

CHAPTER 74. ZONING

ARTICLE VI. Mississippi River Control Corridor/Rum River Protection*

*State law references--Shoreline development, Minn. Stats. § 103F.201 et seq.; municipal shore land management, Minn. Stats. § 103F.221; Minnesota Wild and Scenic Rivers Act, Minn. Stats. § 103F.301 et seq.

DIVISION 1. Generally.

Section 74-281. Findings and purpose.

- (a) The City Council finds that the Mississippi River Corridor within the metropolitan area and the City, and the Rum River Corridor within the City are unique and valuable local, regional, state and national resources. These rivers are essential elements in the local, regional, state and national transportation, sewer and water, and recreational systems and serve important biological and ecological functions. The prevention and mitigation of irreversible damage to these resources and the preservation and enhancement of their natural, aesthetic, cultural, and historic values is in the furtherance of the health, safety and general welfare of the City.
- (b) The Council further finds that the critical area district and the Rum River Management District are characterized by certain soil types, slopes, and water levels which, without proper corrective action, are unsuitable for development. The preservation of trees and woodlands, marshes, swamps, wetlands, drainage ways, and watercourses, within these districts serves important ecological, recreational and aesthetic functions to the benefit of existing and future residences of the municipality and therefore is in furtherance of the health, safety, and general welfare of the City.
- (c) It is the purpose and intent of this article to prevent and mitigate irreversible damage to these natural resources and to preserve and enhance their values to the public. Development shall be so regulated so as to minimize the risk of environmental damage to these areas. By doing so, private home owners and governmental units are protected from incurring high maintenance and capital costs resulting from the necessity to correct the deficiencies encountered as a result of inappropriate or improper development.

Section 74-282. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Crown cover means the ratio between the amount of land shaded by the vertical projection of the branches and foliage area of standing trees to the total area of land, usually expressed as percentage.

Development means the construction, installation or alteration of any structure, the extraction, grading or filling, clearing or other alteration of terrestrial or aquatic vegetation, land or the course, current or cross section of any water body or watercourse or the division of land into two or more parcels.

Development permit means any building permit, zoning permit, plat approval, rezoning, certification, conditional or special use permit or variance.

Dimensional requirement means minimum and maximum setbacks, yard requirements and/or structure height or size restrictions established in this chapter for the various zoning districts.

Litter means slightly decomposed organic material on the floor of a woodland area.

Ordinary high water level means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level shall be the operating elevation of the normal summer pool.

Restrictive soils means soils which have permeability rates of less than five minutes per inch; or in which bedrock is less than five feet below the ground surface; or in which the water table is permanently or seasonably less than five feet below the ground surface; or where the slope of the surface is greater than 12 percent.

Slope means the inclination of the natural surface of the land from the horizontal, usually measured in one of three ways: (i) as a ratio, the horizontal distance to the vertical distance; (ii) as a percentage, the vertical distance over the horizontal distance; (iii) by degrees, measured from the horizontal to the vertical.

Structure means anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures.

Tree means any woody plant that has at least one trunk with a diameter four feet above the ground of four inches or greater.

Utility line means all transmission or distribution systems of any public, semi-public, or private utility, including but not limited to electric lines, sewer lines, water lines, telephone lines, gas lines, oil pipe lines, and any other lines, pipes or cables.

Wetland means any low area permanently or seasonally covered with shallow water including marsh, swamp, bog, wet meadow, slough, or intermittent lake greater than one acre in size or floodplain and denoted on the City wetlands map.

Woodland means a group of trees at least one-half acre in area and with a crown cover of 50 percent or greater.

Section 74-283.

Establishment of district boundaries.

This article shall apply to all public and private lands in the following described districts:

- (a) The critical area overlay district which is the Mississippi River Corridor Critical Area as set forth and legally described in Minnesota State Executive Order No. 7919 as recorded in the State Register, Monday, March 12, 1979.
- (b) The Rum River Management Overlay District which is the Rum River Management Area as set forth and legally described in the Management Plan for the Rum River (6MCAR 1.2700-1.2720) and the Minnesota Wild and Scenic Rivers Act (Minn. Stats. § 103F.301 et seq.).

- (c) These districts shall be identified on the official zoning map referenced in Section 74-62.

Section 74-284. Administration procedures.

Adoption and administrative procedure for this article shall comply with Minn. Reg. NR 81.

Section 74-285. Substandard lots.

Lots of record in the office of the county register of deeds on March 29, 1981, which do not meet the requirements of NR33(c)(1)(aa) through (dd) may be allowed as building sites provided such use is permitted in the zoning district, the lot is in separate ownership from abutting lands, and sanitary and dimensional requirements of this chapter are complied with except that such lots which meet or exceed 60 percent or more of the lot width standards of these regulations may be considered as a separate parcel of land for the purposes of sale or development, if on-site sewage disposal systems can be installed so as to comply with these regulations.

Section 74-286. Public areas.

All plans for public campgrounds, accesses (both trails and roads for boat launch facilities), and open space recreational uses within the Rum River Management Overlay District shall be submitted to the Minnesota Commissioner of Natural Resources for approval in compliance with MN. Reg. NR 79(b)(2) as amended by 6 MCAR 1.2720(A)(4)(3).

Section 74-287. Development standards.

The following standards shall be met when any development is undertaken within the critical area overlay district or the Rum River Management Overlay District:

- (a) No filling, grading, dredging, excavation, or construction shall be allowed within any wetland area, nor on lands abutting, adjoining or affecting such areas if such activity upon those adjacent area incompatible with city policies expressed here and in other documents. Development is prohibited if it results in loss and damage to public and private improvements through inundation by flood waters and subsequent construction of storm sewers and other public projects, in the permanent destruction of natural resources, loss of water retention facilities, open space and wild life habitats or impairment of public and private water supplies. Wetland area may not be used in determining minimum area requirements for building sites or subdivision plats unless such development is in accordance with section 74-192 or unless they are dedicated to the public for such uses described in chapter 54, article III, division 2 of this Code.
- (b) A minimum amount of filling may be allowed when necessary, as determined by the zoning administrator, but in no case shall the total filling cause the natural flood storage capacity of the wetland to fall below the projected volume of runoff from the entire area wetland water shed generated by a ten year storm, nor shall the total filling cause the total natural nutrient stripping capacity of the wetland to fall below the nutrient production of the wetland water shed for its projected development. Only fill free of chemical pollutants and organic wastes may be used. Wetlands shall not be used for solid waste disposal.

- (c) Dredging may be allowed only when a boat channel is required for access to a navigable lake or river, or when it will not have a significant adverse effect upon the ecological and hydrological characteristics of the wetland. Dredging, when allowed, shall be located so as to maximize the activity in the areas of lowest vegetation density, shall not significantly change the water flow characteristics, and the size of the dredged area shall be limited to the absolute minimum for the permitted purpose.
- (d) Development shall be conducted so that the maximum number of trees is preserved by the clustering of structures in existing cleared areas and natural clearings, and the utilization of other site design techniques. Grading, contouring and paving shall be performed to minimize any detrimental effect on root zone aeration and stability of existing trees. Existing trees shall be provided with a watering area equal to at least one-half the crown cover. When trees are removed, the density of trees must be restored, utilizing nursery stocks of a minimum of 1¾-inch diameter measured one foot above the ground, using species generally accepted as suitable for the purpose to that which existed before the development, provided that in no case need the density exceed ten trees per acre. Development shall not reduce the existing crown cover greater than 50 percent and shall be conducted in such a manner as to preserve the under story and litter. Trees used in reforestation or landscaping must be compatible with the local landscape and climatic conditions.
- (e) No on-site sewage disposal systems shall be allowed in restrictive soils. All of those permitted in other areas must meet requirements of 6 MCAR s. 4.8040 involving construction standards and inspection procedures.
- (f) No development shall be permitted on land having a slope, before alteration, in excess of 18 percent unless the applicant establishes that the following conditions are met:
 - (1) The foundation and underlying material of any structure, including roads, shall be adequate for slope condition and soil type.
 - (2) The applicant can demonstrate that development can be accomplished without increasing erosion, beyond that anticipated on a less than 18 percent slope, and that there is proper utilization of controls to reduce runoff to nondestructive levels.
 - (3) The proposed development presents no danger of falling rock, mud, uprooted trees, or other material to structures, recreational facilities, public lands, and public waters downhill.
 - (4) All structures other than buildings and roadway surfaces, but including retaining walls, shall meet the following design requirements:
 - a. Retaining walls or terrace contours shall not exceed five feet in height;
 - b. Construction shall be of natural stone or wood;
 - c. The use of gabions non-wood pilings, metal retaining walls is specifically prohibited unless the visible portion has the appearance of natural stone or wood;

- d. The minimum width of terraces shall be in the ratio of 2:1 to the height.
- (g) Steps shall be taken at all times to limit soil erosion. During any construction period steps shall be taken to ensure that soil loss will be less than five tons/acre/year, that immediately following any construction, soil loss will be less than two tons/acre/year and that within 15 days following construction, vegetation shall be planted to reduce the soil loss to less than one-half ton/acre/year.
- (h) Utility lines and any other associated facilities should be constructed along existing corridors or rights-of-way and make use of existing bridges or utility crossings. New corridors or rights-of-way shall be located so as to minimize potential environmental damage.

Sections 74-288--74-305.

Reserved.