

Proposed Rules Relating to Mississippi River Corridor Critical Area

Explanation of commentary: Comments describe what is contained in each rule section and highlight selected provisions. The commentary also identifies provisions that are problematic due to incorrect references or poor wording.

Draft Rules	Commentary
<p>PART 6106.0010 POLICY</p> <p>It is in the interest of present and future generations to preserve and enhance the natural, aesthetic, cultural, and historical values of the Mississippi River corridor within the Twin Cities metropolitan area and protect its environmentally sensitive areas. Accordingly, the commissioner does hereby provide standards and criteria for the preservation, protection, and management of the Mississippi River Corridor Critical Area, as authorized by Minnesota Statutes, chapters 116G, 394, 462, and 473, and by Executive Order 79-19.</p>	<p><i>The policy statement establishes the overall goal of the proposed rules as authorized by state laws.</i></p>
<p>PART 6106.0020 PURPOSE</p> <p>In furtherance of the policies declared in Minnesota Statutes, chapters 116G, 394, 462, and 473, and Executive Order 79-19, the commissioner provides the following minimum standards and criteria for the subdivision, use, and development of land within the Mississippi National River and Recreation Area, which is designated the Mississippi River Corridor Critical Area. The purposes of the minimum standards and criteria are to:</p> <ol style="list-style-type: none"> A. protect and preserve the Mississippi River and adjacent lands that the legislature finds to be unique and valuable state and regional resources for the benefit of the health, safety, and welfare of the citizens of the state, region, and nation; B. prevent and mitigate irreversible damages to these state, regional, and national resources; C. preserve and enhance the natural, aesthetic, cultural, and historical values of the Mississippi River and adjacent lands for public use and benefit; D. protect and preserve the Mississippi River as an essential element in the national, state, and regional transportation, sewer and water, and recreational systems; and E. protect and preserve the biological and ecological functions of the Mississippi River corridor. 	<p><i>This part lays out the goals of the rules. MS 116G.15 designates the Mississippi National River Recreation Area (MNRRA) as a state critical area per the Critical Areas Act and identifies these five purpose statements, which come directly from EO 79-19 and MS 116G.15.</i></p>
<p>PART 6106.0030 SCOPE</p> <p>Subpart 1. Applicability. The standards and criteria for the Mississippi River Corridor Critical Area established in parts 6106.0010 to 6106.0150 pertain to public waters and to public and private lands within the river corridor boundary established by Executive Order 79-19.</p> <p>Subp. 2. Government actions. The state and all local governments, including councils, commissions, boards, districts, departments, and</p>	<p><i>This part describes the physical land area covered by the rules, the general roles and responsibilities of agencies in furthering the purpose of the rules, and the applicability of other regulations within the MRCCA.</i></p> <p><i>This subpart requires all state and local units of government with jurisdiction in the MRCCA to act in accordance with these rules.</i></p>

Draft Rules	Commentary
<p>other public authorities, shall exercise their powers so as to further the purposes of parts 6106.0010 to 6106.0150.</p> <p>Subp. 3. State land. Land owned by the state and its agencies and subdivisions shall be administered according to parts 6106.0010 to 6106.0150.</p> <p>Subp. 4. Conflicting standards. In case of a conflict between this chapter and any other rule, the more protective provision applies.</p> <p>Subp. 5. Local determination.</p> <p>A. Local governments may determine whether to administer the Minnesota statewide shoreland management standards in parts 6120.2500 to 6120.3900 within the Mississippi River Corridor Critical Area.</p> <p>B. Local governments may determine whether to administer the Minnesota wild, scenic, and recreational river rules in parts 6105.0010 to 6105.0250 and 6105.0800 to 6105.0960 within the Mississippi River Corridor Critical Area.</p> <p>Subp. 6. Superseding standards. Specific standards found in this chapter supersede Executive Order 79-19 and parts 4410.8100 to 4410.9910 for management of the Mississippi River Corridor Critical Area.</p>	<p><i>Subpart 5 was added at the request of local governments to reduce complexity and confusion on overlapping regulations. It gives local governments the option of discontinuing administration of statewide Shoreland Management within the MRCCA.</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>Item 5.B is no longer relevant. Dayton and Ramsey were the only two local governments within the Wild & Scenic designated portion of the Mississippi River, and both were removed from this designation by the Legislature in 2012.</i></p> </div>
<p>PART 6106.0040 SEVERABILITY</p> <p>Minnesota Statutes, section 645.20, applies to this chapter.</p>	<p><i>Severability means that if particular elements of these rules are found to be unconstitutional, the remaining provisions will continue in force as law. This is a standard clause of all rules and ordinances.</i></p>
<p>PART 6106.0050 DEFINITIONS</p> <p>Subpart 1. Scope of terms and measurement of distances. For the purposes of parts 6106.0010 to 6106.0150, the terms used have the meaning given in this part. All distances, unless otherwise specified, are measured horizontally.</p> <p>Subp. 2. Access path. "Access path" means an area designated to provide ingress and egress to public waters.</p> <p>Subp. 3. Accessory structure. "Accessory structure" means a building, structure, or improvement subordinate to and on the same lot as the principal structure or use, including sheds, storage shelters, gazebos, hot tubs, swimming pools, pole buildings, detached garages, decks, patios, and other similar structures.</p> <p>Subp. 4. Adjacent. "Adjacent" means having a boundary that physically touches or adjoins.</p> <p>Subp. 5. Aggregate extraction. "Aggregate extraction" means removal of stone, sand, gravel, or other material from the land for commercial, industrial, or governmental purposes.</p>	<p><i>Eighty-seven definitions are included in this part. Of these terms and definitions:</i></p> <ul style="list-style-type: none"> <i>• 19 refer to or are derived from Minnesota Statutes, section 116G and/or Executive Order 79-19, including: adjacent; barge fleeting area; barge slip; bluffline; developer; development; development permit; discretionary action; essential services; local government; Metropolitan plans, guides, and standards; MUSA; off-premise general advertising signs; parcel; public transportation facilities; public safety facilities; setback; steep slopes; and transmission services.</i> <i>• 23 refer to existing terms and definitions in other state statutes or another chapter of rule, including: agricultural use; conditional use; conservation easement; dock; feedlot; floodplain; interim use; lot; marina; mooring facility; nonconformity; ordinary high water level; plat; port; public waters; shoreland;</i>

Draft Rules

Commentary

Subp. 6. **Aggregate mining.** "Aggregate mining" means construction, reconstruction, repair, relocation, expansion, or removal of any facility for the extraction, stockpiling, storage, disposal, or reclamation of nonmetallic minerals. Aggregate mining does not include ancillary facilities such as access roads, bridges, culverts, and water level control structures. For purposes of this subpart, "facility" includes all mine pits, quarries, stockpiles, basins, and any structures that drain or divert public waters to allow mining.

Subp. 7. **Agricultural use.** "Agricultural use" has the meaning given under Minnesota Statutes, chapter [40A](#).

Subp. 8. **Barge fleeting.** "Barge fleeting" means temporarily parking and securing barges on the river, on or off channel, while tows are assembled or broken up.

Subp. 9. **Bioengineering.** "Bioengineering" means use of living and nonliving plant materials, in combination with natural and synthetic support materials, for slope stabilization, erosion reduction, and vegetative establishment.

Subp. 10. **Bluff.** "Bluff" means a natural topographic feature having all of the following characteristics:

- A. a slope that rises at least 25 feet above the ordinary high water level or toe of the bluff; and
- B. the grade of the slope from the ordinary high water level or toe of the bluff to the top of the bluff averages 30 percent or greater.

Subp. 11. **Bluff impact zone.** "Bluff impact zone" means land on and within 20 feet of the bluff.

Subp. 12. **Bluffline.** "Bluffline" means a line delineating the top of the bluff. More than one bluffline may be encountered proceeding landward from the river.

Subp. 13. **Buffer.** "Buffer" means land that is used to protect adjacent lands and public waters from development and more intensive land uses. The land is kept in a natural state that provides ecological services such as filtering runoff, controlling nutrient movement, and protecting fish and wildlife habitat. In areas of agricultural use, the land is used for less intensive agricultural purposes.

Subp. 14. **Buildable area.** "Buildable area" means the area upon which structures may be placed on a lot or parcel of land and excludes areas needed to meet setback requirements, rights-of-way, bluff impact zones, slope preservation zones, historic sites, wetlands, designated floodways, land below the ordinary high water level of public waters, and other unbuildable areas.

Subp. 15. **Certificate of compliance.** "Certificate of compliance" means a document, written after a compliance inspection, certifying that

stormwater; subdivision; subsurface sewage treatment system; variance; wetland; and wharf.

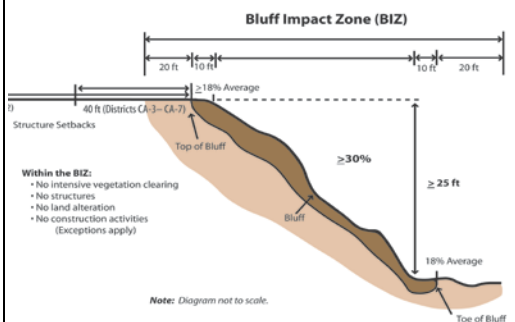
- *the remaining definitions are new and clarify concepts useful in administering the rules.*

The bluff definition is consistent with that in the statewide Shoreland Management rules.

A bluff is a natural feature in contrast to man-made features such as highway embankments and road ditches.

Bluff impact zone is the same definition used in the state shoreland rules.

Bluffline is used for measuring structure setbacks.



Draft Rules

Commentary

development is in compliance with applicable requirements at the time of the inspection.

Subp. 16. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subp. 17. **Conditional use.** "Conditional use" has the meaning given under Minnesota Statutes, chapters [394](#) and [462](#)

Subp. 18. **Conservation easement.** "Conservation easement" has the meaning given under Minnesota Statutes, chapter [84C](#).

Subp. 19. **Conservation subdivision.** "Conservation subdivision" means a pattern of subdivision that is characterized by the grouping of lots within a portion of a parcel, where the remaining portion of the parcel is permanently protected as open space. Site designs incorporate standards for low impact development.

Subp. 20. **Conventional subdivision.** "Conventional subdivision" means a pattern of subdivision that is characterized by lots that are spread regularly throughout a parcel in a lot and block design.

Subp. 21. **Deck.** "Deck" means a horizontal, unenclosed, aboveground level structure, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

Subp. 22. **Developer.** "Developer" has the meaning given under Minnesota Statutes, section [116G.03](#).

Subp. 23. **Development.** "Development" has the meaning given under Minnesota Statutes, section [116G.03](#)

Subp. 24. **Discretionary action.** "Discretionary action" means an action related to land use that requires a public hearing, such as preliminary subdivision proposals, final subdivision plats, planned unit developments, conditional use permits, interim use permits, variances, appeals, and rezonings.

Local governments asked for clarification on which actions fall under "discretionary actions".

Subp. 25. **Dock.** "Dock" has the meaning given under chapter [6115](#).

Subp. 26. **Dwelling unit.** "Dwelling unit" means a structure or portion of a structure or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motels, hotels, and resort rooms and cabins.

Subp. 27. **Electric power facilities.** "Electric power facilities" means equipment and associated facilities for generating electric power or devices for converting wind energy to electrical energy as identified and defined under Minnesota Statutes, chapter [216E](#).

Subp. 28. **Essential services.** "Essential services" means underground or overhead gas, electrical, communications, steam, or water distribution, collection, supply, or disposal systems. Essential services include poles, wires, mains, drains, pipes, conduits, cables, fire alarm boxes, traffic

Draft Rules

Commentary

signals, hydrants, or other similar equipment and accessories in conjunction with the systems, but do not include buildings, wastewater treatment works as defined in Minnesota Statutes, chapter [115](#), or electrical generation and transmission services.

Subp. 29. **Feedlot.** "Feedlot" has the meaning given for animal feedlots under chapter [7020](#).

Subp. 30. **Floodplain.** "Floodplain" has the meaning given under chapter [6120](#).

Subp. 31. **Historic site.** "Historic site" means an archaeological site, standing structure, site, district, or other property that is:

- A. listed in the National Register of Historic Places or the State Register of Historic Sites or locally designated as a historic site;
- B. determined to meet the criteria for eligibility to the National Register of Historic Places or the State Register of Historic Sites after review by the state archeologist or the director of the Minnesota Historical Society; or
- C. an unplatted cemetery that falls under the provisions of Minnesota Statutes, chapter 307.

Subp. 32. **Impervious surface.** "Impervious surface" means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, decks, sidewalks, patios, parking lots, storage areas, and driveways, including those with concrete, asphalt, or gravel surfaces, and riprap and other hard armoring.

Local governments asked for clarification on what surfaces were considered "impervious".

Subp. 33. **Intensive vegetation clearing.** "Intensive vegetation clearing" means removal of trees or shrubs in a contiguous patch, strip, row, or block.

Subp. 34. **Interim use.** "Interim use" has the meaning given under Minnesota Statutes, chapters [394](#) and [462](#).

Subp. 35. **Land alteration.** "Land alteration" means an activity that exposes the soil or changes the topography, drainage, or cross section of the land, excluding gardening or similar minor soil disturbances.

Subp. 36. **Local government.** "Local government" means counties, municipalities, and townships and all agencies, boards, commissions, councils, and departments thereof.

Subp. 37. **Lot.** "Lot" has the meaning given under chapter [6120](#).

Subp. 38. **Lot width.** "Lot width" means the shortest distance between lot lines measured at both the ordinary high water level and at the required structure setback from the ordinary high water level for riparian lots. For nonriparian lots, the lot width is the shortest distance between side lot lines as measured at the midpoint of the longest axis

Draft Rules

Commentary

of the lot.

Subp. 39. **Marina.** "Marina" has the meaning given under chapter [6115](#).

Subp. 40. **Metropolitan urban service area.** "Metropolitan urban service area" means the area in which the Metropolitan Council ensures that regional services and facilities under the council's jurisdiction are provided.

Subp. 41. **Mooring facility.** "Mooring facility" has the meaning given under chapter [6115](#).

Subp. 42. **Native plant.** "Native plant" means a plant that is indigenous to a particular region. In Minnesota, a plant is considered native if the plant occurred in the state at the time of the public land survey, from 1847 to 1907.

Subp. 43. **Natural state.** "Natural state" means that the condition, composition, and diversity of the plant community is substantially unaltered by humans or that restoration has been consistent with the commissioner's guidelines or the local government's approved plan.

Subp. 44. **Nonconformity.** "Nonconformity" has the meaning given under Minnesota Statutes, chapters [394](#) and [462](#).

Subp. 45. **Nonriparian lot.** "Nonriparian lot" means a lot that does not abut public waters.

Subp. 46. **Off-premise advertising signs.** "Off-premise advertising signs" means those signs that direct attention to a product, service, business, or entertainment venue that is not exclusively related to the premises where the sign is located.

Subp. 47. **Ordinary high water level.** "Ordinary high water level" has the meaning given under Minnesota Statutes, section [103G.005](#).

Subp. 48. **Parcel.** "Parcel" means a quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

Subp. 49. **Patio.** "Patio" means a constructed hard surface located at ground level.

Subp. 50. **Planned unit development.** "Planned unit development" means a method of land use or development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel and by a mix of structure types and land uses. Planned unit development includes any conversion of existing structures and land uses that utilize this method of development.

Subp. 51. **Plat.** "Plat" has the meaning given under Minnesota Statutes, chapters [505](#) and [515B](#).

This definition is based on the PUD definition in the Shoreland Management rules, but makes no distinction between residential and commercial planned unit developments or types of structures. The definition also replaces the term "clustering" from EO-79-19.

Draft Rules	Commentary
<p>Subp. 52. Port. "Port" means a water transportation complex established and operated under the jurisdiction of a port authority according to Minnesota Statutes, chapter 458.</p> <p>Subp. 53. Primary conservation areas. "Primary conservation areas" means key resources and features according to Minnesota Statutes, section 116G.15, subdivision 4, paragraph (b), and includes shore impact zones, bluff impact zones, slope preservation zones, floodplains, wetlands, gorges, areas of confluence with key tributaries, natural drainage routes, unstable soils and bedrock, significant existing vegetative stands, tree canopies, native plant communities, scenic views and vistas, cultural and historic sites and structures, and publicly owned parks, trails, and open spaces.</p> <p>Subp. 54. Professional engineer. "Professional engineer" means an engineer licensed to practice in Minnesota.</p> <p>Subp. 55. Project area. "Project area" means a parcel in its entirety as proposed for development.</p> <p>Subp. 56. Public recreational facilities. "Public recreational facilities" means recreational facilities provided by the state or a local government or dedicated to public use, including scenic overlooks, observation platforms, trails, docks, fishing piers, picnic shelters, water access ramps, and other similar water-oriented public facilities used for recreation. Public recreational facilities do not include buildings.</p> <p>Subp. 57. Public safety facilities. "Public safety facilities" means hydrants, fire alarm boxes, street lights, railway crossing signals, navigational structures and other aviation safety facilities, and similar facilities and accessories, but does not include buildings.</p> <p>Subp. 58. Public transportation facilities. "Public transportation facilities" means all transportation facilities provided by the state or a local government or dedicated to public use, such as roadways, transit facilities, railroads, and bikeways.</p> <p>Subp. 59. Public utilities. "Public utilities" means electric power facilities, essential services, and transmission services.</p> <p>Subp. 60. Public waters. "Public waters" has the meaning given under Minnesota Statutes, section 103G.005..</p> <p>Subp. 61. Readily visible. "Readily visible" means development is easily seen from the ordinary high water level of the opposite shore during summer months. This occurs when the river user first looks up at the surrounding landscape and sees the development without having to look hard or long or use any magnification devices.</p> <p>Subp. 62. Resource agency. "Resource agency" means</p> <p>Subp. 63. Retaining walls. "Retaining walls" means vertical or nearly vertical structures constructed of mortar and rubble masonry, rock, or</p>	<p><i>The purpose of this definition is to clearly identify key resources and features to protect as land is developed or redeveloped. The term is used in several parts of the rules, including the standards for subdivision and open space, to ensure that key resources and features are given priority consideration for protection as open space.</i></p> <p><i>"Readily visible" provides a performance standard in response to requests by local governments and other stakeholders to clarify visual standards.</i></p> <div style="border: 1px solid black; padding: 5px; background-color: #f0f0f0;"> <p><i>"Resource agency" was added by the Revisor's Office because it is used in rule text. It needs to be defined.</i></p> </div>

Draft Rules

Commentary

stone regardless of size, vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials.

Subp. 64. **Riparian lot.** "Riparian lot" means a lot that abuts public waters.

Subp. 65. **Riprap.** "Riprap" means coarse stones, boulders, cobbles, broken rock or concrete, or brick materials placed or constructed to create an irregular surface against the slope of the existing bank of a public water and other steep slopes, very steep slopes, or bluffs.

Subp. 66. **River-dependent commercial and industrial use.** "River-dependent commercial and industrial use" means use of land for commercial or industrial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business, such as barge facilities, ports, and marinas.

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

Subp. 68. **Shore impact zone.** "Shore impact zone" means land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of the required structure setback or 50 feet landward of the ordinary high water level in areas of agricultural use.

Subp. 69. **Shoreline facilities.** "Shoreline facilities" means facilities that require a location adjoining public waters for ingress and egress, loading and unloading, and public water intake and outflow, such as barge facilities, port facilities, commodity loading and unloading equipment, watercraft lifts, marinas, short-term watercraft mooring facilities for patrons, and water access ramps. Structures that would be enhanced by a shoreline location, but do not require a location adjoining public waters as part of their function, are not shoreline facilities, such as restaurants, bait shops, and boat dealerships.

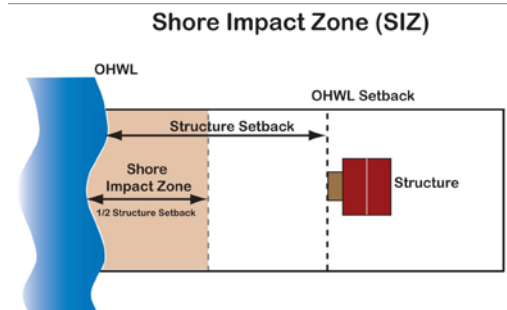
Subp. 70. **Shoreline recreational use area.** "Shoreline recreational use area" means the area within the shore impact zone where vegetation in a natural state need not exist.

Subp. 71. **Slope preservation zone.** "Slope preservation zone" means land on and within 20 feet of a very steep slope.

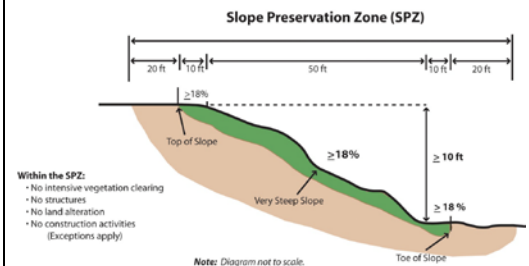
Subp. 72. **Steep slope.** "Steep slope" means a natural topographic feature with an average slope of 12 to 18 percent, measured over a horizontal distance equal to or greater than 50 feet.

Subp. 73. **Storm water.** "Storm water" has the meaning given under chapter [7090](#).

Subp. 74. **Structure.** "Structure" means a building, sign, or appurtenance thereto, except for aerial or underground utility lines, such as sewer, electric, telephone, telegraph, or gas lines, including



Shoreline facilities are river-dependent and need a riverfront location, consistent with the economic purposes of the river corridor as described in EO 79-19. The term is used in several parts of the draft rules, including the design standards for river-dependent commercial and industrial uses, and the list of exceptions to OHWL setbacks.



Draft Rules	Commentary
<p>towers, poles, and other supporting appurtenances.</p> <p>Subp. 75. Subdivision. "Subdivision" has the meaning given under Minnesota Statutes, chapter 462.</p> <p>Subp. 76. Subsurface sewage treatment system. "Subsurface sewage treatment system" has the meaning given under chapter 7080.</p> <p>Subp. 77. Suitable area. "Suitable area" means the area remaining on a lot or parcel of land after shore impact zones, bluff impact zones, slope preservation zones, roads and rights-of-way, historic sites, wetlands, designated floodways, and land below the ordinary high water level are excluded.</p> <p>Subp. 78. Toe of the bluff. "Toe of the bluff," as associated with a bluff, means the lower point of the lowest horizontal ten-foot segment with an average slope exceeding 18 percent.</p> <p>Subp. 79. Toe of the slope. "Toe of the slope" means the lower point of the lowest horizontal ten-foot segment with an average slope exceeding 18 percent.</p> <p>Subp. 80. Top of the bluff. "Top of the bluff," as associated with a bluff, means the higher point of the highest horizontal ten-foot segment with an average slope exceeding 18 percent.</p> <p>Subp. 81. Top of the slope. "Top of the slope" means the higher point of the highest horizontal ten-foot segment with an average slope exceeding 18 percent.</p> <p>Subp. 82. Transmission services. "Transmission services" means:</p> <ul style="list-style-type: none"> A. electric power lines, cables, pipelines, or conduits that are: (1) used to transport large blocks of power between two points, as identified and defined under Minnesota Statutes, chapter 216; and (2) for mains or pipelines for gas, liquids, or solids in suspension, used to transport large amounts of gas, liquids, or solids in suspension between two points; and B. telecommunication lines, cables, pipelines, or conduits. <p>Subp. 83. Variance. "Variance" has the meaning given under Minnesota Statutes, chapters 394 and 462.</p> <p>Subp. 84. Very steep slope. "Very steep slope" means a natural topographic feature having all of the following characteristics:</p> <ul style="list-style-type: none"> A. the slope rises at least ten feet above the ordinary high water level or toe of the slope; and B. the grade of the slope from the ordinary high water level or toe of the slope to the top of the slope averages 18 percent or greater. <p>Subp. 85. Water access ramp. "Water access ramp" means a ramp, road, or other conveyance that allows launching and removal of a boat</p>	<p><i>Protection of slopes over 18% was required by EO 79-19</i></p>

Draft Rules	Commentary
<p>with a vehicle and trailer.</p> <p>Subp. 86. Water-oriented accessory structure. "Water-oriented accessory structure" means a small building or other improvement, except stairways, fences, docks, and retaining walls, that, because of the relationship of its use to public waters, reasonably needs to be located closer to public waters than the normal structure setback. Examples include gazebos, screen houses, fish houses, pump houses, and detached decks and patios.</p> <p>Subp. 87. Wetlands. "Wetlands" has the meaning given under Minnesota Statutes, section 103G.005.</p> <p>Subp. 88. Wharf. "Wharf" has the meaning given under chapter 6115.</p>	<p><i>This term identifies structures that are commonly constructed closer to the river than most structures. These types of accessory structures are listed as an exception to OHWL setbacks in the dimensional standards.</i></p>
<p>PART 6106.0060 ADMINISTRATION</p>	<p><i>This part lays out the specific roles, responsibilities, and procedures for administering the rules. Many provisions are relatively unchanged from MS 116G.15, EO 79-19 and/or MR 4410.</i></p>
<p>Subpart 1. Terms and time frames. For the purposes of this part:</p> <ul style="list-style-type: none"> A. the terms "plan," "ordinance," and "plan and ordinance" mean Mississippi River Corridor Critical Area plans and ordinances, and updates or amendments thereto, prepared to implement parts 6106.0010 to 6106.0150; B. if plans and ordinances prepared under item A refer to underlying land use or zoning, then the underlying land use and zoning documents must be submitted and considered in combination with these plans and ordinances, and together must substantially comply with parts 6106.0010 to 6106.0150; and C. time frames are measured in calendar days. 	<p><i>This subpart clarifies which plans and ordinances are affected by these rules, the role that underlying zoning plays, and the timeframes for specific actions.</i></p> <p><i>"Plans" refer to those elements of each city's comprehensive plan (or stand-alone plan) that deal with land use within the MRCCA.</i></p> <p><i>"Ordinances" are those ordinances that specifically regulate land use activity within the MRCCA.</i></p> <p><i>This clarification in timeframes was requested by local governments.</i></p>
<p>Subp. 2. Responsibilities and authorities. The standards and criteria for the Mississippi River Corridor Critical Area established in parts 6106.0010 to 6106.0150 must be adhered to by:</p> <ul style="list-style-type: none"> A. the commissioner for reviewing and approving plans and ordinances and reviewing discretionary actions; B. the Metropolitan Council for reviewing plans and ordinances; C. local governments when preparing, updating, or amending plans and ordinances and reviewing and approving discretionary actions; and D. state and regional agencies for permit regulation and plan development within an agency's jurisdiction. 	<p><i>This subpart explains the roles and responsibilities of the DNR, the Metropolitan Council, and local units of government. These three bodies have distinct responsibilities related to plans, ordinances and discretionary actions. (Discretionary actions refer to actions requiring a public hearing.) This is unchanged from EO 79-19.</i></p>
<p>Subp. 3. Substantial compliance. Local governments within the Mississippi River Corridor Critical Area shall adopt, administer, and enforce plans and ordinances in substantial compliance with parts</p>	<p><i>This subpart states that local governments are responsible for implementing these rules on the ground. This is unchanged from</i></p>

Draft Rules	Commentary
<p>6106.0010 to 6106.0150. Plans and ordinances must be submitted to the Metropolitan Council for review and must be approved by the commissioner before they are adopted as provided under subpart 11.</p>	<p><i>EO 79-19.</i></p> <p><i>The concept of “substantial compliance” is new to the MRCCA and provides local governments with flexibility to negotiate methods that satisfy the purpose of the rules without being in strict conformance with the rules. The method for pursuing flexibility is covered in subpart 11, item J, below.</i></p> <p><i>This approach to flexibility is used in the state shoreland rules.</i></p>
<p>Subp. 4. Greater restrictions.</p> <p>Nothing in parts 6106.0010 to 6106.1050 shall be construed as prohibiting or discouraging a local government from adopting and enforcing plans and ordinances that are more restrictive than parts 6106.0010 to 6106.0150.</p>	<p><i>This subpart clarifies that local governments may adopt regulations that are stricter than the rules. This clarification was sought by local governments and other stakeholders.</i></p>
<p>Subp. 5. Adoption schedule.</p> <p>A. In consultation with the Metropolitan Council, the commissioner shall prepare a notification schedule for local governments to prepare or amend plans and ordinances.</p> <p>B. Within the time frames provided under subpart 11, local governments must prepare or amend plans and ordinances to substantially comply with parts 6106.0010 to 6106.0150.</p> <p>C. All plans and ordinances adopted by local governments pursuant to Executive Order 79-19 and chapters 6105 and 6120 that are in existence on the effective date of this chapter remain in effect and shall be enforced until plans and ordinances are amended in substantial compliance with parts 6106.0010 to 6106.0150, approved by the commissioner, and adopted by the local government as provided under subpart 11.</p> <p>D. Where a local government has not adopted plans and ordinances, development shall continue to be governed by the interim development regulations in Executive Order 79-19, until such time as plans and ordinances that substantially comply with parts 6106.0010 to 6106.0150 are approved by the commissioner and adopted by the local government as provided under subpart 11.</p> <p>E. The adoption of plans and ordinances in substantial compliance with parts 6106.0010 to 6106.0150 do not in any way limit or modify the rights of a person to complete a development that is authorized as provided under Minnesota Statutes, section 116G.13.</p>	<p><i>This subpart clarifies that, once promulgated, these rules won’t take effect immediately; local governments won’t be required to prepare or amend plans and ordinances until notified by DNR, and will be given a reasonable amount of time to do so. Existing local plans and ordinances remain in effect until new plans and ordinances are approved by the DNR.</i></p> <p><i>Item D pertains to the cities of Brooklyn Center and Hastings, which currently do not have approved MRCCA ordinances in place and are subject to the interim development regulations in EO-79-19.</i></p> <p><i>Item E clarifies that land use applications and projects approved by a local government prior to the adoption of ordinances for compliance with this rule may be completed as approved.</i></p>
<p>Subp. 6. Duties of commissioner.</p> <p>A. The commissioner must consult with the United States Army</p>	<p><i>This subpart details the specific duties of the DNR in administering the rules.</i></p>

Draft Rules	Commentary
<p>Corps of Engineers, National Park Service, Metropolitan Council, and other agencies and local governments to ensure that the Mississippi River Corridor Critical Area is managed as a multipurpose resource in a way that:</p> <ol style="list-style-type: none"> (1) conserves the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor; (2) maintains the river channel for transportation by providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the Mississippi River and riverfront; (3) provides for the continuation and development of a variety of urban areas, including industrial, commercial, and residential uses, where appropriate, within the Mississippi River Corridor Critical Area; (4) utilizes certain reaches of the river as a source of water supply and as a receiving water for properly treated sewage, storm water, and industrial waste effluents; and (5) protects and preserves the biological and ecological functions of the Mississippi River Corridor Critical Area. <p>B. The commissioner shall provide advice and assistance to local governments and agencies in the Mississippi River Corridor Critical Area during the development, adoption, administration, and enforcement of plans and ordinances, consistent with the purposes in part 6106.0020, and specifically shall:</p> <ol style="list-style-type: none"> (1) develop model ordinances; (2) review and approve final draft plans and ordinances before adoption by a local government as provided under subpart 11. If requested by a local government, the commissioner shall review preliminary draft plans and ordinances and provide comments to assist the local government in complying with parts 6106.0010 to 6106.0150; and (3) consult with agencies identified in subpart 10 to ensure that the agencies administer lands and programs under the agencies' jurisdictions consistent with parts 6106.0010 to 6106.0150. <p>C. To aid in the fulfillment of the state's role to preserve and protect the Mississippi River Corridor Critical Area and to monitor the administration and enforcement of Mississippi River Corridor Critical Area ordinances, the commissioner may:</p> <ol style="list-style-type: none"> (1) review decisions concerning discretionary actions under Mississippi River Corridor Critical Area 	<p><i>This item states that the DNR must consult with other agencies and LGUs to ensure the corridor is managed as a multipurpose resource.</i></p> <p><i>Item B outlines how the DNR will assist local governments in complying with the rules.</i></p> <p><i>Item C outlines options the DNR may use to assess and improve local government performance in administering the rules.</i></p>

Draft Rules	Commentary
<p>ordinances;</p> <ul style="list-style-type: none"> (2) evaluate local government actions and overall implementation and enforcement of Mississippi River Corridor Critical Area ordinances to ensure compliance with the state's minimum standards and criteria; (3) periodically report to local governments on potential deficiencies and achievements; (4) develop model plans; (5) develop materials for local governments to use in educational and marketing efforts that encourage the use of best management practices specified in parts 6106.0010 to 6106.0150; (6) develop model mitigation measures or systems for common conditions for local governments to use as provided under subpart 17; and (7) develop training programs for parts 6106.0010 to 6106.0150 and for the use of model ordinances. <p>D. If, after review, the commissioner determines that a local government has failed to adopt, administer, or enforce plans and ordinances in substantial compliance with parts 6106.0010 to 6106.0150, the commissioner may:</p> <ul style="list-style-type: none"> (1) adopt plans and ordinances for a local government that has failed to do so as provided under subpart 11, item G; (2) appeal the actions of a local government to the courts as provided under Minnesota Statutes, chapters 116G, 394, and 462, as applicable; (3) reduce or eliminate a local government's eligibility for grant programs administered by the commissioner; and (4) initiate judicial proceedings to compel specific performance by a local government of any duty required under parts 6106.0010 to 6106.0150 or under any plans and ordinances adopted according to parts 6106.0010 to 6106.0150. <p>The commissioner may seek reimbursement from the local government for any costs incurred to implement item D, subitem (1).</p>	<p><i>Item D outlines options the DNR may use to enforce local government compliance with the rules.</i></p>
<p>Subp. 7. Duties of Metropolitan Council. The Metropolitan Council must:</p> <ul style="list-style-type: none"> A. incorporate the standards and criteria in parts 6106.0010 to 6106.0150 into the council's planning processes; B. work with local governments and the commissioner to ensure that the standards and criteria in parts 6106.0010 to 106.0150 are being adopted and implemented; C. be the lead agency to coordinate the preparation, submission, 	<p><i>Duties of the Met Council are described in this subpart. The Met Council is responsible for reviewing plans and ordinances and providing recommendations to the DNR for approval of plans and ordinances. These duties are unchanged from EO 79-19.</i></p>

Draft Rules	Commentary
<p>review, and modification of plans and ordinances that are prepared by local governments as provided under subpart 11; and</p> <p>D. provide written comments and recommendations to the commissioner on all proposed plans and ordinances submitted by local governments, within the time frames provided under subpart 11, item B.</p>	
<p>Subp. 8. Duties of local governments. Local governments must:</p> <p>A. prepare or amend plans and ordinances to meet or exceed the minimum standards and criteria in parts 6106.0010 to 6106.0150 and as provided under subpart 11;</p> <p>B. submit proposed plans and ordinances that affect lands within the boundaries of the Mississippi River Corridor Critical Area to the Metropolitan Council for review and subsequent review and approval by the commissioner, before adoption as provided under subpart 11;</p> <p>C. adopt, administer, and enforce plans and ordinances as provided under subpart 3;</p> <p>D. send notice of public hearings to consider plans and ordinances and development requiring discretionary action affecting lands within the boundaries of the Mississippi River Corridor Critical Area to the following parties so that the parties receive the notice at least ten days before the public hearing:</p> <ol style="list-style-type: none"> (1) the commissioner, in a format prescribed by the commissioner. Notices to the commissioner for discretionary actions must also include a copy of the completed application, the site plan as provided under subpart 13, and any other relevant information; (2) the National Park Service; and (3) adjoining local governments, including those with overlapping jurisdiction and those across the river; and <p>E. send notice of final decisions for actions under item D, including findings of fact, within ten days following the final decision, to those parties listed under and in the manner prescribed by item D.</p>	<p><i>This subpart outlines LGU responsibilities:</i></p> <ul style="list-style-type: none"> • <i>Updating plans and policies for consistency with the rules.</i> • <i>Updating ordinances for consistency with the rules</i> • <i>Reviewing and approving discretionary actions consistent with their ordinance and plans.</i> <p><i>Item D details the specific notification requirements.</i></p> <p><i>Local governments requested that notification of adjoining local governments be added to the notification list.</i></p> <p><i>Notification within 10 days of action is required by MS 116G.15.</i></p>
<p>Subp. 9. Duties of townships and counties.</p> <p>A. According to subpart 8, townships must prepare or amend plans and ordinances in substantial compliance with parts 6106.0010 to 6106.0150, under the authority of Minnesota Statutes, chapters 394, 462, and 473.</p> <p>B. According to subpart 8, counties must prepare or amend plans, and may prepare ordinances in substantial compliance</p>	<p><i>This subpart applies to four townships (Denmark, Grey Cloud Island, Nininger, and Ravenna) and two counties (Washington and Dakota) that have land use authority within the MRCCA. It describes the responsibilities and notification requirements of townships and counties.</i></p>

Draft Rules	Commentary
<p>with parts 6106.0010 to 6016.0150, under the authority of Minnesota Statutes, chapters 394 and 473. If a county has adopted ordinances under this part:</p> <ol style="list-style-type: none"> (1) a township's plan and ordinances must be consistent with or more restrictive than the plan and ordinances adopted by the county in which the township is located as provided under Minnesota Statutes, chapter 394; (2) a township must provide for administration and enforcement of Mississippi River Corridor Critical Area ordinances in a manner that is at least as effective as the respective county's implementation; and (3) a township may adopt a county's ordinances by reference. 	<p><i>Township regulations must be at least as restrictive as the counties they are in.</i></p> <p><i>Since a county and township may have concurrent or overlapping jurisdiction, a township could adopt a county's ordinance by reference.</i></p>
<p>Subp. 10. Duties of other agencies.</p> <p>An agency owning and managing lands within the Mississippi River Corridor Critical Area shall manage the lands under the agency's ownership consistent with parts 6106.0010 to 6106.0150. For purposes of this subpart, "agency" means the Metropolitan Airports Commission, University of Minnesota, National Park Service, United States Army Corps of Engineers, Department of Natural Resources, Metropolitan Council, Minneapolis Park and Recreation Board, Three Rivers Park District, Department of Transportation, Anoka-Ramsey Community College, watershed management organizations as established under Minnesota Statutes, chapter 103B, watershed districts as established under Minnesota Statutes, chapter 103D, or any other federal, state, or local general or special purpose unit of government.</p>	<p><i>This subpart describes the duties for all special units of government or government agencies. This is unchanged from EO 79-19.</i></p>
<p>Subp. 11. Preparation, review, approval, and adoption of plans and ordinances.</p> <ol style="list-style-type: none"> A. Within one year of notification from the commissioner under subpart 5, local governments must prepare or amend plans and ordinances and formally submit a draft of these documents to the Metropolitan Council and the commissioner for review. Local governments may propose ordinance standards that are not in strict conformity with parts 6106.0010 to 6106.0150 as provided under items J and K. Local governments may submit preliminary draft plans and ordinances to the commissioner for informal review prior to formal submission to the Metropolitan Council. Upon a formal written request from the local government, the commissioner may grant an appropriate extension of time when the commissioner determines that the local government is making a good faith effort to meet the submittal deadline. B. Within 45 days of receiving draft plans and ordinances from 	

Draft Rules

Commentary

local governments as provided under item A, the Metropolitan Council must review the draft plans and ordinances for consistency with regional objectives, parts 6106.0010 to 6106.0150, and Minnesota Statutes, chapter 116G; submit the council's written evaluation, copies of the draft plans and ordinances reviewed, and any other relevant materials to the commissioner; and provide a copy of the submission to the National Park Service. Upon a formal written request from the Metropolitan Council, the commissioner may grant an appropriate extension of time when the commissioner determines that the Metropolitan Council requires more time for review.

- C. Within 45 days of receiving a written evaluation of draft plans and ordinances from the Metropolitan Council as provided under item B, or revised draft plans and ordinances as provided under item D, the commissioner must review the draft plans and ordinances to determine their consistency with parts 6106.0010 to 6106.0150 and Minnesota Statutes, chapter 116G. Upon completing the review, the commissioner must take one of the following two actions and provide a copy of the decision to the Metropolitan Council and the National Park Service:
 - (1) approve the draft plans and ordinances by written decision and notify the local government; or
 - (2) return the draft plans and ordinances to the local government for modification, with a written explanation of the need for modification as provided under item D.
- D. When the commissioner returns a draft plan and ordinances to the local government for modification, the commissioner must provide a written explanation of the deficiencies of the draft plan and ordinances that need to be corrected by the local government before the commissioner can approve the draft plan and ordinances. Within 60 days of the receipt of the commissioner's written explanation, the local government must revise the draft plan and ordinances consistent with the instructions of the commissioner and resubmit the revised draft plan and ordinances to the commissioner. If requested by the local government or the Metropolitan Council, a final revision need not be made until a formal meeting has been held with the commissioner on the draft plan and ordinances. If, in the opinion of the commissioner, the local government is making a good faith effort to complete the modifications in a timely manner, the commissioner may grant an appropriate extension of time. Upon receiving the revised draft plan and ordinances from the local government, the commissioner shall conduct the review as provided under item C.

Draft Rules	Commentary
<p>E. Within 45 days of receiving the commissioner's approval of a draft plan and ordinances, the local government must adopt the commissioner-approved draft plan and ordinances and submit a copy of the final adopted plan and ordinances, with evidence of adoption, to the commissioner, the Metropolitan Council, and the National Park Service. Plans and ordinances prepared according to this part become effective when adopted by the local government or upon such date as the commissioner may provide in the written order adopting the plans and ordinances as provided under item G.</p> <p>F. Local governments must enact, for lands within the Mississippi River Corridor Critical Area, only those plans and ordinances that have the written approval of the commissioner. Once in effect, the local government must implement and enforce the commissioner-approved plans and ordinances.</p> <p>G. If a local government fails to prepare and submit a draft plan and ordinances within one year of notification as provided under item A, fails to incorporate modifications that are acceptable to the commissioner as provided under item D, or fails to adopt commissioner-approved plans or ordinances as provided under item E, the commissioner must:</p> <ol style="list-style-type: none"> (1) prepare plans and ordinances in substantial compliance with parts 6106.0010 to 6106.0150 within 90 days of the deadline for preparation or adoption of plans and ordinances as provided under items A to E or the end date of an extension of time approved by the commissioner as provided under item D; (2) conduct a public hearing as provided by Minnesota Statutes, chapter 14, and other statutes as applicable; (3) within 60 days of the conclusion of the public hearing, adopt the plans and ordinances for the local government's portion of the Mississippi River Corridor Critical Area by written order; and (4) give notice of the adopted plans and ordinances to the affected local government, the Metropolitan Council, and the National Park Service. <p>H. Plans and ordinances that have been adopted by the commissioner apply and have the same effect as if adopted by the local government and shall be administered and enforced by the local government. At any time after the preparation and adoption of plans and ordinances by the commissioner, a local government may prepare or amend plans and ordinances according to parts 6106.0010 to 6106.0150. When the plans and ordinances are approved by the commissioner, they supersede the plans and ordinances adopted by the commissioner.</p>	

Draft Rules	Commentary
<p>I. Local governments may update or amend plans and ordinances that have been approved by the commissioner by resubmitting the plans and ordinances with the recommended changes to the commissioner for consideration. Updates and amendments to plans and ordinances become effective only upon approval by the commissioner in the same manner as for approval of the original plans and ordinances as provided under this subpart.</p> <p>J. Local governments may, under special circumstances and with the commissioner's prior approval, adopt ordinances that are not in strict conformity with parts 6106.0010 to 6106.0150, if the purposes of Minnesota Statutes, section 116G.15, are satisfied. A local government must request the commissioner's consideration of alternative standards and obtain the commissioner's approval before formal submittal of draft ordinances to the Metropolitan Council as provided under item A. A local government requesting ordinance flexibility must submit the following items to the commissioner:</p> <ol style="list-style-type: none"> (1) a detailed description of the proposed alternative standards that are not in strict conformity with parts 6106.0010 to 6106.0150; (2) a demonstration that the alternative standards are consistent with the policies, purposes, and scope of this chapter according to parts 6106.0010 to 6106.0030; (3) a description of the special circumstances that justify the use of alternative standards; (4) input from adjoining local governments, including those with overlapping jurisdiction and those across the river, and the public potentially affected by the alternative standards; and (5) supporting information, maps, and documents, as appropriate, to explain the request to the commissioner. <p>K. Upon receiving a complete request for ordinance flexibility as provided in item J, the commissioner must:</p> <ol style="list-style-type: none"> (1) acknowledge, in writing, receipt of the request and, within 60 days of receipt of the complete request, issue a written decision approving or denying the request. The commissioner and the local government requesting ordinance flexibility may mutually agree to an extension of the 60-day response requirement; and (2) state in writing to the local government the reasons for the approval or denial and, as appropriate, suggest alternative solutions or regulatory approaches that would be acceptable to the commissioner. 	<p><i>This provision, along with item K, provides flexibility to local governments to adopt ordinances that deviate from the rules. Flexibility was requested by local governments to propose their own ordinance to meet the intent of the MRCCA</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>Administration of items J and K will require clarification of the special circumstances where deviation from strict conformity will be allowed and development of criteria by which the proposed changes will be evaluated.</i></p> </div>

Draft Rules	Commentary
<p>adopted under this part; and</p> <p>(2) scaled mapping, dimensional renderings, plans, maintenance agreements, and other materials that identify and describe the following and demonstrate compliance with plans and ordinances, as applicable:</p> <ul style="list-style-type: none"> a) primary conservation areas; b) buildable area and suitable area; c) existing and proposed topography and drainage patterns; d) proposed storm water and erosion and sediment control practices; e) existing and proposed vegetation to be removed and established; f) ordinary high water level, blufflines, and all required setbacks; g) existing and proposed structures; h) existing and proposed impervious surfaces; and i) existing and proposed subsurface sewage treatment systems. 	<div style="border: 1px solid black; padding: 5px;"> <p><i>Clarify this subpart by identifying the specific permits where site plans are required, instead of referring to the rule parts. The rules “require” three permits:</i></p> <ul style="list-style-type: none"> • Land disturbance > 250 sf • Work below OHWL • Work in the BIZ, SIZ, or SPZ </div>
<p>Subp. 14. Nonconformities.</p> <ul style="list-style-type: none"> A. Notwithstanding item B, nonconformities are regulated by local governments consistent with Minnesota Statutes, chapters 394.36 and 462.357. B. Expansion of nonconforming structures may be permitted if the expansion does not increase the degree of nonconformity and provided that any expansion of a nonconforming structure that increases the horizontal or vertical riverward structure face are not allowed unless it can be demonstrated that the expansion will not be readily visible. 	<p><i>This subpart references Minnesota Law (MS 394.36 for counties and MS 462.357 for cities) that grant rights to continue using nonconforming uses, structures, and properties. The rule allows structures that are nonconforming due to setback to be expanded as long as the expansion does not increase the nonconformity.</i></p>
<p>Subp. 15. Conditional and interim use permits.</p> <ul style="list-style-type: none"> A. In addition to meeting the requirements of Minnesota Statutes, chapters 394 and 462, local ordinances must incorporate standards for the review of conditional and interim use permits required by parts 6106.0090 to 6106.0150. Local government review must evaluate potential impacts on the resources and features identified in Minnesota Statutes, section 116G.15, subdivision 4, paragraph (b). B. When evaluation and assessment identify an impact under item A, then the issuance of a conditional or interim use permit must include conditions for mitigation according to subpart 17. C. Interim use permits must require compliance with plans and ordinances adopted under this part. 	<div style="border: 1px solid black; padding: 5px;"> <p><i>Poor wording makes intent unclear. Recommend rewriting this subpart to clarify intent. The intent is to require standards for evaluating CUP and IUP applications in the MRCCA and to require mitigation in situations where these permits affect MRCCA resources. The rules require a CUP or IUP for only one use-mining. Otherwise, this subpart applies to activities that LGUs regulate through their required CUPs and IUPs.</i></p> </div>

Draft Rules	Commentary
<p>Subp. 16. Variances.</p> <p>A. A local government shall consider variances consistent with Minnesota Statutes, chapters 394 and 462.</p> <p>B. Variances must require mitigation as provided under subpart 17.</p>	<p><i>This subpart states that variances require mitigation.</i></p>
<p>Subp. 17. Mitigation.</p> <p>A. Mitigation is required for:</p> <ol style="list-style-type: none"> (1) a variance granted to ordinances adopted under this part; and (2) a conditional or interim use permit granted pursuant to ordinances adopted under parts 6106.0090 to 6106.0150. <p>B. Mitigation must be proportional to the impact of the project on the resources and features identified in Minnesota Statutes, section 116G.15, subdivision 4, paragraph (b).</p> <p>C. Mitigation must include one or more of the following measures as determined necessary by the local government:</p> <ol style="list-style-type: none"> (1) increased setbacks from the ordinary high water level and blufflines; (2) voluntary dedication of public access or trails; (3) modifications to structure or facility design or location to minimize the impact; (4) voluntary conservation easements to protect the shore impact zone, bluff impact zone, slope preservation zone, or other buffers; (5) restoration of native vegetation on the site; (6) limiting storm water runoff and directing it away from bluffs, steep slopes, and very steep slopes; (7) restoration of areas within the shore impact zone, bluff impact zone, slope preservation zone, wetlands, floodplains, or buffers to a natural state; (8) use of low-impact development storm water management as provided under Minnesota Statutes, section 115.03, subdivision 5c, to manage the rate and volume of storm water runoff to predevelopment conditions; (9) voluntary removal of nonconforming structures or impervious surfaces that do not comply with plans and ordinances adopted under this part; (10) use of techniques to reduce visual impact; (11) voluntary connection to a public sewer; or (12) other conditions considered necessary by the local unit of government. 	<p><i>This subpart clarifies when mitigation is required. It lists examples of mitigation measures that local governments may consider, many of which were suggested by local governments.</i></p>
<p>Subp. 18. Accommodating disabilities. Ramps or other facilities to provide persons with disabilities reasonable access to their property, as required by the federal Americans with Disabilities Act and the federal</p>	<p><i>This subpart outlines exceptions to the standards to accommodate people with disabilities through an IUP to allow for ADA</i></p>

Draft Rules	Commentary
<p>Fair Housing Act and as provided by chapter 1341, are allowed by interim use permit, subject to the following standards:</p> <ul style="list-style-type: none"> A. parts 6106.0100 to 6106.0140 must be complied with to the maximum extent practicable; and B. the interim use permit expires and the ramp or other facilities must be removed once the property is no longer primarily used by persons with disabilities. 	<p><i>compliance without needing to go through the variance process.</i></p>
<p>PART 6106.0070 INCORPORATIONS BY REFERENCE.</p> <p>For purposes of parts 6106.0010 to 6106.0150, the following documents are incorporated by reference, are subject to frequent change, and are available through the Minitex interlibrary loan system:</p> <ul style="list-style-type: none"> A. The Minnesota Stormwater Manual, Minnesota Pollution Control Agency (2005 and as subsequently amended); B. Protecting Water Quality in Urban Areas, Minnesota Pollution Control Agency (2000 and as subsequently amended); C. Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota; Minnesota Department of Natural Resources (2000 and as subsequently amended); D. Design Handbook for Recreational Boating and Fishing Facilities, State Organization for Boating Access (2006 and as subsequently amended); E. Trail Planning, Design, and Development Guidelines, Minnesota Department of Natural Resources (2007 and as subsequently amended); and F. Mississippi River Corridor Critical Area District Map, Minnesota Department of Natural Resources (2011 and as subsequently amended). 	<p><i>These resources are included in this part to help local governments comply with the rules using current best practice guidance.</i></p>
<p>PART 6106.0080 DISTRICTS</p> <p>Subpart 1. Establishment of districts. For purposes of parts 6106.0010 to 6106.0150, seven districts are established, as described in this part. It is intended that all districts protect and enhance the resources and features identified in Minnesota Statutes, section 116G.15.</p>	<p><i>This part establishes new districts as required by MS, chapter 116G.15. Seven districts are provided in this part. These districts were the result of public input from the 2009-2010 process, and took into account the future land use plans of local governments. The dimensional standards covered in Part 6106.0100 vary by district.</i></p> <p><i>Subpart 2-8 below describe each district.</i></p>
<p>Subp. 2. CA-1 district.</p> <ul style="list-style-type: none"> A. The CA-1 district includes specific publicly owned existing and planned future park lands, islands, and natural areas that are riparian or readily visible from the river and designated rural or urban open space in Executive Order 79-19. B. The CA-1 district shall be managed to conserve existing and 	<p><i>CA-1 District: Existing/planned parkland, islands and natural areas that are visible from the river.</i></p>

Draft Rules	Commentary
<p>potential recreational, scenic, natural, and historic resources for the use and enjoyment of the surrounding region. Natural shorelines, bluffs, steep slopes, and very steep slopes shall be protected and enhanced. Providing public access to and views of the river is a priority in the district.</p>	
<p>Subp. 3. CA-2 district.</p> <p>A. The CA-2 district includes privately owned rural lands that are riparian or readily visible from the river, as well as large, undeveloped tracts of high ecological value and privately owned undeveloped islands. Many of these areas are designated rural open space in Executive Order 79-19.</p> <p>B. The CA-2 district shall be managed to sustain the rural character and to protect and enhance existing scenic, natural, and historic areas.</p>	<p><i>CA-2 District: Rural residential parcels visible from the river and undeveloped parcels with high ecological value.</i></p>
<p>Subp. 4. CA-3 district.</p> <p>A. The CA-3 district includes developed areas that are riparian or readily visible from the river. These areas feature predominantly privately owned residential land, as well as publicly owned existing or planned future park lands designated urban developed in Executive Order 79-19.</p> <p>B. The CA-3 district shall be managed to protect the scenic and natural values of the river corridor within the context of existing development. In public park lands, enhancing natural shorelines, bluffs, steep slopes, and very steep slopes, and providing public access to and views of the river are priorities.</p>	<p><i>CA-3 District: Developed residential land and existing/planned parkland that are visible from the river.</i></p>
<p>Subp. 5. CA-4 district.</p> <p>A. The CA-4 district includes historic downtown areas where the developed landscape extends to the shoreline, as well as limited areas of high density development near river crossings designated urban open space in Executive order 79-19. These areas feature predominantly mixed uses and small, developed lots.</p> <p>B. The CA-4 district shall be managed in a manner that allows for growth consistent with the existing and planned development in historic downtowns and at river crossings. Providing public access to and public views of the river is a priority in the district.</p>	<p><i>CA-4 District: Historic downtown and river crossing commercial areas (not in Minneapolis and St. Paul).</i></p>
<p>Subp. 6. CA-5 district.</p> <p>A. The CA-5 district includes nonriparian lots separated from the river by distance, development, or a transportation corridor. The land in this district is not readily visible from the river.</p> <p>B. The CA-5 district provides flexibility in managing development</p>	<p><i>CA-5 District: Land that is separated and not visible from the river.</i></p>

Draft Rules	Commentary
<p>without negatively affecting the key resources and features of the river corridor.</p>	
<p>Subp. 7. CA-6 district.</p> <p>A. The CA-6 district includes highly urbanized, mixed-use areas that are a part of the urban fabric of the river corridor, including publicly owned existing and planned future park lands designated urban diversified in Executive Order 79-19, public institutions, and commercial and industrial areas.</p> <p>B. The CA-6 district shall be managed in a manner that allows for future growth and potential transition of intensely developed areas. Providing public access to and public views of the river is a priority in the district.</p>	<p><i>CA-6 District: Commercial, institutional, and industrial mixed-use areas as well as existing/planned parklands.</i></p>
<p>Subp. 8. CA-7 district.</p> <p>A. The CA-7 district includes the urban cores of Minneapolis and St. Paul.</p> <p>B. The CA-7 district shall be managed with the greatest flexibility. Providing public access to and public views of the river is a priority in the district.</p>	<p><i>CA-7 District: Urban core of Minneapolis and St. Paul.</i></p>
<p>Subp. 9. District boundaries.</p> <p>A. The physical boundaries of each district are laid out in the Mississippi River Corridor Critical Area District Map, incorporated by reference under part 6106.0070. The commissioner shall maintain the map and may amend the map as provided in item B.</p> <p>B. The boundaries of a district established under item A may be amended according to subitems (1) to (4).</p> <p>(1) A local government or the Metropolitan Council must submit a formal written request to the commissioner requesting a district boundary amendment. The request must:</p> <ol style="list-style-type: none"> a) be approved by the appropriate governing body; b) identify proposed changes to plans and ordinances and new evidence to justify the proposed changes since parts 6106.0010 to 6106.0150 were adopted; c) be consistent with local, regional, state, and federal plans; d) address potential impacts to key resources and features identified in Minnesota Statutes, section 116G.15, subdivision 4, paragraph (b); and e) contain a summary of feedback from affected 	<p><i>This subpart describes the provisions to modify district boundaries administratively. This was requested by local governments in the 2009-2010 process since EO 79-19 does provide a mechanism for changing boundaries.</i></p>

Draft Rules	Commentary
<p style="text-align: center;">parties as provided under subitem (2).</p> <p>(2) The local government or the Metropolitan Council requesting the district boundary amendment must give notice of the proposed district boundary amendment to adjoining or overlapping local governments, the Metropolitan Council, the commissioner, the National Park Service, and property owners in the area directly affected by the proposed district boundary amendment and publish notice in an official newspaper of general circulation in the area.</p> <p>(3) Upon receiving a complete request for a district boundary amendment as provided under subitem (1), the commissioner has 60 days to approve or deny the request or return the request for modification.</p> <p>(4) The commissioner must consider the request and all items submitted under subitem (1) and must, by written decision, approve or deny the request or return the request for modification. The decision must include findings that address the consistency of the proposed district boundary amendment with the purposes of parts 6106.0010 to 6106.0150.</p> <p>C. This subpart does not apply to the river corridor boundary established by Executive Order 79-19.</p>	
<p>PART 6106.0090 USES</p> <p>Subpart 1. Underlying zoning. Uses permissible within the Mississippi River Corridor Critical Area shall generally be guided by the local government's underlying zoning, with additional provisions for certain uses as specified by this part.</p> <p>Subp. 2. Agricultural use. Where agricultural use is allowed by the local government, perennial ground cover is required within 50 feet of the ordinary high water level and within the bluff impact zone. Within the slope preservation zone, a local government may allow row crops subject to a conservation plan approved by the soil and water conservation district board.</p> <p>Subp. 3. Feedlots. New animal feedlots and manure storage areas are prohibited. Existing animal feedlots and manure storage areas must conform to the standards in chapter 7020.</p> <p>Subp. 4. Forestry. Where forestry is allowed by the local government, tree harvesting and biomass harvesting within woodlands, and associated reforestation, must be conducted consistent with recommended practices in Conserving Wooded Areas in Developing Communities, Best Management Practices in Minnesota, incorporated by reference under part 6106.0070.</p>	<p><i>This part describes how uses are regulated. With a few exceptions, uses are regulated by a local government's existing or underlying zoning.</i></p> <p><i>Subparts 2 – 6 describe five uses with special considerations.</i></p>

Draft Rules	Commentary
<p>A. Parking areas and structures, except shoreline facilities, must meet the dimensional and performance standards in parts 6106.0010 to 6106.0150 and must be designed to incorporate topographic and vegetative screening.</p> <p>B. Shoreline facilities must comply with chapter 6115 and must:</p> <ul style="list-style-type: none"> (1) be designed in a compact fashion so as to minimize the shoreline area affected; and (2) minimize the surface area occupied in relation to the number of watercraft or barges to be served. <p>C. The placement of dredged material is allowed subject to existing federal and state permit requirements and agreements.</p>	
<p>PART 6106.0100 DIMENSIONAL STANDARDS</p>	<p><i>This part outlines standards for structure height; setbacks from the water and bluff; and lot area and width. These standards vary by district.</i></p>
<p>Subpart 1. Structure height.</p> <p>A. Structures, including accessory structures, must be no taller than the heights specified for each district:</p> <ul style="list-style-type: none"> (1) CA-1: 25 feet; (2) CA-2: 35 feet; (3) CA-3: 35 feet; (4) CA-4: 48 feet; (5) CA-5: height is determined by the local government's underlying zoning, provided the structure does not protrude above the treeline or height of existing surrounding development as viewed from the ordinary high water level of the opposite shore; (6) CA-6: 65 feet, provided tiering of structures away from the Mississippi River and from blufflines is considered, with lower structure heights closer to the river and blufflines, and structure design and placement minimize interference with views: <ul style="list-style-type: none"> (a) to the Mississippi River from public park land; and (b) to bluffs from the ordinary high water level of the opposite shore; and (7) CA-7: height is determined by the local government's underlying zoning, provided tiering of structures away from the Mississippi River and blufflines is considered, with lower structure heights closer to the river and blufflines, and structure design and placement minimize interference with views: <ul style="list-style-type: none"> (a) to the Mississippi River from public park land; and (b) to bluffs from the ordinary high water level of the 	<p><i>This subpart defines the height standard for each district.</i></p>

6106.0100

Draft Rules

Commentary

opposite shore.

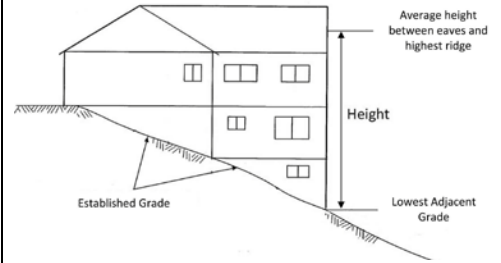
B. For the purposes of this subpart, height must be measured on the side of the structure facing the Mississippi River, and:

- (1) for buildings, height must be measured from the lowest adjacent grade to the highest point of a flat or mansard roof or the average height between the eaves and highest ridge for pitched, hip, or gambrel roofs; and
- (2) for nonbuilding structures, height must be measured from the lowest adjacent grade to the highest point of the structure.

C. Item A does not apply to:

- (1) industrial structures, barge facilities, terminal facilities, wastewater treatment facilities, elevators, and refineries that need to be taller for operational reasons, subject to performance standards to reduce visual impacts as determined necessary by the local government;
- (2) barns, silos, and similar farm structures;
- (3) bridges, bridge approach roadways, and public utilities, except cellular telephone towers as provided under subitem (7), according to part 6106.0110;
- (4) historic sites;
- (5) public safety facilities;
- (6) chimneys, church spires, flag poles, mechanical service stacks, public monuments, ventilation equipment, and similar equipment; and
- (7) cellular telephone towers with a conditional use permit or interim use permit, provided:
 - (a) the tower is not located in the bluff impact zone, shore impact zone, or slope preservation zone;
 - (b) the tower creates minimal interference with views to the river from public park land and to bluffs from the ordinary high water level of the opposite shore; and
 - (c) the applicant demonstrates that functional coverage cannot be provided through colocation, a tower at a lower height, or a tower at a location outside the Mississippi River Corridor Critical Area.

How height is measured



Item C lists structures that are exempt from the height limits. Exemptions in items 1-4 are from EO 79-19. Exemptions in items 5-7 are based on local government requests.

Subp. 2. Setbacks.

A. Structures, including accessory structures, and impervious surfaces must meet the following setback requirement from the ordinary high water level of the Mississippi River and other waters within the Mississippi River Corridor Critical Area, as specified for each district:

This subpart describes the structure setbacks in each district from the ordinary high water level of the Mississippi River and other rivers tributary to the Mississippi River in the MRCCA.

6106.0100

Draft Rules	Commentary
<p>(1) CA-1: 200 feet from the Mississippi River and 150 feet from the Minnesota and Vermillion Rivers;</p> <p>(2) CA-2: 200 feet from the Mississippi River and 150 feet from the Vermillion River;</p> <p>(3) CA-3: 100 feet from the Mississippi River and 75 feet from the Rum River;</p> <p>(4) CA-4: 75 feet from the Mississippi River and 75 feet from the Crow River;</p> <p>(5) CA-5: 75 feet from the Vermillion River;</p> <p>(6) CA-6: 50 feet from the Mississippi and Rum Rivers;</p> <p>(7) CA-7: 50 feet from the Mississippi River; and</p> <p>(8) all other public waters within the Mississippi River Corridor Critical Area are subject to underlying zoning.</p> <p>B. Structures, including accessory structures, and impervious surfaces must meet the following setback requirements from the bluffline as specified for each district:</p> <p>(1) CA-1: 100 feet;</p> <p>(2) CA-2: 100 feet;</p> <p>(3) CA-3: 40 feet;</p> <p>(4) CA-4: 40 feet;</p> <p>(5) CA-5: 40 feet;</p> <p>(6) CA-6: 40 feet; and</p> <p>(7) CA-7: 40 feet.</p> <p>C. Items A and B do not apply to:</p> <p>(1) public bridges and approaches, railroad sidings, and public and private roadways serving river-dependent uses according to part 6106.0110;</p> <p>(2) public recreational facilities according to parts 6106.0110 and 6106.0120, except picnic shelters are prohibited in the bluff impact zone, the shore impact zone, and the slope preservation zone;</p> <p>(3) aboveground pumping stations for sewer lines, if the stations are not readily visible;</p> <p>(4) historic sites;</p> <p>(5) one water-oriented accessory structure for each riparian lot less than 300 feet in width at the ordinary high water level, with one additional water-oriented accessory structure allowed per each additional 300 feet of shoreline on the same lot, except that structures are prohibited in the bluff impact zone and the slope preservation zone;</p> <p>(6) public safety facilities and airfield pavements;</p> <p>(7) shoreline facilities according to part 6106.0110;</p> <p>(8) rock riprap and retaining walls according to part 6106.0140;</p> <p>(9) flood control structures and public storm water</p>	<p><i>Structure setbacks from the OHWL vary by district and river. Specific standards were derived from EO79-19, existing standards in local government ordinances, natural resources, and existing development patterns.</i></p> <p><i>Item B lists the setbacks from bluffs in each district.</i></p> <p><i>Item C lists exceptions to setback requirements. It includes many items requested by local governments.</i></p> <p><i>This item allows one or more water-oriented accessory structures depending on lot width, provided they are not in a bluff impact zone or slope preservation zone.</i></p>

6106.0100

Draft Rules	Commentary
<p>facilities;</p> <p>(10) public transportation facilities according to part 6106.0110, subpart 2;</p> <p>(11) restoration projects sponsored and approved by a resource agency or the local government;</p> <p>(12) one access path according to part 6106.0110;</p> <p>(13) stairways, lifts, and landings according to part 6106.0110, subpart 3;</p> <p>(14) directional signs for watercraft as provided under part 6106.0110, subpart 4; and</p> <p>(15) public signs, such as directional, interpretive, educational, safety, or handicapped designation signs.</p> <p>D. Where principal structures exist on the adjoining lots on both sides of a proposed building site, the setback may be altered to conform to the adjoining setbacks, provided that the new structure's height, area, and width riverward or bluffward of the setbacks required under items A and B are compatible with adjoining development. No structures or impervious surfaces are allowed within the bluff impact zone, shore impact zone, or slope preservation zone, unless specified in the exceptions under item C and part 6106.0120.</p> <p>E. Subsurface sewage treatment systems, including the septic tank and absorption area, must be located at least 75 feet from the ordinary high water level of the Mississippi River and all other public waters within the Mississippi River Corridor Critical Area.</p>	<p><i>Item D allows for setback averaging in developed areas. This will reduce nonconformities in developed areas.</i></p> <p><i>Item E requires septic systems to be setback at least 75 feet from the ordinary high water level.</i></p>
<p>Subp. 3. Lot area and width.</p> <p>A. Lot area and width for conventional subdivisions and commercial and industrial lots are determined as specified for each district:</p> <p>(1) CA-1 and CA-3 to CA-7: lot area and width is determined by underlying zoning; and</p> <p>(2) CA-2: minimum width of 200 feet and minimum area of two acres. Lot area and width may be smaller for conservation subdivisions and planned unit developments as provided under part 6106.0150, subpart 2</p> <p>B. Lots must have adequate buildable area to comply with parts 6106.0010 to 6106.0150.</p> <p>C. Lots of record in the office of the county recorder on the date of enactment of ordinances adopted under parts 6106.0010 to 6106.0150 that do not meet the requirements of this subpart may be allowed as building sites without variances from lot size requirements if the requirements of Minnesota Statutes,</p>	<p><i>Lot area and width requirements are described in this subpart.</i></p> <p><i>Lot area and width are only specified for the CA-2 district. The local government's zoning regulates lot area and width for all other districts.</i></p> <p><i>Existing lots that do not meet the minimum lot and width requirements of these rules may be built on without a variance as long as the conditions in state law are met.</i></p>

6106.0100

Draft Rules	Commentary
section 394.36 or 462.357, are met.	
PART 6106.0110 GENERAL DEVELOPMENT STANDARDS	<i>This part specifies standards for the design of roads, parking areas public facilities, and utilities.</i>
<p>Subpart 1. Private roads, driveways, parking areas, and water access facilities.</p> <p>A. Private roads, driveways, and parking areas must:</p> <ol style="list-style-type: none"> (1) be designed and constructed: <ol style="list-style-type: none"> (a) to take advantage of natural vegetation and topography to achieve maximum screening from view so that they are not readily visible; and (b) according to applicable standards under part 6106.0140; (2) comply with structure setback requirements according to part 6106.0100; and (3) not be placed within the slope preservation zone, bluff impact zone, or shore impact zone according to part 6106.0120 <p>B. A local government may allow private water access facilities, including private water access ramps, access paths, and stairway, lifts, and landings, subject to the following requirements:</p> <ol style="list-style-type: none"> (1) the watercraft access ramp must comply with chapters 6115 and 6280; (2) an access path must comply with land alteration and storm water management requirements in part 6106.0140, and: <ol style="list-style-type: none"> (a) if placed within the shore impact zone, an access path must be no more than eight feet wide; and (b) if placed within the bluff impact zone or slope preservation zone, an access path must be no more than four feet wide; (3) stairways, lifts, and landings must comply with subpart 3; and (4) all water access facilities must be designed and constructed consistent with the applicable standards in the Design Handbook for Recreational Boating and Fishing Facilities, incorporated by reference under part 6106.0070. 	<p><i>Design standards for private facilities are described in the subpart.</i></p> <p><i>Private roads, driveways and parking areas must meet structure setbacks from the river and bluffs and cannot be placed in slope preservation zones.</i></p> <p><i>Access paths can be up to four-feet wide in slope preservation or bluff impact zones, otherwise, they may be up to eight-feet wide in the shore impact zone.</i></p>
<p>Subp. 2. Public transportation facilities, public recreational facilities, and public utilities.</p> <p>A. Public transportation facilities, public recreational facilities, and public utilities must be designed and constructed to:</p>	<p><i>Design standards for public facilities are described in this subpart.</i></p> <p><i>Public facilities are encourage d to meet setback and height requirem</i></p>

6106.0110

Draft Rules

Commentary

vegetative stands, tree canopies, native plant communities, woodlands, and habitat.

D. Where public transportation facilities intersect or abut two or more of the districts established under part 6106.0080, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:

- (1) scenic overlooks for motorists;
- (2) safe pedestrian crossings and facilities along the river corridor;
- (3) access to the riverfront in public ownership; and
- (4) reasonable use of the land between the river and the transportation facility.

E. Right-of-way maintenance for public transportation facilities, public recreational facilities, and public utilities is subject to the following standards:

- (1) vegetation currently in a natural state must be maintained, where reasonable and prudent;
- (2) where vegetation in a natural state has been removed, native plants must be planted and maintained on the right-of-way; and
- (3) chemical control of vegetation should be avoided when practicable, but when such methods are necessary, chemicals used and the manner of their use must be in accordance with the rules, regulations, and other requirements of all state and federal agencies with authority over the chemical's use.

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

G. Public utilities must comply with the following standards:

- (1) high-voltage transmission lines, wind energy conversion systems greater than five megawatts, and pipelines are regulated according to Minnesota Statutes, chapters 216E, 216F, and 216G, respectively; and
- (2) if overhead placement is necessary, utility crossings must be hidden from view as much as practicable. The appearance of structures must be as compatible as practicable with the surrounding area in a natural state with regard to height and width, materials used, and color.

Design standards for maintaining public facilities.

River crossings are governed by existing statutes.

Standards for the design of high voltage power lines.

Draft Rules	Commentary
<p>Subp. 3. Stairways, lifts, and landings. Design and construction of stairways, lifts, and landings are subject to the following standards:</p> <ul style="list-style-type: none"> A. stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public park lands, conservation subdivisions, and planned unit developments if approved by the local government; B. landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public park lands, conservation subdivisions, and planned unit developments if approved by the local government; C. canopies or roofs are prohibited on stairways, lifts, or landings; D. stairways, lifts, and landings must be located in the least readily visible portion of the lot whenever practicable; and E. facilities such as ramps, lifts, or mobility paths for persons with physical disabilities are allowed for achieving access to shore areas according to items A to D and as provided under part 6106.0060, subpart 18. 	<p><i>This subpart describes the design standards for public and private stairways, lifts and landings. Local governments requested clarification on what is allowed and appropriate design standards for these features.</i></p>
<p>Subp. 4. Signs. Placement of signs is guided by the local government's underlying zoning, with additional provisions as specified under this subpart:</p> <ul style="list-style-type: none"> A. The local government may allow off-premise advertising signs, provided that: <ul style="list-style-type: none"> (1) the signs meet all required dimensional and performance standards of parts 6106.0010 to 6106.0150; and (2) the signs are not readily visible. B. The local government may allow directional signs for patrons arriving at a business by watercraft, provided that the signs <ul style="list-style-type: none"> (1) are consistent with Minnesota Statutes, chapter 86B; (2) if located within the shore impact zone, convey only the location and name of the establishment and the general types of goods and services available; (3) are no greater than ten feet in height and 32 square feet in surface area; and (4) if illuminated, have lighting that is shielded to prevent illumination out across the river or to the sky. 	<p><i>This subpart describes the design and placement of signs.</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>Greater clarity is needed on the design standards for off-premise signs. Item A (1) refers to all rule parts.</i></p> </div>
<p>PART 6106.0120 PROTECTION OF BLUFFS, STEEP SLOPES, AND VERY STEEP SLOPES</p>	<p><i>This section describes requirements for protecting bluffs and slopes.</i> 6106.0110</p>

Draft Rules	Commentary
<p>Subpart 1. Bluff impact zone and slope preservation zone.</p> <p>A. No structures, impervious surfaces, land alteration, intensive vegetation clearing, or construction activities are allowed within the bluff impact zone or the slope preservation zone, except as provided in item B.</p> <p>B. The following structures, impervious surfaces, and activities are exempt from item A:</p> <ol style="list-style-type: none"> (1) public bridges and approaches, railroad sidings, and public and private roadways serving river-dependent uses according to part 6106.0110; (2) public recreational facilities according to part 6106.0110; (3) aboveground pumping stations for sewer lines, if the stations are not readily visible; (4) historic sites; (5) public safety facilities and airfield pavements; (6) shoreline facilities according to part 6106.0110, provided no reasonable alternative exists; (7) rock riprap and retaining walls according to part 6106.0140; (8) public transportation facilities according to part 6106.0110, subpart 2; (9) restoration projects sponsored and approved by a resource agency or the local government; (10) one access path, subject to part 6106.0110; (11) stairways, lifts, and landings according to part 6106.0110, subpart 3; (12) public signs, such as directional, interpretive, educational, safety, or handicapped designation signs; and (13) row cropping, subject to a conservation plan approved by the soil and water conservation district board. 	<p><i>Structures, impervious surface, land alteration and intensive vegetation removal are prohibited on slopes of 18% and greater (i.e. in and near very steep slopes and bluffs). MS 116G.15 requires the protection of bluffs and very steep slopes.</i></p> <p><i>Item B identifies exceptions to the prohibitions in item A.</i></p>
<p>Subp. 2. Development on steep slopes. A local government may allow structures, impervious surfaces, land alteration, intensive vegetation clearing, or construction activities on steep slopes when the following conditions are met:</p> <ol style="list-style-type: none"> A. the applicant can demonstrate that the development can be accomplished without increasing erosion or storm water runoff according to part 6106.0140; B. the soil types and geology are suitable for the proposed development; and C. vegetation is managed according to part 6106.0130. 	<p><i>Development is permitted on slopes between 12% and 18% with the listed conditions. There are no conditions for development on slopes less than 12%.</i></p>

6106.0120

Draft Rules	Commentary
<p>PART 6106.0130 VEGETATION MANAGEMENT</p>	<p><i>This part outlines provisions to protect existing high quality vegetation.</i></p>
<p>Subpart 1. Requirements. Within shore impact zones, bluff impact zones, slope preservation zones, wetlands, floodplains, significant existing vegetative stands, canopies, and native plant communities, vegetation must be managed as provided in items A to F.</p> <ul style="list-style-type: none"> A. Existing vegetation in a natural state must be maintained. B. Restoration of vegetation to a natural state is encouraged. C. Intensive vegetation clearing is prohibited. D. Screening of structures, vehicles, and other facilities as viewed from the ordinary high water level of the opposite shore during summer months must be maintained. E. A local government may allow limited cutting, trimming, or clearing of trees, shrubs, understory, and groundcover vegetation for: <ul style="list-style-type: none"> (1) the minimum necessary for development allowed as exceptions under parts 6106.0100 to 6106.0120; (2) one shoreline recreational use area, subject to the following standards: <ul style="list-style-type: none"> (a) for residential lots with a lot width less than 300 feet, only one shoreline recreational use area is allowed on each lot and the recreational use area must not exceed 25 feet in width and must not extend more than 25 feet landward from the ordinary high water level; and (b) for conservation subdivisions, planned unit developments, and residential lots with a lot width 300 feet or greater, the shoreline recreational use area allowed by unit (a) may be increased by 25 feet in width for each 100 feet in lot width in excess of 300 feet, not to exceed 5,000 square feet in total area, with the depth of the shoreline recreational use area not exceeding 25 feet landward from the ordinary high water level; (3) the removal of trees, limbs, or branches that are dead, dying, diseased, or infested, which removal is necessary to prevent spread of disease or infestation or to address a safety hazard as determined by a forester, arborist, or other qualified local government representative; (4) the removal of invasive, nonnative plants as determined necessary by a forester, arborist, or other qualified local representative; (5) woodland or habitat management and restoration activities sponsored and approved by a resource 	<p><i>This subpart lists requirements for managing vegetation in sensitive environmental areas. This includes where vegetation should be managed, how, and in what situations restoration is to occur.</i></p> <div data-bbox="1065 793 1549 974" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>Clarification of the exemptions under item E (1) is needed. This item refers to rule parts dealing with dimensional, general development, and bluff standards.</i></p> </div> <p><i>This provision allows vegetation removal for development of shoreline recreational areas such as beaches.</i></p> <div data-bbox="1065 1142 1549 1323" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>Intent of item E (2) (b) is unclear due to poor wording. Intent is to allow larger recreational use areas as lots get larger and to allow large use areas if a common feature of subdivisions.</i></p> </div> <div data-bbox="1373 1877 1549 1921" style="border: 1px solid black; padding: 2px; text-align: center;"> <p>6106.0130</p> </div>

Draft Rules	Commentary
<p>agency or the local government;</p> <p>(6) forest management activities sponsored and approved by a resource agency or the local government and pursuant to the forestry use standards in part 6106.0090; and</p> <p>(7) aviation safety facilities.</p> <p>F. In areas cleared of vegetation under item E, subitems (3) and (4), vegetation in a natural state must be reestablished, either by allowing regeneration naturally or with plantings subject to a restoration plan approved by a resource agency or the local government.</p>	
<p>Subp. 2. Compliance; restoration. Reestablishment of vegetation in a natural state according to items A to C is required upon failure to comply with subpart 1.</p> <p>A. The local government must require a restoration plan that includes planting comparable species, composition, density, and diversity of vegetation in a natural state in the same area. All aspects of the plan must be maintained in perpetuity, and loss of plantings must be replaced in kind.</p> <p>B. Open areas or lawns resulting from violations must be left unmowed or uncut and restored with vegetation in a natural state in the same area.</p> <p>C. The local government must issue a certificate of compliance after it has determined that the restoration requirements of items A and B have been satisfied.</p>	<p><i>This subpart describes compliance and corrective measures when there is a vegetation violation. This section was requested by local governments.</i></p>
<p>Subp. 3. Education. In cooperation with the commissioner and other resource agencies, local governments must implement an incentive, marketing, or educational program to encourage property owners to protect or restore vegetation in a natural state within the areas identified in subpart 1.</p>	<p><i>This subpart describes requirements for encouraging better vegetation management practices.</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>There is concern with the practicality of this type of requirement in rule. Greater clarity around what constitutes an incentive, marketing or educational program would be needed to determine whether the requirements have been met.</i></p> </div>
<p>PART 6106.0140 LAND ALTERATION AND STORM WATER MANAGEMENT</p>	<p><i>This part describes measures to protect water quality of the Mississippi River and its tributaries. It recognizes and relies on existing federal, state, and local regulations as key elements in addressing water quality.</i></p>
<p>Subpart 1. Compliance with other plans and programs. All development must:</p> <p>A. be consistent with Minnesota Statutes, chapter 103B, and local water management plans completed under chapter 8410;</p>	<p><i>This subpart lists relevant statutes and rules regulating water protection activities.</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px; text-align: right;"> <p>6106.0140</p> </div>

Draft Rules	Commentary
<p>B. meet or exceed the wetland protection standards under chapter 8420; and</p> <p>C. meet or exceed the floodplain management standards under chapter 6120.</p> <p>Subp. 2. Land alteration.</p> <p>A. Within the shore impact zone, grading, filling, and land disturbance activities involving a volume of more than ten cubic yards of material or affecting an area greater than 250 square feet require a permit from the local government and must comply with subpart 3, with the following exceptions:</p> <ul style="list-style-type: none"> (1) emergency situations as determined by the local government; and (2) restoration projects sponsored or approved by a resource agency or the local government <p>B. Within the bluff impact zone and slope preservation zone, grading, filling, and land disturbance activities are prohibited, with the following exceptions:</p> <ul style="list-style-type: none"> (1) aggregate mining and extraction subject to subpart 3 and as provided under part 6106.0090, subpart 5; and (2) development allowed as exceptions under part 6106.0120, subpart 1, subject to subpart 3. 	<p><i>Subpart 2 regulates grading and filling activities in the shore impact zone (SIZ). Any land disturbance greater than 250 square feet in the SIZ requires an LGU permit. The SIZ is the area within 50 feet of the ordinary high water level.</i></p> <p><i>Land disturbance is prohibited in the bluff impact zone and the slope preservation zone, subject to some exceptions.</i></p>
<p>Subp. 3. Erosion and sediment control.</p> <p>A. Temporary and permanent erosion and sediment control is required for any development that disturbs a total land surface area of 3,000 square feet or more.</p> <p>B. Temporary and permanent erosion and sediment control measures must be consistent with Protecting Water Quality in Urban Areas Manual, incorporated by reference under part 6106.0070, and must comply with the standards provided in the National Pollution Discharge and Elimination System (NPDES) Program permit for construction storm water.</p>	<p><i>This subpart outlines erosion and sediment control measures.</i></p> <p><i>Any activity that disturbs more than 3,000 square feet requires temporary (construction) control measures as well as permanent (post-construction) control measures.</i></p>
<p>Subp. 4. Rock riprap and retaining walls.</p> <p>A. Placement of riprap and retaining walls below the ordinary high water level requires a permit from the commissioner and must comply with chapter 6115.</p> <p>B. Within shore impact zones, bluff impact zones, and slope preservation zones, a local government may allow by permit constructing or replacing retaining walls, riprap, or other impervious surfaces or using bioengineering techniques, provided the following standards are met:</p> <ul style="list-style-type: none"> (1) retaining walls, riprap, or other impervious surfaces must only be used for the correction of an established 	<p><i>Provisions for hard armoring are described in this subpart.</i></p> <div style="text-align: right; border: 1px solid black; padding: 2px;">6106.0140</div>

Draft Rules	Commentary
<p>erosion problem that cannot be controlled through the use of vegetation, slope stabilization using mulch, a biomat, or similar bioengineering methods. This determination must be done by a professional engineer or person with certification in erosion control; and</p> <p>(2) design, construction, and maintenance must be consistent with best management practices in Protecting Water Quality in Urban Areas Manual, incorporated by reference under part 6106.0070, or other appropriate resource agency manual.</p>	
<p>Subp. 5. Storm water management.</p> <p>A. All development must meet or exceed the standards in chapters 7050, 7053, and 7090, as well as the Metropolitan Council's current water resources management policy plan.</p> <p>B. The impervious surface coverage limit is determined by underlying zoning.</p> <p>C. Storm water practices must be designed to capture runoff generated from one inch of rainfall over new or reconstructed impervious surfaces. Where site conditions do not allow for infiltration, other volume reduction practices or filtration practices must be given priority. This item applies to any development that requires a permit from the local government that involves land alteration. Design, construction, and maintenance must be consistent with The Minnesota Stormwater Manual, incorporated by reference under part 6106.0070.</p>	<p><i>This subpart describes standards for managing stormwater runoff.</i></p> <p><i>The first inch of rainfall must be captured.</i></p>
<p>PART 6106.0150 SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS</p>	<p><i>This part describes standards for subdivisions and PUDs.</i></p>
<p>Subpart 1. General provisions.</p> <p>A. Subdivision and planned unit development proposals must be processed by local governments according to Minnesota Statutes, chapters 394, 462, 505, and 515B.</p> <p>B. Local governments must require detailed site information and provide for preproject review of all proposed subdivisions and planned unit developments as provided under part 6106.0060, subpart 13.</p> <p>C. The local government ordinances must contain provisions, including incentives, for conservation subdivisions and planned unit developments to protect primary conservation areas and open space.</p>	<p><i>General requirements for subdivisions are described in this subpart.</i></p> <p><i>This item describes the type of information local governments should use for reviewing subdivision proposals. Rules require a pre-project meeting.</i></p> <div data-bbox="1062 1650 1544 1787" style="border: 1px solid black; padding: 5px;"> <p><i>In item B "part 6106.0060" needs to be clarified to refer to subp 13 – the list of items included in site plans.</i></p> </div>
<p>Subp. 2. Lot standards.</p>	<p><i>This subpart allows for dens</i></p> <div data-bbox="1365 1860 1570 1921" style="border: 1px solid black; padding: 2px; text-align: right;"> <p>6106.0150</p> </div>

Draft Rules	Commentary
<p>A. Lot area and width standards must comply with part 6106.0100, subpart 3, except as provided under item B.</p> <p>B. Smaller lot area and width is allowed:</p> <ol style="list-style-type: none"> (1) for conservation subdivisions and planned unit developments that provide greater protection or enhancement of open space, such as: <ol style="list-style-type: none"> a) increased distance between development and primary conservation areas and other areas identified for open space protection; b) decreased development density close to primary conservation areas and other areas identified for open space protection; c) use of minimum impact design; d) restoration of open space to native plant communities, wetlands, wildlife habitat, and other natural features; e) protection of open space greater than the minimum required by subpart 3; and f) other means as determined by the local government; and (2) in the CA-5 district, when development density has been transferred from other districts to achieve open space protection as provided by subpart 3, item C. 	<p><i>smaller lots if subdivisions provide additional resource protection.</i></p> <div data-bbox="1062 375 1542 621" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>Since these rules only regulate lot area and width in the CA-2 district, (underlying zoning applies to all other districts) subp. 2 could be moved to part 6616.0100, subpart 3 (A) (2) – the provision that deals with lot area and width for the CA-2 district.</i></p> </div> <div data-bbox="1062 732 1549 1005" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>Under (c), “minimum impact design” is a technical error. Intent was to state “low impact development.” Low impact development (LID) means an approach to stormwater management that mimics a site’s natural hydrology as the landscape is developed.</i></p> </div>
<p>Subp. 3. Open space. Local government ordinances must contain provisions for the protection, administration, and maintenance of open space as provided in items A to D.</p> <p>A. Open space protection is required for all subdivisions creating three or more lots and for all planned unit developments, except for:</p> <ol style="list-style-type: none"> (1) minor boundary line corrections; (2) resolutions of encroachments; (3) additions to existing lots of record; and (4) placement of essential services <p>B. Open space must be protected through:</p> <ol style="list-style-type: none"> (1) a perpetual conservation easement, as provided in Minnesota Statutes, chapter 84C, the terms of which must meet the purposes of parts 6106.0010 to 6106.0150 and must ensure long-term management of vegetation in a natural state, prohibit structures, and prohibit land alteration, except as needed to provide public recreational facilities and access to the river; or (2) fee title ownership by a government entity for conservation purposes consistent with parts 6106.0010 to 6106.0150. 	<p><i>This subpart describes the requirements for open space in subdivisions.</i></p> <div data-bbox="1062 1266 1552 1535" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>The practicality of open space rules needs further discussion. Is “three or more lots” an appropriate threshold considering the requirement to protect open space through easements? Should open space requirements exist or vary by district and type of land use?</i></p> </div> <div data-bbox="1365 1829 1572 1877" style="border: 1px solid black; padding: 2px; text-align: center;"> <p>6106.0150</p> </div>

Draft Rules

Commentary

C. Areas to be protected as open space shall be determined as follows:

- (1) in the CA-1 and CA-2 districts, a minimum of 50 percent of the total project area of the proposed subdivision or planned unit development must be protected as open space, subject to the following provisions:
 - a) primary conservation areas must be the highest priority for protection;
 - b) if the primary conservation areas exceed 50 percent of the total project area, then the local government must determine which primary conservation areas are to be protected as open space; and
 - c) if the primary conservation areas constitute less than 50 percent of the total project area, then the local government must:
 - i. determine the location of the remaining balance of open space to be protected on the site; or
 - ii. accept cash in lieu of open space protection for the balance to be used only for purchasing land or conservation easements for open space, natural areas, and recreational areas within the Mississippi River Corridor Critical Area;
- (2) in the CA-3, CA-4, CA-6, and CA-7 districts, only primary conservation areas, if they exist, must be protected as open space up to a maximum percentage of the total project area as provided in units (a) to (d):
 - a) CA-3: 25 percent of the total project area;
 - b) CA-4, CA-6, and CA-7: 15 percent of the total project area;
 - c) if the primary conservation areas exceed the percentages provided by units (a) and (b), then the local government shall determine which primary conservation areas are to be protected as open space; and
 - d) if the primary conservation areas do not meet the percentages provided by units (a) and (b), then only the existing primary conservation areas must be protected as open space. If no primary conservation areas exist, then no open space protection is required; and
- (3) in the CA-5 district, underlying open space requirements apply, except that no open space is

6106.0150

Draft Rules	Commentary
<p>required if development density is transferred to the CA-5 district from other districts.</p> <p>D. Open space must connect neighboring or abutting open space, natural areas, and recreational areas as much as possible to form an interconnected, corridorwide network.</p>	
<p>Subp. 4. Dedication.</p> <p>A. In the development of subdivisions creating three or more lots and planned unit developments, a developer must dedicate to the public a reasonable portion of land suitable for riverfront access or other lands in interest therein.</p> <p>B. In the event of practical difficulties or physical impossibility, the developer must contribute an equivalent amount of cash to be used only for the acquisition of land for parks, open space, storm water drainage areas, or other public services within the Mississippi River Corridor Critical Area.</p> <p>C. The area dedicated may include area protected as open space under subpart 3.</p>	<p><i>This subpart describes the requirement that all subdivisions must advance the need for public land for recreation and aesthetic enjoyment.</i></p>