

Sec. 117-148. - Critical River Overlay District development standards.

- (a) *Zoning provisions.* The following standards shall apply to the Critical River Area as shown on the official environmental overlay map of the city. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards shall apply:
- (1) Area standards and permitted uses for the lots located in the Critical River Area and rural service area.

	Residential District	Business District	Employment District
Lot size without public sewer any permitted use	2.5 acres*	2.5 acres	2.5 acres
Lot width without public sewer any permitted use	200 feet	200 feet	200 feet
Front yard setback without public sewer any permitted use	40 feet	40 feet	40 feet
Rear yard setback without public sewer any permitted use	35 feet	35 feet	35 feet
Side yard setback without public sewer any permitted use	10 feet	10 feet	10 feet
River setback without public sewer any permitted use	35 feet from bluff line or 200 feet from ordinary high water mark whichever is greater		
Maximum building	35 feet	35 feet	35 feet

height any permitted building			
Maximum impervious surface area permitted as percent of total lot area**	30%	30%	30%
On-site sewage treatment system setback from ordinary high water level	75 feet	75 feet	75 feet

*The underlying zoning limits the density to a maximum of one per ten acre.

**Includes all structures, surfaced roads, parking lots, and other impervious areas.

- (2) Area standards and permitted uses for the lots located in the critical river area and urban service area.

	Residential District	Business District	Employment District
Lot size with public sewer (riparian)	20,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.
Lot size with public sewer (non-riparian)	12,150 sq. ft.	20,000 sq. ft.	20,000 sq. ft.
Lot width at building line and river frontage	90 feet	125 feet	125 feet
Front yard setback	35 feet	35 feet	35 feet
Rear yard setback	35 feet	35 feet	35 feet
Side yard setback	10 feet	10 feet	10 feet
River setback any	20 feet bluff line or 100 feet from ordinary high water mark which ever is greater		

permitted use			
Maximum impervious surface area permitted as percent of total lot area.	30%	30%	30%
Maximum building height any permitted building	35 feet	35 feet	35 feet
On-site sewage treatment system setback from ordinary high water level	75 feet	75 feet	75 feet

Permitted uses: The permitted uses for the Critical River Area shall be those uses presently permitted in the respective zoning districts.

(b) *Existing uses.*

(1) *Existing structures.* Existing structures, the location or the use of which is inconsistent with this subdivision or the critical areas designation order shall not be eligible for any permit granted by the city for expansion, change of use, renewal of existing permit or building permit unless the following criteria are met:

- a. The applicant shall provide and maintain adequate screening of the structure from the water through the use of natural vegetative means.
- b. Expansion of existing structures shall be in a direction away from the riverfront.
- c. The public's ability to view the river and river corridor from existing public streets shall not be further degraded by the proposed activity.

(2) *Signs.*

- a. Advertising signs are prohibited between the flood fringe borderline and all county, state or federal highway located within 1,000 feet of the line except where the river cannot be viewed from the highway due to natural topography or existing buildings.
- b. All advertising signs permitted within the critical area outside the area set forth in subsection (b)(2)a of this section shall conform with the provisions of article II, [division 8](#) of this chapter.
 1. Views of the water from vistas and public roads shall not be impaired by the placement of business or advertising signs; and
 2. Advertising signs may be located only on the shore side of public transportation routes that are parallel and adjacent to the riverfront.

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All advertising signs, the location of which is not in conformance with this subdivision, are deemed nonconforming uses and shall be removed within seven years of the effective date of the ordinance from which this subdivision is derived.

(3) *Existing lots of record.*

- a. Lots of record in the office of the county register of deeds (or registrar of titles) prior to the date of enactment of the ordinance from which this subdivision is derived, which do not meet the requirements of [section 117-148\(a\)](#), may be allowed as building sites provided:
1. Such use is permitted in the zoning district;
 2. The lot is in separate ownership from abutting lands; and
 3. All other sanitary and dimensional requirements of this subdivision are complied with insofar as practical.

(c) *River crossing.*

(1) *Utility facilities.* Utility crossings of the Critical Area Corridor or routing within the corridor shall meet the following standards:

- a. Underground placing of the utility facility shall be required unless economic, technological and land characteristic factors make underground placement infeasible. Economic considerations alone shall not be made the major determinate regarding feasibility.
- b. Overhead crossings, if required, shall meet the following criteria:
1. The crossings shall be adjacent to or part of an existing utility corridor, including bridge or overhead utility lines;
 2. All structures utilized shall be as compatible as practicable with land use, scenic views and existing transmission structures in height, material, color and design;
 3. Right-of-way clearance shall be kept to a minimum;
 4. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;
 5. Routing shall avoid unstable soils, bluff lines or high ridges, the alteration of the natural environment, including grading, shall be minimized; and
 6. The crossings shall be subject to the site planning requirements set forth in [section 117-146\(d\)\(2\)](#).
- c. Utility substations. Utility substations shall be subject to the following standards:
1. All substations shall be subject to the site planning requirements set forth in [section 117-146\(d\)\(2\)](#); and
 2. New substations or refurbishment of existing substations shall be compatible in height, scale, building materials, landscaping and signing with the surrounding natural environment or land uses. Screening by natural means is encouraged and should be compatible with the surrounding environment.
- d. Pipelines. Pipelines and underground utility facilities shall be subject to the following standards:
1. All pipelines and underground facilities shall be subject to the site planning requirements set forth in [section 117-146\(d\)\(2\)](#); and

2. The facilities shall be located to avoid wetlands, woodlands and areas of unstable soils; and
 3. All underground placing of utility facilities and pipelines shall be followed by revegetation and rehabilitation to the conditions that existed on site prior to development.
 - (2) *Public and private roads and railways.* New roads and railways crossing the Critical Area Corridor or routed within the Critical Area Corridor shall meet the following standards:
 - a. Roads and railways shall be constructed to minimize impacts on the natural terrain and natural landscape.
 - b. Cuts and fills are to be avoided.
 - c. All roads and railways shall be subject to the site planning requirements set forth in [section 117-146\(d\)\(2\)](#).
 - d. New roads and railways shall not utilize the river corridor as a convenient right-of-way for new arterials or main lines.
 - e. New roads and railways shall be restricted to those facilities needed to access existing and planned residential, commercial and industrial uses.
 - f. All new roads and railways shall provide safe pedestrian crossing points to allow access to the riverfront. Rest areas, vistas and waysides shall be provided.
- (d) *Riverfront uses/access.*
 - (1) *Public property.* Public pedestrian access shall be provided to the riverfront of all public property.
 - (2) *Public pedestrian access.* Public pedestrian access shall be provided to the riverfront of developments on publicly owned and publicly controlled riverfront property whether leased to private leases or not, except where:
 - a. Unavoidable hazards exist to the public.
 - b. Public pedestrian access at a particular location cannot be designed or developed to provide a pleasant view or recreational experience.
 - c. Access to the riverfront may be denied to any person who creates a nuisance or who engages in illegal conduct on the property and public access may be temporarily or permanently closed upon a finding by the city that such offensive conduct cannot otherwise be reasonably controlled.
 - (3) *Public access, private property.* Public pedestrian access shall be provided to the riverfront for all non-water-dependent uses that are:
 - a. Commercial or industrial.
 - b. Developed as a planned unit development or requiring subdivision approval.
 - c. Access to the riverfront may be denied to any person who creates a nuisance or who engages in illegal conduct on the property and public access may be temporarily or permanently closed upon a finding by the city that such offensive conduct cannot otherwise be reasonably controlled.
 - (4) *Riverfront uses.* Riverfront uses shall be preferred in the following order:
 - a. Water dependent;
 - b. Non-water dependent with public pedestrian access; and
 - c. Non-water dependent without public pedestrian access.
- (e) *Marinas, barge fleeting areas and loading facilities.*

- (1) *Boat launching ramps.*
 - a. Boat launching ramps may be located only where access streets are adequate to handle the traffic load generated by the facility.
 - b. Shared or joint use accessory parking will be preferred. Loading will be permitted only at ramps. Parking areas must be screened from the river and adjoining residential property and located at least 50 feet from the normal high water mark.
 - c. The impact of the accessory parking must not adversely affect the environmental quality of the site or the surrounding neighborhood.
 - d. Boat launching ramps and minor accessory buildings and haul-off facilities must be in character and scale with the surrounding neighborhood.
- (2) *Public marinas.* Public marinas shall be permitted subject to the following conditions:
 - a. The marina must have lavatory facilities adequate to service the marina clientele.
 - b. Off-street parking areas should be provided in accordance with the requirements set forth for boat launching ramps.
 - c. Areas for the winter storing of boats should be naturally screened from view from the river and from upland lots.
 - d. The marina shall be designed for and used only by pleasure craft.
 - e. Maximum height of any buildings or structures shall be 35 feet.
 - f. Accessory uses customarily incidental to public marinas including fueling stations may be permitted providing they are consistent in scale and intensity with the marina and surrounding uses.
- (f) *Vegetation management.*
 - (1) In rural open space, urban developed and urban open space districts, the following standards shall apply:
 - a. On undeveloped islands, public recreation lands, the slope or face of bluffs, within 200 feet of the normal high water mark of the river, and within the area 40 feet landward from bluff-lines, clear cutting shall not be permitted.
 - b. On all other lands within these districts, clear cutting shall be guided by the following provisions:
 1. Any selective or clear cutting shall require an environmental permit from the city. The permittee shall submit a plan to the city showing the size and location of all trees on the site and which trees are proposed to be cut. The plan shall be drawn to an accurate scale. The permit application shall be reviewed by both the building inspector and the tree inspector;
 2. Clear cutting shall not be used where soil, slope or other water shed conditions are fragile and subject to injury;
 3. Clear cutting shall be conducted only where clear cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain;
 4. The size of clear cut blocks, patches or strips shall be kept at the minimum necessary; and
 5. Where feasible, all selective cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetation cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic

- quality of the area; and where feasible, replanting shall be performed in the same spring or the following spring.
- C. The selective cutting of trees greater than four inches in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.
- (2) These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of essential services and utility transmission services which are permitted uses.
- (9) *Administration of the Mississippi River Critical Area.*
- (1) In areas when overlapping standards are present the city council shall apply the most restrictive standards.
- (2) No development or alteration of the Critical Area shall take place without complete compliance with this chapter. All permits for conditional uses, building, sewer system construction or extension (public or private), DNR and EQB review if applicable, and variances shall be obtained prior to any construction. Variances shall be issued only upon demonstration of hardship as defined by [section 117-1](#). Failure to comply with all the standards and regulations of this chapter may be enjoined by the city council through proper legal channels. Each day a violation is permitted to exist shall constitute a separate offense.
- (3) Notification procedures and certification.
- a. Certain land use decisions which directly affect the use of land within the Mississippi Critical River Area District and involve any of the following actions must be certified by the commissioner as specified in subsection (g)(3)b of this section:
1. Adopting or amending an ordinance regulating the use of land including rezoning of particular tracts of the land.
 2. Granting a variance from a provision of this subdivision which related to the zoning dimension provision of subsection (a) of this section and any other zoning dimension provisions established in the Mississippi River Critical Area.
 3. Approving a plat that is inconsistent with the local land use code.
 4. Granting a conditional use permit for a private or commercial recreational development.
- b. Certification process.
1. A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider zoning amendments, variances, or inconsistent plats under this Code shall be sent so as to be received by the commissioner at least 30 days prior to such hearings or meetings to consider such actions. The notice of application shall include a copy of the proposed ordinances or amendment, or a copy of the proposed inconsistent plat, or a description of the requested variance, or a copy of the conditional use permit application, where applicable.
 2. The city shall notify the commissioner of its final decision on the proposed action within ten days of the decision.
 3. The action becomes effective when and only when either:

- (i) The final decision taken by the city has previously received certification of approval from the commissioner;
 - (ii) The city received certification of approval after its final decision;
 - (iii) 30 days have elapsed from the commissioner received notice of the final decision, and the city has received from the commissioner neither certification of approval nor notice of non-approval; or
 - (iv) The commissioner certifies approval within 30 days after conducting a public hearing.
 4. In the case the commissioner gives notice of non-approval of an ordinance, variance, or inconsistent plat, either the applicant or the administrator may, within 30 days of said notice, file with the commissioner a demand for hearing. If the demand for hearing is not made within 30 days, the notice of non-approval shall become final.
 - (i) The hearing will be held in an appropriate local community within 60 days of the demand and after at least two weeks published notice.
 - (ii) The hearing will be conducted in accordance with Minn. Stats. § 103G.311.
 - (iii) The commissioner shall either certify approval or disapproval of the proposed action within 30 days of the hearing.
 5. The following recreational uses shall require certification approval by the commissioner:
 - (i) Governmental campgrounds.
 - (ii) Private campgrounds.
 - (iii) Public accesses, road access type with boat launching facilities.
 - (iv) Public accesses, trail access type.
 - (v) Temporary docks.
 - (vi) Other governmental open space recreational uses.
- (4) Enforcement.
 - a. It is declared unlawful for any person to violate any of the terms and provisions of this subdivision. Violation thereof shall be a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.
 - b. In the event of a violation or a threatened violation of this subdivision, the city or the commissioner of natural resources, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, or abate such violations or threatened violations.
 - c. Any taxpayer of the city may institute mandamus proceedings in the district court to compel specific performance by the proper official of any duty required by this subdivision.

(Code 1978, § 9.21.07; Ord. No. 75-08, 6-27-1975; Ord. No. 85-02, 8-12-1985; Ord. No. 86-2, 8-25-1986; Ord. No. 88-11, 3-19-1989)