



MRCCA Working Draft Rules, April 9, 2014 – Overview of Proposed Rules

What is the Mississippi River Corridor Critical Area?

The Mississippi River Corridor Critical Area (MRCCA) was established over 35 years ago to protect and preserve the unique natural, recreational, transportation, and cultural features of the section of the Mississippi River flowing through the Minneapolis-St. Paul Metropolitan Area. It comprises 72 miles of river and 54,000 acres of surrounding land in 30 local jurisdictions.

The MRCCA was designated in 1976 by Executive Order following passage of the Minnesota Critical Areas Act of 1973. The Critical Areas Act (Minn. Stat., sec. 116G) provides a general regulatory framework for protecting specific areas of the state that possess important historic, cultural, or aesthetic values or natural systems through a defined local-regional planning and regulation process. The MRCCA was the first and remains the only critical area in the state. The MRCCA protects these resources through local governments' land use plans and zoning ordinances that regulate structure placement and height, and through standards for vegetation management, land alteration, and subdivision.

Partners in Administration

The Minnesota Department of Natural Resources (DNR) has the lead role in developing and administering the MRCCA program. The DNR develops rules and local governments implement those rules through local plans and zoning ordinances. The Metropolitan Council reviews these plans and ordinances for consistency with regional policies and submits recommendations to the DNR, which has authority for plan and ordinance approval. In 1988, Congress established the Mississippi National River and Recreation Area (MNRRA) as a unit of the National Park System, with the same boundary as the MRCCA. The National Park Service administers the MNRRA and provides stewardship, education, and cultural resource protection in the corridor.

Legislative Direction

In 2009, the Legislature directed the DNR to replace the 35+-year old Executive Order, a type of regulation that cannot be readily revised or updated, with rules. State rules may be regularly updated through a defined and transparent public process. After a highly public and participatory process, the DNR developed draft rules in 2011, but the previous administration did not support the rules and local opposition to the rules was growing so the process halted and the agency's rulemaking authority lapsed. In 2013, the Legislature renewed DNR's authority to complete the rules and made changes to the legislation to better address local government concerns.

Rulemaking Goals

Since July of 2013, the DNR has been working to revise the 2011 draft rules to address the



Legislature’s directives, guided by these goals:

- Maintain and improve water quality and habitat
- Better recognize existing and planned development
- Increase flexibility for local governments
- Focus on rules that best achieve resource protection
- Simplify administration and clarify language

Highlights of Working Draft Rules

The result of this work is the current working draft rules. These draft rules will be released to the public in May along with the Request for Comments (RFC), which is the official start of the state rulemaking process (see the companion Rulemaking Schedule handout). Highlights of key provisions are provided below.

Districts

Resources are currently protected through the use of four districts established in the Executive Order. The proposed rules establish six districts. These districts better reflect the existing character and use of the river and recognize planned future development..

Dimensional Standards

Building height and setbacks from the river and very steep slopes are regulated by district. Standards vary depending on river character, use, and resources needing protection. (The items in parentheses are those on which we are specifically requesting feedback.) Compare these to the guidance in Executive Order 79-19:

Working Draft Standards

	CA-ROS	CA-RN	CA-RTC	CA-SR	CA-UM	CA-UC
Height	35'	35'	(48 - 56')* (CUP > 56')	Underlying zoning	65' (CUP > 65')*	Underlying zoning*
OHWL Setback	200'	100'	75'	NA	50'	Underlying zoning
Bluff / VSS Setback*	100'	40'	40'	40'	40'	40'

* Tiering of taller structures away from river; minimize interference with public river corridor views

Executive Order 79-19 Interim Development Regulations

	Rural Open Space	Urban Developed	Urban Diversified	Urban Open Space
Height	35'	35'	Underlying zoning	35'
OHWL Setback	200'	100'	Underlying zoning	100'
Bluff / VSS Setback*	100'	40'	40'	40'

Existing Development

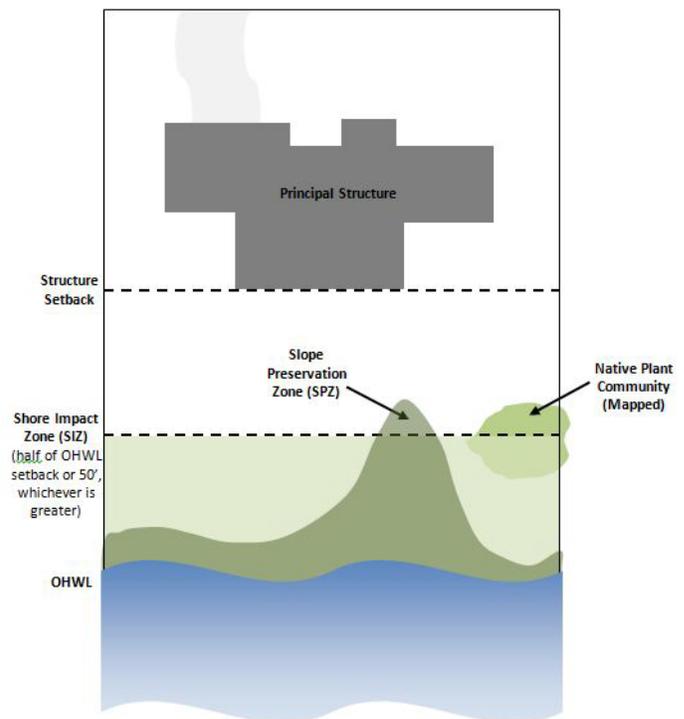
The working draft rules rely on underlying zoning for guiding land uses, except for a few specialized activities such as mining. The rules allow the continuance of legal nonconforming structures consistent with statute, and provide that local governments may allow expansion of legal nonconforming structures as long as they do not encroach further into required setbacks from the river, bluffs and very steep slopes. The rules do not create any nonconforming lots.

Public and Private Development Standards

The working draft rules also establish standards to guide development of both public and private facilities that are consistent with best management practices. Public facilities include utilities, transportation, public safety, and recreation facilities. Private facilities, typically regulated through zoning ordinances, include commercial and industrial parking areas, water access, and shoreline recreational areas.

Vegetation Management, Land Alteration and Stormwater Management

The working draft rules seek to protect the ecological functions of vegetation: to stabilize soils, filter runoff, and provide habitat. The rules list which vegetation and land alteration activities are allowed and guide those activities in environmentally sensitive areas through performance standards. The rules also establish a local government permit program for vegetation management and land alteration activities in specific areas, as shown in the illustration. The intent of the permit program is to connect property owners with conservation staff who can guide vegetation removal and land alteration activities in order to limit potential negative impacts. The proposed rules also require treatment of stormwater runoff from projects that create or fully reconstruct more than 10,000 square feet of impervious surface.



Subdivisions and Land Development

Large subdivisions and land development projects would be designed to permanently protect and/or restore primary conservation areas. Primary conservation areas include environmentally sensitive areas such as native plant communities, near shore areas, ravines and bluffs. The working draft rules require that a minimum percentage of the development area be set aside to protect these areas. If a development project doesn't contain primary conservation areas sufficient to meet the minimum, then opportunities for restoring areas with natural vegetation must be explored. The minimum area to be protected varies by district.