

SECTION 1001.07 - MISSISSIPPI RIVER CORRIDOR

Subdivision 1. General Provisions.

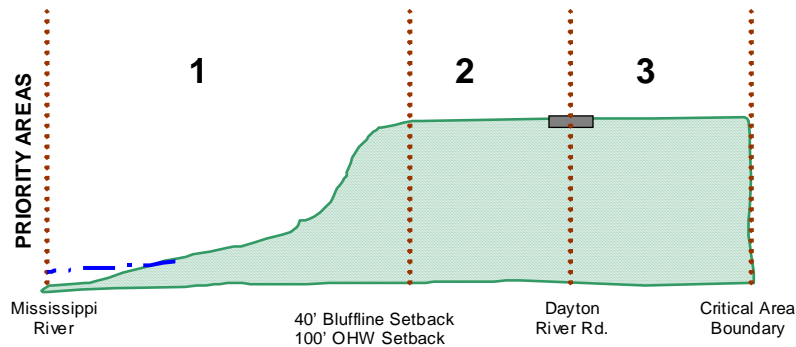
- (1) Findings.
 - a. The City of Dayton finds that the designated Mississippi River Corridor within the Metropolitan Area and the City is a unique and valuable local, state, regional and national resource.
 - b. The river is an essential element in the transportation, sewer and water, and recreational systems and serves important biological and ecological functions.
 - c. The prevention and mitigation of irreversible damage to this resource, and the protection, preservation and enhancement of its outstanding scenic, recreational, natural, aesthetic, cultural, historical and scientific values is important to the health safety and general welfare of the city.

- (2) Purpose and Intent. It is the purpose and intent of this section of the Ordinance to prevent and mitigate irreversible damage to this unique resource. The City desires to protect, preserve and enhance its outstanding values to the public; to protect and preserve its biological and ecological functions; and to protect and preserve the systems as an essential element in the city's transportation, sewer and water, and recreational systems in accordance with the following policies:
 - a. The Mississippi River Corridor shall be managed as a multi-purpose public resource by continuing use of the river channel for transportation, by conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor, and by providing for the continuation and the development of a variety of urban uses within the river corridor where appropriate.
 - b. The Mississippi River Corridor shall be managed in a manner consistent with its natural characteristics and its existing development to preserve its open, scenic and natural characteristics and ecological and economic functions.-
 - c. The Mississippi River Corridor shall be managed in accordance with the Critical Areas Act of 1973; the Minnesota Wild and Scenic Rivers Act; the Minnesota Environmental Policy Act of 1973; the standards and guidelines of Executive Order No. 79-19(as amended) dated February 26, 1979; and pursuant to Minnesota Statutes, chapter 103F and 116G and other applicable state and federal laws.
 - d. Designation of suitable land use districts along the bluffland and shoreland of the Mississippi River.

- (3) Establishment of Mississippi River Corridor Overlay District.
 - a. A Mississippi River Corridor overlay district with its attendant regulations is hereby established. This district shall overlay the zoning districts established by this Ordinance, adopted by the Dayton City Council, and as amended, so that any parcel of land lying in the overlay district shall also lay in one or more of the underlying established zoning districts.
 - b. The territory within the overlay district shall be subject to the requirements established in this Ordinance as well as more restrictive restrictions and requirements established by other applicable ordinances and regulations.
 - c. Within the overlay district, all uses shall be permitted in accordance with the regulations for the underlying zoning district(s), provided that these uses are in accordance with the additional requirements established in this Section.

- (4) District Boundaries. This overlay section shall apply to the Mississippi River Corridor district which is specifically delineated on the official Zoning Map of Dayton, and in Executive Order 79-19. This map shall be on file in the office of the City Clerk and shall be available for inspection and copying.
 - a. Priority Areas. The Mississippi River Corridor contains three planning areas based on proximity and relationship to the river. The three priority areas are listed below. They

are generalized areas as the location and setbacks vary based on topography and underlying zoning. Blufflines, as defined, may be found throughout each of the Priority Areas in the Corridor and are subject to setbacks.



1. Area One (Bluff and Flood Plain) - Priority area number one is the area below the 40' bluffline setback and within the 100' Ordinary High Water Level (OHWL) setback (200' OHWL and 100' bluffline setback in the AG & SA zoning districts). This priority area shall be preserved to protect the natural, ecological, passive recreational and scenic properties of the corridor. New development, other than passive recreational uses, will not be allowed within Priority area one.
2. Area Two (Bluff top) - Area two is between the bluffline setback and Dayton River Road. Within this area, development will be reviewed on a case by case basis in order to protect the Corridor values, bluffs, floodplain and associated ravines and steep slopes and meet the standards of this Section.
3. Area Three (South River Road) - Priority area three is between Dayton River Road and the Corridor boundary. All development within area three shall also be reviewed on a case-by-case basis. In general, there will be more consideration for flexibility and allowance for density of development in area three than areas one and two because of the distance to the river and the dividing line of the road, if in accordance with protection of Corridor values and the standards of this Section.

(5) Definitions: The definitions in Section 1001.03 – Definitions, of the Dayton Zoning Code shall define the terms used in this chapter of the ordinance.

Subdivision 2. Site Planning Requirements.

- (1) Site Plan Required.
 - a. All use changes require site plan submission and approval.
 - b. No building permit, zoning approval or subdivision approval permit, conditional use permit, variance, certificate, or other approval shall be issued for any action located in an area covered by this Section until a site plan has been prepared and approved in accordance with the provisions of this Section 1001.07, Subdivision 2 and other Section provisions.
 - c. All construction shall be done in accordance with the approved site plan.

(2) Exceptions.

- a. The City of Dayton City Council or their designee may waive certain site plan contents requirements of Section 1001.07 Subdivision 2 (3) b. 4) - 19) of this Ordinance for the extension, enlargement, change, or alteration of either a detached single-family dwelling or its accessory structures provided that the dwelling remains a detached single-family dwelling.

(3) Site Plan Application.

- a. A written application for site plan approval shall be filed with the Zoning administrator containing evidence adequate to show that the proposed use will conform to the standards set forth in this Section.
- b. Three (3) copies or drawings and required information shall be submitted to the Building Inspector.
- c. These shall be accompanied by a receipt from the Clerk indicating that all required site plan fees or processing costs have been paid along with evidence that any required escrow account or bond has been established.

(4) Site Plan Contents.

- a. Site Plans shall be prepared to a scale appropriate to the size of the project and suitable for the review to be performed.
- b. The following information shall be provided in the site plan:
 1. Location of the property including such information as the name and numbers of adjoining roads, railroads, existing subdivisions, or other landmarks.
 2. The name and address of the owner(s) or developer(s), legal description, north point, date and scale of drawing, and number of sheets. In addition, a blank space, three (3) inches high and three (3) inches wide shall be reserved for use by the approving authority.
 3. Existing topography as indicated on a contour map having a contour interval no greater than two (2) feet per contour. The topography map shall also include a graphic scale and clearly delineate all blufflines, all streams, including intermittent streams and swales, rivers, waterbodies, and wetlands located on the site. The topography map shall indicate the floodway and/or flood fringe lines and shall indicate the ordinary high water level of the river.
 4. A plan delineating existing drainage of the water by indicating the direction, the volume, and at what rate the storm water is conveyed from the site and indicating those areas of the site where storm water collects and is gradually percolated into the ground or slowly released to stream or lake.
 5. A description of soils with a map indicating soil types in the areas to be disturbed. A soil report prepared by a soil scientist containing information on the suitability of the soils for the type of development proposed and describing any remedial steps to be taken by the developer to render the soils suitable may be required by the City. All areas proposed for grading shall be identified by soil type, both as to soil type of existing to soil and soil type of the new contour. The location and extent of any erosion areas shall be indicated. The stability of rock units along bluff lines and faces shall be included in the soils description.
 6. A description of the plant and animal species which occupy the site or are occasionally found there and a detailed indication of those areas where unique, threatened, or endangered plant or animal species may be found on the site.
 7. A description of any features, buildings or areas which are of historic significance.
 8. A plan, with a graphic scale, indicating proposed finished grading shown at a contour interval of no greater than two (2) feet or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features.
 9. A landscape plan at the appropriate scale with dimensions, distances, and the location, type, and description of existing vegetation. This shall clearly locate and describe vegetation

proposed for removal; the vegetation retained for buffering and landscaping; and proposed landscape materials that will be added to the site as part of the development for revegetation and buffering.

10. A proposed stormwater management plan of the developed site delineating the minimization of runoff, the improvement of quality of runoff, the direction, volume, and rate at which stormwater will be conveyed from the site, and setting forth the areas of the site where stormwater will be allowed to collect and gradually percolate into the ground or be slowly released to stream or lake.
11. An erosion and sedimentation control plan indicating the type, location and necessary technical information on prevention and control measures to be taken both during and after construction.
12. Detailed site plans (with graphic scale) and elevations at a scale approved by the City showing the proposed placement on the property, size, alignment, height, setbacks, other proposal details, and intended use of the proposed development or any structure to be erected or located on the site.
13. A clear delineation and size of all areas that shall be paved or surfaced including a description of the surfacing material to be used.
14. A description of the method to provide vehicular and pedestrian access to the proposed development and public access to the river and/or public river view opportunities both before and after development; a description of the development's impact on existing views of and along the river.
15. A description of all parking facilities provided as part of the development of the site including an analysis of parking needs generated by the proposed development.
16. A delineation of any potential area or areas to be dedicated for public use.
17. A delineation of the location and amounts of excavated soils to be stored on the site during construction.
18. A description of activities undertaken to ensure consistency with Section 1001.07 Subdivision 1 (2) of this Ordinance and proposed measures which address adverse environmental effects.
19. Other information pertinent to the particular project which, in the opinion of the City of Dayton or is necessary or helpful for the review of the project.

- (5) Site Plan and Development Approval Standards: Site plans and development shall comply with all applicable state, federal and local regulations and the following standards for approval:
- a. New development and expansion shall be permitted only after the approval of site plans which adequately assess and minimize adverse effects and maximize beneficial effects.
 - b. Submitted site plans shall include only plan elements that are in accordance with the performance standards set forth in the Mississippi River Corridor Plan and this Ordinance.
 - c. Site plans shall include standards to ensure that the development, structures, roads, screening, landscaping, construction placement, maintenance, and storm water runoff are compatible with purposes in Section 1001.07, Subd. 1 (2) and the provisions of Section 1001.07.
 - d. Except for construction or modification of individual, detached single-family structures, site plans shall provide opportunities for open space establishment if feasible, and consider opportunities for public viewing of the Corridor.
 - e. Site plans shall contain specific conditions with regard to buffering, landscaping, and revegetation.
 - f. Preferred site plans will preserve existing vegetation, minimize vegetative cutting of existing trees, and include new native species plantings within the Corridor.
 - g. Approval consideration will be given to site plans that preserve and revegetate the landscape, especially bluff areas and large groupings of native plantings.

- h. Preferred site plans will include the clustering of structures in order to preserve sensitive resources and promote open space and open views of the Corridor.
- i. Site plans shall avoid impacting existing cultural and natural resources.

Subdivision 3. General Development Requirements.

- (1) The development shall minimize the removal of vegetation and alteration of the natural topography, minimize runoff and improve the quality of runoff, and provide erosion control through best management practices.
- (2) The conduct of all development, grading, landscaping, structure placement, and street routing shall be consistent with and, to the maximum extent, in furtherance of the goals and policies for the development of the river corridor as set forth in the Mississippi River Corridor Plan.
- (3) Preserve, and when appropriate, restore native vegetation.
- (4) The development shall comply with all regulations relating to endangered, threatened, and rare species.
- (5) Wildlife habitat in any development project shall be protected, and restored whenever possible.
- (6) The development shall be consistent with preservation of views of and from the river, the reasonable preservation of the view of the river corridor from other properties and by the public, buffering of the development, and minimization of the walling off of views of the river corridor from other properties and public rights of way.
- (7) The proposed development shall not lessen existing public access to and along the river bank, nor shall it lessen public opportunity to view the river from within the corridor.
- (8) The proposed development, both vehicular and pedestrian, shall be adequate and consistent with local transportation and thoroughfare planning.

Subdivision 4. Additional Dimensional Requirements.

- (1) All structure(s) shall be in compliance with the following minimum setback distance requirements (in feet):

Zoning District	Ordinary High Water Level	Blufflines
A-1	200	100
SA	200	100
All other districts	100	40

- (2) Maximum structure height shall be determined by the provisions of the City Zoning Code, except that no height can exceed 35 feet.
- (3) Impervious surface coverage of lots shall not exceed twenty-five (25%) percent of the lot area, except in the RO, Historic Village Residential and VM, Village-Mixed Use Districts where impervious surface shall not exceed thirty (30%) percent.
- (4) Site plan approval is required prior to any use change, building permit, zoning approval, subdivision approval or other approval or modification as detailed in subdivision 2 of this section.

Subdivision 5. Slope Protection and Soil Erosion Control.

- (1) In no case shall slopes in excess eighteen percent (18%) be developed, except for pipelines and transmission services.
- (2) A bluff impact area within 40 feet of the bluff line will be maintained in a natural state.
- (3) Development activities must comply with the following conditions:
 - a. It can be demonstrated that the development can be accomplished without increasing erosion or the rate of runoff, and meets all applicable National Pollutant Discharge Elimination System (NPDES) requirements.
 - b. Development activities are constructed and staged to prevent and minimize soil erosion: the smallest practical area of land shall be developed at any one time and that area shall be subjected to erosion for the shortest practical period of time, not to exceed a single construction season.
 - c. During construction, and until such time as final control measures are fully implemented and established, appropriate best management development practices in accordance with MPCA's "Protecting Water Quality in Urban Areas" as amended, or other professional soil conservation technical manuals, shall be implemented and maintained to prevent erosion, trap sediment, and ensure a minimum of soil loss. Permanent ground cover is to be established once construction is completed.
 - d. Wetlands and other water bodies shall not be used as primary sediment traps during or after construction.
 - e. Conditions on the site shall be stabilized within thirty (30) days following completion of the work.
 - f. All applicants for permits are encouraged to use Best Management Practices for riverbank erosion, first maximizing the use of native vegetation measures through vegetative cover, restoration, or bioengineering. Riprap and use of structural means should be used as a last resort and only if recommended by the DNR Area Hydrologist or City Engineer.
 - g. All erosion control methods shall be designed for suitable maintenance and access.
- (4) Development on land having a slope of greater than twelve percent (12%) before alteration but not greater than eighteen percent (18%) must be approved by the City and shall meet the following conditions:
 - a. Demonstration that the soil types and geology are suitable for slope development and there is proper management through best management practices and site design to control erosion, minimize runoff and improve the quality of runoff.
 - b. The development shall be screened by natural topography, retained existing vegetation or additional planting of native vegetation.
 - c. The development shall minimize topographic and vegetative alterations, and replace all removed vegetation with appropriate revegetation and landscaping of similar species.
 - d. The foundation and underlying material of any structure, including private roads, shall be adequate for the slope condition and soil type. Adequate controls and protection exist uphill from the proposed development such that there is no danger of structures or roads being struck by falling rocks, mud, uprooted trees or other materials.
 - e. The proposed development presents no danger of falling rock, mud, uprooted trees or other materials to structures downhill.
 - f. The view of the developed slope from the river and opposite riverbank shall be consistent with the natural appearance of the undeveloped slope, consistent with any historic areas nearby, and

compatible with surrounding architectural features.

- g. Any lift stations required to service the slope development with local sewer systems are to be designed in accordance with local design standards and approved by the City Engineer. The applicant shall furnish a satisfactory arrangement by which the cost of maintenance and operation of the lift station are borne by those serviced by the facility.

- (5) All septic systems shall be in conformance with MPCA Rule 7080.
- (6) The applicant shall demonstrate that the types and densities of land use proposed shall be suited to the site and soil conditions and shall not present a threat to the maintenance of the groundwater quality; a potential increase in maintenance cost of utilities, parking area or roads; and shall not be subject to problems due to soil limitations, including but not limited to soil bearing strength, shrink/swell potential and excessive frost movement.
- (7) No hazardous waste disposal shall be permitted.

Subdivision 7. Grading and Filling.

- (1) Grading or filling is prohibited within the bluff impact area or shore impact zone or on slopes greater than 18% except for utilities and river access with approved site plans.
- (2) All grading or filling shall comply with this Section's requirements for Slope Protection and Soil Erosion Control; Sewage Treatment and Pollution Prevention; Vegetation Management; and Surface Water Runoff Management. A minimum amount of grading or filling may be allowed, when necessary in compliance with the following requirements.
 - a. Any site alteration is the minimum area necessary for a structure or development undertaken pursuant to an approved use.
 - b. The grading or filling shall minimize site alteration, minimize adverse effects and maximize beneficial effects.
 - c. The applicant shall demonstrate that all grading which takes place will be conducted in a manner that preserves the root zone aeration and stability of existing trees and provides an adequate watering area equal to at least one-half (1/2) of each tree's crown cover.
 - d. Only fill free of chemical pollutants and organic wastes shall be used.
 - e. Wetlands shall not be used for solid waste disposal.
 - f. All disturbed areas shall be restored at the completion of the project.
 - g. All restoration of disturbed soils shall include the application of a minimum of four (4) inches of a topsoil or similar material that will support plant growth.
 - h. Final grades shall be in conformity with the approval and topography of the surrounding land.
 - i. All restored areas of disturbed soils shall be seeded with a mixture appropriate to the ecology and purpose of the site.
 - j. Any alterations below the ordinary high water level of public waters shall first be authorized by the DNR under Minnesota Statutes, Section 103G.245.
 - k. Development, grading and filling shall comply with the provisions of the Minnesota Wetland Conservation Act Laws of Minnesota 1991, Chapter 354, and as amended, and other applicable laws.

Subdivision 8. Vegetation Management.

- (1) Trees, shrubs, and existing native vegetation shall be preserved.
- (2) No trees shall be removed nor clear cutting of vegetation permitted within the floodplain: within the ordinary high water level setbacks; within ravines; on the slope or face of bluffs with 18% slopes or greater; on islands; and within bluffline setbacks except for safety reasons or for a public use and only under a permit issued from the City of Dayton.
- (3) Removal, cutting, or topping of any tree over 6 inches diameter requires a permit from the City of Dayton. Alteration of trees over 6" diameter shall not occur unless specifically approved by the City of Dayton.
- (4) Permits may be issued for:
 - a. the pruning for the health of the tree, but not to create views, or
 - b. for protection of utilities in protected areas, or
 - c. for the removal of invasive non-native vegetation in conjunction with a forest management plan that includes erosion control and re-vegetation.
- (5) The permit will be guided by the purposes and standards of this Section, the site plan approval requirements, and the following provisions:
 - a. A minimum amount of vegetation is to be cut for legally permitted expansions or new development.
 - b. Where trees are proposed to be cut, the applicant shall demonstrate that there are no feasible or prudent alternatives to cutting trees on the site.
 - c. The essential character, quality and density of existing growths is preserved and as much canopy cover as possible is maintained.
 - d. The buffering of structures and other facilities is not substantially reduced.
 - e. If trees are approved to be cut, the density of trees shall be restored with native vegetation to that which existed before development, but in no case shall the applicant be required to raise the density above ten trees per acre.

Subdivision 9. Surface Water Runoff Management.

- (1) The proposed development shall minimize runoff on-site through site design and plans, on-site infiltration, and in accordance with appropriate best management practices in accordance with MPCA's "Protecting Water Quality in Urban Areas" as amended, or other professional soil conservation technical manuals. The best management practices shall be maintained.
- (2) After on-site minimization has been achieved, the proposed development shall not increase the runoff rate from the site to adjoining property, public rights-of-way and watercourses.
- (3) The quality of water runoff and water infiltrated to the water table or aquifer shall be undisturbed after development, and quality of runoff improved.
- (4) The development can meet all applicable National Pollutant Discharge Elimination System (NPDES) requirements.
- (5) Storm water runoff after on-site minimization may be directed to public water bodies provided that storm water runoff is presettled, substantially free of silt, debris and chemical pollutants; only at rates which will not disturb vegetation or increase turbidity, and in accordance with this Section.

Subdivision 10. Utility and Transportation Facilities.

- (1) Utility Facilities. Utility crossings of the critical area corridor shall meet the following standards:
 - a. River crossings shall be minimized and concentrated at existing crossings where possible.
 - b. New and modified utility facilities shall complement the planned land and water uses and shall not stimulate incompatible development.
 - c. New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
 - d. Utility facilities shall be placed underground in order to minimize visual impact-unless economic, technological and land character factors make underground placement infeasible. Economic considerations alone shall not be made the major determination regarding feasibility.
 - e. If overhead placement is necessary, the crossing shall be hidden from view as much as practicable.
 - f. Overhead crossing, if required, shall meet the following criteria:
 - 1) The location of crossings shall be in or adjacent to existing transmission service corridors whenever practicable, including bridge or overhead utility lines.
 - 2) All structures utilized shall be as compatible as practicable with land use, scenic views, and existing transmission structures in height, material, color and design.
 - 3) Right of way clearance shall be kept to a minimum.
 - 4) Native vegetative screening shall be utilized to the maximum extent consistent with safety requirements.
 - 5) Routing shall avoid unstable soil, blufflines, or high ridges or woodlands, and the creation of tunnel vistas, and the alterations of the natural environment including grading and vegetative removal, shall be minimized.
 - 6) The crossing shall be subject to the site planning requirements set forth in this section.
 - g. Utility substations shall be subject to the following standards:
 - 1) All substations shall be subjected to the site planning requirements set forth in this section.
 - 2) New substations or refurbishment of existing substations shall be compatible in height, scale, building materials, landscaping and signing with the surrounding natural environment or land uses. Screening by natural means is encouraged and should be compatible with the surrounding environment.
 - h. Pipelines and underground facilities shall be subject to the following standards:
 - 1) All pipelines and underground facilities shall be subject to the site planning requirements set forth in this section.
 - 2) The facilities shall be located to avoid slopes greater than 18%, wetlands, woodlands, and areas of unstable soils.
 - 3) All underground placement of utility facilities and pipelines shall be followed by revegetation and rehabilitation minimally to the conditions which existed on site prior to development.
- (2) Transportation Facilities: The construction or reconstruction of all transportation facilities, railroads, and parking in the Mississippi River Corridor shall be subject to the following standards and criteria:
 - a. Roads and railways shall be constructed to preserve and protect the natural resources and minimize impacts on the natural terrain and natural landscape.
 - b. River crossings shall be minimized and concentrated at existing crossings where possible.
 - c. Cuts and fills are to be avoided where possible but in all cases shall be minimized as is practical and in conformance with other requirements.
 - d. All roads and railways shall be subject to the site planning requirements set forth in this section.

- e. New roads and railways shall not utilize the river corridor as a convenient right-of-way for new arterials or main lines.
- f. New and modified transportation facilities shall complement the planned land and water uses and shall not stimulate incompatible development.
- g. New roads and railways shall be restricted to those facilities needed to access existing planned uses.
- h. If standards are met, any new river crossings shall be designed to minimize visual and environmental impacts and accommodate pedestrian and bicycle, as well as vehicle, movement.
- i. All new roads and railways shall provide safe pedestrian crossing points to allow access to the river front. Rest areas, scenic overlooks, and waysides shall be considered if in accordance with the standards and criteria.
- j. If possible, access to the riverfront should be in public ownership and allow reasonable public use of the land between the river and the transportation facility.
- k. New transportation elements shall be architecturally designed to maintain the character of the corridor.
- l. The grades of streets shall not exceed eight percent (8%).
- m. Adequate parking facilities shall be provided to service the proposed development. The construction of said parking facilities, private roads and driveways shall be consistent with the character of the river corridor, screened from river view by natural vegetation and shall comply with all setbacks for structures.
- n. The following shall be avoided where practicable:
 - (1) Slopes greater than 18%.
 - (2) Scenic intrusion into stream, valley and open exposures of water.
 - (3) Scenic intrusion into areas such as ridge crests and high points.
 - (4) Wetlands.
 - (5) Forests by running along fringes of forests rather than through them. But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest;
 - (6) Soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction.
 - (7) Areas of unstable soils which would be subject to extensive slippage.
 - (8) Areas with highwater tables, especially if construction requires excavation.
 - (9) Open space recreation areas shall be avoided.

Subdivision 11. Riverfront Uses and Dedication

- (1) Development shall be required to dedicate to the public reasonable portions of land below the bluffline, place a conservation easement over the floodplain and bluff area, or provide proposed parks or public trail right-of-ways. In the event of practical difficulties or physical impossibility, the developer shall be required to contribute an equivalent amount of cash to be used only for the acquisition of land for riverfront property, trails, parks, preservation of open space, scenic overlooks, and protection of natural resources, storm water drainage areas or other public services within the Corridor.
- (2) Riverfront Uses.
 - a. Land use within the riverfront will be conservation related, with the exception of existing uses within the Village area. Some limited commercial renovation may occur within the Village. The location of storm water discharge points and utility crossings will be limited to the extent possible along the riverfront.
 - b. New development will not be allowed to front directly on the river.
 - c. Industrial, mining, extractive and other similar uses will not be allowed within the riverfront.

- d. Water access such as stairways will be evaluated on a case-by-case basis. In addition to compliance with the standards and site plan approval requirements set forth in this Section, stairways and lifts shall also be subject to the standards in Section 1001.08, Subd. 12 (1) a. - f.

Subdivision 12. Existing Uses.

- (1) Existing Substandard Use Structures. Any proposal for an expansion, change of use, renewal of existing permit, or building permit of an existing substandard use structure that is inconsistent with the provisions of this section or the critical areas designation order in location or use shall not be eligible for any permit granted by the City, unless a variance is obtained in accordance with Minnesota Statutes, Chapter 462 and City Code.
- (2) If hardship is proved, the following criteria shall be met:
 - a. The applicant shall provide and maintain adequate buffering of the structure from the water through the use of natural vegetation.
 - b. Expansion of existing structures shall be in a direction away from the river and blufflines, and must comply with the inconsistent dimensional standards as much as possible.
 - c. The public's ability to view the river and river corridor from existing public streets shall not be degraded by the proposed activity.
- (3) Signs. Signs in the critical river area shall be in conformance with Section 1001.12 of this Chapter unless otherwise specified below:
 - a. Advertising signs are prohibited.
 - b. Direction signs for the purposes of directing river traffic at or near boat launching areas are permitted provided that such signs are required to maintain safe and orderly traffic flow. These signs shall not be used as advertising space, shall be located at least twenty (20) feet landward of the ordinary high water level, and shall conform to all other provisions in this Chapter pertaining to directional signs.
 - c. Any other new signs require a permit pursuant to City Code and shall be set back from the riverfront area so as not to be viewed from the river.

Subdivision 13. Boat Launching Ramps and Docks

- (1) Boat launching ramps may be located only where access streets are adequate to handle the traffic load generated by the facility.
- (2) Boat launching ramps shall be the minimum dimensions and site alteration necessary, and shall comply with all site plan approval, grading and filling, soil erosion control, vegetative management and other provisions of this Ordinance.
- (3) Shared or joint use accessory parking will be preferred. Loading will be permitted only at ramps. Parking areas must be visually screened by vegetation or topography from the river and adjoining residential property and located at least (20) feet landward from the ordinary high water level .
- (4) The impact of the accessory parking must not adversely affect the environmental quality of the site or the surrounding neighborhood.
- (5) Boat launching ramps and minor accessory buildings and haul-off facilities must be in character and scale with the surrounding neighborhood.

- (6) The dock minimizes encroachment waterward of ordinary high water level in length and width, and minimizes interference with views of and from the river. .
- (7) Docks shall not have an adverse effect upon the ecological and hydrologic characteristics of the water, aquatic habitat, or wildlife habitat.
- (8) Docks and boat launching ramps shall meet all regulations of state and federal law.
- (9) Marinas shall be prohibited.

Subdivision 14. Management of Islands

- (1) Undeveloped islands shall be maintained in their natural state.

Subdivision 15. Land Suitability.

- (1) Each lot created through subdivision, including planned unit developments shall be suitable in its natural state for the proposed use with minimal alteration. No land shall be subdivided which is found to be unsuitable for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewer disposal capabilities, important fish and wildlife habitat, presence of significant historic or cultural sites, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or the community.

Subdivision 16. Planned Developments (Cluster Developments).

- (1) Planned developments (PD's) or Rural Planned Developments (RPUD's) in a shoreland may be allowed under a conditional use permit for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land.
- (2) Planned Developments in the Corridor shall require a Planned Development (PD) or (RPUD) zoning of the property, a conditional use permit and shall be processed in accordance with the provision of Section 1001.10 of the City Zoning Ordinance.
- (3) Application for Planned Development in the Mississippi River Corridor
 - a. Planned Developments shall only be permitted when they meet the provisions of Section 1001.10 of the City Zoning Ordinance for a Planned Development or Rural Planned Unit Development District.
 - b. Planned Developments shall be processed in accordance with the provisions in the Administrative Section of this Ordinance, Subdivision 9 and Planned Development provision of the City Zoning Ordinance.
 - c. Planned Developments in the Corridor may be permitted following the completion and approval of a site plan. The City shall find that the proposed development plan is in substantial compliance with the applicable standards of this Section and the Mississippi River Corridor Plan, and through clustering the proposal provides a better means of preserving open space, wooded areas, bluffs, scenic and ecological values, and other natural resources,.
 - d. Smaller lot sizes and higher density may be allowed provided:
 - (1) All site plan review requirements and standards for Corridor lands in this Section must be met or exceeded.
 - (2) At least 50 percent of the total project area within the Corridor shall be preserved as

open space. The first priority for the open space shall be the protection of bluffs, wooded areas; scenic and natural resources, and significant cultural sites.

- (3) Open space is permanently preserved and maintained through the use of deed restrictions, covenants, scenic easements, public dedication, or other effective methods.
- (4) Lots with dwelling units or sites, commercial uses, road rights-of-way, or land covered by road surfaces, parking areas, or structures, are developed areas and shall not be included in the computation of minimum open space.
- (5) The proposed lots, structures, development, utilities, water access, and shore recreation facilities shall be centralized on suitable areas of the property, and meet and exceed Corridor standards except for lot size and density.

Subdivision 17. Mining.

- (1) Mining operations are subject to provisions in this Section 1001.07 and Section 1001.08, Subd. 12 (15) e.
- (2) Mining operations shall not take place within 300 ft. of the river.

Subdivision 18. Agricultural Uses.

- (1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if bluffs, and shore and bluff impact areas are maintained in a permanent native vegetative cover or managed under an approved conservation plan (Resource Management Systems) consistent with the standards in this Section and the field office technical guides of the local Soil and Water Conservation Districts of the United States Soil Conservation Service.
- (2) Animal feedlots shall be prohibited

Subdivision 19. Performance Standards.

- (1) Performance Standards are set forth in 1001.12 (1).

Subdivision 20. Notifications to the Department of Natural Resources

- (1) Copies of all notices and submitted information of any public hearings, site plans, subdivisions/plats or discretionary actions affecting lands within the Mississippi River Corridor shall be sent to the DNR or the DNR's designated representative at least thirty days before the hearing or final action.
- (2) A copy of approved subdivisions/plats, and the final decisions granting discretionary or hearing actions under Mississippi River Corridor ordinance shall be sent to the DNR or the DNR's designated representative and postmarked within ten days of final action.
- (3) Proposed plan and ordinance amendments affecting lands within the Mississippi River Corridor, including rezoning and density changes, shall be sent to the DNR or the DNR's designated representative for review and approval by the DNR in accordance with procedures and review timetable in state laws. Such amendments become effective only upon the approval by DNR and subsequent enactment by the City.

Subdivision 21. Enforcement.

- (1) The Zoning Administrator shall be responsible for the administration and enforcement of this Section. Any violation of the provisions of this Section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.
- (2) Violations of this Section can occur regardless of whether or not a permit.
- (3) Each day that a violation of the provisions of this Section exist, shall constitute a separate misdemeanor.

(Ord 2003-11 replaces all previous Mississippi River Corridor Ordinances or Critical River Ordinances)