

1.1 **Department of Natural Resources**

1.2 **Adopted Permanent Rules Relating to Mississippi River Corridor Critical Area**

1.3 **6106.0010 POLICY.**

1.4 It is in the interest of present and future generations to preserve and enhance the
1.5 natural, aesthetic, economic, recreational, cultural, and historical values of the Mississippi
1.6 River corridor within the Twin Cities metropolitan area and protect its environmentally
1.7 sensitive areas. In furtherance of the policies declared in Minnesota Statutes, chapters
1.8 116G, 394, 462, and 473, this chapter provides standards and criteria for the preservation,
1.9 protection, and management of the Mississippi River Corridor Critical Area.

1.10 **6106.0020 PURPOSE; DESIGNATION.**

1.11 The minimum standards and criteria in this chapter are provided for the subdivision,
1.12 use, and development of land within the Mississippi National River and Recreation Area,
1.13 established pursuant to United States Code, title 16, section 460k, which is designated
1.14 the Mississippi River Corridor Critical Area, according to the purposes described under
1.15 Minnesota Statutes, section 116G.15, subdivision 1.

1.16 **6106.0030 SCOPE; OTHER LAW.**

1.17 Subpart 1. **Applicability.** The standards and criteria established in this chapter for
1.18 the Mississippi River Corridor Critical Area pertain to public waters and to nonfederal
1.19 public land and private lands within the river corridor boundary.

1.20 Subp. 2. **Government actions.** The state and all local governments, including
1.21 councils, commissions, boards, districts, departments, and all other public authorities,
1.22 must exercise their powers to further the purposes of this chapter.

1.23 Subp. 3. **State land.** Land owned by the state and its agencies and subdivisions must
1.24 be administered according to this chapter.

2.1 Subp. 4. **Conflicting standards.** In case of a conflict between this chapter and any
2.2 other rule or ordinance, the more protective provision applies.

2.3 Subp. 5. **Superseding standards.** Specific standards found in this chapter supersede
2.4 parts 4410.8100 to 4410.9910 for management of the Mississippi River Corridor Critical
2.5 Area.

2.6 **6106.0050 DEFINITIONS.**

2.7 Subpart 1. **Scope of terms and measurement of distances.** For the purposes of
2.8 this chapter, the terms used have the meaning given in this part. All distances, unless
2.9 otherwise specified, are measured horizontally.

2.10 Subp. 2. **Access path.** "Access path" means an area designated to provide ingress
2.11 and egress to public waters.

2.12 Subp. 3. **Adjacent.** "Adjacent" means having a boundary that physically touches
2.13 or adjoins.

2.14 Subp. 4. **Agricultural use.** "Agricultural use" has the meaning given under
2.15 Minnesota Statutes, section 40A.02.

2.16 Subp. 5. **Alternative design.** "Alternative design" means subdivision design
2.17 methods such as conservation design, transfer of development density, or similar zoning
2.18 and site design techniques that protect open space and natural areas.

2.19 Subp. 6. **Barge fleeting.** "Barge fleeting" means temporarily parking and securing
2.20 barges on the river, on or off channel, while tows are assembled or broken up.

2.21 Subp. 7. **Biological and ecological functions.** "Biological and ecological functions"
2.22 means the functions of vegetation in stabilizing soils and slopes, retaining and filtering
2.23 runoff, providing habitat, and recharging groundwater.

2.24 Subp. 8. **Bluff.** "Bluff" means a natural topographic feature having:

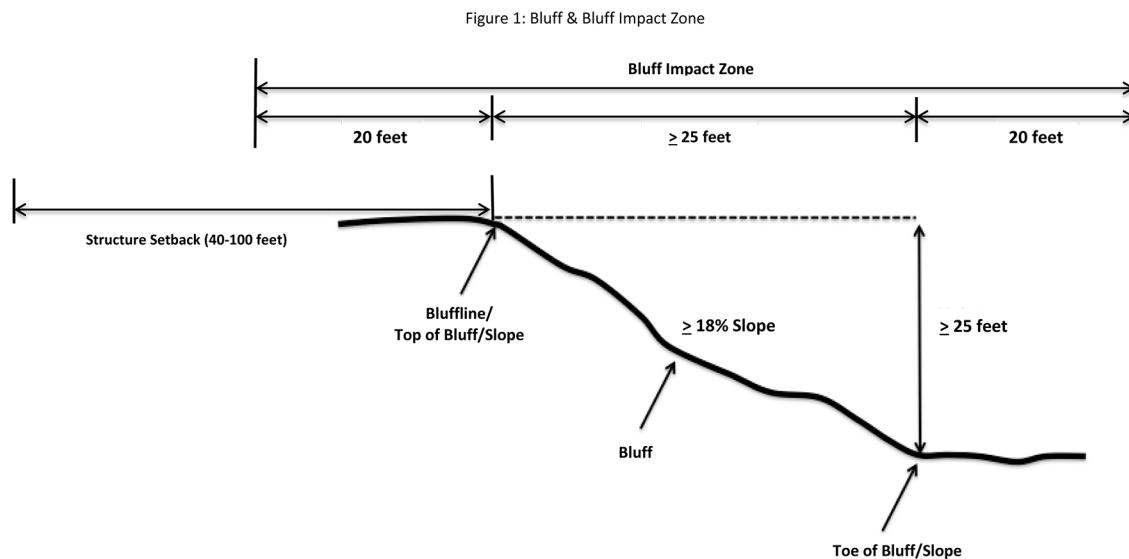
3.1 A. a slope that rises at least 25 feet ~~above the ordinary high water level or toe of~~
 3.2 ~~the slope to the top of the slope~~ and the grade of the slope averages 18 percent or greater,
 3.3 measured over a horizontal distance of 25 feet, as follows:

3.4 (1) where the slope begins above the ordinary high water level, from the
 3.5 toe of the slope to the top of the slope; or

3.6 (2) where the slope begins below the ordinary high water level, from the
 3.7 ordinary high water level or toe of the slope to the top of the slope averages 18 percent or
 3.8 greater, measured over a horizontal distance of 25 feet. See Figure 1; or

3.9 B. a natural escarpment or cliff with a slope that rises at least ten feet above the
 3.10 ordinary high water level or toe of the slope, whichever is applicable, to the top of the
 3.11 slope, with an average a slope of 100 percent 75 degrees or greater.

3.12 Subp. 9. **Bluff impact zone.** "Bluff impact zone" means the bluff and land within 20
 3.13 feet of the bluff. See Figure 1.



3.14 Subp. 10. **Bluffline.** "Bluffline" means a line delineating the top of the bluff. More
 3.15 than one bluffline may be encountered proceeding landward from the river. See also
 3.16 subpart 9, Figure 1, and subpart 78, "top of the bluff."

4.1 Subp. 11. **Buildable area.** "Buildable area" means the area upon which structures
4.2 may be placed on a lot or parcel of land and excludes land areas needed to meet
4.3 requirements for setback, rights-of-way, bluff impact zones, historic properties, wetlands,
4.4 designated floodways, land below the ordinary high water level of public waters, and other
4.5 areas restricted from development by local ordinance.

4.6 Subp. 12. **Building.** A structure with two or more outside rigid walls and a fully
4.7 secured roof and affixed to a permanent site.

4.8 Subp. 13. **Certificate of compliance.** "Certificate of compliance" means a document,
4.9 written after a compliance inspection, certifying that the development is in compliance
4.10 with applicable requirements at the time of the inspection.

4.11 Subp. 14. **Commissioner.** "Commissioner" means the commissioner of natural
4.12 resources.

4.13 Subp. 15. **Conditional use.** "Conditional use" has the meaning given under
4.14 Minnesota Statutes, section 394.22.

4.15 Subp. 16. **Conservation design.** "Conservation design" means a pattern of
4.16 subdivision that is characterized by grouping lots within a portion of a parcel, where the
4.17 remaining portion of the parcel is permanently protected as open space.

4.18 Subp. 17. **Conventional subdivision.** "Conventional subdivision" means a pattern
4.19 of subdivision that is characterized by lots that are spread regularly throughout a parcel
4.20 in a lot and block design.

4.21 Subp. 18. **Deck.** "Deck" means a horizontal, unenclosed, aboveground level
4.22 structure open to the sky, with or without attached railings, seats, trellises, or other
4.23 features, attached or functionally related to a principal use or site.

4.24 Subp. 19. **Developer.** "Developer" has the meaning given under Minnesota Statutes,
4.25 section 116G.03.

5.1 Subp. 20. **Development.** "Development" has the meaning given under Minnesota
5.2 Statutes, section 116G.03.

5.3 Subp. 21. **Discretionary action.** "Discretionary action" means an action under this
5.4 chapter related to land use that requires a public hearing by local ordinance or statute, such
5.5 as preliminary plats, final subdivision plats, planned unit developments, conditional use
5.6 permits, interim use permits, variances, appeals, and rezonings.

5.7 Subp. 22. **Dock.** "Dock" has the meaning given under part 6115.0170.

5.8 Subp. 23. **Electric power facilities.** "Electric power facilities" means equipment and
5.9 associated facilities for generating electric power as identified and defined under Minnesota
5.10 Statutes, section 216E.01, and devices for converting wind energy to electrical energy.

5.11 Subp. 24. **Essential services.** "Essential services" means underground or overhead
5.12 gas, electrical, communications, steam, or water distribution, collection, supply, or disposal
5.13 systems, including storm water. Essential services includes poles, wires, mains, drains,
5.14 pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, navigational structures,
5.15 aviation safety facilities, or other similar equipment and accessories in conjunction with
5.16 the systems. Essential services does not include buildings, treatment works as defined in
5.17 Minnesota Statutes, section 115.01, electric power facilities, or transmission services.

5.18 Subp. 25. **Feedlot.** "Feedlot" has the meaning given for animal feedlot under part
5.19 7020.0300.

5.20 Subp. 26. **Floodplain.** "Floodplain" has the meaning given under part 6120.5000.

5.21 Subp. 27. **Hard-surface trail.** "Hard-surface trail" means a trail surfaced in asphalt,
5.22 crushed aggregate, or other hard surface, for multipurpose use, as determined by local,
5.23 regional, or state agency plans.

5.24 Subp. 28. **Historic property.** "Historic property" means an archaeological site,
5.25 standing structure, site, district, or other property that is:

6.1 A. listed in the National Register of Historic Places or the State Register of
6.2 Historic Places or locally designated as a historic site under Minnesota Statutes, chapter
6.3 471;

6.4 B. determined to meet the criteria for eligibility to the National Register of
6.5 Historic Places or the State Register of Historic Places; or

6.6 C. an unplatted cemetery that falls under the provisions of Minnesota Statutes,
6.7 chapter 307, in consultation with the Office of the State Archeologist.

6.8 Subp. 29. **Impervious surface.** "Impervious surface" means a constructed hard
6.9 surface that either prevents or retards the entry of water into the soil and causes water to
6.10 run off the surface in greater quantities and at an increased rate of flow than prior to
6.11 development. Examples are rooftops, decks, sidewalks, patios, parking lots, storage areas,
6.12 roads, and driveways, including those with concrete, asphalt, or gravel surfaces.

6.13 Subp. 30. **Intensive vegetation clearing.** "Intensive vegetation clearing" means
6.14 removal of all or a majority of the trees or shrubs in a contiguous patch, strip, row, or block.

6.15 Subp. 31. **Interim use.** "Interim use" has the meaning given under Minnesota
6.16 Statutes, sections 394.303 and 462.3597.

6.17 Subp. 32. **Land alteration.** "Land alteration" means an activity that exposes the soil
6.18 or changes the topography, drainage, or cross section of the land, excluding gardening or
6.19 similar minor soil disturbances.

6.20 Subp. 33. **Local government.** "Local government" means counties, cities, and
6.21 townships.

6.22 Subp. 34. **Local park agencies.** "Local park agencies" means the Minneapolis Park
6.23 and Recreation Board and the Three Rivers Park District.

6.24 Subp. 35. **Lot.** "Lot" has the meaning given under part 6120.2500.

7.1 Subp. 36. **Lot width.** "Lot width" means the shortest distance between lot lines
7.2 measured at both the ordinary high water level and at the required structure setback from
7.3 the ordinary high water level.

7.4 Subp. 37. **Marina.** "Marina" has the meaning given under chapter 6115.

7.5 Subp. 38. **Mooring facility.** "Mooring facility" has the meaning given under part
7.6 6115.0170.

7.7 Subp. 39. **Native plant community.** "Native plant community" means a plant
7.8 community that has been ~~mapped~~ identified as part of the Minnesota biological survey
7.9 or ~~other scientifically based studies~~ biological survey issued or adopted by a local, state,
7.10 or federal agency.

7.11 Subp. 40. **Natural-surface trail.** "Natural-surface trail" means a trail composed
7.12 of native soil and rock or compacted granular stone, primarily intended for hiking,
7.13 equestrian, or mountain bike use, as determined by local, regional, or state agency plans.

7.14 Subp. 41. **Natural vegetation.** "Natural vegetation" means any combination of
7.15 ground cover, understory, and tree canopy that, while it may have been altered by human
7.16 activity, continues to stabilize soils, retain and filter runoff, provide habitat, and recharge
7.17 groundwater.

7.18 Subp. 42. **Nonconformity.** "Nonconformity" has the meaning given under
7.19 Minnesota Statutes, section 394.22.

7.20 Subp. 43. **Nonmetallic mining.** "Nonmetallic mining" means construction,
7.21 reconstruction, repair, relocation, expansion, or removal of any facility for the extraction,
7.22 stockpiling, storage, disposal, or reclamation of nonmetallic minerals such as stone, sand,
7.23 and gravel. Nonmetallic mining does not include ancillary facilities such as access roads,
7.24 bridges, culverts, and water level control structures. For purposes of this subpart, "facility"

8.1 includes all mine pits, quarries, stockpiles, basins, processing structures and equipment,
8.2 and any structures that drain or divert public waters to allow mining.

8.3 Subp. 44. **Off-premise advertising signs.** "Off-premise advertising signs" means
8.4 those signs that direct attention to a product, service, business, or entertainment venue that
8.5 is not exclusively related to the premises where the sign is located.

8.6 Subp. 45. **Ordinary high water level.** "Ordinary high water level" has the meaning
8.7 given under Minnesota Statutes, section 103G.005.

8.8 Subp. 46. **Overlay district.** "Overlay district" means a zoning district that is applied
8.9 over one or more previously established zoning districts, establishing additional or stricter
8.10 standards and criteria for covered properties in addition to those of the underlying zoning
8.11 district. Overlay districts are often used to protect historic features and natural resources
8.12 such as shoreland or floodplain.

8.13 Subp. 47. **Parcel.** "Parcel" has the meaning given under Minnesota Statutes, section
8.14 116G.03.

8.15 Subp. 48. **Patio.** "Patio" means a constructed hard surface located at ground level
8.16 with no railings and open to the sky.

8.17 Subp. 49. **Picnic shelter.** "Picnic shelter" is a roofed structure open on all sides,
8.18 accessory to a recreational use.

8.19 Subp. 50. **Planned unit development.** "Planned unit development" means a method
8.20 of land development that merges zoning and subdivision controls, allowing developers
8.21 to plan and develop a large area as a single entity, characterized by a unified site design,
8.22 a mix of structure types and land uses, and phasing of development over a number of
8.23 years. Planned unit development includes any conversion of existing structures and land
8.24 uses that use this method of development.

9.1 Subp. 51. **Plat.** "Plat" has the meaning given under Minnesota Statutes, sections
9.2 505.01, subdivision 3, and 515B.2-110.

9.3 Subp. 52. **Port.** "Port" means a water transportation complex established and operated
9.4 under the jurisdiction of a port authority according to Minnesota Statutes, chapter 458.

9.5 Subp. 53. **Primary conservation areas.** "Primary conservation areas" means key
9.6 resources and features, including shore impact zones, bluff impact zones, floodplains,
9.7 wetlands, gorges, areas of confluence with tributaries, natural drainage routes, unstable soils
9.8 and bedrock, native plant communities, cultural and historic properties, significant existing
9.9 vegetative stands, tree canopies, and other resources identified in local government plans.

9.10 Subp. 54. **Professional engineer.** "Professional engineer" means an engineer
9.11 licensed to practice in Minnesota.

9.12 Subp. 55. **Public recreational facilities.** "Public recreational facilities" means
9.13 recreational facilities provided by the state or a local government and dedicated to public
9.14 use, including parks, scenic overlooks, observation platforms, trails, docks, fishing piers,
9.15 picnic shelters, water access ramps, and other similar water-oriented public facilities
9.16 used for recreation.

9.17 Subp. 56. **Public river corridor views.** "Public river corridor views" means views
9.18 toward the river from public parkland, historic properties, and public overlooks, as well
9.19 as views toward bluffs from the ordinary high water level of the opposite shore, as seen
9.20 during the summer months.

9.21 Subp. 57. **Public transportation facilities.** "Public transportation facilities" means
9.22 all transportation facilities provided by federal, state, or local government and dedicated to
9.23 public use, such as roadways, transit facilities, railroads, and bikeways.

9.24 Subp. 58. **Public utilities.** "Public utilities" means electric power facilities, essential
9.25 services, and transmission services.

10.1 Subp. 59. **Public waters.** "Public waters" has the meaning given under Minnesota
10.2 Statutes, section 103G.005.

10.3 Subp. 60. **Readily visible.** "Readily visible" means land and development that are
10.4 easily seen from the ordinary high water level of the opposite shore during summer months.

10.5 Subp. 61. **Resource agency.** "Resource agency" means a federal, state, regional,
10.6 or local agency that engages in environmental, natural, or cultural resource protection or
10.7 restoration activities, including planning, implementation, and monitoring.

10.8 Subp. 62. **Retaining wall.** "Retaining wall" means a vertical or nearly vertical
10.9 structure constructed of mortar and rubble masonry, rock, or stone regardless of size,
10.10 vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured
10.11 concrete, concrete blocks, or other durable material.

10.12 Subp. 63. **Riprap.** "Riprap" means coarse stones, boulders, cobbles, broken rock or
10.13 concrete, or brick materials placed or constructed to armor shorelines, streambeds, bridge
10.14 abutments, pilings, and other shoreline structures against scour or water or ice erosion.

10.15 Subp. 64. **River corridor boundary.** "River corridor boundary" means the boundary
10.16 approved and adopted by the Metropolitan Council under Minnesota Statutes, section
10.17 116G.06, as approved and adopted by the legislature in Minnesota Statutes, section
10.18 116G.15, and as legally described in the State Register, volume 3, pages 1681 to 1691.

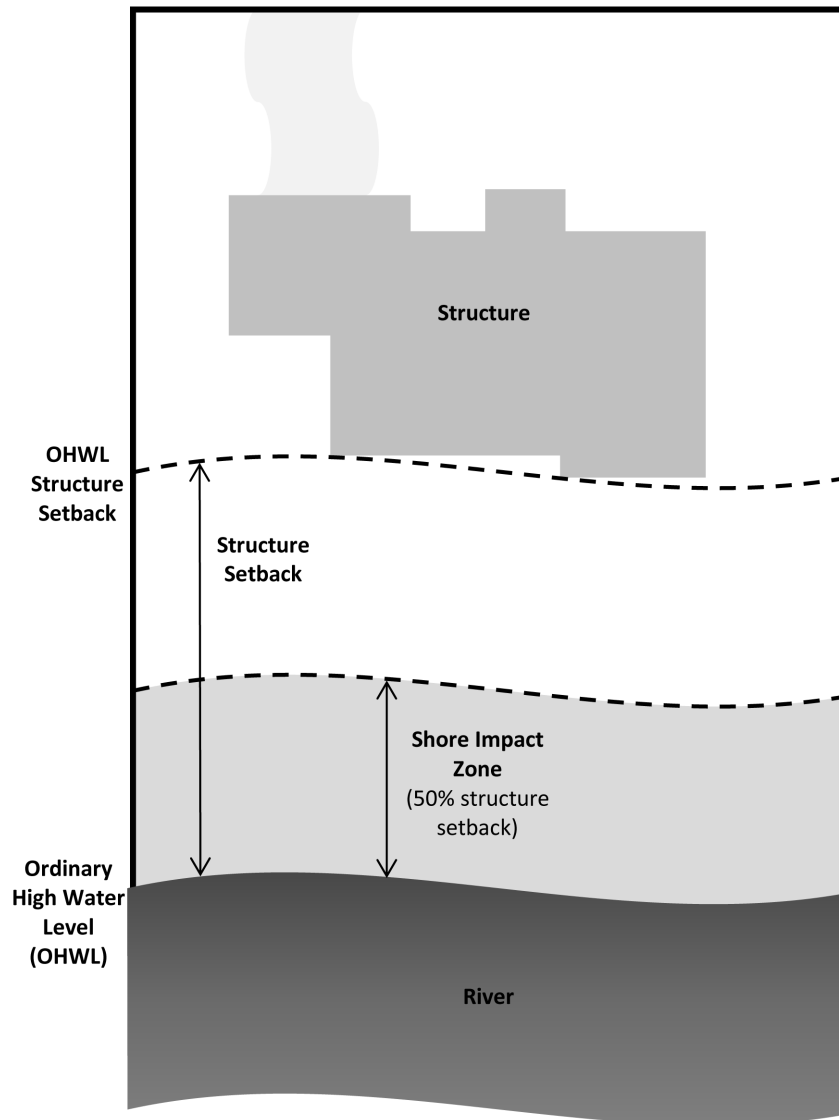
10.19 Subp. 65. **River-dependent use.** "River-dependent use" means the use of land
10.20 for commercial, industrial, or utility purposes, where access to and use of a public
10.21 water feature is an integral part of the normal conduct of business and where the use is
10.22 dependent on shoreline facilities.

10.23 Subp. 66. **Selective vegetation removal.** "Selective vegetation removal" means
10.24 removal of isolated individual trees or shrubs that are not in a contiguous patch, strip, row,
10.25 or block and that does not substantially reduce the tree canopy or understory cover.

11.1 Subp. 67. **Setback.** "Setback" means a separation distance measured horizontally.

11.2 Subp. 68. **Shore impact zone.** "Shore impact zone" means land located between
11.3 the ordinary high water level of public waters and a line parallel to it at a setback of 50
11.4 percent of the required structure setback or, for areas in agricultural use, 50 feet landward
11.5 of the ordinary high water level ~~in areas of agricultural use~~. See Figure 2.

Figure 2: Shore Impact Zone



11.6 Subp. 69. **Shoreline facilities.** "Shoreline facilities" means facilities that require
11.7 a location adjoining public waters for ingress and egress, loading and unloading, and

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

12.6 Subp. 70. **Special purpose unit of government.** "Special purpose unit of
12.7 government" means the University of Minnesota; the St. Paul Port Authority; watershed
12.8 management organizations established under Minnesota Statutes, chapter 103B; watershed
12.9 districts established under Minnesota Statutes, chapter 103D; and any other unit of
12.10 government other than those listed in subparts 33 and 71.

12.11 Subp. 71. **State or regional agency.** "State or regional agency" means the
12.12 Metropolitan Airports Commission, Minnesota Historical Society, University of
12.13 Minnesota, Department of Natural Resources, Department of Transportation, and
12.14 Metropolitan Council and other state agencies.

12.15 Subp. 72. **Steep slope.** "Steep slope" means a natural topographic feature with an
12.16 average slope of 12 to 18 percent, measured over a horizontal distance equal to or greater
12.17 than 50 feet, and any slopes greater than 18 percent that are not bluffs.

12.18 Subp. 73. **Storm water.** "Storm water" has the meaning given under part 7090.0080.

12.19 Subp. 74. **Structure.** "Structure" means a building, sign, or appurtenance thereto,
12.20 except for aerial or underground utility lines, such as sewer, electric, telephone, telegraph,
12.21 or gas lines, and utility line towers, poles, and other supporting appurtenances.

12.22 Subp. 75. **Subdivision.** "Subdivision" has the meaning given under Minnesota
12.23 Statutes, section 462.352.

12.24 Subp. 76. **Subsurface sewage treatment system.** "Subsurface sewage treatment
12.25 system" has the meaning given under part 7080.1100.

13.1 Subp. 77. **Toe of the bluff.** "Toe of the bluff" means a line along the bottom of a
13.2 bluff, requiring field verification, such that the slope above the line exceeds 18 percent
13.3 and the slope below the line is 18 percent or less, measured over a horizontal distance of
13.4 25 feet. See subpart 9, Figure 1.

13.5 Subp. 78. **Top of the bluff.** "Top of the bluff" means a line along the top of a bluff,
13.6 requiring field verification, such that the slope below the line exceeds 18 percent and the
13.7 slope above the line is 18 percent or less, measured over a horizontal distance of 25 feet.
13.8 See subpart 9, Figure 1.

13.9 Subp. 79. **Transmission services.** "Transmission services" means:

13.10 A. electric power lines, cables, pipelines, or conduits that are:

13.11 (1) used to transport power between two points, as identified and defined
13.12 under Minnesota Statutes, section 216E.01, subdivision 4; or

13.13 (2) for mains or pipelines for gas, liquids, or solids in suspension, used to
13.14 transport gas, liquids, or solids in suspension between two points; and

13.15 B. telecommunication lines, cables, pipelines, or conduits.

13.16 Subp. 80. **Treeline.** "Treeline" means the more or less continuous line formed by
13.17 the tops of trees in a wooded area when viewed from a particular point. The treeline is
13.18 determined during all seasons as if under full foliage.

13.19 Subp. 81. **Twin Cities metropolitan area.** "Twin Cities metropolitan area" is
13.20 the area over which the Metropolitan Council has jurisdiction according to Minnesota
13.21 Statutes, section 473.121, subdivision 2.

13.22 Subp. 82. **Variance.** "Variance" has the meaning given under Minnesota Statutes,
13.23 section 394.22.

14.1 Subp. 83. **Water access ramp.** "Water access ramp" means a boat ramp, carry-down
14.2 site, boarding dock, and approach road, or other access that allows launching and removal
14.3 of a boat, canoe, or other watercraft with or without a vehicle and trailer.

14.4 Subp. 84. **Water-oriented accessory structure.** "Water-oriented accessory
14.5 structure" means a small building or other improvement, except stairways, fences, docks,
14.6 and retaining walls, that, because of the relationship of its use to public waters, needs to
14.7 be located closer to public waters than the normal structure setback. Examples include
14.8 gazebos, screen houses, fish houses, pump houses, and detached decks and patios.

14.9 Subp. 85. **Wetlands.** "Wetlands" has the meaning given under Minnesota Statutes,
14.10 section 103G.005.

14.11 Subp. 86. **Wharf.** "Wharf" has the meaning given under part 6115.0170.

14.12 **6106.0060 ADMINISTRATION OF PROGRAM.**

14.13 Subpart 1. **Purpose, terms, and time frames.** This part establishes the roles,
14.14 responsibilities, and authorities for administration of this chapter. For the purposes
14.15 of this chapter:

14.16 A. "plan," "ordinance," and "plan and ordinance" mean Mississippi River
14.17 Corridor Critical Area plans and ordinances, and updates or amendments to the plans and
14.18 ordinances, prepared to implement this chapter; and

14.19 B. time frames are measured in calendar days.

14.20 Subp. 2. **Responsibilities and authorities.** The standards and criteria for the
14.21 Mississippi River Corridor Critical Area established in this chapter apply to:

14.22 A. the commissioner for reviewing and approving plans and ordinances and
14.23 reviewing discretionary actions;

14.24 B. the Metropolitan Council for reviewing plans and ordinances;

15.1 C. local governments when preparing, amending, and administering plans
15.2 and ordinances and reviewing and approving discretionary actions and permits required
15.3 under this chapter; and

15.4 D. state or regional agencies, local park agencies, and special purpose units of
15.5 government for permit regulation, plan development, and management activities within
15.6 their jurisdiction and to the extent they have jurisdiction.

15.7 Subp. 3. **Consistent plans and ordinances.** Local governments within the
15.8 Mississippi River Corridor Critical Area must adopt, administer, and enforce plans and
15.9 ordinances consistent with this chapter. Plans and ordinances must be submitted to the
15.10 Metropolitan Council for review and must be approved by the commissioner before they
15.11 are adopted as provided under part 6106.0070. For the purpose of this part, "consistent"
15.12 means that each local plan and ordinance, while it may be structured or worded differently,
15.13 meets the purpose, scope, and numeric thresholds and standards set forth in this chapter.
15.14 ~~Plans and~~ Ordinances that are not consistent with this chapter require approval of
15.15 flexibility from the commissioner, according to part 6106.0070, subpart 6.

15.16 Subp. 4. **Greater restrictions.** Nothing in this chapter shall be construed as
15.17 prohibiting or discouraging a local government from adopting and enforcing plans and
15.18 ordinances that are more restrictive than this chapter.

15.19 Subp. 5. **Duties of commissioner.** The commissioner must:

15.20 A. consult with the United States Army Corps of Engineers, Minnesota
15.21 Department of Transportation, National Park Service, and Metropolitan Council and other
15.22 state or regional agencies, special purpose units of government, local governments, and
15.23 local parks and recreation agencies to ensure that the Mississippi River Corridor Critical
15.24 Area is managed as a multipurpose resource, according to Minnesota Statutes, section
15.25 116G.15, subdivision 2, paragraph (a);

16.1 B. provide advice and assistance to local governments in the Mississippi River
16.2 Corridor Critical Area for development, adoption, administration, and enforcement of
16.3 plans and ordinances, consistent with the purposes under part 6106.0020;

16.4 C. ~~be the lead agency to~~ coordinate preparation, submission, review, and
16.5 modification of plans and ordinances that are prepared by local governments as provided
16.6 under part 6106.0070;

16.7 D. review and approve final draft plans and ordinances before adoption by a
16.8 local government as provided under part 6106.0070; and

16.9 E. consult with those government units identified in **subpart 1** that own or
16.10 manage land within the Mississippi River Corridor Critical Area to ensure that they
16.11 administer lands and programs under their jurisdictions consistent with this chapter.

16.12 Subp. 6. **Duties of Metropolitan Council.** The Metropolitan Council must:

16.13 A. incorporate the standards and criteria in this chapter into the council's
16.14 planning processes;

16.15 B. work with local governments and the commissioner to ensure that the
16.16 standards and criteria in this chapter are adopted and implemented; and

16.17 C. provide written comments and recommendations to the commissioner on
16.18 all proposed plans and ordinances submitted by local governments as provided under
16.19 part 6106.0070.

16.20 Subp. 7. **Duties of cities.** Cities must:

16.21 A. prepare or amend plans and ordinances to meet or exceed the minimum
16.22 standards and criteria in this chapter and as provided under part 6106.0070;

16.23 B. submit proposed plans and ordinances that affect lands within the river
16.24 corridor boundary to the Metropolitan Council for review and subsequent review and

17.1 approval by the commissioner, before adoption as provided under part 6106.0070, subpart
17.2 3;

17.3 C. adopt, administer, and enforce plans and ordinances as provided under part
17.4 6106.0070, subpart 3;

17.5 D. send notice of public hearings to consider plans and ordinances, and
17.6 amendments thereto, and other development requiring discretionary action affecting lands
17.7 within the river corridor boundary to the following parties so that the parties receive the
17.8 notice at least ten days before the public hearing:

17.9 (1) the commissioner, in a format prescribed by the commissioner;

17.10 (2) the National Park Service; and

17.11 (3) adjoining local governments within the Mississippi River Corridor
17.12 Critical Area, including those with overlapping jurisdiction and those across the river,
17.13 where buildings exceed the height limits specified in part 6106.0120, as part of the
17.14 conditional use permit or variance process; and

17.15 E. send notice of final decisions for actions under item D, including findings
17.16 of fact, within ten days following the final decision, to those parties listed under and in
17.17 the manner prescribed by item D.

17.18 Subp. 8. **Duties of counties and townships.**

17.19 A. Counties must prepare or amend plans and may prepare ordinances
17.20 consistent with this chapter under the authority of Minnesota Statutes, chapters 394 and
17.21 473, using the process set forth in subpart 7.

17.22 B. Townships must prepare or amend plans and ordinances consistent with this
17.23 chapter under the authority of Minnesota Statutes, chapters 394, 462, and 473, using the
17.24 process set forth in subpart 7. If a county has adopted ordinances under this part:

18.1 (1) a township's plan and ordinances must be consistent with and at least
18.2 as restrictive as the plan and ordinances adopted by the county in which the township is
18.3 located, as provided under Minnesota Statutes, section 394.33;

18.4 (2) a township must provide for administration and enforcement of
18.5 Mississippi River Corridor Critical Area ordinances; and

18.6 (3) a township may adopt a county's ordinances by reference.

18.7 Subp. 9. **Duties of state or regional agencies and other government entities.** Any
18.8 state or regional agency, local park agency, or special purpose unit of government that
18.9 owns or manages lands within the river corridor boundary must manage the lands under its
18.10 authority in a manner consistent with this chapter.

18.11 **6106.0070 PREPARATION, REVIEW, AND APPROVAL OF PLANS AND**
18.12 **ORDINANCES.**

18.13 Subpart 1. **Purpose.** The purpose of this part is to establish the process,
18.14 responsibilities, time frames, content requirements, and evaluation criteria for preparation,
18.15 review, and approval of plans and ordinances, in order to ensure an efficient process
18.16 aligned with other regional and local planning processes.

18.17 Subp. 2. **Adoption of plans and ordinances.**

18.18 A. The commissioner, in consultation with the Metropolitan Council, shall
18.19 notify local governments of the schedule for preparing or amending plans and ordinances
18.20 consistent with this chapter. The schedule must align as closely as possible with the
18.21 comprehensive plan update schedule under Minnesota Statutes, section 473.864.

18.22 B. All plans and ordinances adopted by local governments pursuant to
18.23 Executive Order 79-19 that are in existence on the effective date of this chapter remain
18.24 in effect and must be enforced until plans and ordinances are amended consistent with

19.1 this chapter, approved by the commissioner, and adopted by the local government as
19.2 provided under subpart 3.

19.3 C. Where a local government has not adopted plans and ordinances pursuant to
19.4 Executive Order 79-19, development must be governed by this chapter until such time as
19.5 plans and ordinances consistent with this chapter are approved by the commissioner and
19.6 adopted by the local government as provided under subpart 3.

19.7 D. The adoption of plans and ordinances consistent with this chapter does not
19.8 limit or modify the rights of a person to complete a development that has previously been
19.9 authorized as provided under Minnesota Statutes, section 116G.13.

19.10 Subp. 3. **Plan and ordinance review.**

19.11 A. Within one year of notification from the commissioner according to subpart
19.12 2, local governments must prepare or amend plans and ordinances consistent with this
19.13 chapter. The commissioner shall grant extensions to local governments if requested in
19.14 writing and if the local government demonstrates it has made a good-faith effort to meet
19.15 the deadline specified in this subpart. The extension, if granted, must include a timetable
19.16 and plan for completion of the ordinance.

19.17 B. Local governments must formally submit drafts of plans and ordinances to
19.18 the Metropolitan Council and the commissioner for review, in a format prescribed by
19.19 the commissioner.

19.20 C. If ordinances prepared under item B refer to standards in underlying zoning,
19.21 then the underlying zoning documents must be submitted and considered in combination
19.22 with the ordinance. Both the ordinance and underlying zoning standards must be
19.23 consistent with this chapter. Ordinances not consistent with this chapter must be submitted
19.24 as part of a flexibility request according to subpart 6.

20.1 D. The commissioner and the Metropolitan Council must review the plan or
20.2 ordinance and communicate a decision to the local government as follows:

20.3 (1) within 45 days after receipt from the local government, the Metropolitan
20.4 Council must review and comment on draft plans and ordinances for consistency with:

20.5 (a) this chapter;

20.6 (b) regional systems and policies, as specified in Minnesota Statutes,
20.7 section 473.859; and

20.8 (c) the council's comprehensive development guide for the
20.9 metropolitan area, as specified in Minnesota Statutes, section 473.145; and

20.10 (2) within 45 days after receipt of the plan and ordinance from the
20.11 Metropolitan Council, the commissioner must review the draft plan and ordinance to
20.12 determine their consistency with this chapter, with Minnesota Statutes, chapter 116G, and
20.13 with the comprehensive plan adopted by a local government. The commissioner shall
20.14 consider the comments submitted by the Metropolitan Council.

20.15 E. Upon completing the review, the commissioner must take an action under
20.16 subitem (1) or (2) and provide a copy of the decision to the Metropolitan Council and
20.17 the National Park Service:

20.18 (1) approve the draft plan and ordinance by written decision; or

20.19 (2) return the draft plan and ordinance to the local government for
20.20 modifications, with a written explanation of the need for modification.

20.21 F. When the commissioner returns a draft plan and ordinance to the local
20.22 government for modification, the local government must revise the draft plan and
20.23 ordinance within 60 days after receipt of the commissioner's written explanation and must
20.24 resubmit the revised draft plan and ordinance to the commissioner. Upon receiving the

21.1 revised draft plan and ordinance from the local government, the Metropolitan Council and
21.2 the commissioner must conduct the review as provided under item D.

21.3 (1) If a meeting is requested by the local government or the Metropolitan
21.4 Council, a final revision need not be made until a formal meeting has been held with the
21.5 commissioner on the draft plan and ordinance. The request extends the 60-day time limit
21.6 specified in this item until after the meeting has been held.

21.7 (2) The commissioner must grant extensions to local governments if the
21.8 local government requests an extension in writing and if the local government is making a
21.9 good-faith effort to meet the submittal deadline. The extension, if granted, must include a
21.10 timetable and plan for completion of the plan and ordinance.

21.11 G. Within 60 days after receiving the commissioner's approval of a draft plan
21.12 or ordinance, the local government must adopt the commissioner-approved draft plan
21.13 and ordinance. The local government must submit a copy of the final adopted plan and
21.14 ordinance, with evidence of adoption, to the commissioner, the Metropolitan Council, and
21.15 the National Park Service, within ten days after the adoption.

21.16 H. Only those plans and ordinances approved by the commissioner have the
21.17 force and effect of law.

21.18 I. Once in effect, the local government must implement and enforce the
21.19 commissioner-approved plan and ordinance.

21.20 J. If a local government fails to prepare and submit a draft plan and
21.21 ordinance within one year of notification as provided under item A, fails to incorporate
21.22 necessary modifications as provided under item E, subitem (2), or fails to adopt the
21.23 commissioner-approved plan or ordinance as provided under item G, the commissioner
21.24 must:

22.1 (1) prepare a plan and ordinance consistent with this chapter within 90
22.2 days of the deadline for preparation or adoption of plans and ordinances as provided under
22.3 items A to E or G or the end date of an extension of time approved by the commissioner as
22.4 provided under item F;

22.5 (2) conduct a public hearing as provided by Minnesota Statutes, section
22.6 14.58, and other statutes as applicable;

22.7 (3) within 60 days after the conclusion of the public hearing, adopt by
22.8 written order the plan and ordinance for the local government's portion of the Mississippi
22.9 River Corridor Critical Area; and

22.10 (4) give notice of the adopted plan and ordinance to the affected local
22.11 government, the Metropolitan Council, and the National Park Service.

22.12 K. Plans and ordinances that have been adopted by the commissioner under
22.13 this subpart have the same effect as if adopted by the local government and must be
22.14 administered and enforced by the local government.

22.15 L. Local governments may amend plans and ordinances at any time following
22.16 the procedures under items C to I.

22.17 M. Plans must be updated regularly on the same schedule as other
22.18 comprehensive plan elements according to Minnesota Statutes, section 473.864, and
22.19 in a manner consistent with items C to I.

22.20 **Subp. 4. Contents of plans.**

22.21 A. The plan must be a component of the local government's comprehensive
22.22 plan prepared according to Minnesota Statutes, section 473.859, and must be consistent
22.23 with the purposes and scope of this chapter.

22.24 B. Plans must contain maps, policies, and implementation provisions to:

22.25 (1) identify and protect primary conservation areas;

23.1 (2) identify and protect those public river corridor views and other scenic
23.2 views deemed important by the community;

23.3 (3) identify areas that are priorities for restoration of natural vegetation,
23.4 erosion prevention, bank and slope stabilization, or other restoration activities;

23.5 (4) minimize potential conflict of water surface uses as authorized under
23.6 Minnesota Statutes, chapter 86B;

23.7 (5) provide for commercial barge terminals, barge fleeting, and recreational
23.8 marinas, if applicable;

23.9 (6) provide for future commercial and industrial uses that require water
23.10 access;

23.11 (7) provide for and encourage creation, connection, and maintenance of
23.12 open space and recreation facilities, such as parks, scenic overlooks, natural areas, islands,
23.13 and wildlife areas;

23.14 (8) identify potential public access points and trail locations; and

23.15 (9) provide for transportation and public utility development in a manner
23.16 consistent with this chapter.

23.17 **Subp. 5. Contents of ordinances.**

23.18 A. Local ordinances must be consistent with the standards in this chapter and
23.19 must include:

23.20 (1) definitions consistent with part 6106.0050;

23.21 (2) administrative provisions consistent with part 6106.0080;

23.22 (3) districts consistent with part 6106.0100;

23.23 (4) minimum standards and criteria consistent with parts 6106.0110 to
23.24 6106.0180; and

24.1 (5) alternative design methods consistent with part 6106.0170.

24.2 B. The local ordinance must be structured as an overlay district. If a conflict
24.3 exists with underlying zoning, the provisions of the overlay district govern. Where
24.4 specific numeric thresholds or standards are listed in this chapter, those numeric thresholds
24.5 or standards must be included in the overlay district.

24.6 Subp. 6. **Flexibility requests for ordinances.**

24.7 A. Local governments may, under special circumstances and with the
24.8 commissioner's prior approval, adopt ordinances that are not consistent with this chapter,
24.9 provided that the purposes of Minnesota Statutes, section 116G.15, ~~and the purposes and~~
24.10 ~~scope of this chapter~~ are met and the ordinance is consistent with the plan prepared by
24.11 the local government and approved according to this chapter. Special circumstances
24.12 include the following situations:

24.13 (1) areas where existing urban, residential, commercial, or industrial
24.14 development patterns have been in place since before the designation of the Mississippi
24.15 River Corridor Critical Area and where the majority of the development does not meet the
24.16 minimum state standards;

24.17 (2) areas managed under other water and related land resource management
24.18 programs authorized by state or federal legislation with goals compatible with this chapter;

24.19 (3) existing or planned wastewater, storm water, water supply, or utility
24.20 facilities and similar physical or infrastructural constraints make the use of particular
24.21 minimum standards impractical; and

24.22 (4) areas where detailed modeling of visual, physical, or other resource
24.23 impacts has been completed as part of a public planning process.

25.1 B. A local government requesting ordinance flexibility must submit a written
25.2 request to the commissioner as part of the ordinance submittal required under subpart 3.

25.3 The request must:

25.4 (1) be approved by the governing body with authority to approve the request;

25.5 (2) include the proposed ordinance and any associated maps;

25.6 (3) include a detailed description of the proposed alternative standards that
25.7 are not consistent with this chapter, together with documentation that the alternative
25.8 standards are consistent with the purposes and scope of this chapter;

25.9 (4) describe the special circumstances that justify the use of alternative
25.10 standards;

25.11 (5) describe the potential impacts to primary conservation areas and
25.12 mitigation actions proposed to address the impacts;

25.13 (6) include documentation of any input from adjoining local governments,
25.14 including those with overlapping jurisdiction and those across the river, and from other
25.15 potentially affected interests, including community members; and

25.16 (7) include any other supporting information, maps, and documents that the
25.17 local government considers necessary to explain the request to the commissioner.

25.18 C. Within 60 days after receiving a complete request for ordinance flexibility as
25.19 provided in item B, the commissioner must:

25.20 (1) make the request publicly available;

25.21 ~~(2)~~ (2) evaluate the request based on:

25.22 (a) the extent to which the proposed alternative standards satisfy
25.23 the purposes of Minnesota Statutes, section 116G.15, subdivision 1, and the purposes
25.24 and scope of this chapter;

26.1 (b) the likely impact of the proposed alternative standards on primary
26.2 conservation areas and public river corridor views;

26.3 (c) comments from adjoining local governments and other potentially
26.4 affected interests; and

26.5 (d) the local government's identification of mitigation measures and
26.6 its commitment to mitigate any adverse impacts resulting from the proposed alternative
26.7 standards; and

26.8 ~~(2)~~ (3) approve or deny the request, state in writing to the local government
26.9 the reasons for the approval or denial, and suggest any alternative solutions or regulatory
26.10 approaches that would be granted ordinance flexibility.

26.11 Subp. 7. **Plans and projects for parks and other public lands.** State or regional
26.12 agencies, local park agencies, special purpose units of government, and local governments
26.13 with parks or other public lands within their jurisdiction must comply with the standards
26.14 and criteria in this chapter. The agencies and government entities must include the
26.15 following elements in plans and project designs for parks and other public lands they own
26.16 or manage within the Mississippi River Corridor Critical Area:

26.17 A. documentation of the location of the park or other owned or managed land
26.18 within the Mississippi River Corridor Critical Area and recognition of the purposes of the
26.19 Mississippi River Corridor Critical Area designation and this chapter;

26.20 B. standards for public utilities and facilities consistent with those in part
26.21 6106.0130; and

26.22 C. provisions for protection of primary conservation areas and public river
26.23 corridor views.

27.1 **6106.0080 ADMINISTRATIVE PROVISIONS FOR ORDINANCES.**

27.2 Subpart 1. **Purpose.** The purpose of this part is to identify administrative provisions
27.3 that must be included in local ordinances to ensure that ordinances are administered
27.4 consistent with the purposes of this chapter.

27.5 Subp. 2. **Variations.**

27.6 A. A local government must consider applications for variances in a manner
27.7 consistent with Minnesota Statutes, sections 394.27, subdivision 7, and 462.357,
27.8 subdivision 6. The local government's review must consider the potential impacts of a
27.9 proposed variance on primary conservation areas, public river corridor views, and other
27.10 resources identified in the local governments' plan.

27.11 B. If a local government determines that a variance would negatively affect
27.12 primary conservation areas, public river corridor views, or other identified resources,
27.13 mitigation is required. Mitigation must be proportional to, have a relationship to, and
27.14 offset the impact on the affected resource as provided in subpart 5.

27.15 C. The local government's findings of fact accompanying the issuance of any
27.16 variance must include a finding and evidence supporting a finding that the requested
27.17 variance is consistent with the purposes and scope of this chapter.

27.18 Subp. 3. **Nonconformities.**

27.19 A. The purpose of this subpart is to allow uses and structures that came
27.20 into existence legally prior to the effective date of this part and in conformance with
27.21 then-applicable requirements to continue to exist and be put to productive use.

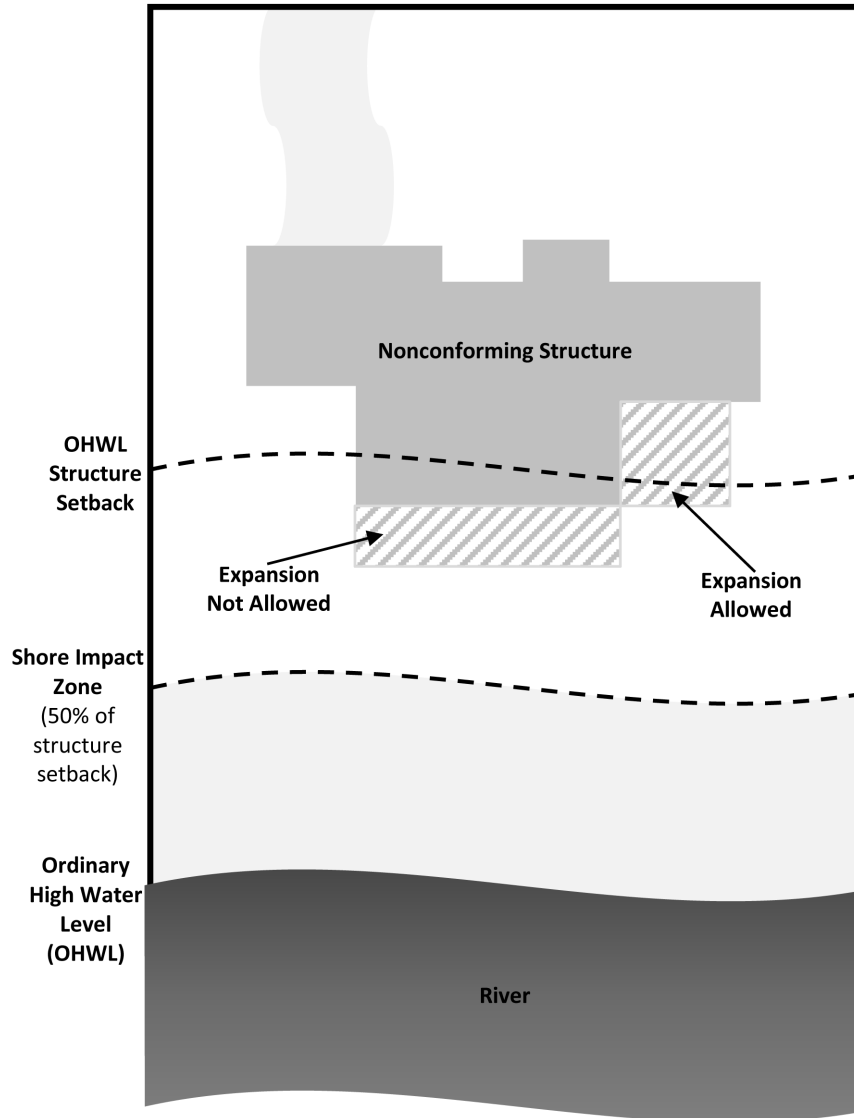
27.22 B. Nonconformities must be regulated by local governments in a manner
27.23 consistent with Minnesota Statutes, sections 394.36 and 462.357, subdivision 1e.

28.1 C. Local governments may choose to allow lateral expansion of legally
28.2 nonconforming principal structures that do not meet the setback requirements in part
28.3 6106.0120, provided that:

28.4 (1) the expansion does not extend into the shore impact zone or bluff
28.5 impact zone or further into the required setback than the building line of the existing
28.6 principal structure. See Figure 3; and

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

Figure 3: Expansion of Nonconforming Structure within OHWL Setback



29.1 D. New structures erected in conformance with the setback averaging provisions
29.2 of part 6106.0120, subpart 3, item D, are considered to be in conformance with local
29.3 ordinance requirements.

29.4 E. Site alterations that were legally made prior to the effective date of local
29.5 ordinances adopted under this chapter are considered conforming. Site alterations include
29.6 vegetation, erosion control, storm water control measures, and other nonstructural site
29.7 improvements. Expansion of site alterations must comply with this chapter.

30.1 Subp. 4. **Conditional and interim use permits.**

30.2 A. In addition to meeting the requirements of Minnesota Statutes, sections
30.3 394.301, 394.303, 462.3595, and 462.3597, a local government's review of conditional
30.4 and interim uses must consider potential impacts of the conditional or interim use on
30.5 primary conservation areas, public river corridor views, and other resources identified in a
30.6 local government's plan.

30.7 B. When evaluation and assessment identify a negative impact under item A,
30.8 issuance of a conditional or interim use permit must include conditions for mitigation
30.9 according to subpart 5.

30.10 Subp. 5. **Mitigation.**

30.11 A. In evaluating a request for a variance or conditional or interim use permit, if
30.12 a local government identifies a potential negative impact to primary conservation areas,
30.13 public river corridor views, or other resources identified in the local government's plan,
30.14 the variance or conditional or interim use permit must require mitigation.

30.15 B. Mitigation must be directly related to and must bear a rough proportionality
30.16 to the impact of the project on primary conservation areas, public river corridor views, and
30.17 other resources identified in the local government's plan.

30.18 Subp. 6. **Project information.**

30.19 A. An applicant must submit relevant information to the responsible local
30.20 government to evaluate how any development that requires discretionary action or a permit
30.21 under this chapter complies with the plans and ordinances adopted under this chapter.

30.22 B. In addition to local government requirements, project information must
30.23 include the following, unless the responsible local government determines that the
30.24 information is not necessary:

30.25 (1) a detailed description of the project; and

- 31.1 (2) scaled maps and plans, dimensional renderings, maintenance
 31.2 agreements, and other materials that identify and describe:
- 31.3 (a) primary conservation areas;
- 31.4 (b) public river corridor views;
- 31.5 (c) buildable area;
- 31.6 (d) existing and proposed topography and drainage patterns;
- 31.7 (e) proposed storm water and erosion and sediment control practices;
- 31.8 (f) existing and proposed vegetation to be removed and established;
- 31.9 (g) ordinary high water level, blufflines, and all required setbacks;
- 31.10 (h) existing and proposed structures;
- 31.11 (i) existing and proposed impervious surfaces; and
- 31.12 (j) existing and proposed subsurface sewage treatment systems.

31.13 Subp. 7. **Accommodating disabilities.** Ramps or other facilities to provide persons
 31.14 with disabilities access to the persons' property, as required by the federal Americans with
 31.15 Disabilities Act and the federal Fair Housing Act and as provided by chapter 1341, are
 31.16 allowed by ~~administrative permit~~, subject to the following standards:

31.17 A. parts 6106.0120 to 6106.0180 must be complied with ~~to the maximum extent~~
 31.18 practicable, except as provided in item B; and

31.19 B. when parts 6106.0120 to 6106.0180 cannot be complied with, the local
 31.20 government may issue an interim use permit to allow ramps or other facilities that do not
 31.21 comply with those parts. Upon expiration of the interim use permit, the ramp or other
 31.22 facilities must be removed.

32.1 **6106.0090 INCORPORATIONS BY REFERENCE.**

32.2 The following documents are incorporated by reference as guidance for complying
32.3 with the plans and ordinances adopted under this chapter. Unless specified otherwise,
32.4 these documents are not subject to frequent change and are available through the Minitex
32.5 interlibrary loan system:

32.6 A. The Minnesota Stormwater Manual, Minnesota Pollution Control Agency
32.7 (2013 and as subsequently amended);

32.8 B. Conserving Wooded Areas in Developing Communities: Best Management
32.9 Practices in Minnesota, Minnesota Department of Natural Resources (1999 and as
32.10 subsequently amended);

32.11 C. Design Handbook for Recreational Boating and Fishing Facilities, States
32.12 Organization for Boating Access (2006 and as subsequently amended);

32.13 D. Trail Planning, Design, and Development Guidelines, Minnesota Department
32.14 of Natural Resources (2007 and as subsequently amended);

32.15 E. Native Vegetation Establishment and Enhancement Guidelines, Minnesota
32.16 Board of Water and Soil Resources (2015 and as subsequently amended), available online
32.17 at http://www.bwsr.state.mn.us/native_vegetation/;

32.18 F. Shoreline Alterations: Riprap, Minnesota Department of
32.19 Natural Resources (2012 and as subsequently amended), available online at
32.20 http://www.dnr.state.mn.us/publications/waters/shoreline_alteration.html; and

32.21 G. Best Practices for Meeting DNR General Public Waters
32.22 Work Permit GP 2004-0001, Minnesota Department of Natural
32.23 Resources (2014 and as subsequently amended), available online at
32.24 http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_manual.html.

33.1 **6106.0100 DISTRICTS.**

33.2 Subpart 1. **Establishment of districts.** For purposes of this chapter, six districts are
33.3 established in the Mississippi River Corridor Critical Area, as described in this part, to
33.4 protect and enhance the resources and features identified in Minnesota Statutes, section
33.5 116G.15, subdivision 3.

33.6 Subp. 2. **Purpose.** The six districts are established based on the natural and built
33.7 character of different areas of the river corridor. All districts include diverse land uses,
33.8 including parks and open space and scenic, natural, and historic areas.

33.9 Subp. 3. **Rural and open space district (CA-ROS).**

33.10 A. The rural and open space district (CA-ROS) is characterized by rural and
33.11 low-density development patterns and land uses, and includes land that is riparian or visible
33.12 from the river, as well as large, undeveloped tracts of high ecological and scenic value,
33.13 floodplain, and undeveloped islands. Many primary conservation areas exist in the district.

33.14 B. The CA-ROS district must be managed to sustain and restore the rural and
33.15 natural character of the corridor and to protect and enhance habitat, parks and open space,
33.16 public river corridor views, and scenic, natural, and historic areas.

33.17 Subp. 4. **River neighborhood district (CA-RN).**

33.18 A. The river neighborhood district (CA-RN) is characterized by primarily
33.19 residential neighborhoods that are riparian or readily visible from the river or that abut
33.20 riparian parkland. The district includes parks and open space, limited commercial
33.21 development, marinas, and related land uses.

33.22 B. The CA-RN district must be managed to maintain the character of the river
33.23 corridor within the context of existing residential and related neighborhood development,
33.24 and to protect and enhance habitat, parks and open space, public river corridor views, and
33.25 scenic, natural, and historic areas. Minimizing erosion and the flow of untreated storm

34.1 water into the river and enhancing habitat and shoreline habitat vegetation are priorities
34.2 in the district.

34.3 **Subp. 5. River towns and crossings district (CA-RTC).**

34.4 A. The river towns and crossings district (CA-RTC) is characterized by historic
34.5 downtown areas and limited nodes of intense development at specific river crossings, as
34.6 well as institutional campuses that predate designation of the Mississippi River Critical
34.7 Corridor Area and ~~includes~~ that include taller buildings.

34.8 B. The CA-RTC district must be managed in a manner that allows continued
34.9 growth and redevelopment in historic downtowns and more intensive redevelopment in
34.10 limited areas at river crossings to accommodate compact walkable development patterns
34.11 and connections to the river. Minimizing erosion and the flow of untreated storm water
34.12 into the river, providing public access to and public views of the river, and restoring
34.13 natural vegetation in riparian areas and tree canopy are priorities in the district.

34.14 **Subp. 6. Separated from river district (CA-SR).**

34.15 A. The separated from river district (CA-SR) is characterized by its physical
34.16 and visual distance from the Mississippi River. The district includes land separated from
34.17 the river by distance, topography, development, or a transportation corridor. The land in
34.18 this district is not readily visible from the Mississippi River.

34.19 B. The CA-SR district provides flexibility in managing development without
34.20 negatively affecting the key resources and features of the river corridor. Minimizing
34.21 negative impacts to primary conservation areas and minimizing erosion and flow of
34.22 untreated storm water into the Mississippi River are priorities in the district.

34.23 **Subp. 7. Urban mixed district (CA-UM).**

35.1 A. The urban mixed district (CA-UM) includes large areas of highly urbanized
35.2 mixed use that are a part of the urban fabric of the river corridor, including institutional,
35.3 commercial, industrial and residential areas and parks and open space.

35.4 B. The CA-UM district must be managed in a manner that allows for future
35.5 growth and potential transition of intensely developed areas that does not negatively
35.6 affect public river corridor views and that protects bluffs and floodplains. Restoring and
35.7 enhancing bluff and shoreline habitat, minimizing erosion and flow of untreated storm
35.8 water into the river, and providing public access to and public views of the river are
35.9 priorities in the district.

35.10 **Subp. 8. Urban core district (CA-UC).**

35.11 A. The urban core district (CA-UC) includes the urban cores of Minneapolis
35.12 and St. Paul.

35.13 B. The CA-UC district must be managed with the greatest flexibility to protect
35.14 commercial, industrial, and other high-intensity urban uses, while minimizing negative
35.15 impacts to primary conservation areas and minimizing erosion and flow of untreated
35.16 storm water into the river. Providing public access to and public views of the river are
35.17 priorities in the district.

35.18 **Subp. 9. District boundaries.**

35.19 A. The physical boundaries of each district are delineated in the
35.20 Mississippi River Corridor Critical Area District Map, Minnesota Department
35.21 of Natural Resources (~~2015~~ 2016 and as subsequently amended). The map is
35.22 incorporated by reference, is not subject to frequent change, and is available on
35.23 the department's Web site at ~~www.dnr.state.mn.us/input/rules/mreea/map-draft.html~~
35.24 www.dnr.state.mn.us/waters/watermgmt_section/critical_area/index.html. The
35.25 commissioner must maintain the map and must amend the map as provided in item C.

36.1 B. The district boundary lines on the Mississippi River Corridor Critical Area
36.2 District Map are intended to follow the center lines of rivers and streams, highways,
36.3 streets, lot lines, and municipal boundaries, unless a boundary line is otherwise indicated
36.4 on the map. Where district boundaries cross unsubdivided property, the district boundary
36.5 line is determined by use of dimensions or the scale appearing on the map.

36.6 C. The boundaries of a district established under this part must be amended
36.7 according to subitems (1) to (3).

36.8 (1) A local government or a state or regional agency must submit a written
36.9 request to the commissioner requesting a district boundary amendment. The request must:

36.10 (a) be approved by the governing body with the legal authority to
36.11 make the request for the state or regional agency or local government;

36.12 (b) specifically identify the proposed changes to plans and ordinances
36.13 to address the proposed change;

36.14 (c) identify changes in land uses, infrastructure, or other conditions
36.15 since the effective date of this chapter that justify the proposed changes;

36.16 (d) ~~be consistent with~~ identify those local comprehensive plans,
36.17 regional system statements, state park and transportation master plans, and federal plans
36.18 that apply to the area proposed for a district boundary amendment;

36.19 (e) address potential negative impacts of the proposed change to
36.20 primary conservation areas, public river corridor views, and other resources and features
36.21 identified in local governments' plans; and

36.22 (f) contain a summary of feedback from affected parties as provided
36.23 under subitem (2).

36.24 (2) The local government or state or regional agency requesting the district
36.25 boundary amendment must give notice of the proposed district boundary amendment to

37.1 adjoining or overlapping local governments, the Metropolitan Council, the commissioner,
37.2 the National Park Service, and property owners in the area directly affected by the
37.3 proposed district boundary amendments and must conduct a public hearing.

37.4 (3) Upon receiving a complete request for a district boundary amendment
37.5 as provided under subitem (1), the commissioner must consider the request and determine
37.6 whether to initiate rulemaking to amend the boundary according to Minnesota Statutes,
37.7 chapter 14. The commissioner must communicate the determination, in writing, to the
37.8 local government or state or regional agency requesting the district boundary amendment
37.9 within 60 days after receiving the request.

37.10 D. This subpart does not apply to the defined river corridor boundary.

37.11 **6106.0110 USES.**

37.12 Subpart 1. **Underlying zoning.** Uses permissible within the Mississippi River
37.13 Corridor Critical Area are generally determined by the local government's underlying
37.14 zoning, with additional provisions for certain uses as specified by this part.

37.15 Subp. 2. **Agricultural use.** Where agricultural use is allowed by the local
37.16 government, perennial ground cover is required within 50 feet of the ordinary high water
37.17 level and within the bluff impact zone.

37.18 Subp. 3. **Feedlots.** New animal feedlots and manure storage areas are prohibited.
37.19 Existing animal feedlots and manure storage areas must conform with chapter 7020.

37.20 Subp. 4. **Forestry.** Where forestry is allowed by the local government, tree harvesting
37.21 and biomass harvesting within woodlands, and associated reforestation, must be consistent
37.22 with recommended practices in Conserving Wooded Areas in Developing Communities:
37.23 Best Management Practices in Minnesota, incorporated by reference under part 6106.0090.

38.1 Subp. 5. **Nonmetallic mining.** If allowed by the local government, nonmetallic
38.2 mining requires a conditional use permit or interim use permit issued by the local
38.3 government, subject to the following:

38.4 A. new nonmetallic mining is prohibited within the shore impact zone, bluff
38.5 impact zone, and within the required structure setback from the bluffline;

38.6 B. processing machinery must be located consistent with setback standards for
38.7 structures as provided in part 6106.0120;

38.8 C. only one barge loading area, which must be limited to the minimum size
38.9 practicable, is permitted for each mining operation;

38.10 D. new and, where practicable, existing nonmetallic mining operations must
38.11 not be readily visible and must be screened by establishing and maintaining natural
38.12 vegetation. The unscreened boundaries of nonmetallic mining areas are limited to only the
38.13 barge loading area;

38.14 E. a site management plan must be developed by the operator and approved
38.15 by the local government before new nonmetallic mining commences. Operations must
38.16 be consistent with the site plan throughout the duration of operations at the site. The site
38.17 management plan must:

38.18 (1) describe how the site will be developed over time with an emphasis on
38.19 minimizing environmental risk to public waters;

38.20 (2) explain where staged reclamation may occur at certain points during
38.21 the life of the site;

38.22 (3) address dust, noise, storm water management, possible pollutant
38.23 discharges, days and hours of operation, and duration of operation; and

38.24 (4) describe any anticipated vegetation and topographic alterations outside
38.25 the pit, and reclamation plans consistent with the stated end use for the land; and

39.1 F. existing and new nonmetallic mining operations must submit land
39.2 reclamation plans to the local government compatible with the purposes of this chapter.

39.3 Subp. 6. **River-dependent uses.** River-dependent uses must comply with items A
39.4 to C.

39.5 A. Structures and parking areas, except shoreline facilities and private roads and
39.6 conveyances serving river-dependent uses as provided in part 6106.0180, must meet the
39.7 dimensional and performance standards in this chapter, must be designed so that they are not
39.8 readily visible, and must be screened by establishing and maintaining natural vegetation.

39.9 B. Shoreline facilities must comply with chapter 6115 and must:

39.10 (1) be designed in a compact fashion so as to minimize the shoreline area
39.11 affected; and

39.12 (2) minimize the surface area of land occupied in relation to the number of
39.13 watercraft or barges to be served.

39.14 C. Dredging and placement of dredged material are subject to existing federal
39.15 and state permit requirements and agreements.

39.16 Subp. 7. **Wireless communication facilities.** Wireless communication facilities
39.17 require a conditional use permit or interim use permit issued by the local government.
39.18 In addition to the conditional use permit or interim use permit requirements under part
39.19 6106.0080, the following conditions apply:

39.20 A. the applicant must demonstrate that functional coverage cannot be provided
39.21 through co-location, a tower at a lower height, or a tower at a location outside the
39.22 Mississippi River Corridor Critical Area;

39.23 B. the tower must not be located in the bluff impact zone or shore impact
39.24 zone; and

39.25 C. placement of the tower must minimize impacts on public river corridor views.

40.1 **6106.0120 DIMENSIONAL STANDARDS.**

40.2 Subpart 1. **Purpose.** The purpose of this part is to establish dimensional standards
40.3 that protect primary conservation areas and public river corridor views from impacts of
40.4 development and ensure that new development is sited in locations consistent with part
40.5 6106.0020.

40.6 Subp. 2. **Structure height.**

40.7 A. Structures, including accessory structures, as defined by local ordinance,
40.8 must be no taller than the heights specified for each district:

40.9 (1) CA-ROS: 35 feet;

40.10 (2) CA-RN: 35 feet;

40.11 (3) CA-RTC: 48 feet, provided that tiering of structures away from the
40.12 Mississippi River and from blufflines is given priority, with lower structure heights closer
40.13 to the river and blufflines, and that structure design and placement minimizes interference
40.14 with public river corridor views. Taller buildings are allowed by conditional use permit, as
40.15 provided under item D, with consideration of the relationship of building height to the
40.16 mature treeline, where present, and existing surrounding development, as viewed from the
40.17 ordinary high water level of the opposite shore and from public river corridor views;

40.18 (4) CA-SR: height is determined by the local government's underlying
40.19 zoning requirements, provided the structure's structure height in the underlying zoning is
40.20 generally consistent with the height of the mature treeline, where present, and existing
40.21 surrounding development, as viewed from the ordinary high water level of the opposite
40.22 shore;

40.23 (5) CA-UM: 65 feet, provided tiering of structures away from the
40.24 Mississippi River and from blufflines is given priority, with lower structure heights closer
40.25 to the river and blufflines, and that structure design and placement minimize interference

41.1 with public river corridor views. Taller buildings are allowed by conditional use permit,
41.2 as provided under item D; and

41.3 (6) CA-UC: height is determined by the local government's underlying
41.4 zoning requirements, provided tiering of structures away from the Mississippi River and
41.5 blufflines is given priority, with lower structure heights closer to the river and blufflines,
41.6 and structure design and placement minimize interference with public river corridor views.

41.7 B. For the purposes of this subpart, height is determined by applicable local
41.8 government zoning regulations, provided it is measured on the side of the structure facing
41.9 the Mississippi River.

41.10 C. The height requirements in item A do not apply to those structures and
41.11 facilities identified in part 6106.0180 as exempt from these requirements, but meeting the
41.12 setback requirements of subpart 3.

41.13 D. In addition to the conditional use permit requirements in part 6106.0080,
41.14 criteria for considering whether to grant a conditional use permit for buildings exceeding
41.15 the height limits in item A must include:

41.16 (1) assessment of the visual impact of the proposed building on public river
41.17 corridor views, including views from other communities;

41.18 (2) identification and application of techniques to minimize the perceived
41.19 bulk of the proposed building, such as:

41.20 (a) placing the long axis of the building perpendicular to the river;

41.21 (b) stepping back of portions of the façade;

41.22 (c) narrowing the profile of upper floors of the building; or

41.23 (d) increasing the setbacks of the building from the Mississippi River
41.24 or blufflines;

42.1 (3) identification of techniques for preservation of those view corridors
42.2 identified in the local government's plan; and

42.3 (4) opportunities for creation or enhancement of public river corridor views.

42.4 **Subp. 3. Location of structures.**

42.5 A. Structures and impervious surfaces must not be located in the shore impact
42.6 zone and must meet the following setback requirement from the ordinary high water level
42.7 of the Mississippi River and other waters within the Mississippi River Corridor Critical
42.8 Area, as specified for each district:

42.9 (1) CA-ROS: 200 feet from the Mississippi River and 150 feet from the
42.10 Minnesota River and Vermillion River;

42.11 (2) CA-RN: 100 feet from the Mississippi River and 75 feet from the
42.12 Rum River and Vermillion River;

42.13 (3) CA-RTC: 75 feet from the Mississippi River, Crow River, and Rum
42.14 River;

42.15 (4) CA-SR: 75 feet from the Vermillion River;

42.16 (5) CA-UM: 50 feet from the Mississippi River;

42.17 (6) CA-UC: as specified in underlying zoning; and

42.18 (7) for all other public waters within the Mississippi River Corridor Critical
42.19 Area, as specified in underlying zoning.

42.20 B. Structures and impervious surfaces must not be located in the bluff impact
42.21 zone and must meet the following setback requirements from the bluffline as specified
42.22 for each district:

42.23 (1) CA-ROS: 100 feet;

42.24 (2) CA-RN: 40 feet;

43.1 (3) CA-RTC: 40 feet;

43.2 (4) CA-SR: 40 feet;

43.3 (5) CA-UM: 40 feet; and

43.4 (6) CA-UC: 40 feet.

43.5 C. The requirements in items A and B do not apply to those structures and
43.6 facilities listed in part 6106.0180 as exempt from these requirements.

43.7 D. Where principal structures exist on the adjoining lots on both sides of a
43.8 proposed building site, the minimum setback may be altered to conform to the average
43.9 of the adjoining setbacks, provided that the new structure's scale and bulk riverward or
43.10 bluffward of the setbacks required under items A and B are consistent with adjoining
43.11 development. No structures or impervious surfaces are allowed within the bluff impact
43.12 zone or shore impact zone, except as specified under part 6106.0180.

43.13 E. Subsurface sewage treatment systems, including the septic tank and
43.14 absorption area, must be located at least 75 feet from the ordinary high water level of
43.15 the Mississippi River and all other public waters within the Mississippi River Corridor
43.16 Critical Area.

43.17 Subp. 4. **Standards for new lots.**

43.18 A. Where lots are created after the effective date of this part, lot area and width
43.19 standards must comply with the requirements of the underlying zoning, except the width of
43.20 lots abutting the Mississippi River in the CA-ROS district must be at least 200 feet, unless
43.21 alternative design methods are used that provide greater protection of the riparian areas.

43.22 B. New lots must have adequate buildable area to comply with the setback
43.23 requirements in subpart 3.

44.1 **6106.0130 GENERAL DEVELOPMENT STANDARDS FOR PUBLIC**
44.2 **FACILITIES.**

44.3 Subpart 1. **Purpose and scope.** The purpose of this part is to establish standards
44.4 for public facilities that are consistent with best management practices and that protect
44.5 primary conservation areas. Public facilities serve the public interest by providing public
44.6 access to the Mississippi River corridor or require locations in or adjacent to the river
44.7 corridor and therefore require some degree of flexibility.

44.8 Subp. 2. **Definition of terms.** For the purpose of this part, "public facilities" means
44.9 public utilities, public transportation facilities, and public recreational facilities.

44.10 Subp. 3. **General design standards.** All public facilities must be designed and
44.11 constructed to:

44.12 A. minimize visibility of the facility to the extent consistent with the purpose
44.13 of the facility;

44.14 B. comply with the dimensional standards in part 6106.0120, except as provided
44.15 in part 6106.0180;

44.16 C. be consistent with the vegetation management standards in part 6106.0150,
44.17 subpart 5, and the land alteration and storm water management standards in part
44.18 6106.0160, including use of practices identified in Best Practices for Meeting DNR
44.19 General Public Waters Work Permit GP 2004-001, incorporated by reference under
44.20 part 6106.0090, where applicable. State or regional agencies, special purpose units of
44.21 government, local park agencies, and local units of government with parks within their
44.22 jurisdiction are not required to obtain a vegetation management or land alteration permit
44.23 under part 6106.0150 or 6106.0160, but must apply the standards and criteria that would
44.24 be applied by local government, were a permit required;

45.1 D. avoid primary conservation areas, unless no alternative exists. If no
45.2 alternative exists, then disturbance to primary conservation areas must be avoided to the
45.3 greatest extent practicable, and design and construction must minimize impacts; and

45.4 E. minimize disturbance of spawning and nesting times by scheduling
45.5 construction at times when local fish and wildlife are not spawning or nesting.

45.6 Subp. 4. **Right-of-way maintenance standards.** Right-of-way maintenance for
45.7 public facilities is subject to the following standards:

45.8 A. vegetation currently in a natural state must be maintained to the extent
45.9 feasible;

45.10 B. where vegetation in a natural state has been removed, native plants must be
45.11 planted and maintained on the right-of-way; and

45.12 C. chemical control of vegetation must be avoided when practicable, but when
45.13 chemical control is necessary, chemicals used must be in accordance with the rules,
45.14 regulations, and other requirements of all state and federal agencies with authority over
45.15 the chemical's use.

45.16 Subp. 5. **Crossings of public water or public land.** Crossings of public waters
45.17 or land controlled by the commissioner are subject to approval by the commissioner
45.18 according to Minnesota Statutes, sections 84.415 and 103G.245. The commissioner must
45.19 give primary consideration to crossings that are proposed to be located within or adjoining
45.20 existing rights-of-way for public transportation and public utilities.

45.21 Subp. 6. **Public utilities.** Public utilities must, at a minimum, comply with the
45.22 following standards:

45.23 A. high-voltage transmission lines, wind energy conversion systems greater
45.24 than five megawatts, and pipelines are regulated according to Minnesota Statutes, chapters
45.25 216E, 216F, and 216G, respectively; and

46.1 B. if overhead placement is necessary, utility crossings must be hidden from
46.2 view as much as practicable. The appearance of structures must be as compatible as
46.3 practicable with the surrounding area in a natural state with regard to height and width,
46.4 materials used, and color.

46.5 Subp. 7. **Public transportation facilities.** Where public transportation facilities
46.6 intersect or abut two or more of the districts established under part 6106.0100, the
46.7 least restrictive standards apply. Public transportation facilities must be designed and
46.8 constructed to give priority to:

- 46.9 A. providing scenic overlooks for motorists, bicyclists, and pedestrians;
46.10 B. providing safe pedestrian crossings and facilities along the river corridor;
46.11 C. providing access to the riverfront in public ownership; and
46.12 D. allowing for use of the land between the river and the transportation facility.

46.13 Subp. 8. **Public recreational facilities.**

46.14 A. Buildings and parking associated with public recreational facilities, except
46.15 as provided under part 6106.0180, must meet the dimensional standards in part 6106.0120
46.16 and must not be placed within the bluff impact zone or shore impact zone.

46.17 B. Roads and driveways associated with public recreational facilities must
46.18 not be placed in the bluff impact zone or shore impact zone unless no other placement
46.19 alternative exists. If no alternative exists, then design and construction must minimize
46.20 impacts to shoreline vegetation, erodible soils and slopes, and other sensitive resources.

46.21 C. Trails, access paths, and viewing areas associated with public recreational
46.22 facilities and providing access to or views of the Mississippi River are allowed within the
46.23 bluff impact zone or shore impact zone if design, construction, and maintenance methods
46.24 are consistent with the best management practice guidelines in Trail Planning, Design, and
46.25 Development Guidelines, incorporated by reference under part 6106.0090.

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

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

47.6 (a) visibility from the river;

47.7 (b) visual impacts on public river corridor views; and

47.8 (c) disturbance to and fragmentation of primary conservation areas.

47.9 D. Public water access facilities are subject to the following requirements:

47.10 (1) watercraft access ramps must comply with parts 6115.0210 and
47.11 6280.0250; and

47.12 (2) facilities must be designed and constructed consistent with the standards
47.13 in Design Handbook for Recreational Boating and Fishing Facilities, incorporated by
47.14 reference under part 6106.0090.

47.15 E. Public signs and kiosks for interpretive or directional purposes are allowed in
47.16 the bluff impact zone or shore impact zone, provided they are placed and constructed to
47.17 minimize disturbance to these areas and avoid visual impacts on public river corridor views.

47.18 F. Public stairways, lifts, and landings must be designed as provided in part
47.19 6106.0140, subpart 6, item C.

47.20 **6106.0140 GENERAL DEVELOPMENT STANDARDS FOR PRIVATE**
47.21 **FACILITIES.**

47.22 Subpart 1. **Purpose.** The purpose of this part is to provide design standards for
47.23 private facilities within the Mississippi River Corridor Critical Area that are consistent
47.24 with best management practices and that minimize impacts to primary conservation areas
47.25 and other identified resources.

48.1 Subp. 2. **Definition.** For the purpose of this part, "private facilities" means private
48.2 roads, driveways, and parking areas; private water access and viewing facilities; decks and
48.3 patios in setback areas; and private signs.

48.4 Subp. 3. **General design standards.** All private facilities must be developed in
48.5 accordance with the land alteration, vegetation, and storm water management requirements
48.6 in parts 6106.0150 and 6106.0160.

48.7 Subp. 4. **Private roads, driveways, and parking areas.** Except as provided in part
48.8 6106.0180, private roads, driveways, and parking areas must:

48.9 A. be designed and constructed to take advantage of natural vegetation and
48.10 topography so that they are not readily visible;

48.11 B. comply with structure setback requirements according to part 6106.0120; and

48.12 C. not be placed within the bluff impact zone or shore impact zone, unless
48.13 exempt under part 6106.0180 and designed consistent with part 6106.0130, subpart 3.

48.14 Subp. 5. **Private water access and viewing facilities.**

48.15 A. Private access paths must be no more than:

48.16 (1) eight feet wide, if placed within the shore impact zone; and

48.17 (2) four feet wide, if placed within the bluff impact zone.

48.18 B. Private water access ramps must:

48.19 (1) comply with parts 6115.0210 and 6280.0250; and

48.20 (2) be designed and constructed consistent with the applicable standards
48.21 in Design Handbook for Recreational Boating and Fishing Facilities, incorporated by
48.22 reference under part 6106.0090.

48.23 C. Design and construction of private stairways, lifts, and landings are subject
48.24 to the following standards:

49.1 (1) stairways and lifts must not exceed four feet in width on residential lots.
49.2 Wider stairways are allowed for commercial properties and residential facilities held in
49.3 common, if approved by the local government;

49.4 (2) landings for stairways and lifts on residential lots must not exceed
49.5 32 square feet in area. Landings larger than 32 square feet are allowed for commercial
49.6 properties and residential facilities held in common, if approved by the local government;

49.7 (3) canopies or roofs are prohibited on stairways, lifts, or landings;

49.8 (4) stairways, lifts, and landings must be located in the least visible portion
49.9 of the lot whenever practical; and

49.10 (5) ramps, lifts, mobility paths, or other facilities for persons with physical
49.11 disabilities are allowed for achieving access to shore areas according to subitems (1) to (4)
49.12 and as provided under part 6106.0080, subpart 7.

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

49.18 (1) not exceed 12 feet in height;

49.19 (2) not exceed 120 square feet in area; and

49.20 (3) be placed a minimum of ten feet from the ordinary high water level.

49.21 Subp. 6. **Decks and patios in setback areas.** Local governments may allow
49.22 decks and at-grade patios to encroach into the required setbacks from the ordinary high
49.23 water level and blufflines without a variance, in compliance with parts 6106.0150 and
49.24 6106.0160, provided that:

50.1 A. the encroachment of the deck or patio into the required setback area does
50.2 not exceed 15 percent of the required structure setback;

50.3 B. the area of the deck or patio that extends into the required setback area
50.4 occupies no more than 25 percent of the total area between the required setback and the 15
50.5 percent allowance, using the formula below:

50.6 [required setback depth (feet) x 0.15 x lot width (feet) x 0.25 = maximum total
50.7 area]; and

50.8 C. the deck or patio does not extend into the bluff impact zone.

50.9 Subp. 7. **Private signs.** Placement of signs is guided by the local government's
50.10 underlying zoning, with the additional provisions in items A and B.

50.11 A. If the local government allows off-premise advertising signs, the signs must:

50.12 (1) meet all required setbacks and height limits standards of this chapter; and

50.13 (2) not be readily visible.

50.14 B. If the local government allows directional signs for patrons arriving at a
50.15 business by watercraft, the signs:

50.16 (1) must be consistent with Minnesota Statutes, section 86B.115;

50.17 (2) if located within the shore impact zone, must convey only the location
50.18 and name of the establishment and the general types of goods and services available;

50.19 (3) must be no greater than ten feet in height and 32 square feet in surface
50.20 area; and

50.21 (4) if illuminated, must have lighting that is shielded to prevent illumination
50.22 out across the river or to the sky.

50.23 **6106.0150 VEGETATION MANAGEMENT STANDARDS.**

50.24 Subpart 1. **Purpose.** The purpose of this part is to establish standards that:

51.1 A. sustain and enhance the biological and ecological functions of vegetation;

51.2 B. preserve the natural character and topography of the Mississippi River

51.3 Critical Corridor Area; and

51.4 C. maintain stability of bluffs and steep slopes and ensure stability of other

51.5 areas prone to erosion.

51.6 Subp. 2. **Applicability.** This part applies to:

51.7 A. shore impact zones;

51.8 B. areas within 50 feet of a wetland or natural drainage way;

51.9 C. bluff impact zones;

51.10 D. areas of native plant communities; and

51.11 E. significant vegetative stands identified in local governments' adopted plans.

51.12 Subp. 3. **General provisions.**

51.13 A. Intensive vegetation clearing is prohibited, except for the following

51.14 activities, which are allowed by local permit:

51.15 (1) clearing vegetation that is dead, diseased, dying, or hazardous;

51.16 (2) clearing to prevent the spread of diseases or insect pests;

51.17 (3) removal of invasive non-native species;

51.18 (4) restoration and erosion control management activities consistent with a

51.19 plan approved by the local government or resource agency; and

51.20 (5) the minimum necessary for development that is allowed as an exception

51.21 under part 6106.0180.

51.22 B. The following activities are allowed without a permit:

52.1 (1) selective vegetation removal, including removal for those activities listed
52.2 under item A, subitems (1) to (3), and removal for other purposes provided that vegetative
52.3 cover remains consistent with the management purposes of districts under part 6106.0100;

52.4 (2) maintenance of existing lawns, landscaping, and gardens;

52.5 (3) removal of vegetation in emergency situations as determined by the
52.6 local government;

52.7 (4) right-of-way maintenance for public facilities meeting the standards of
52.8 part 6106.0130, subpart 4; and

52.9 (5) agricultural and forestry activities meeting the standards of part
52.10 6106.0110.

52.11 C. Local governments must not restrict the height of ground cover vegetation in
52.12 the areas listed under subpart 2, items A to E.

52.13 Subp. 4. **Permit process.**

52.14 A. Local governments must regulate intensive vegetation clearing activities
52.15 identified in subpart 3, item A, through a permit process.

52.16 B. Local government may create a new administrative permit process or use an
52.17 existing one for intensive vegetation clearing. Appeals of local government decisions on
52.18 permits are subject to Minnesota Statutes, section 462.357, subdivision 6.

52.19 C. Local governments may delegate the permitting responsibilities described
52.20 in this subpart to a resource agency or other qualified agent as determined by the local
52.21 government.

52.22 D. Local governments must require permit applicants to submit information as
52.23 needed to evaluate permits for consistency with the standards and requirements of this part
52.24 and parts 6106.0080, subpart 6, and 6106.0160.

53.1 E. Local governments must grant the permit, deny the permit, or grant the permit
53.2 with conditions necessary to achieve the purposes of this part, as provided under subpart 5.

53.3 Subp. 5. **Permit conditions.** In reviewing and approving permit applications, the
53.4 local government must ensure through permit conditions that the following performance
53.5 standards are met:

53.6 A. development is sited to minimize removal of or disturbance to natural
53.7 vegetation;

53.8 B. soil, slope stability, and hydrologic conditions are suitable for the proposed
53.9 work as determined by ~~an~~ a professional engineer or resource agency;

53.10 C. clearing is the minimum necessary and designed to blend with the natural
53.11 terrain and minimize visual impacts to public river corridor views;

53.12 D. any native plant communities removed are replaced with vegetation that
53.13 provides equivalent biological and ecological functions. If replaced, priorities for
53.14 restoration are stabilization of erodible soils, restoration or enhancement of shoreline
53.15 vegetation, and revegetation of bluffs or steep slopes visible from the river;

53.16 E. all other vegetation removed is restored with natural vegetation to the
53.17 greatest extent practicable. Priorities for replacement are the same as under item D;

53.18 F. any disturbance of highly erodible soils is replanted with deep-rooted
53.19 vegetation with a high stem density;

53.20 G. vegetation removal activities are conducted so as to expose the smallest
53.21 practical area of soil to erosion for the least possible time; and

53.22 H. other conditions as determined necessary by the local government to achieve
53.23 the purpose of this part are met.

53.24 Subp. 6. **Vegetation restoration plan requirements.**

- 54.1 A. Reestablishment of natural vegetation is required:
- 54.2 (1) as a condition of permits under subpart 5, items D and E;
- 54.3 (2) upon failure to comply with this part; or
- 54.4 (3) as part of the planning process for subdivisions under part 6106.0170.

- 54.5 B. The vegetation restoration plan must:
- 54.6 (1) include vegetation that provides suitable habitat and effective soil
- 54.7 stability, runoff retention, and infiltration capability. Vegetation species, composition,
- 54.8 density, and diversity must be guided by nearby patches of native plant communities;

- 54.9 (2) be prepared by a qualified individual as defined by the local
- 54.10 government; and

- 54.11 (3) include a maintenance plan that includes management provisions for
- 54.12 controlling invasive species and replacement of plant loss for three years.

- 54.13 C. The local government must issue a certificate of compliance after
- 54.14 determining that the restoration requirements of item B have been satisfied.

- 54.15 D. Vegetation management and restoration activities must be guided by Native
- 54.16 Vegetation Establishment and Enhancement Guidelines, incorporated by reference under
- 54.17 part 6106.0090.

54.18 **6106.0160 LAND ALTERATION AND STORM WATER MANAGEMENT**

54.19 **STANDARDS.**

54.20 Subpart 1. **Purpose.** The purpose of this part is to establish standards that:

- 54.21 A. protect water quality from pollutant loadings of sediment, nutrients, bacteria,
- 54.22 and other contaminants; and

- 54.23 B. maintain stability of bluffs, shorelines, and other areas prone to erosion.

54.24 Subp. 2. **Definitions.** For the purpose of this part:

55.1 A. "fully reconstructs" means the reconstruction of an existing impervious
55.2 surface that involves site grading and subsurface excavation so that soil is exposed. Mill
55.3 and overlay and other resurfacing activities are not considered fully reconstructed;

55.4 B. "storm water management facilities" means facilities for the collection,
55.5 conveyance, treatment, or disposal of storm water; and

55.6 C. "water quality impact zone" means land within the shore impact zone
55.7 or within 50 feet of the boundary of a public water, wetland, or natural drainage way,
55.8 whichever is greater.

55.9 **Subp. 3. Land alteration.**

55.10 A. Within the bluff impact zone, land alteration is prohibited, except for the
55.11 following which are allowed by local government permit:

55.12 (1) erosion control consistent with subpart 6 and a plan approved by the
55.13 local government or resource agency;

55.14 (2) the minimum necessary for development that is allowed as an exception
55.15 under part 6106.0180; and

55.16 (3) repair and maintenance of existing buildings and facilities.

55.17 B. Within the water quality impact zone, land alteration that involves a volume
55.18 of more than ten cubic yards of material or affects an area greater than 1,000 square feet
55.19 requires a permit from the local government, meeting the standards in subparts 5 and 6.

55.20 **Subp. 4. Rock riprap, retaining walls, and other erosion control structures.**

55.21 A. Construction, repair, or replacement of rock riprap, retaining walls, and other
55.22 erosion control structures located at or below the ordinary high water level must comply
55.23 with parts 6115.0215, subpart 4, item E, and 6115.0216, subpart 2. The work must not
55.24 proceed unless approved by the commissioner as meeting all requirements for work in
55.25 public waters.

56.1 B. Construction or replacement of rock riprap, retaining walls, and other erosion
56.2 control structures within the bluff impact zone and the water quality impact zone are
56.3 allowed by local government permit provided that:

56.4 (1) if the project includes work at or below the ordinary high water level,
56.5 the local permit is not approved until the commissioner has approved or permitted the
56.6 project according to item A;

56.7 (2) the structures are used only to correct an established erosion problem as
56.8 determined by the local government or resource agency;

56.9 (3) the size and extent of the structures are the minimum necessary to
56.10 correct the erosion problem and are not larger than the following, except as specified
56.11 under subitem (4):

56.12 (a) retaining walls must not exceed five feet in height and must be
56.13 placed a minimum horizontal distance of ten feet apart; and

56.14 (b) riprap must not exceed the height of the regulatory flood protection
56.15 elevation; and

56.16 (4) structures may exceed the height limits in subitem (3) only if a
56.17 professional engineer determines that a larger structure is needed to correct erosion
56.18 problems.

56.19 C. Repair of existing rock riprap retaining walls and other erosion control
56.20 structures above the ordinary high water level does not require a local government permit,
56.21 provided it does not involve any land alteration.

56.22 ~~E. D.~~ Nothing in this subpart shall be construed to waive any other permit
56.23 requirements that are required by law.

57.1 Subp. 5. **Permit process.** Local governments must regulate activities identified in
57.2 subparts 3 and 4 through a permit process consistent with subpart 6 and part 6106.0150,
57.3 subpart 4.

57.4 Subp. 6. **Permit conditions.** In reviewing and approving land alteration permit
57.5 applications, the local government must ensure that:

57.6 A. temporary and permanent erosion and sediment control measures retain
57.7 sediment onsite consistent with best management practices in the Minnesota Stormwater
57.8 Manual, incorporated by reference under part 6106.0090;

57.9 B. natural site topography, soil, and vegetation conditions are used to control
57.10 runoff and reduce erosion and sedimentation;

57.11 C. construction activity is phased when possible;

57.12 D. all erosion and sediment controls are installed before starting any land
57.13 disturbance activity;

57.14 E. erosion and sediment controls are maintained to ensure effective operation;

57.15 F. the proposed work is consistent with the vegetation standards in part
57.16 6106.0150; and

57.17 G. best management practices for protecting and enhancing ecological and
57.18 water resources identified in Best Practices for Meeting DNR General Public Waters Work
57.19 Permit GP 2004-001, incorporated by reference under part 6106.0090, are implemented
57.20 where applicable, regardless of project type.

57.21 Subp. 7. **Storm water management.**

57.22 A. In the bluff impact zone, storm water management facilities are prohibited,
57.23 except by local government permit if:

58.1 (1) there are no alternatives for storm water treatment outside the bluff
58.2 impact zone on the site in question;

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

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

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

58.9 B. In the water quality impact zone, development that creates new impervious
58.10 surface, as allowed by exemption in part 6106.0180, or fully reconstructs existing
58.11 impervious surface of more than 10,000 square feet requires a postconstruction storm
58.12 water management permit from the local government consistent with the following:

58.13 (1) if a local government is covered by a municipal separate storm sewer
58.14 system (MS4) general or individual permit from the Minnesota Pollution Control Agency,
58.15 then the treatment requirements of the MS4 permit for postconstruction storm water
58.16 management for new development and redevelopment projects apply;

58.17 (2) if a local government is not covered by an MS4 permit, then runoff
58.18 from the new or fully reconstructed impervious surface must comply with the treatment
58.19 requirements in the current national pollution discharge and elimination system program
58.20 permit for construction storm water;

58.21 (3) local governments may adopt other treatment requirements approved
58.22 by the Minnesota Pollution Control Agency instead of those specified in subitems (1)
58.23 and (2); and

58.24 (4) multipurpose trails and sidewalks are exempt from subitems (1) and (2)
58.25 if there is down gradient vegetation or a filter strip that is at least five feet wide.

59.1 C. In all other areas of the Mississippi River Critical Corridor Area, storm water
59.2 runoff must be directed away from the bluff impact zone or unstable areas.

59.3 Subp. 8. **Development on steep slopes.** A local government may allow structures,
59.4 impervious surfaces, land alteration, vegetation removal, or construction activities on
59.5 steep slopes if:

59.6 A. the applicant can demonstrate that the development can be accomplished
59.7 without increasing erosion or storm water runoff;

59.8 B. the soil types and geology are suitable for the proposed development; and

59.9 C. vegetation is managed according to the requirements of this part.

59.10 Subp. 9. **Compliance with other plans and programs.** All development must:

59.11 A. be consistent with Minnesota Statutes, chapter 103B, and local water
59.12 management plans completed under chapter 8410;

59.13 B. meet or exceed the wetland protection standards under chapter 8420; and

59.14 C. meet or exceed the floodplain management standards under chapter 6120.

59.15 **6106.0170 SUBDIVISION AND LAND DEVELOPMENT STANDARDS.**

59.16 Subpart 1. **Purpose.** The purposes of this part are to:

59.17 A. protect and enhance the natural and scenic values of the Mississippi River
59.18 Critical Corridor Area during development or redevelopment of the remaining large sites
59.19 within the corridor;

59.20 B. establish standards for protecting and restoring biological and ecological
59.21 functions of primary conservation areas on large sites; and

59.22 C. encourage restoration of natural vegetation during development or
59.23 redevelopment of large sites, where restoration opportunities have been identified in
59.24 local plans.

60.1 Subp. 2. **Applicability.**

60.2 A. Except as provided in item B, this part applies to the following developments
60.3 involving ten or more acres for parcels that abut the Mississippi River and 20 or more
60.4 acres for all other parcels within the river corridor boundary, including smaller individual
60.5 sites within the following developments that are part of a common plan of development
60.6 but may be constructed at different times:

60.7 (1) subdivisions;

60.8 (2) planned unit developments; and

60.9 (3) master-planned development and redevelopment of land.

60.10 B. The following activities are exempt from this part:

60.11 (1) minor subdivisions consisting of three or fewer lots;

60.12 (2) minor boundary line corrections;

60.13 (3) resolutions of encroachments;

60.14 (4) additions to existing lots of record;

60.15 (5) placement of essential services; and

60.16 (6) activities involving river-dependent commercial and industrial uses.

60.17 Subp. 3. **Project information.** Local governments must require detailed
60.18 project information and provide for preproject review of all proposed subdivisions,
60.19 redevelopments, and planned unit developments as provided under part 6106.0080,
60.20 subpart 6.

60.21 Subp. 4. **Design standards.**

60.22 A. Local government ordinances must contain provisions, including incentives,
60.23 for alternative design methods such as conservation design, transfer of development

61.1 density, or other zoning and site design techniques that achieve better protection or
61.2 restoration of primary conservation areas.

61.3 B. Primary conservation areas, where they exist, must be set aside for protection
61.4 as open areas as provided under item H. However, where primary conservation areas
61.5 exceed the thresholds in subitems (1) to (4) as a percentage of a parcel, then only the
61.6 percentage in subitems (1) to (4) must be set aside:

61.7 (1) CA-ROS: 50 percent;

61.8 (2) CA-RN: 20 percent;

61.9 (3) CA-RTC, CA-UM, CA-UC: ten percent; and

61.10 (4) CA-SR: ten percent, if the parcel includes native plant communities or
61.11 provides feasible connections to a regional park or trail system, otherwise no requirement.

61.12 C. If the primary conservation areas exceed the maximum percentage
61.13 established in item B, then the local government may determine which primary
61.14 conservation areas are to be protected, with priority given to the protection of native plant
61.15 communities and natural vegetation in riparian areas.

61.16 D. If primary conservation areas exist but do not have natural vegetation, then
61.17 a vegetation assessment must be completed for the areas to be protected to determine
61.18 whether vegetation restoration is needed. If restoration is needed, vegetation must be
61.19 restored according to part 6106.0150, subpart 6.

61.20 E. If primary conservation areas do not exist on the parcel in question, the
61.21 local government must determine whether any portions of the site have been identified as
61.22 potential restoration areas in local plans, according to part 6106.0070, subpart 4. When
61.23 such areas have been identified, vegetation must be restored consistent with a restoration
61.24 plan according to part 6106.0150, subpart 6, and the restored area must be set aside as
61.25 specified in item B.

62.1 F. Storm water treatment areas or other green infrastructure may be used to
62.2 meet the requirements of this subpart if the vegetation provides biological and ecological
62.3 functions.

62.4 G. Any land dedicated for public access or public facilities according to subpart
62.5 5 may be counted toward the set-aside requirements of this subpart at the discretion of the
62.6 local government.

62.7 H. Areas that have been set aside under item B must be protected through:

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

62.9 (2) a permanent conservation easement, as provided in Minnesota Statutes,
62.10 chapter 84C;

62.11 (3) a deed restriction; or

62.12 (4) other arrangements that achieve an equivalent degree of protection
62.13 as determined by the local government.

62.14 I. Permanent protection methods under item H must ensure, within the areas
62.15 set aside, the long-term management of vegetation to meet its biological and ecological
62.16 functions, prohibit structures, and prohibit land alteration, except as needed to provide
62.17 public recreational facilities and access to the river.

62.18 J. Protected open areas must connect ~~neighboring or abutting~~ open space,
62.19 natural areas, and recreational areas, where present on adjacent parcels, as much as
62.20 possible to form an interconnected network.

62.21 Subp. 5. **Land dedication.** Local governments that require dedication of land or
62.22 equivalent amounts of cash for parks and open space under Minnesota Statutes, section
62.23 394.25, subdivision 7, or 462.358, subdivision 2b, must encourage dedication of lands
62.24 suitable for riverfront access, parks, open space, storm water management, or other public
62.25 facilities within the Mississippi River Corridor Critical Area.

63.1 **6106.0180 EXEMPTIONS FROM SETBACKS, HEIGHT LIMITS, AND OTHER**
 63.2 **REQUIREMENTS.**

63.3 Uses and activities not specifically exempted under this part must comply with this
 63.4 chapter. All exemptions in the shore impact zone (SIZ) and bluff impact zone (BIZ)
 63.5 are also subject to the vegetation management standards in part 6106.0150 and the land
 63.6 alteration and storm water management standards in part 6106.0160. In the table, "E"
 63.7 means the use is exempt; "(E)" means that the use is allowed only if no alternatives exist,
 63.8 and "N" means that the use is not exempt and must meet the standards in this chapter.

		Set-	Height			Standard (the
		backs	limits	SIZ	BIZ	use must comply
						with standard or
						referenced parts)
63.13	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
63.14						
63.15						
63.16						
63.17						
63.18						
63.19	Barns, silos, and farm structures	N	E	N	N	
63.20	Bridges and bridge approach roadways	E	E	E	(E)	Part 6106.0130
63.21	Wireless communication facilities (towers)	E	E	N	N	Part 6106.0110, subpart 7
63.22						
63.23	Chimneys, church spires, flag poles, public monuments, and mechanical service stacks and similar mechanical equipment	N	E	N	N	
63.24						
63.25						
63.26						
63.27	Historic properties and contributing properties in historic districts	E	E	E	E	Exemptions do not apply to additions or site alterations to historic buildings or structures
63.28						
63.29						
63.30						
63.31						

64.1	Buildings and structures on the face of or abutting the bluff in the CA-UC district of St. Paul, between Chestnut Street and Highway 52	E	n/a	n/a	E	Height in the CA-UC district is governed by underlying zoning
64.2						
64.3						
64.4						
64.5	Public utilities					
64.6	Electrical power facilities	E	E	E	(E)	Part 6106.0130
64.7	Essential services (other than storm water facilities)	E	E	E	(E)	Part 6106.0130
64.8						
64.9	Storm water facilities	E	N	E	(E)	Part 6106.0160
64.10	Wastewater treatment	E	N	E	N	Part 6106.0130
64.11	Public transportation facilities	E	N	(E)	(E)	Part 6106.0130
64.12	Public recreational facilities					
64.13	Accessory structures, such as monuments, flagpoles, light standards, and similar park features	E	E	(E)	(E)	Part 6106.0130; within BIZ, only on slopes averaging less than 30 percent. Exemptions do not apply to principal buildings
64.14						
64.15						
64.16						
64.17						
64.18						
64.19						
64.20	Picnic shelters and other open-sided structures	E	N	(E)	N	Part 6106.0130
64.21						
64.22	Parking areas	(E)	N	(E)	(E)	Part 6106.0130; within BIZ, only within 20 feet of toe of bluff; not on face of bluff; and must not affect stability of bluff
64.23						
64.24						
64.25						
64.26						
64.27						
64.28						
64.29	Roads and driveways	(E)	N	(E)	(E)	Part 6106.0130
64.30	Natural-surfaced trails, access paths, and viewing areas	E	N	E	E	Part 6106.0130
64.31						

65.1	Hard-surfaced trails and viewing platforms	E	N	E	(E)	Part 6106.0130; within BIZ, only on slopes averaging less than 30 percent
65.2						
65.3						
65.4						
65.5	Water access ramps	E	N	E	(E)	Part 6106.0130
65.6	Public signs and kiosks for interpretive or directional purposes	E	N	E	(E)	Part 6106.0130
65.7						
65.8	River-dependent uses					
65.9	Shoreline facilities	E	N*	E	(E)	Part 6106.0110, subpart 6. Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility
65.10						
65.11						
65.12						
65.13						
65.14						
65.15						
65.16						
65.17	Private roads and conveyance structures serving river-dependent uses	E	N*	E	(E)	Part 6106.0110, subpart 6
65.18						
65.19	Private residential and commercial water access and use facilities					
65.20						
65.21	Private roads serving 3 or more lots	(E)	N	N	(E)	Part 6106.0140; in BIZ, only on slopes averaging less than 30 percent. Exemption does not apply to private roads serving fewer than 3 lots or to private driveways and parking areas
65.22						
65.23						
65.24						
65.25						
65.26						
65.27						
65.28						
65.29						
65.30						
65.31	Access paths	E	N	E	E	Part 6106.0140
65.32	Water access ramps	E	N	E	N	Part 6106.0140
65.33	Stairways, lifts, and landings	E	N	E	E	Part 6106.0140
65.34	Water-oriented accessory structures	E	N	E	N	Part 6106.0140

66.1	Patios and decks	E	N	N	N	Part 6106.0140,
66.2						subpart 6
66.3	Directional signs for watercraft (private)	E	N	E	N	Part 6106.0140;
66.4						exemption does not
66.5						apply to off-premise
66.6						advertising signs
66.7	<u>Temporary storage of docks, boats,</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>N</u>	
66.8	<u>and other equipment during the winter</u>					
66.9	<u>months</u>					
66.10	Erosion control structures, such as rock	E	N	E	(E)	Part 6106.0160,
66.11	riprap and retaining walls					subpart 4
66.12	Flood control structures	E	N	E	(E)	Part 6106.0160
66.13	* River-dependent commercial, industrial, and utility structures are exempt from					
66.14	height limits only if greater height is required for operational reasons.					