



Environmental Quality and Energy Commission Meeting

October 08, 2024

7:00 PM

Fridley Civic Campus, 7071 University Ave N.E.

Agenda

Call to Order

Approval of Agenda

Approval of Meeting Minutes

- [1.](#) Approve the Minutes from the Environmental Quality and Energy Commission meeting of September 10, 2024

New Business

- [2.](#) Floodplain Ordinance Update
- [3.](#) Critical Area Ordinance Update
- [4.](#) Shoreland Ordinance Update

Old Business

- [5.](#) Energy Action Plan Updates
- [6.](#) Grant Updates
- [7.](#) Outreach and Events Updates

Other Items

- [8.](#) Informal Status Reports

Adjournment

Accessibility Notice:

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- Si necesita ayuda de interpretación o traducción gratis, comuníquese con el personal de la ciudad.
- Yog tias koj xav tau kev pab txhais lus los sis txhais ntaub ntawv dawb, ces thov tiv tauj rau Lub Nroog cov neeg ua hauj lwm.
- Haddii aad u baahan tahay tarjumaad bilaash ah ama kaalmo tarjumaad, fadlan la xiriir shaqaalaha Magaalada.

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AGENDA REPORT

Meeting Date: October 8, 2024

Meeting Type: Environmental Quality and Energy Commission

Submitted By: Rachel Workin, Environmental Planner

Title

Approve the Minutes from the Environmental Quality and Energy Commission meeting of September 10, 2024

Background

Approve the minutes from the Environmental Quality and Energy Commission meeting of September 10, 2024.

Recommendation

Approve the minutes from the Environmental Quality and Energy Commission meeting of September 10, 2024.

Attachments and Other Resources

- Environmental Quality and Energy Commission Minutes- September 10, 2024

Vision Statement

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



ENVIRONMENTAL QUALITY & ENERGY COMMISSION MEETING

September 10, 2024

7:00 PM

Fridley Civic Campus, 7071 University Ave N.E.

MINUTES

Call to Order

Chair Klemz called the Environmental Quality and Energy Commission to order at 7:00 p.m.

Roll Call

Present: Aaron Klemz

Justin Foell

Sam Stoxen

Amy Dritz

Absent: Heidi Ferris

Avonna Starck

Mark Hansen

Others Present: Rachel Workin, Environmental Planner

Approval of Agenda

Motion by Commissioner Foell to approve the meeting agenda. Seconded by Commissioner Dritz. The motion carried unanimously.

Approval of Meeting Minutes

1. Approval of August 13, 2024 Environmental Quality and Energy Commission Meeting Minutes

Commissioner Dritz noticed a typographical error of the word "School" in the minutes. Motion by Commissioner Dritz to approve the August 13, 2024 meeting minutes with this change. Seconded by Commissioner Stoxen. The motion carried unanimously.

New Business

2. Election of Vice Chair

Chair Klemz nominated Commissioner Dritz as Vice Chair through December 31, 2024. Seconded by Commissioner Foell. The motion carried unanimously.

3. Rescheduling of November 11, 2025 meeting

Motion by Commissioner Foell to reschedule the November 11, 2025 meeting to November 12, 2025. Seconded by Commissioner Stoxen. The motion carried unanimously.

4. Floodplain Ordinance Update

Ms. Workin shared proposed updates to the City's floodplain ordinance for discussion. The commissioners asked Ms. Workin to share the current code language.

Old Business

5. Energy Action Plan updates

Ms. Workin shared that the City was in discussions with Cedar Creek Energy to install solar panels on the Moore Lake building.

6. Grant Updates

Ms. Workin shared that the City had received a lot of applications for the ReLeaf Grant. Ms. Workin discussed the City's electric landscaping equipment.

7. Outreach and Event updates

Ms. Workin shared that the City will be starting to collect baby gear items in October.

Other Items

8. Informal Status Reports

Chair Klemz shared that NSCA was closing and having a final sale on Saturday.

Adjournment

Motion by Commissioner Dritz to adjourn the meeting. Seconded by Commissioner Foell. The Motion carried unanimously. The meeting was adjourned at 7:54 p.m.

Respectfully submitted,

Rachel Workin

Environmental Planner



AGENDA REPORT

Meeting Date: October 8, 2024

Meeting Type: Environmental Quality and Energy Commission

Submitted By: Rachel Workin, Environmental Planner

Title

Floodplain Ordinance Update

Background

The City of Fridley is updating its zoning code as part of a comprehensive recodification process. The zoning code includes a floodplain overlay district that imposes additional regulations on properties in mapped floodplains for the protection of life and property. Including these regulations within the zoning code is required so that Fridley property owners can participate in the National Flood Insurance Program. The State of Minnesota has adopted state statutes outlining these regulations to ensure that City's meet FEMA requirements. Accompanying the statute is a model ordinance that provides City's clear direction on what their code language should include. The City's ordinance was last updated in 2015, the State statute and accompanying model ordinance were subsequently updated in 2022. Staff is recommending repealing the existing ordinance and replace it with a modified version of the State's model ordinance. The modified version of the model ordinance is attached. Blue language is optional. The primary change relates to updated definitions for structure, principal structure, and accessory use which results in more clarity around how non-principal structures should be elevated. There is also more clarification on the process for approving alternative elevation methods as well as more supporting technical information for how alternative elevation methods should be constructed. These changes are a result of the DNR's cross-referencing of the model ordinance with state statute and FEMA requirements to ensure that the model reflects the authorized statute. Efforts were also made to rewrite the code in plain language to make it easier to understand. A copy of the City's current code can be found: https://fridley.municipalcodeonline.com/book?type=ordinances#name=SECTION_205.27_O-1_FLOODPLAIN_MANAGEMENT_OVERLAY_DISTRICT

Recommendation

Staff recommend that the Commission approve the proposed floodplain ordinance.

Attachments and Other Resources

- Draft Ordinance Language

Vision Statement

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

Minnesota Model Floodplain Ordinance

This model ordinance has been developed to be consistent with Minnesota Statutes, Chapter 103F, Minnesota Rules, parts 6120.500—6120.6200; 44 CFR § 59 to 78; Federal Emergency Management Agency (FEMA) technical bulletins and policies; as well as other state agency statutes and rules. Ordinance provisions may differ slightly from the wording in law due to inconsistencies or for ease of administration. The model also contains administrative language not in rule to help clarify procedures for the purposes of ordinance administration. Where applicable, the most restrictive standards have been incorporated into this ordinance.

This model includes the three primary types of floodplain districts: Floodway, Flood Fringe, and General Floodplain. As presented, it incorporates ordinance provisions for a community that has all three districts present on their Flood Insurance Rate Maps. Local communities are encouraged to work with DNR to tailor the language based on the flood districts present in the community. Preparers are encouraged to reference the “Commentary” column for further considerations during ordinance development.

Blue bold text in the “Ordinance Language” column indicates optional standards. In most cases, these are recommended higher standards that provide better protection than the minimum state/federal standards, as well as alternative approaches that allow for easier administration. This text is identified as optional and explained in further detail in the Model Floodplain Ordinance with Commentary. Please note that for at least a couple of these provisions, deletion may require additional edits, which is explained further in the commentary.

Local governments are encouraged to reach out to DNR staff during your ordinance update process. For those communities interested in other forms of higher ordinance standards, the DNR would be happy to offer feedback and suggestions based on each community’s unique type of risk.

Contents

SECTION 1.0 — STATUTORY AUTHORIZATION AND PURPOSE	2
SECTION 2.0 — DEFINITIONS	2
SECTION 3.0 — JURISDICTION AND DISTRICTS	5
SECTION 4.0 — REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS	6
SECTION 5.0 — FLOODWAY DISTRICT	7
SECTION 6.0 — FLOOD FRINGE DISTRICT	8
SECTION 7.0 — GENERAL FLOODPLAIN DISTRICT	11
SECTION 8.0 — SUBDIVISION STANDARDS	12
SECTION 9.0 — PUBLIC AND PRIVATE UTILITIES, SERVICE FACILITIES, ROADS, BRIDGES, AND RAILROADS	12
SECTION 10.0 — MANUFACTURED HOMES AND RECREATIONAL VEHICLES	12
SECTION 11.0 — ADMINISTRATION	13
SECTION 12.0 — NONCONFORMITIES	15
SECTION 13.0 — VIOLATIONS AND PENALTIES	16
SECTION 14.0 — AMENDMENTS	16

SECTION 1.0 STATUTORY AUTHORIZATION AND PURPOSE

Item 2.

- 1.1 **Statutory Authorization.** This floodplain ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F; Minnesota Rules, parts 6120.5000 – 6120.6200; the rules and regulations of the National Flood Insurance Program (NFIP) in 44 CFR § 59 to 78; and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.
- 1.2 **Purpose**
- 1.21 This ordinance regulates development in the flood hazard areas of the City of Fridley. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- 1.22 This ordinance is adopted in the public interest to promote sound land use practices, and floodplains are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.
- 1.23 This ordinance is adopted to maintain eligibility in the National Flood Insurance Program.
- 1.24 This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.
- 1.3 **Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. The standards in this ordinance take precedence over any less restrictive, conflicting local laws, ordinances, or codes. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- 1.4 **Warning and Disclaimer of Liability.** This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. Not all flood risk is mapped. Larger floods do occur and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This ordinance does not create liability on the part of the City of Fridley or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- 1.5 **Severability.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

SECTION 2.0 DEFINITIONS

- 2.1 **Definitions.** Unless specifically defined, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.
- 2.111 Accessory Structure. A structure, as defined in this ordinance, that is on the same parcel of property as, and is incidental to, the principal structure or use; an accessory structure specifically excludes structures used for human habitation.
- 2.112 Base Flood. The flood having a one-percent chance of being equaled or exceeded in any given year. "Base flood" is synonymous with the term "regional flood" used in Minnesota Rules, part 6120.5000.
- 2.113 Base Flood Elevation (BFE). The elevation of the base flood, regional flood, or one-percent annual chance flood. The term "base flood elevation" is used in the flood insurance study.
- 2.114 Basement. Any area of a structure, including crawl spaces, having its floor subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- 2.115 Building. See *Structure*.
- 2.116 Channel. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

- 2.117 Conditional Use. A land use or development that would not be appropriate generally, but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.
- 2.118 **Critical Facilities. Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the public in the event of failure, disruption of function, or damage by flooding. Specifically, this includes facilities identified as Flood Design Class 4 in ASCE 24-14, Flood Resistant Design and Construction, as amended. Examples include health care facilities, facilities required for emergency response, power generating stations, communications towers, or electrical substations.**
- 2.119 Development. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- 2.120 Equal Degree of Encroachment. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- 2.121 FEMA. Federal Emergency Management Agency.
- ~~2.122 Farm Fence. An open type of fence of posts and horizontally run wire, further specified in Minnesota Statutes, section 344.02, Subd. 1(a-d).~~
- 2.123 Flood. A temporary rise in the stream flow or water surface elevation from any source that results in the inundation of normally dry land areas.
- 2.124 Flood Fringe. The portion of the one-percent annual chance floodplain located outside of the floodway. ~~This district shall be extended laterally to the 0.2-percent annual chance floodplain, where mapped.~~
- 2.125 Flood Insurance Rate Map (FIRM). An official map on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- 2.126 Flood Insurance Study (FIS). The study referenced in Section 3.2, which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
- 2.127 Floodplain. The beds, channel and the areas adjoining a wetland, lake or watercourse, or other source which have been or hereafter may be inundated by the base flood.
- 2.128 Floodproofing. A combination of structural and non-structural additions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- 2.129 Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than one-half foot.
- 2.130 General Floodplain. Those floodplains designated on the Flood Insurance Rate Maps referenced in Section 3.2, but that do not have a delineated floodway.**
- 2.131 Light Duty Truck. Any motor vehicle that has all three of the following:**
- A. **8,500 pounds Gross Vehicle Weight Rating or less;**
 - B. **vehicle curb weight of 6,000 pounds or less; and**
 - C. **basic vehicle frontal area less than 45 square feet.**
- 2.132 Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3.

- 2.133 Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.” Item 2.
- 2.134 New Construction. Structures for which the start of construction commenced on or after the effective date of an adopted floodplain management regulation, and includes any subsequent improvements to such structures.
- 2.135 Principal Structure. The main building or other structure on a lot that is utilized for the property’s principal use.
- 2.136 Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- 2.137 Recreational Vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Those vehicles not meeting this definition shall be considered a structure for the purposes of this ordinance. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”
- 2.138 Regulatory Flood Protection Elevation (RFPE). An elevation that is one foot above the elevation of the base flood plus any increases in the water surface elevation caused by encroachments on the floodplain that result from designation of a floodway. These increases in water surface elevations are typically identified in the Floodway Data Tables, found in the Flood Insurance Study.
- ~~2.139 Repetitive Loss. Flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.~~
- 2.140 Stage Increase. Any increase in the water surface elevation during the one-percent annual chance flood caused by encroachments on the floodplain.
- 2.141 Start of Construction. Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 2.142 Structure. A roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Recreational vehicles not considered travel ready, as detailed in Section 10.22, shall also be considered a structure for the purposes of this ordinance.
- 2.143 Subdivision. Land that has been divided for the purpose of sale, rent, or lease, including planned unit developments.
- 2.144 Substantial Damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 2.145 Substantial Improvement. Within any 365-day period, aAny reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" is defined in 44 CFR § 59.1.

Item 2.

2.146 Variance. "Variance" means the same as that defined in 44 CFR § 59.1 and Minnesota Statutes, Section 462.357, Subd. 6(2).

2.147 Watercourse. A channel in which a flow of water occurs either continuously or intermittently in a definitive direction. The term applies to either natural or artificially constructed channels.

SECTION 3.0 JURISDICTION AND DISTRICTS

3.1 **Lands to Which Ordinance Applies.** This ordinance applies to all lands within the jurisdiction of the City of Fridley within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts.

3.11 The Floodway, Flood Fringe or General Floodplain Districts are overlay districts. The standards imposed in the overlay districts are in addition to any other requirements. In case of a conflict, the more restrictive standards will apply.

3.12 Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions (as illustrated in Figure 1), the Base Flood Elevation (BFE) shall be the governing factor in locating the outer boundaries of the one-percent annual chance floodplain.

Figure 1: The mapped floodplain may not always align with on-the-ground contour elevations.



3.13 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission ~~[Planning Commission/Board of Adjustment]~~ and to submit technical evidence.

3.2 **Incorporation of Maps by Reference.** The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this ordinance. The attached material includes the Flood Insurance Study for Anoka County, Minnesota, and Incorporated Areas, dated December 16, 2015, and the Flood Insurance Rate Map panels enumerated below, dated December 16, 2015, all prepared by the Federal Emergency Management Agency. These materials are on file in the Planning Division of the City Office ~~[list location where maps will be filed — i.e., City Hall]~~.

27003C0381E	27003C0392E
27003C0382E	27003C0401E
27003C0383E	27003C0403E
27003C0384E	27003C0411E
27003C0391E	

Approved Letters of Map Change (LOMC) existing at the adoption of this ordinance are also herein incorporated by reference,

3.3 Districts

- 3.31 Floodway District. Those areas within Zone AE delineated within floodway areas as shown on the Flood Insurance Rate Maps referenced in Section 3.2.
- 3.32 Flood Fringe District. Those areas within Zone AE located outside of the delineated floodway, as shown on the Flood Insurance Rate Maps referenced in Section 3.2. ~~This district shall be extended laterally to the 0.2-percent annual chance floodplain, where mapped.~~
- 3.33 General Floodplain District. Those areas within Zone A and AE that do not have a floodway delineated as shown on the Flood Insurance Rate Maps referenced in Section 3.2.

3.4 **Annexations.** The Flood Insurance Rate Map panels referenced in Section 3.2 may include floodplain areas that lie outside of the corporate boundaries of the City of Fridley at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Fridley after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation. Annexations into panels not referenced in Section 3.2 require ordinance amendment in accordance with Section 14.0.

3.5 **Municipal Boundary Adjustments & Townships.** The Flood Insurance Rate Map panels referenced in Section 3.2 apply countywide. If at any point any lands come under the jurisdiction of another local government, the following shall apply:

- 3.51 City adjustments of corporate boundaries, including but not limited to annexations and detachments, shall shift floodplain administrative authority of all affected lands immediately upon the date of the boundary adjustment occurring. Cities retain jurisdiction for all incorporated lands, and the County retains jurisdiction under this ordinance on all unincorporated lands, except as provided under Section 3.52 below or through some form of administrative agreement.
- 3.52 ~~Townships wishing to adopt official controls under Minnesota Statutes, Section 394.33 may only obtain zoning authority for floodplain controls when they have adopted an ordinance that is approved by the Department of Natural Resources and has formally enrolled in the NFIP. Until this occurs, the county shall retain jurisdiction under this ordinance on all unincorporated lands. In the event that a township returns zoning authority, the county shall resume that authority.~~

SECTION 4.0 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

4.1 **Permit Required.** A permit must be obtained from the ~~Zoning Administrator~~ City Manager or their designee to verify compliance with all applicable standards outlined in this ordinance prior to the following uses or activities:

- 4.11 The erection, addition, modification, rehabilitation, repair, or alteration of any building, structure, or portion thereof. Normal maintenance requires a permit to determine if such work, either separately or in conjunction with other planned work, constitutes a substantial improvement, as specified in Section 12.13.
- 4.12 The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction. ~~Farm fences, as defined in Section 2.0 of this ordinance, are not considered to be an obstruction, and as such, do not require a permit.~~
- 4.13 The change or expansion of a nonconforming use.
- 4.14 The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
- 4.15 The placement of fill, excavation, utilities, ~~on-site sewage treatment systems,~~ or other service facilities.
- 4.16 The storage of materials or equipment, in conformance with Section 4.32.
- 4.17 Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement dams, culverts and bridges). A local permit is not required if a public waters work permit has been obtained from the Department of Natural Resources, unless a significant area above the ordinary high water level is also to be disturbed.
- 4.18 Any other type of “development,” as defined in Section 2.0 of this ordinance.

4.2 **No Permit Required.** Certain uses or activities may be exempt from obtaining a permit, such as planting a garden, farming, or other obviously insignificant activities such as putting up a mailbox or flagpole. The continuation of existing uses, when the associated activities do not encroach further on the regulatory floodplain or trigger associated standards in this ordinance, do not require a permit.

4.3 Minimum Development Standards

Item 2.

4.31 All development must:

- A. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. Be constructed with materials and equipment resistant to flood damage;
- C. Be constructed by methods and practices that minimize flood damage;
- D. Be constructed with heating, ventilation, duct work, and air conditioning equipment and other service facilities elevated at least up to the Regulatory Flood Protection Elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding;
- E. Be reasonably safe from flooding and consistent with the need to minimize flood damage;
- F. Be assured to provide adequate drainage to reduce exposure to flood hazards;
- G. Not be detrimental to uses in adjoining areas; and
- H. Not adversely affect the efficiency or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- I. Ensure that any fill or other materials are protected from erosion, discharge, and sediment entering surface waters by the use of vegetative cover or other methods as soon as possible.

4.32 Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the Regulatory Flood Protection Elevation (RFPE), floodproofed, or protected by other measures as approved by the ~~Zoning Administrator~~ City Manager or their designee. Storage of materials likely to cause pollution of the waters, such as sewage; sand; rock; wrecked and discarded equipment; dredged spoil; municipal, agricultural or industrial waste; and other wastes as further-defined in Minnesota Statutes, Section 115.01, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided. For projects not requiring approvals by the Minnesota Pollution Control Agency, adequate safeguards must be approved by the ~~Zoning Administrator~~ City Manager or their designee prior to issuance of a permit.

4.33 ~~Critical facilities shall be located so that the lowest floor is not less than two feet above the Base Flood Elevation (BFE), or the 0.2% annual chance flood elevation, whichever is higher. Critical facilities are prohibited in all floodplain districts.~~

Table 1. Summary of Permitting Requirements for Structures

Structure Type	Floodway	Flood Fringe	Standards*
Accessory Structures – on fill	Only specific uses and types allowed – with CUP	Allowed with Permit	6.23.D(2)
Accessory Structures – Alt. Elevation Methods	Only specific uses and types allowed – with CUP	Allowed with Permit	6.23.D(3)
Accessory Structures – Wet Floodproofing	Only specific uses and types allowed – with CUP	Allowed with Permit	6.23.D(1)
Accessory Structures – Dry (watertight) Floodproofing	Only specific uses and types allowed – with CUP	Allowed with Permit	6.23.D(4)
Residential – on fill	Not allowed	Allowed with Permit	6.21.A
Residential – Alt. Elevation Methods	Not allowed	Allowed with CUP	6.41
Residential – Dry (watertight) Floodproofing and/or Basement Construction below RFPE	Not allowed	Not allowed	N/A
Non-Residential – on fill	Not allowed	Allowed with Permit	6.22.A
Non-Residential – Alt. Elevation Methods	Not allowed	Allowed with Permit	6.22.B

Non-Residential – Dry (watertight) Floodproofing and/or Basement Construction below RFPE	Not allowed	Allowed with Permit	6.22.C
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Item 2.

**Note - many of these standards are cross-referenced*

SECTION 5.0 FLOODWAY DISTRICT

- 5.1 **Permitted Uses in Floodway.** Development allowed in the floodway district is limited to that which has low flood damage potential and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the one-percent annual chance flood. The following uses and activities may be allowed with a permit, subject to the standards in Section 5.2:
- 5.11 Agricultural uses, recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, as well as public open space uses.
 - 5.12 Roads, driveways, railroads, trails, bridges, and culverts.
 - 5.13 Public utility facilities and water-oriented industries which must be in or adjacent to watercourses.
 - 5.14 Grading, filling, land alterations, and shoreline stabilization projects.
 - 5.15 No structures, as defined in Section 2.0, are allowed in the Floodway District, except structures accessory to the uses detailed in Sections 5.11 and 5.31, ~~which require a CUP under Section 5.32.~~
 - 5.16 **Levees or dikes intended to protect agricultural crops, provided the top of the dike does not exceed the 10-percent annual chance flood event.**
- 5.16 Residential lawns, gardens, parking, and play areas.
- 5.2 **Standards for Permitted Uses in Floodway.** In addition to the applicable standards detailed in Section 4.0:
- 5.21 The applicant must demonstrate that the development will not result in any of the following during the one-percent annual chance flood: cause a stage increase of 0.00 feet or greater, obstruct flood flows, or increase velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g. projects that restore the site to the previous cross-sectional area). This is commonly documented through a “no-rise certification.”
 - 5.22 Any development that would result in a stage increases greater than 0.00 feet may only be allowed with a permit if the applicant has applied for and received approval for a Conditional Letter of Map Revision (CLOMR) in accordance with 44 CFR § 65.12. Map revisions must follow the procedures in Sections 11.15 and 14.0.
 - 5.23 Any development resulting in decreases to the water surface elevation of the base flood identified in the Flood Insurance Study requires a Letter of Map Revision (LOMR) following the procedures in Sections 11.15 and 14.0.
 - 5.24 Any development in the beds of public waters that will change the course, current or cross section is required to obtain a public waters work permit in accordance with Minnesota Statutes, section 103G.245 or a utility crossing license in accordance with Minnesota Statutes, section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.
 - 5.25 **Any facility used by employees or the general public must be designed with a flood warning system acceptable to the ~~Zoning Administrator~~ City Manager or their designee that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.**
 - 5.26 Fill and other land alteration activities must offer minimal obstruction to the flow of flood waters, ~~and be protected from erosion and sediment entering surface waters by the use of vegetative cover, riprap or other methods as soon as possible.~~
- 5.3 **Conditional Uses in Floodway.** The following uses and activities may be permitted as conditional uses, subject to the standards detailed in Sections 5.4:
- 5.31 **Commercial extractive uses, and storage and stockpiling yards.**
 - ~~5.32 Structures accessory to uses detailed in Sections 5.11 and 5.31, =~~
- 5.4 **Standards for Conditional Uses in Floodway.** In addition to the applicable standards detailed in Sections 4.0, 5.2 and 11.2:

- 5.41 **Extractive uses and storage of materials require the completion of a site development and restoration plan be approved by the City of Fridley.**

Item 2.

~~5.42 **Accessory Structures.** Structures accessory to the uses detailed in Sections 5.11 and 5.31 must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters, and are subject to the standards in Section 6.23 of this ordinance.~~

SECTION 6.0 FLOOD FRINGE DISTRICT

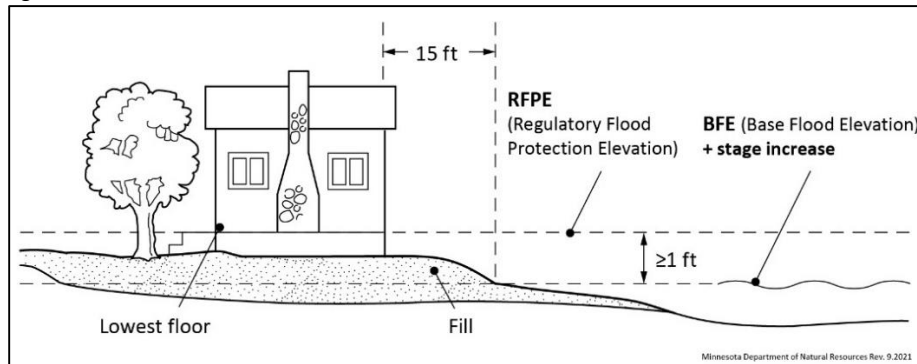
6.1 **Permitted Uses in Flood Fringe.** Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in Sections 6.2.

6.2 **Standards for Permitted Uses in Flood Fringe.** In addition to the applicable standards detailed in Section 4.0:

6.21 Residential Structures.

- A. Elevation on Fill. Structures erected, constructed, reconstructed, altered, or moved on fill within the Flood Fringe District shall be placed so that the lowest floor, as defined in Section 2.0 of this ordinance, is elevated at or above the Regulatory Flood Protection Elevation (RFPE). The finished fill elevation shall be at or above the elevation associated with the base flood plus any stage increases that result from designation of a floodway. Fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the ~~Zoning Administrator~~ City Manager or their designee. Elevation methods alternative to these fill standards are subject to a Conditional Use Permit, as provided in Section 6.31 of this ordinance (Figure 2). ~~Construction of this type shall only be permitted in locations where the natural ground is no lower than three feet below the base flood elevation.~~

Figure 2: Overview of fill standards for residential structures.



6.22 **Nonresidential Principal Structures.** Nonresidential principal structures must meet one of the following construction methods:

- A. Elevation on Fill. Structures may be elevated on fill, meeting the standards in Section 6.21.A of this ordinance. Fill for nonresidential structures is not required to be extended 15 feet beyond the outside limits of the structure.
- B. Alternative Elevation Methods. Structures may be elevated using methods alternative to the fill standards in Section 6.21.A of this ordinance. Such methods include the use of blocks, pilings (Figure 3), filled stem walls (Figure 4), or internally-flooded enclosed areas (Figure 5) such as crawl spaces, attached garages, or tuck under garages.

Figure 3: Blocks or pilings.

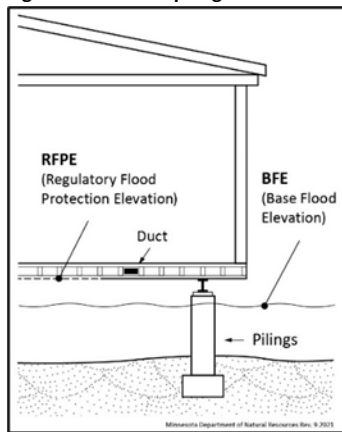


Figure 4: Filled stem walls.

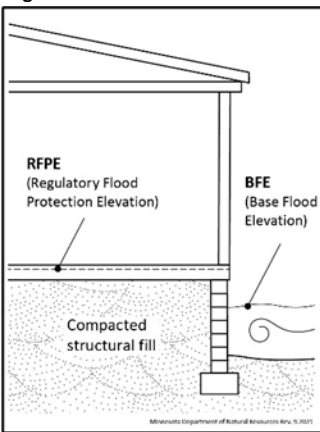
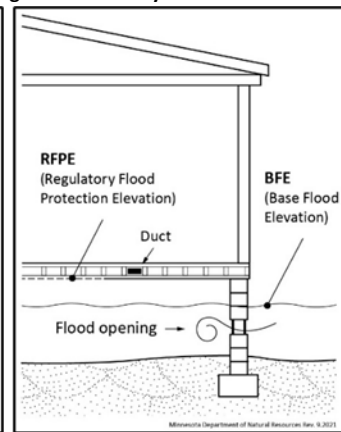


Figure 5: Internally flooded enclosed area.



Designs accommodating for internally-flooded enclosed areas must be certified by a registered professional engineer or architect, or meet or exceed the standards detailed in *FEMA Technical Bulletin 1*, as amended, as well as the following standards:

- (1) The lowest floor, as defined in Section 2.0 of this ordinance, shall be elevated at or above the Regulatory Flood Protection Elevation (RFPE).
- (2) The floor of the enclosed area must be at or above the exterior grade on at least one side of the structure.
- (3) To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings below the base flood elevation on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.
- (4) Internally flooded enclosed areas shall only be used for the parking of vehicles, building access, or storage. Bathrooms and toilet rooms shall not be allowed. **Such areas shall be subject to a deed-restricted non-conversion agreement as well as periodic inspections with the issuance of any permit.**

C. Dry Floodproofing. Structures having watertight enclosed basements or spaces below the Regulatory Flood Protection Elevation (RFPE) must meet the following standards:

- (1) Walls must be substantially impermeable to the passage of water, with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, at least up to the Regulatory Flood Protection Elevation (RFPE);
- (2) Must meet the standards of FEMA Technical Bulletin 3, as amended; and
- (3) A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this Section.

6.23 Accessory Structures. All accessory structures must meet the following standards:

- A. Structures shall not be designed or used for human habitation.
- B. Structures will have a low flood damage potential.
- C. Structures with fewer than two rigid walls, such as carports, gazebos, and picnic pavilions, may be located at an elevation below the Regulatory Flood Protection Elevation.
- D. Structures with two or more rigid walls, must meet one of the following construction methods:
 - (1) Wet Floodproofing. Structures may be floodproofed in a way to accommodate internal flooding. Such structures shall constitute a minimal investment not to exceed 576 square feet in size, one-story in height, and shall only be used for parking and storage. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less

than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.

Item 2.

- (2) Elevation on Fill. Structures may be elevated on fill, meeting the standards in Section 6.21.A of this ordinance. Fill is not required to be extended 15 feet beyond the outside limits of the structure.
- (3) Alternative Elevation Methods. Structures may have their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) through methods alternative to the fill standards in Section 6.23.D(2), and must meet the standards in Section 6.22.B of this ordinance.
- (4) Dry Floodproofing. Structures may be dry-floodproofed, or watertight, meeting the standards in Section 6.22.C of this ordinance.

6.24 All new principal structures must provide vehicular access no lower than ~~one-two feet~~ below the Base Flood Elevation (BFE), unless a flood warning/emergency evacuation plan has been approved by the City of Fridley.

6.25 Accessory uses such as yards, railroad tracks, and ~~parking~~ parking lots may be at an elevation lower than the Regulatory Flood Protection Elevation. However, ~~a~~Any facilities used by employees or the general public must be designed with a flood warning system acceptable to the ~~City of Fridley~~ City Manager or their designee that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.

6.26 Manufactured homes and recreational vehicles must meet the standards of Section 10 of this ordinance.

6.3 Conditional Uses in Flood Fringe. The following uses and activities may be permitted as conditional uses, subject to the standards in Sections 6.4:

6.31 Alternative Elevation Methods – Residential Structures. Residential structures with their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative to the fill requirements in Section 6.21.

6.32 The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 6.21 through 6.23 of this ordinance.

6.4 Standards for Conditional Uses in Flood Fringe. In addition to the applicable standards detailed in Sections 4.0, 6.2 and 11.2:

6.41 All residential structures with lowest floors elevated through alternative elevation methods must meet the standards in Section 6.22.B of this ordinance.

6.42 The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

A. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

B. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City.

C. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

SECTION 7.0 GENERAL FLOODPLAIN DISTRICT

7.1 Permitted Uses in General Floodplain District

7.11 Until the floodway is delineated, allowable uses will be restricted to those listed in the Floodway District, Section 5.0

7.12 All other uses are subject to a floodway/flood fringe determination as provided in Section 7.4, in addition to standards provided in Sections 7.2 and 7.3. Permitted uses shall be determined as follows:

- A. If the development is determined to be in the Floodway District, Section 5.0 applies.
- B. If the development is determined to be in the Flood Fringe District, Section 6.0 applies.

7.2 Determining Flood Elevations

- 7.21 All development requires a determination of the Base Flood Elevation (BFE). Exceptions to this requirement include projects that restore the site to the previous cross-sectional area, such as shore stabilization or culvert replacement projects. Base Flood Elevations (BFE) may be found using best available data from any Federal, State, or other source (including MNDNR's Lake & Flood Elevations Online (LFEO) Viewer).
- 7.22 The Regulatory Flood Protection Elevation (RFPE) can be determined by assuming a one-half (0.5) foot stage increase to accommodate for future cumulative impacts. A stage increase does not need to be assumed along lakes, wetlands, and other basins that are not affected by velocities.

7.3 Encroachment Analysis

- 7.31 Encroachments due to development may not allow stage increases more than one-half (0.5) foot at any point, unless through a map revision following the procedures in Sections 11.15 and 14.0. This evaluation must include the cumulative effects of previous encroachments, and must be documented with hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result.
- 7.32 Alterations or changes that result in stage decreases are allowed and encouraged.

7.4 Standards for the Analysis of Floodway Boundaries

- 7.41 Requirements for Detailed Studies. Any development, as requested by the ~~Zoning Administrator~~, City Manager or their designee shall be subject to a detailed study to determine the Regulatory Flood Protection Elevation (RFPE) and the limits of the Floodway District. This determination must be consistent with the minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in Minnesota Rules, part 6120.5600, Subp. 4 and *FEMA Guidelines and Standards for Flood Risk Analysis and Mapping*, as revised. Additionally:
 - A. A regulatory floodway necessary to carry the discharge of the one-percent annual chance flood must be selected without increasing the water surface elevation more than one-half (0.5) foot at any point. This determination should include the cumulative effects of previous encroachments. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result; and
 - B. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, and comprehensive land use plans justify a modified approach, as approved by the Department of Natural Resources.
- 7.42 Other Acceptable Methods. For areas where a detailed study is not available or required:
 - A. Development prohibited in floodways (e.g. most buildings) requires a floodway/flood fringe determination to verify the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The Department of Natural Resources may also provide technical assistance and must approve any alternative methods used to determine floodway boundaries.
 - B. **For areas where the floodway has not been determined in and along lakes, wetlands, and other basins, the following methodology may be used as an alternative to Item A above, provided these areas are not affected by velocities and the lot is able to accommodate a building site above the Regulatory Flood Protection Elevation (RFPE):**
 - (1) **All areas that are at or below the ordinary high water level, as defined in Minnesota Statutes, section 103G.005, Subd. 14, will be considered floodway, and all areas below the Base Flood Elevation (BFE) but above the ordinary high water level will be considered flood fringe, provided that within 25 feet of the**

ordinary high water level, or within the Shore Impact Zone as identified in the community's Shoreland Use Ordinance, whichever distance is greater, land alterations shall be restricted to:

Item 2.

- (a) The minimum required to accommodate beach areas, access areas, and accessory structures as permitted, not to exceed a volume greater than 10 cubic yards; projects involving volumes exceeding 10 cubic yards require floodway/flood fringe determination in accordance with the procedures in Section 7.42, item A; and
- (b) The minimum required to accommodate shoreline stabilization projects to correct an identified erosion problem as verified by a qualified resource agency or the ~~zoning administrator~~ City Manager or their designee.

SECTION 8.0 SUBDIVISION STANDARDS

- 8.1 **Subdivisions.** All subdivided land must meet the following requirements. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.
 - 8.11 All lots within floodplain districts must be suitable for a building site outside of the Floodway District.
 - 8.12 Subdivision of lands within the floodplain districts may not be approved if the cost of providing governmental services would impose an unreasonable economic burden on the City of Fridley.
 - 8.13 All subdivisions must have vehicular access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation (RFPE), unless a flood warning/emergency evacuation plan has been approved by the City of Fridley.
 - 8.14 The Floodway and Flood Fringe District boundaries, the Regulatory Flood Protection Elevation (RFPE) and the required elevation of all access roads must be clearly identified on all required subdivision drawings and platting documents.

SECTION 9.0 PUBLIC AND PRIVATE UTILITIES, SERVICE FACILITIES, ROADS, BRIDGES, AND RAILROADS

- 9.1 **Public Transportation Facilities.** Railroad tracks, roads, and bridges must be elevated to the Regulatory Flood Protection Elevation (RFPE) where such facilities are essential to the orderly functioning of the area, or where failure or interruption would result in danger to public health or safety. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety. All public transportation facilities should be designed to minimize increases in flood elevations.
- 9.2 **Public Utilities.** All utilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be elevated and/or floodproofed to the Regulatory Flood Protection Elevation (RFPE), be located and constructed to minimize or eliminate flood damage, and be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utilities should be designed to minimize increases in flood elevations. New solid waste management facilities, as defined in Minnesota Rules, part 7035.0300, are prohibited in the one-percent annual chance floodplain. Water supply systems are subject to the provisions in Minnesota Rules, part 4725.4350.
- 9.3 **Private On-Site Water Supply, Individual Sewage Treatment Systems, and other Service Facilities.** Private facilities shall be subject to applicable provisions detailed in Section 9.2. In addition, new or replacement on-site sewage treatment systems are to be located to avoid impairment to them or contamination from them during times of flooding, shall not be located in a designated floodway, and are subject to the provisions in Minnesota Rules, parts 7080.2270.

SECTION 10.0 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

- 10.1 **Manufactured Homes.** Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:
 - 10.11 New and replacement manufactured homes must be placed and elevated in compliance with Section 6.0 of this ordinance and must be securely anchored to a system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
 - 10.12 New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Section 8.0 of this ordinance.

- 10.2 **Recreational Vehicles.** New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:

Item 2.

10.21 Meet the requirements for manufactured homes in Section 10.1, or

10.22 Be travel ready, meeting the following criteria:

- A. The vehicle must be fully licensed.
- B. The vehicle must be ready for highway use, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities.
- C. No permanent structural type additions may be attached to the vehicle.
- D. Accessory structures may be permitted in the Flood Fringe District, provided they do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 4.0 and 6.23.

SECTION 11.0 ADMINISTRATION

- 11.1 **Duties.** ~~A Zoning Administrator~~The City Manager or ~~other official~~their designee must administer and enforce this ordinance.

11.11 Permit Application Requirements. Permit applications must be submitted to the ~~Zoning Administrator~~City Manager or their designee. The permit application must include the following, as applicable:

- A. A site plan showing all existing or proposed buildings, structures, service facilities, potential obstructions, and pertinent design features having an influence on the permit.
- B. Location and detail of grading, fill, or storage of materials.
- C. Copies of any required local, state or federal permits or approvals.
- D. Other relevant information requested by the ~~Zoning Administrator~~City Manager or their designee as necessary to properly evaluate the permit application.

11.12 Recordkeeping. The ~~Zoning Administrator~~City Manager or their designee must maintain applicable records in perpetuity documenting:

- A. All certifications for dry floodproofing and alternative elevation methods, where applicable.
- B. Analysis of no-rise in the Floodway District, as detailed in Section 5.21, and encroachment analysis ensuring no more than one-half foot of rise in the General Floodplain District, as detailed in Sections 7.22 and 7.31.
- C. Final elevations, as applicable, detailing the elevation to which structures and improvements to structures are constructed or floodproofed. Elevations shall be determined by an engineer, architect, surveyor or other qualified individual, as approved by the ~~Zoning Administrator~~City Manager or their designee.
- D. Substantial damage and substantial improvement determinations, as detailed in Section 12.13, including the cost of improvements, repairs, and market value.
- E. All variance actions, including justification for their issuance, and must report such variances as requested by the Federal Emergency Management Agency.

11.13 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the ~~Zoning Administrator~~City Manager or their designee stating that the finished fill and building floor elevations or other flood protection measures are in compliance with the requirements of this ordinance.

11.14 Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the ~~Zoning Administrator~~City Manager or their designee must notify adjacent communities. If the applicant has applied for a permit to work in public waters in accordance with Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.

11.15 Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. Where physical changes affecting flooding conditions may increase or decrease the water surface elevation of the base flood, the City of Fridley must notify FEMA of the changes in order to obtain a Letter of Map Revision (LOMR), by

submitting a copy of the relevant technical or scientific data as soon as practicable, but no later than six months after the date such supporting information becomes available. Within the General Floodplain District, a map revision is only required if development results in stage increases greater than 0.5 feet.

Item 2.

11.2 Conditional Uses and Variances

11.21 Process.

- A. An application for a conditional use permit will be processed and reviewed in accordance with the provisions of this ordinance.
- B. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with Minnesota Statutes, section 394.27, Subd. 7 and this ordinance.

11.22 Additional Variance Criteria. The following additional variance criteria must be satisfied:

- A. Variances must not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances from the provisions of this ordinance may only be issued by a community upon:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- C. Variances from the provisions in this ordinance may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances must be consistent with the general purpose of these standards and the intent of applicable provisions in state and federal law.
- E. Variances may be used to modify permissible methods of flood protection, but no variance shall permit a lesser degree of flood protection than the Regulatory Flood Protection Elevation (RFPE).
- F. The ~~Zoning Administrator~~ City Manager or their designee must notify the applicant for a variance in writing that:
 - (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (2) Such construction below the base flood level increases risks to life and property. Notification must be maintained with a record of all variance actions.

11.23 Considerations for Approval. The City of Fridley must consider all relevant factors specified in other sections of this ordinance in granting variances and conditional use permits, **including the following:**

- A. **The potential danger to life and property due to increased flood heights or velocities caused by encroachments.**
- B. **The danger that materials may be swept onto other lands or downstream to the injury of others.**
- C. **The safety of access to the property in times of flood for ordinary and emergency vehicles.**
- D. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
- E. The importance of the services to be provided by the proposed use to the community;
- F. The requirements of the facility for a waterfront location;
- G. The availability of viable alternative locations for the proposed use that are not subject to flooding;

H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

Item 2.

I. The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;

J. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

11.24 Conditions of Approval. The City of Fridley may attach such conditions to the granting of variances and conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

A. **Limitations on period of use, occupancy, and operation.**

B. **Imposition of operational controls, sureties, and deed restrictions.**

C. **The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**

D. **Other conditions as deemed appropriate by the ~~Zoning Administrator and [planning commission/city council]~~ City Manager or their designee.**

11.3 Notifications to the Department of Natural Resources

11.31 All notices of public hearings to consider variances or conditional uses under this ordinance must be sent via electronic mail to the Department of Natural Resources respective area hydrologist at least ten (10) days before the hearings. Notices of hearings to consider subdivisions/plats must include copies of the subdivision/plat.

11.32 A copy of all decisions granting variances and conditional uses under this ordinance must be sent via electronic mail to the Department of Natural Resources respective area hydrologist within ten (10) days of final action.

SECTION 12.0 NONCONFORMITIES

12.1 **Continuance of Nonconformities.** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

12.11 Within the floodway and general floodplain districts (when a site has been determined to be located in the floodway following the procedures in Section 7.3, or when the floodway has not been delineated), any expansion or enlargement of uses or structures is prohibited.

12.12 Within all districts, any addition, modification, rehabilitation, repair, or alteration shall be in conformance with the provisions of this ordinance, shall not increase the flood damage potential or increase the degree of obstruction to flood flows, and where applicable, must be protected to the Regulatory Flood Protection Elevation (RFPE).

12.13 If any nonconforming structure is determined to be substantially damaged or substantially improved based on the procedures in Section 12.2, it may not be reconstructed except in conformity with the provisions of this ordinance. **Any structures located outside the one-percent annual chance floodplain are exempt from this provision.**

12.14 If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.

~~12.15 If any nonconforming structure has utilities, electrical, or mechanical equipment damaged due to flooding, it must be rebuilt in conformance with the elevation requirements in Section 4.31.D to the greatest extent practicable. This requirement shall apply regardless of the determinations made in Section 12.2.~~

12.2 **Substantial Improvement and Substantial Damage Determinations.** Prior to issuing any permits for additions, modifications, rehabilitations, repairs, alterations, or maintenance to nonconforming structures, the ~~Zoning Administrator~~ City Manager or their designee is required to determine if such work constitutes substantial improvement

or repair of a substantially damaged structure. A determination must be made in accordance with the following procedures:

Item 2.

- 12.21 Estimate the market value of the structure. In the case of repairs, the market value of the structure shall be the market value before the damage occurred and before any restoration or repairs are made.
- 12.22 Estimate the cost of the project. The property owner shall accommodate for inspection, and furnish other documentation needed by the ~~zoning administrator~~ City Manager or their designee to evaluate costs.
- A. Improvement costs shall be comprised of the market rate of all materials and labor, as well as the costs of all ordinary maintenance and upkeep carried out over the past one year.
- B. Costs to repair damages shall be comprised of the market rate of all materials and labor required to restore a building to its pre-damaged condition regardless of the work proposed, as well as associated improvement costs if structure is being restored beyond its pre-damaged condition.
- 12.23 Compare the cost of the improvement, repairs, or combination thereof to the estimated market value of the structure, and determine whether the proposed work constitutes substantial improvement or repair of a substantially damaged structure, as defined in Section 2.0 of this ordinance.
- A. **For the purposes of determining whether the proposed work would constitute substantial improvement, the evaluation shall also include all rehabilitations, additions, or other improvements completed since the community has adopted floodplain standards impacting this structure.**
- ~~B. If any nonconforming structure experiences a repetitive loss, as defined in Section 2.0 of this ordinance, it shall be considered substantially damaged and must not be reconstructed except in conformity with the provisions of this ordinance.~~
- 12.24 Based on this determination, the ~~zoning administrator~~ City Manager or their designee shall prepare a determination letter and notify the property owner accordingly. Structures determined to be substantially damaged or substantially improved may not be reconstructed except in conformity with the provisions of this ordinance.

SECTION 13.0 VIOLATIONS AND PENALTIES

- 13.1 **Uses in Violation of the Ordinance.** Every structure, fill, deposit, or other use placed or maintained in the floodplain in violation of this ordinance shall be considered a public nuisance.
- 13.2 **Civil Remedies.** The creation of a public nuisance may be enjoined and the maintenance of a public nuisance under this ordinance may be abated by an action brought by the City of Fridley or the Department of Natural Resources.
- 13.3 **Enforcement.** Violations of the provisions of this ordinance constitutes a misdemeanor and is punishable as defined by law. The ~~Zoning Administrator~~ City Manager or their designee may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance. The City of Fridley must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

SECTION 14.0 AMENDMENTS

- 14.1 **Ordinance Amendments.** Any revisions to the floodplain maps by the Federal Emergency Management Agency or annexations of new map panels require an ordinance amendment to update the map references in Section 3.2 of this ordinance.
- 14.2 **Required Approval.** All amendments to this ordinance must be submitted to the Department of Natural Resources for review and approval prior to adoption, for compliance with state and federal rules and requirements. The floodplain ordinance shall not be considered valid until approved.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval.

This _____ of _____, _____

(Day) (Month) (Year)

Item 2.

Attest: _____, Mayor

(Name of Elected Official)

Attest: _____, City Administrator



AGENDA REPORT

Meeting Date: October 8, 2024

Meeting Type: Environmental Quality and Energy Commission

Submitted By: Rachel Workin, Environmental Planner

Title

Critical Area Ordinance Update

Background

The City of Fridley is updating its zoning code as part of a comprehensive recodification process. The zoning code includes a Critical Area overlay district that imposes additional regulations on properties in the Mississippi River Corridor Critical Area (MRCCA). This code underwent a significant update in 2023 as required by the DNR. Two changes are subsequently being recommended:

- Clarify that the setback from creeks is only for structures not facilities or impervious surfaces as required in State Statute.
- Clarify that where tree removal is occurring with an associated vegetation restoration plan, the vegetation restoration plan will determine the number of replacement trees regardless of the reason for tree removal.

Recommendation

Staff recommend that the Commission approve the proposed Critical Area ordinance.

Attachments and Other Resources

- Draft Ordinance Language

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 Overlay District

205.28.01 Purpose

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](#).

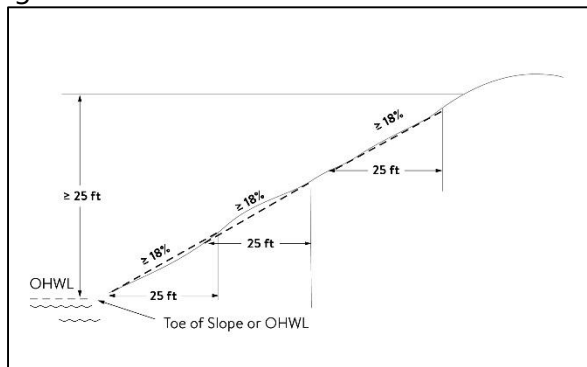
Alternative design: Subdivision design methods such as conservation design, transfer of development density, or similar zoning and site design techniques that protect open space and natural areas.

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

Bluff:

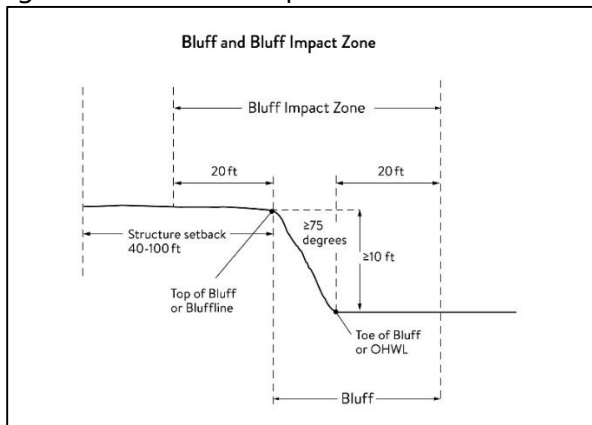
1. A slope that rises at least 25 feet where the grade of the slope averages 18% or greater, measured over any horizontal distance of 25 feet, from the toe of the slope to the top of the slope. Where the slope begins below the ordinary high water level, the ordinary high water level is the toe of the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

Figure 1. Bluff



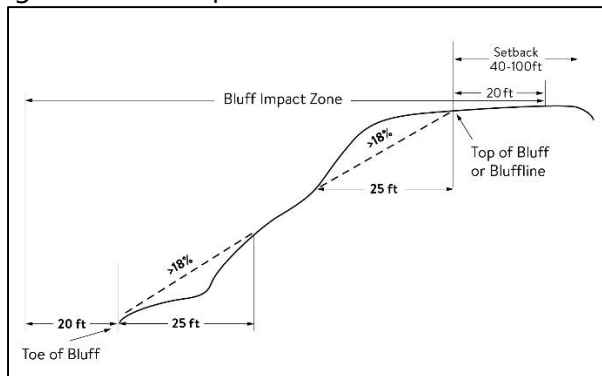
2. A natural escarpment or cliff with a slope that rises at least ten feet above the ordinary high water level or toe of the slope, whichever is applicable, to the top of the slope, with a slope of 75 degrees or greater. See Figure 2.

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.

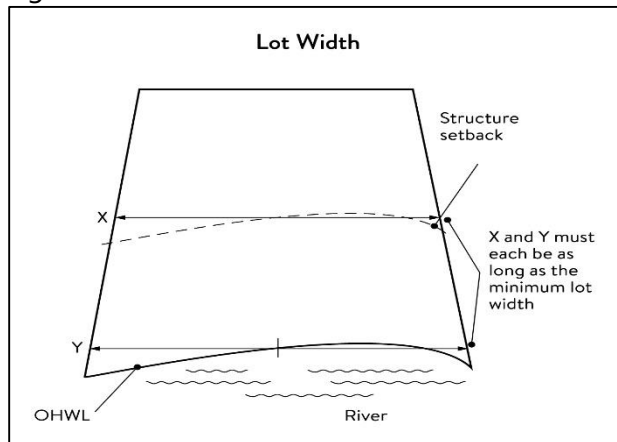
Interim use: A use having the meaning given under Minnesota Statutes Chapters [394](#) and [462](#).

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.

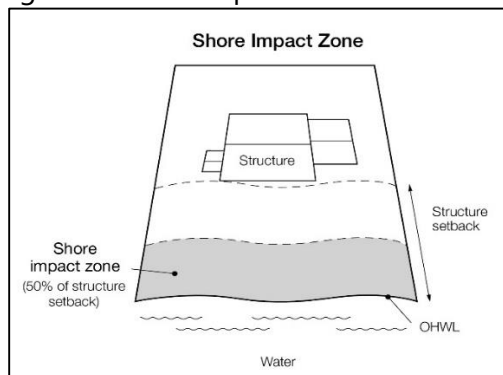
River-dependent use: The use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.

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](#).

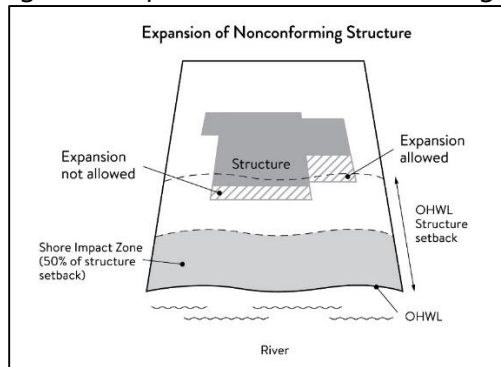
(b) Site alterations and expansion of site alterations that were legally made prior to the effective date of this ordinance are conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements.

(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.

~~(4) Oak Glen Creek, Rice Creek, Springbrook Creek, Stonybrook Creek: 50 feet.~~

(c) Structures must comply with the following OHWL setback provisions unless identified as exempt in Section 205.28.14:

(1) ~~(4)~~ Oak Glen Creek, Rice Creek, Springbrook Creek, Stonybrook Creek: 50 feet.

(d) 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.

(ed) 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:

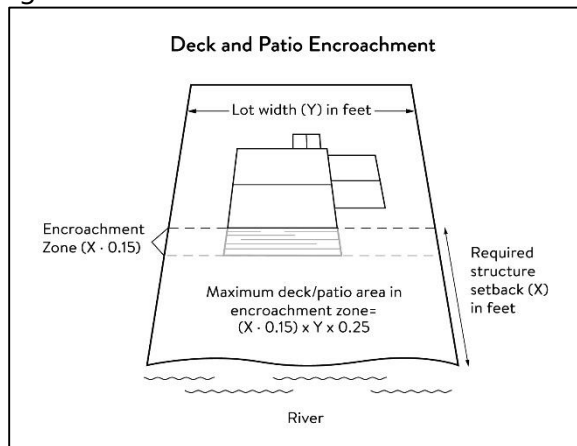
(a) The encroachment of the deck or patio into the required setback area does not exceed 15% of the required structure setback;

(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:

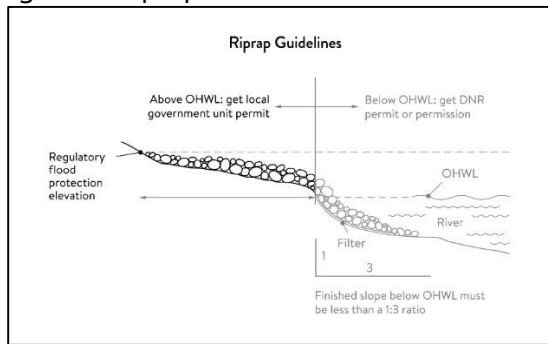
- (1) Erosion control consistent with a plan approved by the City Manager or their designee;
- (2) The minimum necessary that is allowed as an exception under Section 205.28.14; and
- (3) Repair and maintenance of existing buildings and facilities.

(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 8. Riprap Guidelines



(b) Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and the water quality impact zone are allowed with a permit consistent with provisions of Section 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 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
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

Use or Activity	Set backs	Height Limits	SI Z	BI Z	Applicable standards with which the use or activity must comply
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
Hard-surfaced trails and viewing platforms	E	N	E	(E)	Section 205.28.09; within BIZ, 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
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

Section 2

That the Fridley City Code be hereby amended by amending Chapter 205.32 Shoreland Overlay District as follows:

Fridley City Code 205.32 O-7 Shoreland Overlay District

205.32

1. Purpose

(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 Overlay District Chapter for which only the Critical Area Overlay District 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.

(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 Overlay District Chapter shall apply.

Section 3

That the Fridley City Code be hereby amended by amending Chapter 205.30 Telecommunications Towers and Facilities District as follows:

Fridley City Code 205.30 O-5 Telecommunications Towers and Facilities District

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: any building or other structure other than a tower which can be used for location of wireless telecommunications facilities.

Applicant: any Person that applies for a permit for wireless telecommunication facilities or towers, automatic meter reading devices or small wireless facilities.

Application: 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.

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

Automatic Meter Reading device: 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: a series f 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.

Collocate or Collocation: 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: 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: a small wireless facility that is no larger than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

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

Mississippi River Corridor Critical Area: the area within the River Corridor Boundary and under the jurisdiction of the Critical Area Chapter.

Owner: 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: 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: 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: 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:

(1) a wireless facility that meets both of the following qualifications:

(a) each antenna is located inside an enclosure of no more than six 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 cubic feet; and

(b) all other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunications demarcation boxes, batter 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 28 cubic feet in volume; or

(2) a micro wireless facility.

State: the State of Minnesota.

Structural Engineer: a structural engineer licensed by the State of Minnesota.

Telecommunications Right-of-Way User: 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 M.S. §216B.02, a municipality, a municipal gas or power agency organized under M.S. §453 or §453A, or a cooperative electric association organized under M.S. §308A, are not telecommunications right-of-way users for the purposes of this Chapter and M.S. §237.163, except to the extent these entities are offering wireless services.

Toll: to stop the running of a relevant time period, such as a review period.

Tower: 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: a pole that is used in whole or in part to facilitate telecommunications or electric service.

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

Wireless Facility: 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: 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: 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: 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:

- (1) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial;
- (2) Any satellite earth station reception antenna one meter or less in diameter, regardless of zoning category;
- (3) Automatic meter reading systems; and
- (4) Small wireless facilities.

205.30.3. Non-Conforming Uses

- (1) Existing sites shall be considered a legal non-confirming use, unless otherwise provided for in this Chapter.
- (2) 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.
- (3) 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

(1) 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 the Zoning Chapter of the City Code, and the requirements of this section.

(2) 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.

(3) Special Uses.

(a) 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.

(b) The construction of towers and the installation, operation, and maintenance of wireless telecommunications facilities shall be a special use in the Critical Area Overlay District and subject to jurisdiction of the Critical Area Chapter

Passed and adopted by the City Council of the City of Fridley on this 24th day of July, 2023.

Scott J. Lund - Mayor

Melissa Moore - City Clerk

First Reading: June 26, 2023

Second Reading: July 24, 2023

Publication: July 27, 2023



AGENDA REPORT

Meeting Date: October 8, 2024

Meeting Type: Environmental Quality and Energy Commission

Submitted By: Rachel Workin, Environmental Planner

Title

Shoreland Ordinance Update

Background

The City of Fridley is updating its zoning code as part of a comprehensive recodification process. The zoning code includes a Shoreland overlay district that imposes additional regulations on along public waters as required by the DNR. This code was created by ordinance in 2006 and has not been significantly updated since. Staff are proposing to leave the code structurally intact except for updates to definitions for conformity with other related codes such as the Critical Area Overlay District and Floodplain Overlay District.

Recommendation

Staff recommend that the Commission approve the proposed Shoreland ordinance.

Attachments and Other Resources

- Draft Ordinance Language

Vision Statement

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

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.
- 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.

3. DEFINITIONS

For the purpose of this Chapter certain terms and words are hereby defined: Words used in the present tense shall include the future; words in the singular include the plural, and the plural the singular; the word “building” shall include the word “structure”; and the word “lot” shall include the word “plot”; and the word “shall” is mandatory and not directory; and the word “including” shall mean “including, but not limited to”.

For the purpose of this district the following definitions shall apply:

A. ~~Accessory Building.~~ Accessory structure or facility.

~~A subordinate building or use which is located on the same lot as the principal building or use and is necessary or incidental to the conduct of the principal building or use.~~
Any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

B. Bluff.

A topographic feature such as a hill, cliff, or embankment having the following characteristics:

Part or all of the feature is located in a shoreland area;

The slope must drain toward the waterbody;

The slope rises at least 25 feet above the ordinary high water level; and

The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater (see Figure 1), except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2).

Figure 1. Illustration of Bluff

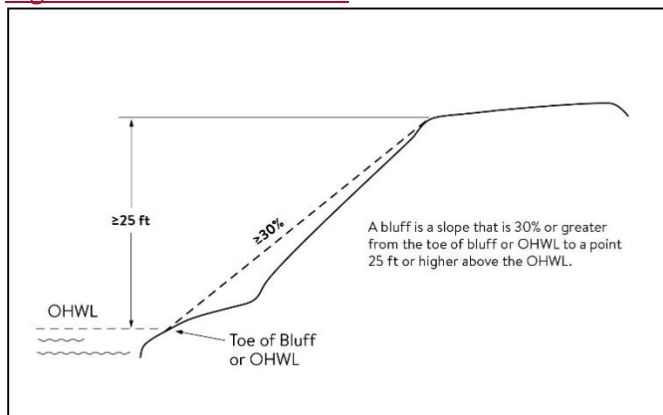
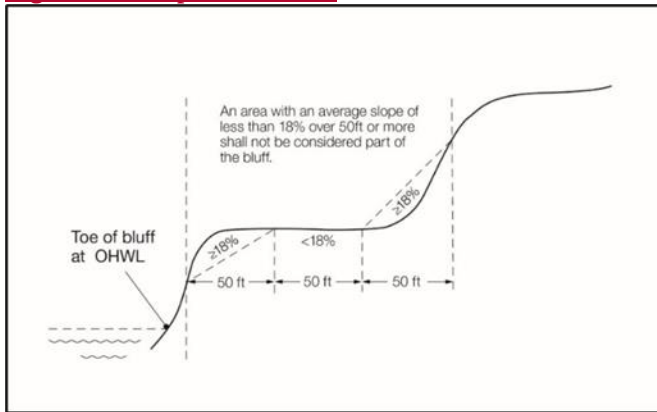
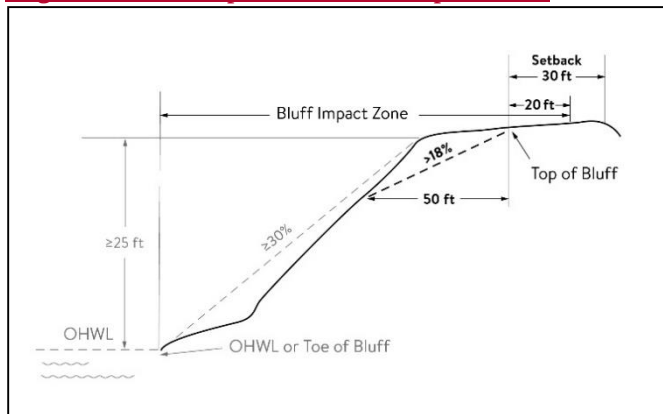


Figure 2. Exception to Bluff



C. Bluff impact zone. A bluff and land located within 20 feet of the top of a bluff. See Figure 3

Figure 3. Bluff Impact Zone and Top of Bluff



D. Bluff, Toe of.

The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.

E. Bluff, Top of.

For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding 18 percent. See Figure 3.

B. Bluff.

Those steep slopes lying between the ordinary high water mark and the River Corridor boundary having an angle of ascent from the river of more than twelve percent (12%) from the horizontal.

C. Bluffline.

A line delineating the top of the bluff connecting the points at which the angle of ascent becomes less than twelve percent (12%). More than one (1) bluffline may be encountered.

D. Bluff Impact Zone

~~The area between the Bluffline and forty (40) feet inland from the bluff.~~

~~B.F.~~ E. Commission.

The City of Fridley Planning Commission.

~~C.G.~~ F. Commissioner.

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

~~D.H.~~ G. Council.

The Fridley City Council.

~~E.I.~~ H. Critical Area.

The area known as the Mississippi River Corridor Critical Area designated by the Governor in the Executive Order No. 130.

~~F.J.~~ I. Development.

The making of any material change in the use or appearance of any structure or land including reconstruction; alteration of the size of any structure; alteration of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples); mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; the dividing of land into two (2) or more parcels.

~~G.K.~~ J. 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 existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

L. **Intensive vegetation clearing.**

The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

~~H.M.~~ K. Lot Coverage.

The amount of impervious surface on a lot.

~~I.N.L.~~ Ordinary High Water Level.

Minnesota State Statute 103G.005, subdivision 14 defines ordinary high water level as the boundary of waterbasins, watercourses, public waters, and public waters wetlands, and:

- (1) the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- (2) for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- (3) for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

~~J.O.M.~~ Shoreland

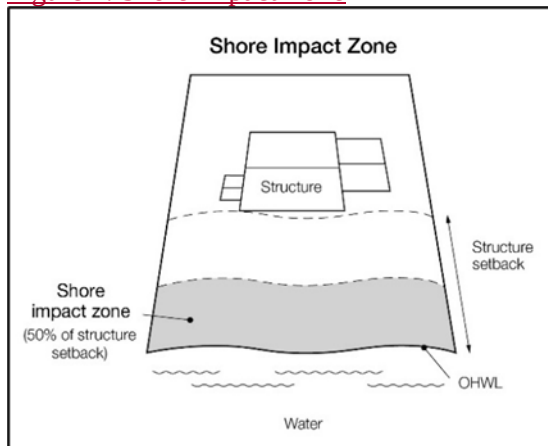
Shoreland means land located within the following distances from the ordinary high water elevation of public waters:

- (1) land within 1,000 feet from the normal high watermark of a lake, pond, or flowage; and
- (2) land within 300 feet of a river or stream or the landward side of a floodplain delineated by ordinance on the river or stream, whichever is greater.

~~K.P.~~ N. Shore Impact Zone

~~The area between the ordinary high water mark and fifty (50) feet inland from the ordinary high water mark.~~ Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback (see Figure 4).

Figure 4. Shore Impact Zone



Q. Steep Slopes.

Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs

L.R. Ø. Structure.

Anything constructed or erected which requires location on or underground or attachment to something having location on or underground. This includes an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, whether of a temporary or permanent character. Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

4. SHORELAND CLASSIFICATION SYSTEM

- A. Public waters. The public waters of Fridley have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the DNR Protected Waters Inventory Map for Anoka County, Minnesota.

- B. Official map. The shoreland permit district for the waterbodies listed below shall be shown on the Fridley Zoning Map.

(1) Lakes

Recreational Development Lakes Protected Waters Inventory I.D. #

Moore Lake	2-75P
Spring Lake	2-71P

General Development Lakes Protected Waters Inventory I.D. #

Locke Lake	2 - 77P
Harris Pond	2-684W
Farr Lake	2-78P

Natural Environment Lakes Protected Waters Inventory I.D. #

Public Water in Springbrook Park	2-688P
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(2) Rivers and streams

<i>Rivers</i>	<i>From</i>	<i>To</i>
Mississippi River	Sec 3, T30N, R24W	Sec 34, T30N, R24W

Tributary Streams

Norton Creek
Oak Glen Creek
Rice Creek
Springbrook Creek
Stoneybrook Creek

5. ADMINISTRATION

- A. Building permit required. A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), and those grading and filling activities not exempted by this Code that occur within the shoreland district. Application for a building permit shall be filed with the zoning administrator or any staff persons designated by the city manager on an official application form of the city, accompanied by a fee as set forth in Chapter 11 of this Code. Where required by law, the building permit application shall be forwarded to the applicable watershed district for review and comment. The application shall include the necessary information so that the zoning administrator can determine the site's suitability for the intended use.
- B. Variance. Variances may only be granted in accordance with Section 205.05.6 of this Code. A variance may not circumvent the general purposes and intent of this Code. No variance may be granted that would allow any use that is prohibited in the underlying zoning district in which the subject property is located.

C. Notifications to the Department of Natural Resources.

- (1) *Public hearings.* Copies of all notices of any public hearings to consider variances, amendments, or special uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- (2) *Approval.* A copy of approved amendments and subdivisions/plats, and final decisions granting variances or special uses under local shoreland management controls must be sent by the City to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

6. LAND USE DISTRICT DESCRIPTIONS

Allowed land uses within the shoreland district shall be determined by the underlying zoning district, as listed within Chapter 205 of City Code.

7. LOT AREA AND WIDTH STANDARDS

Lot area and width standards for residential development shall be regulated per the underlying zoning district in Chapter 205 of City Code.

8. PLACEMENT, DESIGN, AND HEIGHT OF STRUCTURES

- A. Placement of structures on lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

- (1) *Required setbacks.* All required rear yard, side yard and front yard setbacks shall be met per the underlying zoning district.
- (2) *Ordinary high water level setback.* Structure setbacks (in feet) from the ordinary high water level.

<u>Classes of Public Waters</u>	<u>Structure Setbacks</u>
General Development Lake	50 feet
Natural Environment Lake	150 feet
Recreational Development Lake	75 feet
River	100 feet
Tributary Stream	50 feet

- (3) *Required bluff setback.* The following setback shall be applied, regardless of the classification of the water body:

<u>Classes of Land</u>	<u>Structure Setback</u>
Top of Bluff	40 feet

- (4) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
 - (5) *Height of structures.* Maximum allowable height for all structures shall be regulated per underlying zoning district in Chapter 205 of City Code.
- B. Shoreland alterations. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.
- (1) *Vegetation alteration.* Removal or alteration of vegetation is allowed subject to the following standards:
 - a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
 - b. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities provided that:
 - ((i)). The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
 - ((ii)). Along rivers, existing shading of water surfaces is preserved.
 - ((iii)). The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards and the removal of plants deemed noxious under the Minnesota Noxious Weed Law.
 - (2) *Building permit.* Grading and filling and excavations necessary for the construction of structures and driveways under validly issued building permits for these facilities do not require the issuance of a separate shoreland grading and filling permit.
 - (3) *Land alteration permit.* Notwithstanding (2) above, a land alteration permit will be required for:
 - a. The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones.
 - b. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

- (4) *Conditions.* The following considerations and conditions must be adhered to during the issuance of building permits, land alteration permits, special use permits, variances and subdivision approvals:
- a. Grading or filling in any type 2-8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland (This evaluation shall also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers):
 - ((i)) Sediment and pollutant trapping and retention.
 - ((ii)) Storage of surface runoff to prevent or reduce flood damage.
 - ((iii)) Fish and wildlife habitat.
 - ((iv)) Recreational use.
 - ((v)) Shoreline or bank stabilization.
 - ((vi)) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
 - b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
 - c. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.
 - d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
 - e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
 - f. Fill or excavated material must not be placed in a manner that creates an unstable slope.
 - g. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must create finished slopes of less than 3:1 slope.
 - h. Fill or excavated material must not be placed in bluff impact zones.
 - i. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minn. Stat. § 103G.245.
 - j. Alterations of topography must only be allowed if they are accessory to permitted or special uses and do not adversely affect adjacent or nearby properties.

- k. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within ten feet of the ordinary high water level, and the height of the rip rap above the ordinary high water level does not exceed three feet. Must be done in accordance with other State and Federal regulations. Permit from DNR is required.
- (5) *Connections to public waters.* Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after written authorization has been obtained from the Minnesota Department of Natural Resources approving the proposed connection to public waters.
- C. Stormwater management. The following general and specific standards shall apply:
- (1) *General standards.*
- a. When possible, existing natural drainage-ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
 - b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
 - c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.
- (2) *Specific standards.*
- a. Impervious surface lot coverage shall not exceed 35 percent of the lot area, except as a variance, which shall comply with the following standards:
 - ((i)) All structures, additions or expansions shall meet setback and other requirements of this Code.
 - ((ii)) The lot shall be served with municipal sewer and water.
 - ((iii)) The lot shall provide for the collection and treatment of stormwater in compliance with Chapter 208 of City Code if determined that the site improvements will result in increased runoff directly entering a public water. All development plans shall require review and approval by the city engineer and the underlying watershed district.
 - ((iv)) Measures to be taken from the treatment of stormwater runoff and/or prevention of stormwater from directly entering a public water. The measures may include, but not be limited to the following:

- (A) Appurtenances as sedimentation basins debris basins, desilting basins, or silt traps.
 - (B) Installation of debris guards and microsilt basins on storm sewer inlets.
 - (C) Use where practical, oil skimming devices or sump catch basins.
 - (D) Direct drainage away from the lake and into pervious, grassed, yards through site grading, use of gutters and down spouts.
 - (E) Construction sidewalks of partially pervious raised materials such as decking which has natural earth or other pervious material beneath or between the planking.
 - (F) Use grading and construction techniques which encourage rapid infiltration, e.g., sand and gravel under impervious materials with adjacent infiltration swales graded to lead into them.
 - (G) Install berms, water bars, or terraces which temporarily detain water before dispersing it into pervious area.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New constructed stormwater outfall to public waters must provide for filtering or settling of suspended solids and skimming or surface debris before discharge.
- (3) *Nonconformities.* All legally established nonconformities as of the date of this section may continue, but they will be managed according to section 205.32.5.B of this Code with the following exceptions:
- a. Decks are allowed as a conforming use provided all of the following criteria and standards are met:
 - ((i)). The principle structure existed on the date the structure setbacks were established.
 - ((ii)). No other reasonable location for a deck exists.
 - ((iii)). The deck encroachment toward the ordinary high water level maintains a minimum setback in accordance with applicable code sections and a maximum encroachment of 10 feet into the Bluff Impact Zone or Shore Impact Zone.
 - ((iv)). The deck is framed construction, and is not roofed or screened.

9. PUBLIC NUISANCE: PENALTY

- A. Any person who violates any provisions of this district or fails to comply with any of its terms or requirements shall be guilty of a misdemeanor punishable by a fine of not more than \$500 or imprisoned for not more than ninety (90) days, or both, and in addition shall pay all costs of prosecution and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- B. Every obstruction or use placed or maintained in the Preservation District in violation of this Chapter is hereby declared to be a public nuisance and creation thereof may be enjoined and the maintenance thereof abated by appropriate judicial action.
- C. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent, remedy or remove any violation.



AGENDA REPORT

Meeting Date: September 10, 2024 **Meeting Type:** Environmental Quality and Energy Commission

Submitted By: Rachel Workin, Environmental Planner

Title

Energy Action Plan Updates

Background

At the November 9, 2021 meeting, the EQEC recommended adoption of Phase 2 of the Energy Action Plan. The following activities were completed since the previous EQEC Meeting:

- Submittal of solar on Public Buildings grant application for Moore Lake Park
- Begin planning for solar at Commons Park building

The following activities are projected:

- ICF to begin performing HES visits
- Round 2 of Tabling at Fridley Terrace with CERTS and CEE
- LED light bulb giveaway at Coats for Cops (Winter 2024)
- Electric Landscaping Equipment campaign.

Recommendation

None

Attachments and Other Resources

- None

Vision Statement

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



AGENDA REPORT

Meeting Date: October 8, 2024

Meeting Type: Environmental Quality and Energy Commission

Submitted By: Rachel Workin, Environmental Planner

Title

Grant Updates

Background

The purpose of this item is to provide Commissioners updates on sustainability grants held by the City.

Grants in the Pre-Application Stage

- Solar for Public Buildings Grant for Commons Park

Grants Under Review

- Solar for Public Buildings Grant for Moore Lake (full application under review)
- Regional Solicitation Grant- Safe Routes to School (awarded awaiting signature)
- MPCA Resiliency Grant for Electric Lawn Mower (awarded awaiting signature)
- Electric lawn Mower (awarded awaiting signature)
- BWSR Pollinator Pathways Grant with ACD (awarded awaiting signature)

Active Grants

- Recycling grant (ongoing)
- Met Council Regional Solicitation Grant for 44th Avenue Bridge w/ Anoka County
- BWSR/RCWD grant for Moore Lake IESF project
- University Avenue Lighting Project
- RCWD grant for sumps in Farr Lake neighborhood
- MnDOT Active Transportation grant for University Avenue Trails
- DNR Preparing for Emerald Ash Borer Grant Pt. 3
- DNR ReLeaf Grant
- Safe Streets and Roads for All Planning Grant to create a Safety Action Plan
- DNR Shade Tree Grant
- CCWD grant for improved street sweeping equipment
- RCWD grant for hydrodynamic separator in 2024 Street Project
- MWMO Grants in 2024 Street Project

Vision Statement

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

- Sylvan Hills Park stormwater system
- SHIP grant for Bike Fix-It Station at Edgewater Gardens
- 2024 Street Project Rain Gardens
- Met Council Water Efficiency Grant pt 4

Grants Closed (1/1/2024+)

- CCWD Water Quality Grant for Apex Pond
- Met Council Water Efficiency Grant pt 3
- MDH Well Sealing Grant pt 3
- Dog Waste Stations in Moore Lake Park
- CDBG Grant for 61st Avenue Parcel

Recommendation

None

Attachments and Other Resources

- None

Vision Statement

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AGENDA REPORT

Meeting Date: September 10, 2024 **Meeting Type:** Environmental Quality and Energy Commission

Submitted By: Rachel Workin, Environmental Planner

Title

Outreach and Events Updates

Background

Outreach at community events is an important strategy to build environmental awareness and increase engagement. Events that have been completed since the last meeting as well as upcoming outreach events are listed below.

Completed events (9/10-)

- None

Confirmed events and topics

- Baby Gear Swap at ECFE Fall Festival (11/9)

Potential Upcoming Events

-

Recommendation

None

Attachments and Other Resources

- None

Vision Statement

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AGENDA REPORT

Meeting Date: October 8, 2024

Meeting Type: Environmental Quality and Energy Commission

Submitted By: Rachel Workin, Environmental Planner

Title

Informal Status Reports

Background

Staff and Commissioners will share informal status reports on programs happening in the City.

Recommendation

None

Attachments and Other Resources

- None

Vision Statement

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