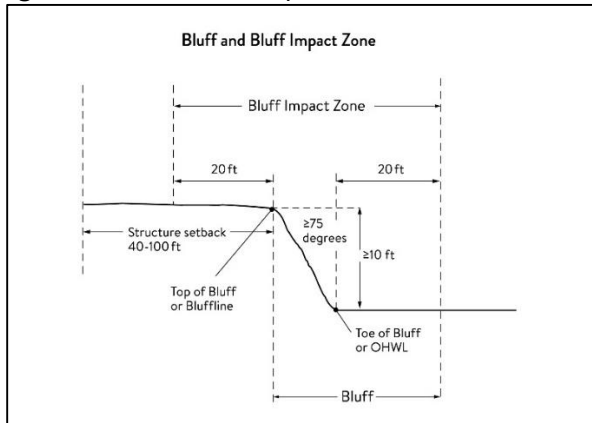
1. A slope that rises at least 25 feet where the grade of the slope averages 18% or greater, measured over any horizontal distance of 25 feet, from the toe of the slope to the top of the slope. Where the slope begins below the ordinary high water level, the ordinary high water level is the toe of the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

Figure 1: Bluff



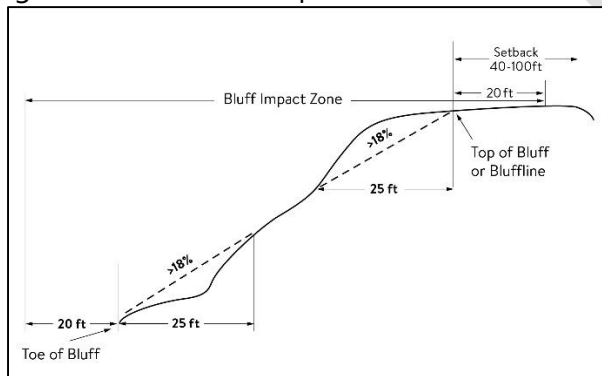
2. A natural escarpment or cliff with a slope that rises at least ten feet above the ordinary high water level or toe of the slope, whichever is applicable, to the top of the slope, with a slope of 75 degrees or greater. See Figure 2.

Figure 2. Natural Escarpment Bluff and Bluff Impact Zone



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

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



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

Bluff, Toe of: A line along the bottom of a bluff, requiring field verification, such that the slope above the line exceeds 18 percent and the slope below the line is 18 percent or less, measured over a horizontal distance of 25 feet. See Figures 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Bluff, Top of: A line along the top of a bluff, requiring field verification, such that the slope below the line exceeds 18 percent and the slope above the line is 18 percent or less, measured over a horizontal distance of 25 feet. See Figures 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

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

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

Commissioner: The Commissioner of the Minnesota Department of Natural Resources.

Conservation design: A pattern of subdivision that is characterized by grouping lots within a portion of a parcel, where the remaining portion of the parcel is permanently protected as open space.

Conventional subdivision: A pattern of subdivision that is characterized by lots that are spread regularly throughout a parcel in a lot and block design.

Deck: A horizontal, unenclosed, aboveground level structure open to the sky, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

Developer: Having the meaning given under M.S. § [116G.03](#).

Development: Having the meaning given under M.S. § [116G.03](#).

Discretionary action: An action under this Chapter related to land use that requires a public hearing by local ordinance or statute, such as preliminary plats, final subdivision plats, planned unit developments, special use permits, interim use permits, variances, appeals, and rezonings.

Dock: Having the meaning given under Minnesota Rules Chapter [6115](#).

Electric power facilities: Equipment and associated facilities for generating electric power or devices for converting wind energy to electrical energy as identified and defined under M.S. § [216E](#).

Essential services: Underground or overhead gas, electrical, communications, steam, sanitary sewer, or water distribution, treatment, collection, supply, or disposal systems, including storm water. Essential services include poles, wires, mains, drains, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, navigational structures, aviation safety facilities, lift stations, stormwater management facilities, or other similar equipment and accessories in conjunction with the systems. Essential services do not include buildings, treatment works as defined in M.S. § [115.01](#), electric power facilities or transmission services.

Floodplain: Having the meaning given the meaning given under Minnesota Rules Chapter [6120](#).

Fully reconstructs: The reconstruction of an existing impervious surface that involves site grading and subsurface excavation so that soil is exposed. Mill and overlay and other resurfacing activities are not considered fully reconstructed.

Hard-surface trail: A trail surfaced in crushed aggregate, asphalt, or other hard surface, for public use, as determined by local, regional, or state agency plans.

Historic property: An archaeological site, standing structure, site, district, or other property that is:

1. Listed in the National Register of Historic Places or the State Register of Historic Places or locally designated as a historic site under Minnesota Statutes Chapter [471](#);
2. Determined to meet the criteria for eligibility to the National Register of Historic Places or the State Register of Historic Places as determined by the Director of the Minnesota Historical Society; or
3. An unplatted cemetery that falls under the provisions of Minnesota Statutes Chapter [307](#), in consultation with the Office of the State Archaeologist.

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

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

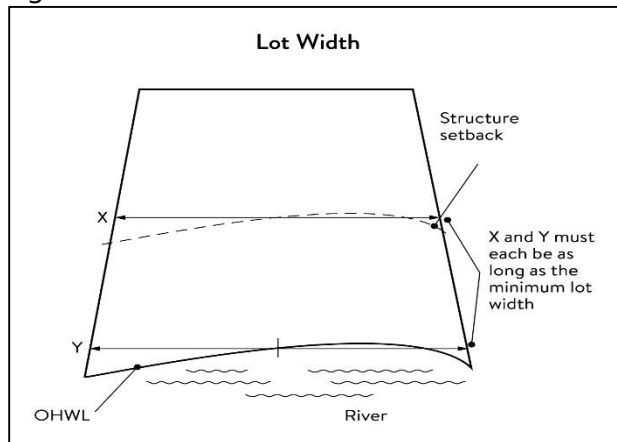
Interim use: A use having the meaning given under Minnesota Statutes Chapters [394](#) and [462](#).

Land alteration: An activity that exposes the soil or changes the topography, drainage, or cross section of the land, excluding gardening or similar minor soil disturbances. Also referred to as "grading".

Lift: A tram or other accessible means to get up and down steep slopes.

Lot width: The shortest distance between lot lines measured at both the ordinary high water level and at the required structure setback from the ordinary high water level. See Figure 4.

Figure 4. Lot Width



Marina: Having the meaning given under Minnesota Rules Chapter [6115](#).

Mississippi Flyway: A major North American bird migration corridor that encompasses all MRCCA districts.

Mooring Facility: Having the meaning given under Minnesota Rules part [6115.0170](#).

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

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

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

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

Off-premise advertising signs: Those signs that direct attention to a product, service, business, or entertainment venue that is not exclusively related to the premises where the sign is located.

Ordinary high water level (OHWL): Having the meaning given under M.S. § [103G.005](#).

Parcel: Having the meaning given under M.S. § [116G.03](#).

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

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

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

Plat: Having the meaning given under M.S. § [505](#) and [515B](#).

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

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

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

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

Public river corridor views (PRCVs): Views toward the river from public parkland, historic properties, and public overlooks, as well as views toward bluffs from the ordinary high water level of the opposite shore, as seen during the summer months and documented in the MRCCA Chapter of the comprehensive plan.

Public transportation facilities: All transportation facilities provided by federal, state, or local government and dedicated to public use, such as roadways, transit facilities, railroads, and bikeways.

Public utilities: Electric power facilities, essential services, and transmission services.

Public waters: Having the meaning given under M.S. § [103G.005](#).

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

Resource agency: A federal, state, regional, or local agency that engages in environmental, natural, or cultural resource protection or restoration activities, including planning, implementation, and monitoring.

Retaining wall: A vertical or nearly vertical structures constructed of mortar and rubble masonry, rock, or stone , vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials that in combination exceed four vertical feet.

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

River corridor boundary: The boundary approved and adopted by the Metropolitan Council under M.S. § [116G.06](#), as approved and adopted by the legislature in M.S. § [116G.15](#), and as legally described in the State Register, volume 43, pages 508 to 518.

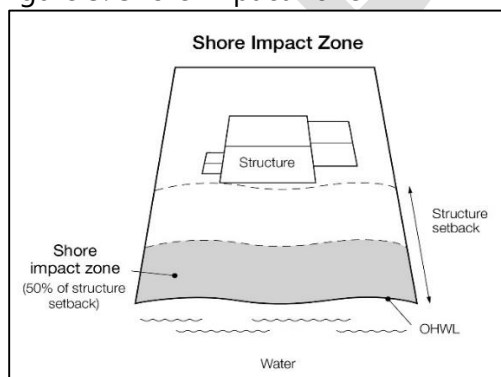
River-dependent use: The use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.

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

Setback: A separation distance measured horizontally.

Shore impact zone (SIZ): Land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50% of the required structure setback or, for agricultural use, 50 feet landward of the ordinary high water level. See Figure 5.

Figure 5. Shore Impact Zone



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

Sign: See definition in the Signs Chapter.

Steep slope: Any slope steeper than 15% fifteen percent (15 feet of rise for every 100 feet horizontal run).

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

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

Subsurface sewage treatment system. Having the meaning given under Minnesota Rules Part [7080.1100](#).

Transmission services: Electrical power lines, cables, pipelines, or conduits that are:

1. Used to transport power between two points, as identified and defined under M.S. § [216E.01, Subd. 4](#); or
2. For mains or pipelines for gas, liquids, or solids in suspension, used to transport gas, liquids, or solids in suspension between two points; and
3. Telecommunication or electric lines, cables, pipelines, or conduits.

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

Variance: Having the meaning given under M.S. § [394.22](#).

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

Water-oriented accessory structure: A small building or other improvement, except stairways, fences, docks, and retaining walls, that, because of the relationship of its use to public waters, needs to be located closer to public waters than the normal structure setback. Examples include gazebos, screen houses, fish houses, pump houses, and detached decks and patios.

Water quality impact zone: Land within the shore impact zone or within 50 feet of the OHWL of the river, whichever is greater, and land within 50 feet of a public water, wetland, or natural drainage route.

Wetland: Having the meaning given under M.S. § [103G.005](#).

205.28.04 Administration

1. Permits. A permit is required for the construction of buildings, building additions, and structures (including construction of decks and signs), vegetation removal consistent with Section 205.28.11 and land alteration consistent with Section 205.28.12.

2. Variances. Variances to the requirements under this Chapter may only be granted in accordance with M.S. § [462.357](#) and must consider the potential impacts on primary conservation areas, public river corridor views, birds and other wildlife using the Mississippi Flyway through habitat loss, collision threats or light pollution, and other resources identified in the MRCCA plan. In reviewing the variance application, the following shall be considered:

(a) Impacts to the resources listed above. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts consistent with Section 205.28.04.04; and

(b) Make written findings that the variance is consistent with the purpose of this Chapter as follows:

- (1) The extent, location and intensity of the variance will be in substantial compliance with the MRCCA Plan; and
- (2) The variance is consistent with the character and management purpose of the MRCCA district in which it is located.

3. Special and interim use permits. All special and interim uses, required under this Chapter, must comply with M.S. § [462.3595](#) and must consider the potential impacts on primary conservation areas, public river corridor views, birds and other wildlife using the Mississippi Flyway through habitat loss, collision threats or light pollution, public access, and other resources identified in the MRCCA plan. In reviewing the application, the following shall be considered:

(a) Impacts to the resources listed above. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts consistent with Section 205.28.04.04; and

(b) Make written findings that the special and interim use permit is consistent with the purpose of this Chapter as follows:

- (1) The extent, location and intensity of the special or interim use permit will be in substantial compliance with the MRCCA Plan; and
- (2) The special or interim use permit is consistent with the character and management purpose of the MRCCA district in which it is located.

4. Mitigation of impacts. Negative impacts to primary conservation areas, public river corridor views, and other resources identified in the MRCCA Plan occurring due to variances, special use permits, or interim use permits must be mitigated for in a way that is related to and proportional to the impacts. Mitigation may include:

- (a) Restoration of vegetation;
- (b) Implementation of animal habitat support as outlined in the most recent version of the [Minnesota B3 Guidelines](#);
- (c) Increasing and/or improving habitat for pollinators, birds, and other wildlife using native trees, shrubs, and vegetation;
- (d) Expansion of public access;
- (e) Preservation of existing vegetation;
- (f) Storm water runoff management;
- (g) Reducing impervious surface;
- (h) Increasing structure setbacks;
- (i) Wetland and drainage route restoration and/or preservation;
- (j) Limiting the height of structures;
- (k) Modifying structure design to limit visual impacts on public river corridor views; and
- (l) Other conservation measures.

5. Application materials. Applications for permits and discretionary actions required under this Chapter must submit the following information unless the City Manager or their designee 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:

- (1) Primary conservation areas;
- (2) Public river corridor views;
- (3) Buildable area;
- (4) Proposed size, alignment, height, and intended use of any structure to be erected or located on the site;
- (5) A delineation of the location and amounts of excavated soils to be stored on the site during construction;
- (6) Existing and proposed topography and drainage patterns;
- (7) Proposed storm water and erosion and sediment control practices;
- (8) Existing and proposed vegetation to be removed and established;
- (9) Ordinary high water level, blufflines, and all required setbacks;
- (10) Existing and proposed impervious surfaces as well as surfacing to be used; and
- (11) Any other information pertinent to the particular project which in the opinion of the City or applicant is necessary or helpful for the review of the project.

6. Nonconformities

(a) All legally established nonconformities as of the date of adoption of this Chapter may continue consistent with M.S. § [462.357, Subd. 1e](#).

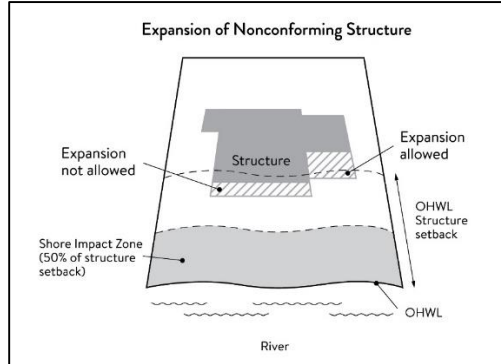
(b) Site alterations and expansion of site alterations that were legally made prior to the effective date of this ordinance are conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements.

(c) Legally nonconforming principal structures that do not meet the setback requirements of Section 205.28.07.03 may be expanded laterally provided that:

- (1) The expansion does not extend into the shore or bluff impact zone or further into the required setback than the building line of the existing principal structure (See Figure 6); and

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

Figure 6. Expansion of Nonconforming Structure



7. Notifications

(a) Amendments to this Chapter and to the MRCCA plan must be submitted to the Commissioner of the Department of Natural Resources (DNR) as provided in Minnesota Rules Part 6106.0070, Subp. 3, Items B – I.

(b) Notice of public hearings for discretionary actions, including special and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, and PUDs, must be sent to the following entities at least 10 days prior to the hearing:

(1) The Commissioner of the DNR in a format prescribed by the DNR;

(2) National Park Service; and

(3) Where building heights exceed the height limits specified in Section 205.28.07.01 as part of the special 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 205.28.04.07.B, including findings of fact, must be sent to the Commissioner of the DNR, 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, Subp. 9, Item C.

8. 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 205.28.07-205.28.14; or
- (b) If Sections 205.28.07-205.28.14 cannot be complied with, ramps or other facilities are allowed with a Reasonable Accommodation License provided:
 - (1) The license terminates on either a specific date or upon occurrence of a particular event related to the person requiring accommodation; and
 - (2) Upon expiration of the permit, the ramp or other facilities must be removed.

205.28.05 MRCCA Districts

1. District description and management purpose. The MRCCA within Fridley is divided into the following MRCCA districts:

(a) Rural and Open Space (ROS)

The Rural and Open Space District is characterized by rural and low-density development patterns and land uses and includes land that is riparian or visible from the river, as well as large, undeveloped tracts of high ecological and scenic value, floodplain, and undeveloped islands. Many primary conservation areas exist in the district.

The Rural and Open Space District must be managed to sustain and restore the rural and natural character of the corridor and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas.

(b) River Neighborhood (RN)

The River Neighborhood 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.

The River Neighborhood 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.

(c) Separated from River (SR)

The Separated from River 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.

The Separated from River 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 SR 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.

2. Urban Mixed (UM)

The Urban Mixed District includes large areas of highly urbanized mixed use that are a part of the urban fabric of the river corridor, including institutional, commercial, industrial, and residential areas and parks and open space.

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

3. MRCCA district map

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

205.28.06 Special Land Use Provisions

1. Uses excluded. The following uses are excluded from the MRCCA:

- (a) Any use that is excluded within the underlying zoning district;

- (b) Any barge fleeting or barge loading;
- (c) Any solid waste storage use or treatment facilities;
- (d) Any mining or extraction uses other than the soil preparation or peat removal necessary for construction;
- (e) The construction of new subsurface sewage treatment systems;
- (f) Agricultural use unless perennial ground cover is provided within at least 50 feet of the ordinary high water level and within the bluff impact zone; and
- (g) Tree harvesting and biomass harvesting within woodlands, and associated reforestation, unless it is conducted consistent with recommended practices in [Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota](#).

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

- (a) Structures and parking areas, except shoreline facilities and private roads and conveyances serving river-dependent uses as provided in Section 205.28.14, must meet the dimensional and performance standards in this Chapter, must be designed so that they are not readily visible, and must be screened by establishing and maintaining natural vegetation;
- (b) Shoreline facilities must comply with Minnesota Rules Chapter [6115](#) and must:
 - (1) Minimize the shoreline area affected in so far as feasible; and
 - (2) Minimize the surface area of land occupied in relation to the number of watercrafts to be served;
- (c) Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.

3. Wireless communication towers

- (a) Wireless communication towers that existed in the MRCCA prior to the adoption of this Chapter are considered legally nonconforming.
- (b) A new wireless communication towers or the physical modification of an existing wireless communication tower that results in an increase in the intensity of the nonconforming use requires a special use permit and is subject to the following design standards:

- (1) 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;
- (2) Freestanding towers must not be located in a bluff or shore impact zone;
- (3) Placement of the tower must minimize impacts on public river corridor views; and
- (4) Comply with the general design standards in Section 205.28.09.01.

205.28.07 Structure Height, Placement, and Lot Size

1. Structure height. Structures and facilities must comply with the following standards or the underlying development standard, whichever is lesser, unless identified as exempt in Section 205.28.14. Height is measured on the side of the structure facing the Mississippi River:

- (a) River and Open Space District: 35 feet.
- (b) River Neighborhood District: 35 feet.
- (c) Separated from River District: Height is determined by underlying development standard, provided the allowed height is consistent with that of the mature treeline, where present, and existing surrounding development, as viewed from the OWHL of the opposite shore.
- (d) Urban Mixed District: 65 feet, provided tiering of structures away from the Mississippi River and from blufflines is given priority, with lower structure heights closer to the river and blufflines, and that structure design and placement minimize interference with public river corridor views. Structures over 65 feet are allowed as a Special Use according to Section 205.28.07.02.

2. In addition to the variance or special use requirements of Section 205.28.04.04, criteria for considering whether to grant a variance or special use permit for structures exceeding the height limits must include:

- (a) Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;
- (b) Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as:
 - (1) Placing the long axis of the building perpendicular to the river;

- (2) Stepping back of portions of the facade;
- (3) Lowering the roof pitch or use of a flat roof;
- (4) Using building materials or mitigation techniques that will blend in with the natural surrounds;
- (5) Implementation of animal habitat support as outlined in the most recent version of the [Minnesota B3 Guidelines](#);
- (6) Narrowing the profile of upper floors of the building;
- (7) Increasing the setbacks of the building from the Mississippi River or blufflines; or
- (8) Opportunities for creation or enhancement of public river corridor views.

3. 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 205.28.14.

(b) Structures, impervious surfaces, and facilities must comply with the following OHWL setback provisions unless identified as exempt in Section 205.28.14:

- (1) Rural and Open Space District: 200 feet from the Mississippi River.
- (2) River Neighborhood District: 100 feet from the Mississippi River.
- (3) Urban Mixed District: 50 feet from the Mississippi River.

(c) Structures, impervious surfaces, and facilities must comply with the following bluffline setback provisions unless identified as exempt in Section 205.28.14:

- (1) Rural and Open Space District: 100 feet.
- (2) River Neighborhood District: 40 feet.
- (3) Separated from River District: 40 feet.
- (4) Urban Mixed District: 40 feet.
- (5) Oak Glen Creek, Rice Creek, Springbrook Creek, Stonybrook Creek: 50 feet.

(d) Impervious surface lot coverage must not exceed 35% on any lot within the Shoreland Overlay District except as a variance which shall comply with the following standards:

- (1) All structures, additions or expansions shall meet setback and other requirements of this Code;
- (2) The lot shall be served with municipal sewer and water;
- (3) The lot shall provide for the collection and treatment of stormwater in compliance with Stormwater Management and Erosion Control Chapter of the Code; and
- (4) Measures shall be taken for the treatment of stormwater runoff and/or prevention of stormwater from directly entering a public water.

4. 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 Sections Section 205.28.07.01 and Section 205.28.07.03 so as to not require variances to use the lots for their intended purpose.

205.28.08 Performance Standards for Private Facilities

- 1. General design standards. All private facilities must be developed in accordance with the vegetation management and land alteration requirements in Sections 205.28.11 and 205.28.12.
- 2. Private roads, driveways, and parking areas. Except as provided in Section 205.28.14, 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 from the river;
 - (b) Comply with structure and impervious surface setback requirements according to Section 205.28.07.03; and
 - (c) Not be placed within the bluff impact zone or shore impact zone, unless exempt under Section 205.28.14 and designed consistent with Section 205.28.09.01.
- 3. Private water access and viewing facilities.
 - (a) Private access paths must be no more than:

- (1) Eight feet wide, if placed within the shore impact zone; and
 - (2) Four feet wide, if placed within the bluff impact zone.
- (b) Private water access ramps must:
- (1) Comply with Minnesota Rules Parts [6115.0210](#) and [6280.0250](#); and
 - (2) Be designed and constructed consistent with the applicable standards in the most current version of the Design Handbook for Recreational Boating and Fishing Facilities.
- (c) Design and construction of private stairways, lifts, and landings located above the OHWL are subject to the following standards:
- (1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be approved for commercial properties and residential facilities held in common;
 - (2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet area may be approved for commercial properties and residential facilities held in common;
 - (3) Canopies or roofs are prohibited on stairways, lifts, or landings;
 - (4) Stairways, lifts, and landings must be located in the least visible portion of the lot whenever practical; and
 - (5) Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities are allowed for achieving access to shore areas according to Section 205.28.08.3.C 1-4, and as provided under Section 205.28.04.08.
- (d) One water-oriented accessory structure is allowed for each riparian lot or parcel less than 300 feet in width at the ordinary high water level, with one additional water-oriented accessory structure allowed for each additional 300 feet of shoreline on the same lot or parcel. Water-oriented accessory structures are prohibited in the bluff impact zone and must:
- (1) Not exceed 12 feet in height;
 - (2) Not exceed 120 square feet in area; and
 - (3) Be placed a minimum of 10 feet from the ordinary high water level.

3. 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 205.28.11 and 205.28.12, provided that:

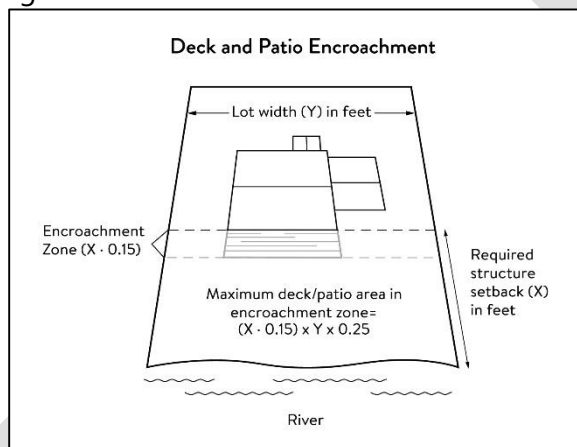
(a) The encroachment of the deck or patio into the required setback area does not exceed 15% of the required structure setback;

(b) The area of the deck or patio that extends into the required setback area occupies no more than 25% of the total area between the required setback and the 15% using the formula:

Required setback depth (feet) x 0.15 x lot width at setback (feet) x 0.25 = maximum total area.

(c) The deck or patio does not extend into the bluff impact zone. See Figure 7.

Figure 7. Deck and Patio Encroachment



4. Off-Premise and Directional Signs

(a) Off-premise advertising signs must:

(1) Meet required structure height and placement standards in Sections 205.28.07.01 and 205.28.07.03.

(2) Not be readily visible from the river

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

(1) They must be consistent with M.S. § [86B.115](#).

(2) 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.

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

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

5. Lighting. Within the Shore Impact Zone:

(a) Lighting shall be fully shielded and directed away from the river.

(b) Uplighting is prohibited.

6. Line of Sight. The development of new, or the expansion of existing structures, shall be placed so that the development is consistent with the preservation of the view of the river corridor from other properties on both sides of the river and by the public. The walling off of views of the river corridor from other properties and public right-of-ways shall be prohibited.

205.28.09 Performance Standards for Public Facilities

1. 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 Section 205.28.07, except as provided in Section 205.28.14;

(c) Be consistent with the vegetation management standards in Section 205.28.11 and the land alteration and storm water management standards in Section 205.28.12, including use of practices identified in [Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001](#), where applicable; and

(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.

(e) Where feasible, minimize disturbance of spawning and nesting times by scheduling construction at times when local fish and wildlife are not spawning or nesting in areas where this activity is known to occur.

2. 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.

3. 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 M.S. § [84.415](#) and [103G.245](#).

4. 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;

(b) Primary consideration shall be given to underground placement of facilities in order to minimize aesthetic, environmental and public safety aspects. When considering overhead placement, the developer must show the reasoning that makes underground placement unfeasible;

(c) If underground placement is unfeasible, visibility of the facility from the river must be minimized as much as practicable; and

(d) 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.

5. Public transportation facilities. Public transportation facilities shall comply with structure placement and height standards in Section 205.28.07 except as provided in Section 205.28.14. Where such facilities intersect or abut two or more MRCCA districts, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:

(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.

6. 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 205.28.07, except as provided in Section 205.28.14;

(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](#):

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

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

((a)) Visibility from the river;

((b)) Visual impacts on public river corridor views; and

((c)) Disturbance to and fragmentation of primary conservation areas.

(d) Public water access facilities must comply with the following requirements:

(1) Watercraft access ramps must comply with Minnesota Rules Chapters [6115.0210](#) and [6280.0250](#); and

(2) Facilities must be designed and constructed consistent with the standards in the most recent version of the Minnesota DNR's 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; and

(f) Public stairways, lifts, and landings must be designed as provided in Section 205.28.08.03.C.

205.28.10 Public Access

1. Public river access to and along the river shall be provided for any new development that is adjacent to or part of a city plan including public access.
2. Public river access shall be provided to the riverfront of developments on publicly owned and publicly controlled riverfront property where feasible.

205.28.11 Vegetation Management

1. Applicability. This section applies to:

- (a) Shore impact zones;
- (b) Areas within 50 feet of a wetland or natural drainage route;
- (c) Bluff impact zones;
- (d) Areas of native plant communities; and
- (e) Significant existing vegetative stands identified in the MRCCA plan

2. General performance standards for vegetation management. The general performance standards for vegetation management are as follows:

- (a) Development must be sited to minimize removal of or disturbance to natural vegetation;
- (b) Soil, slope stability, and hydrologic conditions are suitable for the proposed work as determined by the City Manager or their designee
- (c) Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views;
- (d) Vegetation removal activities must be conducted so as to expose the smallest practical area of soil to erosion for the least possible time; and
- (e) Grading must be conducted in a manner that preserves the root zone aeration and stability of existing trees and provides an adequate watering area equal to at least one-half of each tree crown. If this is not possible, a replacement tree must be provided in conformance with Section 205.28.11.07.

3. Activities allowed without a permit:

- (a) Maintenance of existing lawns, landscaping, and gardens;
- (b) Removal of vegetation in emergency situations as determined by the City Manager or their designee;
- (c) Right-of-way maintenance for public facilities meeting the standards Section 205.28.09.02
- (d) Agricultural and forestry activities meeting the standards of Sections 205.28.06.01.F and 205.28.06.01.G;
- (f) Selective vegetation removal provided that vegetative cover as viewed from the river remains consistent with the management purpose of the MRCCA district and trees are replaced in conformance with Section 205.28.11.06.

4. Activities allowed with a permit. Only the following intensive vegetation clearing activities are allowed with a permit, all other forms of intensive vegetation clearing are prohibited:

- (a) Clearing of vegetation that is dead, diseased, dying, or hazardous;
- (b) Clearing to prevent the spread of diseases or insect pests;
- (c) Clearing to remove invasive non-native species;
- (d) Clearing for habitat restoration and erosion control management activities consistent with an approved plan;
- (e) The minimum necessary for development that is allowed with a building permit or as an exemption under Section 205.28.14.

5. Vegetation restoration plan. Development of a vegetation restoration plan and reestablishment of natural vegetation is required in the following circumstances:

- (a) For any vegetation removed with a permit under Section 205.28.11.04;
- (b) Upon failure to comply with any provisions in this Section; or
- (c) As part of the planning process for subdivisions as provided in Section 205.28.13.

6. Vegetation Restoration Plan Performance Standards. The vegetation restoration plan must satisfy the application submittal requirements in Section 205.28.04.05, and:

(a) Vegetation must be restored in one or more of the following restoration priority areas:

- (1) Stabilization of erodible soils including with soils showing signs of erosion, especially on or near the top and bottom of steep slopes and bluffs;
- (2) Restoration or enhancement of shoreline vegetation including shoreline areas within 25 feet of the water with no natural vegetation, degraded vegetation, or planted with turf grass;
- (3) Revegetation of bluffs or steep slopes visible from the river; and
- (4) Other approved priority opportunity area, including priorities identified in the MRCCA plan, if none of the above exist.

(b) Include vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities and by [Native Vegetation Establishment and Enhancement Guidelines](#);

(c) Any highly erodible soils disturbed during removal and/or restoration must be stabilized with deep-rooted vegetation with a high stem density;

(d) Vegetation removed must be restored with natural vegetation to the greatest extent practicable. The area (square feet) of the restored vegetation should be similar to that removed to the greatest extent practicable;

(e) For restoration of removed native plant communities, restored vegetation must also provide biological and ecological function equivalent to the removed native plant communities;

(f) Be prepared by a qualified individual except for:

- (1) Vegetation plans required in response to Section 205.28.11.04.D which must be prepared by a professional ecologist, landscape architect, or person with demonstrable experience and knowledge related to vegetation management as accepted and approved by the City; and

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

7. Tree Removal and Replacement

(a) Except for tree removal conducted in accordance with Section 205.28.04.D with an approved vegetation restoration plan, any trees over four inches diameter at breast height that are removed shall be restored with an equal number of trees to that which existed before cutting by September 30 of the subsequent year. If insufficient space is available for tree replanting as determined by the City, a monetary fee may be provided in lieu of tree replanting.

205.28.12 Land Alteration and Stormwater Management

1. Land alteration

(a) Within the bluff impact zone, land alteration is prohibited, except for the following, which are allowed with a permit:

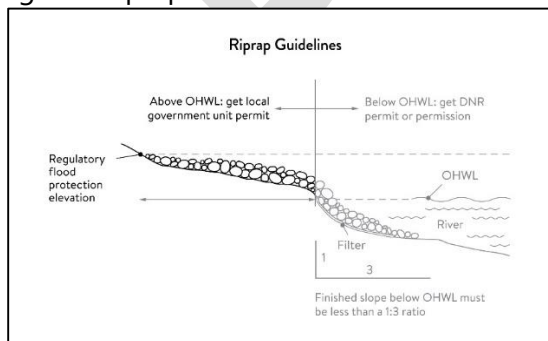
- (1) Erosion control consistent with a plan approved by the City Manager or their designee;
- (2) The minimum necessary that is allowed as an exception under Section 205.28.14; and
- (3) Repair and maintenance of existing buildings and facilities.

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

2. 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 Part [6115.0215, Subp. 4, item E](#), and [6115.0216, Subp. 2](#). Work must not proceed until necessary approvals by the Commissioner, the US Army Corps of Engineers as necessary, and any other required permits are obtained. See Figure 8.

Figure . 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 205.28.12.5 provided that:

(1) If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project;

(2) The structures are used only to correct an established erosion problem as determined by the City Engineer or their designee;

(3) 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 four feet in height;

((b)) Retaining walls must be placed a minimum horizontal distance of twenty feet apart; and

((c)) 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.

3. Storm water management.

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

(1) There are no alternatives for storm water treatment outside the bluff impact zone on the subject site;

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

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

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

(b) In the water quality impact zone, development that creates new impervious surface, as allowed by exemption in Section 205.28.14, or fully reconstructs existing impervious

surface of more than 10,000 square feet requires a permit. 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.

4. 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 205.28.11.

5. Conditions of land alteration permit approval within the Critical Area

- (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 alteration;
- (e) Erosion and sediment controls are maintained during construction to ensure effective operation;
- (f) The proposed work is consistent with the vegetation standards in Section 205.28.11; 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](#).

6. Compliance with other plans and programs. All land alteration must:

- (a) Be consistent with Minnesota Statutes Chapter [103B](#), and local water management plans completed under Minnesota Rules Chapter [8410](#);
- (b) Meet or exceed the wetland protection standards under Minnesota Rules Chapter [8420](#);
- (c) Comply with the Floodplain Management Overlay District Chapter; and,
- (d) Comply with the Stormwater Management and Erosion Control Chapter.

205.28.13 Subdivisions

1. The design standards in this Section apply to subdivisions, planned unit developments and master- planned development and redevelopment of land involving ten or more acres for contiguous parcels that abut the Mississippi River and 20 or more acres for all other parcels within the MRCCA, including smaller individual sites within the these developments that are part of a common plan of development that may be constructed at different times.
2. The following activities are exempt from the requirements of this Section:
 - (a) Minor subdivisions consisting of three or fewer lots;
 - (b) Minor boundary line corrections;
 - (c) Resolutions of encroachments;
 - (d) Additions to existing lots of record;
 - (e) Placement of essential services; and
 - (f) Activities involving river-dependent commercial and industrial uses.
3. Project information listed in Section 205.28.04.05 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:
 - (1) CA-ROS District: 50%;
 - (2) CA-RN District: 20%;

(3) CA-UM: 10%; and

(4) CA-SR District: 10% if the parcel includes native plant communities or provides feasible connections to a park or trail system, otherwise no requirement.

(b) If the primary conservation areas exceed the amounts specified in Section 205.28.13.04, 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 205.28.11.04.

(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 205.28.11.04, 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 under the Subdivision Chapter 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:

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

(2) A permanent conservation easement, as provided in Minnesota Statutes Chapter 84C;

(3) A deed restriction; or

(4) Other arrangements that achieve an equivalent degree of protection.

(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.

6. Alternative design standards. Applicants are encouraged to propose alternative design methods that achieve better protection or restoration of primary conservation areas. Methods may include protection and restoration of continuous vegetation, preventing the fragmentation of vegetation, concentration of density in exchange for higher levels of open space protection, or other zoning and site design techniques.

205.28.14 Exemptions

1. Applicability

(a) Uses and activities not specifically exempted must comply with this Chapter. Uses and activities exempted under shore impact zone and bluff impact zone must comply with the vegetation management and land alteration standards in Sections 205.28.11 and 205.28.12.

(b) Uses and activities in this Section are categorized as:

(1) Exempt – E. This means that the use or activity is allowed;

(2) Exempt if no alternative - (E). This means that the use or activity is allowed only if no alternatives exist; and

(3) Not exempt - N. This means that a use or activity is not exempt and must meet the standards of this Chapter.

2. Use and activity exemptions classification.

(a) General uses and activities.

Use or Activity	Set backs	Height Limits	SI Z	BI Z	Applicable standards with which the use or activity must comply
Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers)	N	E	N	N	Structure design and placement must minimize interference with public river corridor views.
Barns, silos, and farm structures	N	E	N	N	
Bridges and bridge approach roadways	E	E	E	(E)	Section 205.28.09

Use or Activity	Set backs	Height Limits	SI Z	BI Z	Applicable standards with which the use or activity must comply
Wireless communication towers	E	E	N	N	Section 205.28.06.03
Chimneys, religious spires, flag poles, public monuments, and mechanical stacks and equipment	N	E	N	N	
Historic properties and contributing properties in historic districts	E	E	E	E	Exemptions do not apply to additions or site alterations

(b) Public utilities.

Use or Activity	Set backs	Height Limits	SI Z	BI Z	Applicable standards with which the use or activity must comply
Electrical power facilities	E	E	E	(E)	Section 205.28.09
Essential services (other than storm water facilities)	E	E	E	(E)	Section 205.28.09
Storm water facilities	E	N	E	(E)	Section 205.28.12
Wastewater treatment	E	N	E	N	Section 205.28.09
Public transportation facilities	E	N	(E)	(E)	Section 205.28.09

(c) Public recreational facilities.

Use or Activity	Set backs	Height Limits	SI Z	BI Z	Applicable standards with which the use or activity must comply
Accessory structures, such as monuments, flagpoles, light standards, and similar park features	E	E	(E)	(E)	Section 205.28.09; within BIZ, only on slopes averaging less than 30%. Exemptions do not apply to principal structures.
Picnic shelters and other open-sided structures	E	N	(E)	N	Section 205.28.09
Parking lots	(E)	N	(E)	(E)	Section 205.28.09; within BIZ, only within 20 feet of toe of bluff; not on face of bluff; and must not affect stability of bluff
Roads and driveways	(E)	N	(E)	(E)	Section 205.28.09
Natural-surfaced trails, access paths, and viewing areas	E	N	E	E	Section 205.28.09

Use or Activity	Set backs	Height Limits	SI Z	BI Z	Applicable standards with which the use or activity must comply
Hard-surfaced trails and viewing platforms	E	N	E	(E)	Section 205.28.09; within BI Z, only on slopes averaging less than 30%
Water access ramps	E	N	E	(E)	Section 205.28.09
Public signs and kiosks for interpretive or directional purposes	E	N	E	(E)	Section 205.28.09

(d) River-dependent uses.

Use or Activity	Set backs	Height Limits	SI Z	BI Z	Applicable standards with which the use or activity must comply
Shoreline facilities	E	N(	E	(E)	Section 5.25. Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility. River-dependent commercial, industrial, and utility structures are exempt from height limits only if greater height is required for operational reasons.
Private roads and conveyance structures serving river-dependent uses	E	N	E	(E)	Section 5.25; 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	Set backs	Height Limits	SI Z	BI Z	Applicable standards with which the use or activity must comply
Private roads serving 3 or more lots	(E)	N	N	(E)	Section 205.28.08; in BI Z, only on slopes averaging less than 30%. Exemption does not apply to private roads serving fewer 3 lots or to private driveways and parking areas
Access paths	E	N	E	E	Section 205.28.08
Water access ramps	E	N	E	N	Section 205.28.08
Stairways, lifts, and landings	E	N	E	E	Section 205.28.08
Water-oriented accessory structures	E	N	E	N	Section 205.28.08
Patios and decks	E	N	N	N	Section 205.28.08.04
Directional signs for watercraft (private)	E	N	E	N	Section 205.28.08.05; 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)	Section 205.28.12.2
Flood control structures	E	N	E	(E)	Section 205.28.12

SUMMARY OF MRCCA CHANGES



The following is a summary of changes to the Critical Area Chapter. Optional changes that are above the standards of the model ordinance are noted in italics. Comments are included in bold.

Substantive Changes

Section Number	Current Code	Proposed Changes
205.28.01	Describes the purpose and intent of the chapter	Updates the purpose and intent to reference the authorizing state statute
205.28.02.1	205-28.02 describes the MRCCA's boundaries	Adds a reference to the underlying document which defines the MRCCA's boundaries
205.28.02.2	None	- Adds that the remainder of the chapter is not affected if a portion is found unconstitutional - Adds that a violation of the chapter can occur whether or not a permit is required
205.28.02.3	None	Clarifies that the provisions of this chapter prevail if they are more restrictive than provisions in other chapters of City Code
205.28.03	205.28.03 Provides definitions for terms used in the code	The following changes were made to definitions used in this chapter - Adds a definition for "access path" based on MRCCA Model Ordinance - Adds a definition for "adjacent" based on MRCCA Model Ordinance - Adds a definition for "agricultural use" based on MRCCA Model Ordinance - Adds a definition for "alternative design" based on MRCCA Model Ordinance - Adds a definition for "biological and ecological function" based on MRCCA Model Ordinance - Adds a definition for "bluff" based on the MRCCA model ordinance (Note: Our current code establishes a bluff as having 12% slope vs. 18%.) - Adds a definition for a "bluff impact zone" which is an area within 20 feet of the bluff - Adds a definition for "bluff, toe of" based on MRCCA Model Ordinance - Adds a definition for "bluff, top of" based on MRCCA Model Ordinance - Adds a definition for "buildable area" based on MRCCA Model Ordinance

SUMMARY OF MRCCA CHANGES



Item 3.

		• Adds a definition for “building” based on MRCCA Model Ordinance • Removes the definition for “clear cutting” in lieu of “intensive vegetation clearing” • Adds a definition for “Commissioner” based on MRCCA Model Ordinance • Adds a definition for “conservation design” based on MRCCA Model Ordinance • Adds a definition for “conventional subdivision” based on MRCCA Model Ordinance • Removes the definition for Critical Area • Adds a definition for “deck” based on MRCCA Model Ordinance • Adds a definition for “developer” to reference State Statue • Updates the definition of “development” to reference State Statute • Adds a definition for “discretionary action” based on MRCCA Model Ordinance • Adds a definition for “dock” based on MRCCA Model Ordinance • Adds a definition for “electric power facilities” based on MRCCA Model Ordinance • Updates the definition of essential services to include sanitary sewer, stormwater, and communications services. Clarifies that the services also include collection supply and disposal systems. Excludes buildings, treatment works, electric power facilities, or transmission services. • Adds a definition for “floodplain” to reference State Statute • Adds a definition for “fully reconstructs” based on MRCCA Model Ordinance • Adds a definition for “hard surface trail” based on MRCCA Model Ordinance • Adds a definition for “historic property” based on MRCCA Model Ordinance • Adds a definition for “impervious surface” based on MRCCA Model Ordinance • Adds a definition for “intensive vegetation clearing”
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SUMMARY OF MRCCA CHANGES



Item 3.

		based on MRCCA Model Ordinance • Adds a definition for "interim use" based on MRCCA Model Ordinance • Adds a definition for "land alteration" based on MRCCA Model Ordinance • <i>Adds a definition for lifts</i> • Adds a definition for "lot width" based on MRCCA Model Ordinance • Adds a definition for "marina" to reference State Statute • <i>Adds a definition for "Mississippi Flyway" based on recommendations from the Minneapolis Audubon Society</i> • Adds a definition for "mooring facility" based on MRCCA Model Ordinance • Adds a definition for "native plant community" based on MRCCA Model Ordinance • Adds a definition for "natural surface trail" based on MRCCA Model Ordinance • Adds a definition for "natural vegetation" based on MRCCA Model Ordinance • Adds a definition for "nonmetallic mining" based on MRCCA Model Ordinance • Adds a definition for "off-premise advertising signs" based on MRCCA Model Ordinance • Adds a definition for "ordinary high water level" to reference State Statute • Adds a definition for "parcel" based on MRCCA Model Ordinance • Adds a definition for "patio" based on MRCCA Model Ordinance • Adds a definition for "picnic shelter" based on MRCCA Model Ordinance • Adds a definition for "planned unit development" based on MRCCA Model Ordinance • Adds a definition for "plat" based on MRCCA Model Ordinance • Adds a definition for "primary conservation areas" based on MRCCA Model Ordinance • Adds a definition for "private facilities" based on MRCCA Model Ordinance • Adds a definition for "public facilities" based on MRCCA
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SUMMARY OF MRCCA CHANGES



Item 3.

		Model Ordinance Adds a definition for “public recreation facilities” based on MRCCA Model Ordinance • Removes the definition for “public safety facilities” • Adds a definition for “public river corridor views” based on MRCCA Model Ordinance • Adds a definition for “public transportation facilities” based on MRCCA Model Ordinance • Adds a definition for “public utilities” based on MRCCA Model Ordinance to replace “utility facility”. Changes the definition to remove solid waste. • Adds a definition for “public waters” based on State Statute • Adds a definition for “readily visible” based on MRCCA Model Ordinance • Adds a definition for “resource agency” based on MRCCA Model Ordinance • Updates the definition for retaining wall to clarify that the structure is in a vertical or near vertical position and specify material type • Adds a definition for “rock riprap” based on MRCCA Model Ordinance • Adds a definition for “river corridor boundary” based on State Statute • Adds a definition for “river dependent use” based on MRCCA Model Ordinance • Adds a definition for “selective vegetation removal” based on MRCCA Model Ordinance • Adds a definition for “setback” based on MRCCA Model Ordinance • Adds a definition for “shore impact zone” based on MRCCA Model Ordinance • Adds a definition for “shoreline facilities” based on MRCCA Model Ordinance • Adds a definition for “sign” referencing Signs chapter. • Adds a definition for “steep slope” based on Chapter 208. • Adds a definition for “stormwater management facilities” based on the MRCCA Model Ordinance • Adds a definition for “structure” based on the MRCCA Model Ordinance
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SUMMARY OF MRCCA CHANGES



Item 3.

		• Adds a definition for "subsurface sewage treatment system" based on the MRCCA Model Ordinance • Removes the definition for terrace • Adds a definition for "transmission service" based on the MRCCA Model Ordinance • Adds a definition for "transmission service" based on the MRCCA Model Ordinance • Adds a definition for "treeline" based on the MRCCA Model Ordinance • Removes the definition of "utility facility" in lieu of "public utilities" • Adds a definition for "variance" based on MRCCA Model Ordinance • Adds a definition for "water access ramp" based on the MRCCA Model Ordinance • Adds a definition for "water oriented accessory structure" based on the MRCCA Model Ordinance • Adds a definition for "water quality impact zone" based on the MRCCA Model Ordinance • Changes the definition for "wetland" to reference on State Statute
205.28.04.01	205.28.06 specifies actions that require a permit	Adds permit trigger which create the need for a new permit, removes the explicit exemption for single family homes to submit a site plan if needed; however, 205.28.04.05 provides the discretion to determine that application materials would not be required.
205.28.04.02	None	• Requires that variances consider the impacts on primary conservation areas, public river corridor views, mitigate for these potential impacts, and make written findings that the variance is consistent with the purpose of the chapter. • <i>Adds consideration of impacts on wildlife using the Mississippi Flyway and public access as a requirement when reviewing variances at the recommendation of the Minneapolis Audubon Chapter</i> • <i>Requires that written findings for the variance determine that the variance is consistent with the City's MRCCA Plan</i> • <i>Requires that the variance is consistent with the character and management purposed of the MRCCA District</i>

SUMMARY OF MRCCA CHANGES



Item 3.

205.28.04.03	None	- Requires that special use permits consider the impacts on primary conservation areas, public river corridor views, mitigate for these potential impacts, and make written findings that the special use is consistent with the purpose of the chapter. <i>Adds consideration of impacts on wildlife using the Mississippi Flyway and public access as a requirement when reviewing variances at the recommendation of the Minneapolis Audubon Chapter</i>
205.28.04.4	None	<i>Provides guidance on how negative impacts may be mitigated</i>
205.28.04.5	205.28.07 outlined site plan requirements	Adds mapping of primary conservation areas, public river corridor views as site plan requirements
205.28.4.6	None	Specifies treatment of nonconformities including: Allowing the lateral expansion of legally nonconforming structures provided that the expansion does not extend further into the required setback and the expansion is consistent with the original structure and surrounding development
205.28.04.7	205.28.08.C.4 requires the DNR and EQB to be notified of variance requests to setback requirements	- Expands notification to be for all public hearings to any discretionary action as well as for final decisions - Expands notification to the DNR and NPS as well as adjoining local governments when the discretionary action is related to building height - Establishes provisions to change the MRCCA boundary - Removes notification requirement to the EQB
205.28.04.8	None	Allows for accommodations under the Americans with Disabilities Act through an administrative permit
205.28.05	None	Describes MRCCA districts and management purposes
205.28.06.1	205.28.05 specifies what uses are excluded	- Clarifies that soil preparation and peat extraction is only allowed as necessary for development - Reiterates that new subsurface sewage treatment systems are not allowed
205.28.06.2	None	Requires river dependent uses to: - Not be readily visible except for those structures listed as exempt - Be designed in a compact fashion - References state and federal rule with regards to dredging material

SUMMARY OF MRCCA CHANGES



Item 3.

205.28.06.3	None	Requires new or modified wireless communication towers installed in the MRCCA after approval of this ordinance must receive a special or interim use permit. The special use permit requires: • Demonstration the tower can't be moved or lowered • Is not located in a bluff impact zone or shore impact zone if a freestanding tower • Placement of the tower minimizes public river corridor views • Complies with design standards for public facilities
205.28.07.01	205.28.08.B specifies that building height would be defined by the underlying zoning	• Caps ROS district building height at 35 feet (this is the islands, currently zoned P) • Caps SR district building height as the underlying zoning as long as that is consistent with the mature tree height (underlying zoning height ranges up to 65 feet) • Caps UM district building height as 65 feet with an emphasis on tiering away from the river except for with a Special Use Permit • Specifies conditions for allowing a variance or special use for building height
205.28.07.02	None	• Outlines criteria on granting variance requests for building height • <i>Adds potential mitigation measures for height variances. Measures 3-5 are optional</i>

SUMMARY OF MRCCA CHANGES



Item 3.

205.28.07.03	205.28.08.C: • Prohibits structures and uses within 40 feet of a bluffline in all areas • Prohibits structures and uses within 100 feet of the OHWL	• Prohibits structures and impervious surface in shore impact zone (50% of the required structure setback from the OHWL) and bluff impact zone (within 20 feet of bluffline) unless specified for an exemption. While the setbacks of 40 feet from the bluffline and 100 feet from the OHWL are inclusive of these zones, this section has different setback requirements • Increases the structure setback to 200 feet in the ROS neighborhoods • Increases the setback for structures, impervious surfaces, and facilities to 200 feet of bluffline in ROS neighborhood (islands) • Reduces the UM setback to 50 feet • Adds shoreland overlay restriction on impervious surface coverage • Adds shoreland setbacks for creeks • There is an opportunity to allow for setback averaging based on adjacent principal structure that staff is not recommended to protect the river.
205.28.07.5	• None	• Requires lots in the ROS district to be at least 200 feet • Requires all new lots to have adequate buildable area to comply with the setback requirements without a variance
205.28.08	• Did not specifically call out design standards for private roads, driveways, parking areas, access paths/ramps, accessory structures decks, patios, signs, and lighting • 205.28.08.D	• Requires that design takes advantage of natural vegetation and topography for screening purposes • Limits access paths to eight feet wide in the SIZ and four feet wide in the BIZ • Adds reference to state statute for private water access ramps • Limits the width of stairways and lifts on residential lots to four feet in width and 32 feet in area • Prohibits canopies on land-based stairways, lifts, or landings • Allows one water-oriented accessory structures near the water (ex: gazebos) and sets design specifications for water oriented accessory structures • Allows decks to encroach into OHWL and bluffline setback areas provided they meet certain specifications

SUMMARY OF MRCCA CHANGES



Item 3.

	contained preservation of line of site for all properties	• Did not reference off-premise or directional signage; however signs are regulated under the sign code • <i>Requires lighting to be fully shielded and prohibits uplighting in the shore impact zone order to preserve dark skies and minimize impacts to wildlife (this is an optional requirement recommended by the Audubon Society)</i> • <i>Limits the line of site requirement to private facilities; line of site maintenance is optional but included in previous versions of the code</i>
205.28.09.1	Did not provide specific design requirements for public facilities	• Requires minimum visibility from the river consistent with the purpose of the facility • Requires projects to avoid primary conservation areas unless no alternatives exist • Requires projects to minimize disturbance of spawning and nesting times of wildlife where feasible when there is potential for conflict.
205.28.09.2	205.28.12 provides requirement for right of way maintenance	• Requires vegetation currently in a natural state to be maintained to the extent feasible • Limits the replacement with native plants to only areas in which native plants have been removed
205.28.09.3	Not referenced, but included in state statute	• Provides state statute stating that crossing of any land controlled by the DNR must be approved by DNR commissioner
205.28.09.4	205.28.10.A regulates transmission and essential services	• Adds references to applicable state statute
205-28.09.5	205.08.10.B regulates transportation facilities	• Requires public transportation facilities to meet structure setbacks unless no alternative exists
205.28.09.6	• 205.28.08.C.3 listed public recreational facilities as exempt to setbacks • 205.28.09.E.3 requires structures, trails,	• Restricts placement of roadways from the BIZ and SIZ unless no alternative exists • Allows hard surface trails in BIZ and SIZ if following best practices • Requires trails, paths, and viewing areas to minimize visibility and disturbance to primary conservation areas • Allows hard surface trails on slopes between 18-30%. Allows natural surface trails on slopes with higher grades. • Requires trails and paths to be designed to minimize

SUMMARY OF MRCCA CHANGES



	and roadways to be sited to minimize impacts for soil compaction and loss of vegetation cover	impacts - References state statute for public water access facilities comply with state - Allows public signs and kiosks in the BIZ and SIZ if proper guidelines are followed - Sets guidelines for public stairways, lifts and landing.
205.28.10	205.28.11 provides requirements for public access	<i>Eliminates requirement that the public access be specifically for pedestrians in order to include bicycles</i> <i>Expands requirement from providing right-of-way to providing physical access</i> <i>Updates referenced plan from an "overall plan of the city for pedestrian movement within the district" to "part of a city plan" to encompass roadway specific plans or park plans.</i> <i>Changes requirements for where access will not be provided from specific instances to "where feasible"</i>
205.28.11	205.28.09 provides requirements for vegetative management including a requirement to replace any trees >4" removed for development	- Requires a permit and an approved restoration plan for intensive vegetation plan within priority zones including shore impact zones, bluff impact zones, areas within 50 feet of wetland or drainage route, areas of native plant communities, and significant existing vegetative stands - Exceptions are provided for maintenance of existing lawns, right of way maintenance, selective removal of trees provided that the trees are replaced in conformance with the tree replacement requirement <i>and the view from the river remains consistent, due to the importance of maintaining the viewshed from the river.</i> <i>Expands replacement requirement for removal of trees greater than 4" (except for removal of diseased and damaged trees) to all tree removals, not just removals related to the development within the priority zone. Removes the requirement for replacement for trees removed due to development to trees outside of the priority zones. Removes the exception for removals of diseased or damaged trees from the replacement requirement due to the impact of removing all ash trees from the MRCCA without replacement.</i>

SUMMARY OF MRCCA CHANGES



Item 3.

		- Requires and provides guidelines for the vegetation restoration plan <i>Requires that vegetation restoration plans prepared in response to habitat or erosion control be prepared by a qualified or city-approved individual</i> <i>Changes the required restoration amount from density to quantity for clarity</i> <i>Adds a date that restoration must be completed by</i> <i>Establishes a fee-in lieu program where tree replacement is not feasible.</i>
205.28.12.1.A	205.28.08 limits development within 40 feet of the bluff except by exception	Limits land alteration within the bluff impact zone except as allowed by exception
205.28.12.1.B	205.28.09.A does not specify a minimum threshold of grading	Sets thresholds permits within the water quality impact zone at a lower amount than the traditional land alteration permit
205.28.12.2	205.28.09.C establishes thresholds for retaining walls and erosion control structures	- Requires the city engineer or designee determines there is an erosion control problem prior to permitting - Reduces the minimum horizontal distance between retaining walls to 10 feet - Requires all riprap be below the regulatory floodline - Requires that riprap and retaining walls be sized to the minimum amount necessary - Explicitly allows repair of retaining walls and riprap provided there is no land alteration without a permit
205.28.12.3	Does not provide restrictions on stormwater management facilities	- Includes design restrictions on stormwater management facilities within the bluff impact zone - Requires permit for impervious surface within the water quality impact zone - Requires that stormwater run off be directed away from the bluff impact zone or unstable areas
205.28.12.4	205.28.08.D provides guidelines for development on steep slopes	Allows development on steep slopes if development can occur without increasing erosion
205.28.12.5	None	Provides requirements for land alteration permit
None	205.28.08.E specifies	This section was removed due to inability to track and

SUMMARY OF MRCCA CHANGES



Item 3.

	limits to amount of gross soil loss	enforce
205.28.13	None	• Provides design standards for subdivisions • Requires conservation of primary conservation areas based on district type • Encourages alternative design standards
205.28.14	205.28.08.C.3 lists Exceptions to setback requirements shall include public safety facilities, public bridges and approaches, public roadways, public recreation facilities, scenic overlooks, regional and local trails; docks and boat launching facilities, approved river crossings of essential services and distribution services and historical sites designated by the National and State Register of Historic Places.	• Public safety facilities are considered essential services which are exempt, except from placement in the BIZ unless no other options are available • Public roadways are no longer listed as exempt from height requirements • Some public recreational facilities are not exempt from the BIZ and SIZ setbacks

MRCCA Update Example Scenarios

The following are hypothetical examples of how updates to the Critical Area District Chapter will impact property owners. These examples do not consider existing regulations from the Shoreland Overlay or Floodplain Overlay that have not been changed.

1) Property A, Hartman Circle Addition and Landscaping Project



The property owner is proposing to build a two story addition on the back of the house. Additionally, they would like to build a detached patio with steps down to the river and remove some trees to open up the viewshed. The property is within the River Neighborhood District.

Component	Old Rules	New Rules
Addition	Height is governed by the underlying zoning (30 feet); The addition must be set back 100 feet from the OHWL and 40 feet from the top of the bluff	Height is limited to 35 feet or the underlying zoning; The addition must be setback 100 feet from the OHWL and 40 feet from the top of the bluff

Detached Patio	Setbacks are currently applied to "structures and uses". There is not a definition provided for "uses". The City does not issue permits for patios, so this portion of the project would not be regulated.	There appears to be a bluff on the property that will need to be surveyed; The property owner will need to apply for a Critical Area permit. If the detached patio is a water-oriented accessory structure, it could be built within the shore impact zone since the property doesn't already have a water-oriented accessory structure. It would need to meet the following standards: ○ Not be within the bluff impact zone ○ Not exceed 12 feet in height; ○ Not exceed 120 square feet in area; and ○ Be placed a minimum of 10 feet from the ordinary high water level. Stairs must be less than four feet wide and cannot be covered.
Vegetation Removal	Clear cutting is prohibited;	Intensive vegetative removal within a primary conservation area, such as the shore impact zone (within 50 feet of the river) is not allowed except the minimum required for the installation of the patios and stairs. If tree removal within a primary conservation area is needed as part of the project, a vegetation restoration plan will be needed as part of the Critical Area permit. All trees removed within the shore impact zone or existing significant vegetative stands will need to be replaced.

2) Sanitary Sewer Lift Station with freestanding cell tower and free standing sign

A public utility is considering building a sanitary sewer lift station on a riverfront property. They would also like to lease a portion of the land to host a freestanding cell tower and freestanding, off premise advertising sign. The property is located within the River Neighborhood district.

Component	Old Rules	New Rules
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Lift Station	Essential services are generally considered exempt from the rules; however, this is not clear in the current language	Essential services are exempt from setbacks, shore impact zone restrictions, and bluff impact zone restrictions where feasible; Avoid primary conservation areas where feasible; Limit impacts on public river corridor views; Minimize disturbance of native vegetation; Replace disturbed native vegetation with native vegetation
Cell Tower	The project will need to be in a location approved under the Telecommunications Chapter and meet relevant standards; Setbacks are currently applied to "structures and uses". There is not a definition provided for "uses". If a cell tower is interpreted to be a use, it will need to be 40 feet away from the bluffline or 100 feet away from the river;	The project will need to be in a location approved under the Telecommunications Chapter and meet relevant standards; The applicant will need a special use permit; The tower cannot be in a bluff or shore impact zone; The applicant will need to demonstrate that functional coverage cannot be provided through co-location, at a lower height, or at a location outside the MRCCA; Placement must minimize impacts on public river corridor views; Avoid primary conservation areas where feasible;
Free Standing Sign	The Chapter does not cover signs. The sign would need to meet the design guidelines within the Sign Chapter	The sign would need to meet the design guidelines within the Sign Chapter; The sign cannot be readily visible from the river; The sign will be limited based on the MRCCA District;

		The sign cannot be placed in the shore or bluff impact zone; The sign must be setback 40 feet from the bluff and 100 feet from the river
Public Access	Public pedestrian access shall be provided to the riverfront of developments on publicly owned and publicly controlled riverfront property. Access will not be provided where: 1. Unavoidable hazards exist to the public. 2. Public pedestrian access at a particular location cannot be designed or developed to provide a pleasant view or recreational experience.	Public river access shall be provided to the riverfront of developments on publicly owned and publicly controlled riverfront property where feasible

3. Multi-family building, Anna Ave

The property owner is proposing to demolish and reconstruct the existing multi-family building. The property is within the Urban Mixed District



Component	Old Rules	New Rules
Building	The building will need to be 100 feet back from the OHWL and 40 feet back from the bluffline; Height will be determined by the underlying zoning	The building will need to be 50 feet back from the OHWL and 40 feet back from the bluffline; Height is limited to 65 feet or underlying zoning. If the underlying zoning is higher than 65 feet, this may be allowed with a special use permit if mitigated for.
Public Access	Public pedestrian right-of-way including river access shall be provided for any new development that is adjacent to or part of an overall plan of the city for pedestrian movement within the district.	Public river access to and along the river shall be provided for any new development that is adjacent to or part of a city plan.

CITY OF FRIDLEY ZONING CODE
CHAPTER 205.32 O-7. SHORELAND OVERLAY DISTRICT
(Ref 1224)

205.32 O-7 SHORELAND OVERLAY DISTRICT

1. PURPOSE AND INTENT

- A. The unregulated use of shorelands in the city affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise use and development of shorelands of public waters.
- B. Statutory authorization. These shoreland regulations are adopted pursuant to the authorization and policies contained in Minn. Stat. Ch. 103F, Minnesota Regulations, Parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in Minn. Stat. Ch. 462.
- C. Jurisdiction. The provisions of this Code shall apply to shorelands of the public water bodies as classified in Section 205.32.4.B of this Code except for those properties that are also under the jurisdiction of the Critical Area Chapter for which only the Critical Area Chapter will apply. 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 Code.
- D. Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the grading and filling of any shoreland area; and the cutting of shoreland vegetation shall be in full compliance with the terms of this Code and other applicable regulations.
- E. District application. The shoreland overlay district shall be superimposed (overlaid) upon all the zoning districts as identified in Chapter 205 of this Code as existing or amended by the text and map of this Code. The regulations and requirements imposed by the shoreland overlay district shall be in addition to those established by the base zoning district which jointly apply. Under joint application of the districts, the more restrictive requirements shall apply.
- F. Exemption. A structure or use which was lawful before adoption of this Chapter, but which is not in conformity with the provisions of the shoreland overlay district, may be continued subject to Section 205.04.3 of this Code.

2. DISTRICT BOUNDARIES

- A. The boundaries of the shoreland permit overlay district within the city consists of the first tier of riparian lots abutting a protected lake or tributary identified in Section 205.32.4.B of this Code. The specific boundaries of the shoreland permit overlay district are shown on the official Fridley Shoreland Overlay District Map in the Fridley Zoning Code.
- A-B. Properties that are also within the jurisdiction of the Critical Area Chapter, shall remained mapped as part of the Shoreland Overlay District; however, only the provisions of the Critical Area Chapter shall apply.

FRIDLEY CITY CODE
SECTION 205.30. O-5 TELECOMMUNICATIONS TOWERS
AND FACILITIES DISTRICT
(Ref Ords 1112, 1114, 1117, 1136, 1302, 1340, 1347, 1350)

205.30.1. PURPOSE AND INTENT

The general purpose of this Section is to create an overlay zone to regulate the placement, construction, and modification of towers and wireless telecommunications facilities as well as regulate placement, construction and operation of distributed antenna systems in the public right-of-way in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City.

Specifically, the purposes of this Section are:

- A. To protect residential areas and land uses from potential adverse impact of towers and wireless telecommunications facilities;
- B. To minimize adverse visual impact of towers and wireless telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
- C. To promote and encourage shared use/collection of towers and existing antenna support structures as a primary option rather than construction of additional single-use Towers in order to minimize the adverse visual impact of towers and wireless telecommunications Facilities;
- D. To avoid potential damage to property caused by towers and wireless telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained, located, and removed when no longer used or determined to be structurally unsound;
- E. To ensure that towers and wireless telecommunications facilities are compatible with surrounding land uses;
- F. To facilitate the provision of wireless telecommunications services to the residents and businesses of the City in a streamlined, orderly, and efficient fashion;
- G. To encourage the location of towers in industrial and business districts, rather than residential areas;
- H. To enhance the ability of providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
- I. To identify specific sites within the City where wireless telecommunications facilities may be located.

- J. To serve the growing demand for telecommunications services through placement of distributed antenna systems (DAS) in the public right-of-way.

205.30.2. DEFINITIONS

The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning;

“Antenna Support Structure” means any building or other structure other than a tower which can be used for location of wireless telecommunications facilities.

“Applicant” means any Person that applies for a permit for wireless telecommunication facilities or towers, automatic meter reading devices or small wireless facilities. (Ref Ord 1350)

“Application” means the process by which a person submits a request to develop, construct, build, modify, or erect wireless telecommunication facilities or a tower upon land within the City, develop, construct, build, modify, or erect an automatic meter reading system within the City; or develop, construct, build, modify, or erect small wireless facilities within the public right-of-way. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the City concerning such a request. (Ord 1350)

“Approved Site” means a site which has been approved by the City Council as an eligible location for placement of wireless communication facilities.

“Automatic Meter Reading device” means a device which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the public safety and utility bandwidth licensed by Federal Communications commission, including any antenna attached to such device and excluding devices reading and transmitting data from a single utility meter.

“Automatic Meter Reading system” means a series of devices which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the public safety and utility bandwidth licensed by Federal Communications Commission, including any antenna attached to such device.

“City” means the City of Fridley, Minnesota.

“Collocate” or “Collocation” means to install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within or adjacent to an existing wireless support structure that is owned privately or by a local government.

“Electrical Engineer” means an electrical engineer licensed by the State of Minnesota.

“Existing Site” means a tower or antenna support structure installed or erected prior to December 18, 1997, and which is not located on an approved site.

“Micro Wireless Facility” means a small wireless facility that is no larger than twenty-four (24) inches long, fifteen (15) inches wide, and twelve (12) inches high, and whose exterior antenna, if any, is no longer than eleven (11) inches.

“Local Government Unit” means a county, home rule charter or statutory city, town, or the Metropolitan Council.

“Mississippi River Corridor Critical Area” means the area within the River Corridor Boundary and under the jurisdiction of the Critical Area Chapter.

“Owner” means any Person with fee simple title to any approved site, existing site, site approved by special use permit, or wireless telecommunications facility.

“Pad Mount Device” means a device which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the public safety and utility bandwidth licensed by Federal Communications Commission, including any antenna attached to such device like the automatic meter reading device, but, which is installed on its own pedestal and not on an existing public utility structure.

“Person” is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

“Satellite Earth Station Antenna” is all equipment necessary for processing of traffic received from terrestrial distributions prior to transmission via satellite and of traffic received from the satellite prior to transfer of channels of communication to terrestrial distribution systems.

“Small wireless facility” means (1) a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six (6) cubic feet; and (ii) all other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than twenty-eight (28) cubic feet in volume; or (2) a micro wireless facility.

“State” means the State of Minnesota.

“Structural Engineer” means a structural engineer licensed by the State of Minnesota.

“Telecommunications Right-of-Way User” means a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. A cable communication system defined and regulated under Minn. Stat. Chapter 238, and telecommunications activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. §216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chapters 453 or 453A, or a cooperative electric association organized under Minn. Stat. Chapter 308A, are not

telecommunications right-of-way users for the purposes of this Chapter and Minn. Stat. §237.163, except to the extent these entities are offering wireless services.

“Toll” means to stop the running of a relevant time period, such as a review period.

“Tower” Means a self-supporting monopole structure constructed from grade which supports wireless telecommunications facilities. The term “tower” shall not include amateur radio operator’s equipment as licensed by the FCC. Lattice or guyed structures are prohibited.

“Utility Pole” means a pole that is used in whole or in part to facilitate telecommunications or electric service.

“Wireless Backhaul Facility” means a facility used to transport communications data by wire from a wireless facility to a communications network.

“Wireless Facility” means equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including: (1) equipment associated with wireless service; (2) a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and (3) a small wireless facility. “Wireless facility” does not include the following: wireless support structures, wireless backhaul facilities; or coaxial or fiber-optic cables between utility poles or wireless support structures or that are not otherwise immediately adjacent to or directly associated with a specific antenna.

“Wireless Service” means any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including a cable service under United States Code, title 47, section 522, clause (6).

“Wireless Support Structure” means a new or existing structure in a public right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by a local government unit.

“Wireless Telecommunications Facilities” means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications (other than radio or television broadcast communications) which a person seeks to locate or have installed upon or near a tower or an antenna support structure. However, the term wireless telecommunications facilities shall not include:

- A. Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial;
- B. Any satellite earth station reception antenna one meter or less in diameter, regardless of zoning category;
- C. Automatic meter reading systems; and
- D. Small wireless facilities.

205.30.3. NON-CONFORMING USES

- A. Existing sites shall be considered a legal non-confirming use, unless otherwise provided for in this Chapter.
- B. Installation of additional wireless telecommunications facilities beyond those in existence on December 18, 1997, on existing sites is prohibited. Failure to comply with this provision will be considered a violation of this Chapter and subject to the penalties described herein. Routine maintenance of wireless telecommunications facilities on Existing Sites is permitted, except that existing sites and any wireless telecommunications facilities installed on existing sites may not increase in size, height, weight, or otherwise result in an increase in the intensity of the non-conforming use.
- C. If any wireless telecommunications facilities in an existing site are abandoned for a period of one year, such existing site shall lose its legal conforming status and shall be considered an illegal nonconforming use. The abandoned wireless telecommunications facilities shall not be re-established on the site, and must be removed within twelve (12) months of the cessation of operations. If not removed, the city may remove the facility and assess the costs of removal against the Owner(s), according to the procedures established in Chapter 128 of the City Code.

205.30.4. DISTRICT BOUNDARIES FOR OVERLAY ZONE

A Telecommunications Towers and Facilities District, 0-5, is created and shall apply to all land within the City subject to the provisions and use requirements contained in this Section.

205.30.5. USES PERMITTED

- A. The construction of towers and the installation, operation and maintenance of wireless telecommunications facilities shall be permitted use in the approved sites identified on Appendix A to this Ordinance, subject to the provisions of this Chapter. Additional approved sites may be approved by the City Council, subject to the amendment procedures set forth in Section 205.05.04 of the City code, and the requirements of this section.
- B. All principal, special use, and accessory uses allowed in each underlying primary zoning district are permitted in the telecommunications towers and facilities district, except that no towers shall be constructed, and no wireless telecommunications facilities shall be placed on towers or antenna support structures, except as provided for in this Chapter.

C. Special Uses.

(1). The construction of towers and the installation, operation, and maintenance of wireless telecommunications facilities shall be a special use in Zoning districts M-1, M-2, M-3, and M-4, and any abutting railroad rights-of-way.

(2) The construction of towers and the installation, operation, and maintenance of wireless telecommunications facilities shall be an interim use in the Critical Area Overlay District and subject to jurisdiction of the Critical Area Chapter.

D. Automatic Meter Reading System Performance Standards. All automatic meter reading systems must meet the following performance standards:

- (1) All automatic meter reading devices located in the public right-of-way, must obtain an automatic meter reading device permit and pay the appropriate permit fee, as provided for in Chapter 407 and Chapter 11 of the City Code. This permit requirement does not apply to individual meters or mobile automatic reading devices.
 - (2) Mapping information for the site(s) must be provided with the automatic meter reading device permit application in a format compatible to be utilized by the City of Fridley's Geographic Information System (GIS).
 - (3) All automatic meter reading device(s) must be located no higher than the top of a public utility structure and no closer to grade than fifteen (15) feet.
 - (4) Automatic meter reading devices not installed on a public utility structure will be considered as pad mount design. Its location shall be subject to review and approval of the City prior to automatic meter reading device permit application.
 - (5) All automatic meter reading devices must be the same color as the public utility structure on which they are located or as approved by City Staff.
- E. Small Wireless Facilities in the Public Right of Way Performance Standards in Underlying Non-Residential Districts. All small wireless facility operators and small wireless facilities are permitted uses in all non-residential underlying zoning districts within the public right-of-way and shall meet the following criteria and performance standards:
- (1) The small wireless facility shall only be located on a utility pole or wireless support structure, excluding stop lights.
 - a. The utility pole or wireless support structure accommodating the small wireless facility shall not exceed fifty (50) feet in height.
 - (2) The City may prohibit small wireless facility attachment to decorative public utility structures.
 - (3) There shall be no interference with public safety communication or with the original use of the utility pole.
 - (4) The small wireless facility shall not block light emanating from the utility pole.
 - (5) If the small wireless facility is to be attached to a City-owned utility pole or wireless support structure, the applicant shall pay a rental fee to the City pursuant to the City's standard Collocation Agreement.
 - (6) The small wireless facility shall, to the greatest extent possible match the utility pole or wireless support structure in color, material and design and the small wireless facility design shall, to the greatest extent possible minimize exposed cables, wires and other attachment hardware.

- (7) The small wireless facility shall not extend above the top of the existing utility pole by more than ten (10) feet and the maximum height of the existing utility pole or wireless support structure shall be fifty (50) feet.
- (8) The small wireless facility shall be no larger than six (6) cubic feet.
- (9) The small wireless facility shall not extend outward from the utility structure by more than three (3) feet.
- (10) Unless otherwise agreed in a franchise or other agreement between the right-of-way user and the city, small wireless facilities in the right-of-way must be located or relocated and maintained underground in accordance and compliance with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management.
- (11) The small wireless facility applicant shall provide evidence that the utility pole or wireless support structure has adequate structural capacity to carry the additional equipment proposed.
- (12) The small wireless facility applicant must agree that the small wireless facility or any component of the small wireless facility equipment shall be removed and relocated in compliance with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management, if the City or road authority for the public right-of-way in which it is located requires removal or and relocation of the utility pole for a public project.
- (13) The small wireless facility applicant shall submit in writing to the City, written approval from the utility pole or wireless support structure owner, if not the City, for which the small wireless facility will be attached to.
- (14) The small wireless facility applicant shall obtain any and all permits and approvals from road authority for the public right-of-way in which its small wireless facility is located.
- (15) The small wireless facility applicant must be a telecommunications right-of-way user as defined in Minn. Stat. § 237.162, Subd. 4.
- (16) The small wireless facility applicant shall obtain a right-of-way permit from the City's engineering department and comply with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management.
- (17) A small wireless structure shall be at least nine hundred (900) feet in distance from any other small wireless structure.
- (18) All small wireless structures and small wireless facilities shall be installed two (2) feet from the edge of any trail, sidewalk, or pedestrian way so as not to obstruct or impede the trail, sidewalk or pedestrian way.

- (19) The small wireless facility shall be at least twelve (12) feet above the ground.
- (20) The small wireless facility applicant shall comply with all applicable local, state, and federal ordinances, statutes and regulations.
- F. Small Wireless Facility Performance Standards in the Public Right of Way in Underlying Residential Districts. All small wireless facility operators and small wireless facilities are special uses in all underlying residential districts within the public right-of-way and shall meet the following criteria and performance standards:
- (1) The small wireless facility shall only be located on a utility pole or wireless support structure, excluding stop lights.
 - a. The utility pole or wireless support structure accommodating the small wireless facility shall not exceed fifty (50) feet in height.
 - (2) The City may prohibit small wireless facility attachment to decorative public utility structures.
 - (3) There shall be no interference with public safety communication or with the original use of the utility pole.
 - (4) The small wireless facility shall not block light emanating from the utility pole.
 - (5) If the small wireless facility is to be attached to a City-owned utility pole or wireless support structure, the applicant shall pay a rental fee to the City pursuant to the City's standard Collocation Agreement.
 - (6) The small wireless facility shall, to the greatest extent possible match the utility pole or wireless support structure in color, material and design and the small wireless facility design shall, to the greatest extent possible minimize exposed cables, wires and other attachment hardware.
 - (7) The small wireless facility shall not extend above the top of the existing utility pole by more than ten (10) feet and the maximum height of the utility pole or wireless support structure shall be fifty (50) feet.
 - (8) The small wireless facility shall be no larger than six (6) cubic feet.
 - (9) The small wireless facility shall not extend outward from the utility structure by more than three (3) feet.
 - (10) Unless otherwise agreed in a franchise or other agreement between the right-of-way user and the city, small wireless facilities in the right-of-way must be located or relocated and maintained underground in accordance and compliance with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management.

- (11) The small wireless facility applicant shall provide evidence that the utility pole or wireless support structure has adequate structural capacity to carry the additional equipment proposed.
- (12) The small wireless facility applicant must agree that the small wireless facility or any component of the small wireless facility equipment shall be removed and relocated in compliance with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management, if the City or road authority for the public right-of-way in which it is located requires removal or and relocation of the utility pole for a public project.
- (13) The small wireless facility applicant shall submit in writing to the City, written approval from the utility pole or wireless support structure owner, if not the City, for which the small wireless facility will be attached to.
- (14) The small wireless facility applicant shall obtain any and all permits and approvals from road authority for the public right-of-way in which its small wireless facility is located.
- (15) The small wireless facility applicant must be a telecommunications right-of-way user as defined in Minn. Stat. § 237.162, Subd. 4.
- (16) The small wireless facility applicant shall obtain a right-of-way permit from the City's engineering department and comply with any requirements set forth in the right-of-way permit and City Code Chapter 407, Rights of Way Management.
- (17) A small wireless structure shall be at least nine hundred (900) feet in distance from any other small wireless structure.
- (18) All small wireless structures and small wireless facilities shall be installed two (2) feet from the edge of any trail, sidewalk, or pedestrian way so as not to obstruct or impede the trail, sidewalk or pedestrian way.
- (19) The small wireless facility shall be at least twelve (12) feet above the ground.
- (20) The small wireless facility shall be installed at the residential lot's corner in the right of way.
- (21) The small wireless facility applicant shall comply with all applicable local, state, and federal ordinances, statutes and regulations.

205.30.6. CRITERIA FOR ADDING APPROVED SITES TO APPENDIX A

Additional approved sites, other than those provided in Appendix A to this Ordinance, shall be approved by the City Council according to the amendment procedures of Section 205.05.04 of the City code. The criteria used to determine whether a site shall be designated as an approved site shall include, but not be limited to, the following requirements:

- A. Whether the proposed new site is capable of being developed to support more than two operating wireless telecommunications facilities comparable to the others in weight, size, and surface area.
- B. Whether the proposed new site poses a risk of explosion, fire, or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals; and
- C. Whether the proposed new site is necessary and that useable approved sites are not located within a one-half (1/2) mile radius of the proposed new site; and
- D. Whether all foreseeable telecommunications uses of the proposed site could comply with any separation and buffer requirements of the underlying zoning district;
- E. Whether all foreseeable telecommunications uses of the proposed new site could comply with the setback requirements of the underlying zoning district; and
- F. Whether the proposed site is accessible for service vehicles;
- G. If applicable, whether the proposed site has been designed and certified by a structural engineer to be structurally sound and, at minimum, in conformance with the Building and Electric Codes adopted by the City, the National Electric Safety Code, and any other standards and requirements outlined in this Section.
- H. If applicable, whether the approved site complies with all applicable Federal Aviation Administration lighting and painting regulations.
- I. Whether the proposed site will further the City's objective that all towers, antenna support structures, and wireless telecommunications facilities be designed to blend into the surrounding environment.
- J. Whether the proposed site has adequate open space to allow wireless telecommunications facilities to be installed without detrimentally impacting landscape, displacing parking, or impeding sight lines of a current or future principal use.
- K. Whether the proposed site adequately contributed to the City's overall effort to adequately meet the needs of the wireless telecommunications industry.
- L. Whether the proposed site has amenities such as trees that will allow screening and sight line relief. If no, whether the combination of site size and other site features help to provide sight line relief.
- M. Whether there are other structures near the proposed site that can serve as visual distractions such as high power transmission structures, highway shoring, billboards.
- N. Whether there are existing buildings or natural topographic features that meet the height requirements of wireless telecommunications facilities without a tower structure, or which allow for a lower overall height of any necessary Tower.

- O. Whether there is adequate space on the proposed site so that the base of any necessary Tower can accommodate essential equipment.
- P. Whether the proposed site is outside of any underlying residential zoning districts.
- Q. Whether housed equipment can be placed on top or on the side of a structure that currently exists in the proposed site.

R. If within the Mississippi Corridor Critical Area, whether the site can comply with the Critical Area Chapter.

**205.30.7. APPLICATION FOR PLACEMENT OF TOWERS OR WIRELESS
TELECOMMUNICATIONS FACILITIES ON APPROVED SITES IN THE CITY.**

- A. All persons seeking to install, operate and maintain towers wireless telecommunications facilities in approved sites in the city must file a telecommunication site permit application with the City which shall include:
 - (1) The names, address, and telephone number of the Applicant; and
 - (2) Written, technical evidence from a qualified and licensed structural engineer that the proposed tower or antenna support structure is capable of supporting the equipment necessary to install, operate, and maintain the proposed antenna. The engineer shall also certify the capability of the tower to provide adequate structural support considering existing or other proposed antenna installations. The engineer shall also assess and state the design safety margin of the entire antenna support system. The engineer shall state that within the limits of engineering certainty, if the structure would fall or collapse for any reason or due to any event, the structure will be completely contained within the area identified; and
 - (3) If proposed on a City-owned site, a completed application form for lease approval as provided by the City; and
 - (4) A report from a qualified and licensed professional engineer which described the height and design of the proposed wireless telecommunications facility including a cross-section and elevation; and
 - (5) A scalable site plan drawn at an engineering scale showing the location of the wireless telecommunications facility in relation to surrounding structures; and
 - (6) If located on a water tower, a written report addressing the requirements contained herein for water towers; and
 - (7) Foundation, cross-section, and building plans for installation of the wireless telecommunications facility; and
 - (8) An application fee as required by Chapter 11; and

- (9) The application shall also contain an affirmative statement indicating that the applicant agrees to comply with the provisions in Section 205.30.25. regarding abandonment; and
 - (10) No new or existing wireless telecommunications service will interfere with public safety telecommunications. Before the introduction of new service or before implementing any change in existing service, all wireless telecommunications service providers shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process; and
 - (11) Application for a building permit from the City pursuant to Chapter 206 of the code; and
 - (12) A statement as to whether the proposed development of an approved Site is capable of being developed to support more than two (2) operating wireless telecommunications facilities comparable to the others in weight, size, and surface area; and
 - (13) Written, technical evidence from an independent consulting engineer licensed to practice geological engineering in the State of Minnesota confirming that the soil at the location of the tower or wireless telecommunication facility is capable of supporting the proposed antenna arrays, equipment, and personnel performing typical work functions; and
 - (14) A landscaping plan showing location of materials, height at planting, types of materials, and installation practices.
- B. All persons seeking to install, operate, and maintain towers or wireless telecommunications facilities in M-1, M-2, M-3, or M-4 Zoning Districts as a special use permit shall submit the information required in 205.30.07.A, except items (3) and (11).

205.30.8. APPLICATION FOR AN AUTOMATIC METER READING DEVICE IN THE CITY

All persons seeking to install, operate and maintain automatic meter reading systems in the City must file an application with the City, which shall include:

- A. The name, address and telephone number of the applicant and property owner; and
- B. Written, technical evidence from a qualified Structural Engineer that the integrity of the structure on which a proposed automatic reading device(s) will be attached and the attachment device itself will not jeopardize the structural integrity of the public utility structure; and
- C. A location plan matching the public utility structure identification (address) and the appropriate automatic meter reading device; and
- D. An individual automatic meter reading device permit fee as required by Chapter 11; and

- E. The application shall contain an affirmative statement indicating that the applicant agrees to comply with the provisions in section 205.30.25. regarding abandonment; and
- F. No automatic meter reading system will interfere with public safety telecommunications. Before the introduction of new service or before implementing any change in existing service, all automatic meter reading system operators shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

205.30.9. APPLICATION FOR PLACEMENT OF SMALL WIRELESS FACILITIES IN THE RIGHT-OF-WAY

- A. All persons seeking to install, operate and maintain small wireless facilities within the right-of-way within the City must file a right-of-way permit application with the City that, in addition to any other requirements set forth in City Code Chapter 407, includes:
 - (1) The names, address, and telephone number of the right-of-way permit applicant; and
 - (2) Written technical evidence from a qualified and licensed structural engineer that the proposed small wireless facilities utility pole or wireless support structure is capable of supporting the equipment necessary to install, operate and maintain the small wireless facility. The engineer shall also certify the capability of the utility pole or wireless support structure to provide the adequate support needed considering the existing or other proposed equipment installations. The engineer shall also assess and state the design safety margin of the entire utility pole or wireless support structure and small wireless facility. The engineer shall state that within the limits of engineering certainty, if the utility pole or wireless support structure would fall or collapse for any reason due to any event, the utility pole or wireless support structure will be completely contained within the area identified; and
 - (3) A completed right-of-way permit application form as provided by the City; and
 - (4) A report from a qualified and licensed professional engineer which described the height and design of the proposed small cell wireless facility including a cross-section and elevation; and
 - (5) A scalable site plan drawn at an engineering scale showing the location of the small wireless facility in relation to the surrounding structures; and
 - (6) Foundation, cross-section, and building plans for installation of the small wireless facility; and
 - (7) A right-of-way application and fee as required by Chapter 11; and
 - (8) A building permit application and fee pursuant to Chapter 206;
 - (9) An escrow fee as set forth in Chapter 11 to be held and utilized in the event the small wireless facility is abandoned without removal by the applicant and

- (10) The right-of-way application shall contain an affirmative statement indicating that the applicant agrees to comply with the provisions of 205.30.5.E for small wireless facility performance standards and 206.30.25 for abandonment.
- (11) Written, technical evidence from an independent consulting engineer licensed to practice geological engineering in the State of Minnesota confirming that the soil at the location of the small wireless facility is capable of supporting the utility pole or wireless support structure to which the small wireless facility will be attached.
- (12) Documentation that the small wireless facility applicant has applied for and obtained any licenses and approvals that are required by federal and state agencies.

B. Action on Small Wireless Facility Permit Applications.

- (1) Approval or Denial. The city shall approve or deny a small wireless facility permit application within ninety (90) days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.
 - a. Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to fifteen (15) small wireless facilities, or a greater number if agreed to by the city, provided that all small wireless facilities in the application:
 - i. Are located within a two (2) mile radius;
 - ii. Consist of substantially similar equipment; and
 - iii. Are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities sites and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

- b. Tolling of Deadline. The ninety (90) day deadline for action on a small wireless facility permit application may be tolled if:
 - i. The city receives applications from one or more applicants seeking approval of permits for more than thirty (30) small wireless facilities within a seven (7) day period. In such case, the city may extend the deadline for all such applications by thirty (30) days by informing the affected applicants in writing of such extension.
 - ii. The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within thirty (30) days of receipt of the application. Upon submission of additional documents or information, the city shall have ten (10) days to notify the applicant in writing of any missing information.

- iii. The city and a small wireless facility applicant agree in writing to toll the review period.
- (2) **Scope of Approval.** An approval of a small wireless facility permit under this section authorizes the installation, placement, maintenance, or operation of a small wireless facility to provide wireless service and shall not be construed to confer authorization to (1) provide any service other than a wireless service, or (2) install, place, maintain, or operate a wireline backhaul facility in the right-of-way.
- (3) **Denial.** Any denial of a right-of-way or small wireless facility permit must be made in writing and must document the basis for the denial. The city must notify the applicant in writing within three (3) business days of the decision to deny the permit. If a permit application is denied, the applicant may cure the deficiencies identified by the city and resubmit its application. If applicant user resubmits the application within thirty (30) days of receiving written notice of the denial, no additional filing or processing fee shall be imposed. The city must approve or deny the revised application within thirty (30) days after the revised application is submitted.

205.30.10. APPLICATION PROCESS

- A. Upon submission of an application on an approved site, for an antenna meter reading system, or small wireless facility, the City shall notify the applicant in writing to confirm if the application is complete addressing all of the requirements as required by this Section. If the application is incomplete, the letter will specify what information is missing and the applicant must then submit a new application. If an application is submitted on an approved site which is owned by the City, a lease agreement must be approved by the City Council. The City shall comply with the time deadlines for agency action as dictated in Minnesota State Statutes. Construction or installation on approved sites may begin upon approval of the lease agreement, if necessary, and issuance of a building permit. Construction or installation on an automated meter reading system or small wireless facility may begin upon approval of the application and issuance of any required permits and execution of any required Collocation Agreement.
- B. If a small wireless facility, tower or wireless telecommunications facility is approved by a special use permit, the applicant must also apply for and receive a building permit.

205.30.11. TOWER HEIGHT

Tower height shall be measured from the average adjoining grade to the highest point of construction of any tower or wireless telecommunications facilities. Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one hundred twenty-five (125) feet. An additional twenty-five (25) feet of tower height shall be permitted for a total height of one hundred fifty (150) feet, if all of the following criteria can be met:

- A. The tower exists within a lineal dimension of two hundred fifty (250) feet of any one of the following structures that exceed the height of one hundred fifty (150) feet. These structures include: buildings, power lines, and train/rail yard fixtures such as light fixtures,
- B. Tower can meet or exceed any local, state, or federal regulations relative to tower fall distance.
- C. All permits required to replace or expand an existing tower be reviewed and approved by the City prior to alteration.

205.30.12. STEALTH DESIGN AND EXTERIOR FINISHES

All approved sites, towers, and wireless telecommunications, and small wireless facilities shall be designed to blend into the surrounding environment. Monopoles with antenna arrays shall be finished so as to be compatible with other buildings or structures in the area, and shall be finished with a non-corrosive material. Wireless telecommunications facilities placed on water towers shall be finished with a non-corrosive material to match the color of the water tower.

205.30.13. ILLUMINATION

Towers shall not be artificially illuminated except as required by the Federal Aviation Administration ("FAA").

205.30.14. LANDSCAPING AND SCREENING

All sites shall include appropriate landscaping as required herein and shall comply with all landscaping requirements of the underlying zoning district. Accessory above-ground equipment must utilize existing buildings or structures, if possible. If no existing structures are available, the owner of the wireless telecommunications facilities may construct such a structure. At minimum, all ground equipment shall be fully screened from public rights-of-way or residential property by existing structures, a brick decorative wall, or a solid one hundred percent (100%) opaque vegetative enclosure, six feet in height at planting.

205.30.15. SECURITY

All towers must be reasonably posted and secured to protect against trespass. Chain link fences may be used to protect towers and wireless telecommunications facilities. Barbed or razor wire is prohibited. All facilities shall be designed to discourage unauthorized climbing on the structure.

All small wireless structures shall be designed in a manner so that the structure from ground level to twelve (12) feet prevents unauthorized climbing on the structure.

205.30.16. INSTALLATION REQUIREMENTS ON WATER TOWERS AND IN CITY

Installation of wireless telecommunication facilities on water towers will be permitted when the city is fully satisfied that the following requirements are met:

- A. The wireless telecommunications facility will not increase the risks of contamination to the City's water supply.
- B. There is sufficient room on the structure and/or in the grounds to accommodate the wireless telecommunication facility.
- C. The presence of the wireless telecommunication facility will not increase the water tower or reservoir maintenance costs to the City.
- D. The presence of the wireless communication facility will not be harmful to the health of workers maintaining the water tower or reservoir.
- E. All state and federal regulations pertaining to non-ionizing radiation and other health hazards has been satisfied.

205.30.17. BUILDING PERMIT REQUIRED

A building permit is required for installation of any tower, wireless telecommunications facility, or small wireless structure. The completed installation, including all associated buildings, shall comply with all applicable building codes including but not limited to the most currently adopted version of the N.F.P.A. 70 National Electrical Code, TIA/EIA 222 Structural Standards for steel antenna towers, and others as may be determined by the Building Official.

205.30.18. SETBACKS

The tower or wireless communications facility shall be located in rear or side yard areas and shall be set back at least ten (10) feet from side or rear lot lines.

205.30.19. SIGNS

Signs no larger than four (4) square feet in size and attached to a structure are the only permitted signage associated with the tower or wireless telecommunications facility.

205.30.20. CERTIFICATIONS AND INSPECTIONS

- A. All towers and wireless telecommunications facilities shall be periodically reviewed by the City to be structurally sound and in conformance with the requirements of the City Code, this Chapter, any conditions of approval placed on a special use permit and all other construction standards set forth by the City's Code, and federal, state, and local law. Existing sites may be inspected for compliance with this Section at any time if the City believes there are questions regarding compliance with the City Code, this Section, any conditions of approval placed on a special use permit, all other construction standards set forth in the City's Code, and all other federal, state and local laws.
- B. The City and its agents shall have authority to enter onto any approved site, existing site, or site approved by special use permit between the inspections and certifications required above, to inspect the site for the purpose of determining whether the sites comply with the State Building and Electrical Codes, the National Electric Safety Code and all other construction standards provided by the City's Code and federal and State law.
- C. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the owner(s). All expenses related to such inspections by the City shall be borne by the site owner(s).

205.30.21. MAINTENANCE

- A. Ordinary and reasonable care of towers, wireless telecommunications facilities, automatic meter reading systems/devices, and small wireless facilities shall be employed at all times. All towers, wireless telecommunications facilities, automatic meter reading systems, and small wireless facilities shall at all times be kept and maintained in good condition, order and repair so that the same shall not menace or endanger the life or property of any person.
- B. Owners shall install and maintain towers, wireless telecommunications facilities, automatic meter reading systems/devices, and small wireless facilities in compliance with the requirements of the National Electric Safety Code and all FCC, State and local regulations, and in such manner that will not interfere with the use of other property.
- C. All maintenance or construction on towers, wireless telecommunications facilities, automatic meter reading systems/devices, or small wireless facilities shall be performed by qualified maintenance and construction personnel.
- D. All owners of wireless telecommunications facilities, automatic meter reading systems/devices, and small wireless facilities shall maintain compliance with current radio frequency emission standards of the FCC. In order to provide information to its citizens, copies of all FCC information concerning wireless telecommunications facilities, automatic meter reading systems/devices, and small wireless facilities shall be made available to the City and updated annually.

- E. In the event the use of a tower, a public utility structure, a wireless telecommunications facility, an automatic meter reading system/device, or small wireless facilities is discontinued by the owner of the wireless telecommunications facility, automatic meter reading system, or small wireless facilities, or in the event an owner files notice to the FCC of its interest to cease operating the owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued.

205.30.22. PRIORITY FOR USE

Priority for use of the installation, maintenance and operation of towers and wireless telecommunications facilities will be given to the following entities in descending order:

- A. City of Fridley.
- B. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the City of Fridley and private entities with a public safety agreement with the City of Fridley.
- C. Other governmental agencies, for uses which are not related to public safety.
- D. Entities providing licensed commercial wireless telecommunication services including cellular, public and personal communication services (PCS), and similar services that are marketed to the general public.

205.30.23. CO-LOCATION

Towers shall be designed to support more than two (2) wireless telecommunications facilities. Wireless support structures shall be designated to support more than one (1) small wireless facility.

205.30.24. FEES

The applicant shall pay the fees listed in Chapter 11 for processing a request to install, operate, and maintain a tower, public utility structure, pad mount device, a wireless telecommunications facility, an automatic meter reading system and/or devices, or small wireless facility in the City. If deemed as necessary due to the nature of the application, the applicant shall also be required to reimburse the City for its cost to retain a consultant to review the requested application.

205.30.25. ABANDONMENT

If any site for which approval to install, maintain, and operate a tower, or a public utility structure, or wireless telecommunications facilities, automatic meter reading systems or small wireless facilities has been granted by the City shall cease to be used for a period of three hundred sixty-five (365) consecutive days, the City shall notify the wireless telecommunications facility operator, automatic meter reading device operator, the small wireless facility operator and the owner of the property, that said site or system has been deemed abandoned. Upon a finding of abandonment by the City, the tower, public utility structure, wireless telecommunications facilities, automatic meter reading system, or small wireless facilities must be removed or an annual user fee shall be paid to the City. If it is determined that the abandoned tower, public utility structure, wireless telecommunications facility, automatic meter reading system or small wireless facilities cannot be removed in a reasonable time period by the owner or operator, the City shall assess all costs related to the removal to the owner(s) or operator(s), according to the procedures established in Chapter 128 of the City Code.

205.30.26. NO RECOURSE

No Recourse against the City. Every permit issued to an applicant for construction, installation, maintenance, or operation of a wireless telecommunications facility, automated meter reading system/device or small wireless facilities shall provide that, without limiting such immunities as the City of other persons may have under applicable law, an applicant/permit holder shall have no monetary recourse whatsoever against the City of its elected officials, boards, commissions, agents, employees or volunteers for any loss, costs, expense or damage arising out of any provision or requirements of this Ordinance or because of the enforcement or lack of enforcement of this Ordinance or the City's exercise of its authority pursuant to this Ordinance, a permit, a lease, or other applicable law, unless the same shall be caused by criminal acts or by willful gross negligence. Nothing herein shall be construed as a waiver of sovereign immunity.

205.30.27. DATA PRACTICES

All documentation submitted pursuant to this Chapter by an applicant shall be subject to and governed by the Minnesota Government Data Practices Act.

205.30.28. SEVERABILITY

If any clause, section, or other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

205.30.29. VIOLATION

Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor and subject to the provisions of Chapter 901 of the Fridley City Code.



June 8, 2023

Rachel Workin
Environmental Planner
City of Fridley
7071 University Ave. NE
Fridley, MN 55432

Re: Conditional Approval of Fridley's MRCCA and Shoreland Ordinances

Dear Ms. Workin:

Thank you for sending your proposed Mississippi River Corridor Critical Area (MRCCA) ordinance (received May 10, 2023 as well as June 5, 2023 with additional content) and the proposed changes to your shoreland ordinance (received April 24, 2023) to address administrative overlap between the two sets of regulations.

We have found that the MRCCA ordinance is substantially consistent with Minnesota Statutes, §116G and Minnesota Rules, chapter 6106 and that the Shoreland ordinance is substantially consistent with Minnesota Rules, chapters 6120.2500 to 6120.3900. I am pleased to inform you that the proposed MRCCA and Shoreland ordinances are hereby approved, provided all of the conditions of approval in this letter are met. The City may now adopt the ordinances. Minnesota Rules 6106.0070 Subp.3.G. require local governments to adopt the MRCCA ordinance within 60-days of DNR approval.

Conditions of Approval

The following conditions must be met before the DNR will issue final approval:

1. Please submit the MRCCA administrative checklist (attached) and related documents.

Next Steps

Following are the steps for completing and receiving final DNR approval for your ordinances:

1. Address the item under conditions of approval.
2. The City Council adopts the ordinances.
3. Email TWO completed Ordinance Processing Checklists (attached), one each for the MRCCA and shoreland ordinance adoptions AND the MRCCA administrative checklist (attached) and the documents identified on the two checklists within 10 days of City Council adoption to:
 - a. Wes Saunders-Pearce, Area Hydrologist
 - b. Ordinance.review.dnr@state.mn.us

4. We will review the two ordinances adopted by the City Council for consistency with the ordinances that received conditional approval. We will also send a copy of the MRCCA ordinance to the National Park Service and the Metropolitan Council as required by rule.
5. If the adopted ordinances are consistent, I will send you a "final approval" letter. Under Minnesota Statutes, §116G Subd. 8 (e), only ordinances receiving final approval from the commissioner have the force and effect of law.

A MRCCA ordinance is an important land use regulation that helps to protect surface water quality, near shore habitat, and scenic character of the MRCCA. We appreciate your efforts to protect these resources for all present and future Minnesotans. Wes Saunders-Pearce is available to assist with ordinance technical guidance and to consult with you on other land and water-related projects.

Sincerely,



Megan Moore,
EWR Central Region south District Manager

Attachments:

Proposed MRCCA Ordinance with DNR Comments
Proposed Shoreland Ordinance
Ordinance Processing Checklist
MRCCA Administrative Checklist

- c: Wes Saunders-Pearce, DNR Area Hydrologist
Raya Esmaeili, Metropolitan Council
Adam Muilenburg, National Park Service
Ordinance.review.dnr@state.mn.us



101 East Fifth Street
Suite 2000
Saint Paul, MN 55101

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

June 14, 2023

Dear Councilmembers and Planning Commissioners:

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

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

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

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

We're pleased with Fridley's draft MRCCA ordinance. One of the ordinance's strongest points is the inclusion of clear, strong standards to ensure that variances and CUPs do not negatively harm the river or its important features. Including this level of detail in the ordinance makes it easier to consistently apply when projects arise.

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

When complex MRCCA questions are involved, receiving this technical and legal guidance so late in the process makes public hearings more confusing and reduces the likelihood that the commission is prepared to vote at that meeting. A longer notification period makes the process smoother for all

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

Please don't hesitate to contact me at ctoberman@fmr.org or 651-222-2193 x29 to discuss any of our comments further. FMR also has extensive MRCCA ordinance resources (including videos, handouts, and interactive maps) available at www.fmr.org/river-rules.

Thank you for your time and consideration.

For the river,

A handwritten signature in black ink that reads "Colleen O'Connor Toberman". The signature is fluid and cursive, with the first and last names being more prominent.

Colleen O'Connor Toberman
Land Use & Planning Director



Fridley Civic Campus

7071 University Ave N.E. Fridley, MN 55432
763-571-3450 | FAX: 763-571-1287 | FridleyMN.gov

PUBLIC HEARING NOTICE

Dear Fridley Property Owner,

The City of Fridley (City) is proposing changes to the City Code regulating the Mississippi River Corridor Critical Area (MRCCA). The MRCCA is a stretch of land along the river that has been granted special protection by the State of Minnesota (the State) due to the river's natural, cultural, and scenic value. Additional local zoning regulations specific to the MRCCA have been in place since 1973 to support this designation. In 2017, the State adopted updated rules to guide development in the MRCCA. The City is now in the process of aligning the Critical Area Overlay District chapter of City Code for consistency with these new rules, and public hearings have been scheduled in front of the Planning Commission and City Council.

You are receiving notice of these hearings because your property has been identified to likely contain a "primary conservation area". Future projects on properties with a primary conservation area may be impacted by these rules or need a Critical Area permit before proceeding. Additional information is available at FridleyMN.gov/CriticalArea.

Date of Hearings: Planning Commission Meeting, Wednesday, June 21, 2023 at 7:00 p.m.
The Planning Commission meeting is televised live the night of the meeting on Channel 17.

City Council Meeting, Monday, July 10, 2023 at 7:00 p.m.
The Council meeting is televised live the night of the meeting on Channel 17.

Location of Planning Commission and City Council Meeting Hearings: Meetings will be held in person at Fridley Civic Campus located at 7071 University Avenue NE.

How to Participate:

1. You may attend the public hearing in person and testify.
2. You may submit a letter in advance of the meeting to Rachel Workin, Environmental Planner at the address above or by email at rachel.workin@fridleymn.gov

Mailing date: June 9, 2023

Publication date: June 9, 2023

**If you require auxiliary aids or services to participate to communicate in the meeting, please contact Roberta Collins at 763-572-3500 or roberta.collins@fridleymn.gov no later than June 14, 2023 for the Planning Commission meeting and June 30, 2023 for the City Council meeting. The TDD # is: 763-572-3534.*

Mississippi River Corridor Critical Area (MRCCA) Rule Changes

Proposed changes to the Critical Area Overlay District Chapter of City Code may require you to obtain a Critical Area permit prior to performing work on your property. If a primary conservation area exists on your property, the following projects will need to be permitted by the City:

- Construction or replacement of structures and additions including buildings, building additions, decks, patios, gazebos or access paths to the river
- Vegetation clearing within a primary conservation area
- Land alteration within the bluff impact zone or water quality impact zone including construction or replacement of rock riprap, retaining walls, and other erosion control structures

The proposed City Code and information on permit requirements including setbacks, standards, and vegetation management can be found at FridleyMN.gov/CriticalArea. Permit application materials will become available following the adoption of the new City Code. Projects completed prior to the adoption of the new City Code do not need to obtain a Critical Area permit but most follow current Critical Area rules.

Primary Conservation Areas

Primary conservation areas are natural and cultural resources identified in the 2017 MRCCA Rules. A map of primary conservation areas can be found at FridleyMN.gov/CriticalArea. These include:

- Bluff: A natural feature with an average slope exceeding 18% with a height over 25 feet over a distance of 25 feet
- Bluff Impact Zone: Area within 20 feet of the top of a bluff
- Shore Impact Zones: Area within 50% of the required structure setback from the river equaling 25 feet- 50 feet from the ordinary high water line of the river depending on the MRCCA district. This includes properties directly along the river.
- Natural Drainage Route: Properties directly along Springbrook Creek, Stonybrook Creek, Oak Glen Creek, or Rice Creek
- Significant Existing Vegetation Stands: Largely intact and connected plant communities along the river or natural drainage routes. This includes vegetated areas adjacent to the river and Riverview Heights Park.

Questions?

Please contact Rachel Workin, Environmental Planner at Rachel.Workin@FridleyMN.gov or 763-572-3594.

CURRENT RESIDENT
100 TALMADGE WAY NE
FRIDLEY MN 55432

MAERTENS JOSEPH D & IRENE M
1113 GUAVA ISLE
FT LAUDERDALE FL 33315

CURRENT RESIDENT
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CURRENT RESIDENT
12 TALMADGE WAY NE
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CURRENT RESIDENT
120 TALMADGE WAY NE
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CURRENT RESIDENT
133 STONYBROOK WAY NE
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CURRENT RESIDENT
136 RIVER EDGE WAY NE
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139 GLEN CREED RD NE
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193 HARTMAN CIR NE
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210 CRAIGBROOK WAY NE
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2100 3RD AVE
ANOKA MN 55303

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235 LOGAN PKY NE
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24 TALMADGE WAY NE
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245 STONYBROOK WAY NE
FRIDLEY MN 55432

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25 37TH AVE NE
FRIDLEY MN 55421

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ST PAUL MN 55102

CURRENT RESIDENT
250 CRAIGBROOK WAY NE
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RIVERWOOD RENTALS LLC
2505 SILVER LN
MINNEAPOLIS MN 55421

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323 LOGAN PKWY NE
FRIDLEY MN 55432

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325 EAST MAIN ST
ANOKA MN 55303

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350 S 5TH ST
MINNEAPOLIS MN 55415

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350 SOUTH 5TH ST RM 203
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4500 MARSHALL ST NE
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RASMUSSEN TRUSTEE, BELVA H
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CURRENT RESIDENT
7830 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7836 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7842 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7846 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7854 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7860 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7866 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7868 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7874 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7880 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7886 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7892 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7898 ALDEN WAY NE
FRIDLEY MN 55432

CURRENT RESIDENT
7951 BROAD AVE NE
FRIDLEY MN 55432

CURRENT RESIDENT
7981 BROAD AVE NE
FRIDLEY MN 55432

CURRENT RESIDENT
7995 BROAD AVE NE
FRIDLEY MN 55432

ZHANAY, JASMINE
8020 E RIVER RD NE
FRIDLEY MN 55432

CURRENT RESIDENT
8020 EAST RIVER RD NE
FRIDLEY MN 55432

CURRENT RESIDENT
8051 BROAD AVE NE
FRIDLEY MN 55432

BREYFOGLE THOMAS J
8081 BROAD AVE
FRIDLEY MN 55432

CURRENT RESIDENT
8081 BROAD AVE NE
FRIDLEY MN 55432

FREYINGER RIVERROAD PROPERTIES
8100 12TH AVE S STE 200
BLOOMINGTON MN 55425

CURRENT RESIDENT
8320 BROAD AVE NE
FRIDLEY MN 55432

ANOKA COUNTY
ATTN PARKS DEPT
ANOKA MN 55303

NORTHERN STATES POWER CO
ATTN TAX DEPT
MINNEAPOLIS MN 55401

GRUNWALD, FLORENCE E
PO BOX 123
FOREST LAKE MN 55025

STERLING GEORGETOWN LLC
PO BOX 2108
FARGO ND 58107

MINNEAPOLIS CITY OF
PO BOX 211208
EAGAN MN 55121