

# Article 12. Overlay Districts and Designated Areas

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## 12.1 FLOODPLAIN OVERLAY DISTRICT

### A. Purpose

The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103 and Chapter 462, delegated responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council has adopted these floodplain regulations and the Floodplain Overlay District.

It is the purpose of these regulations to promote the public health, safety and general welfare, and to minimize those losses within the flood hazard areas of the City, which are subject to periodic inundation that results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. These regulations are based upon a reasonable method of analyzing flood hazards consistent with the standards established by the Minnesota Department of Natural Resources (DNR).

### B. Designation

1. This Floodplain Overlay District applies to all lands within the City shown on the Official Zoning Map, and/or any attachments thereto, as being located within the boundaries of the Floodway, Flood Fringe or General Floodplain Districts.
2. The Official Zoning Map, and/or any attachments thereto, is adopted by reference and declared to be a part of these regulations and this Code. The attached material prepared by the Federal Emergency Management Agency (FEMA) for the following jurisdictions include the following:

#### a. Flood Insurance Studies

- i. Stearns County, Minnesota and Incorporated Areas 27145CV000A, dated February 16, 2012
- ii. Sherburne County, Minnesota and Incorporated Areas 27141CV000A, dated November 16, 2011
- iii. Benton County, Minnesota and Incorporated Areas 27009CV000A, dated August 16, 2011

#### b. Flood Insurance Rate Maps

COMMUNITY PANEL NUMBERS	MAP DATED/REVISED
27145C0610E (Stearns Co.)	February 16, 2012
27145C0620E (Stearns Co.)	February 16, 2012
27145C0628E (Stearns Co.)	February 16, 2012

27145C0629E (Stearns Co.)	February 16, 2012
27145C0633E (Stearns Co.)	February 16, 2012
27145C0640E (Stearns Co.)	February 16, 2012
27145C0645E (Stearns Co.)	February 16, 2012
27145C0860E (Stearns Co.)	February 16, 2012
27145C0880E 9Stearns Co.)	February 16, 2012
27141C0020 F (Sherburne Co.)	November 16, 2011
27141C0040 F (Sherburne Co.)	November 16, 2011
27141C0045 F (Sherburne Co.)	November 16, 2011
27009C0258E (Benton Co.)	August 16, 2011
27009C0259E (Benton Co.)	August 16, 2011
27009C0270E (Benton Co.)	August 16, 2011
27009C0278E (Benton Co.)	August 16, 2011
27009C0280E (Benton Co.)	August 16, 2011
27009C0285E (Benton Co.)	August 16, 2011
27009C0295E (Benton Co.)	August 16, 2011

**C. Warning and Disclaimer of Liability**

These regulations do not imply that areas outside the Floodplain Overlay District, or the permitted uses, will be free from flooding or flood damages. These regulations must not create liability on the part of the City, or any officer or employee thereof, for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

**D. Regulatory Flood Protection Elevation**

The regulatory flood protection elevation must be an elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

**E. Certification**

As-built elevations for elevated or flood-proofed structures must be certified by ground surveys, and flood-proofing techniques must be designed and certified by a registered professional engineer or architect.

**F. Floodplain Overlay District Sub-Districts**

**1. Established Sub-Districts**

The Floodplain Overlay District is divided into the following three (3) sub-districts:

- a. FW Floodway District
- b. FF Flood Fringe District
- c. GF General Floodplain District

**2. Floodway District**

The FW Floodway District includes those areas designated as floodway on the Flood Insurance Rate Maps. The following regulations apply to the FW District.

**a. Permitted Uses**

- i. The following uses are permitted in the FW District, subject to the conditions of Paragraph ii below. All uses not listed as a permitted or conditional use are prohibited.
  - (1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
  - (2) Industrial-commercial loading areas, parking areas and airport landing strips.
  - (3) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
  - (4) Residential lawns, gardens, parking areas and play areas.
- ii. The permitted uses within the FW District, as listed in Paragraph i above, are subject to the following conditions:
  - (1) The use has a low flood damage potential.
  - (2) The use is allowed in the underlying zoning district.
  - (3) The use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.

**b. Conditional Uses**

- i. The following uses are allowed as conditional uses in the FW District, subject to the conditions of Paragraph ii below. All uses not listed as a permitted or conditional use are prohibited.
  - (1) Structures accessory to the uses listed in Paragraph a (Permitted Uses) above and the conditional uses listed below.
  - (2) Extraction and storage of sand, gravel and other materials.
  - (3) Marinas, boat rentals, docks, piers, wharves and water control structures.
  - (4) Railroads, streets, bridges, utility transmission lines and pipelines.
  - (5) Storage yards for equipment, machinery or materials.
  - (6) Placement of fill and construction of fences that obstruct flood flows.
  - (7) Structural works for flood control, such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures, and levees or dikes

where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten (10) year frequency flood event.

- ii. The conditional uses within the FW District, as listed in Paragraph i above, are subject to the following conditions:
  - (1) No temporary or permanent structure, fill, including fill for roads and levees, deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the one-hundred (100) year or regional flood or cause an increase in flood damages in the reach or reaches affected.
  - (2) All floodway conditional uses are subject to the conditional use permit procedure (Section 4.3).
  - (3) A levee, dike or floodwall constructed in the floodway must not cause an increase to the one-hundred (100) year or regional flood, and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.
  - (4) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City.
  - (5) Fill, dredge spoil, and all other similar materials deposited or stored in the floodplain must comply with the following:
    - (A) Materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
    - (B) Dredge spoil sites and sand and gravel operations are not allowed in the FW District unless a long-term site development plan is submitted, which includes an erosion/sedimentation prevention element to the plan. As an alternative, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the one-hundred (100) year or regional flood but only after the City has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

**c. Accessory Structures**

The following conditions apply to all accessory structures in the FW District:

- i. Accessory structures must not be designed for human habitation.
- ii. Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
- iii. Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow and, so far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.

- iv. Accessory structures must be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood-proofing classification in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed five-hundred (500) square feet in size. A detached garage must be used solely for parking of vehicles and limited storage.
- v. All flood-proofed accessory structures must be adequately anchored to prevent flotation, collapse or lateral movement of the structure, and must be designed to equalize hydrostatic flood forces on exterior walls. Any mechanical and utility equipment in a structure must be elevated to, or above, the regulatory flood protection elevation or properly flood-proofed.
- vi. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

**d. Prohibited Uses and Structures**

Structural works for flood control that will change the course, current or cross-section of protected wetlands or public waters are subject to the provisions of Minnesota Statute, Chapter 105. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain, manufactured homes and recreational vehicles are prohibited in the floodway.

**3. Flood Fringe District**

The FF Flood Fringe District includes those areas designated as Zone AE outside of the floodway on the Flood Insurance Rate Maps.

**a. Permitted Uses**

- i. Permitted uses are those uses of land or structures listed as permitted uses in the underlying zoning use district(s), unless it is considered a conditional use under Paragraph b (Conditional Uses) below. If no pre-existing, underlying zoning district exists, then any residential or non-residential structure or use of a structure or land is a permitted use in the FF District provided such use does not constitute a public nuisance, unless it is considered a conditional use under Paragraph b (Conditional Uses) below. All permitted uses must comply with the standards of Paragraph ii below and Paragraph c (Standards for all Uses) below.
- ii. The permitted uses within the FF District, as listed in Paragraph i above, are subject to the following conditions:
  - (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, including the basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one (1) foot below the regulatory flood protection elevation and the fill must extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

- (2)** As an alternative to elevation of fill, accessory structures that constitute a minimal investment and do not exceed five-hundred (500) square feet for the outside dimension at ground level may be internally flood-proofed. Accessory structures must be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood-proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment and does not exceed five-hundred (500) square feet in size. A detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must be adequately anchored to prevent flotation, collapse or lateral movement of the structure, and must be designed to equalize hydrostatic flood forces on exterior walls. Any mechanical and utility equipment in a structure must be elevated to, or above, the regulatory flood protection elevation or properly flood-proofed.

To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

- (3)** The cumulative placement of fill where, at any one time, in excess of one-thousand (1,000) cubic yards of fill is located on the parcel is allowed only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Paragraph (1) above.
- (4)** The storage of any materials or equipment must be elevated on fill to the Regulatory Flood Protection Elevation.

**b. Conditional Uses**

- i.** Any structure that is not elevated on fill or flood-proofed in accordance with, or any use of land that does not comply with the standards of, Paragraph a (Permitted Uses) above is only allowable as a conditional use. All conditional uses must comply with the standards of Paragraph ii below and Paragraph c (Standards for all Uses) below.
- ii.** The conditional uses within the FF District, as listed in Paragraph i above, are subject to the following conditions:
  - (1)** Alternative elevation methods, other than the use of fill, may be utilized to elevate a structure’s lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages, subject to the following:
    - (A)** The base or floor of an enclosed area is considered above-grade and not a basement or lowest floor if:
      - (i)** The enclosed area is above-grade on at least one (1) side of the structure



The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

- (G) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life are prohibited. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City.

**c. Standards for all Uses**

- i. All new principal structures must have vehicular access at, or above, an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Zoning Board of Appeals must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
- ii. Accessory land uses, such as yards, railroad tracks and parking lots, may be at elevations lower than the regulatory flood protection elevation. A permit for such facilities, used by employees or the general public, may be granted only where a flood warning system is in place that provides adequate time for evacuation if the area were to be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.
- iii. Measures must be taken to minimize interference with normal manufacturing and industrial plant operations, especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Paragraph ii above. In considering permit applications, due consideration must be given to needs of an industry whose business requires that it be located in floodplain areas.
- iv. Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method. FEMA has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the one-hundred (100) year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- v. Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- vi. New and existing manufactured home parks are subject to the following:
  - (1) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.



- (2)** New manufactured home parks and expansion of existing manufactured home parks are subject to the subdivision regulations for the Floodplain Overlay District.
- (3)** The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in the Floodplain Overlay District will be treated as a new structure and may be placed only if elevated in compliance with the FF District provisions. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Paragraph i above, then replacement manufactured homes will not be allowed until the owner(s) develops a flood warning emergency plan acceptable to the City.
- (4)** Travel trailers and travel vehicles are subject to the following:
  - (A)** Travel trailers and travel vehicles may be located in the following areas:
    - (i)** Individual lots or parcels of record.
    - (ii)** Existing commercial recreational vehicle parks or campgrounds.
    - (iii)** Existing condominium type associations.
  - (B)** The following conditions must be met:
    - (i)** Have current licenses required for highway use.
    - (ii)** Are highway-ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer or travel vehicle has no permanent structural type additions attached to it.
    - (iii)** The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
    - (iv)** The travel trailer or travel vehicle may not be placed in a FW District.
  - (C)** Exempt travel trailers and travel vehicles lose exemption status when development occurs on the parcel exceeding one-thousand dollars (\$1,000) for a structural addition to the travel trailer or travel vehicle or an accessory structure, such as a garage or storage building. The travel trailer or travel vehicle, and all additions and accessory structures, will then be treated as a new structure and are subject to the elevation and/or flood-proofing requirements and the use of land restrictions specified in the FF District.
  - (D)** New commercial travel trailer or travel vehicle parks or campgrounds and new residential-type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites are subject to the following:
    - (i)** Any new or replacement travel trailer or travel vehicle may be allowed in the FF District provided said trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to

the site exists in accordance with Paragraph i above. Any fill placed in the FF District for the purpose of elevating a travel trailer must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

- (ii) All new or replacement travel trailers or travel vehicles not meeting the criteria above may, as an alternative, be allowed as a conditional use and subject to a conditional use permit and must submit an emergency plan for the safe evacuation of all vehicles and people during the one-hundred (100) year flood. The plan must be prepared by a registered engineer or other qualified individual and demonstrate that adequate time and personnel exist to carry out the evacuation and that the provisions of (4) (B) above are satisfied. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems, and new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and they are not subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems is in compliance with this Section.

#### **4. General Floodplain District**

The GF General Floodplain District includes those areas designated as Zone A on the Flood Insurance Rate Maps.

##### **a. Permitted Uses**

- i. All permitted uses of the FW District are permitted within the GF District.
- ii. All other uses are subject to the evaluation criteria pursuant to Paragraph b (Procedures for FW and FF District Determination within the GF District) below. FW District provisions apply if the proposed use is in the FW District, and FF District provisions apply if the proposed use is in the FF District.

##### **b. Procedures for FW and FF District Determination within the GF District**

###### **i. Submittal Requirements**

Upon receipt of an application for a permit or other approval within the GF District, the applicant is required to furnish the following information, as deemed necessary by the Zoning Administrator, for the determination of the regulatory flood protection elevation and whether the proposed use is within the FW or FF District.

- (1) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high-water information.

- (2) Surface view plan showing elevations or contours of the ground, pertinent structure, fill or storage elevations, the size, location and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.
- (3) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
- (4) Profile showing the slope of the bottom of the channel or flow line of the stream for at least five-hundred (500) feet in either direction from the proposed development.

**ii. Expert Evaluation**

The applicant is responsible to submit one (1) copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the FW or FF District, and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 must be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources Area Hydrologist prior to commencing the analysis.

The designated engineer or expert will:

- (1) Estimate the peak discharge of the regional flood.
- (2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
- (3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than one-half (0.5) foot is required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach is assumed in computing floodway boundaries.

**iii. Procedure**

The Zoning Administrator will present the technical evaluation and findings of the designated engineer or expert to the City Council. The City Council must formally accept the technical evaluation and the recommended FW or FF District boundary or deny the permit application. The City Council, prior to official action, may submit the application and all supporting data and analyses to FEMA, the DNR or the Planning Commission for review and comment. Once the FW and FF District boundaries have been determined, the City Council will refer the matter back to the Zoning Administrator who processes the permit application.

**12.2 SHORELAND OVERLAY DISTRICT**

**A. Purpose**

The Shoreland Overlay District is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462. The uncontrolled use of shorelands in the City affects the public health, safety and general welfare by contributing to pollution of public waters

and impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters, and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources.

**B. Applicability**

The use of any shoreland of public waters, the size and shape of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area, the cutting of shoreland vegetation, and the subdivision of land must be in full compliance with these regulations.

**C. Designation**

The provisions of this district apply to the shorelands of the public water bodies as classified below. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, a lake, pond or flowage less than ten (10) acres in size is not required to be regulated by these shoreland provisions. A body of water created by a private user where there was no previous shoreland may, at the discretion of the City, be considered exempt from these shoreland regulations.

The public waters of the City, subject to the shoreland regulations, have been classified below, consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Benton, Sherburne, and Stearns Counties, Minnesota.

The shoreland area for the Sauk River and the Mississippi River, classified as urban rivers, are defined under the definition of "shoreland" in this Code, and as shown on the Official Zoning Map.

**D. Permitted and Conditional Uses**

1. The permitted and conditional uses of the underlying zoning district apply within the Shoreland Overlay District. Additional permitted uses and standards are also contained within Paragraph 2 below. The following criteria must be considered for any permitted or conditional use:
  - a. Preservation of natural areas.
  - b. Present ownership and development of shoreland areas.
  - c. Shoreland soil types and their engineering capabilities.
  - d. Topographic characteristics.
  - e. Vegetative cover.
  - f. In-water physical characteristics, values and constraints.
  - g. Recreational use of the surface water.
  - h. Road and service center accessibility.
  - i. Socioeconomic development needs and plans as they involve water and related land resources.

- j. The land requirements of industry, which, by its nature, requires location in shoreland areas.
- k. The necessity to preserve and restore certain areas having significant historical or ecological value.

## 2. Use Standards

The following use standards apply to commercial, industrial, public and semi-public, agricultural, forestry, and extractive uses and mining of metallic minerals and peat.

### a. Standards for Water-Oriented Commercial, Industrial, Public and Semi-Public Uses

Surface water-oriented commercial, industrial, public and semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

- i. In addition to meeting impervious coverage limits, setbacks and other zoning standards in this Code, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
- ii. Uses that require short-term watercraft mooring for patrons must centralize these facilities, design them to avoid obstructions of navigation, and to be the minimum size necessary to meet the need.
- iii. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
  - (1) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.
  - (2) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. The signs must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information, such as product brands and prices, must not be located higher than ten (10) feet above the ground, and must not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.
- iv. Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- v. Industrial uses require a conditional use permit.

### b. Standards for Non-Water-Oriented Commercial, Industrial, Public and Semi-Public Uses

Non-residential uses without water-oriented needs must be located on lots or parcels without public waters frontage or, if located on lots or parcels with public waters frontage, must either be

set back twice the normal ordinary high-water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

**c. Agriculture Use Standards**

General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high-water level. Animal feedlots are prohibited.

**d. Forest Management Standards**

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-Point Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

**e. Extractive Use Standards**

- i. Extractive uses require a conditional use permit.
- ii. An extractive use site development and restoration plan must be developed, approved and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
- iii. Processing machinery must be located consistent with setback standards for structures from ordinary high-water levels of public waters and from bluffs.

**f. Mining of Metallic Minerals and Peat**

Mining of metallic minerals and peat, as defined in Minnesota Statutes, Sections 93.44 to 93.51, are a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

**g. Residential Uses**

- i. Residential subdivisions with dwelling unit densities exceeding those in Table 12-1 are only allowed if designed and approved as a planned unit development. Only land above the ordinary high-water level of public waters can be used to meet lot area standards. Lot width standards must be met at both the ordinary high-water level and at the building line.
- ii. Lots intended as private controlled accesses to public waters, or as recreation areas for use by owners of non-riparian lots within subdivisions, are prohibited.

**E. Bulk and Setback Regulations**

The bulk and setback regulations of the underlying zoning district apply unless otherwise modified by this section. Table 12-1: Shoreland Overlay District Bulk and Setback Regulations establishes bulk and setback regulations for the Shoreland Overlay District. Additional land development restrictions are located in Paragraph F (Land Development Restrictions) below.

<b>TABLE 12-1: SHORELAND OVERLAY DISTRICT BULK AND SETBACK REGULATIONS</b>	
<b>BULK AND SETBACK REGULATIONS</b>	<b>SHORELAND OVERLAY DISTRICT</b>
<b>Bulk Requirements</b>	
Minimum Lot Width	Single-Family Dwelling – 100 ft Two-Family Dwelling – 150 ft Multi-Family Dwelling – 3 Units: 200 ft Multi-Family Dwelling – 4 Units: 250 ft
Maximum Building Height <sup>1</sup>	35 ft
Maximum Impervious Surface <sup>2</sup>	30%
<b>Setback Requirements</b>	
Setback from Ordinary High Water Level <sup>3</sup>	75 ft
Setback from Top of Bluff	30 ft
Setback from Unplatted Cemetery	50 ft
Setback from Federal, State or County Highway Right-of-Way	50 ft
Setback from Town Road, Public Street or Other Roads or Streets Not Classified Right-of-Way and Parking Lots, Except Public Non-Motorized Trails	20 ft

**FOOTNOTES TABLE 12-1**

<sup>1</sup> Non-residential agricultural structures are exempt from the height restriction.

<sup>2</sup> In lieu of meeting this impervious surface requirement, a property may submit a stormwater drainage plan, certified by a licensed engineer, to the City for review and approval which restricts the developed 5-year frequency event peak discharge to a rate no greater than the 5-year historic undeveloped peak discharge. To the maximum extent possible, the drainage plan must also provide for methods of runoff settlement and/or filtration prior to discharge to the receiving water.

<sup>3</sup> One water-oriented accessory structure designed in accordance with this section may be set back a minimum of 10 feet from the ordinary high-water level.

**F. Land Development Restrictions**

**1. Placement of Structures on Lots**

When more than one (1) setback applies to a site, structures and facilities must be located to meet all setbacks. Where principal buildings exist on the adjoining lots on both sides of a proposed principal building site, principal building setbacks may be altered, without a variance, to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone and is a minimum of twenty-five (25) feet from the ordinary high water level.

**2. Bluff Impact Zones**

Structures and accessory facilities, except stairways and landings, may not be placed within bluff impact zones.

**3. Steep Slopes**

The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

#### **4. Setbacks and Screening for Uses Without Water-Oriented Needs**

Non-residential uses without water-oriented needs must be located on lots or parcels without public waters frontage or, if located on lots or parcels with public waters frontage, must either be set back twice the normal ordinary high-water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

#### **5. High Water Elevations**

Structures must be placed in high water elevations in accord with the floodplain regulations. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if: 1) the structure is constructed of flood-resistant materials to the elevation; 2) electrical and mechanical equipment is placed above the elevation; and 3) if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

#### **6. Design Criteria for Structures**

##### **a. Water-Oriented Accessory Structures**

Each lot may have one (1) water-oriented accessory structure not meeting the normal structure setback if this water-oriented accessory structure complies with the following:

- i. The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than one-hundred fifty (150) square feet. Detached decks must not exceed four (4) feet above grade at any point.
- ii. The setback of the structure or facility from the ordinary high-water level must be at least ten (10) feet.
- iii. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
- iv. The roof may be used as a deck with safety rails but must not be enclosed or used as a storage area.
- v. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

##### **b. Stairways, Lifts and Landings**

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:



- i. Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments.
- ii. Landings for stairways and lifts on residential lots must not exceed twenty-four (24) square feet in area. Landings larger than twenty-four (24) square feet may be used for commercial properties, public open space recreational properties, and planned unit developments.
- iii. Canopies or roofs are not allowed on stairways, lifts or landings.
- iv. Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
- v. Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water, assuming summer, leaf-on conditions, whenever practical.
- vi. Facilities, such as ramps, lifts or mobility paths, for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards comply with the requirements above, in addition to the requirements of Minnesota Regulations, Chapter 1340.

**c. Significant Historic Sites**

No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

**G. Shoreland Alterations**

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

**1. Vegetation Alterations**

Vegetation alteration necessary for the construction of structures and sewage treatment systems, and the construction of roads and parking areas regulated by this section are exempt from the vegetation alteration standards that follow. Removal or alteration of vegetation, except for agricultural and forest management uses, is allowed subject to the following standards:

- a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is prohibited. Intensive vegetation clearing for forest land conversion to another use outside of these areas is permitted as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
- b. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic

areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

- i. The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
- ii. Along rivers, existing shading of water surfaces is preserved.
- iii. The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased or pose safety hazards.

## **2. Topographic Alterations and Grading and Filling**

Grading and filling and excavations necessary for the construction of structures, sewage treatment systems and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways. A grading and filling permit will be required for the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones or the movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

- a. Grading or filling in any Type 2, 3, 4, 5, 6, 7 or 8 Wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
  - i. Sediment and pollutant trapping and retention.
  - ii. Storage of surface runoff to prevent or reduce flood damage.
  - iii. Fish and wildlife habitat.
  - iv. Recreational use.
  - v. Shoreline or bank stabilization.
  - vi. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals and others.

This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies, such as a watershed district, the DNR, or the United States Army Corps of Engineers. The applicant will be so advised.

- b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
- c. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

- d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
- e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
- f. Fill or excavated material must not be placed in a manner that creates an unstable slope.
- g. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty percent (30%) or greater.
- h. Fill or excavated material must not be placed in bluff impact zones.
- i. Any alterations below the ordinary high-water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 105.42.
- j. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
- k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.

### **3. Connections to Public Waters**

Excavations, where the intended purpose is connection to public water, such as boat slips, canals, lagoons and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner of Natural Resources has approved the proposed connection to public waters.

## **H. Placement and Design of Roads, Driveways and Parking Areas**

- 1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- 2. Roads, driveways and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- 3. Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this section are met. For private facilities, the grading and filling provisions of this section must be met.

## I. Stormwater Management

The following stormwater management standards apply:

1. When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.
2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible, and facilities or methods used to retain sediment on the site.
3. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.
4. When constructed facilities are used for stormwater management, documentation must be provided that they are designed and installed under the supervision of a licensed engineer.
5. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge, unless an alternative plan has been approved by the Department of Natural Resources.

### 12.3 SCENIC RIVERS OVERLAY DISTRICT

#### A. Purpose

The purpose of the Scenic Rivers Overlay District is to control bluffland and riverland development in order to protect and preserve the outstanding scenic, recreational, natural, historic and scientific values of the designated scenic Mississippi River in St. Cloud, Minnesota, in a manner consistent with Minnesota Statutes, Section 104.31-104.40, Minnesota Regulations NR 78-81, and the Management Plan for the Mississippi River hereafter referred to as NR 2400.

The purpose of establishing standards and criteria for uses in the Scenic Rivers Overlay District is to protect and preserve existing natural, scenic, historic, scientific and recreational values, to maintain proper relationships between various land use types, and to prohibit new residential, commercial or industrial uses that are inconsistent with state-wide standards and criteria for Wild and Scenic Rivers, NR 78-81, and NR 2420.

These regulations are adopted to achieve the following:

1. Designate land use districts along the bluffland and shoreline of the Mississippi River as required by NR 2420.
2. Regulate the area of a lot, and length of bluffland and water frontage suitable for building sites.
3. Regulate the setback of structures and sanitary waste treatment facilities from blufflines and shorelines to protect the existing and/or natural scenic values, vegetation, soils, water quality, floodplain areas and bedrock from disruption by man-made structures or facilities.

4. Regulate alterations of the natural vegetation and topography.
5. Maintain property values and prevent poorly planned development.
6. Conserve and protect the natural scenic values and resources of the Mississippi River, and to maintain a high standard of environmental quality.
7. To comply with Minnesota Regulations NR 78-81 and NR 2410.

**B. Designation**

In order to preserve and protect the Mississippi River and its adjacent lands which possess outstanding scenic, recreational, natural, historic, scientific and similar values, the Mississippi River in the City of St. Cloud has been given the Scenic Rivers Overlay District classification, and the uses and classification of this river and certain adjacent lands are hereby designated the Scenic Rivers Overlay District, the boundaries of which are based on the Mississippi River Management Plan, NR 2400, as amended.

**C. Permitted and Conditional Uses**

Table 12-2: Scenic Rivers Overlay District Permitted and Conditional Uses lists permitted uses for the Scenic Rivers Overlay District. A “P” indicates that a use is considered permitted within that district. A “C” indicates that a use is considered a conditional use in that district and must obtain a conditional use permit as required in Section 4.3 (Conditional Use Permit). The absence of the use from the table indicates that use is not permitted within the district.

TABLE 12-2: SCENIC RIVERS OVERLAY DISTRICT PERMITTED AND CONDITIONAL USES		
USE	SR DISTRICT	USE STANDARDS
Agricultural Use	P	
Dwelling, Single-Family Detached	P	See Section 14.3.H
Essential Services & Essential Service Structure	P	See Section 14.3.I
Forestry Use	P	
Government Campground <sup>1</sup>	P	
Government Open Space Recreational Use (Excluding Government Campground & Government Resource Management Area) <sup>1</sup>	P	
Government Resource Management Area for Improving Fish & Wildlife Habitat, Wildlife Management Areas, Nature Areas, & Accessory Roads	P	
Grading & Filling Activity	C	See Section 14.3.K
Private Open Space Recreational Use (Excluding Private Recreational Camping Area) <sup>1</sup>	C	
Private Recreational Camping Area <sup>1</sup>	C	
Private Road & Minor Public Street	P	
Public Access: Road-Type Access – With Boat Launching Facilities <sup>1</sup>	P	
Public Access: Trail-Type Access <sup>1</sup>	P	
Public Road	C	
Sewage Disposal System	P	
Transmission Services	P	See Section 14.3.W
Temporary Dock	C	

**FOOTNOTES TABLE 12-2**

<sup>1</sup> Subject to management plan specifications

**D. Bulk and Setback Regulations**

Table 12-3: Scenic River District Bulk and Setback Regulations establishes additional bulk and setback regulations for the Scenic Rivers Overlay District. Additional land development restrictions are located in Paragraph E below.

TABLE 12-3: SCENIC RIVER OVERLAY DISTRICT BULK AND SETBACK REGULATIONS	
BULK AND SETBACK REGULATIONS	SR DISTRICT
<b>Bulk Requirements</b>	
Minimum Lot Area	4 acres
Minimum Lot Width	250 ft at building line 250 ft at water line abutting Mississippi River
Maximum Building Height <sup>1</sup>	30 ft
<b>Setback Requirements</b>	
From Ordinary High Water Mark of Mississippi River	150 ft
From Blufflines	10 ft
Interior Side Setback	10 ft
Road Setback	50 ft from federal, state or county trunk highway right-of-way 30 ft from road or public street right-of-way 63 ft from centerline of any road easement

**FOOTNOTES TABLE 12-3**

<sup>1</sup>Structures used for agricultural purposes are excluded from building height restriction.

**E. Land Development Restrictions**

**1. Slope Restrictions**

No structure may be placed on any slope greater than thirteen percent (13%) – thirteen (13) feet vertical rise in one-hundred (100) feet horizontal distance – unless such structure can be screened and sewage disposal facilities can be installed so as to comply with Section 360 of the St. Cloud Code of Ordinances.

**2. Floodway Restrictions**

No structure may be placed within a floodway. For the purpose of this section, “floodway” means the channel of the watercourse and those portions of the adjoining flood plains that are reasonably required to carry and discharge the regional flood. Placement of structures must be in conformance with any applicable floodplain regulations. Where no regulations are applicable, the elevation of structures is determined after an evaluation of available flood information and must be consistent with Statewide Standards and Criteria for Management of Floodplain Areas of Minnesota.

**3. Restrictions on Vegetative Cutting**

On lands within one-hundred fifty (150) feet of the ordinary high-water mark of the Mississippi River and on lands thirty (30) feet landward of blufflines, the following standards apply:

- a. Clear cutting, except for any authorized public services such as roads and utilities, is not permitted.

- b. Selective cutting of trees in excess of four (4) inches in diameter at breast height is permitted provided cutting is spaced in several cutting operations and a continuous tree cover is maintained.
- c. These provisions do not prevent the removal of diseased or insect infested trees, or of rotten or damaged trees that present safety hazards, or pruning understory, vegetation, shrubs, plants, brushes, grasses or from harvesting crops, or cutting suppressed trees or trees less than four (4) inches in diameter at breast height.

#### **4. Permitted Clear Cutting**

Clear cutting of vegetation within the SR District outside the prohibited areas designated in Paragraph 3 (Restrictions on Vegetative Cutting) above is subject to the following:

- a. Clear cutting must not be used as a cutting method where soil, slope or other watershed conditions are determined by the Zoning Administrator to be fragile and subject to severe erosion and/or sedimentation. This determination may be made with the assistance of the Soil Conservation Service.
- b. Clear cutting may be conducted only where clear-cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain.
- c. The size of clear cut blocks, patches or strips must be kept to the minimum necessary.

### **12.4 ENVIRONMENTALLY SENSITIVE AREAS**

#### **A. Purpose**

1. The intent of these regulations is:
  - a. To provide and encourage measures of protection to those properties identified as Environmentally Sensitive Areas (ESA).
  - b. To provide for equitable economic return in consideration of protection and preservation of ESA.
2. This designation of ESA creates a process through which the City can comply with the Comprehensive Plan's pledge to support orderly growth and development, while protecting environmentally sensitive resources within the City.
3. All future development occurring in areas identified as "environmentally sensitive" must be guided by a concern to protect, conserve and enhance those resources. To accomplish this goal, these regulations create a process to aid, support and promote development that achieves these environmental goals. This process will:
  - a. Identify and prioritize ESA.
  - b. Aid developers in the creation of their development plans.
  - c. Aid City staff, the Planning Commission and City Council in their assessment of development plans in ESA.

- d. Provide flexibility in the planning process when needed to balance environmental and economic goals.

#### **B. Rationale for Protecting Environmentally Sensitive Areas**

ESA are areas that contain native vegetation and natural features and/or natural resources that contribute to the health, welfare and quality of life of the people of St. Cloud. The City has a right and the responsibility to protect and conserve these areas for a variety of reasons, including:

1. Some areas contribute to community health (e.g., wetlands that function to filter and purify water).
2. Some areas are valued for historic and symbolic reasons (e.g., the few remaining examples of pre-settlement prairie or granite outcrops that symbolize St. Cloud's heritage).
3. Some areas contribute to community safety (wetlands and riparian corridors contribute to flood control).
4. Some areas are valued as habitat for wildlife and/or natural communities, some of which include rare native plant or animal species.
5. Some areas are valued for recreational (hiking, skiing, walking) purposes.
6. Some areas are valued on the grounds of aesthetics and quality of life, as open areas and woodlands provide solitude and quiet amidst the noise and crowds of modern life.
7. Some areas function as educational resources for scientific research and teaching, especially by providing our children with convenient and local access to learn about their natural surroundings and their history.

#### **C. Use and Bulk and Setback Regulations**

No development will occur within an ESA without approval of an Environmentally Sensitive Areas Site Plan (Section 4.4.). The underlying zoning district regulations apply unless modified as part of the site plan review process.

#### **D. Identification of Environmentally Sensitive Areas**

Environmentally Sensitive Areas (ESA) are areas that contain native vegetation and natural features and/or natural resources. ESA contain natural communities, i.e., naturally-occurring associations of plants and animals whose existence and extent are determined by factors such as soil composition, hydrology, climate, solar conditions and a site's unique history. Natural communities are named for the dominant plant species within them or for characteristic environmental features - examples include oak forest and wet meadow. ESA may also contain rare species or protect natural resources of concern. ESA are sensitive in that further fragmentation, disturbance and development will adversely affect and may destroy the natural processes operating within them, as well as the composition, structure and function of the natural communities they contain.

ESA are identified to:

1. Protect, conserve and enhance the City's natural resources including the City's inventoried and identified native prairies, forests, woodlands, sensitive geological and hydrological features, wetlands, riparian (river and stream) corridors, wildlife corridors and other sensitive natural features.



2. Develop a priority system for guiding protection of ESA.
3. Promote open space, including an interconnected system of trails for people and corridors for wildlife where appropriate and feasible.
4. Provide for the orderly growth and development of the City including commercial, industrial and residential areas.
5. Promote flexible site planning.
6. Allow for a mix of housing types.
7. Promote protection of steep slopes and sensitive soils.
8. Encourage coordination between City, county, state and federal agencies concerned with natural resources.
9. Encourage cooperation through joint planning and development with neighboring communities to protect, preserve and enhance the shared natural environment.
10. Encourage early cooperative planning between owners and/or developers, the City and individuals with scientific expertise in natural communities and resources.

**E. Criteria for Designating ESA**

Properties designated as “environmentally sensitive” have one (1) or more of the following characteristics:

1. Contains much native biodiversity and few exotics.
2. Is of adequate size and cohesiveness to be biologically sustainable.
3. Is a remaining example of a pre-permanent settlement natural community for Minnesota.
4. Is considered significant because it is rare in the St. Cloud area.
5. Contains, or is adjacent to, a rare species site, and is critical in preserving the rare plant species or in conserving the rare animal species present. See Minnesota Statute 84.0895, Protection of Threatened and Endangered Species.
6. Contains sensitive geological and hydrological features.
7. Contains, or is adjacent to, a wetland, river or stream and is critical in maintaining water quality, rare species habitat or flood control.
8. Contributes significantly to biological or hydro-geological functions, such as wildlife habitat, air purification and erosion control.

These criteria, when ecologically significant, are used in designating new properties as ESA through the amendment process of Section 4.1 (Text Amendment and Rezoning).

#### **F. Determination of Location of ESA**

1. Preliminary determination of the location of an ESA will be made by the Planning Division and Engineering Department using the maps as denoted in Paragraph 2 below and included in Appendix A – ESA Information. ESA, as denoted on the maps, and their impact zones are the only properties regulated by the ESA regulations and the Environmentally Sensitive Areas Site Plan Review process (Section 4.4), except that the land area regulated also applies to any land area that is added, and does not apply to a land area deleted, as an ESA under the amendment process.
2. ESA are indicated on the following maps:
  - a. St. Cloud Natural Areas Inventory and Planning Framework (1996) and 2001 Addendum, including the St. Cloud Natural Areas and Rare Species Sites map and 2001 Addendum maps.
  - b. Minnesota County Biological Survey Map entitled Natural Communities and Rare Species, St. Cloud Metropolitan Area (1997).
3. The City and the Environment and Development Team (EDT) may use other pertinent reference maps, reports and documents, etc., in dealing with property that contains an ESA. See Appendix A – ESA Information for examples of other resources that may be used. The use of other resources is only for reference and does not create new ESA.
4. Final determination of the specific boundaries of an ESA will be made by qualified scientists through the Environmentally Sensitive Areas Site Plan Review process (Section 4.4).

#### **G. Annexations**

In the event that any land not previously inventoried is annexed to the City, the land must be inventoried as soon as feasible for inclusion on the Environmentally Sensitive Areas Maps but no less than nine (9) months from the date of annexation.

#### **H. Criteria for Prioritization of ESA**

Areas designated as “environmentally sensitive” are prioritized for planning purposes. Prioritization is based on the presence of one (1) or more of the following characteristics:

1. Quality of the area as determined by the degree of human disturbance on the ecosystem – the less the disturbance, the higher the quality.
2. Local and/or state rarity.
3. Biodiversity of native species.
4. Interconnectedness; corridors and complexes form interconnected and contiguous areas, which allow for movement of species from one ESA to another.
5. Part of a riparian (river and stream) corridor; part of a wildlife corridor.
6. Size; each type of ESA has its own size requirements that contribute to continued viability for that natural community.

7. Provides an environmental service. Purification system for drinking water and surface waters, a groundwater recharge area, an air purification system that fosters human health, a low-cost stormwater management and flood control system, and noise abatement, natural wind and snow break, etc.
8. Ecological sensitivity, i.e. the ability of the natural community to tolerate development and/or recover from human disturbance.

## **12.5 HISTORIC DISTRICT OVERLAY DISTRICT**

### **A. Purpose**

The purpose of the Historic Districts Overlay District is to identify, preserve, protect, enhance, perpetuate and use areas, places, buildings, structures and other objects having special historical interest and value in the City of St. Cloud, which are in the public interest and desired in the interest of the health, education, safety, welfare and prosperity of the people. This overlay district incorporates a series of design guidelines and specific approval processes for development and/or exterior building alterations in the Historic District Overlay Districts. The location of the historic residential and commercial districts are illustrated in Appendix C – Historic Districts.

### **B. Permitted and Conditional Uses**

Permitted and conditional uses within the Historic District Overlay District are those of the underlying zoning district.

### **C. Bulk and Setback Regulations**

The bulk and setback regulations within the Historic District Overlay District are those of the underlying zoning district.

### **D. Design Guidelines**

Development and/or exterior building alterations within the Historic District Overlay District must comply with the design guidelines of Section 13.7 (Residential Historic District Preservation Design Guidelines) and Section 13.8 (Commercial Historic District Design Guidelines).

### **E. Approval Processes**

In addition to any other applicable permits and development applications, development and/or exterior building alterations within the Historic District Overlay District must comply with approval processes of Section 4.6 (Heritage Preservation Property Certificate of Appropriateness).

## **12.6 SOUTHSIDE NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT**

### **A. Purpose**

The purpose of the Southside Neighborhood Conservation Overlay (SSNCO) District is to enhance the neighborhood by managing its growth and change by adding additional standards above and beyond the provisions of the underlying district which will apply within this overlay district. The Southside Neighborhood Conservation Overlay District promotes new construction that is in character with the existing scale and architectural style of the neighborhood, protects the district from the loss of architecturally or historically important buildings, prohibits new construction that is not in character with

the neighborhood, and protects against additions to buildings that would lessen their architectural importance. The Southside Neighborhood Conservation Overlay District requirements are less comprehensive and less restrictive than the Southside Neighborhood Historic District.

**B. Permitted and Conditional Uses**

Permitted and conditional uses within the Southside Neighborhood Conservation Overlay District are the same as in the underlying zoning district.

**C. Bulk and Setback Regulations**

The bulk and setback regulations of R3A, General Residential and Lodging House District are only superseded by the bulk and setback regulations found in Article 13, Section 13.5 – Southside Neighborhood Conservation Overlay District when they are available.

**D. Design Guidelines**

All new construction, building and architectural provisions, accessory building, off-street parking, and demolition of existing buildings within the Southside Neighborhood Conservation Overlay District can be found in Article 13, Section 13.5 of the Land Development Code.

**E. Approval Processes**

All building permits related to potential changes to the exterior of buildings located within the SSNCO District shall be reviewed and approved by the St. Cloud Planning and Zoning Department as part of the building permit process.

The potential demolition of buildings in the SSNCO District are required to obtain recommendation of approval by the St. Cloud Planning Commission and a resolution of approval by the St. Cloud City Council prior to the demolition.