



# City Council Meeting

July 10, 2023

7:00 PM

Fridley City Hall, 7071 University Avenue N.E.

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## Agenda

### **Call to Order**

### **Pledge of Allegiance**

### **Proclamations/Presentations**

### **Approval of Proposed Consent Agenda**

#### **Approval/Receipt of Minutes**

1. Approve the Minutes from the City Council Meeting of June 26, 2023
2. Receive the Minutes from the City Council Conference Meeting of June 26, 2023
3. Receive the Minutes of the June 21, 2023 Planning Commission Meeting

#### **Old Business**

4. Ordinance No. 1410, Amending the Fridley City Code to Add Chapter 310, Hemp THC Products and Amend Chapter 209, Fees (Second Reading)

#### **New Business**

5. Resolution No. 2023-75, Approving Final Plat, PS #22-03 for Roers Companies
6. Resolution No. 2023-77, Acknowledging the Number of Vetoes Submitted Regarding the Innsbruck North Housing Improvement Area
7. Resolution No. 2023-78, Initiate Street Rehabilitation Project No. ST2024-01
8. Resolution No. 2023-79, Authorizing Execution of Grant Agreement with Minnesota Department of Transportation for 53<sup>rd</sup> Avenue Trail and Walk Improvements Project No. ST2023-21
9. Resolution No. 2023-80, Approving Special Use Permit, SP #23-01 by Dreamers Child Care for the Property at 6425 Highway 65 N.E. (Ward 2)

#### **Claims**

10. Resolution No. 2023-76, Approving Claims for the Period Ending July 5, 2023

### **Adoption of Regular Agenda**

**Open Forum/Visitors** (Consideration of Items not on Agenda – 15 minutes)

**Regular Agenda**

**Public Hearing(s)**

- [11.](#) Ordinance No. 1412, Public Hearing and First Reading Proposing Updates to Fridley City Code Section 205.28, Critical Area Overlay District, Section 205.32, Shoreland Overlay District and Section 205.30, Telecommunications Towers and Facilities District to Conform with New Mississippi River Corridor and Critical Area Rules
  
- [12.](#) Ordinance No. 1411, Public Hearing and First Reading Authorizing a Study and Imposing a Moratorium on the Establishment and Operation of Cannabis Businesses within the City of Fridley

**Informal Status Reports**

**Adjourn**

Upon request, accommodation will be provided to allow individuals with disabilities to participate in any City of Fridley services, programs, or activities. Hearing impaired persons who need an interpreter or other persons who require auxiliary aids should contact the City at (763) 571-3450.



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council

**Submitted By:** Roberta Collins, Assistant to the City Manager

## Title

Approve the Minutes from the City Council Meeting of June 26, 2023

## Background

Attached are the minutes from the City Council meeting of June 26, 2023.

## Financial Impact

None.

## Recommendation

Staff recommend the approval of the minutes from the City Council meeting of June 26, 2023.

## Focus on Fridley Strategic Alignment

- |  |   |
|--|---|
| <input type="checkbox"/> Vibrant Neighborhoods & Places              | <input type="checkbox"/> Community Identity & Relationship Building |
| <input type="checkbox"/> Financial Stability & Commercial Prosperity | <input type="checkbox"/> Public Safety & Environmental Stewardship  |
| <input checked="" type="checkbox"/> Organizational Excellence        |   |

## Attachments and Other Resources

- Minutes from the City Council Meeting of June 26, 2023

## Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.



# City Council Meeting

June 26, 2023

7:00 PM

Fridley City Hall, 7071 University Avenue NE

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## Minutes

### **Call to Order**

Mayor Lund called the City Council Meeting of June 26, 2023, to order at 7:00 p.m.

### **Present**

Mayor Scott Lund  
Councilmember Dave Ostwald  
Councilmember Tom Tillberry  
Councilmember Ryan Evanson  
Councilmember Ann Bolkom

### **Absent**

### **Others Present**

Walter Wysopal, City Manager  
Scott Hickok, Community Development Director  
Sarah Sonsalla, City Attorney  
Brian Weierke, Public Safety Director  
Jim Kosluchar, Public Works Director  
Beth Kondrick, Deputy City Clerk

### **Pledge Of Allegiance**

### **Proclamations/Presentations**

1. Proclamation: Brian Weierke Appreciation Day – June 30, 2023

Mayor Lund presented the proclamation declaring June 30, 2023 as Brian Weierke Appreciation Day.

Brian Weierke, Public Safety Director, commented that he has enjoyed serving the community for the past 28 years and spent his entire career in Fridley. He commented that he feels good with the way he will be leaving the department and appreciates all the members of the Police and Fire. He congratulated Ryan George who will do a great job leading the department forward. He also commended the great job that Wally Wysopal has done as City Manager. He also thanked the City Council for its support.



**Approval of Proposed Consent Agenda**

Motion made by Councilmember Evanson to adopt the proposed Consent Agenda. Seconded by Councilmember Ostwald.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

**Approval/Receipt of Minutes**

2. Approve the Minutes from the City Council Meeting of June 12, 2023.
3. Receive the Minutes from the City Council Conference Meeting of June 12, 2023.

**Old Business**

4. Ordinance No. 1409, Amending the Fridley City Code to Add Chapter 35, Mobile Food Units, Amend Chapter 209, Fees and Repeal Chapter 216, Street Vending (Second Reading).

**New Business**

5. Resolution No. 2023-66, Designating the Public Safety Director.
6. Resolution No. 2023-67, Approving an Extension on the Final Plat Approval and Recording for PS #22-03, Roers Companies.
7. Resolution No. 2023-71, Declaring Costs to be Assessed, Ordering Preparation of the Proposed Assessment Roll and Directing Publication of the Public Hearing Notice for the Street Rehabilitation Project No. ST-2022-01.
8. Resolution No. 2023-72, Approving Gifts, Donations and Sponsorships Received Between May 13, 2023 and June 16, 2023.

**Claims**

9. Resolution No. 2023-73 Approving Claims for the Period Ending June 21, 2023.

**Adoption of Regular Agenda**

Motion made by Councilmember Evanson to adopt the regular agenda. Seconded by Councilmember Ostwald.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

**Open Forum, Visitors:** (Consideration of Items not on Agenda – 15 minutes.)

No one from the audience spoke.

**Regular Agenda****New Business**

10. Resolution No. 2023-68, Awarding the 53<sup>rd</sup> Avenue Trail & Walk Improvements Project No. ST2023-21.

Jim Kosluchar, Public Works Director, provided background on the proposed project which is a joint project between Fridley and Columbia Heights. He reviewed the existing conditions as well as the proposed improvements. He also reviewed the partners in this project. He reviewed the project bidding details and noted the low bid submitted by Park Construction Company in the amount of \$1,776,297.26 which was 13.4 percent below the final engineer's estimate and also within the budgeted funds for the project. He reviewed the tentative schedule and next steps.

Motion made by Councilmember Tillberry to adopt Resolution No. 2023-68, Awarding 53<sup>rd</sup> Avenue Trail and Walk Improvements Project No. ST2023-21. Seconded by Councilmember Bolkom.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

11. Resolution No. 2023-69, Approving Change Order No. 2 (Final) for 2022 Street Rehabilitation Project No. ST2022-01.

Jim Kosluchar, Public Works Director, presented a request for Change Order No. 2 for the 2022 Street Rehabilitation Project. He reviewed a summary of the change order details. He noted that construction began in 2022 and required winterization before completion in 2023. He provided details on the different elements included in the change order including Hartman Circle, bituminous base and wear course, subgrade preparation, and concrete curb and gutter spot replacement. He said staff did learn some things with this project that will be applied to future projects. He noted that this is the final change order for the project and staff recommends approval.

Mr. Kosluchar said staff did learn some things with this project that will be applied to future projects. Motion made by Councilmember Evanson to adopt Resolution No. 2023-69, Approving Change Order No. 2 (Final) for 2022 Street Rehabilitation Project No. ST2022-01. Seconded by Councilmember Bolkom.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

12. Resolution No. 2023-70, Authorizing a Safe Streets and Roads for All Grant Application to Create a Safe Action Plan.

Jim Kosluchar, Public Works Director, provided background information on the Safe Streets and Roads for All Program (SS4A). He reviewed the project components for the grant application. He noted that

the new Safety Action Plan would be implemented and integrated with existing transportation planning documents. He reviewed the grant details.

Motion made by Councilmember Tillberry to adopt Resolution No. 2023-70, Authorizing a Safe Streets and Roads for All Grant Application to Create a Safe Action Plan. Seconded by Councilmember Ostwald.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

13. Resolution No. 2023-74 Awarding 53<sup>rd</sup> Avenue Roundabout Safety Project No. ST2023-22.

Jim Kosluchar, Public Works Director, provided background on the proposed project and existing conditions. He reviewed the proposed project scope and improvements, the project layout and the project partners. He provided details on the project bidding noting the low bid from Forest Lake Contracting in the amount of \$1,384,132. He reviewed the tentative project schedule and recommended adoption of the draft resolution awarding the project. He said there would be access to businesses during the project, although the road may be rough and dusty at times.

Motion made by Councilmember Tillberry to adopt Resolution No. 2023-74 Awarding 53<sup>rd</sup> Avenue Roundabout Safety Project No. ST2023-22. Seconded by Councilmember Bolkom.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

14. Interim Ordinance No. 1408, Authorizing a Study and Imposing a Moratorium on the Sale of Cannabinoid Products (Reconsideration and Approval)

Sarah Sonalla, City Attorney, provided background information on the discussions of the Council thus far on this topic, and the direction that had been provided to staff. She reviewed the three proposed actions before Council tonight, two of which will take place tonight and the third to come before the Council in July. She explained that the first action would be to reconsider and adopt Interim Ordinance No. 1408 which would become effective July 14, 2023. She noted that would allow the businesses selling 151 products prior to the effective date of the ordinance to continue selling those products, provided that they have a City license. She stated that the second action would be to adopt the Ordinance requiring licensing of 151 products. She noted that the third action to consider in July will involve a public hearing and consideration of a moratorium that will temporarily prohibit the establishment of businesses selling newly legalized cannabis products until January 1, 2025. She reviewed the next steps.

Council asked for more information on the threshold for children at a daycare center. Ms. Sonalla was unsure how that threshold was set. Wally Wysopal, City Manager, commented that he thought it would eliminate the smaller in-home daycare operations that come and go and would be hard to identify.

Motion made by Councilmember Ostwald to suspend Rosenberg's Rules of Order regarding reconsideration to allow the reconsideration. Seconded by Councilmember Evanson.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

Motion made by Councilmember Ostwald to reconsider the Interim Ordinance No. 1408, Authorizing a Study and Imposing a Moratorium on the Sale of Cannabinoid Products. Seconded by Councilmember Bolkom.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

Motion made by Councilmember Evanson to approve of the Interim Ordinance No. 1408, Authorizing a Study and Imposing a Moratorium on the Sale of Cannabinoid Products. Seconded by Councilmember Tillberry.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

Motion made by Councilmember Ostwald to approve summary publication of Interim Ordinance No. 1408. Seconded by Councilmember Evanson.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

Motion made by Councilmember Bolkom to call for a public hearing to consider Interim Ordinance No. 1411 on July 10, 2023. Seconded by Councilmember Evanson.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

15. Ordinance No. 1410, Amending the Fridley City Code to Add Chapter 310, Hemp THC Products and Amend Chapter 209, Fees

Beth Kondrick, Deputy City Clerk, presented the first reading of Ordinance No. 1410 which would amend the City Code to add Chapter 310, Hemp and THC Products, and amend Chapter 209, Fees. She provided details on the Hemp THC products shop license as proposed and the procedure that licensees would follow. She also reviewed the requirements for a hemp THC product shop. She noted the ordinance as proposed states a license expiration of March 1, 2025. She stated the second reading will propose a change to revise that language to state that a license issued under this chapter becomes effective from the date on which the license is issued through April 30 to better coincide with other license renewals. She reviewed regulations and proposed fees.

The Council asked and received confirmation that the fees are in line with tobacco and alcohol license fees. The Council also requested additional clarification on the limitation of six licenses. Ms. Kondrick clarified that the licenses would not be prorated if obtained part way through the year. She stated the City currently only allows five tobacco shops and this limit would also include the one hemp THC business.

Motion made by Councilmember Bolkom to approve the first reading of Ordinance No. 1410, Amending the Fridley City Code to Add Chapter 310, Hemp THC Products and Amend Chapter 209, Fees. Seconded by Councilmember Tillberry.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously.

**Informal Status Reports**

Councilmember Ostwald noted the summer concert occurring the following evening.

Councilmember Bolkom thanked all who volunteered and participated in '49er Days.

Mayor Lund thanked Short Stop for sponsoring the fireworks for the event.

**Adjourn**

Motion made by Councilmember Ostwald to adjourn. Seconded by Councilmember Evanson.

Upon a voice vote, all voting aye, Mayor Lund declared the motion carried unanimously and the meeting adjourned at 7:58 p.m.

Respectfully Submitted,

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Melissa Moore  
City Clerk

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Scott J. Lund  
Mayor



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council

**Submitted By:** Roberta S. Collins, Assistant to the City Manager

## Title

Receive the Minutes from the City Council Conference Meeting of June 26, 2023

## Background

Attached are the minutes from the City Council conference meeting of June 26, 2023.

## Financial Impact

## Recommendation

Receive the minutes from the City Council conference meeting of June 26, 2023.

## Focus on Fridley Strategic Alignment

- |  |   |
|--|---|
| <input type="checkbox"/> Vibrant Neighborhoods & Places              | <input type="checkbox"/> Community Identity & Relationship Building |
| <input type="checkbox"/> Financial Stability & Commercial Prosperity | <input type="checkbox"/> Public Safety & Environmental Stewardship  |
| <input checked="" type="checkbox"/> Organizational Excellence        |   |

## Attachments and Other Resources

- Minutes from the City Council Conference Meeting of June 26, 2023

## Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.



# Council Conference Meeting

June 26, 2023

5:30 PM

Fridley City Hall, 7071 University Avenue NE

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## Minutes

### **Roll Call**

Present: Mayor Scott Lund  
Councilmember Dave Ostwald  
Councilmember Tom Tillberry  
Councilmember Ryan Evanson  
Councilmember Ann Bolkcom

Absent: None

Others Present: Walter Wysopal, City Manager  
Sarah Sonsalla, City Attorney  
Steven Tallen – City Attorney-Housing

### **Items for Discussion**

1. Update by Steven Tallen, Attorney at Law, on Prosecution Services Provided to the City of Fridley for Code Enforcement/Zoning Issues.

Attorney Steven Tallen provided an update on prosecution of code enforcement/zoning issues for the City.

2. Update by Sarah Sonsalla, Kennedy & Graven, Chartered, on Legal Services provided to Fridley.

Attorney Sarah Sonsalla from Kennedy & Graven, Chartered, provided an update on legal services provided to the City.



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council

**Submitted By:** Julianne Beberg, Office Coordinator

## Title

Receive the Minutes of the June 21, 2023 Planning Commission Meeting

## Background

Attached are the Minutes from the June 21, 2023 Planning Commission Meeting.

## Financial Impact

None

## Recommendation

Staff recommend the City Council receive the June 21, 2023 Planning Commission Minutes.

## Focus on Fridley Strategic Alignment

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Vibrant Neighborhoods & Places   | <input type="checkbox"/> Community Identity & Relationship Building |
| <input type="checkbox"/> Financial Stability & Commercial Prosperity | <input type="checkbox"/> Public Safety & Environmental Stewardship  |
| <input checked="" type="checkbox"/> Organizational Excellence        |   |

## Attachments and Other Resources

- Planning Commission Minutes June 21, 2023

### Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.





# Planning Commission

June 21, 2023

7:00 PM

Fridley City Hall, 7071 University Avenue NE

## Minutes

### **Call to Order**

Chair Hansen called the Planning Commission Meeting to order at 7:00 p.m.

### **Present**

Pete Borman  
John Buyse II  
Mark Hansen  
Aaron Klemz  
Terry McClellan

### **Absent**

Mike Heuchert  
Ross Meisner

### **Others Present**

Stacy Stromberg, Planning Manager  
Rachel Workin, Environmental Planner

### **Approval of Meeting Minutes**

1. Approve April 19, 2023, Planning Commission Minutes

*Motion by Commissioner Borman to approve the minutes. Seconded by Commissioner McClellan.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously.*

### **Public Hearing**

2. Public Hearing to Consider Special Use Permit, SP #23-01 to Allow a Daycare Use at 6425 Highway 65 N.E.

*Motion by Commissioner Buyse to open the public hearing. Seconded by Commissioner Borman.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was opened at 7:01 p.m.*

Stacy Stromberg, Planning Manager, presented a request from Dreamers Daycare for a special use permit to allow a daycare use within the existing building at 6425 Highway 65 NE. The business currently operates at 6304 Highway 65 NW and has been in that location for six years but is looking to expand. If the permit is approved, the business would operate out of both locations. She reviewed details on the site description and history of the property. She also reviewed details about special use permits and related code requirements for this type of use. Staff recommends approval of the request subject to the recommended stipulations.

The Commission asked and received confirmation that there would be adequate space for additional parking. It was also confirmed that this would be the second location and the existing location would continue to operate as well.

A resident requested that the vegetation between the properties remain to provide shade. A representative of the applicant commented that they would like to clean that drainage area up as it was not maintained but would attempt to keep some of the shade the resident spoke of.

*Motion by Commissioner Buyse to close the public hearing. Seconded by Commissioner McClellan.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was closed at 7:11 p.m.*

The Commission asked how long the building has been vacant. Ms. Stromberg was unsure but noted that staff has been receiving calls for the past few years. The Commission felt that this would be a good reuse of the building.

*Motion by Commissioner McClellan recommending approval of the special use permit SP #23-01, provided certain code requirements are met and subject to stipulations. Seconded by Commissioner Buyse.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously.*

3. Public Hearing for TA #23-01 Proposing Updates to City Code Chapters 205-28 Critical Area District, 205-32 Shoreland Overlay District, and 205-30 Telecommunications Towers and Facilities District to Conform with the New Mississippi River Corridor and Critical Area Rules

*Motion by Commissioner Buyse to open the public hearing. Seconded by Commissioner Borman.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was opened at 7:14 p.m.*

Rachel Workin, Environmental Planner, presented background information on the Mississippi River Corridor Critical Area (MRCCA) and updates made by the DNR in 2017. She reviewed the input the City received to develop the draft ordinance updates and reviewed the proposed amendments including

definitions, development standards, vegetation management, and optional provisions. She also reviewed the next steps. She explained that any property that would not be in conformance would become legally nonconforming and any new development would need to meet the new standards.

The Commission asked what triggered these changes and whether the overlay boundary had changed. Ms. Workin explained that the State enacted the new regulations therefore the local government entities must update their related ordinances. She clarified that the boundary of the overlay had not changed. The Commission acknowledged that these updates fall under three sections and is a lot of information. It was also acknowledged that the City does not seem to have much power in these changes and would be expected to fall into compliance.

A resident provided input on their plans to improve their property and whether that would be allowed under the new regulations. Ms. Workin replied that work would already require a grading permit, therefore that would not be a change. Residents expressed concern with the changes related to vegetation and the importance of maintaining the vegetation. A resident also spoke about confusion of the residents related to the letter received and whether the changes would impact their property. Ms. Workin provided clarification on the provisions and requirements related to vegetation management. Residents also expressed confusion and frustration with the different levels of regulation for riverfront property owners, a lack of notification for some properties, and with how the notification was addressed. Ms. Workin provided additional clarification on the notification process, the different vegetation management that could occur without a permit, the vegetation management that would require a permit, and the permit process.

The Commission asked when the updated rules are required to be adopted and whether there would be ramifications if that were not done. Ms. Workin stated that the City received a one-year extension as the update was meant to be done by June 30<sup>th</sup> of 2022. She acknowledged that the City is not on track to meet the June 30, 2023 timeline but stated that the DNR has seen the progress the City is making. She noted that if significant deviation were made, additional permissions would be needed from the state/DNR. She explained that while the original rules focused on primary structures, this has been expanded to address accessory items such as decks, vegetation and other items that could impact the stability of the shoreline and bluffs. She also provided additional details on primary conservation areas and related regulations.

The Commission asked the number of residents that were notified of this meeting. Ms. Workin stated that the intention was to notify all residents along the river with bluffs on their property or that would be impacted by the change. Ms. Stromberg commented that over 200 notices were mailed to residents. She stated that two phone calls and one email were received prior to the meeting.

*Motion by Commissioner Borman to close the public hearing. Seconded by Commissioner Klemz.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was closed at 8:29 p.m.*

The Commission asked for details on the cost of the permit. Ms. Stromberg replied that the permit fee is still being determined and would likely be nominal and related to the staff time in processing.

A member of the Commission expressed support for the changes and acknowledged that the majority of the changes were dictated by state statute with some thoughtful additions by staff. Another member of the Commission was torn in their position because of the small number of residents that attended tonight and what appeared to be a rushed timeline. The Commission fully agreed that the river is a valuable asset that should be protected. Ms. Workin provided additional details on the rules update process and the input that the City was able to provide throughout that process. A member of the Commission expressed some concern that this would be overreaching, placing regulations on properties that are not on the river. Ms. Stromberg stated that in addition to the notice that went to the neighbors, staff developed an extensive webpage for residents to view this information. Ms. Workin reviewed the steps that staff would be following to communicate these changes to residents.

*Motion by Commissioner Klemz to recommend approval of TA #23-01 Proposing Updates to the City Code Chapters 205-City Code Chapters 205-28 Critical Area District, 205-32 Shoreland Overlay District, and 205-30 Telecommunications Towers and Facilities District to conform with the new Mississippi River Corridor and Critical Area rules. Seconded by Commissioner Borman.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried with a vote of 4 – 1 (Buyse opposed).*

### **Other Business**

Ms. Stromberg welcomed Commissioner Klemz, who is the new Chair of the EQEC. She stated that the July Planning Commission meeting has been canceled.

### **Adjournment**

*Motion by Commissioner Buyse to adjourn the meeting. Seconded by Commissioner McClellan.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the meeting adjourned at 8:53 p.m.*

Respectfully submitted,  
Amanda Staple, Recording Secretary



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council

**Submitted By:** Sarah Sonsalla, City Attorney  
Joseph L. Sathe, Assistant City Attorney  
Beth Kondrick, Deputy City Clerk

## Title

Ordinance No. 1410, Amending the Fridley City Code to Add Chapter 310, Hemp THC Products and Amend Chapter 209, Fees (Second Reading)

## Background

On June 26, 2023, the City Council approved the first reading of a licensing ordinance to regulate the sale of edibles/gummies, beverages, and products that are meant for external application, that contain tetrahydrocannabinol (THC) and are authorized under Minnesota Statutes § 151.72 (151 Products).

The proposed ordinance allows businesses that meet the definition of a tobacco products shop or the proposed City-defined "Hemp THC Product Shop" to apply for a license from the City to sell 151 Products. Tobacco products shops and hemp products shops are unique in that they are required to have an entrance directly to the outside, prohibit persons under the age of 21 from entering without being accompanied by someone who is 21 years of age, and which meet certain gross revenue requirements. For tobacco products shops, 90% of revenue must be from the sale of tobacco products and for Hemp THC Product Shops, 90% of revenue must be from 151 Products.

The proposed ordinance limits the number of licenses that the City may issue to six and prohibits issuing a license within 400 feet of a public or private elementary, middle, or high school, or state-licensed child or day care program with more than 10 children.

The proposed ordinance is drafted to exist in unison with the City's interim ordinance establishing a moratorium on the sale of cannabinoids and will not impact the moratorium.

This Code amendment creates a Hemp THC Product license, which will be issued upon successful completion of an application and background investigation. As with all other City licenses, this license will be an annual license that expires April 30. If a licensee chooses to renew their license

they must submit a renewal application. Updated language to reflect the Term of the license has been added for the second reading. This Chapter of the Code will be repealed in March of 2025 when M.S. 151.72 is repealed and no longer exists.

**Financial Impact**

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None.

**Recommendation**

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Staff recommend the Council approve a second reading of Ordinance No. 1410.

Staff recommend the Council approve the Summary Ordinance No. 1410 for publication.

**Focus on Fridley Strategic Alignment**

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|--|---|
| <input type="checkbox"/> Vibrant Neighborhoods & Places              | <input type="checkbox"/> Community Identity & Relationship Building           |
| <input type="checkbox"/> Financial Stability & Commercial Prosperity | <input checked="" type="checkbox"/> Public Safety & Environmental Stewardship |
| <input type="checkbox"/> Organizational Excellence                   |   |

**Attachments and Other Resources**

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- Ordinance No. 1410
- Summary Ordinance No. 1410

**Ordinance No. 1410**  
**Amending the Fridley City Code to Add Chapter 310, Hemp THC Products and Amend Chapter 209, Fees**

The City Council of the City of Fridley does ordain, after review, examination and staff recommendation that the Fridley City Code be amended as follows:

**Section 1**

That the Fridley City Code be hereby amended by adding Chapter 310, Hemp THC Products as follows:

Fridley City Code  
Chapter 310 Hemp THC Products

310.01 Purpose

The purpose of this Chapter is to establish regulations for the sale of edible cannabinoid products and nonintoxicating cannabinoids, as authorized in Minnesota Statutes (M.S.) § 151.72, in the City of Fridley (City). The Fridley City Council (Council) finds as follows:

1. The Minnesota Legislature's decision to amend Minnesota Statutes § 151.72 to expressly allow the sale of certain products derived from hemp, some of which contain tetrahydrocannabinol (THC), created a regulatory gap regarding the licensing and sale of products allowed to be sold under M.S. § 151.72 (Hemp THC Products).
2. The City recognizes that, based on the most reliable and up-to-date scientific evidence, the largely unregulated Hemp THC Products presents a potential threat to the public health, safety, and welfare of the residents of the City.
3. The City has the opportunity to make decisions that will mitigate this threat, reduce exposure of young people to Hemp THC Products, curtail the marketing of Hemp THC Products to young people, and improve retailer compliance with existing laws related to Hemp THC Products.
4. A local regulatory system for retailers of Hemp THC Products is appropriate to ensure that such retailers comply with laws and business standards of the City to protect the health, safety, and welfare of youth and other vulnerable residents.
5. M.S. § 151.72 requires Hemp THC Product retailers to check the identification of purchasers to verify that they are at least 21 years of age, comply with certain packaging and labeling requirements to protect children and youth, and meet certain potency and serving size requirements.
6. State law does not preempt municipalities from adopting and enforcing local ordinances to regulate retailers of Hemp THC Products including, but not limited to, business licensing

requirements. The Governor signed HF100/SF73 (Cannabis Act) on May 30, 2023, which provides a framework for adult-use cannabis in the State of Minnesota, and also provides that M.S. § 151.72 will automatically repeal on March 1, 2025.

7. The Cannabis Act provides a transition period between Hemp THC Products and other similar products authorized under the Cannabis Act, and the City finds that it is prudent to enact a licensing framework for Hemp THC Products while the State of Minnesota develops and implements the permanent structure for licensing products authorized under the Cannabis Act.

8. A licensing requirement for retailers that desire to sell Hemp THC Products will not unduly burden legitimate business activities of such retailers who sell or distribute Hemp THC Products to adults but will allow the City to effectively regulate the operation of lawful businesses, limit access to persons under the age of 21 years and discourage violations of Hemp THC Product-related laws.

9. Limiting the sale of Hemp THC Products to hemp products shops and to tobacco products shops in the best method for limiting access to persons under the age of 21 years.

10. The Council finds that the sale of Hemp THC Products may lead to the creation of a nuisance situation that threatens the public welfare and limiting the number of licenses issued by the City is in the public interest to ensure that the sale of Hemp THC Products is done in accordance with applicable law, including M.S. § 151.72 and City requirements.

11. In making these findings and enacting this ordinance, it is the intent of the City to facilitate responsible retail activities associated with Hemp THC Products by allowing legal sale and access without promoting increases in use, and to discourage violations of hemp THC product-related laws, especially those which prohibit or discourage the marketing, sale or distribution of Hemp THC Products to persons under the age of 21 years.

### 310.02 Definitions

CBD: cannabidiol.

CBD products: any edible cannabinoid product or nonintoxicating cannabinoid that is labeled and marketed as a CBD product that contains no more than trace amounts of any tetrahydrocannabinol, that meets the requirements to be sold for human or animal consumption under M.S. § 151.72.

Delivery sales: the sale of any hemp THC product to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a retail establishment. Delivery sale includes, but is not limited to, the sale of any Hemp THC Products when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery sale includes delivery by licensees or third parties by any means, including curbside pick-up.



Edible cannabinoid product: has the meaning as given in M.S. § 151.72, subd. 1(f).

Hemp Products Shop: a retail establishment that:

1. Has an entrance door opening directly to the outside;
2. Greater than 90% of the retail establishment's gross revenue is from the sale of Hemp THC Products and CBD products, and in which the sale of other products is merely incidental;
3. Prohibits persons under the age of 21 years from entering the establishment at any time without being accompanied by someone who is at least 21 years of age; and
4. Is in compliance with all applicable provisions of this Code.

Hemp THC product: any edible cannabinoid product or nonintoxicating cannabinoid that is not a CBD product and that meets the requirements to be sold for human or animal consumption under M.S. § 151.72. The term does not include CBD products or medical cannabis as defined in M.S. § 152.22, subd. 6.

Labeling: has the meaning as given in M.S. § 151.72, subd. 1(i).

Moveable place of business: any form of business operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

Nonintoxicating cannabinoid: as the same meaning as given in M.S. § 151.72, subd. 1(k).

Product label: has the same meaning given the term "label" in M.S. § 151.72, subd. 1(e).

THC: tetrahydrocannabinol.

Trace amount: a product is considered to have no more than a trace amount of THC if the manufacturer is not required by any federal or state law to identify the amount of any tetrahydrocannabinol on the product label or if the labeling provides that the product may contain residual or trace amounts of THC as part of the manufacturing process.

Self-service merchandising: open displays of Hemp THC Products in any manner where any person has access to the Hemp THC Products without the assistance or intervention of the licensee or the licensee's employee. Assistance or intervention means the actual physical exchange of the hemp THC product between the customer and the licensee or employee.

Tobacco Products Shop: a retail establishment with a current tobacco license issued by the City that:

1. Has an entrance door opening directly to the outside;
2. Prohibits persons under the age of 21 years from entering the establishment at any time;
3. Is in compliance with all applicable provisions of this Code; and
4. Derives more than 90% of its gross revenue from the sale of tobacco, tobacco-related devices, and electronic delivery devices, as defined in M.S. § 609.685, and in which the sale of other products is merely incidental.
5. The term does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

Vending machine: any mechanical, electric, or electronic, or other type of device that dispenses Hemp THC Products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the hemp THC product.

Youth oriented facility: a public or private elementary, middle, or high school, or a state-licensed child or day care program with more than ten children.

### 310.03 License

1. Required. No person may directly or indirectly, or by means of any device, keep for retail sale, sell at retail, offer to sell, or otherwise dispose of Hemp THC Products at retail at any place in the City of Fridley without first having obtained a license from the City to do so.
2. Eligibility. The City shall only issue a license to sell Hemp THC Products to a business qualified as a hemp Products shop or a tobacco products shop that complies with the requirements of this Chapter.
3. Manufacturing Exception. No license is required under this chapter for the manufacturing of Hemp THC Products or the sale by a manufacturer of its products to resalers, provided the manufacturer does not sell Hemp THC Products directly to the public.
4. CBD Products. No license is required under this Chapter to sell CBD products at a retail establishment within the City. Retail establishments selling CBD products may be subject to compliance checks as described in this Chapter. Retail establishments shall not include home occupations.
5. Total Number of Licenses. The total number of licenses issued to sell Hemp THC Products under this Chapter shall be limited to six.

### 310.04 Ineligible Places and Operations

The City will not issue a license under this Chapter to sell Hemp THC Products to any of the following:

1. A business or operation that does not qualify as a Hemp THC Products Shop or a tobacco products shop;
2. A business providing delivery sales of Hemp THC Products ;
3. A moveable place of business;
4. A vending machine;
5. A premises located within 400 feet of a Youth oriented facility. The distance to be measured in a straight line from the nearest point of building to building;
6. An operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid. If an action has been commenced pursuant to the provisions of M.S. Chapter 278, questioning the amount or validity of taxes, the Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one-year period is extended through no fault of the licensee; or
7. A business that is in violation of one or more provisions of the Code.

310.05 Application Procedures

1. Application for License; Granting of License. Application for a Hemp THC Product License must be made to the City Manager or their designee on a form provided by City, which must include the full name and address of the applicant, the location of the building to be occupied by the applicant in the conduct of the business, and such other information as the City Manager or their designee may require. If the City Manager or designee determines an application is incomplete, the City Manager will provide the applicant notice of the information necessary to make the application complete. The City may not process an application until it is made complete. Upon receipt of a completed application, the City Manager will forward the application to the Public Safety Department to conduct a background investigation.
2. Fees. No license will be processed or issued under this Chapter until the appropriate fees has been paid in full. The fees for a license under this Chapter are set forth in the Fees Chapter of the Code.
3. Background Investigation. The Police Department shall conduct a background check of the applicant and application, including a criminal history check pursuant to M.S. § 299C.72. The

investigation shall consider all facts and information bearing on the question of the applicant's fitness to receive the license and to perform the duties imposed by this Chapter. The City may conduct such other inspections, including an inspection of the premises, as it may determine are needed to verify the information in the application and regarding background of the application and any manager or agent. Failure of an applicant to allow an inspection is grounds for denial of the license. The results of any investigation must be submitted to the City Council prior to action on the application.

4. License Decision. The Council may grant or deny a license application. The Council may also continue its consideration of a license if it determines it needs additional information before making its decision. Any of the following are grounds for denial of a license.

(a) The business does not qualify as a THC Hemp Products Shop or a tobacco products shop.

(b) The applicant is under the age of 21 years old.

(c) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to Hemp THC Products or the operation of the licensed premises.

(d) The applicant has had a license to sell Hemp THC Products suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises authorized to sell Hemp THC Products, whether in the City or in another jurisdiction, that has had a license to sell Hemp THC Products suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.

(e) The applicant provides false or misleading information. Any false statement on an application, or any willful omission of any information called for on such application form, shall cause an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect upon written notice of the City.

(f) The proposed location does not meet all applicable zoning requirements or requirements of this Chapter.

(g) The applicant is prohibited by federal or state law, local ordinance, or other regulation, from holding such a license.

(h) The applicant failed to provide information required by the application or provided false or misleading information.

(i) The proposed location constitutes an ineligible place or operation under this Chapter.

5. Term. A license issued under this Chapter becomes effective from the date on which the license is issued through April 30. All licenses issued under this chapter shall expire on March 1, 2025 unless it is revoked, suspended, or forfeited prior to that date.

6. Non-Transferable. All licenses issued under this Chapter are valid only on the premises for which the license was issued and only for the person or business to whom the license was issued. The transfer of any license to another location, business, or person is prohibited.

### 310.06 Operational Requirements

1. License Display. All licenses must be posted and displayed in plain view of the general public on the licensed premises.

2. Responsibility. All licensees under this Chapter are responsible for the actions of their employees in regard to the sale of Hemp THC Products on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder.

3. Product Storage and Display. All Hemp THC Products must be stored either behind a counter or other area not freely accessible to customers, or in a locked case or other storage unit not left open and accessible to the general public.

4. Age Posting. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where Hemp THC Products are offered for sale. The required signage must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

5. Age Verification. A licensee's employees shall verify by means of government issued photographic identification that any purchaser of a Hemp THC Product is at least 21 years of age in accordance with M.S. § 151.72, subd. 5c.

6. Sales. Hemp THC Products may only be sold in a direct face-to-face exchange between the licensee's employee and the consumer. The licensee's employees selling Hemp THC Products must be at least 21 years old. It is a violation of this Chapter for a licensee to give away, dispense, sell, or offer to sell any Hemp THC Product in a manner that violates any of the following:

(a) To a person under the age of 21 years old. It will be an affirmative defense to the violation of this section for a person to have reasonably relied upon proof of age:

(b) Through the use of a vending machine or similar automated dispensing device:

(c) In a manner that does not comply with the requirements of M.S. § 151.72 including, but not limited to, the packaging, labeling, and other requirements provided by that section;

(d) At any location outside of the licensed premises;

(e) By self-service, or in open displays which are accessible to the public without the assistance or intervention of a store employee;

(f) By a mobile business, including but not limited to motorized vehicles, moveable sales kiosks, or trailers. Licenses must be issued to fixed location businesses only;

(g) By delivery sales;

(h) By any employee under the age of 21 years;

(i) To a visibly intoxicated person;

(j) By the means of providing samples of any Hemp THC Product free of charge or at a nominal cost; or

(k) To any other person, in any other manner or form prohibited by federal or state law or regulation, or by local ordinance.

7. Inspections. The premises licensed under this Chapter must be open to inspection by the City Manager or their designee during regular business hours for purposes of ensuring compliance with this Chapter.

8. Revocation or Suspension. Any license issued under this Chapter may be revoked or suspended by the Council for a violation of any provision of this Chapter in accordance with this Chapter.

9. Training. Every licensee must implement a training program for employees regarding laws relating to the sale of Hemp THC Products. Every licensee must certify that all employees have been trained to comply with federal, state and City regulations regarding the sale of Hemp THC Products within six months of the date a license is issued and within two weeks of hiring a new employee.

### 310.07 Other Prohibited Acts

1. Non-Compliant Products. No person may sell or offer for sale a product containing THC, including Hemp THC Products, that does not meet all the applicable requirements in M.S. § 151.72. This prohibition does not apply to a business that has a license issued by the Office of Cannabis Management, has registered with the City as required by M.S. § 342.22, and is

otherwise is compliance with state and local laws regarding the sales of products containing THC.

2. Presumptions. Hemp THC Products must comply with the labeling requirements in M.S. § 151.72, subd. 5 and all other applicable labeling requirements. The City may presume, for the purposes of enforcing this Chapter, a Hemp THC Product being offered for sale or that is sold by a licensee has been tested by an independent lab as required in M.S. § 151.72, subd. 4 and that the information contained on the product label is accurate.

3. Purchase for Others. It is a misdemeanor violation of this Chapter for any person 21 years of age or older to purchase or otherwise obtain any Hemp THC Product on behalf of a person under the age of 21.

4. Under Aged Persons. It is a petty misdemeanor for any person under the age of 21 to do any of the following:

(a) To attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person has been modified or tampered with to represent an age older than the actual age of the person using that identification.

(b) To attempt to purchase Hemp THC Products.

5. Electronic Delivery Devices. Hemp THC Product Shops may not sell, give away, or otherwise furnish any electronic delivery device as defined in the Tobacco Product Shops Chapter of the Code.

### 310.08 Compliance Checks

The City may from time-to-time conduct unannounced compliance checks of establishments licensed under this Chapter and establishments selling CBD products. No person used in compliance checks may attempt to use a form of identification that misrepresents the person's age. All persons lawfully engaged in a compliance check must answer all questions about their age asked by the licensee or their employee, and produce any identification, if any exists, for which they are asked. The City will conduct a compliance check that involves the participation of a person at least 18 years of age, but under the age of 21 to enter the licensed premises to attempt to purchase the Hemp THC Products. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel. Nothing in this Chapter will prohibit compliance checks authorized by state or federal laws for businesses manufacturing, storing, or selling Hemp THC Products under any applicable federal or state law. Persons used in compliance checks shall not be subject to the penalties and violations outlined in this Chapter.

### 310.09 License Actions

1. Basis for Action. The City may suspend or revoke a license issued under this Chapter for any of the following reasons:

(a) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to the licensed activity, or has had a license to sell Hemp THC Products revoked or suspended within the past five years;

(b) Fraud, misrepresentation, bribery, or incorrect statement contained in the application for license, or made in carrying on the licensed activity;

(c) Actions that are unauthorized or otherwise beyond the scope of the license granted;

(d) Violation of any federal, state or local regulation or provision related to Hemp THC Products;

(e) Failure to continuously comply with all conditions required as part of the license;

(f) Failure to comply with the applicable Zoning Chapters of the Code;

(g) Failure to pay an administrative penalty imposed by the Council; or

(h) The City discovers the license was mistakenly issued to a person, it will be revoked upon the discovery that the person was ineligible for the license under this Chapter.

2. Process. The City will provide a licensee at least 10 days' written notice of a hearing to be held before the Council on the potential suspension or revocation of its license. The licensee will be provided an opportunity to be heard at the hearing. If the Council acts to suspend or revoke the license, the City will provide the licensee a written notice of the period of suspension, or of the revocation. All sales of Hemp THC Products must cease during a suspension period or permanently upon revocation of the license.

### 310.10 Violation

Unless expressly indicated otherwise, a violation of this Chapter is a misdemeanor. The City may also impose administrative penalties as provided in the Appeals and Administrative Citations Chapter of the Code. Any administrative penalties may be imposed by the Council, or by administrative citation, and will be collected in accordance with this Code. Nothing in this section may prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this Chapter.

## **Section 2**

That the Fridley City Code be hereby amended by updating Chapter 209, Fees as follows:



Fridley City Code  
Chapter 209 Fees

209.12 Fees

5. Licensing Fees

<b>Code</b>	<b>Subject</b>	<b>Fee</b>
308	Adult Entertainment Establishment – Investigation fee	\$400 \$400
17	Auction – Weekly permit – Annual permit	\$30 \$150
300	Beekeeping – Initial fee – Annual renewal fee	\$100 \$25
27	Billiards – First table – Each additional table	\$40 \$10
15	Bowling Alleys – Annual license – Per lane	\$40 \$10
28	Carnivals – Application fee – Each day – Required cash deposit or bond	\$75 \$75 \$3,000
21	Christmas Tree Lots – Annual license fee – Deposit	\$200 \$100
300	Dogs – Lifetime license – Duplicate license – Impound fee – Annual Dangerous Dog license – Potentially Dangerous Dog license	\$25 \$5 \$25 \$500 \$500
702	Drive-in Theaters	\$400
607	Entertainment	\$85
32	Food Establishment – Business License	\$45
32	Food Temporary – Business License	\$30
25	Golf Course, Driving Range	\$30
319	Haulers	\$100 for first truck and \$40 each additional truck

	Mixed Municipal Solid Waste License (Garbage Truck), Yard Waste License, Organics License, Recycling License	
<u>310</u>	<u>Hemp THC Product</u> – <u>Annual License</u> – <u>Investigation Fee, Individual</u> – <u>Investigation Fee, Corporation/Partnership</u> – <u>Administrative Penalty for individuals, first violation</u> – <u>Administrative Penalty for individuals, second violation within 12 months</u> – <u>Administrative Penalty for individuals, third violation within 12 months</u> – <u>Administrative Penalty for licensee, first violation</u> – <u>Administrative Penalty for licensee, second violation within 36 months</u>	<u>\$1,500</u> <u>\$200</u> <u>\$400</u> <u>\$250</u> <u>\$500</u> <u>\$750</u> <u>\$500</u> <u>\$1,000</u>
24	Junk Yards	\$350
609	Liquor, Caterer – Annual Caterer Registration – Event Notification Permit (per event)	\$100 \$25
604	Liquor, Consumption and Display – Annual State permit – One-day City permit	\$300 \$25
603	Liquor, On-Sale Intoxicating Holiday Endorsement	\$100
603	Liquor, Lawful Gambling Endorsement	\$300
610	Liquor Manufacturers/Investigative Fee – Individual – Partnership/Corporation – Alteration of Business – Change of Officers – On-Sale Brewer/Distillery Taproom License – Off-Sale Brewer/Distillery Growler License	\$200 \$400 \$100 \$25 \$600 \$300
603	Liquor, On-Sale Intoxicating – No entertainment (a) 0-3,000 square feet	\$6,000

	(b) 3,001-6,000 square feet (c) Over 6,000 square feet	\$7,000 \$8,000
	– With entertainment or dancing (a) 0-3,000 square feet (b) 3,001-6,000 square feet (c) Over 6,000 square feet	\$7,000 \$8,000 \$9,000
603	Liquor, On-Sale Intoxicating Initial Investigative Fee – Individual – Corporation or partnership	\$200 \$400
603	Liquor, On-Sale Sunday	\$200
603	Liquor, On-Sale Intoxicating Temporary one day only	\$25
602	– Liquor, 3.2% Malt Liquor Off-Sale – On-Sale – Holiday Endorsement	\$60 \$325 \$100
602	Liquor, 3.2% Malt Liquor, Initial Investigative Fee – Individual – Corporation or partnership	\$90 \$180
602	Liquor, 3.2% Malt Liquor Temporary	\$60
603	Liquor, Wine	\$1,000
603	Liquor, Wine Investigative Initial Fee – Individual – Corporation or partnership	\$200 \$400
605	Liquor, Bottle Club – Annual permit – One day permit	\$300 \$25
606	Liquor, On-Sale Intoxicating Club – Per club under 200 members – Per club of 201-500 members – Per club of 501-1,000 members – Per club of 1,001-2,000 members – Per club of 2,001-4,000 members – Per club of 4,001-6,000 members – Per club of over 6,000 members	\$300 \$500 \$650 \$800 \$1000 \$2,000 \$3,000
606	Liquor, On-Sale Club Holiday Endorsement	\$100
300	Livestock – Initial fee – Annual review	\$100 \$25
603	Managerial License (Liquor)	\$10

125	<p>Massage Therapy Business License</p> <ul style="list-style-type: none"> <li>- Annual license</li> <li>- Business investigation fee for corporations or partnerships</li> <li>- Business investigation fee for individual/sole proprietor</li> </ul>	<p>\$400</p> <p>\$400 (new) \$200 (renewal)</p> <p>\$200 (new) \$100 (renewal)</p>
125	<p>Massage Therapist</p> <ul style="list-style-type: none"> <li>- License Fee</li> <li>- Therapist Investigation Fee</li> </ul>	<p>\$50</p> <p>\$25</p>
22	<p>Music Festivals</p> <ul style="list-style-type: none"> <li>- Per day</li> <li>- Filing fee</li> </ul>	<p>\$700</p> <p>\$100</p>
35	<p>Mobile Food Unit</p> <ul style="list-style-type: none"> <li>- Food Truck License</li> <li>- Food Truck Fire Safety Inspection</li> <li>- Ice Cream Truck License</li> </ul>	<p>\$50</p> <p>\$100</p> <p>\$75</p>
18	Motor Vehicle Body Repair Business	\$150
509	Motorized Vehicles Rental	\$50 per vehicle
300	<p>Multiple Pet Location</p> <ul style="list-style-type: none"> <li>- License Fee</li> <li>- Renewal Fee</li> <li>- Impound Fee</li> </ul>	<p>\$100</p> <p>\$25</p> <p>\$25</p>
300	<p>Poultry</p> <ul style="list-style-type: none"> <li>- Initial fee</li> <li>- Annual renewal fee</li> <li>- Impound fee</li> </ul>	<p>\$100</p> <p>\$25</p> <p>\$25</p>
220	<p>Rental Housing Annual License</p> <ul style="list-style-type: none"> <li>- Single rental unit</li> <li>- Two rental units</li> <li>- Three rental units</li> <li>- Four rental unit</li> <li>- Five or more units</li> </ul> <p>License renewal late fee if more than seven days late</p> <p>License fee to reinstate after revocation or suspension</p> <p>License transfer fee</p>	<p>\$100</p> <p>\$150</p> <p>\$210</p> <p>\$270</p> <p>\$270 plus \$12 per unit over four units</p> <p>150% of the annual license fee</p> <p>150% of the annual license fee</p> <p>\$25</p>

	License reinstatement fee for properties that were posted for not complying with correction orders or license renewals – 1-30 days – 31+ days  Renting prior to obtaining a license  Reinspection fee after second inspection – Single, duplex, triplex – Four or more units	\$250 \$500  125% of the annual license  \$100 \$300
31	Pawn Shops – Annual license fee – Monthly transaction fee – Reporting failure penalty – Investigation fee	\$3,000 \$3 per transaction \$4 per transaction \$400
14	Peddlers/Solicitor	\$60 per peddler
23	Public Dance	\$75
13	Retail Gasoline Sales Private Gasoline Pump	\$60 \$30 per location
602, 603, 606	Social Skill Game Tournament Service Provider	\$100 annually
12	Tobacco License	\$125
12	Tobacco Product Shop – License fee – Investigation fee	\$400 \$100
104	Tree Management License	\$150
19	Used Motor Vehicles License	\$150 per year

**Passed and adopted by the City Council of the City of Fridley on this 10th day of July, 2023.**

\_\_\_\_\_  
 Scott J. Lund - Mayor

\_\_\_\_\_  
 Melissa Moore - City Clerk

First Reading: June 26, 2023  
 Second Reading:  
 Publication:

City of Fridley  
Summary Ordinance No. 1410

Amending the Fridley City Code to Add Chapter 310, Hemp THC Products,  
Amend Chapter 209, Fees

The City of Fridley does ordain, after review, examination, and staff recommendation that the Fridley City Code (Code) be amended by adopting Ordinance No. 1410. A summary of the amendments to the Code made by Ordinance No. 1410 are as follows:

The Ordinance adds Chapter 310, Hemp THC Products to the Fridley City Code (Code). Section 310.01 is a purpose statement, § 310.02 defines terms related to the chapter, § 310.03 establishes a Hemp THC Products Shop License in the City of Fridley (City), § 310.04 lists ineligible places and operations for Hemp THC Products Shops, § 310.05 lists application procedures for a Hemp THC Products Shop License, § 310.6 lists operational requirements for Hemp THC Products Shops, § 310.07 lists other prohibited acts for Hemp THC Products Shops, § 310.08 describes process for compliance checks for Hemp THC Products shops, § 310.09 describes license actions for Hemp THC Products Shops, § 310.10 describes the City's response to violations of this Ordinance for Hemp THC Products Shops. The ordinance amends the Fees Chapter of the Code by establishing a fee for a Hemp THC Product Shop License at \$1,500, an Individual Investigation Fee at \$200 and a Corporation/Partnership Investigation Fee at \$400. The ordinance amends the Fees Chapter of the Code by establishing administrative penalty fees for individuals at \$250 for a first violation, \$500 for a second violation within 12 months and \$750 for a third violation within 12 months and for licensee at \$500 for a first violation and \$1,000 for a second violation within 36 months.

Ordinance No. 1410 was passed and adopted by the City Council of the City of Fridley on June 26, 2023. The full text of the Ordinance is available on the City website or for inspection by any person during regular office hours at the Office of the City Clerk.



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council

**Submitted By:** Scott Hickok, Community Development Director  
Stacy Stromberg, Planning Manager

## Title

Resolution No. 2023-75, Approving Final Plat, PS #22-03 for Roers Companies

## Background

The City Council (Council) will recall that on January 9, 2023, Roers Companies received Preliminary Plat approval for their project on the Moon Plaza property at 6257 University Avenue. The Council approved a 3-month extension to provide the additional time the petitioner needed for final plat approval at their June 26, 2023, meeting.

Roers has now received approval from Anoka County, and the final plat is ready to be approved for by Council. No changes were made to the preliminary plat.

## Financial Impact

None

## Recommendation

Staff recommend the approval of Resolution No. 2023-75.

## Focus on Fridley Strategic Alignment

<input checked="" type="checkbox"/>	Vibrant Neighborhoods & Places	<input type="checkbox"/>	Community Identity & Relationship Building
<input type="checkbox"/>	Financial Stability & Commercial Prosperity	<input type="checkbox"/>	Public Safety & Environmental Stewardship
<input type="checkbox"/>	Organizational Excellence		

## Attachments and Other Resources

- Resolution No. 2023-75
- Exhibit A – University Redevelopment Second Addition

## Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

**Resolution No. 2023-75**

**Approving Final Plat, PS #22-03 Petitioned by Roers Companies for the Property Located at 6257 University Avenue N.E.**

**Whereas**, the Planning Commission held a public hearing for Preliminary Plat, PS #22-03 on January 4, 2023 and recommended approval of said plat; and

**Whereas**, the purpose of the plat is to facilitate redevelopment of the parcel located at 6257 University Avenue N.E.; and

**Whereas**, the City Council approved the preliminary plat for University Redevelopment Second Addition at their January 9, 2023 meeting; and

**Whereas**, a copy of the final plat University Redevelopment Second Addition has been attached as Exhibit A;

**Now, therefore be it resolved**, that the City Council of the City of Fridley approves the Final Plat for University Redevelopment Second Addition and directs the petitioner to record the plat at Anoka County within six months of this approval or such approval shall become null and void.

**Passed and adopted by the City Council of the City of Fridley this 10<sup>th</sup> day of July, 2023.**

\_\_\_\_\_  
Scott J. Lund – Mayor

Attest:

\_\_\_\_\_  
Melissa Moore – City Clerk



# UNIVERSITY REDEVELOPMENT SECOND ADDITION

City of Fridley  
County of Anoka  
Sec. 14, T. 30, R. 24

**KNOW ALL PERSONS BY THESE PRESENTS:** That Roers Fridley Apartments Owner II LLC, a Minnesota limited liability company, owner of the following described property:

Lot 4, AUDITOR'S SUBDIVISION NUMBER 59, according to the recorded plat thereof, Anoka County, Minnesota excepting therefrom the following described parcel:

Commencing at the point of intersection of the East line of said Lot 4 and a line drawn from a point in the West line of said Lot 4 distant 119.99 feet South from the Northwest corner of said Lot 4 to a point in the East line of said Lot 4, distant 118.06 feet South from the Northeast corner of said Lot 4, said distance being measured along the East and West line of said Lot 4 hereinafter referred to as Line "A"; thence West along said Line "A" a distance of 38.68 feet to the actual Point of Beginning of the tract to be described; thence continuing West along said Line "A" a distance of 25.25 feet; thence North at a right angle to said Line "A" a distance of 0.33 feet; thence West, at a right angle, a distance of 1.58 feet; thence South at a right angle to said Line "A"; thence West along said Line "A" a distance of 23.74 feet; thence North at a right angle to said Line "A" a distance of 0.33 feet; thence West at a right angle a distance of 1.58 feet; thence South at a right angle to said Line "A"; thence West along said Line "A" to the West line of said Lot 4; thence North along the West line of said Lot 4, to a point distant 28.00 feet South from the North line of said Lot 4 measured at a right angle to the North line of said Lot 4; thence East along a line parallel with the North line of said Lot 4 to a point distant 38 feet West from the East line of said Lot 4 measured at a right angle to the East line of said Lot 4; thence South to the actual Point of Beginning.

AND

Lot 4, AUDITOR'S SUBDIVISION NUMBER 59, according to the recorded plat thereof, Anoka County, Minnesota, described as follows:

Commencing at the point of intersection of the East line of said Lot 4 and a line drawn from a point in the West line of said Lot 4 distant 119.99 feet South from the Northwest corner of said Lot 4 to a point in the East line of said Lot 4, distant 118.06 feet South from the Northeast corner of said Lot 4, said distance being measured along the East and West line of said Lot 4 hereinafter referred to as Line "A"; thence West along said Line "A" a distance of 38.68 feet to the actual Point of Beginning of the tract to be described; thence continuing West along said Line "A" a distance of 25.25 feet; thence North at a right angle to said Line "A" a distance of 0.33 feet; thence West, at a right angle, a distance of 1.58 feet; thence South at a right angle to said Line "A"; thence West along said Line "A" a distance of 23.74 feet; thence North at a right angle to said Line "A" a distance of 0.33 feet; thence West at a right angle a distance of 1.58 feet; thence South at a right angle to said Line "A"; thence West along said Line "A" to the West line of said Lot 4; thence North along the West line of said Lot 4, to a point distant 28.00 feet South from the North line of said Lot 4 measured at a right angle to the North line of said Lot 4; thence East along a line parallel with the North line of said Lot 4 to a point distant 38 feet West from the East line of said Lot 4 measured at a right angle to the East line of said Lot 4; thence South to the actual Point of Beginning.

Has caused the same to be surveyed and platted as UNIVERSITY REDEVELOPMENT SECOND ADDITION, and does hereby dedicate to the public for public use the public way and the drainage and utility easements as created by this plat.

In witness whereof said Roers Fridley Apartments Owner II LLC, a Minnesota limited liability company, has caused these presents to be signed by its proper officer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ROERS FRIDLEY APARTMENTS OWNER II LLC,  
By: Roers Fridley Apartments Managing Member II LLC, a Minnesota limited liability company,  
Its: Managing Member

Shane LaFave, Authorized Signer

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Shane LaFave, as Authorized Signer of Roers Fridley Apartments Managing Member II LLC, a Minnesota limited liability company, the Managing Member of Roers Fridley Apartments Owner II LLC, a Minnesota limited liability company, on behalf of the company.

Signature \_\_\_\_\_ Printed Name, Notary  
Notary Public \_\_\_\_\_ County, \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

### SURVEYORS CERTIFICATION

I, Max L. Stanislawski do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Max L. Stanislawski, Licensed Land Surveyor  
Minnesota License No. 48988

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Max L. Stanislawski.

Signature \_\_\_\_\_ Printed Name, Notary  
Notary Public \_\_\_\_\_ County, Minnesota  
My Commission Expires \_\_\_\_\_

### CITY COUNCIL, CITY OF FRIDLEY, MINNESOTA

This plat of UNIVERSITY REDEVELOPMENT SECOND ADDITION was approved and accepted by the City Council of the City of Fridley, Minnesota at a regular meeting thereof held this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and said plat is in compliance with the provisions of Minnesota Statutes, Section 505.03, Subd. 2.

City Council, City of Fridley, Minnesota

By: \_\_\_\_\_ Mayor By: \_\_\_\_\_ Clerk

### COUNTY SURVEYOR

I hereby certify that in accordance with Minnesota Statutes, Section 505.021, Subd. 11, this plat has been reviewed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

David M. Ziegmeier, Anoka County Surveyor

### COUNTY AUDITOR/TREASURER

Pursuant to Minnesota Statutes, Section 505.021, Subd. 9, taxes payable in the year 20\_\_\_\_ on the land hereinbefore described have been paid. Also, pursuant to Minnesota Statutes, Section 272.12, there are no delinquent taxes and transfer entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_ Deputy  
Property Tax Administrator

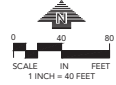
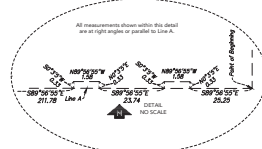
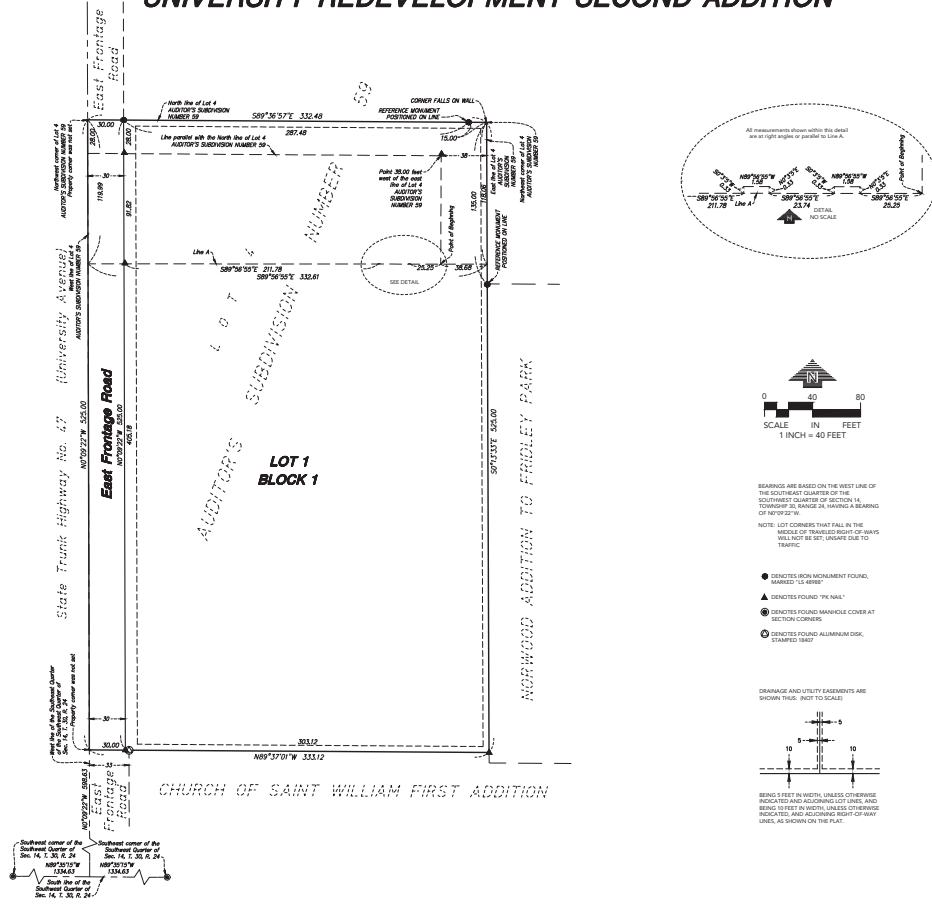
### COUNTY RECORDER/REGISTRAR OF TITLES COUNTY OF ANOKA, STATE OF MINNESOTA

I hereby certify that this plat of UNIVERSITY REDEVELOPMENT SECOND ADDITION was filed in the office of the County Recorder/Registrar of Titles for public record on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M. and was duly recorded as Document Number \_\_\_\_\_.

By: \_\_\_\_\_ Deputy  
County Recorder/Registrar of Titles

# UNIVERSITY REDEVELOPMENT SECOND ADDITION

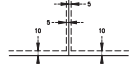
City of Fridley  
County of Anoka  
Sec. 14, T. 30, R. 24



BEARINGS ARE BASED ON THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 30, RANGE 24, BEARING A BEARING OF N89°57'10\"/>

- NOTE: LOT CORNERS THAT FALL IN THE MIDDLE OF TRAVELED RIGHT-OF-WAYS WILL NOT BE SET, UNLESS DUE TO TRAFFIC
- DENOTES IRON MONUMENT FOUND, MARKED "I.M.F."
  - ▲ DENOTES FOUND "PK NAIL"
  - ⊙ DENOTES FOUND MANHOLE COVER AT SECTION CORNER
  - DENOTES FOUND ALUMINUM DISK, STAMPED 1987

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN (SCALE: NOT TO SCALE)



BEING 5 FEET IN WIDTH, UNLESS OTHERWISE INDICATED AND ACCORDING LOT LINES, AND BEING 5 FEET IN WIDTH, UNLESS OTHERWISE INDICATED, AND ACCORDING RIGHT-OF-WAY LINES, AS SHOWN ON THE PLAN.



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council

**Submitted By:** Joe Starks, Finance Director/City Treasurer

## Title

Resolution No. 2023-77, Acknowledging the Number of Vetoes Submitted Regarding the Innsbruck North Housing Improvement Area

## Background

In March, the Innsbruck North Townhomes Association submitted an application for a Housing Improvement Area (HIA) pursuant to Minnesota Statutes Sections 428A.11-428A.21 (Housing Improvement Act). In April, the Fridley City Council conducted a public hearing for Ordinance No. 1407, Establishing Innsbruck North Housing Improvement Area and then Council approved Ordinance No. 1407 and Resolution No. 2023-49, Approving a Housing Improvement Fee for Innsbruck North Housing Improvement Area.

Pursuant to Minnesota Statutes 428A.18 subd. 1 the effective date of any ordinance or resolution allowed by the Housing Improvement Act is 45 days after adoption. The 45-day period is known as the veto period and the veto deadline was June 22, 2023. Pursuant to Minnesota Statutes 428A.18 subd. 2, if 45% of more of housing units in the HIA file an objection (veto) to the ordinance or resolution during this period, the ordinance or resolution does not become effective. By June 22, 2023, the City received vetoes from more than 45% of the housing units in the HIA, thereby not making the ordinance or resolution effective.

## Financial Impact

There is no financial impact to the City as there is no required further City involvement related to the submitted application for financing the Innsbruck North Housing Improvement Area.

## Recommendation

Staff recommend the City Council approve Resolution No. 2023-77.

## Focus on Fridley Strategic Alignment

<input checked="" type="checkbox"/> Vibrant Neighborhoods & Places	<input type="checkbox"/> Community Identity & Relationship Building
<input checked="" type="checkbox"/> Financial Stability & Commercial Prosperity	<input type="checkbox"/> Public Safety & Environmental Stewardship
<input checked="" type="checkbox"/> Organizational Excellence	

## Attachments and Other Resources

- Resolution No. 2023-77

## Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

**Resolution No. 2023-77**

**Acknowledging the Number of Vetoes Submitted Regarding the Innsbruck North Housing Improvement Area**

**Whereas**, on March 9, 2023, the Innsbruck North Townhomes Association submitted an application for a Housing Improvement Area (HIA) pursuant to Minnesota Statutes (M.S.), Sections 428A.11 - 428A.21 (Housing Improvement Act); and

**Whereas**, the Housing Improvement Act provides cities with a means of assisting common interest communities with financing improvements to common areas; and

**Whereas**, on April 24, 2023, the Fridley City Council (Council) conducted a public hearing for Ordinance No. 1407, Establishing Innsbruck North Housing Improvement Area; and

**Whereas**, on May 8, 2023, the Council approved Ordinance No. 1407 and Resolution No. 2023-49, Approving a Housing Improvement Fee for Innsbruck North Housing Improvement Area; and

**Whereas**, pursuant to M.S. 428A.18 subd. 1 the effective date of any ordinance or resolution allowed by the Housing Improvement Act is 45 days after adoption; and

**Whereas**, pursuant to M.S. 428A.18 subd. 2 if 45% or more of housing units in the HIA file an objection (veto) to the ordinance or resolution adopted by the City within 45 after adoption, the ordinance or resolution does not become effective; and

**Whereas**, the veto deadline was June 22, 2023; and

**Whereas**, by June 22, 2023 the City received vetoes from more than 45% of property owners of housing units in the HIA.

**Now, therefore be it resolved**, that the City Council of the City of Fridley hereby acknowledges the number of vetoes submitted pursuant to the Housing Improvement Area for the Innsbruck North Townhomes Association Housing Improvement Area exceeds the veto threshold.

**Passed by the City Council of the City of Fridley, Minnesota this 10<sup>th</sup> day of July, 2023.**

Attest:

\_\_\_\_\_  
Scott J. Lund – Mayor

\_\_\_\_\_  
Melissa Moore - City Clerk



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council

**Submitted By:** James Kosluchar, Public Works Director  
Brandon Brodhag, Assistant City Engineer

## Title

Resolution No. 2023-78, Initiate Street Rehabilitation Project No. ST2024-01

## Background

The attached resolution directs staff to prepare a feasibility report and initiate preliminary design and plan preparation for the proposed 2024 Street Rehabilitation Project No. ST2024-01. The feasibility report will address the scope of the work for Buchanan Street, Norton Avenue, Lucia Lane, and Channel Road. The total length of the proposed project is 1.15 miles.

Please refer to the attached ST2024-01 project map (Exhibit A) for location of the project area and streets to be included in 2024 Street Rehabilitation Project.

Selected streets and underground utilities in the area were originally constructed from the late 1960s through the late 1970s. Routine sealcoating has also been performed on the streets since their initial construction, with all streets receiving their latest sealcoat in 2016 or 2017. The segments were selected based upon visual pavement breaking up areas noted by staff, excessive maintenance needs, as well as the Pavement Condition Rating which indicates pavement structural integrity and ride quality on a scale of 1 (worst) to 10 (best).

Regular rehabilitation of the pavement under a planned program with proper timing allows us to minimize costs of maintenance throughout a roadway segment's life cycle. Preparation of the feasibility report will allow staff to determine what construction is needed and can take place within the Capital Improvement Program (CIP) budget. The feasibility report will provide a recommendation to the City Council on construction that is recommended to take place in 2024.

A presentation will be uploaded to the project website and notifications will be mailed out to residents with a link to view the presentation. Staff will initiate project outreach highlighting project overview, construction impacts, anticipated schedule, draft budget, and estimated special assessments. At this time, residents and project stakeholders will have the opportunity to contact staff with any questions or concerns as well as request an in-person open house meeting to discuss the project. City staff will evaluate the need for an in-person open house based upon feedback provided by project residents and stakeholders. Resident concerns communicated to staff will be considered and addressed in the feasibility report.

## Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

**Financial Impact**

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Funding for this project is derived from several sources including Municipal State Aid street funding, special assessments, and Utility CIP funds (water, sanitary sewer, and storm sewer).

**Recommendation**

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Staff recommends the approval of Resolution No. 2023-78.

**Focus on Fridley Strategic Alignment**

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- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Vibrant Neighborhoods & Places   | <input type="checkbox"/> Community Identity & Relationship Building |
| <input type="checkbox"/> Financial Stability & Commercial Prosperity | <input type="checkbox"/> Public Safety & Environmental Stewardship  |
| <input type="checkbox"/> Organizational Excellence                   |   |

**Attachments and Other Resources**

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- Resolution No. 2023-78
- Exhibit A: Project Map

**Vision Statement**

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

**Resolution No. 2023-78**

**Initiating 2024 Street Rehabilitation Project No. ST2024-01**

**Whereas,** the City of Fridley staff regularly monitors the condition of streets and maintains them in good condition; and

**Whereas,** the City of Fridley staff has developed a long-range pavement management plan to rehabilitate select street segments by neighborhoods identified in the plan; and

**Whereas,** the City of Fridley thereby maintains the condition of its streets in the most cost-efficient manner through this methodology, avoiding failing street conditions and reducing excessive maintenance costs; and

**Whereas,** the City of Fridley funds these rehabilitation projects through its street reserve fund, with special assessments in accordance with its policies as one source of funding for said projects

**Now, therefore be it resolved,** by the City Council of the City of Fridley as follows:

1. That it appears in the interests of the City and of the property owners affected that there be constructed certain improvements to-wit:

Street and utility improvements, pavement reclamation, bituminous paving, concrete curb and gutter, drainage, water main, and utility repairs including the street segments as follows:

- Buchanan Street from City Limits to 53<sup>rd</sup> Avenue
- Norton Avenue from Central Avenue to 1000' West
- Lucia Lane from Mississippi Street to 68<sup>th</sup> Avenue
- Channel Road from Mississippi Street to 68<sup>th</sup> Avenue

2. That the work involved in said improvements listed above shall hereafter be designated as:

**2024 STREET REHABILITATION PROJECT NO. ST2024-01**

3. That the Public Works Director, James P. Kosluchar, City Hall, Fridley, MN, is hereby authorized and directed to draw the preliminary plans and specifications and to tabulate the results of his estimates of the costs of completion and all fees and expenses incurred (or to be incurred) in a preliminary report of his finding stating therein whether said improvements are feasible and whether they can best be made as proposed, or in connection with some other improvements (and the estimated costs as recommended), including also a description of the lands or area as may receive benefits there from and as may be proposed to be assessed.
4. That said preliminary report of the Public Works Director shall be furnished to the City Council.

**Passed and adopted by the City Council of the City of Fridley this 10<sup>th</sup> day of July, 2023.**

\_\_\_\_\_  
Scott J. Lund – Mayor

Attest:

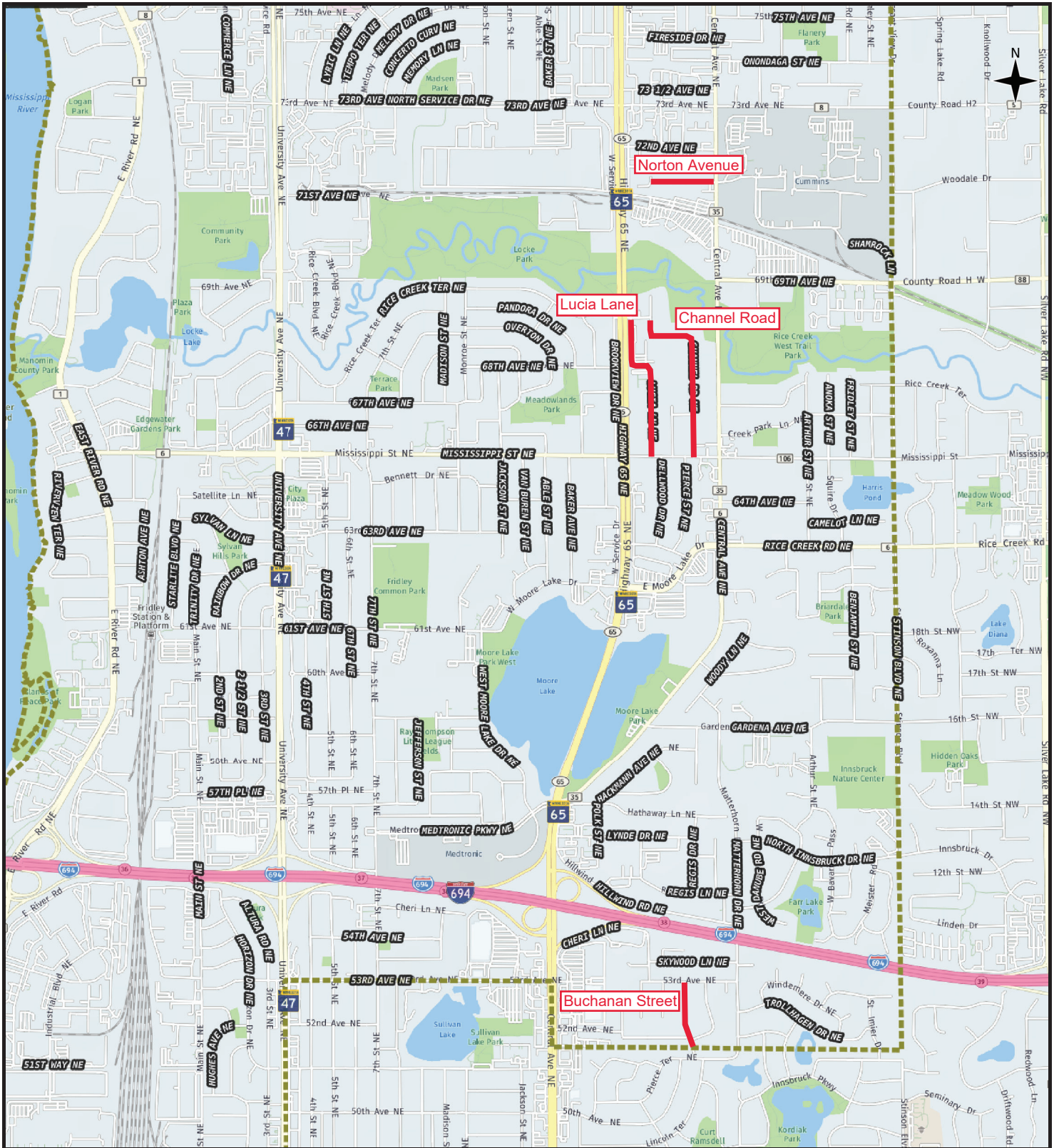
\_\_\_\_\_  
Melissa Moore – City Clerk





# 2024 Street Rehabilitation Project No. ST2024-0

Item 7.



Date Created: June 30, 2023

Disclaimer: The provider makes no representation or warranties with respect to the reuse of this data.



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council

**Submitted By:** James Kosluchar, Public Works Director  
Brandon Brodhag, Assistant City Engineer

**Title**

Resolution No. 2023-79, Authorizing Execution of Grant Agreement with Minnesota Department of Transportation for 53<sup>rd</sup> Avenue Trail and Walk Improvements Project No. ST2023-21

**Background**

The City’s Capital Investment Plan includes rehabilitation on 53<sup>rd</sup> Avenue from Main Street (County Road 102) to Trunk Highway 65 (Central Avenue). The total project length is approximately 0.95 miles. The area is majority residential properties with a mix of commercial and high-density housing. On 53<sup>rd</sup> Avenue from University Avenue (Trunk Highway 47) to Central Avenue (Trunk Highway 65), the roadway is shared between the cities of Fridley and Columbia Heights. This project was submitted for eligible Minnesota Department of Transportation (MnDOT) Local Road Improvement Program (LRIP) funding for the trail, sidewalk, and resurfacing improvements in 2021 and received \$1,250,000 in State funding.

Staff have worked through the approval process with State Aid and had the bidding taking place in June for this project. On June 26, 2023, the City Council approved the awarding of the project to Park Construction Company for the contract amount of \$1,776,297.26. The City received the attached Local Road Improvement Program (LRIP) funding letter from MnDOT that was based off the final engineer’s estimate. The City of Fridley will receive \$853,291.87 of the LRIP grant funding and the remaining will go to the City of Columbia Heights. Staff has sent to MnDOT the bid abstract and project cost participation breakdown for MnDOT’s review to receive the final amounts in an encumbrance letter. Attached is the LRIP Grant Agreement template that will be finalized and executed prior to construction beginning.

**Financial Impact**

The LRIP grant will reimburse \$1,250,000 of the construction costs for the project. The remaining costs of the project will be funded by Minnesota State Aid, and the local funds of the cities of Fridley and Columbia Heights.

**Recommendation**

Staff recommends the approval of Resolution No. 2023-79.

**Focus on Fridley Strategic Alignment**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Vibrant Neighborhoods & Places   | <input type="checkbox"/> Community Identity & Relationship Building |
| <input type="checkbox"/> Financial Stability & Commercial Prosperity | <input type="checkbox"/> Public Safety & Environmental Stewardship  |
| <input type="checkbox"/> Organizational Excellence                   |   |

**Vision Statement**

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

## **Attachments and Other Resources**

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- Resolution No. 2023-79
- Local Road Improvement Program Funding Letter
- Local Road Improvement Program Grant Agreement Template

## **Vision Statement**

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

**Resolution No. 2023-79**

**Authorizing Execution of Grant Agreement with Minnesota Department of Transportation for 53<sup>rd</sup> Avenue Trail and Walk Improvements Project No. ST2023-21 Local Road Improvement Program Grant Agreement Grant Terms and Condition SAP 127-319-008 & SAP 113-118-005**

**Whereas**, Minnesota Statute 174.52 creates a local road improvement fund to allow for the Minnesota Department of Transportation to grant monies to state, county and local government for the purpose of road improvements.

**Whereas**, the City of Fridley has applied to the Commissioner of Transportation for a grant from the local road improvement fund; and

**Whereas**, the Commissioner of Transportation has given notice that funding for this project is available; and

**Whereas**, the amount of the grant has been determined to be \$853,291.87 by reason of the lowest responsible bid.

**Now, therefore be it resolved**, that the City Council of the City of Fridley does hereby agree to the terms and conditions of the grant consistent with Minnesota Statute 174.52, and will pay any additional amount by which the cost exceeds the estimate, and will return to the Local Road Improvement Fund any amount appropriated for the project but not required.

**Be it further resolved**, that the city officers are authorized to execute a grant agreement and any amendments thereto with the Commissioner of Transportation concerning the above-referenced grant.

**Passed and adopted by the City Council of the City of Fridley this 10<sup>th</sup> day of July, 2023.**

\_\_\_\_\_  
Scott J. Lund – Mayor

Attest:

\_\_\_\_\_  
Melissa Moore – City Clerk

June 30, 2023

James Kosluchar  
 Fridley City Engineer  
 7071 University Ave. N.E  
 Fridley, MN 55432

In reference to:  
 Local Road Improvement Program (LRIP) Grant  
 State Aid Accounting System Account No. 331 (2020 LRIP Bond Funds)  
 MnDOT Grant Agreement No. 1054205  
 SAP 127-319-008, Tied to SAP 113-118-005

Dear Mr. Kosluchar,

You are now authorized to advance the status of this project. Your total LRIP funding is capped at \$853,291.87 for the project. This project is eligible for costs associated with rehabilitation of 53rd Avenue, new sidewalk, and trail in the City of Fridley. Since the remaining LRIP grant award is shared with the City of Columbia Heights (SAP 113-118-005), a separate funding letter will be issued, and each city will need to enter into a separate grant agreement with MnDOT.

This project funding requires the execution of a MnDOT grant agreement before the LRIP funds can be authorized. After the bid opening, please submit the bid abstract and an excel format low bid that identifies participating and non-participating items electronically to Mohamed Farah ([mohamed.m.farah@state.mn.us](mailto:mohamed.m.farah@state.mn.us)) with copies to me ([rashmi.brewer@state.mn.us](mailto:rashmi.brewer@state.mn.us)) and Marc Briebe ([marc.briebe@state.mn.us](mailto:marc.briebe@state.mn.us)). The final funding determination for the grant agreement will be based on the low bid award and will be provided to the city by letter from Mohamed Farah with State Aid Finance. The city should use the numbers from the encumbrance letter in assembling the LRIP grant agreement.

The MnDOT grant agreement must be fully executed before the grant can be authorized, and **the grant agreement should be fully executed before work begins on the project.** Please contact me if this will be an issue.

The MnDOT agreement number is 1054205 and should be included in the upper right corner of the LRIP grant agreement. Please submit a draft agreement to Olga Kruglova ([olga.kruglova@state.mn.us](mailto:olga.kruglova@state.mn.us)) from my office for review prior to obtaining local agency signatures. Then submit a pdf of the grant agreement with local agency signatures to Ms. Kruglova for approval and final execution. The template for the 2020 LRIP Bond grant agreement and resolution can be found on the state aid website. During construction, you will need to work with the District State Aid Engineer on submitting and approving documentation and state aid pay requests for this work.

Project Estimate

<b>2020 LRIP Funds SAP 127-319-008 (SAAS Acct 331) - CONSTRUCTION</b>	\$	853,291.87
MSAS Funds for SAP 127-319-008	\$	148,448.08
Local City of Fridley Funds SAP 127-319-008	\$	149,793.02
2020 LRIP Funds for SAP 113-118-005 (SAAS Acct 331) - CONSTRUCTION	\$	396,708.13
MSAS Funds for SAP 113-118-005	\$	395,600.67
Local City of Columbia Heights Funds SAP 113-118-005	\$	107,396.00

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Total	\$	2,051,237.77
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Sincerely,

**Rashmi  
Brewer**

 Digitally signed by Rashmi Brewer  
Date: 2023.06.30 00:55:50 -05'00'

Rashmi Brewer  
State Aid State Programs Engineer

copy: Sulmaan Khan, Columbia Heights City Engineer  
Dan Erickson, Metro District State Aid Engineer  
Luke Lortie, Metro District State Aid Assistant  
Marc Briese, State Aid Programs Manager  
Mohamed Farah, State Aid Finance  
Olga Kruglova, State Aid Programs

**LOCAL ROAD IMPROVEMENT PROGRAM (LRIP)  
GRANT AGREEMENT**

**This Agreement** between the Minnesota Department of Transportation (“MnDOT”) and the Grantee named below is made pursuant to Minnesota Statutes Section 174.52 and pursuant to Minn. Laws 2020, 5th Special Session, Chapter 3- H.F. 1. The provisions in that section and the Exhibits attached hereto and incorporated by reference constitute this Agreement and the persons signing below agree to fully comply with all of the requirements of this Agreement. This Agreement will be effective on the date State obtains all required signatures under Minnesota Statutes §16C.05, subdivision 2.

1. Public Entity (Grantee) name, address and contact person:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contact: \_\_\_\_\_

2. Project(s):

Name of Project & Project Number (See Exhibit C for location)	Amount of LRIP Funds	Amount of Required Matching Funds	Completion Date

3. Total Amount of LRIP Grant for all projects under this Agreement: \$ \_\_\_\_\_

4. The following Exhibits for each project are attached and incorporated by reference as part of this Agreement:

- Exhibit A Completed Sources and Uses of Funds Schedule
- Exhibit B Project Schedule
- Exhibit C Bond Financed Property Certification
- Exhibit D Grant Application
- Exhibit E Grantee Resolution Approving Grant Agreement
- Exhibit F General Terms and Conditions

MnDOT Agreement No. \_\_\_\_\_  
SP or SAP No. \_\_\_\_\_

5. Additional requirements, if any:
  
6. Any modification of this Agreement must be in writing and signed by both parties.

*(The remaining portion of this page was intentionally left blank.)*



MnDOT Agreement No. \_\_\_\_\_  
SP or SAP No. \_\_\_\_\_

**PUBLIC ENTITY (GRANTEE)**

**DEPARTMENT OF TRANSPORTATION**  
*Approval and Certifying Encumbrance*

By: \_\_\_\_\_

By: \_\_\_\_\_  
State Aid Programs Manager

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Office of Contract Management**

By: \_\_\_\_\_

By: \_\_\_\_\_  
Contract Administrator

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
**SOURCES AND USES OF FUNDS SCHEDULE**

<b>SOURCES OF FUNDS</b>		<b>USES OF FUNDS</b>	
<b>Entity Supplying Funds</b>	<b>Amount</b>	<b>Expenses</b>	<b>Amount</b>
<b>State Funds:</b>		<b>Items Paid for with LRIP Grant Funds:</b>	
LRIP Grant	\$ _____		\$ _____
Other:			\$ _____
	\$ _____		\$ _____
	\$ _____		\$ _____
	\$ _____		\$ _____
Subtotal	\$ _____	Subtotal	\$ _____
<b>Public Entity Funds:</b>		<b>Items paid for with Non-LRIP Grant Funds:</b>	
Matching Funds	\$ _____		\$ _____
Other:			\$ _____
	\$ _____		\$ _____
	\$ _____		\$ _____
	\$ _____		\$ _____
Subtotal	\$ _____	Subtotal	\$ _____
<b>TOTAL FUNDS</b>	\$ _____	<b>TOTAL PROJECT COSTS</b>	\$ _____

MnDOT Agreement No. \_\_\_\_\_  
SP or SAP No. \_\_\_\_\_

**EXHIBIT B**

**PROJECT SCHEDULE**

(Provide for enough time in the schedule to final the project through the MnDOT state aid pay request process.)

Award Date [INSERT DATE]  
Construction Start Date [INSERT DATE]  
Construction Substantial Complete Date [INSERT DATE]  
Contract Final Completion Date [INSERT DATE]

**EXHIBIT C**

**BOND FINANCED PROPERTY CERTIFICATION**

State of Minnesota  
General Obligation Bond Financed Property

The undersigned states that it has a fee simple, leasehold and/or easement interest in the real property located in the County(ies) of \_\_\_\_\_, State of Minnesota that is generally described or illustrated graphically in **Attachment 1** attached hereto and all improvements thereon (the "Restricted Property") and acknowledges that the Restricted Property is or may become State bond-financed property. To the extent that the Restricted Property is or becomes State bond-financed property, the undersigned acknowledges that:

- A. The Restricted Property is State bond-financed property under Minn. Stat. Sec. 16A.695, is subject to the requirements imposed by that statute, and cannot be sold, mortgaged, encumbered or otherwise disposed of without the approval of the Commissioner of Minnesota Management and Budget; and
- B. The Restricted Property is subject to the provisions of the Local Road Improvement Program Grant Agreement between the Minnesota Department of Transportation and the undersigned dated \_\_\_\_\_, 20\_\_; and
- C. The Restricted Property shall continue to be deemed State bond-financed property for 37.5 years or until the Restricted Property is sold with the written approval of the Commissioner of Minnesota Management and Budget.

Date: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
*[name of Public Entity grantee]*, a political subdivision of the State of Minnesota

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

MnDOT Agreement No. \_\_\_\_\_  
SP or SAP No. \_\_\_\_\_

**Attachment 1 to Exhibit C**

**GENERAL DESCRIPTION OF RESTRICTED PROPERTY**

(Insert a narrative or graphic description of the Restricted Property for the project. It need not be a legal description if a legal description is unavailable.)

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**EXHIBIT D**

**GRANT APPLICATION**

Attach the grant application for the project

MnDOT Agreement No. \_\_\_\_\_  
SP or SAP No. \_\_\_\_\_

**EXHIBIT E**

**GRANTEE RESOLUTION APPROVING GRANT AGREEMENT**

**EXHIBIT F****GENERAL TERMS AND CONDITIONS FOR  
LOCAL ROAD IMPROVEMENT PROGRAM (LRIP) GRANTS****Article I  
DEFINITIONS**

Section 1.01 **Defined Terms.** The following terms shall have the meanings set out respectively after each such term (the meanings to be equally applicable to both the singular and plural forms of the terms defined) unless the context specifically indicates otherwise:

“Advance(s)” - means an advance made or to be made by MnDOT to the Public Entity and disbursed in accordance with the provisions contained in Article VI hereof.

“Agreement” - means the Local Road Improvement Program Grant Agreement between the Public Entity and the Minnesota Department of Transportation to which this Exhibit is attached.

“Certification” - means the certification, in the form attached as **Exhibit C**, in which the Public Entity acknowledges that its interest in the Real Property is bond financed property within the meaning of Minn. Stat. Sec. 16A.695 and is subject to certain restrictions imposed thereby.

“Code” - means the Internal Revenue Code of 1986, as amended, and all treasury regulations, revenue procedures and revenue rulings issued pursuant thereto.

“Commissioner” - means the Commissioner of Minnesota Management & Budget.

“Commissioner’s Order” - means the “Fourth Order Amending Order of the Commissioner of Minnesota Management & Budget Relating to Use and Sale of State Bond Financed Property” dated July 30, 2012, as it may be amended or supplemented.

“Completion Date” - means the projected date for completion of the Project as indicated in the Agreement.

“Construction Contract Documents” - means the document or documents, in form and substance acceptable to MnDOT, including but not limited to any construction plans and specifications and any exhibits, amendments, change orders, modifications thereof or supplements thereto, which collectively form the contract between the Public Entity and the Contractor(s) for the completion of the Construction Items on or before the Completion Date for either a fixed price or a guaranteed maximum price.

“Construction Items” - means the work to be performed under the Construction Contract Documents.

“Contractor” - means any person engaged to work on or to furnish materials and supplies for the Construction Items including, if applicable, a general contractor.

“Draw Requisition” - means a draw requisition that the Public Entity, or its designee, submits to MnDOT when an Advance is requested, as referred to in Section 4.02.



“G.O. Bonds” - means the state general obligation bonds issued under the authority granted in Article XI, Sec. 5(a) of the Minnesota Constitution, the proceeds of which are used to fund the LRIP Grant, and any bonds issued to refund or replace such bonds.

“Grant Application” - means the grant application that the Public Entity submitted to MnDOT which is attached as **Exhibit D**.

“LRIP Grant” - means a grant from MnDOT to the Public Entity under the LRIP in the amount specified in the Agreement, as such amount may be modified under the provisions hereof.

“LRIP” - means the Local Road Improvement Program pursuant to Minn. Stat. Sec. 174.52 and rules relating thereto.

“MnDOT” - means the Minnesota Department of Transportation.

“Outstanding Balance of the LRIP Grant” - means the portion of the LRIP Grant that has been disbursed to the Public Entity minus any amounts returned to the Commissioner.

“Project” - means the Project identified in the Agreement to be totally or partially funded with a LRIP grant.

“Public Entity” - means the grantee of the LRIP Grant and identified as the Public Entity in the Agreement.

“Real Property” - means the real property identified in the Agreement on which the Project is located.

## **Article II GRANT**

Section 2.01 **Grant of Monies.** MnDOT shall make the LRIP Grant to the Public Entity, and disburse the proceeds in accordance with the terms and conditions herein.

Section 2.02 **Public Ownership,** The Public Entity acknowledges and agrees that the LRIP Grant is being funded with the proceeds of G.O. Bonds, and as a result all of the Real Property must be owned by one or more public entities. The Public Entity represents and warrants to MnDOT that it has one or more of the following ownership interests in the Real Property: (i) fee simple ownership, (ii) an easement that is for a term that extends beyond the date that is 37.5 years from the Agreement effective date, or such shorter term as authorized by statute, and which cannot be modified or terminated early without the prior written consent of MnDOT and the Commissioner; and/or (iii) a prescriptive easement for a term that extends beyond the date that is 37.5 years from the Agreement effective date.

Section 2.03 **Use of Grant Proceeds.** The Public Entity shall use the LRIP Grant solely to reimburse itself for expenditures it has already made, or will make, to pay the costs of one of the following applicable activities: (i) preliminary, final construction and engineering and administration (ii) constructing or reconstructing city streets, county highways, or town roads with statewide or regional significance that have not been fully funded through other state, federal, or local funding sources; or (iii) capital improvement projects on county state-aid highways that are intended primarily to reduce traffic crashes, deaths, injuries, and property damage. The Public Entity shall not use the LRIP Grant for any other purpose, including but not limited to, any work to be done on a state trunk highway or within a trunk highway easement.

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**Section 2.04 Operation of the Real Property.** The Real Property must be used by the Public Entity in conjunction with or for the operation of a county highway, county state-aid highway, town road, or city street and for other uses customarily associated therewith, such as trails and utility corridors, and for no other purposes or uses. The Public Entity shall have no intention on the effective date of the Agreement to use the Real Property as a trunk highway or any part of a trunk highway. The Public Entity must annually determine that the Real Property is being used for the purposes specified in this Section and, upon written request by either MnDOT or the Commissioner, shall supply a notarized statement to that effect.

**Section 2.05 Sale or Lease of Real Property.** The Public Entity shall not (i) sell or transfer any part of its ownership interest in the Real Property, or (ii) lease out or enter into any contract that would allow another entity to use or operate the Real Property without the written consent of both MnDOT and the Commissioner. The sale or transfer of any part of the Public Entity's ownership interest in the Real Property, or any lease or contract that would allow another entity to use or operate the Real Property, must comply with the requirements imposed by Minn. Stat. Sec. 16A.695 and the Commissioner's Order regarding such sale or lease.

**Section 2.06 Public Entity's Representations and Warranties.** The Public Entity represents and warrants to MnDOT that:

- A. It has legal authority to execute, deliver and perform the Agreement and all documents referred to therein, and it has taken all actions necessary to its execution and delivery of such documents.
- B. It has the ability and a plan to fund the operation of the Real Property for the purposes specified in Section 2.04, and will include in its annual budget all funds necessary for the operation of the Real Property for such purposes.
- C. The Agreement and all other documents referred to therein are the legal, valid and binding obligations of the Public Entity enforceable against the Public Entity in accordance with their respective terms.
- D. It will comply with all of the provisions of Minn. Stat. Sec. 16A.695, the Commissioner's Order and the LRIP. It has legal authority to use the G.O. Grant for the purpose or purposes described in this Agreement.
- E. All of the information it has submitted or will submit to MnDOT or the Commissioner relating to the LRIP Grant or the disbursement of the LRIP Grant is and will be true and correct.
- F. It is not in violation of any provisions of its charter or of the laws of the State of Minnesota, and there are no actions or proceedings pending, or to its knowledge threatened, before any judicial body or governmental authority against or affecting it relating to the Real Property, or its ownership interest therein, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority which would impair its ability to enter into the Agreement or any document referred to herein, or to perform any of the acts required of it in such documents.
- G. Neither the execution and delivery of the Agreement or any document referred to herein nor compliance with any of the provisions or requirements of any of such documents is prevented by, is a breach of, or will result in a breach of, any provision of any agreement or document to which it is now a party or by which it is bound.

- H. The contemplated use of the Real Property will not violate any applicable zoning or use statute, ordinance, building code, rule or regulation, or any covenant or agreement of record relating thereto.
- I. The Project will be completed and the Real Property will be operated in full compliance with all applicable laws, rules, ordinances, and regulations of any federal, state, or local political subdivision having jurisdiction over the Project and the Real Property.
- J. All applicable licenses, permits and bonds required for the performance and completion of the Project and for the operation of the Real Property as specified in Section 2.04 have been, or will be, obtained.
- K. It reasonably expects to possess its ownership interest in the Real Property described in Section 2.02 for at least 37.5 years, and it does not expect to sell such ownership interest.
- L. It does not expect to lease out or enter into any contract that would allow another entity to use or operate the Real Property.
- M. It will supply whatever funds are needed in addition to the LRIP Grant to complete and fully pay for the Project.
- N. The Construction Items will be completed substantially in accordance with the Construction Contract Documents by the Completion Date and all such items will be situated entirely on the Real Property.
- O. It will require the Contractor or Contractors to comply with all rules, regulations, ordinances, and laws bearing on its performance under the Construction Contract Documents.
- P. It shall furnish such satisfactory evidence regarding the representations and warranties described herein as may be required and requested by either MnDOT or the Commissioner.
- Q. It has made no material false statement or misstatement of fact in connection with its receipt of the G.O. Grant, and all the information it has submitted or will submit to the State Entity or Commissioner of MMB relating to the G.O. Grant or the disbursement of any of the G.O. Grant is and will be true and correct.

**Section 2.07 Event(s) of Default.** The following events shall, unless waived in writing by MnDOT and the Commissioner, constitute an Event of Default under the Agreement upon either MnDOT or the Commissioner giving the Public Entity 30 days' written notice of such event and the Public Entity's failure to cure such event during such 30-day time period for those Events of Default that can be cured within 30 days or within whatever time period is needed to cure those Events of Default that cannot be cured within 30 days as long as the Public Entity is using its best efforts to cure and is making reasonable progress in curing such Events of Default; however, in no event shall the time period to cure any Event of Default exceed six (6) months unless otherwise consented to, in writing, by MnDOT and the Commissioner.

- A. If any representation, covenant, or warranty made by the Public Entity herein or in any other document furnished pursuant to the Agreement, or to induce MnDOT to disburse the LRIP Grant, shall prove to have been untrue or incorrect in any material respect or materially misleading as of the time such representation, covenant, or warranty was made.

- B. If the Public Entity fails to fully comply with any provision, covenant, or warranty contained herein.
- C. If the Public Entity fails to fully comply with any provision, covenant or warranty contained in Minn. Stat. Sec. 16A.695, the Commissioner's Order, or Minn. Stat. Sec. 174.52 and all rules related thereto.
- D. If the Public Entity fails to use the proceeds of the LRIP Grant for the purposes set forth in Section 2.03, the Grant Application, and in accordance with the LRIP.
- E. If the Public Entity fails to operate the Real Property for the purposes specified in Section 2.04.
- F. If the Public Entity fails to complete the Project by the Completion Date.
- G. If the Public Entity sells or transfers any portion of its ownership interest in the Real Property without first obtaining the written consent of both MnDOT and the Commissioner.
- H. If the Public Entity fails to provide any additional funds needed to fully pay for the Project.
- I. If the Public Entity fails to supply the funds needed to operate the Real Property in the manner specified in Section 2.04.

Notwithstanding the foregoing, any of the above events that cannot be cured shall, unless waived in writing by MnDOT and the Commissioner, constitute an Event of Default under the Agreement immediately upon either MnDOT or the Commissioner giving the Public Entity written notice of such event.

Section 2.08 **Remedies.** Upon the occurrence of an Event of Default and at any time thereafter until such Event of Default is cured to the satisfaction of MnDOT, MnDOT or the Commissioner may enforce any or all of the following remedies.

- A. MnDOT may refrain from disbursing the LRIP Grant; provided, however, MnDOT may make such disbursements after the occurrence of an Event of Default without waiving its rights and remedies hereunder.
- B. If the Event of Default involves a sale of the Public Entity's interest in the Real Property in violation of Minn. Stat. Sec. 16A.695 or the Commissioner's Order, the Commissioner, as a third party beneficiary of the Agreement, may require that the Public Entity pay the amounts that would have been paid if there had been compliance with such provisions. For other Events of Default, the Commissioner may require that the Outstanding Balance of the LRIP Grant be returned to it.
- C. Either MnDOT or the Commissioner, as a third party beneficiary of the Agreement, may enforce any additional remedies it may have in law or equity.

The rights and remedies specified herein are cumulative and not exclusive of any rights or remedies that MnDOT or the Commissioner would otherwise possess.

If the Public Entity does not repay the amounts required to be paid under this Section or under any other provision contained herein within 30 days of demand by the Commissioner, or any amount ordered by a court of competent jurisdiction within 30 days of entry of judgment against the Public Entity and in favor

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of MnDOT and/or the Commissioner, then such amount may, unless precluded by law, be offset against any aids or other monies that the Public Entity is entitled to receive from the State of Minnesota.

**Section 2.09 Notification of Event of Default.** The Public Entity shall furnish to MnDOT and the Commissioner, as soon as possible and in any event within seven (7) days after it has obtained knowledge of the occurrence of each Event of Default, a statement setting forth details of each Event of Default and the action which the Public Entity proposes to take with respect thereto.

**Section 2.10 Effect of Event of Default.** The Agreement shall survive Events of Default and remain in full force and effect, even upon full disbursement of the LRIP Grant, and shall only be terminated under the circumstances set forth in Section 2.11.

**Section 2.11 Termination of Agreement and Modification of LRIP Grant.**

A. If the Project is not started within five (5) years after the effective date of the Agreement or the LRIP Grant has not been disbursed within four (4) years after the date the Project was started, MnDOT's obligation to fund the LRIP Grant shall terminate. In such event, (i) if none of the LRIP Grant has been disbursed by such date, MnDOT shall have no obligation to fund the LRIP Grant and the Agreement will terminate, and (ii) if some but not all of the LRIP Grant has been disbursed by such date, MnDOT shall have no further obligation to provide any additional funding for the LRIP Grant and the Agreement shall remain in force but shall be modified to reflect the amount of the LRIP Grant that was actually disbursed and the Public Entity is still obligated to complete the Project by the Completion Date.

B. The Agreement shall terminate upon the Public Entity's sale of its interest in the Real Property and transmittal of the required portion of the proceeds of the sale to the Commissioner in compliance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order, or upon the termination of the Public Entity's ownership interest in the Real Property if such ownership interest is an easement.

**Section 2.12 Excess Funds.** If the full amount of the G.O. Grant and any matching funds referred to in Section 5.13 are not needed to complete the Project, then, unless language in the G.O. Bonding Legislation indicates otherwise, the G.O. Grant shall be reduced by the amount not needed.

**Article III**

**COMPLIANCE WITH MINNESOTA STATUTE, SEC. 16A.695  
 AND THE COMMISSIONER'S ORDER**

**Section 3.01 State Bond Financed Property.** The Public Entity acknowledges that its interest in the Real Property is, or when acquired by it will be, "state bond financed property", as such term is used in Minn. Stat. Sec. 16A.695 and the Commissioner's Order and, therefore, the provisions contained in such statute and order apply, or will apply, to its interest in the Real Property, even if the LRIP Grant will only pay for a portion of the Project.

**Section 3.02 Preservation of Tax Exempt Status.** In order to preserve the tax-exempt status of the G.O. Bonds, the Public Entity agrees as follows:

A. It will not use the Real Property or use or invest the LRIP Grant or any other sums treated as "bond proceeds" under Section 148 of the Code (including "investment proceeds," "invested sinking funds" and "replacement proceeds") in such a manner as to cause the G.O. Bonds to be classified as "arbitrage bonds" under Code Section 148.

- B. It will deposit and hold the LRIP Grant in a segregated non-interest-bearing account until such funds are used for payments for the Project.
- C. It will, upon written request, provide the Commissioner all information required to satisfy the informational requirements set forth in the Code, including Sections 103 and 148, with respect to the G.O. Bonds.
- D. It will, upon the occurrence of any act or omission by the Public Entity that could cause the interest on the G.O. Bonds to no longer be tax exempt and upon direction from the Commissioner, take such actions and furnish such documents as the Commissioner determines to be necessary to ensure that the interest to be paid on the G.O. Bonds is exempt from federal taxation, which such action may include: (i) compliance with proceedings intended to classify the G.O. Bonds as a “qualified bond” within the meaning of Code Section 141(e), or (ii) changing the nature of the use of the Real Property so that none of the net proceeds of the G.O. Bonds will be deemed to be used, directly or indirectly, in an “unrelated trade or business” or for any “private business use” within the meaning of Code Sections 141(b) and 145(a).
- E. It will not otherwise use any of the LRIP Grant or take, permit or cause to be taken, or omit to take, any action that would adversely affect the exemption from federal income taxation of the interest on the G.O. Bonds, and if it should take, permit or cause to be taken, or omit to take, as appropriate, any such action, it shall take all lawful actions necessary to correct such actions or omissions promptly upon obtaining knowledge thereof.

Section 3.03 **Changes to G.O. Compliance Legislation or the Commissioner’s Order.** If Minn. Stat. Sec. 16A.695 or the Commissioner’s Order is amended in a manner that reduces any requirement imposed against the Public Entity, or if the Public Entity’s interest in the Real Property becomes exempted from Minn. Stat. Sec. 16A.695 and the Commissioner’s Order, then upon written request by the Public Entity, MnDOT shall execute an amendment to the Agreement to implement such amendment or exempt the Public Entity’s interest in the Real Property from Minn. Stat. Sec. 16A.695 and the Commissioner’s Order.

#### Article IV DISBURSEMENT OF GRANT PROCEEDS

Section 4.01 **The Advances.** MnDOT agrees, on the terms and subject to the conditions set forth herein, to make Advances of the LRIP Grant to the Public Entity from time to time in an aggregate total amount not to exceed the amount of the LRIP Grant. If the amount of LRIP Grant that MnDOT cumulatively disburses hereunder to the Public Entity is less than the amount of the LRIP Grant delineated in Section 1.01, then MnDOT and the Public Entity shall enter into and execute whatever documents MnDOT may request in order to amend or modify this Agreement to reduce the amount of the LRIP Grant to the amount actually disbursed. Provided, however, in accordance with the provisions contained in Section 2.11, MnDOT’s obligation to make Advances shall terminate as of the dates specified in Section 2.11 even if the entire LRIP Grant has not been disbursed by such dates.

Advances shall only be for expenses that (i) are for those items of a capital nature delineated in Source and Use of Funds that is attached as **Exhibit A**, (ii) accrued no earlier than the effective date of the legislation that appropriated the funds that are used to fund the LRIP Grant, or (iii) have otherwise been consented to, in writing, by the Commissioner.

It is the intent of the parties hereto that the rate of disbursement of the Advances shall not exceed the rate

of completion of the Project or the rate of disbursement of the matching funds required, if any, under Section 5.13. Therefore, the cumulative amount of all Advances disbursed by the State Entity at any point in time shall not exceed the portion of the Project that has been completed and the percentage of the matching funds required, if any, under Section 5.13 that have been disbursed as of such point in time. This requirement is expressed by way of the following two formulas:

Formula #1:

$$\text{Cumulative Advances} \leq (\text{Program Grant}) \times (\text{percentage of matching funds, if any, required under Section 5.13 that have been disbursed})$$

Formula #2:

$$\text{Cumulative Advances} \leq (\text{Program Grant}) \times (\text{percentage of Project completed})$$

Section 4.02 **Draw Requisitions.** Whenever the Public Entity desires a disbursement of a portion of the LRIP Grant the Public Entity shall submit to MnDOT a Draw Requisition duly executed on behalf of the Public Entity or its designee. Each Draw Requisition with respect to construction items shall be limited to amounts equal to: (i) the total value of the classes of the work by percentage of completion as approved by the Public Entity and MnDOT, plus (ii) the value of materials and equipment not incorporated in the Project but delivered and suitably stored on or off the Real Property in a manner acceptable to MnDOT, less (iii) any applicable retainage, and less (iv) all prior Advances.

Notwithstanding anything herein to the contrary, no Advances for materials stored on or off the Real Property will be made by MnDOT unless the Public Entity shall advise MnDOT, in writing, of its intention to so store materials prior to their delivery and MnDOT has not objected thereto.

At the time of submission of each Draw Requisition, other than the final Draw Requisition, the Public Entity shall submit to MnDOT such supporting evidence as may be requested by MnDOT to substantiate all payments which are to be made out of the relevant Draw Requisition or to substantiate all payments then made with respect to the Project.

The final Draw Requisition shall not be submitted before completion of the Project, including any correction of material defects in workmanship or materials (other than the completion of punch list items). At the time of submission of the final Draw Requisition the Public Entity shall submit to MnDOT: (I) such supporting evidence as may be requested by MnDOT to substantiate all payments which are to be made out of the final Draw Requisition or to substantiate all payments then made with respect to the Project, and (ii) satisfactory evidence that all work requiring inspection by municipal or other governmental authorities having jurisdiction has been duly inspected and approved by such authorities and that all requisite certificates and other approvals have been issued.

If on the date an Advance is desired the Public Entity has complied with all requirements of this Agreement and MnDOT approves the relevant Draw Requisition, then MnDOT shall disburse the amount of the requested Advance to the Public Entity.

Section 4.03 **Additional Funds.** If MnDOT shall at any time in good faith determine that the sum of the undisbursed amount of the LRIP Grant plus the amount of all other funds committed to the Project is less than the amount required to pay all costs and expenses of any kind which reasonably may be anticipated in connection with the Project, then MnDOT may send written notice thereof to the Public Entity specifying the amount which must be supplied in order to provide sufficient funds to complete the Project. The Public Entity agrees that it will, within 10 calendar days of receipt of any such notice, supply or have some other entity supply the amount of funds specified in MnDOT's notice.

Section 4.04 **Condition Precedent to Any Advance.** The obligation of MnDOT to make any Advance hereunder (including the initial Advance) shall be subject to the following conditions precedent:

- A. MnDOT shall have received a Draw Requisition for such Advance specifying the amount of funds being requested, which such amount when added to all prior requests for an Advance shall not exceed the amount of the LRIP Grant set forth in Section 1.01.
- B. No Event of Default under this Agreement or event which would constitute an Event of Default but for the requirement that notice be given or that a period of grace or time elapse shall have occurred and be continuing.
- C. No determination shall have been made by MnDOT that the amount of funds committed to the Project is less than the amount required to pay all costs and expenses of any kind that may reasonably be anticipated in connection with the Project, or if such a determination has been made and notice thereof sent to the Public Entity under Section 4.03, then the Public Entity has supplied, or has caused some other entity to supply, the necessary funds in accordance with such section or has provided evidence acceptable to MnDOT that sufficient funds are available.
- D. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the Public Entity has sufficient funds to fully and completely pay for the Project and all other expenses that may occur in conjunction therewith.
- E. The Public Entity has supplied to the State Entity all other items that the State Entity may reasonably require

Section 4.05 **Processing and Disbursement of Advances.** The Public Entity acknowledges and agrees as follows:

- A. Advances are not made prior to completion of work performed on the Project.
- B. All Advances are processed on a reimbursement basis.
- C. The Public Entity must first document expenditures to obtain an Advance.
- D. Reimbursement requests are made on a partial payment basis or when the Project is completed.
- E. All payments are made following the “Delegated Contract Process or State Aid Payment Request” as requested and approved by the appropriate district state aid engineer.

Section 4.06 **Construction Inspections.** The Public Entity shall be responsible for making its own inspections and observations regarding the completion of the Project, and shall determine to its own satisfaction that all work done or materials supplied have been properly done or supplied in accordance with all contracts that the Public Entity has entered into regarding the completion of the Project.

## Article V MISCELLANEOUS

Section 5.01 **Insurance.** If the Public Entity elects to maintain general comprehensive liability insurance regarding the Real Property, then the Public Entity shall have MnDOT named as an additional named insured therein.



**Section 5.02 Condemnation.** If, after the Public Entity has acquired the ownership interest set forth in Section 2.02, all or any portion of the Real Property is condemned to an extent that the Public Entity can no longer comply with Section 2.04, then the Public Entity shall, at its sole option, either: (i) use the condemnation proceeds to acquire an interest in additional real property needed for the Public Entity to continue to comply with Section 2.04 and to provide whatever additional funds that may be needed for such purposes, or (ii) submit a request to MnDOT and the Commissioner to allow it to sell the remaining portion of its interest in the Real Property. Any condemnation proceeds which are not used to acquire an interest in additional real property shall be applied in accordance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order as if the Public Entity's interest in the Real Property had been sold. If the Public Entity elects to sell its interest in the portion of the Real Property that remains after the condemnation, such sale must occur within a reasonable time period after the date the condemnation occurred and the cumulative sum of the condemnation and sale proceeds applied in accordance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order.

If MnDOT receives any condemnation proceeds referred to herein, MnDOT agrees to or pay over to the Public Entity all of such condemnation proceeds so that the Public Entity can comply with the requirements of this Section.

**Section 5.03 Use, Maintenance, Repair and Alterations.** The Public Entity shall not, without the written consent of MnDOT and the Commissioner, (i) permit or allow the use of any of the Real Property for any purpose other than the purposes specified in Section 2.04, (ii) substantially alter any of the Real Property except such alterations as may be required by laws, ordinances or regulations, or such other alterations as may improve the Real Property by increasing its value or which improve its ability to be used for the purposes set forth in Section 2.04, (iii) take any action which would unduly impair or depreciate the value of the Real Property, (iv) abandon the Real Property, or (v) commit or permit any act to be done in or on the Real Property in violation of any law, ordinance or regulation.

If the Public Entity fails to maintain the Real Property in accordance with this Section, MnDOT may perform whatever acts and expend whatever funds necessary to so maintain the Real Property, and the Public Entity irrevocably authorizes MnDOT to enter upon the Real Property to perform such acts as may be necessary to so maintain the Real Property. Any actions taken or funds expended by MnDOT shall be at its sole discretion, and nothing contained herein shall require MnDOT to take any action or incur any expense and MnDOT shall not be responsible, or liable to the Public Entity or any other entity, for any such acts that are performed in good faith and not in a negligent manner. Any funds expended by MnDOT pursuant to this Section shall be due and payable on demand by MnDOT and will bear interest from the date of payment by MnDOT at a rate equal to the lesser of the maximum interest rate allowed by law or 18% per year based upon a 365-day year.

**Section 5.04 Recordkeeping and Reporting.** The Public Entity shall maintain books and records pertaining to Project costs and expenses needed to comply with the requirements contained herein, Minn. Stat. Sec. 16A.695, the Commissioner's Order, and Minn. Stat. Sec. 174.52 and all rules related thereto, and upon request shall allow MnDOT, its auditors, the Legislative Auditor for the State of Minnesota, or the State Auditor for the State of Minnesota, to inspect, audit, copy, or abstract all of such items. The Public Entity shall use generally accepted accounting principles in the maintenance of such items, and shall retain all of such books and records for a period of six years after the date that the Project is fully completed and placed into operation.

**Section 5.05 Inspections by MnDOT.** The Public Entity shall allow MnDOT to inspect the Real Property upon reasonable request by MnDOT and without interfering with the normal use of the Real Property.

**Section 5.06 Liability.** The Public Entity and MnDOT agree that each will be responsible for its own acts and the results thereof to the extent authorized by law, and neither shall be responsible for the acts of the other party and the results thereof. The liability of MnDOT and the Commissioner is governed by the provisions of Minn. Stat. Sec. 3.736. If the Public Entity is a “municipality” as that term is used in Minn. Stat. Chapter 466, then the liability of the Public Entity is governed by the provisions of Chapter 466. The Public Entity’s liability hereunder shall not be limited to the extent of insurance carried by or provided by the Public Entity, or subject to any exclusion from coverage in any insurance policy.

**Section 5.07 Relationship of the Parties.** Nothing contained in the Agreement is to be construed as establishing a relationship of co-partners or joint venture among the Public Entity, MnDOT, or the Commissioner, nor shall the Public Entity be considered to be an agent, representative, or employee of MnDOT, the Commissioner, or the State of Minnesota in the performance of the Agreement or the Project.

No employee of the Public Entity or other person engaging in the performance of the Agreement or the Project shall be deemed have any contractual relationship with MnDOT, the Commissioner, or the State of Minnesota and shall not be considered an employee of any of those entities. Any claims that may arise on behalf of said employees or other persons out of employment or alleged employment, including claims under the Workers’ Compensation Act of the State of Minnesota, claims of discrimination against the Public Entity or its officers, agents, contractors, or employees shall in no way be the responsibility of MnDOT, the Commissioner, or the State of Minnesota. Such employees or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from MnDOT, the Commissioner, or the State of Minnesota, including tenure rights, medical and hospital care, sick and vacation leave, disability benefits, severance pay and retirement benefits.

**Section 5.08 Notices.** In addition to any notice required under applicable law to be given in another manner, any notices required hereunder must be in writing and personally served or sent by prepaid, registered, or certified mail (return receipt requested), to the address of the party specified below or to such different address as may in the future be specified by a party by written notice to the others:

To the Public Entity: At the address indicated on the first page of the Agreement.

To MnDOT at: Minnesota Department of Transportation  
Office of State Aid  
395 John Ireland Blvd., MS 500  
Saint Paul, MN 55155  
Attention: Marc Briese, State Aid Programs Engineer

To the Commissioner at: Minnesota Management & Budget  
400 Centennial Office Bldg.  
658 Cedar St.  
St. Paul, MN 55155  
Attention: Commissioner

**Section 5.09 Assignment or Modification.** Neither the Public Entity nor MnDOT may assign any of its rights or obligations under the Agreement without the prior written consent of the other party.

**Section 5.10 Waiver.** Neither the failure by the Public Entity, MnDOT, or the Commissioner, as a third party beneficiary of the Agreement, in one or more instances to insist upon the complete observance or performance of any provision hereof, nor the failure of the Public Entity, MnDOT, or the Commissioner to exercise any right or remedy conferred hereunder or afforded by law shall be construed as waiving any

breach of such provision or the right to exercise such right or remedy thereafter. In addition, no delay by any of the Public Entity, MnDOT, or the Commissioner in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

**Section 5.11 Choice of Law and Venue.** All matters relating to the validity, interpretation, performance, or enforcement of the Agreement shall be determined in accordance with the laws of the State of Minnesota. All legal actions arising from any provision of the Agreement shall be initiated and venued in the State of Minnesota District Court located in St. Paul, Minnesota.

**Section 5.12 Severability.** If any provision of the Agreement is finally judged by any court to be invalid, then the remaining provisions shall remain in full force and effect and they shall be interpreted, performed, and enforced as if the invalid provision did not appear herein.

**Section 5.13 Matching Funds.** Any matching funds as shown on Page 1 of the Grant Agreement that are required to be obtained and supplied by the Public Entity must either be in the form of (i) cash monies, (ii) legally binding commitments for money, or (iii) equivalent funds or contributions, including equity, which have been or will be used to pay for the Project. The Public Entity shall supply to MnDOT whatever documentation MnDOT may request to substantiate the availability and source of any matching funds.

**Section 5.14 Sources and Uses of Funds.** The Public Entity represents to MnDOT and the Commissioner that the Sources and Uses of Funds Schedule attached as **Exhibit A** accurately shows the total cost of the Project and all of the funds that are available for the completion of the Project. The Public Entity will supply any other information and documentation that MnDOT or the Commissioner may request to support or explain any of the information contained in the Sources and Uses of Funds Schedule. If any of the funds shown in the Sources and Uses of Funds Schedule have conditions precedent to the release of such funds, the Public Entity must provide to MnDOT a detailed description of such conditions and what is being done to satisfy such conditions.

**Section 5.15 Project Completion Schedule.** The Public Entity represents to MnDOT and the Commissioner that the Project Completion Schedule attached as **Exhibit B** correctly and accurately sets forth the projected schedule for the completion of the Project.

**Section 5.16 Third-Party Beneficiary.** The Governmental Program will benefit the State of Minnesota and the provisions and requirements contained herein are for the benefit of both the State Entity and the State of Minnesota. Therefore, the State of Minnesota, by and through its Commissioner of MMB, is and shall be a third-party beneficiary of this Agreement.

**Section 5.17 Public Entity Tasks.** Any tasks that the Agreement imposes upon the Public Entity may be performed by such other entity as the Public Entity may select or designate, provided that the failure of such other entity to perform said tasks shall be deemed to be a failure to perform by the Public Entity.

**Section 5.18 Data Practices.** The Public Entity agrees with respect to any data that it possesses regarding the G.O. Grant or the Project to comply with all of the provisions and restrictions contained in the Minnesota Government Data Practices Act contained in Minnesota Statutes Chapter 13, as such may subsequently be amended or replaced from time to time.

**Section 5.19 Non-Discrimination.** The Public Entity agrees to not engage in discriminatory employment practices regarding the Project and it shall fully comply with all of the provisions contained in

Minnesota Statutes Chapters 363A and 181, as such may subsequently be amended or replaced from time to time.

**Section 5.20 Worker’s Compensation.** The Public Entity agrees to comply with all of the provisions relating to worker’s compensation contained in Minn. Stat. Secs. 176.181 subd. 2 and 176.182, as they may be amended or replaced from time to time with respect to the Project.

**Section 5.21 Antitrust Claims.** The Public Entity hereby assigns to MnDOT and the Commissioner of MMB all claims it may have for over charges as to goods or services provided with respect to the Project that arise under the antitrust laws of the State of Minnesota or of the United States of America.

**Section 5.22 Prevailing Wages.** The Public Entity agrees to comply with all of the applicable provisions contained in Minnesota Statutes Chapter 177, and specifically those provisions contained in Minn. Stat. §. 177.41 through 177.435 as they may be amended or replaced from time to time with respect to the Project. By agreeing to this provision, the Public Entity is not acknowledging or agreeing that the cited provisions apply to the Project.

**Section 5.23 Entire Agreement.** The Agreement and all of the exhibits attached thereto embody the entire agreement between the Public Entity and MnDOT, and there are no other agreements, either oral or written, between the Public Entity and MnDOT on the subject matter hereof.

**Section 5.24 E-Verification.** The Public Entity agrees and acknowledges that it is aware of Minn.Stat. § 16C.075 regarding e-verification of employment of all newly hired employees to confirm that such employees are legally entitled to work in the United States, and that it will, if and when applicable, fully comply with such order.

**Section 5.25 Telecommunications Certification.** If federal funds are included in Exhibit A, by signing this agreement, Contractor certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), and 2 CFR 200.216, Contractor will not use funding covered by this agreement to procure or obtain, or to extend, renew, or enter into any contract to procure or obtain, any equipment, system, or service that uses “covered telecommunications equipment or services” (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. Contractor will include this certification as a flow down clause in any contract related to this agreement.

**Section 5.26 Title VI/Non-discrimination Assurances.** Public Entity agrees to comply with all applicable US DOT Standard Title VI/Non-Discrimination Assurances contained in DOT Order No. 1050.2A, and in particular Appendices A and E, which can be found at: [https://edocs-public.dot.state.mn.us/edocs\\_public/DMResultSet/download?docId=11149035](https://edocs-public.dot.state.mn.us/edocs_public/DMResultSet/download?docId=11149035). If federal funds are included in Exhibit A, Public Entity will ensure the appendices and solicitation language within the assurances are inserted into contracts as required. MnDOT may conduct a review of the Public Entity’s compliance with this provision. The Public Entity must cooperate with MnDOT throughout the review process by supplying all requested information and documentation to MnDOT, making Public Entity staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by MnDOT.

**Section 5.27 Electronic Records and Signatures.** The parties agree to contract by electronic means. This includes using electronic signatures and converting original documents to electronic records.

**Section 5.28 Certification.** By signing this Agreement, the Grantee certifies that it is not suspended or debarred from receiving federal or state awards.



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council

**Submitted By:** Scott Hickok, Community Development Director  
Stacy Stromberg, Planning Manager

## Title

Resolution No. 2023-80, Approving Special Use Permit, SP #23-01 by Dreamers Child Care for the Property at 6425 Highway 65 N.E. (Ward 2)

## Background

The petitioner, Tarek Menesi, who is the owner of Dreamers Child Care is requesting that a special use permit be issued to allow a daycare use within the existing building at 6425 Hwy 65 N.E.

Dreamers Child Care currently operates at 6304 Hwy 65 N.E. They have been in business at this location for six years and have grown to the point where they need to expand. If this special use permit is approved, they will operate out of both locations.

A daycare use is a permitted special use in the R-3, General Multiple Dwelling District, provided lot size and parking requirements can be met. The petitioners are complying with the conditions identified in the Fridley City Code, and stipulations on the special use permit will ensure compatibility.

A Notice of Public Hearing before the Planning Commission was published in the June 9, 2023 edition of the *Star Tribune*.

The Planning Commission held a public hearing for SP #23-01 at their June 21, 2023 meeting. After a brief discussion, the Planning Commission recommended approval of special use permit, SP #23-01, with the stipulations as presented by staff. The motion carried unanimously.

## Financial Impact

No financial impact.

## Recommendation

Staff recommends approval of Resolution No. 2022-80.

## Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

**Focus on Fridley Strategic Alignment**

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- |   |   |
|---|---|
| <input type="checkbox"/> Vibrant Neighborhoods & Places                         | <input type="checkbox"/> Community Identity & Relationship Building |
| <input checked="" type="checkbox"/> Financial Stability & Commercial Prosperity | <input type="checkbox"/> Public Safety & Environmental Stewardship  |
| <input type="checkbox"/> Organizational Excellence                              |   |

**Attachments and Other Resources**

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- Resolution No. 2022-80
- Exhibit A: Staff Report to the Planning Commission

**Vision Statement**

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

**Resolution No. 2022-80**

**Approving Special Use Permit, SP #23-01 to Allow a Day Care Center Use at 6425 Hwy 65 N.E.**

**Whereas**, Section 205.09.01.C of the Fridley City Code allows day care centers, provided certain code conditions are met, in the R-3, General Multiple Units District by a Special Use Permit; and

**Whereas**, on June 21, 2023, the Planning Commission held a public hearing to consider a request by Dreamers Child Care for the property located at 6425 Hwy 65 N.E., legally described as The South One Hundred Fifty (150) feet, front and rear, of Lot 9, Auditor’s Subdivision No. 88, for Special Use Permit, SP #23-01 to allow a day care use within the existing building; and

**Whereas**, at the June 21, 2023, meeting, the Planning Commission unanimously recommended approval of Special Use Permit, SP #23-01 with the stipulations represented in Exhibit A; and

**Whereas**, on July 10, 2023, the Fridley City Council approved the stipulations in Exhibit A to this resolution as the conditions on Special Use Permit, SP #23-01; and

**Whereas**, the petitioner, Dreamers Child Care was presented with Exhibit A, the conditions for SP #23-01 at the July 10, 2023, City Council meeting; and

**Whereas**, Section 205.05.5.G of the Fridley City Code states that this Special Use Permit will become null and void one year after the City Council approval date if work has not commenced or if the petitioner has not petitioned the City Council for an extension.

**Now, therefore be it resolved**, that the City Council of the City of Fridley hereby approves Special Use Permit, SP #23-01 and the stipulations represented in Exhibit A are hereby adopted by the City Council of the City of Fridley.

**Passed and adopted by the City Council of the City of Fridley this 10<sup>th</sup> day of July 2023.**

\_\_\_\_\_  
Scott J. Lund – Mayor

Attest:

\_\_\_\_\_  
Melissa Moore – City Clerk

**Exhibit A****Stipulations**

1. The petitioner shall obtain any permits required to alter the building for the proposed use.
2. The petitioner shall meet all requirements set forth by:
  - a. The Building code, including the Americans with Disabilities Act (ADA).
  - b. The Fire code.
  - c. The City's Engineering division, including but not limited to plans that show restoration of the hard surface space being removed for playground space and how stormwater is being managed on-site.
  - d. The City's Planning division, including but not limited to an updated site plan showing the required amount of parking stalls, site circulation during drop-off and pick-up times, the location of the solid waste/recycling enclosure, and the sign code.
  - e. The Rice Creek Watershed District.
3. The petitioner shall obtain any required State and/or County licenses to operate the proposed use.
4. The petitioner is strongly encouraged to participate in Xcel Energy's Energy Efficient Buildings program to identify energy and cost-saving strategies.





# LAND USE APPLICATION SUMMARY

**Item:** SP #23-01

**Meeting Date:** June 21, 2023

## General Information

### Applicant:

Dreamers Child Care  
Tarek Menesi  
6304 Hwy 65 N.E.  
Fridley, MN 55432

### Requested Action:

Public Hearing to Consider Special Use Permit, SP #23-01 to allow a daycare use at 6425 Hwy 65 N.E.

### Location:

6425 Hwy 65 N.E.

### Existing Zoning:

R-3, Multi-Family

### Size:

29,620 sq. ft. .68 acres

### Existing Land Use:

Chiropractic Clinic

### Surrounding Land-use & Zoning:

N: Single Family & R-1  
E: Single Family & R-1  
S: Apartment Building & R-2  
W: Hwy 65 & ROW

### Comprehensive Plan Conformance:

Existing and Future Land Use Map designates the property as Multi-Family

### Zoning Ordinance Conformance:

Section 205.09.01.C allows daycare centers in an R-3, Multi-Family zoning district, provided certain conditions can be met.

### Building and Zoning History:

1948 – Lot platted.  
1999 – Special Use Permit approved to allow a chiropractic clinic.  
1999 – Variance approved to reduce the setback from the ROW to a driveway.

## Special Information

2001 – Chiropractic clinic constructed.  
2002 – Sign size variance approved.

### Legal Description of Property:

The South One Hundred Fifty (150) feet, front and rear, of Lot 9, Auditor's Subdivision No. 88.

### Public Utilities:

Building is connected.

### Transportation:

The property receives access off the Hwy 65 N.E. Service Road.

### Physical Characteristics:

Building, hard surface parking and driveways, and landscaping.

### Summary of Request:

The petitioner, Tarek Menesi, who is the owner of Dreamers Child Care is requesting that a special use permit be issued to allow a daycare use within the existing building at 6425 Hwy 65 N.E.

### Staff Recommendation:

City staff recommends approval of the special use permit, provided certain code requirements are met, subject to stipulations.

### City Council Action/60 Day Action Date:

City Council – July 10, 2023

60 Day Date – July 17, 2023

Staff Report Prepared by Stacy Stromberg

# Written Report –

## The Request

The petitioner, Tarek Menesi, who is the owner of Dreamers Child Care is requesting that a special use permit be issued to allow a daycare use within the existing building at 6425 Hwy 65 N.E.

Dreamers Child Care currently operates at 6304 Hwy 65 N.E. They have been in business at this location for 6 years and have grown to the point where they need to expand. If this special use permit is approved, they will operate out of both locations.

## Site Description and History

The subject property is located off the Highway 65 N.E. East Service Drive, north of 63<sup>rd</sup> Avenue. It is zoned R-3, Multi-Family. In 1999, the City Council approved a special use permit to allow a chiropractic clinic, which is a permitted special use in the R-3, Multi-Family zoning district. In addition to the special use permit approval, the Council also approved a variance to reduce the required setback for a driveway from 20 ft. to 0 ft. In 2002, the Council approved a variance to reduce the setback of a free-standing sign from 10 ft. to 2 ft. There is an ingress/egress driveway easement across the subject property, that allow access to the single-family home at 6435 Hwy 65 N.E.



The use of the property has remained as a chiropractic clinic since the building was constructed in 2001.

## Code Requirements and Analysis

A daycare use is a permitted special use in the R-3, Multi-Family zoning district, provided lot size and parking requirements can be met. Dreamers Day Care plans to remodel the existing 2,048 sq. ft. building to create two infant rooms upstairs and a toddler room downstairs. There will also be a lobby, restroom, office, break room, storage, and utility space. Code requires a minimum size lot of 12,000 sq. ft. for a daycare use. The subject property is 29,620 sq. ft., therefore meeting the code requirement. Based on the square footage of space to be used for the daycare and office use, code requires 26 parking stalls. The petitioner submitted an old site plan and aerial of the property that shows approximately 15 parking stalls. There is adequate hard surface on-site to stripe the remaining

11 stalls. An updated site plan, meeting code requirements will be required at the time of building permit application submittal.



The petitioner plans to remove the hard surface on the east side of the building to provide an area for a playground and outdoor play space for the daycare children.

**Staff Recommendation**

Staff recommends the Planning Commission hold a public hearing for Special Use Permit, SP #23-01.

Staff further recommends approval of Special Use Permit, SP #23-01, with stipulations.

**Stipulations**

Staff recommends that if the special use permit is approved, the following stipulations be attached.

1. The petitioner shall obtain any permits required to alter the building for the proposed use.
2. The petitioner shall meet all requirements set forth by:
  - a. The Building code, including the Americans with Disabilities Act (ADA).
  - b. The Fire code.
  - c. The City’s Engineering division, including but not limited to plans that show restoration of the hard surface space being removed for playground space and how stormwater is being managed on-site.
  - d. The City’s Planning division, including but not limited to an updated site plan showing the required amount of parking stalls, site circulation during drop-off and pick-up times, the location of the solid waste/recycling enclosure, and the sign code.
  - e. The Rice Creek Watershed District.
3. The petitioner shall obtain any required State and/or County licenses to operate the proposed use.
4. The petitioner is strongly encouraged to participate in Xcel Energy’s Energy Efficient Buildings program to identify energy and cost-saving strategies.

**Attachments**

1. Petitioner’s narrative and drawings
2. Public Hearing notice and mailing labels to properties within 350 ft.



# PUBLIC NOTICE

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## **City of Fridley Planning Commission Notice of Public Hearing to Consider a Special Use Permit by Dreamers Daycare**

Notice is hereby given that the Planning Commission of the City of Fridley will hold a public hearing on June 21, 2023 at 7:00 pm at Fridley City Hall, 7071 University Avenue N.E.

The public hearing will consider a Special Use Permit, SP #23-01, by Dreamers Daycare to allow a daycare use at 6425 Highway 65 NE, which is zoned R-3 Multi-Family, the legal description is on file and available at Fridley City Hall.

Any person desiring to be heard shall be given an opportunity at the above stated time and place. Or, comments may be submitted before the meeting to [stacy.stromberg@fridleymn.gov](mailto:stacy.stromberg@fridleymn.gov) or 763-572-3595. Publication date(s): June 9, 2023.

The City Council will consider this item on July 10, 2023.



## Fridley Civic Campus

7071 University Ave N.E. Fridley, MN 55432  
763-571-3450 | FAX: 763-571-1287 | [FridleyMN.gov](http://FridleyMN.gov)

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### PUBLIC HEARING NOTICE

To: Property Owners and Residents within 350 feet of 6425 Hwy 65 NE

Applicant: Dreamers Daycare

Request: Special Use Permit #23-01, by Dreamers Daycare, to allow a daycare use at 6425 Highway 65 NE, which is zoned R-3 Multi-Family, the legal description is on file and available at Fridley Civic Campus.

Date of Hearings: Planning Commission Meeting, Wednesday, June 21, 2023 at 7:00 p.m.  
The Planning Commission meeting is televised live the night of the meeting on Channel 17.

Location of Planning Commission Hearing: Meeting will be held in person at Fridley Civic Campus located at 7071 University Avenue NE.

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How to Participate: 1. You may attend the public hearing in person and testify.  
2. You may submit a letter in advance of the meeting to Stacy Stromberg, Planning Manager at the address above or by email at [stacy.stromberg@fridleymn.gov](mailto:stacy.stromberg@fridleymn.gov)

Questions: Call or Email Stacy Stromberg, Planning Manager at 763-572-3595 or [stacy.stromberg@fridleymn.gov](mailto:stacy.stromberg@fridleymn.gov)

Mailing date: June 9, 2023

Publication date: June 9, 2023

*\*If you require auxiliary aids or services to participate to communicate in the meeting, please contact Roberta Collins at 763-572-3500 or [roberta.collins@fridleymn.gov](mailto:roberta.collins@fridleymn.gov) no later than June 14, 2023, for the Planning Commission meeting and June 30, 2023, for City Council meeting. The TDD # is: 763-572-3534.*





# Community Development Department Public Hearing Notice



SOURCES  
 Fridley Engineering and Planning  
 Fridley GIS  
 Anoka County GIS

**Special Use Permit Request, SP #23-01**  
**Petitioner: Dreamers Daycare**  
**Address: 6425 Hwy 65 N.E.**

Map Date: June 7, 2023





LABELS FOR  
Current Resident

Current Resident  
6428 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6379 HIGHWAY 65 NE  
FRIDLEY MN 55432

Current Resident  
6473 TAYLOR ST NE  
FRIDLEY MN 55432

Current Resident  
6476 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6343 HIGHWAY 65 NE  
FRIDLEY MN 55432

Current Resident  
6489 TAYLOR ST NE  
FRIDLEY MN 55432

Current Resident  
6452 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6417 HIGHWAY 65 NE  
FRIDLEY MN 55432

Current Resident  
6431 TAYLOR ST NE  
FRIDLEY MN 55432

Current Resident  
6440 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6393 HIGHWAY 65 NE  
FRIDLEY MN 55432

Current Resident  
6447 TAYLOR ST NE  
FRIDLEY MN 55432

Current Resident  
FRIDLEY MN 55432

Current Resident  
6425 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6451 TAYLOR ST NE  
FRIDLEY MN 55432

Current Resident  
6435 HIGHWAY 65 NE  
FRIDLEY MN 55432

Current Resident  
6413 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6411 TAYLOR ST NE  
FRIDLEY MN 55432

Current Resident  
1200 MISSISSIPPI ST NE  
FRIDLEY MN 55432

Current Resident  
6390 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6421 TAYLOR ST NE  
FRIDLEY MN 55432

Current Resident  
6391 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6416 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6401 TAYLOR ST NE  
FRIDLEY MN 55432

Current Resident  
6379 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6449 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
1150 MISSISSIPPI ST NE  
FRIDLEY MN 55432

Current Resident  
6401 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6437 DELLWOOD DR NE  
FRIDLEY MN 55432

LABELS FOR  
Current Resident

Current Resident  
6366 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
6378 DELLWOOD DR NE  
FRIDLEY MN 55432

Current Resident  
1140 MISSISSIPPI ST NE  
FRIDLEY MN 55432

Current Resident  
6425 HIGHWAY 65 NE  
FRIDLEY MN 55432

Current Resident  
1132 MISSISSIPPI ST NE  
FRIDLEY MN 55432



LABELS FOR  
Parcel Owner

SMITH CYNTHIA  
6430 DELLWOOD DR NE  
FRIDLEY MN 55432

JULIDA LLC  
PO BOX 274  
CEDAR MN 55011

MCLEOD, JENNIFER  
6473 TAYLOR ST NE  
FRIDLEY MN 55432

KACHINA, KENT A  
6476 DELLWOOD DR NE  
FRIDLEY MN 55432

1031 SUNRISE PROPERTIES LLC  
948 CURRY TRAIL  
EAGAN MN 55123

SHACKLETON SARAH A  
6489 TAYLOR ST NE  
FRIDLEY MN 55432

DEUSER, THOMAS EDWARD  
6452 DELLWOOD DR NE  
FRIDLEY MN 55432

ELMQUIST, NICHOLAS A  
5976 RIDGE CREEK RD  
SHOREVIEW MN 55126

FROOM DARRYL R  
6431 TAYLOR ST NE  
FRIDLEY MN 55432

JOHNSON, DARRELL D  
6440 DELLWOOD DR NE  
FRIDLEY MN 55432

ELMQUIST NICHOLAS A  
5976 RIDGE CREEK ROAD  
SHOREVIEW MN 55126

HADI JAVEED  
5485 LAKE AVE  
SHOREVIEW MN 55126

FRIDLEY CITY OF  
7071 UNIVERSITY AVE NE  
FRIDLEY MN 55432

SCHMIDTKE NICHOLAS  
6425 DELLWOOD DR NE  
FRIDLEY MN 55432

GONZALEZ HECTOR  
6451 TAYLOR ST NE  
FRIDLEY MN 55432

DAYTON DAVID M & LINDA L  
6435 HIGHWAY 65 NE  
FRIDLEY MN 55432

HELAL, LIALA  
6413 DELLWOOD DR NE  
FRIDLEY MN 55432

ALNABI, JEWAD  
6411 TAYLOR ST NE  
FRIDLEY MN 55432

JANES, BRIAN  
1200 MISSISSIPPI ST NE  
FRIDLEY MN 55432

LIEB WILLIAM JR & KIMBERLY  
6390 DELLWOOD DR NE  
FRIDLEY MN 55432

MOGES, GENET A  
6421 TAYLOR NE  
FRIDLEY MN 55432

REDEPENNING DARREL & DONNA  
6391 DELLWOOD DR NE  
FRIDLEY MN 55432

SENKO, CAROLYN J  
6416 DELLWOOD DR NE  
FRIDLEY MN 55432

BREFFLE, ANDREW R  
6401 TAYLOR ST NE  
FRIDLEY MN 55432

TOURVILLE, ROBERT BENEDICT  
6379 DELLWOOD DR  
FRIDLEY MN 55432

KOVACH, TIM  
6449 DELLWOOD DR NE  
FRIDLEY MN 55432

OLATEJU, SUNDAY  
1150 MISSISSIPPI ST NE  
FRIDLEY MN 55432

GUTTORMSON HANNAH M  
6401 DELLWOOD DR NE  
FRIDLEY MN 55432

BRAUN, ANGELA  
6437 DELLWOOD DR NE  
FRIDLEY MN 55432

LABELS FOR  
Parcel Owner

KRAUT, KEVIN  
6366 DELLWOOD DR NE  
FRIDLEY MN 55432

BRYTOWSKI MICHAEL J & LAURA A  
6378 DELLWOOD DR NE  
FRIDLEY MN 55432

PRESUHN, KRISTIN E  
1140 MISSISSIPPI ST NE  
FRIDLEY MN 55432

WESTBY PAUL A  
8320 BROAD AVE  
FRIDLEY MN 55432

MCCARTHY BRANDON  
1132 MISSISSIPPI ST NE  
FRIDLEY MN 55432



**LETTER FOR SPECIAL USE PERMIT**

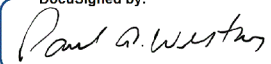
Monday, May 19, 2023

**RE: 6425 Highway 65 NE**

Tarek Menesi has my permission to submit a special use permit from the city of Fridley for the property located at 6425 Highway 65 NE, Fridley, MN 55432.

**Property Owner:**

Paul A Westby

DocuSigned by:  
  
644A0F6001B048B... \_\_\_\_\_

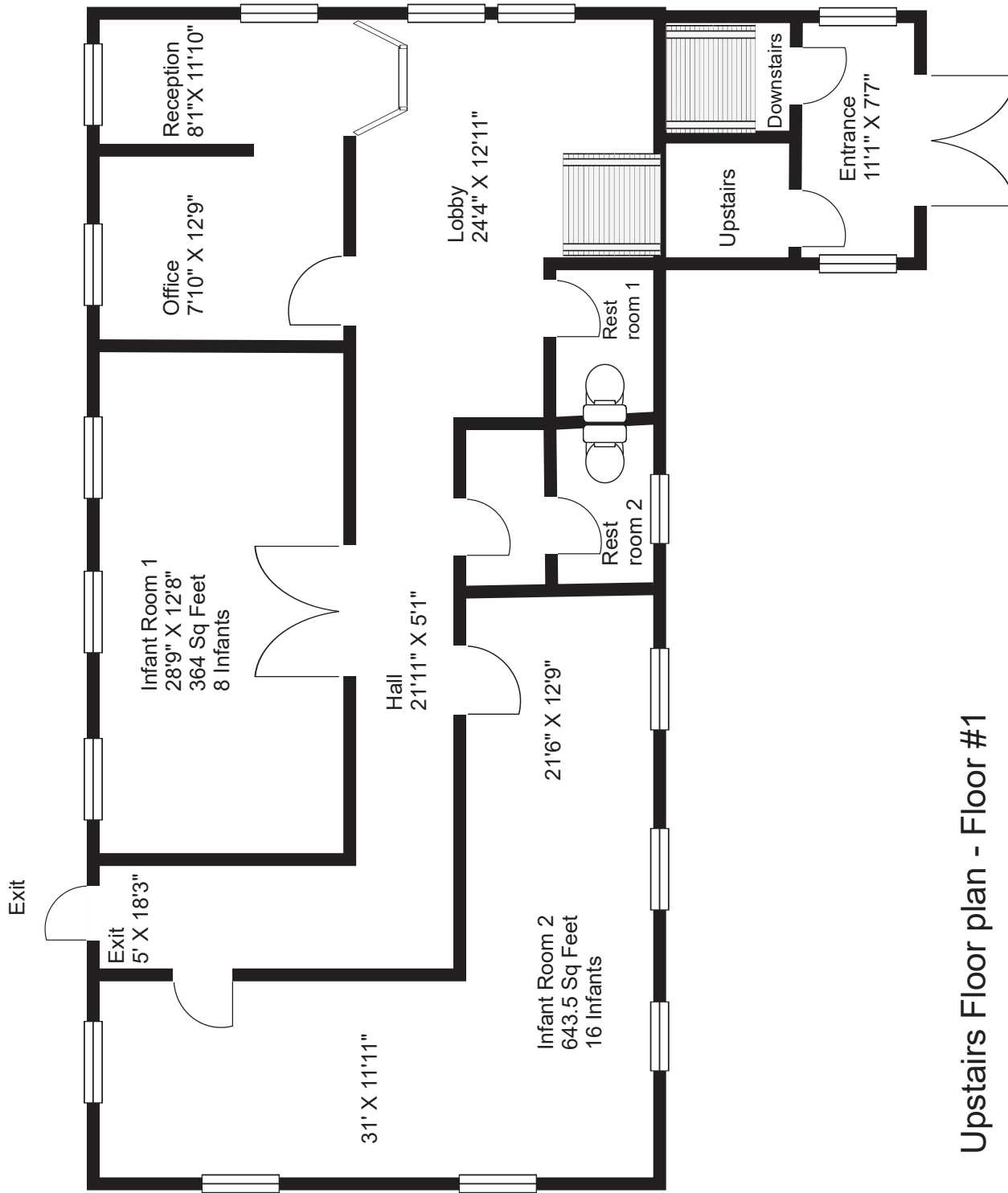
# Table of contents

6425 Highway 65 Ne, Fridley MN 55432

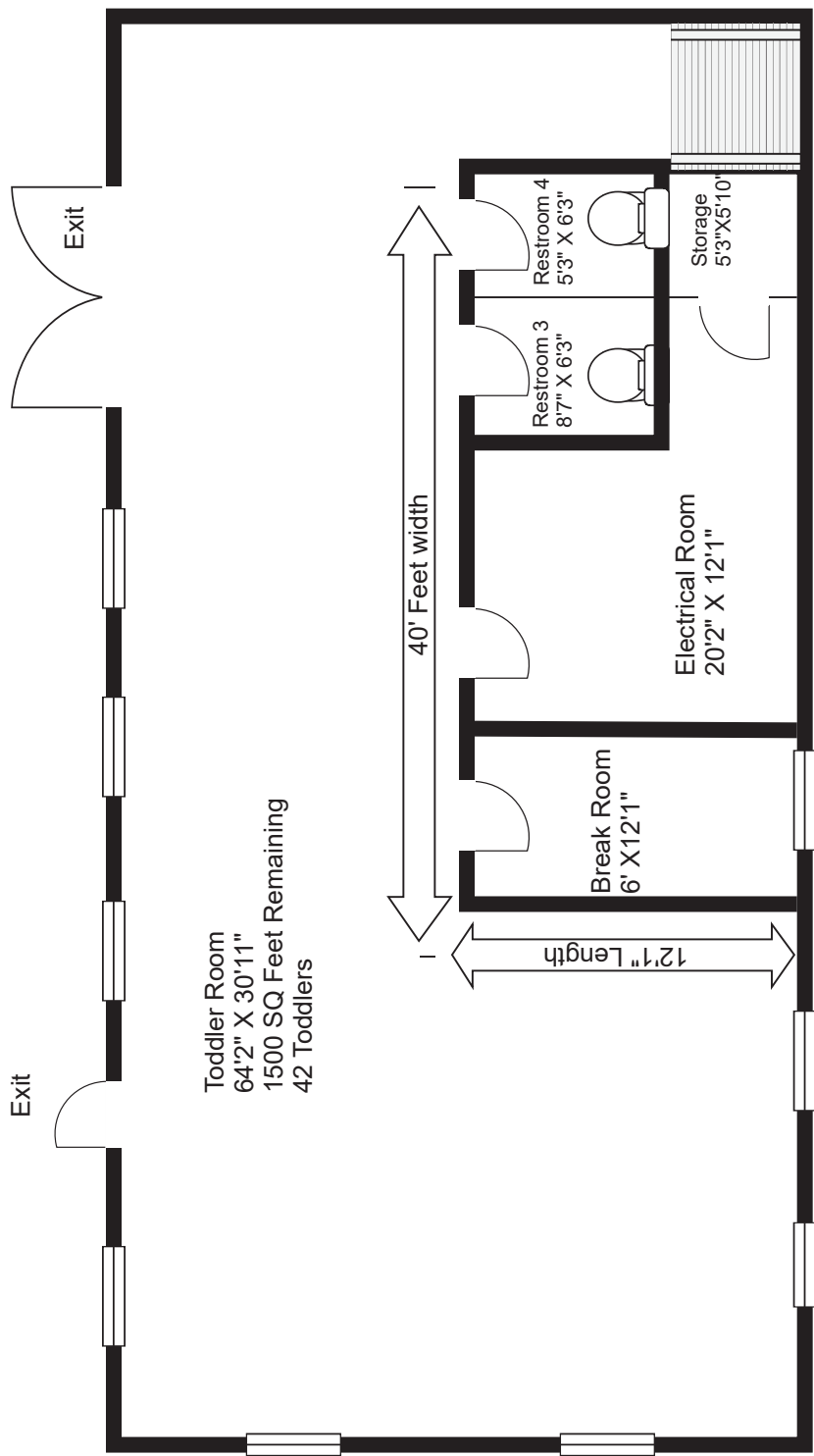
## Pages:

1. Site Plan
2. Floor Plan Upstairs
3. Floor Plan Downstairs
4. Parking plan
5. Narrative





Upstairs Floor plan - Floor #1



Downstairs Floor plan - Floor #2



# Anoka County Parcel Viewer

Item 9.



**Parcel Information:**

13-30-24-31-0085  
6425 HIGHWAY 65 NE  
FRIDLEY  
MN 55432  
Plat: AUD SUB NO 88

Approx. Acres: 0.68  
Commissioner: MANDY MEISNER

**Owner Information:**

WESTBY PAUL A  
8320 BROAD AVE  
FRIDLEY  
MN  
55432





My name is Tarek, owner and founder of Dreamers Child Care in Fridley at 6304 Hwy 65 Ne. Our day care has been in business for 6 years. We currently have 50 enrolled children and 14 staff members. Most of our staff and parents live in Fridley. We have been a pillar of the community and our google reviews reflect how much we value the parents who trust us with the care of their children. Our business has now reached a point in which we need to expand.

The reason I'm writing to you is because we are interested in purchasing a nearby building at 6425 Hwy 65 Ne. We have the proper team, experience and financing available to turn it into another successful day care. The issue is its zoned for R3 with a special use permit for chiropractic clinic. We are formally requesting a special use permit for day care which is a permitted use under the municipal code (section 205.09).

Overall, it will be a net positive for the city and the community. Governor Walz has emphasized the need for investing in child care as its one of the pillars of a healthy economy. Attached you will find the site plan, parking plan and floor plan of the building so you can see how the building will be used. We are very excited to hear back from you.

Thank you,

Tarek Menesi  
Dreamers Child Care  
612-900-2222



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council

**Submitted By:** Roberta Collins, Assistant to the City Manager

**Title**

---

Resolution No. 2023-76 Approving Claims for the Period Ending July 5, 2023

**Background**

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Attached is Resolution No. 2023-76 and the claims report for the period ending July 5, 2023.

**Financial Impact**

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Included in the budget.

**Recommendation**

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Staff recommend the approval of Resolution No. 2023-76.

**Focus on Fridley Strategic Alignment**

---

- |   |   |
|---|---|
| <input type="checkbox"/> Vibrant Neighborhoods & Places                         | <input type="checkbox"/> Community Identity & Relationship Building |
| <input checked="" type="checkbox"/> Financial Stability & Commercial Prosperity | <input type="checkbox"/> Public Safety & Environmental Stewardship  |
| <input type="checkbox"/> Organizational Excellence                              |   |

**Attachments and Other Resources**

---

- Resolution No. 2023-76
- City Council Claims Report

**Vision Statement**

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

**Resolution No. 2023-76**

**Approving Claims for the Period Ending July 5, 2023**

**Whereas**, Minnesota Statute § 412.271 generally requires the City Council to review and approve claims for goods and services prior to the release of payment; and

**Whereas**, a list of such claims for the period ending July 5, 2023, was reviewed by the City Council.

**Now, therefore be it resolved**, that the City Council of the City of Fridley hereby approves the payment of the claims as presented.

**Passed and adopted by the City Council of the City of Fridley this 10<sup>th</sup> day of July, 2023.**

\_\_\_\_\_  
Scott J. Lund - Mayor

Attest:

\_\_\_\_\_  
Melissa Moore – City Clerk



City of Fridley, MN

Item 10.

# Bank Transaction Report Transaction Detail

Issued Date Range: 06/22/2023 - 07/05/2023

Cleared Date Range: -

Issued Date	Cleared Date	Number	Description	Module	Status	Type	Amount
<b>Accounts Payable</b>							
06/23/2023		<a href="#">200947</a>	FRIDLEY FIRE RELIEF ASSOC	Accounts Payable	Outstanding	Check	-30.00
06/23/2023		<a href="#">200948</a>	FRIDLEY POLICE ASSOCIATION	Accounts Payable	Outstanding	Check	-200.00
06/23/2023		<a href="#">200949</a>	MINN CHILD SUPPORT PAYMENT CENTER	Accounts Payable	Outstanding	Check	-851.40
06/23/2023		<a href="#">912</a>	CITY OF FRIDLEY-IAFF DUES/INTL ASSOC/FIRE FIGHTERS	Accounts Payable	Outstanding	EFT	-80.00
06/23/2023		<a href="#">DFT0004430</a>	EMPOWER RETIREMENT (for MN/MSRS)	Accounts Payable	Outstanding	Bank Draft	-1,539.23
06/23/2023		<a href="#">DFT0004431</a>	EMPOWER RETIREMENT (for MN/MSRS)	Accounts Payable	Outstanding	Bank Draft	-1,192.38
06/23/2023		<a href="#">DFT0004432</a>	CITY OF FRIDLEY-MISSION SQUARE-457 Def.Comp	Accounts Payable	Outstanding	Bank Draft	-20,475.39
06/23/2023		<a href="#">DFT0004433</a>	CITY OF FRIDLEY-MISSION SQUARE-457 Def.Comp	Accounts Payable	Outstanding	Bank Draft	-5,400.26
06/23/2023		<a href="#">DFT0004435</a>	CITY OF FRIDLEY-MISSION SQUARE RHS, Retiree Health Sav	Accounts Payable	Outstanding	Bank Draft	-363.48
06/23/2023		<a href="#">DFT0004437</a>	OPTUM BANK (HSA)	Accounts Payable	Outstanding	Bank Draft	-3,910.46
06/23/2023		<a href="#">DFT0004438</a>	OPTUM BANK (HSA)	Accounts Payable	Outstanding	Bank Draft	-3,010.66
06/23/2023		<a href="#">DFT0004439</a>	PERA - PUBLIC EMPLOYEES	Accounts Payable	Outstanding	Bank Draft	-45,872.00
06/23/2023		<a href="#">DFT0004440</a>	PERA - PUBLIC EMPLOYEES	Accounts Payable	Outstanding	Bank Draft	-164.46
06/23/2023		<a href="#">DFT0004441</a>	PERA - PUBLIC EMPLOYEES	Accounts Payable	Outstanding	Bank Draft	-61,933.34
06/23/2023		<a href="#">DFT0004442</a>	CITY OF FRIDLEY-MISSION SQUARE RHS, Retiree Health Sav	Accounts Payable	Outstanding	Bank Draft	-100.00
06/23/2023		<a href="#">DFT0004443</a>	CITY OF FRIDLEY-MISSION SQUARE RHS, Retiree Health Sav	Accounts Payable	Outstanding	Bank Draft	-2,550.00
06/23/2023		<a href="#">DFT0004444</a>	CITY OF FRIDLEY-MISSION SQUARE RHS, Retiree Health Sav	Accounts Payable	Outstanding	Bank Draft	-700.00
06/23/2023		<a href="#">DFT0004445</a>	CITY OF FRIDLEY-MISSION SQUARE Roth IRA	Accounts Payable	Outstanding	Bank Draft	-4,633.83
06/23/2023		<a href="#">DFT0004446</a>	BENEFIT RESOURCE LLC - BPA/VEBA	Accounts Payable	Outstanding	Bank Draft	-1,350.00
06/23/2023		<a href="#">DFT0004447</a>	INTERNAL REVENUE SERVICE - PAYROLL TAXES	Accounts Payable	Outstanding	Bank Draft	-46,042.28
06/23/2023		<a href="#">DFT0004448</a>	INTERNAL REVENUE SERVICE - PAYROLL TAXES	Accounts Payable	Outstanding	Bank Draft	-16,847.72
06/23/2023		<a href="#">DFT0004449</a>	MINN DEPARTMENT OF REVENUE - PAYROLL TAXES	Accounts Payable	Outstanding	Bank Draft	-24,689.38
06/23/2023		<a href="#">DFT0004450</a>	INTERNAL REVENUE SERVICE - PAYROLL TAXES	Accounts Payable	Outstanding	Bank Draft	-53,062.41
06/27/2023		<a href="#">DFT0004451</a>	US BANK (P-CARDS)	Accounts Payable	Outstanding	Bank Draft	-36,610.61
06/28/2023		<a href="#">200988</a>	ALLIED BLACKTOP CO	Accounts Payable	Outstanding	Check	-12,412.40
06/28/2023		<a href="#">200989</a>	ANOKA COUNTY ATTORNEY	Accounts Payable	Outstanding	Check	-427.80
06/28/2023		<a href="#">200990</a>	ANOKA COUNTY TREASURY OFFICE	Accounts Payable	Outstanding	Check	-950.00
06/28/2023		<a href="#">200991</a>	ARAMARK UNIFORM SERVICES	Accounts Payable	Outstanding	Check	-312.30
06/28/2023		<a href="#">200992</a>	ASPEN MILLS INC	Accounts Payable	Outstanding	Check	-69.30
06/28/2023		<a href="#">200993</a>	ASTLEFORD INTERNATIONAL TRUCKS	Accounts Payable	Outstanding	Check	-157.55
06/28/2023		<a href="#">200994</a>	AUTONATION FORD WHITE BEAR LAKE	Accounts Payable	Outstanding	Check	-1,024.31
06/28/2023		<a href="#">200995</a>	BARR ENGINEERING	Accounts Payable	Outstanding	Check	-10,441.50
06/28/2023		<a href="#">200996</a>	BEISSWENGER'S HARDWARE	Accounts Payable	Outstanding	Check	-21.56
06/28/2023		<a href="#">200997</a>	BIRCH TREE CARE LLC	Accounts Payable	Outstanding	Check	-18,169.51
06/28/2023		<a href="#">200998</a>	BLAINE CUSTOM APPAREL & AWARDS	Accounts Payable	Outstanding	Check	-90.00
06/28/2023		<a href="#">200999</a>	BRAUN INTERTEC CORPORATION	Accounts Payable	Outstanding	Check	-8,735.00

Bank Transaction Report

Issued Date	Cleared Date	Number	Description	Module	Status	Type	Amount
06/28/2023		<a href="#">201000</a>	BRYAN ROCK PRODUCTS INC	Accounts Payable	Outstanding	Check	-878.14
06/28/2023		<a href="#">201001</a>	CENTERPOINT ENERGY-MINNEGASCO	Accounts Payable	Outstanding	Check	-1,859.89
06/28/2023		<a href="#">201002</a>	CERES ENVIRONMENTAL INC	Accounts Payable	Outstanding	Check	-420.00
06/28/2023		<a href="#">201003</a>	CLAREY'S SAFETY EQUIP INC	Accounts Payable	Outstanding	Check	-688.11
06/28/2023		<a href="#">201004</a>	COMCAST/XFINITY	Accounts Payable	Outstanding	Check	-1,423.86
06/28/2023		<a href="#">201005</a>	COON RAPIDS, CITY OF	Accounts Payable	Outstanding	Check	-29,701.00
06/28/2023		<a href="#">201006</a>	CORE & MAIN LP	Accounts Payable	Outstanding	Check	-385.31
06/28/2023		<a href="#">201007</a>	DELL MARKETING LP	Accounts Payable	Outstanding	Check	-3,907.09
06/28/2023		<a href="#">201008</a>	EMERGENCY AUTOMOTIVE TECHNOLOGIES	Accounts Payable	Outstanding	Check	-160.66
06/28/2023		<a href="#">201009</a>	FASTENAL COMPANY	Accounts Payable	Outstanding	Check	-5.74
06/28/2023		<a href="#">201010</a>	FISH WINDOW CLEANING	Accounts Payable	Outstanding	Check	-385.00
06/28/2023		<a href="#">201011</a>	GENERAL REPAIR SERVICE	Accounts Payable	Outstanding	Check	-956.75
06/28/2023		<a href="#">201012</a>	GENUINE PARTS CO/NAPA	Accounts Payable	Outstanding	Check	-490.73
06/28/2023		<a href="#">201013</a>	GRAINGER	Accounts Payable	Outstanding	Check	-579.63
06/28/2023		<a href="#">201014</a>	GRAYSHIFT LLC	Accounts Payable	Outstanding	Check	-10,995.00
06/28/2023		<a href="#">201015</a>	HOFFMAN BROS. SOD	Accounts Payable	Outstanding	Check	-360.00
06/28/2023		<a href="#">201016</a>	HOLIDAY COMPANIES - CAR WASH CLUB	Accounts Payable	Outstanding	Check	-9.00
06/28/2023		<a href="#">201017</a>	JB PICTURE FRAMING STUDIO	Accounts Payable	Outstanding	Check	-402.31
06/28/2023		<a href="#">201018</a>	KATH FUEL OIL SERVICE	Accounts Payable	Outstanding	Check	-310.00
06/28/2023		<a href="#">201019</a>	KENNEDY & GRAVEN CHARTERED	Accounts Payable	Outstanding	Check	-3,909.34
06/28/2023		<a href="#">201020</a>	KLEIN UNDERGROUND LLC	Accounts Payable	Outstanding	Check	-2,118.75
06/28/2023		<a href="#">201021</a>	LEAGUE OF MN CITIES INS TRUST	Accounts Payable	Outstanding	Check	-779.67
06/28/2023		<a href="#">201022</a>	MAC QUEEN EMERGENCY	Accounts Payable	Outstanding	Check	-68.95
06/28/2023		<a href="#">201023</a>	MARTIN MARIETTA	Accounts Payable	Outstanding	Check	-6,845.92
06/28/2023		<a href="#">201024</a>	MENARDS - FRIDLEY	Accounts Payable	Outstanding	Check	-269.72
06/28/2023		<a href="#">201025</a>	METRO VOLLEYBALL OFFICIALS ASSOCIATION	Accounts Payable	Outstanding	Check	-612.00
06/28/2023		<a href="#">201026</a>	MINN DEPT OF HEALTH	Accounts Payable	Outstanding	Check	-150.00
06/28/2023		<a href="#">201027</a>	MINNESOTA METRO NORTH TOURISM BUREAU	Accounts Payable	Outstanding	Check	-12,676.49
06/28/2023		<a href="#">201028</a>	MINNESOTA/WISCONSIN PLAYGROUND INC	Accounts Payable	Outstanding	Check	-1,177.03
06/28/2023		<a href="#">201029</a>	NATL FIRE PROTECTION ASSOC-NFPA	Accounts Payable	Outstanding	Check	-200.02
06/28/2023		<a href="#">201030</a>	NEW BRIGHTON, CITY OF	Accounts Payable	Outstanding	Check	-376.69
06/28/2023		<a href="#">201031</a>	NORTH ANOKA PLUMBING	Accounts Payable	Outstanding	Check	-275.00
06/28/2023		<a href="#">201032</a>	OERTEL ARCHITECTS	Accounts Payable	Outstanding	Check	-4,875.00
06/28/2023		<a href="#">201033</a>	OUSERSON SEWER & WATER	Accounts Payable	Outstanding	Check	-6,000.00
06/28/2023		<a href="#">201034</a>	POMP'S TIRE SERVICE INC	Accounts Payable	Outstanding	Check	-81.00
06/28/2023		<a href="#">201035</a>	QUADIANT LEASING USA INC	Accounts Payable	Outstanding	Check	-1,262.79
06/28/2023		<a href="#">201036</a>	RADOTICH, HUNTER	Accounts Payable	Outstanding	Check	-169.00
06/28/2023		<a href="#">201037</a>	RECYCLE TECHNOLOGIES INC	Accounts Payable	Outstanding	Check	-145.05
06/28/2023		<a href="#">201038</a>	RESCUETECH1, INC	Accounts Payable	Outstanding	Check	-2,413.00
06/28/2023		<a href="#">201039</a>	ROCK SOLID LANDSCAPE & IRRIGATION	Accounts Payable	Outstanding	Check	-1,000.00
06/28/2023		<a href="#">201040</a>	RUFFRIDGE JOHNSON EQUIP CO INC	Accounts Payable	Outstanding	Check	-98,779.00
06/28/2023		<a href="#">201041</a>	SCHIFSKY & SONS INC	Accounts Payable	Outstanding	Check	-771.54
06/28/2023		<a href="#">201042</a>	SHORT ELLIOTT HENDRICKSON INC	Accounts Payable	Outstanding	Check	-2,650.57

Bank Transaction Report

Issued Date	Cleared Date	Number	Description	Module	Status	Type	Amount
06/28/2023		<a href="#">201043</a>	STRYKER SALES CORPORTION	Accounts Payable	Outstanding	Check	-180.96
06/28/2023		<a href="#">201044</a>	SUBURBAN TIRE WHOLESAL INC	Accounts Payable	Outstanding	Check	-2,388.76
06/28/2023		<a href="#">201045</a>	SUN BADGE CO	Accounts Payable	Outstanding	Check	-1,378.96
06/28/2023		<a href="#">201046</a>	TAHO SPORTSWEAR	Accounts Payable	Outstanding	Check	-128.75
06/28/2023		<a href="#">201047</a>	TIMESAVER OFF SITE SECRETARIAL INC	Accounts Payable	Outstanding	Check	-469.00
06/28/2023		<a href="#">201048</a>	VOIGT BUS SERVICES INC	Accounts Payable	Outstanding	Check	-473.82
06/28/2023		<a href="#">201049</a>	XCEL ENERGY	Accounts Payable	Outstanding	Check	-7,421.74
06/29/2023		<a href="#">201050</a>	BNSF RAILWAY COMPANY	Accounts Payable	Outstanding	Check	-2,391.78
06/29/2023		<a href="#">DFT0004454</a>	INTERNAL REVENUE SERVICE / US TREASURY	Accounts Payable	Outstanding	Bank Draft	-180.00
07/01/2023		<a href="#">DFT0004452</a>	SVAP II FRIDLEY MARKET LLC	Accounts Payable	Outstanding	Bank Draft	-19,364.29
07/05/2023		<a href="#">201051</a>	ASTLEFORD INTERNATIONAL TRUCKS	Accounts Payable	Outstanding	Check	-3,075.57
07/05/2023		<a href="#">201052</a>	AUTONATION FORD WHITE BEAR LAKE	Accounts Payable	Outstanding	Check	-379.06
07/05/2023		<a href="#">201053</a>	BEISSWENGER'S HARDWARE	Accounts Payable	Outstanding	Check	-16.39
07/05/2023		<a href="#">201054</a>	BOLTON & MENK INC	Accounts Payable	Outstanding	Check	-13,682.00
07/05/2023		<a href="#">201055</a>	BRYAN SKAVNAK GOLF ACADEMY LLC	Accounts Payable	Outstanding	Check	-1,000.00
07/05/2023		<a href="#">201056</a>	CDW GOVERNMENT INC	Accounts Payable	Outstanding	Check	-5,800.00
07/05/2023		<a href="#">201057</a>	CENTURY LINK	Accounts Payable	Outstanding	Check	-57.62
07/05/2023		<a href="#">201058</a>	COON RAPIDS, CITY OF	Accounts Payable	Outstanding	Check	-29,701.00
07/05/2023		<a href="#">201059</a>	CUMMINS INC	Accounts Payable	Outstanding	Check	-44.31
07/05/2023		<a href="#">201060</a>	EMERGENCY APPARATUS MAINT	Accounts Payable	Outstanding	Check	-71.50
07/05/2023		<a href="#">201061</a>	FLEET PRIDE TRUCK & TRAILER PARTS	Accounts Payable	Outstanding	Check	-32.36
07/05/2023		<a href="#">201062</a>	GRAFIK DISTINCTION INC	Accounts Payable	Outstanding	Check	-2,600.00
07/05/2023		<a href="#">201063</a>	GUAVA ENTERTAINMENT	Accounts Payable	Outstanding	Check	-1,200.00
07/05/2023		<a href="#">201064</a>	HAWKINS INC	Accounts Payable	Outstanding	Check	-8,411.31
07/05/2023		<a href="#">201065</a>	HILDI INC	Accounts Payable	Outstanding	Check	-2,995.00
07/05/2023		<a href="#">201066</a>	HOME DEPOT CREDIT SERVICES	Accounts Payable	Outstanding	Check	-71.73
07/05/2023		<a href="#">201067</a>	HYRKAS, ADELLE	Accounts Payable	Outstanding	Check	-900.00
07/05/2023		<a href="#">201068</a>	LEAGUE OF MN CITIES INS TRUST	Accounts Payable	Outstanding	Check	-2,490.64
07/05/2023		<a href="#">201069</a>	METERING & TECHNOLOGY SOLUTIONS	Accounts Payable	Outstanding	Check	-32,968.70
07/05/2023		<a href="#">201070</a>	NUSS TRUCK AND EQUIPMENT	Accounts Payable	Outstanding	Check	-449.59
07/05/2023		<a href="#">201071</a>	ON SITE COMPANIES	Accounts Payable	Outstanding	Check	-2,003.00
07/05/2023		<a href="#">201072</a>	PREMIUM WATERS INC	Accounts Payable	Outstanding	Check	-8.49
07/05/2023		<a href="#">201073</a>	QUADIENT FINANCE USA INC	Accounts Payable	Outstanding	Check	-1,500.00
07/05/2023		<a href="#">201074</a>	ROCK SOLID LANDSCAPE & IRRIGATION	Accounts Payable	Outstanding	Check	-560.00
07/05/2023		<a href="#">201075</a>	SM HENTGES & SONS INC	Accounts Payable	Outstanding	Check	-101,236.13
07/05/2023		<a href="#">201076</a>	SMITHSON, EVERETT	Accounts Payable	Outstanding	Check	-950.00
07/05/2023		<a href="#">201077</a>	TACTICAL R/C LLC	Accounts Payable	Outstanding	Check	-90.00
07/05/2023		<a href="#">201078</a>	TAHO SPORTSWEAR	Accounts Payable	Outstanding	Check	-110.00
07/05/2023		<a href="#">201079</a>	VOIGT BUS SERVICES INC	Accounts Payable	Outstanding	Check	-1,039.40
07/05/2023		<a href="#">201080</a>	VOLK, TRAVIS	Accounts Payable	Outstanding	Check	-25.25
07/05/2023		<a href="#">DFT0004459</a>	DELTA DENTAL PLAN OF MINNESOTA	Accounts Payable	Outstanding	Bank Draft	-9,252.87
<b>Accounts Payable Total: (120)</b>							<b>-843,045.25</b>

Bank Transaction Report

Issued Date	Cleared Date	Number	Description	Module	Status	Type	Amount
<b>Payroll</b>							
06/23/2023	06/21/2023	<a href="#">14</a>	14	Payroll	Cleared	Check	0.00
06/23/2023		<a href="#">EFT0000188</a>	Payroll EFT	Payroll	Outstanding	EFT	-387,372.63
<b>Payroll Total: (2)</b>							<b>-387,372.63</b>
<b>Utility Billing</b>							
06/23/2023		<a href="#">200950</a>	JOHN & LORI COURNEYA	Utility Billing	Outstanding	Check	-392.90
06/23/2023		<a href="#">200951</a>	REI PROPERTY MGMT	Utility Billing	Outstanding	Check	-47.44
06/23/2023		<a href="#">200952</a>	JAMES WOODS JR ENTERPRISES LLC	Utility Billing	Outstanding	Check	-163.29
06/23/2023		<a href="#">200953</a>	ELLIOT SCHADEGG	Utility Billing	Outstanding	Check	-28.70
06/23/2023		<a href="#">200954</a>	ANEES KHATOON	Utility Billing	Outstanding	Check	-1,126.08
06/23/2023		<a href="#">200955</a>	REBECCA CORRIGAN	Utility Billing	Outstanding	Check	-16.06
06/23/2023		<a href="#">200956</a>	WALTER SHUPIEN	Utility Billing	Outstanding	Check	-68.35
06/23/2023		<a href="#">200957</a>	DAVID HVIDSTON	Utility Billing	Outstanding	Check	-11.96
06/23/2023		<a href="#">200958</a>	SCOTT SCHULTZ	Utility Billing	Outstanding	Check	-33.93
06/23/2023		<a href="#">200959</a>	ESTATE OF WAYNE PARKS	Utility Billing	Outstanding	Check	-153.16
06/23/2023		<a href="#">200960</a>	MIR ALI	Utility Billing	Outstanding	Check	-16.51
06/23/2023		<a href="#">200961</a>	RANDY JOHNSON	Utility Billing	Outstanding	Check	-70.16
06/23/2023		<a href="#">200962</a>	JUDY ENGBRETSON	Utility Billing	Outstanding	Check	-29.92
06/23/2023		<a href="#">200963</a>	RYAN VORONYAK	Utility Billing	Outstanding	Check	-212.68
06/23/2023		<a href="#">200964</a>	J F OSTERLOH	Utility Billing	Outstanding	Check	-110.59
06/23/2023		<a href="#">200965</a>	AMONI INVESTMENTS LLC	Utility Billing	Outstanding	Check	-51.97
06/23/2023		<a href="#">200966</a>	ROBERT BARTA JR	Utility Billing	Outstanding	Check	-119.15
06/23/2023		<a href="#">200967</a>	BRIAN POLSKI	Utility Billing	Outstanding	Check	-259.82
06/23/2023		<a href="#">200968</a>	SHIRLEY KENNEDY	Utility Billing	Outstanding	Check	-38.22
06/23/2023		<a href="#">200969</a>	SCOTT REDMOND	Utility Billing	Outstanding	Check	-177.82
06/23/2023		<a href="#">200970</a>	KISHA DELAIN	Utility Billing	Outstanding	Check	-41.23
06/23/2023		<a href="#">200971</a>	MERVAT FOUAD	Utility Billing	Outstanding	Check	-174.44
06/23/2023		<a href="#">200972</a>	MELANIE NORTH	Utility Billing	Outstanding	Check	-461.46
06/23/2023		<a href="#">200973</a>	NANCY WALTER	Utility Billing	Outstanding	Check	-240.36
06/23/2023		<a href="#">200974</a>	MATT PARTRIDGE	Utility Billing	Outstanding	Check	-70.46
06/23/2023		<a href="#">200975</a>	JAMES & NANCY SCHMIDT	Utility Billing	Outstanding	Check	-94.98
06/23/2023		<a href="#">200976</a>	ESTATE OF MARYLOUISE MARSHALL	Utility Billing	Outstanding	Check	-210.00
06/23/2023		<a href="#">200977</a>	JOHN J WILLIAMS	Utility Billing	Outstanding	Check	-240.61
06/23/2023		<a href="#">200978</a>	JOAN OLSON	Utility Billing	Outstanding	Check	-114.17
06/23/2023		<a href="#">200979</a>	CTW GROUP	Utility Billing	Outstanding	Check	-62.85
06/23/2023		<a href="#">200980</a>	JANICE DEAN	Utility Billing	Outstanding	Check	-68.54
06/23/2023		<a href="#">200981</a>	CHRIS FANDREY	Utility Billing	Outstanding	Check	-49.59
06/23/2023		<a href="#">200982</a>	ESTATE OF MICHAEL KUUSISTO	Utility Billing	Outstanding	Check	-60.51
06/23/2023		<a href="#">200983</a>	MARY NIERENGARTEN	Utility Billing	Outstanding	Check	-56.48
06/23/2023		<a href="#">200984</a>	ORVILLE NERGARD	Utility Billing	Outstanding	Check	-163.29
06/23/2023		<a href="#">200985</a>	AL HOESCHEN	Utility Billing	Outstanding	Check	-114.40
06/23/2023		<a href="#">200986</a>	KAY S DUEBER	Utility Billing	Outstanding	Check	-23.46

**Bank Transaction Report**

Item 10.

Issued Date	Cleared Date	Number	Description	Module	Status	Type	Amount
06/23/2023		<a href="#">200987</a>	JEAN O REVELING	Utility Billing	Outstanding	Check	-125.97
<b>Utility Billing Total: (38)</b>							<b>-5,501.51</b>
<b>Report Total: (160)</b>							<b>-1,235,919.39</b>



**Bank Transaction Report**

Bank Account	Count	Amount
<a href="#">0000100479 City of Fridley</a>	160	-1,235,919.39
<b>Report Total:</b>	<b>160</b>	<b>-1,235,919.39</b>

Cash Account	Count	Amount
<a href="#">**No Cash Account**</a>	1	0.00
<a href="#">999 999-101100 Cash in Bank - CITY Pooled Cash</a>	159	-1,235,919.39
<b>Report Total:</b>	<b>160</b>	<b>-1,235,919.39</b>

Transaction Type	Count	Amount
Bank Draft	23	-359,245.05
Check	135	-489,221.71
EFT	2	-387,452.63
<b>Report Total:</b>	<b>160</b>	<b>-1,235,919.39</b>



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council

**Submitted By:** Scott Hickok, Director of Community Development  
 Stacy Stromberg, Planning Manager  
 Rachel Workin Environmental Planner

## Title

Ordinance No. 1412, Public Hearing and First Reading Proposing Updates to Fridley City Code Section 205.28, Critical Area Overlay District, Section 205.32, Shoreland Overlay District and Section 205.30, Telecommunications Towers and Facilities District to Conform with New Mississippi River Corridor and Critical Area Rules

The Mississippi River Corridor Critical Area (MRCCA) is a corridor of land along a 72-mile stretch of the Mississippi River through the Twin Cities Metropolitan which has been designated for special protection by the State of Minnesota (State) under Minnesota Statute 116G due to the river's natural, cultural, and scenic value. Within the MRCCA, special land use planning and zoning regulations have been developed by the State as part of Minnesota Rules Chapter 6106 to protect these resources. As the local land use authority, the City of Fridley (City) is responsible for implementing these regulations within its jurisdiction. The City has maintained MRCCA-specific zoning regulations since the adoption of the 205.28 Critical Area District Chapter of City Code in 1983.

In 2017, the State approved new rules for the MRCCA under Minnesota Rules Chapter 6106 that were put forth by the Minnesota Department of Natural Resources (DNR) following significant input from numerous stakeholders. The DNR also developed a model ordinance that outlines the minimum standards that communities must adopt to be compliant with the new rules. Since January 2020, all 30 communities within the MRCCA have been updating their codes to meet the new MRCCA standards. Due to the extensiveness of these changes in both substance and formatting, staff recommends repealing and replacing the existing Critical Area Chapter with the proposed code language. Significant changes to the rules include:

- Designation of new "primary conservation areas" within the Critical Area including the shore impact zone, bluff impact zones, and existing significant vegetative stands
- Design and placement requirements for non-building structures (decks, patios, stairways, etc.) within primary conservation areas
- Increased regulation over vegetation management within primary conservation areas
- Increased consideration of impacts to Public River Corridor Views and primary conservation areas during discretionary actions including variances, special use permits, and interim use permits

## Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

- Changes to the definition of bluff to encompass any area greater than 18% in slope over a rise and run of 25 feet within the Critical Area
- Reduction in the setback requirement from the Ordinary High Water Line in the Urban Mixed district from 100 feet to 50 feet
- Increased regulation of subdivisions

These new rules will impact properties that contain newly designated primary conservation areas which include properties with riparian areas, bluffs, significant existing vegetation stands, and along tributaries (Springbrook Creek, Stonybrook Creek, Oak Glen Creek, and Rice Creek). Example scenarios of how the proposed changes will impact properties along the river are attached to this report. While the majority of the ordinance language is required by state statute, there are some discretionary provisions in the text amendment that provide a higher degree of protection than required. These include:

Section	Optional Language	Justification
205.28.03	Adds definitions for “biological and ecological functions”, “lifts”, Mississippi Flyway	Term used within chapter
204.28.04.02	Adds consideration of impacts on wildlife using the Mississippi Flyway and public access as a requirement when reviewing variances	Ensures variances do not harm the corridor’s ecological and recreational value
204.28.04.02	Requires that written findings for variances evaluate consistency with the MRCCA Plan and underlying MRCCA District	Ensures consistency with the underlying plans and determine the merit of the variance application
204.28.04.03	Adds consideration of impacts on wildlife using the Mississippi Flyway and public access as a requirement when reviewing special use permits	Ensures special use permits do not harm the corridor’s ecological and recreational value
204.28.04.03	Requires that written findings for special use permits evaluate consistency with the MRCCA Plan and underlying MRCCA District	Ensures consistency with the underlying plans and determine the merit of the special use permit application
204.28.04.04	Requires mitigation of impacts to primary conservation areas and public river corridor views occurring due to variances, special use permits, or interim use permits and provides example mitigation methods	Offsets negative ecological impacts occurring during discretionary items to preserve the MRCCA’s resources
204.28.04.07	Provides potential mitigation methods for height variances	Provides direction for mitigation of visual impacts due to building height
205.28.08	Requires lighting to be fully shield and prohibits uplighting within the Shore Impact Zone	Protects wildlife habitat, particularly migratory birds using the Mississippi Flyway, that are vulnerable to light

### Vision Statement

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		pollution as well as the natural character of the area
205.28.08	Prohibits interfering with the line of sight to the river	Existing code language which minimizes opportunities for conflict and preserves neighborhood character
205.28.10	Requires that public access provided on new development where called for in a city plan	Modified version of existing code; allows for strategically increasing river access in conformance with council-approved city plans
205.28.11	Requires replacement when trees greater than four inches are removed from primary conservation areas, except in cases of approved habitat and erosion control plans; adds a date that restorations be approved by; establishes a fee in lieu program for tree replacement	Modified version of existing code that previously required replacement when trees greater than four inches are removed anywhere in the MRCCA, but only during development. This language is to maintain the corridors canopy and ecological integrity in strategic areas.
205.28.12	Requires that habitat and erosion control plans be prepared by a professional accepted and approved by the City	Completion of habitat and erosion control plans should be done by a professional to minimize the risk of erosion and protect shoreline stability.
None	The model ordinance allows for structure setback averaging in which the setback for a new principal structure can be closer to the river than the MRCCA setback if the average structure setback of the of the adjoining structures is less than required.	This provision was not included since it was considered to be exacerbating nonconformities and a lack of consistency in implementation of the rules.

In addition to the changes in the Critical Area District Chapter, staff are proposing updates to the Telecommunications Towers and Facilities District Chapter to reference applicable requirements in the Critical Area District Chapter. Staff are also proposing updates to the Shoreland Overlay District Chapter to streamline permitting for properties that fall within both the Critical Area District and the Shoreland Overlay Districts. Currently, residents must reference both chapters when planning a project in areas of overlapping jurisdictions. Under permitting flexibility allowed by the DNR, staff is proposing to update the Shoreland Overlay District Chapter to state that residents only need to reference the Critical Area District Chapter. No other changes were proposed to these Chapters except those needed to reference the new Critical Area rules.

The proposed changes were recommended for approval by the Environmental Quality and Energy Commission 5-0 at their meeting on May 9, 2023 and by the Planning Commission 4-1 at their meeting on June 21, 2023. Three residents spoke during the Public Hearing in front of the Planning Commission. Their comments were primarily related to vegetation management requirements within the Shore

### **Vision Statement**

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Impact Zones and Bluff Impact zones on their property. Notice of the public hearing was sent to property owners and residents on properties with newly created primary conservation areas who will be impacted by the changes prior to the public hearing before the Planning Commission and again prior to the public hearing before the City Council. The notice also directed residents to the website [FridleyMN.gov/Critical Area](http://FridleyMN.gov/CriticalArea) which contains maps of primary conservation areas and further explanation of how the new rules may impact different projects.

### **Financial Impact**

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None.

### **Recommendation**

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Staff recommend the City Council open the public hearing, take comment, then close the public hearing.

Staff recommend the City Council approve a first reading of Ordinance No. 1412.

### **Focus on Fridley Strategic Alignment**

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<input checked="" type="checkbox"/> Vibrant Neighborhoods & Places	<input type="checkbox"/> Community Identity & Relationship Building
<input type="checkbox"/> Financial Stability & Commercial Prosperity	<input checked="" type="checkbox"/> Public Safety & Environmental Stewardship
<input checked="" type="checkbox"/> Organizational Excellence	

### **Attachments and Other Resources**

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- Ordinance No. 1412
- Summary of Code Changes
- Example Project Scenarios
- Public comments from DNR and Friends of the Mississippi River
- Notice to Residents

### **Vision Statement**

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

## Ordinance No. 1412

Amending the Fridley City Code Section 205.28, Critical Area District, Section 205.32, Shoreland Overlay District, and Section 205.30, Telecommunications Towers and Facilities District

The City Council of the City of Fridley does ordain, after review, examination and staff recommendation that the Fridley City Code be amended as follows:

### **Section 1**

That the Fridley City Code be hereby amended by amending Chapter 205.28 Critical Area District as follows:

#### **FRIDLEY CITY CODE**

#### **~~SECTION 205-28. 0-2 CRITICAL AREA DISTRICT REGULATIONS~~**

##### **~~1. PURPOSE AND INTENT~~**

~~It is the purpose and intent of this district to prevent or mitigate irreversible damage to the Mississippi River Corridor and to preserve and enhance its values to the public. The Mississippi River Corridor is a unique and essential element in the local, regional, state and national transportation, sewer and water, and recreational systems, as well as serving important biological and ecological functions, and shall be protected and preserved in accordance with the following policies:~~

- ~~A. The Mississippi River Corridor shall be managed as a multi-purpose public resource that provides for the development of a variety of urban uses within the river corridor while conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.~~
- ~~B. The Mississippi River Corridor shall be managed in a manner consistent with its natural characteristics and its existing development and in accordance with regional plans for the development of the Metropolitan Area.~~
- ~~C. The Mississippi River Corridor shall be managed in accordance with the Critical Areas Act of 1973, the Minnesota Environmental Policy Act of 1973, and the Governor's critical area designation, Executive Order No. 130, dated November 23, 1976, and other applicable state and federal laws.~~

##### **~~2. DISTRICT BOUNDARIES~~**

~~The boundaries of the 0-2 District shall be located on the official zoning map of the City of Fridley, and shall encompass all property located between the center line of Anoka~~

~~County Trunk Highway 1 and the normal high water line of the east bank of the Mississippi River running from the north boundary to the south boundary line of the City.~~

### ~~3. DEFINITIONS~~

~~For the purpose of this district the following definitions shall apply:~~

~~A. Bluff.~~

~~Those steep slopes lying between the normal high water mark and the River Corridor boundary having an angle of ascent from the river of more than twelve percent (12%) from the horizontal.~~

~~B. Bluffline.~~

~~A line delineating the top of the bluff connecting the points at which the angle of ascent becomes less than twelve percent (12%). More than one (1) bluffline may be encountered.~~

~~C. Clear-cutting.~~

~~The indiscriminate cutting down of large numbers of trees in a given areas.~~

~~D. Critical Area.~~

~~The area known as the Mississippi River Corridor Critical Area designated by the Governor in the Executive Order No. 130.~~

~~E. Development.~~

~~The making of any material change in the use or appearance of any structure or land including reconstruction; alteration of the size of any structure; alteration of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples); mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; the dividing of land into two (2) or more parcels.~~

~~F. Essential Services.~~

~~Means underground or overhead gas, electrical, steam or water distribution systems including poles, wires, mains, drains, sewer pipes, conduits, cables and other similar equipment and accessories in conjunction therewith.~~

~~G.—Public Safety Facilities.~~

~~Hydrants, fire alarm boxes, street lights, railway crossings signals and similar accessories including buildings.~~

~~H.—Retaining Wall.~~

~~A structure utilized to hold a slope in a position in which it would not naturally remain.~~

~~I.—Terrace.~~

~~A relatively level area bordered on one (1) or more sides by retaining walls.~~

~~J.—Utility Facility.~~

~~Physical facilities of electric, telephone, telegraph, cable, television, water, sewer, solid waste, gas and similar service operations.~~

~~K.—Wetlands.~~

~~Low lying areas which may be covered with shallow and sometimes intermittent water. They are frequently associated with a high water table. Wetlands are generally too wet for cultivation or development without artificial drainage. Swamps, bogs, marshes, potholes, wet meadows and sloughs are wetlands.~~

~~**4.—USES PERMITTED**~~

~~Any use permitted within the existing zoned district.~~

~~**5.—USES EXCLUDED**~~

~~A.—Any use that was excluded within the existing zoned district.~~

~~B.—Any barge fleeting or barge loading.~~

~~C.—Any waste storage use or treatment facilities.~~



~~D. Any mining or extraction uses other than soil preparation or peat removal.~~

## **~~6. SITE PLAN REQUIREMENTS~~**

~~A. No building permit, zoning, or subdivision approval shall be issued for any action located in this district until a site plan has been prepared and approved in accordance with the provisions of this Section.~~

~~B. No site plans shall be required for a single family dwelling or for the extension, enlargement, change, or alteration thereof, nor accessory structures thereto.~~

## **~~7. SITE PLAN CONTENTS~~**

~~A. Site plans shall be prepared to a scale appropriate to the size of the project and suitable for review.~~

~~B. The following information shall be provided in the site plan:~~

~~(1) Location of the property including such information as the name and numbers of adjoining roads, railroads, existing subdivisions, or other landmarks.~~

~~(2) The name and address of the owner(s) or developer(s), the Section, township and range, northpoint, date and scale of drawing and number of sheets.~~

~~(3) Existing topography as indicated on a contour map having a contour interval no greater than two (2) feet per contour. The topography map shall also clearly delineate the river and any bluffline, all streams, including intermittent streams and swales, river, waterbodies and wetlands. The topography map shall indicate the floodway and/or flood fringe lines and the normal highwater mark of the river.~~

~~(4) A plan delineating existing drainage of the water setting forth the direction, the volume, and at what rate storm water is conveyed from the site, and setting forth those areas of the site where storm water collects and is gradually percolated into the ground or slowly released to a creek, river or lake.~~

~~(5) A proposed drainage plan of the developed site delineating the direction, the volume, and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect and gradually percolate into the ground, or be slowly released to a creek, river or lake. The plan shall also set forth the hydraulic capacity of all structures to be~~

- constructed, existing structures to be utilized, and volume of holding ponds for the design storm (i.e. six inch (6"), twenty-four (24) hour rain).
- ~~(6) A description of the soils of the site including a map indicating soil types by areas to be disturbed as well as a soil report prepared by a soil scientist containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable. All areas proposed for grading shall be identified by soil type, including the existing top soil and the soil type of the new contour. The location and extent of any erosion areas shall be indicated. The stability of rock outcroppings along blufflines and faces shall be included in the soils description.~~
- ~~(7) A map indicating proposed finished grade having a contour at the same intervals as provided on the existing topographic map or as required to clearly indicate the relationship of proposed changes in existing topography and remaining features.~~
- ~~(8) An erosion and sedimentation control plan indicating the type, location, and necessary technical information on control measures to be used during and after construction including a statement expressing the calculated anticipated gross soil loss expressed in tons per acre per year during and after construction.~~
- ~~(9) A delineation of the location and amounts of excavated soils to be stored on the site during construction.~~
- ~~(10) A description of the flora and fauna, which occupy the site or are occasionally found thereon, setting forth in detail those areas where unique plant or animal species may be found on the site.~~
- ~~(11) A description of any features, buildings or areas which are of historic significance.~~
- ~~(12) A landscape plan drawn to an appropriate scale, including dimensions, distances, location, type, size and description of all existing vegetation proposed for removal and all proposed landscape materials which will be added to the site as part of the development.~~
- ~~(13) The proposed size, alignment, height and intended use of any structure to be erected or located on the site.~~

~~(14) A clear delineation of all land which shall be paved or hard surfaced including a description of the surfacing material to be used.~~

~~(15) A description of the method to be provided for vehicular and pedestrian access to the proposed development and public access to river and/or public river view opportunities both before and after development. A description of the development's impact on existing view of and along the river. A description of all parking facilities to be provided as part of the development of the site including an analysis of parking needs generated by the proposed development.~~

~~(16) A delineation of the area or areas to be dedicated for public use.~~

~~(17) Any other information pertinent to the particular project which in the opinion of the City or applicant is necessary or helpful for the review of the project.~~

## ~~8. ADDITIONAL REQUIREMENTS FOR ALL STRUCTURES~~

### ~~A. Lot Size.~~

~~Lot size shall be governed by the existing zoning district.~~

### ~~B. Building Height.~~

~~Building height shall be governed by the existing zoning district.~~

### ~~C. Setbacks.~~

~~Setbacks shall be governed by the existing zoning districts except as follows:~~

~~(1) All new structures and uses shall be placed not less than forty (40) feet from the top of the bluffline overlooking the Mississippi River.~~

~~(2) All new structures and uses shall be placed not less than 100 feet from the Mississippi River normal high water line as defined by the Federal Insurance Administration's Flood Insurance Study.~~

~~(3) Exceptions to setback requirements shall include public safety facilities, public bridges and approaches, public roadways, public recreation facilities, scenic overlooks, regional and local trails; docks and boat launching facilities,~~

~~approved river crossings of essential services and distribution services and historical sites designated by the National and State Register of Historic Places.~~

- ~~(4) The following agencies shall be notified of all variance requests to the above setback requirements: The Minnesota Department of Natural Resources and Environmental Quality Board.~~

~~D. Placement of Structures.~~

- ~~(1) Placement of structures in areas subject to flooding as designated in Section 205.24 of this Chapter shall be governed by the regulations of that Section.~~
- ~~(2) No land with slopes, before alteration, in excess of eighteen percent (18%) will be developed for use except for necessary erosion control structures which are in conformance with all other guidelines and standards. All applicable local, state and federal laws, rules and regulations and Metropolitan plan guidelines and standards must be met for bridge construction and bridge approach roadways.~~
- ~~(3) Development on slopes in excess of twelve percent (12%), but less than eighteen percent (18%), will be permitted provided that the applicant can meet the following conditions:~~
- ~~(a) The foundation and underlying material shall be adequate for the slope condition and soil type.~~
  - ~~(b) The developer can demonstrate that development during and after construction can be accomplished without increasing erosion and that there are proper controls to reduce runoff to nondestructive levels.~~
  - ~~(c) The proposed development presents no danger of falling rock, mud, uprooted trees and other material to structures, recreational facilities, public lands and public water down hill.~~
- ~~(4) Line of Sight. The development of new, or the expansion of existing structures, shall be placed so that the development is consistent with the preservation of the view of the river corridor from other properties on both sides of the river and by the public. The walling off of views of the river corridor from other properties and public right-of-ways shall be prohibited.~~

**~~9. NATURAL RESOURCE MANAGEMENT~~**

- ~~A. Grading and Filling. Grading and filling or otherwise changing the changing the topography landward of the ordinary high water mark shall not be conducted without a City permit, and in compliance with the provisions of Minnesota Regulation MR 79, Section (h), of the Wild and Scenic Rivers Regulation, paragraphs (1), (2) and (3).~~
- ~~B. Retaining walls and erosion control structures waterward of the normal high water mark are permitted structures if the applicable permits issued by the Army Corps of Engineers and the Minnesota Department of Natural Resources have been obtained.~~
- ~~C. Retaining walls and erosion control structures on the landward side of the normal high water mark that are visible from the water surface shall meet the following design criteria:~~
- ~~(1) Retaining walls or terrace contours shall not exceed five (5) feet in height.~~
  - ~~(2) The minimum space in between retaining walls shall be twenty (20) feet.~~
- ~~D. Vegetative management:~~
- ~~(1) Clear-cutting of trees on the slope or face of bluffs and within forty (40) feet landward from the bluffline or river bank area shall not be permitted.~~
  - ~~(2) The selective cutting of trees greater than four inches (4") in diameter may be authorized by the City, when cutting is appropriately spaced and staged to maintain a continuous natural cover.~~
  - ~~(3) The development of new or the expansion of existing structures shall be accomplished so as to minimize the need for tree removal. If trees over four inches (4") are cut, the density of tree cover shall be restored to that which existed before cutting. The applicant shall demonstrate that all grading which takes place will be conducted in a manner that preserves the root zone aeration and stability of existing trees and provides an adequate watering area equal to at least one-half (1/2) of each tree crown cover.~~
  - ~~(4) Exceptions to the above include the removal of diseased or damaged trees.~~
- ~~E. Standards for surface water management and erosion control.~~
- ~~(1) Storm water run-off from any new development may be directed into public water bodies and drainage systems provided that it is substantially free from~~

~~silt, debris and chemical pollutants, and only at rates equal to that on the property before development.~~

- ~~(2) Any new development shall provide for erosion protection measures which make maximum use of natural in-place vegetation. During construction and until such time as final control measures are fully implemented and established, adequate development practices will be maintained to insure that gross soil loss levels shall not exceed five (5) tons per acre per year during construction or two (2) tons per acre per year during construction when the site is adjacent to a water body or water course; and one half (1/2) ton per acre per year after the construction activities are completed.~~
- ~~(3) Structures, trails and roadways shall be sited to minimize levels of pedestrian and vehicular traffic in areas where soil compaction and loss of vegetation cover can contribute to erosion problems.~~

## **10. TRANSMISSION SERVICES, PUBLIC TRANSPORTATION, AND RIVER CROSSING**

### **A. Transmission and Essential Services.**

- ~~(1) Primary consideration shall be given to underground placement of services in order to minimize aesthetic, environmental and public safety aspects. When considering overhead placement, the developer must show the reasoning that makes underground placement unfeasible.~~
- ~~(2) All transmission service crossing of the Mississippi River require a permit pursuant to Minnesota Statute 84.415 or 105.42 by the Department of Natural Resources.~~
- ~~(3) All transmission crossing of land within the district shall require a Special Use Permit as required by this Chapter.~~

### **B. Transportation Facilities.**

~~Transportation crossings shall be permitted in accord with NR 79, Section (j), except paragraph (ddd) under (i), route design of the Wild and Scenic River regulations.~~

- ~~(1) In planning and designing the construction or reconstruction of all public transportation facilities which closely parallel the river or blufflines, careful consideration should be given to the provision of scenic overlooks for motorists, safe pedestrian access from areas on the landward side of these~~

~~transportation facilities and safe pedestrian facilities along the riverward of these facilities.~~

~~(2) The construction or reconstruction of all public transportation facilities shall be located and designed in such a manner that will maintain the safe use and access to the riverfront in public ownership, allow reasonable use of the land between the river and the transportation facility and maintain the aesthetic quality of the river environment.~~

## **~~11. PUBLIC ACCESS~~**

~~A. Public pedestrian right-of-way including river access shall be provided for any new development that is adjacent to or part of an overall plan of the city for pedestrian movement within the district.~~

~~B. Public pedestrian access shall be provided to the riverfront of developments on publicly owned and publicly controlled riverfront property. Access will not be provided where:~~

~~(1) Unavoidable hazards exist to the public.~~

~~(2) Public pedestrian access at a particular location cannot be designed or developed to provide a pleasant view or recreational experience.~~

## **~~12. RIGHT OF WAY MAINTENANCE~~**

~~A. Natural vegetation of value to fish or wildlife, which does not pose a hazard or restrict reasonable use of the property, shall be allowed to grow in the right-of-way.~~

~~B. Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs and low growing trees, shall be planted and maintained on the right-of-way.~~

~~C. Chemical control of vegetation should be avoided when practicable, but where such methods are necessary, chemicals used and the manner of their use must be in accordance with rules and regulations of all state and federal agencies with authority over the use.~~

Fridley City Code  
Section 205.28. O-2 Critical Area Overlay District

### 205.28.01 Purpose

The Mississippi River Corridor Critical Area (MRCCA) Chapter is adopted pursuant to the authorization and policies contained in Minnesota Statutes (M.S.) Chapter 116G, Minnesota Rules Parts 6106.0010 - 6106.0180, and the planning and zoning enabling legislation in M.S. Chapters 462 and 473.

The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of designated critical areas and thus preserve and enhance the quality of important historic, cultural, aesthetic values, and natural systems and provide for the wise use of these areas.

#### 205.28.02 General Provisions

1. Jurisdiction. The provisions of this Chapter apply to land within the O-2 District, which is land within the river corridor boundary as described in the State Register, volume 43, pages 508 to 519 and shown on the City zoning map.

2. Severability. If any section, clause, provision, or portion of this Chapter is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

3. Abrogation and Greater Restrictions. It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail. All other Chapters inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.

4. Underlying Zoning. Use and standards of underlying zoning apply except where standards of this overlay district are more restrictive.

5. Enforcement. The City is responsible for the administration and enforcement of this Chapter. Any violation of its provisions or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants of variances or special uses constitutes a misdemeanor and is punishable as defined by law. Violations of this Chapter can occur regardless of whether or not a permit is required for a regulated activity listed in Section 205.28.04.01.

#### 205.28.03 Definitions

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted to give them the same meaning they have in common usage and to give this Chapter its most reasonable application. For the purpose of this Chapter, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.



Access path: An area designated to provide ingress and egress to public waters.

Adjacent: Having a boundary that physically touches or adjoins.

Agricultural use: A use having the meaning given under M.S. § 40A.02.

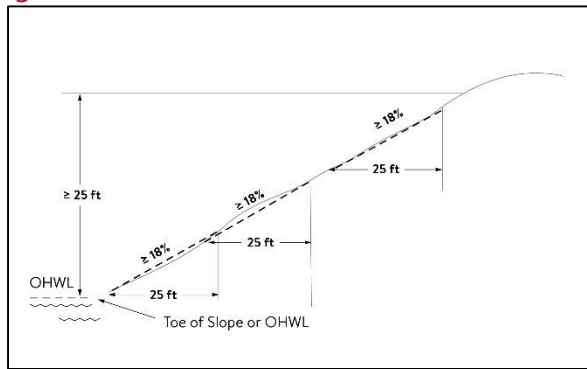
Alternative design: Subdivision design methods such as conservation design, transfer of development density, or similar zoning and site design techniques that protect open space and natural areas.

Biological and ecological functions: The functions of vegetation in stabilizing soils and slopes, retaining and filtering runoff, providing habitat, and recharging groundwater.

Bluff:

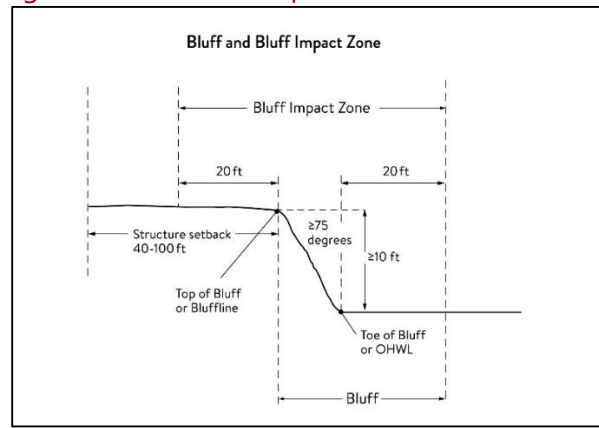
1. A slope that rises at least 25 feet where the grade of the slope averages 18% or greater, measured over any horizontal distance of 25 feet, from the toe of the slope to the top of the slope. Where the slope begins below the ordinary high water level, the ordinary high water level is the toe of the slope. See Figure 1; or

Figure 1. Bluff



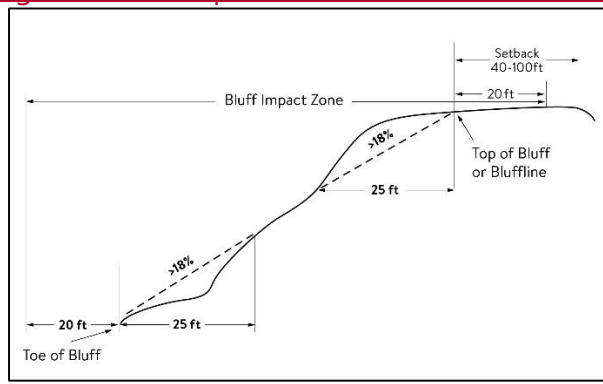
2. A natural escarpment or cliff with a slope that rises at least ten feet above the ordinary high water level or toe of the slope, whichever is applicable, to the top of the slope, with a slope of 75 degrees or greater. See Figure 2.

Figure 2. Natural Escarpment Bluff and Bluff Impact Zone



Bluff impact zone (BIZ): A bluff and land located within 20 feet of the bluff. See Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Figure 3. Bluff Impact Zone, Bluffline, Toe of bluff, and Top of Bluff



Bluffline: A line delineating the top of the bluff. More than one bluffline may be encountered proceeding landward from the river. See Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Bluff, Toe of: A line along the bottom of a bluff, requiring field verification, such that the slope above the line exceeds 18 percent and the slope below the line is 18 percent or less, measured over a horizontal distance of 25 feet. See Figures 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Bluff, Top of: A line along the top of a bluff, requiring field verification, such that the slope below the line exceeds 18 percent and the slope above the line is 18 percent or less, measured over a horizontal distance of 25 feet. See Figures 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Buildable area: The area upon which structures may be placed on a lot or parcel of land and excludes areas needed to meet requirements for setback, rights-of-way, bluff impact zones, historic properties, wetlands, designated floodways, land below the ordinary high water level of public waters, and other unbuildable areas.

Building: A structure with two or more outside rigid walls and a fully secured roof and affixed to a permanent site.

Commissioner: The Commissioner of the Minnesota Department of Natural Resources.

Conservation design: A pattern of subdivision that is characterized by grouping lots within a portion of a parcel, where the remaining portion of the parcel is permanently protected as open space.

Conventional subdivision: A pattern of subdivision that is characterized by lots that are spread regularly throughout a parcel in a lot and block design.

Deck: A horizontal, unenclosed, aboveground level structure open to the sky, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

Developer: Having the meaning given under M.S. § 116G.03.

Development: Having the meaning given under M.S. § 116G.03.

Discretionary action: An action under this Chapter related to land use that requires a public hearing by local ordinance or statute, such as preliminary plats, final subdivision plats, planned unit developments, special use permits, interim use permits, variances, appeals, and rezonings.

Dock: Having the meaning given under Minnesota Rules Chapter 6115.

Electric power facilities: Equipment and associated facilities for generating electric power or devices for converting wind energy to electrical energy as identified and defined under M.S. § 216E.

Essential services: Underground or overhead gas, electrical, communications, steam, sanitary sewer, or water distribution, treatment, collection, supply, or disposal systems, including storm water. Essential services include poles, wires, mains, drains, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, navigational structures, aviation safety facilities, lift stations, stormwater management facilities, or other similar equipment and accessories in conjunction with the systems. Essential services do not include buildings, treatment works as defined in M.S. § 115.01, electric power facilities or transmission services.

Floodplain: Having the meaning given the meaning given under Minnesota Rules Chapter 6120.

Fully reconstructs: The reconstruction of an existing impervious surface that involves site grading and subsurface excavation so that soil is exposed. Mill and overlay and other resurfacing activities are not considered fully reconstructed.

Hard-surface trail: A trail surfaced in crushed aggregate, asphalt, or other hard surface, for public use, as determined by local, regional, or state agency plans.

Historic property: An archaeological site, standing structure, site, district, or other property that is:

1. Listed in the National Register of Historic Places or the State Register of Historic Places or locally designated as a historic site under Minnesota Statutes Chapter 471;
2. Determined to meet the criteria for eligibility to the National Register of Historic Places or the State Register of Historic Places as determined by the Director of the Minnesota Historical Society; or
3. An unplatted cemetery that falls under the provisions of Minnesota Statutes Chapter 307, in consultation with the Office of the State Archaeologist.

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

Intensive vegetation clearing: The removal of all or a majority of the trees or shrubs in a contiguous patch, strip, row, or block.

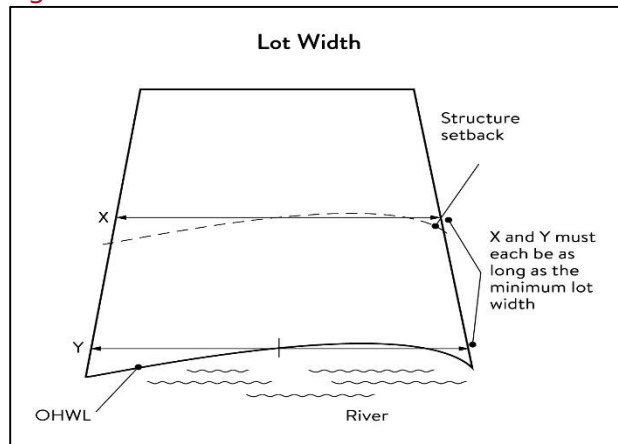
Interim use: A use having the meaning given under Minnesota Statutes Chapters 394 and 462.

Land alteration: An activity that exposes the soil or changes the topography, drainage, or cross section of the land, excluding gardening or similar minor soil disturbances. Also referred to as "grading".

Lift: A tram or other accessible means to get up and down steep slopes.

Lot width: The shortest distance between lot lines measured at both the ordinary high water level and at the required structure setback from the ordinary high water level. See Figure 4.

Figure 4. Lot Width



Marina: Having the meaning given under Minnesota Rules Chapter 6115.

Mississippi Flyway: A major North American bird migration corridor that encompasses all MRCCA districts.

Mooring Facility: Having the meaning given under Minnesota Rules part 6115.0170.

Native plant community: A plant community identified by the Minnesota Biological Survey or biological survey issued or adopted by a local, state, or federal agency.

Natural-surface trail: A trail composed of native soil and rock or compacted granular stone, primarily intended for hiking, equestrian, or mountain bike use, as determined by local, regional, or state agency plans.

Natural vegetation: Any combination of ground cover, understory, and tree canopy that, while it may have been altered by human activity, continues to stabilize soils, retain and filter runoff, provide habitat, and recharge groundwater.

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

Off-premise advertising signs: Those signs that direct attention to a product, service, business, or entertainment venue that is not exclusively related to the premises where the sign is located.

Ordinary high water level (OHWL): Having the meaning given under M.S. § 103G.005.

Parcel: Having the meaning given under M.S. § 116G.03.

Patio: A constructed hard surface located at ground level with no railings and open to the sky.

Picnic shelter: A roofed structure open on all sides, accessory to a recreational use.

Planned Unit Development: A method of land development that merges zoning and subdivision controls, allowing developers to plan and develop a large area as a single entity, characterized by a unified site design, a mix of structure types and land uses, and phasing of development over a number of years. Planned unit development includes any conversion of existing structures and land uses that utilize this method of development.

Plat: Having the meaning given under M.S. § 505 and 515B.

Primary conservation areas (PCAs): Key resources and features, including shore impact zones, bluff impact zones, floodplains, wetlands, gorges, areas of confluence with tributaries, natural drainage routes, unstable soils and bedrock, native plant communities, cultural and historic properties, and significant existing vegetative stands, tree canopies, and other resources identified in local government plans.

Private facilities: Private roads, driveways, and parking areas, private water access and viewing structures, decks and patios in setback areas, and private signs.

Public facilities: Public utilities, public transportation facilities, and public recreational facilities.

Public recreation facilities: Recreational facilities provided by the state or a local government and dedicated to public use, including parks, scenic overlooks, observation platforms, trails, docks, fishing piers, picnic shelters, water access ramps, and other similar water-oriented public facilities used for recreation.

Public river corridor views (PRCVs): Views toward the river from public parkland, historic properties, and public overlooks, as well as views toward bluffs from the ordinary high water level of the opposite shore, as seen during the summer months and documented in the MRCCA Chapter of the comprehensive plan.

Public transportation facilities: All transportation facilities provided by federal, state, or local government and dedicated to public use, such as roadways, transit facilities, railroads, and bikeways.

Public utilities: Electric power facilities, essential services, and transmission services.

Public waters: Having the meaning given under M.S. § 103G.005.

Readily visible: Land and development that are easily seen from the ordinary high water level of the opposite shore during summer months.

Resource agency: A federal, state, regional, or local agency that engages in environmental, natural, or cultural resource protection or restoration activities, including planning, implementation, and monitoring.

Retaining wall: A vertical or nearly vertical structures constructed of mortar and rubble masonry, rock, or stone, vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials that in combination exceed four vertical feet.

Rock riprap: Natural coarse rock placed or constructed to armor shorelines, streambeds, bridge abutments, pilings and other shoreline structures against scour, or water or ice erosion.

River corridor boundary: The boundary approved and adopted by the Metropolitan Council under M.S. § 116G.06, as approved and adopted by the legislature in M.S. § 116G.15, and as legally described in the State Register, volume 43, pages 508 to 518.

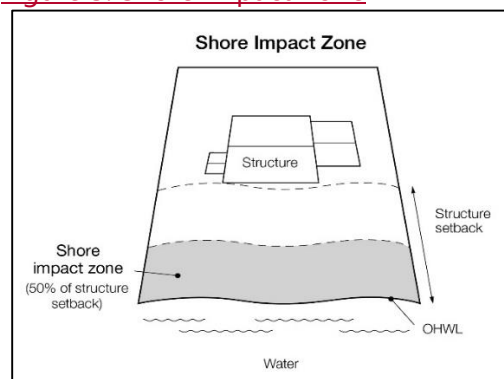
River-dependent use: The use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.

Selective vegetation removal: The removal of isolated individual trees or shrubs that are not in a contiguous patch, strip, row, or block and that does not substantially reduce the tree canopy or understory cover.

Setback: A separation distance measured horizontally.

Shore impact zone (SIZ): Land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50% of the required structure setback or, for agricultural use, 50 feet landward of the ordinary high water level. See Figure 5.

Figure 5. Shore Impact Zone



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

Sign: See definition in the Signs Chapter.

Steep slope: Any slope steeper than 15% fifteen percent (15 feet of rise for every 100 feet horizontal run).

Storm water management facilities: Facilities for the collection, conveyance, treatment, or disposal of storm water.

Structure: A building, sign, or appurtenance thereto, except for aerial or underground utility lines, such as sewer, electric, telephone, or gas lines, and utility line towers, poles, and other supporting appurtenances.

Subsurface sewage treatment system. Having the meaning given under Minnesota Rules Part 7080.1100.

Transmission services: Electrical power lines, cables, pipelines, or conduits that are:

1. Used to transport power between two points, as identified and defined under M.S. § 216E.01, Subd. 4; or
2. For mains or pipelines for gas, liquids, or solids in suspension, used to transport gas, liquids, or solids in suspension between two points; and
3. Telecommunication or electric lines, cables, pipelines, or conduits.

Treeline: The more or less continuous line formed by the tops of trees in a wooded area when viewed from a particular point. The treeline is determined during all seasons as if under full foliage.

Variance: Having the meaning given under M.S. § 394.22.

Water access ramp: A boat ramp, carry-down site, boarding dock, and approach road, or other access that allows launching and removal of a boat, canoe, or other watercraft with or without a vehicle and trailer.

Water-oriented accessory structure: A small building or other improvement, except stairways, fences, docks, and retaining walls, that, because of the relationship of its use to public waters, needs to be located closer to public waters than the normal structure setback. Examples include gazebos, screen houses, fish houses, pump houses, and detached decks and patios.



Water quality impact zone: Land within the shore impact zone or within 50 feet of the OHWL of the river, whichever is greater, and land within 50 feet of a public water, wetland, or natural drainage route.

Wetland: Having the meaning given under M.S. § 103G.005.

#### 205.28.04 Administration

1. Permits. A permit is required for the construction of buildings, building additions, and structures (including construction of decks and signs), vegetation removal consistent with Section 205.28.11 and land alteration consistent with Section 205.28.12.

2. Variances. Variances to the requirements under this Chapter may only be granted in accordance with M.S. § 462.357 and must consider the potential impacts on primary conservation areas, public river corridor views, birds and other wildlife using the Mississippi Flyway through habitat loss, collision threats or light pollution, and other resources identified in the MRCCA plan. In reviewing the variance application, the following shall be considered:

(a) Impacts to the resources listed above. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts consistent with Section 205.28.04.04; and

(b) Make written findings that the variance is consistent with the purpose of this Chapter as follows:

(1) The extent, location and intensity of the variance will be in substantial compliance with the MRCCA Plan; and

(2) The variance is consistent with the character and management purpose of the MRCCA district in which it is located.

3. Special and interim use permits. All special and interim uses, required under this Chapter, must comply with M.S. § 462.3595 and must consider the potential impacts on primary conservation areas, public river corridor views, birds and other wildlife using the Mississippi Flyway through habitat loss, collision threats or light pollution, public access, and other resources identified in the MRCCA plan. In reviewing the application, the following shall be considered:

(a) Impacts to the resources listed above. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts consistent with Section 205.28.04.04; and

(b) Make written findings that the special and interim use permit is consistent with the purpose of this Chapter as follows:

(1) The extent, location and intensity of the special or interim use permit will be in substantial compliance with the MRCCA Plan; and

(2) The special or interim use permit is consistent with the character and management purpose of the MRCCA district in which it is located.

4. Mitigation of impacts. Negative impacts to primary conservation areas, public river corridor views, and other resources identified in the MRCCA Plan occurring due to variances, special use permits, or interim use permits must be mitigated for in a way that is related to and proportional to the impacts. Mitigation may include:

(a) Restoration of vegetation;

(b) Implementation of animal habitat support as outlined in the most recent version of the Minnesota B3 Guidelines;

(c) Increasing and/or improving habitat for pollinators, birds, and other wildlife using native trees, shrubs, and vegetation;

(d) Expansion of public access;

(e) Preservation of existing vegetation;

(f) Storm water runoff management;

(g) Reducing impervious surface;

(h) Increasing structure setbacks;

(i) Wetland and drainage route restoration and/or preservation;

(j) Limiting the height of structures;

(k) Modifying structure design to limit visual impacts on public river corridor views; and

(l) Other conservation measures.

5. Application materials. Applications for permits and discretionary actions required under this Chapter must submit the following information unless the City Manager or their designee determines that the information is not needed.

(a) A detailed project description; and

(b) Scaled maps and plans, dimensional renderings, maintenance agreements, and other materials that identify and describe:

(1) Primary conservation areas;

(2) Public river corridor views;

(3) Buildable area;

(4) Proposed size, alignment, height, and intended use of any structure to be erected or located on the site;

(5) A delineation of the location and amounts of excavated soils to be stored on the site during construction;

(6) Existing and proposed topography and drainage patterns;

(7) Proposed storm water and erosion and sediment control practices;

(8) Existing and proposed vegetation to be removed and established;

(9) Ordinary high water level, blufflines, and all required setbacks;

(10) Existing and proposed impervious surfaces as well as surfacing to be used; and

(11) Any other information pertinent to the particular project which in the opinion of the City or applicant is necessary or helpful for the review of the project.

## 6. Nonconformities

(a) All legally established nonconformities as of the date of adoption of this Chapter may continue consistent with M.S. § 462.357, Subd. 1e.

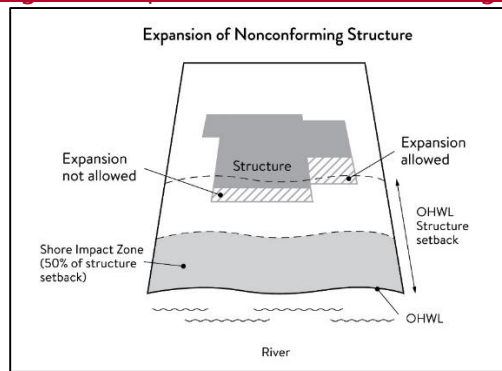
(b) Site alterations and expansion of site alterations that were legally made prior to the effective date of this ordinance are conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements.

(c) Legally nonconforming principal structures that do not meet the setback requirements of Section 205.28.07.03 may be expanded laterally provided that:

(1) The expansion does not extend into the shore or bluff impact zone or further into the required setback than the building line of the existing principal structure (See Figure 6); and

(2) The expanded structure's scale and bulk is consistent with that of the original structure and existing surrounding development.

Figure 6. Expansion of Nonconforming Structure



## 7. Notifications

(a) Amendments to this Chapter and to the MRCCA plan must be submitted to the Commissioner of the Department of Natural Resources (DNR) as provided in Minnesota Rules Part 6106.0070, Subp. 3, Items B – I.

(b) Notice of public hearings for discretionary actions, including special and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, and PUDs, must be sent to the following entities at least 10 days prior to the hearing:

(1) The Commissioner of the DNR in a format prescribed by the DNR;

(2) National Park Service; and

(3) Where building heights exceed the height limits specified in Section 205.28.07.01 as part of the special use or variance process, adjoining local governments within the MRCCA, including those with overlapping jurisdiction and those across the river.

(c) Notice of final decisions for actions in Section 205.28.04.07.B, including findings of fact, must be sent to the Commissioner of the DNR, the National Park Service, and adjoining local governments within the MRCCA within ten (10) days of the final decision.

(d) Requests to amend district boundaries must follow the provisions in Minnesota Rules Part 6106.0100, Subp. 9, Item C.

8. Accommodating disabilities. Reasonable accommodations for ramps or other facilities to provide persons with disabilities access to the persons' property, as required by the federal Americans with Disabilities Act and the federal Fair Housing Act and as provided by Minnesota Rules Chapter 1341, must:

(a) Comply with Sections 205.28.07-205.28.14; or

(b) If Sections 205.28.07-205.28.14 cannot be complied with, ramps or other facilities are allowed with a Reasonable Accommodation License provided:

(1) The license terminates on either a specific date or upon occurrence of a particular event related to the person requiring accommodation; and

(2) Upon expiration of the permit, the ramp or other facilities must be removed.

### 205.28.05 MRCCA Districts

1. District description and management purpose. The MRCCA within Fridley is divided into the following MRCCA districts:

(a) Rural and Open Space (ROS)

The Rural and Open Space District is characterized by rural and low-density development patterns and land uses and includes land that is riparian or visible from the river, as well as large, undeveloped tracts of high ecological and scenic value, floodplain, and undeveloped islands. Many primary conservation areas exist in the district.

The Rural and Open Space District must be managed to sustain and restore the rural and natural character of the corridor and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas.

(b) River Neighborhood (RN)

The River Neighborhood District is characterized by primarily residential neighborhoods that are riparian or readily visible from the river or that abut riparian parkland. The district includes parks and open space, limited commercial development, marinas, and related land uses.

The River Neighborhood District must be managed to maintain the character of the river corridor within the context of existing residential and related neighborhood development, and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas. Minimizing erosion and the flow of untreated storm water into the river and enhancing habitat and shoreline vegetation are priorities in the district.

(c) Separated from River (SR)

The Separated from River District is characterized by its physical and visual distance from the Mississippi River. The district includes land separated from the river by distance, topography, development, or a transportation corridor. The land in this district is not readily visible from the Mississippi River.

The Separated from River district provides flexibility in managing development without negatively affecting the key resources and features of the river corridor. Minimizing negative impacts to primary conservation areas and minimizing erosion and flow of untreated storm water into the Mississippi River are priorities in the district. The SR district must be managed in a manner that allows continued growth and redevelopment in historic downtowns and more intensive redevelopment in limited areas at river crossings to accommodate compact walkable development patterns and connections to the river. Minimizing erosion and the flow of untreated storm water into the river, providing public access to and public views of the river, and restoring natural vegetation in riparian areas and tree canopy are priorities in the district.

## 2. Urban Mixed (UM)

The Urban Mixed District includes large areas of highly urbanized mixed use that are a part of the urban fabric of the river corridor, including institutional, commercial, industrial, and residential areas and parks and open space.

The Urban Mixed District must be managed in a manner that allows for future growth and potential transition of intensely developed areas that does not negatively affect public river corridor views and that protects bluffs and floodplains. Restoring and enhancing bluff and shoreline habitat, minimizing erosion and flow of untreated storm water into the river, and providing public access to and public views of the river are priorities in the district.

## 3. MRCCA district map

The locations and boundaries of the MRCCA districts established by this Chapter are shown on the Critical Area Overlay District Map, which is incorporated herein by reference. The district boundary lines are intended to follow the centerlines of rivers and streams, highways, streets, lot lines, and municipal boundaries, unless a boundary line is otherwise indicated on the map. Where district boundaries cross unsubdivided property, the district boundary line is determined by use of dimensions or the scale appearing on the map.

### 205.28.06 Special Land Use Provisions

1. Uses excluded. The following uses are excluded from the MRCCA:

(a) Any use that is excluded within the underlying zoning district;

(b) Any barge fleeting or barge loading;

(c) Any solid waste storage use or treatment facilities;

(d) Any mining or extraction uses other than the soil preparation or peat removal necessary for construction;

(e) The construction of new subsurface sewage treatment systems;

(f) Agricultural use unless perennial ground cover is provided within at least 50 feet of the ordinary high water level and within the bluff impact zone; and

(g) Tree harvesting and biomass harvesting within woodlands, and associated reforestation, unless it is conducted consistent with recommended practices in Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota.

2. River-dependent uses. River-dependent uses must comply with the following design standards:

(a) Structures and parking areas, except shoreline facilities and private roads and conveyances serving river-dependent uses as provided in Section 205.28.14, must meet the dimensional and performance standards in this Chapter, must be designed so that they are not readily visible, and must be screened by establishing and maintaining natural vegetation;

(b) Shoreline facilities must comply with Minnesota Rules Chapter 6115 and must:

(1) Minimize the shoreline area affected in so far as feasible; and

(2) Minimize the surface area of land occupied in relation to the number of watercrafts to be served;

(c) Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.

3. Wireless communication towers

(a) Wireless communication towers that existed in the MRCCA prior to the adoption of this Chapter are considered legally nonconforming.

(b) A new wireless communication towers or the physical modification of an existing wireless communication tower that results in an increase in the intensity of the nonconforming use requires a special use permit and is subject to the following design standards:

- (1) The applicant must demonstrate that functional coverage cannot be provided through co-location, a tower at a lower height, or a tower at a location outside of the MRCCA;
- (2) Freestanding towers must not be located in a bluff or shore impact zone;
- (3) Placement of the tower must minimize impacts on public river corridor views; and
- (4) Comply with the general design standards in Section 205.28.09.01.

#### 205.28.07 Structure Height, Placement, and Lot Size

1. Structure height. Structures and facilities must comply with the following standards or the underlying development standard, whichever is lesser, unless identified as exempt in Section 205.28.14. Height is measured on the side of the structure facing the Mississippi River:

(a) River and Open Space District: 35 feet.

(b) River Neighborhood District: 35 feet.

(c) Separated from River District: Height is determined by underlying development standard, provided the allowed height is consistent with that of the mature treeline, where present, and existing surrounding development, as viewed from the OWHL of the opposite shore.

(d) Urban Mixed District: 65 feet, provided tiering of structures away from the Mississippi River and from blufflines is given priority, with lower structure heights closer to the river and blufflines, and that structure design and placement minimize interference with public river corridor views. Structures over 65 feet are allowed as a Special Use according to Section 205.28.07.02.

2. In addition to the variance or special use requirements of Section 205.28.04.04, criteria for considering whether to grant a variance or special use permit for structures exceeding the height limits must include:

(a) Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;

(b) Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as:

(1) Placing the long axis of the building perpendicular to the river;

(2) Stepping back of portions of the facade;



(3) Lowering the roof pitch or use of a flat roof;

(4) Using building materials or mitigation techniques that will blend in with the natural surrounds;

(5) Implementation of animal habitat support as outlined in the most recent version of the Minnesota B3 Guidelines;

(6) Narrowing the profile of upper floors of the building;

(7) Increasing the setbacks of the building from the Mississippi River or blufflines; or

(8) Opportunities for creation or enhancement of public river corridor views.

### 3. Structure and impervious surface placement.

(a) Structures and impervious surface must not be placed in the shore or bluff impact zones unless identified as an exemption in Section 205.28.14.

(b) Structures, impervious surfaces, and facilities must comply with the following OHWL setback provisions unless identified as exempt in Section 205.28.14:

(1) Rural and Open Space District: 200 feet from the Mississippi River.

(2) River Neighborhood District: 100 feet from the Mississippi River.

(3) Urban Mixed District: 50 feet from the Mississippi River.

(c) Structures, impervious surfaces, and facilities must comply with the following bluffline setback provisions unless identified as exempt in Section 205.28.14:

(1) Rural and Open Space District: 100 feet.

(2) River Neighborhood District: 40 feet.

(3) Separated from River District: 40 feet.

(4) Urban Mixed District: 40 feet.

(5) Oak Glen Creek, Rice Creek, Springbrook Creek, Stonybrook Creek: 50 feet.

(d) Impervious surface lot coverage must not exceed 35% on any lot within the Shoreland Overlay District except as a variance which shall comply with the following standards:

(1) All structures, additions or expansions shall meet setback and other requirements of this Code;

(2) The lot shall be served with municipal sewer and water;

(3) The lot shall provide for the collection and treatment of stormwater in compliance with Stormwater Management and Erosion Control Chapter of the Code; and

(4) Measures shall be taken for the treatment of stormwater runoff and/or prevention of stormwater from directly entering a public water.

#### 4. Lot size and buildable area.

(a) The width of lots abutting the Mississippi River in the ROS District must be at least 200 feet, unless alternative design methods are used that provide greater protection of the riparian area.

(b) All new lots must have adequate buildable area to comply with the setback requirements of Sections Section 205.28.07.01 and Section 205.28.07.03 so as to not require variances to use the lots for their intended purpose.

#### 205.28.08 Performance Standards for Private Facilities

1. General design standards. All private facilities must be developed in accordance with the vegetation management and land alteration requirements in Sections 205.28.11 and 205.28.12.

2. Private roads, driveways, and parking areas. Except as provided in Section 205.28.14, private roads, driveways and parking areas must:

(a) Be designed to take advantage of natural vegetation and topography so that they are not readily visible from the river;

(b) Comply with structure and impervious surface setback requirements according to Section 205.28.07.03; and

(c) Not be placed within the bluff impact zone or shore impact zone, unless exempt under Section 205.28.14 and designed consistent with Section 205.28.09.01.

#### 3. Private water access and viewing facilities.

(a) Private access paths must be no more than:

(1) Eight feet wide, if placed within the shore impact zone; and

(2) Four feet wide, if placed within the bluff impact zone.

(b) Private water access ramps must:

(1) Comply with Minnesota Rules Parts 6115.0210 and 6280.0250; and

(2) Be designed and constructed consistent with the applicable standards in the most current version of the Design Handbook for Recreational Boating and Fishing Facilities.

(c) Design and construction of private stairways, lifts, and landings located above the OHWL are subject to the following standards:

(1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be approved for commercial properties and residential facilities held in common;

(2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet area may be approved for commercial properties and residential facilities held in common;

(3) Canopies or roofs are prohibited on stairways, lifts, or landings;

(4) Stairways, lifts, and landings must be located in the least visible portion of the lot whenever practical; and

(5) Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities are allowed for achieving access to shore areas according to Section 205.28.08.3.C 1-4, and as provided under Section 205.28.04.08.

(d) One water-oriented accessory structure is allowed for each riparian lot or parcel less than 300 feet in width at the ordinary high water level, with one additional water-oriented accessory structure allowed for each additional 300 feet of shoreline on the same lot or parcel. Water-oriented accessory structures are prohibited in the bluff impact zone and must:

(1) Not exceed 12 feet in height;

(2) Not exceed 120 square feet in area; and

(3) Be placed a minimum of 10 feet from the ordinary high water level.

3. Decks and patios in setback areas. Decks and at-grade patios may encroach into the required setbacks from the ordinary high water level and blufflines without a variance, when consistent with Sections 205.28.11 and 205.28.12, provided that:

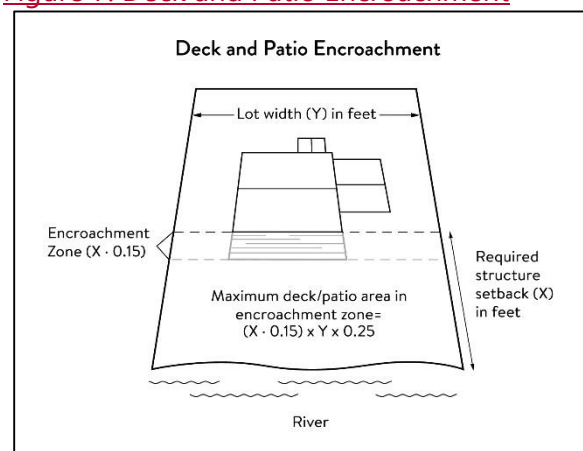
(a) The encroachment of the deck or patio into the required setback area does not exceed 15% of the required structure setback;

(b) The area of the deck or patio that extends into the required setback area occupies no more than 25% of the total area between the required setback and the 15% using the formula:

Required setback depth (feet) x 0.15 x lot width at setback (feet) x 0.25 = maximum total area.

(c) The deck or patio does not extend into the bluff impact zone. See Figure 7.

Figure 7. Deck and Patio Encroachment



#### 4. Off-Premise and Directional Signs

(a) Off-premise advertising signs must:

(1) Meet required structure height and placement standards in Sections 205.28.07.01 and 205.28.07.03.

(2) Not be readily visible from the river

(b) Directional signs for patrons arriving at a business by watercraft must comply with the following standards:

(1) They must be consistent with M.S. § 86B.115.

(2) Only convey the location and name of the establishment and the general types of goods and services available, if located in a shore impact zone.

(3) Be no greater than ten feet in height and 32 square feet in surface area; and

(4) If illuminated, the lighting must be shielded and directed downward to prevent illumination out across the river or to the sky.

5. Lighting. Within the Shore Impact Zone:

(a) Lighting shall be fully shielded and directed away from the river.

(b) Uplighting is prohibited.

6. Line of Sight. The development of new, or the expansion of existing structures, shall be placed so that the development is consistent with the preservation of the view of the river corridor from other properties on both sides of the river and by the public. The walling off of views of the river corridor from other properties and public right-of-ways shall be prohibited.

205.28.09 Performance Standards for Public Facilities

1. General design standards. All public facilities must be designed and constructed to:

(a) Minimize visibility of the facility from the river to the extent consistent with the purpose of the facility;

(b) Comply with the structure placement and height standards in Section 205.28.07, except as provided in Section 205.28.14;

(c) Be consistent with the vegetation management standards in Section 205.28.11 and the land alteration and storm water management standards in Section 205.28.12, including use of practices identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001, where applicable; and

(d) Avoid primary conservation areas, unless no alternative exists. If no alternative exists, then disturbance to primary conservation areas must be avoided to the greatest extent practicable, and design and construction must minimize impacts.

(e) Where feasible, minimize disturbance of spawning and nesting times by scheduling construction at times when local fish and wildlife are not spawning or nesting in areas where this activity is known to occur.

2. Right-of-way maintenance standards. Right-of-way maintenance must comply with the following standards:

(a) Vegetation currently in a natural state must be maintained to the extent feasible;

(b) Where vegetation in a natural state has been removed, native plants must be planted and maintained on the right-of-way; and

(c) Chemical control of vegetation must be avoided when practicable, but when chemical control is necessary, chemicals used must be in accordance with the regulations and other requirements of all state and federal agencies with authority over the chemical's use.

3. Crossings of public water or public land. Crossings of public waters or land controlled by the commissioner are subject to approval by the commissioner according to M.S. § 84.415 and 103G.245.

4. Public utilities. Public utilities must comply with the following standards:

(a) High-voltage transmission lines, wind energy conversion systems greater than five megawatts, and pipelines are regulated according to Minnesota Statutes Chapter 216E, 216F, and 216G respectively;

(b) Primary consideration shall be given to underground placement of facilities in order to minimize aesthetic, environmental and public safety aspects. When considering overhead placement, the developer must show the reasoning that makes underground placement unfeasible;

(c) If underground placement is unfeasible, visibility of the facility from the river must be minimized as much as practicable; and

(d) The appearance of structures must be as compatible as practicable with the surrounding area in a natural state with regard to height and width, materials used, and color.

5. Public transportation facilities. Public transportation facilities shall comply with structure placement and height standards in Section 205.28.07 except as provided in Section 205.28.14. Where such facilities intersect or abut two or more MRCCA districts, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:

(a) Providing scenic overlooks for motorists, bicyclists, and pedestrians;

(b) Providing safe pedestrian crossings and facilities along the river corridor;

(c) Providing access to the riverfront in public ownership; and

(d) Allowing for use of the land between the river and the transportation facility.

6. Public recreational facilities. Public recreational facilities must comply with the following standards:

(a) Buildings and parking associated with public recreational facilities must comply with the structure placement and height standards in Section 205.28.07, except as provided in Section 205.28.14;

(b) Roads and driveways associated with public recreational facilities must not be placed in the bluff or shore impact zones unless no other placement alternative exists. If no alternative exists, then design and construction must minimize impacts to shoreline vegetation, erodible soils and slopes, and other sensitive resources;

(c) Trails, access paths, and viewing areas associated with public recreational facilities and providing access to or views of the Mississippi River are allowed within the bluff and shore impact zones if design, construction, and maintenance methods are consistent with the best management practice guidelines in Trail Planning, Design, and Development Guidelines:

(1) Hard-surface trails are not allowed on the face of bluffs with a slope exceeding 30%. Natural surface trails are allowed, provided they do not exceed eight feet in width.

(2) Trails, paths, and viewing areas must be designed and constructed to minimize:

((a)) Visibility from the river;

((b)) Visual impacts on public river corridor views; and

((c)) Disturbance to and fragmentation of primary conservation areas.

(d) Public water access facilities must comply with the following requirements:

(1) Watercraft access ramps must comply with Minnesota Rules Chapters 6115.0210 and 6280.0250; and

(2) Facilities must be designed and constructed consistent with the standards in the most recent version of the Minnesota DNR's Design Handbook for Recreational Boating and Fishing Facilities.

(e) Public signs and kiosks for interpretive or directional purposes are allowed in the bluff or shore impact zones, provided they are placed and constructed to minimize disturbance to these areas and avoid visual impacts on public river corridor views; and

(f) Public stairways, lifts, and landings must be designed as provided in Section 205.28.08.03.C.

#### 205.28.10 Public Access

1. Public river access to and along the river shall be provided for any new development that is adjacent to or part of a city plan including public access.
2. Public river access shall be provided to the riverfront of developments on publicly owned and publicly controlled riverfront property where feasible.

#### 205.28.11 Vegetation Management

##### 1. Applicability. This section applies to:

- (a) Shore impact zones;
- (b) Areas within 50 feet of a wetland or natural drainage route;
- (c) Bluff impact zones;
- (d) Areas of native plant communities; and
- (e) Significant existing vegetative stands identified in the MRCCA plan

##### 2. General performance standards for vegetation management. The general performance standards for vegetation management are as follows:

- (a) Development must be sited to minimize removal of or disturbance to natural vegetation;
- (b) Soil, slope stability, and hydrologic conditions are suitable for the proposed work as determined by the City Manager or their designee
- (c) Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views;
- (d) Vegetation removal activities must be conducted so as to expose the smallest practical area of soil to erosion for the least possible time; and
- (e) Grading must be conducted in a manner that preserves the root zone aeration and stability of existing trees and provides an adequate watering area equal to at least one-half of each tree crown. If this is not possible, a replacement tree must be provided in conformance with Section 205.28.11.07.



3. Activities allowed without a permit:

- (a) Maintenance of existing lawns, landscaping, and gardens;
- (b) Removal of vegetation in emergency situations as determined by the City Manager or their designee;
- (c) Right-of-way maintenance for public facilities meeting the standards Section 205.28.09.02
- (d) Agricultural and forestry activities meeting the standards of Sections 205.28.06.01.F and 205.28.06.01.G;
- (f) Selective vegetation removal provided that vegetative cover as viewed from the river remains consistent with the management purpose of the MRCCA district and trees are replaced in conformance with Section 205.28.11.06.

4. Activities allowed with a permit. Only the following intensive vegetation clearing activities are allowed with a permit, all other forms of intensive vegetation clearing are prohibited:

- (a) Clearing of vegetation that is dead, diseased, dying, or hazardous;
- (b) Clearing to prevent the spread of diseases or insect pests;
- (c) Clearing to remove invasive non-native species;
- (d) Clearing for habitat restoration and erosion control management activities consistent with an approved plan;
- (e) The minimum necessary for development that is allowed with a building permit or as an exemption under Section 205.28.14.

5. Vegetation restoration plan. Development of a vegetation restoration plan and reestablishment of natural vegetation is required in the following circumstances:

- (a) For any vegetation removed with a permit under Section 205.28.11.04;
- (b) Upon failure to comply with any provisions in this Section; or
- (c) As part of the planning process for subdivisions as provided in Section 205.28.13.

6. Vegetation Restoration Plan Performance Standards. The vegetation restoration plan must satisfy the application submittal requirements in Section 205.28.04.05, and:

(a) Vegetation must be restored in one or more of the following restoration priority areas:

(1) Stabilization of erodible soils including with soils showing signs of erosion, especially on or near the top and bottom of steep slopes and bluffs;

(2) Restoration or enhancement of shoreline vegetation including shoreline areas within 25 feet of the water with no natural vegetation, degraded vegetation, or planted with turf grass;

(3) Revegetation of bluffs or steep slopes visible from the river; and

(4) Other approved priority opportunity area, including priorities identified in the MRCCA plan, if none of the above exist.

(b) Include vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities and by Native Vegetation Establishment and Enhancement Guidelines;

(c) Any highly erodible soils disturbed during removal and/or restoration must be stabilized with deep-rooted vegetation with a high stem density;

(d) Vegetation removed must be restored with natural vegetation to the greatest extent practicable. The area (square feet) of the restored vegetation should be similar to that removed to the greatest extent practicable;

(e) For restoration of removed native plant communities, restored vegetation must also provide biological and ecological function equivalent to the removed native plant communities;

(f) Be prepared by a qualified individual except for:

(1) Vegetation plans required in response to Section 205.28.11.04.D which must be prepared by a professional ecologist, landscape architect, or person with demonstrable experience and knowledge related to vegetation management as accepted and approved by the City; and

(g) Include a maintenance plan that includes management provisions for controlling invasive species and replacement of plant loss for three years.

## 7. Tree Removal and Replacement

(a) Except for tree removal conducted in accordance with Section 205.28.04.D with an approved vegetation restoration plan, any trees over four inches diameter at breast height that are removed shall be restored with an equal number of trees to that which existed before cutting by September 30 of the subsequent year. If insufficient space is available for tree replanting as determined by the City, a monetary fee may be provided in lieu of tree replanting.

## 205.28.12 Land Alteration and Stormwater Management

### 1. Land alteration

(a) Within the bluff impact zone, land alteration is prohibited, except for the following, which are allowed with a permit:

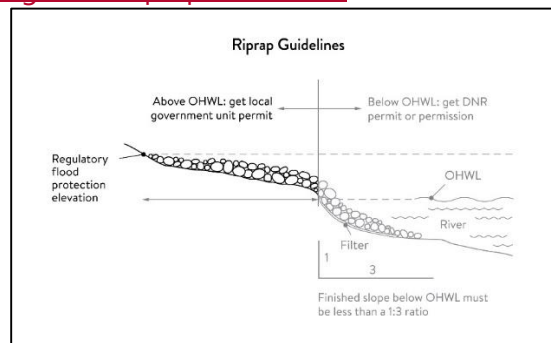
- (1) Erosion control consistent with a plan approved by the City Manager or their designee;
- (2) The minimum necessary that is allowed as an exception under Section 205.28.14; and
- (3) Repair and maintenance of existing buildings and facilities.

(b) Within the water quality impact zone, land alteration that involves more than ten cubic yards of material or affects an area greater than 1,000 square feet requires a permit.

### 2. Rock riprap, retaining walls, and other erosion control structures

(a) Construction, repair, or replacement of rock riprap, retaining walls, and other erosion control structures located at or below the OHWL must comply with Minnesota Rules Part 6115.0215, Subp. 4, item E, and 6115.0216, Subp. 2. Work must not proceed until necessary approvals by the Commissioner, the US Army Corps of Engineers as necessary, and any other required permits are obtained. See Figure 8.

Figure 8. Riprap Guidelines



(b) Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and the water quality impact zone are allowed with a permit consistent with provisions of Section 205.28.12.5 provided that:

(1) If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project;

(2) The structures are used only to correct an established erosion problem as determined by the City Engineer or their designee;

(3) The size and extent of the structures are the minimum necessary to correct the erosion problem and are not larger than the following, unless a professional engineer determines that a larger structure is needed to correct the erosion problem:

((a)) Retaining walls must not exceed four feet in height;

((b)) Retaining walls must be placed a minimum horizontal distance of twenty feet apart; and

((c)) Riprap must not exceed the height of the regulatory flood protection elevation.

(c) Repair of existing rock riprap, retaining walls, and other erosion control structures above the OHWL does not require a permit provided it does not involve any land alteration.

### 3. Storm water management.

(a) In the bluff impact zone, storm water management facilities are prohibited, except by permit if:

(1) There are no alternatives for storm water treatment outside the bluff impact zone on the subject site;

(2) The site generating runoff is designed so that the amount of runoff reaching the bluff impact zone is reduced to the greatest extent practicable;

(3) The construction and operation of the facility does not affect slope stability on the subject property or adjacent properties; and

(4) Mitigation based on the best available engineering and geological practices is required and applied to eliminate or minimize the risk of slope failure.

(b) In the water quality impact zone, development that creates new impervious surface, as allowed by exemption in Section 205.28.14, or fully reconstructs existing impervious

surface of more than 10,000 square feet requires a permit. Multipurpose trails and sidewalks are exempt if there is down gradient vegetation or a filter strip that is at least five feet wide.

(c) In all other areas, storm water runoff must be directed away from the bluff impact zones or unstable areas.

#### 4. Development on steep slopes.

Construction of structures, impervious surfaces, land alteration, vegetation removal, or other construction activities are allowed on steep slopes if:

(a) The development can be accomplished without increasing erosion or storm water runoff;

(b) The soil types and geology are suitable for the proposed development; and

(c) Vegetation is managed according to the requirements of Section 205.28.11.

#### 5. Conditions of land alteration permit approval within the Critical Area

(a) Temporary and permanent erosion and sediment control measures retain sediment onsite consistent with best management practices in the Minnesota Stormwater Manual;

(b) Natural site topography, soil, and vegetation conditions are used to control runoff and reduce erosion and sedimentation;

(c) Construction activity is phased when possible;

(d) All erosion and sediment controls are installed before starting any land alteration;

(e) Erosion and sediment controls are maintained during construction to ensure effective operation;

(f) The proposed work is consistent with the vegetation standards in Section 205.28.11; and

(g) Best management practices for protecting and enhancing ecological and water resources identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001.

#### 6. Compliance with other plans and programs. All land alteration must:

(a) Be consistent with Minnesota Statutes Chapter 103B, and local water management plans completed under Minnesota Rules Chapter 8410;

(b) Meet or exceed the wetland protection standards under Minnesota Rules Chapter 8420;

(c) Comply with the Floodplain Management Overlay District Chapter; and,

(d) Comply with the Stormwater Management and Erosion Control Chapter.

#### 205.28.13 Subdivisions

1. The design standards in this Section apply to subdivisions, planned unit developments and master- planned development and redevelopment of land involving ten or more acres for contiguous parcels that abut the Mississippi River and 20 or more acres for all other parcels within the MRCCA, including smaller individual sites within these developments that are part of a common plan of development that may be constructed at different times.

2. The following activities are exempt from the requirements of this Section:

(a) Minor subdivisions consisting of three or fewer lots;

(b) Minor boundary line corrections;

(c) Resolutions of encroachments;

(d) Additions to existing lots of record;

(e) Placement of essential services; and

(f) Activities involving river-dependent commercial and industrial uses.

3. Project information listed in Section 205.28.04.05 must be submitted for all proposed developments.

4. Design standards.

(a) Primary conservation areas, where they exist, must be set aside and designated as protected open space in quantities meeting the following as a percentage of total parcel area:

(1) CA-ROS District: 50%;

(2) CA-RN District: 20%;

(3) CA-UM: 10%; and

(4) CA-SR District: 10% if the parcel includes native plant communities or provides feasible connections to a park or trail system, otherwise no requirement.

(b) If the primary conservation areas exceed the amounts specified in Section 205.28.13.04, then protection of native plant communities and natural vegetation in riparian areas shall be prioritized.

(c) If primary conservation areas exist but do not have natural vegetation (identified as restoration priorities in the MRCCA Plan), then a vegetation assessment must be completed to evaluate the unvegetated primary conservation areas and determine whether vegetation restoration is needed. If restoration is needed, vegetation must be restored according to Section 205.28.11.04.

(d) If primary conservation areas do not exist on the parcel and portions of the parcel have been identified in the MRCCA plan as a restoration area, vegetation must be restored in the identified areas according to Section 205.28.11.04, and the area must be set aside and designated as protected open space.

(e) Storm water treatment areas or other green infrastructure may be used to meet the protected open space requirements if the vegetation provides biological and ecological functions.

(f) Land dedicated under the Subdivision Chapter for public river access, parks, or other open space or public facilities may be counted toward the protected open space requirement.

(g) Protected open space areas must connect open space, natural areas, and recreational areas, where present on adjacent parcels, as much as possible to form an interconnected network.

##### 5. Permanent protection of designated open space

(a) Designated open space areas must be protected through one or more of the following methods:

(1) Public acquisition by a government entity for conservation purposes;

(2) A permanent conservation easement, as provided in Minnesota Statutes Chapter 84C;

(3) A deed restriction; or

(4) Other arrangements that achieve an equivalent degree of protection.

(b) Permanent protection methods must ensure the long-term management of vegetation to meet its biological and ecological functions, prohibit structures, and prohibit land alteration, except as needed to provide public recreational facilities and access to the river.

6. Alternative design standards. Applicants are encouraged to propose alternative design methods that achieve better protection or restoration of primary conservation areas. Methods may include protection and restoration of continuous vegetation, preventing the fragmentation of vegetation, concentration of density in exchange for higher levels of open space protection, or other zoning and site design techniques.

205.28.14 Exemptions

1. Applicability

(a) Uses and activities not specifically exempted must comply with this Chapter. Uses and activities exempted under shore impact zone and bluff impact zone must comply with the vegetation management and land alteration standards in Sections 205.28.11 and 205.28.12.

(b) Uses and activities in this Section are categorized as:

(1) Exempt – E. This means that the use or activity is allowed;

(2) Exempt if no alternative - (E). This means that the use or activity is allowed only if no alternatives exist; and

(3) Not exempt - N. This means that a use or activity is not exempt and must meet the standards of this Chapter.

2. Use and activity exemptions classification.

(a) General uses and activities.

<u>Use or Activity</u>	<u>Set backs</u>	<u>Height Limits</u>	<u>SI Z</u>	<u>BI Z</u>	<u>Applicable standards with which the use or activity must comply</u>
<u>Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers)</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>N</u>	<u>Structure design and placement must minimize interference with public river corridor views.</u>
<u>Barns, silos, and farm structures</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>N</u>	
<u>Bridges and bridge approach roadways</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>(E)</u>	<u>Section 205.28.09</u>



<b><u>Use or Activity</u></b>	<b><u>Set backs</u></b>	<b><u>Height Limits</u></b>	<b><u>SI Z</u></b>	<b><u>BI Z</u></b>	<b><u>Applicable standards with which the use or activity must comply</u></b>
<u>Wireless communication towers</u>	<u>E</u>	<u>E</u>	<u>N</u>	<u>N</u>	<u>Section 205.28.06.03</u>
<u>Chimneys, religious spires, flag poles, public monuments, and mechanical stacks and equipment</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>N</u>	
<u>Historic properties and contributing properties in historic districts</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>Exemptions do not apply to additions or site alterations</u>

(b) Public utilities.

<b><u>Use or Activity</u></b>	<b><u>Set backs</u></b>	<b><u>Height Limits</u></b>	<b><u>SI Z</u></b>	<b><u>BI Z</u></b>	<b><u>Applicable standards with which the use or activity must comply</u></b>
<u>Electrical power facilities</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>(E)</u>	<u>Section 205.28.09</u>
<u>Essential services (other than storm water facilities)</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>(E)</u>	<u>Section 205.28.09</u>
<u>Storm water facilities</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>(E)</u>	<u>Section 205.28.12</u>
<u>Wastewater treatment</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>N</u>	<u>Section 205.28.09</u>
<u>Public transportation facilities</u>	<u>E</u>	<u>N</u>	<u>(E)</u>	<u>(E)</u>	<u>Section 205.28.09</u>

(c) Public recreational facilities.

<b><u>Use or Activity</u></b>	<b><u>Set backs</u></b>	<b><u>Height Limits</u></b>	<b><u>SI Z</u></b>	<b><u>BI Z</u></b>	<b><u>Applicable standards with which the use or activity must comply</u></b>
<u>Accessory structures, such as monuments, flagpoles, light standards, and similar park features</u>	<u>E</u>	<u>E</u>	<u>(E)</u>	<u>(E)</u>	<u>Section 205.28.09; within BIZ, only on slopes averaging less than 30%. Exemptions do not apply to principal structures.</u>
<u>Picnic shelters and other open-sided structures</u>	<u>E</u>	<u>N</u>	<u>(E)</u>	<u>N</u>	<u>Section 205.28.09</u>
<u>Parking lots</u>	<u>(E)</u>	<u>N</u>	<u>(E)</u>	<u>(E)</u>	<u>Section 205.28.09; within BIZ, only within 20 feet of toe of bluff; not on face of bluff; and must not affect stability of bluff</u>
<u>Roads and driveways</u>	<u>(E)</u>	<u>N</u>	<u>(E)</u>	<u>(E)</u>	<u>Section 205.28.09</u>
<u>Natural-surfaced trails, access paths, and viewing areas</u>	<u>E</u>	<u>N</u>	<u>E</u>	<u>E</u>	<u>Section 205.28.09</u>

<u>Use or Activity</u>	<u>Set backs</u>	<u>Height Limits</u>	<u>SI Z</u>	<u>BI Z</u>	<u>Applicable standards with which the use or activity must comply</u>
<u>Hard-surfaced trails and viewing platforms</u>	<u>E</u>	<u>N</u>	<u>E</u>	(E)	<u>Section 205.28.09; within BIZ, only on slopes averaging less than 30%</u>
<u>Water access ramps</u>	<u>E</u>	<u>N</u>	<u>E</u>	(E)	<u>Section 205.28.09</u>
<u>Public signs and kiosks for interpretive or directional purposes</u>	<u>E</u>	<u>N</u>	<u>E</u>	(E)	<u>Section 205.28.09</u>

(d) River-dependent uses.

<u>Use or Activity</u>	<u>Set backs</u>	<u>Height Limits</u>	<u>SI Z</u>	<u>BI Z</u>	<u>Applicable standards with which the use or activity must comply</u>
<u>Shoreline facilities</u>	<u>E</u>	<u>N</u>	<u>E</u>	(E)	<u>Section 5.25. Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility. River-dependent commercial, industrial, and utility structures are exempt from height limits only if greater height is required for operational reasons.</u>
<u>Private roads and conveyance structures serving river-dependent uses</u>	<u>E</u>	<u>N</u>	<u>E</u>	(E)	<u>Section 5.25; River-dependent commercial, industrial, and utility structures are exempt from height limits only if greater height is required for operational reasons.</u>

(e) Private residential and commercial water access and use facilities.

<u>Use or Activity</u>	<u>Set backs</u>	<u>Height Limits</u>	<u>SI Z</u>	<u>BI Z</u>	<u>Applicable standards with which the use or activity must comply</u>
<u>Private roads serving 3 or more lots</u>	(E)	N	N	(E)	<u>Section 205.28.08; in BIZ, only on slopes averaging less than 30%. Exemption does not apply to private roads serving fewer 3 lots or to private driveways and parking areas</u>
<u>Access paths</u>	E	N	E	E	<u>Section 205.28.08</u>
<u>Water access ramps</u>	E	N	E	N	<u>Section 205.28.08</u>
<u>Stairways, lifts, and landings</u>	E	N	E	E	<u>Section 205.28.08</u>
<u>Water-oriented accessory structures</u>	E	N	E	N	<u>Section 205.28.08</u>
<u>Patios and decks</u>	E	N	N	N	<u>Section 205.28.08</u>
<u>Directional signs for watercraft (private)</u>	E	N	E	N	<u>Section 205.28.08.05; exemption does not apply to off-premise advertising signs</u>
<u>Temporary storage of docks, boats, and other equipment during the winter months</u>	E	N	E	N	
<u>Erosion control structures, such as rock riprap and retaining walls</u>	E	N	E	(E)	<u>Section 205.28.12.2</u>
<u>Flood control structures</u>	E	N	E	(E)	<u>Section 205.28.12</u>

**Section 2**

That the Fridley City Code be hereby amended by amending Chapter 205.32 Shoreland Overlay District as follows:

Fridley City Code  
205.32 O-7 Shoreland Overlay District

205.32

1. Purpose ~~and Intent~~

(a) The unregulated use of shorelands in the city affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise use and development of shorelands of public waters.

(b) Statutory authorization. These shoreland regulations are adopted pursuant to the

authorization and policies contained in Minn. Stat. Ch. 103F, Minnesota Regulations, Parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in Minn. Stat. Ch. 462.

(c) Jurisdiction. The provisions of this Code shall apply to shorelands of the public water bodies as classified in Section 205.32.4.B of this Code except for those properties that are also under the jurisdiction of the Critical Area Overlay District Chapter for which only the Critical Area Overlay District Chapter will apply. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Code.

(d) Compliance. 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 grading and filling of any shoreland area; and the cutting of shoreland vegetation shall be in full compliance with the terms of this Code and other applicable regulations.

(e) District application. The shoreland overlay district shall be superimposed (overlaid) upon all the zoning districts as identified in Chapter 205 of this Code as existing or amended by the text and map of this Code. The regulations and requirements imposed by the shoreland overlay district shall be in addition to those established by the base zoning district which jointly apply. Under joint application of the districts, the more restrictive requirements shall apply.

(f) Exemption. A structure or use which was lawful before adoption of this Chapter, but which is not in conformity with the provisions of the shoreland overlay district, may be continued subject to Section 205.04.3 of this Code.

## 2. District Boundaries

(a) The boundaries of the shoreland permit overlay district within the city consists of the first tier of riparian lots abutting a protected lake or tributary identified in Section 205.32.4.B of this Code. The specific boundaries of the shoreland permit overlay district are shown on the official Fridley Shoreland Overlay District Map in the Fridley Zoning Code.

(b) Properties that are also within the jurisdiction of the Critical Area Chapter, shall remain mapped as part of the Shoreland Overlay District; however, only the provisions of the Critical Area Overlay District Chapter shall apply.

### **Section 3**

That the Fridley City Code be hereby amended by amending Chapter 205.30 Telecommunications Towers and Facilities District as follows:

Fridley City Code  
205.30 O-5 Telecommunications Towers and Facilities District

#### **205.30.2. Definitions**

The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning;

Antenna Support Structure: ~~means~~ any building or other structure other than a tower which can be used for location of wireless telecommunications facilities.

Applicant: any Person that applies for a permit for wireless telecommunication facilities or towers, automatic meter reading devices or small wireless facilities. (~~Ref Ord 1350~~)

Application: the process by which a person submits a request to develop, construct, build, modify, or erect wireless telecommunication facilities or a tower upon land within the City, develop, construct, build, modify, or erect an automatic meter reading system within the City; or develop, construct, build, modify, or erect small wireless facilities within the public right-of-way. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the City concerning such a request. (~~Ord 1350~~)

Approved Site: a site which has been approved by the City Council as an eligible location for placement of wireless communication facilities.

Automatic Meter Reading device: a device which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the public safety and utility bandwidth licensed by Federal Communications commission, including any antenna attached to such device and excluding devices reading and transmitting data from a single utility meter.

Automatic Meter Reading system: a series f devices which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the public safety and utility bandwidth licensed by Federal Communications Commission, including any antenna attached to such device.

~~"City" means the City of Fridley, Minnesota.~~

Collocate or Collocation: to install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within or adjacent to an existing wireless support structure that is owned privately or by a local government.

Electrical Engineer means an electrical engineer licensed by the State of Minnesota.

Existing Site: a tower or antenna support structure installed or erected prior to December 18, 1997, and which is not located on an approved site.

Micro Wireless Facility: a small wireless facility that is no larger than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

Local Government Unit: a county, home rule charter or statutory city, town, or the Metropolitan Council.

Mississippi River Corridor Critical Area: the area within the River Corridor Boundary and under the jurisdiction of the Critical Area Chapter.

Owner: any Person with fee simple title to any approved site, existing site, site approved by special use permit, or wireless telecommunications facility.

Pad Mount Device: a device which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the public safety and utility bandwidth licensed by Federal Communications Commission, including any antenna attached to such device like the automatic meter reading device, but, which is installed on its own pedestal and not on an existing public utility structure.

Person: any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

Satellite Earth Station Antenna: all equipment necessary for processing of traffic received from terrestrial distributions prior to transmission via satellite and of traffic received from the satellite prior to transfer of channels of communication to terrestrial distribution systems.

Small wireless facility:

(1) a wireless facility that meets both of the following qualifications:

(a) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six cubic feet; and

(b) all other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunications demarcation boxes, batter backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and

other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than 28 cubic feet in volume; or

(2) a micro wireless facility.

State: the State of Minnesota.

Structural Engineer: a structural engineer licensed by the State of Minnesota.

Telecommunications Right-of-Way User: a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. A cable communication system defined and regulated under Minn. Stat. Chapter 238, and telecommunications activities related to providing natural gas or electric energy services whether provided by a public utility as defined in M.S. §216B.02, a municipality, a municipal gas or power agency organized under M.S. §453 or §453A, or a cooperative electric association organized under M.S. §308A, are not telecommunications right-of-way users for the purposes of this Chapter and M.S. §237.163, except to the extent these entities are offering wireless services.

Toll: to stop the running of a relevant time period, such as a review period.

Tower: a self-supporting monopole structure constructed from grade which supports wireless telecommunications facilities. The term "tower" shall not include amateur radio operator's equipment as licensed by the FCC. Lattice or guyed structures are prohibited.

Utility Pole: a pole that is used in whole or in part to facilitate telecommunications or electric service.

Wireless Backhaul Facility: a facility used to transport communications data by wire from a wireless facility to a communications network.

Wireless Facility: equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including:

- (1) equipment associated with wireless service;
- (2) a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and
- (3) a small wireless facility. "Wireless facility" does not include the following: wireless support structures, wireless backhaul facilities; or coaxial or fiber-optic cables between

utility poles or wireless support structures or that are not otherwise immediately adjacent to or directly associated with a specific antenna.

**Wireless Service:** any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including a cable service under United States Code, title 47, section 522, clause (6).

**Wireless Support Structure:** a new or existing structure in a public right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by a local government unit.

**Wireless Telecommunications Facilities:** any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications (other than radio or television broadcast communications) which a person seeks to locate or have installed upon or near a tower or an antenna support structure. However, the term wireless telecommunications facilities shall not include:

- (1) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial;
- (2) Any satellite earth station reception antenna one meter or less in diameter, regardless of zoning category;
- (3) Automatic meter reading systems; and
- (4) Small wireless facilities.

### 205.30.3. Non-Conforming Uses

- (1) Existing sites shall be considered a legal non-confirming use, unless otherwise provided for in this Chapter.
- (2) Installation of additional wireless telecommunications facilities beyond those in existence on December 18, 1997, on existing sites is prohibited. Failure to comply with this provision will be considered a violation of this Chapter and subject to the penalties described herein. Routine maintenance of wireless telecommunications facilities on Existing Sites is permitted, except that existing sites and any wireless telecommunications facilities installed on existing sites may not increase in size, height, weight, or otherwise result in an increase in the intensity of the non-conforming use.
- (3) If any wireless telecommunications facilities in an existing site are abandoned for a period of one year, such existing site shall lose its legal conforming status and shall be considered an



illegal nonconforming use. The abandoned wireless telecommunications facilities shall not be re-established on the site, and must be removed within twelve (12) months of the cessation of operations. If not removed, the City may remove the facility and assess the costs of removal against the Owner(s), according to the procedures established in Chapter 128 of the City Code.

#### 205.30.4. District Boundaries for Overlay Zone

A Telecommunications Towers and Facilities District, 0-5, is created and shall apply to all land within the City subject to the provisions and use requirements contained in this Section.

#### 205.30.5. Uses Permitted

(1) The construction of towers and the installation, operation and maintenance of wireless telecommunications facilities shall be permitted use in the approved sites identified on Appendix A to this Ordinance, subject to the provisions of this Chapter. Additional approved sites may be approved by the City Council, subject to the amendment procedures set forth in the Zoning Chapter of the City Code, and the requirements of this section.

(2) All principal, special use, and accessory uses allowed in each underlying primary zoning district are permitted in the telecommunications towers and facilities district, except that no towers shall be constructed, and no wireless telecommunications facilities shall be placed on towers or antenna support structures, except as provided for in this Chapter.

(3) Special Uses.

(a) The construction of towers and the installation, operation, and maintenance of wireless telecommunications facilities shall be a special use in Zoning districts M-1, M-2, M-3, and M-4, and any abutting railroad rights-of-way.

(b) The construction of towers and the installation, operation, and maintenance of wireless telecommunications facilities shall be a special use in the Critical Area Overlay District and subject to jurisdiction of the Critical Area Chapter

# SUMMARY OF MRCCA CHANGES



The following is a summary of changes to the Critical Area Chapter. Optional changes that are above the standards of the model ordinance are noted in italics.

Section Number	Current Code	Proposed Changes
205.28.01	Describes the purpose and intent of the chapter	Updates the purpose and intent to reference the authorizing state statute
205.28.02.1	205-28.02 describes the MRCCA's boundaries	Adds a reference to the underlying document which defines the MRCCA's boundaries
205.28.02.2	None	<ul style="list-style-type: none"> <li>• Adds that the remainder of the chapter is not affected if a portion is found unconstitutional</li> <li>• Adds that a violation of the chapter can occur whether or not a permit is required</li> </ul>
205.28.02.3	None	Clarifies that the provisions of this chapter prevail if they are more restrictive than provisions in other chapters of City Code
205.28.03	205.28.03 Provides definitions for terms used in the code	<p>The following changes were made to definitions used in this chapter</p> <ul style="list-style-type: none"> <li>• Adds a definition for "access path" based on MRCCA Model Ordinance</li> <li>• Adds a definition for "adjacent" based on MRCCA Model Ordinance</li> <li>• Adds a definition for "agricultural use" based on MRCCA Model Ordinance</li> <li>• Adds a definition for "alternative design" based on MRCCA Model Ordinance</li> <li>• <i>Adds a definition for "biological and ecological function" based on MRCCA Model Ordinance</i></li> <li>• Adds a definition for "bluff" based on the MRCCA model ordinance</li> <li>• Adds a definition for a "bluff impact zone" which is an area within 20 feet of the bluff</li> <li>• Adds a definition for "bluff, toe of" based on MRCCA Model Ordinance</li> <li>• Adds a definition for "bluff, top of" based on MRCCA Model Ordinance</li> <li>• Adds a definition for "buildable area" based on MRCCA Model Ordinance</li> <li>• Adds a definition for "building" based on MRCCA Model</li> </ul>

# SUMMARY OF MRCCA CHANGES



		<p>Ordinance</p> <ul style="list-style-type: none"> <li>• Removes the definition for “clear cutting” in lieu of “intensive vegetation clearing”</li> <li>• Adds a definition for “Commissioner” based on MRCCA Model Ordinance</li> <li>• Adds a definition for “conservation design” based on MRCCA Model Ordinance</li> <li>• Adds a definition for “conventional subdivision” based on MRCCA Model Ordinance</li> <li>• Removes the definition for Critical Area</li> <li>• Adds a definition for “deck” based on MRCCA Model Ordinance</li> <li>• Adds a definition for “developer” to reference State Statute</li> <li>• Updates the definition of “development” to reference State Statute</li> <li>• Adds a definition for “discretionary action” based on MRCCA Model Ordinance</li> <li>• Adds a definition for “dock” based on MRCCA Model Ordinance</li> <li>• Adds a definition for “electric power facilities” based on MRCCA Model Ordinance</li> <li>• Updates the definition of essential services to include sanitary sewer, stormwater, and communications services. Clarifies that the services also include collection supply and disposal systems. Excludes buildings, treatment works, electric power facilities, or transmission services.</li> <li>• Adds a definition for “floodplain” to reference State Statute</li> <li>• Adds a definition for “fully reconstructs” based on MRCCA Model Ordinance</li> <li>• Adds a definition for “hard surface trail” based on MRCCA Model Ordinance</li> <li>• Adds a definition for “historic property” based on MRCCA Model Ordinance</li> <li>• Adds a definition for “impervious surface” based on MRCCA Model Ordinance</li> <li>• Adds a definition for “intensive vegetation clearing” based on MRCCA Model Ordinance</li> </ul>
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# SUMMARY OF MRCCA CHANGES



		<ul style="list-style-type: none"><li>• Adds a definition for "interim use" based on MRCCA Model Ordinance</li><li>• Adds a definition for "land alteration" based on MRCCA Model Ordinance</li><li>• <i>Adds a definition for lifts</i></li><li>• Adds a definition for "lot width" based on MRCCA Model Ordinance</li><li>• Adds a definition for "marina" to reference State Statute</li><li>• <i>Adds a definition for "Mississippi Flyway" based on recommendations from the Minneapolis Audubon Society</i></li><li>• Adds a definition for "mooring facility" based on MRCCA Model Ordinance</li><li>• Adds a definition for "native plant community" based on MRCCA Model Ordinance</li><li>• Adds a definition for "natural surface trail" based on MRCCA Model Ordinance</li><li>• Adds a definition for "natural vegetation" based on MRCCA Model Ordinance</li><li>• Adds a definition for "nonmetallic mining" based on MRCCA Model Ordinance</li><li>• Adds a definition for "off-premise advertising signs" based on MRCCA Model Ordinance</li><li>• Adds a definition for "ordinary high water level" to reference State Statute</li><li>• Adds a definition for "parcel" based on MRCCA Model Ordinance</li><li>• Adds a definition for "patio" based on MRCCA Model Ordinance</li><li>• Adds a definition for "picnic shelter" based on MRCCA Model Ordinance</li><li>• Adds a definition for "planned unit development" based on MRCCA Model Ordinance</li><li>• Adds a definition for "plat" based on MRCCA Model Ordinance</li><li>• Adds a definition for "primary conservation areas" based on MRCCA Model Ordinance</li><li>• Adds a definition for "private facilities" based on MRCCA Model Ordinance</li><li>• Adds a definition for "public facilities" based on MRCCA Model Ordinance</li><li>• Adds a definition for "public recreation</li></ul>
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# SUMMARY OF MRCCA CHANGES



		<p>facilities” based on MRCCA Model Ordinance</p> <ul style="list-style-type: none"><li>• Removes the definition for “public safety facilities”</li><li>• Adds a definition for “public river corridor views” based on MRCCA Model Ordinance</li><li>• Adds a definition for “public transportation facilities” based on MRCCA Model Ordinance</li><li>• Adds a definition for “public utilities” based on MRCCA Model Ordinance to replace “utility facility”. Changes the definition to remove solid waste.</li><li>• Adds a definition for “public waters” based on State Statute</li><li>• Adds a definition for “readily visible” based on MRCCA Model Ordinance</li><li>• Adds a definition for “resource agency” based on MRCCA Model Ordinance</li><li>• Updates the definition for retaining wall to clarify that the structure is in a vertical or near vertical position and specify material type</li><li>• Adds a definition for “rock riprap” based on MRCCA Model Ordinance</li><li>• Adds a definition for “river corridor boundary” based on State Statute</li><li>• Adds a definition for “river dependent use” based on MRCCA Model Ordinance</li><li>• Adds a definition for “selective vegetation removal” based on MRCCA Model Ordinance</li><li>• Adds a definition for “setback” based on MRCCA Model Ordinance</li><li>• Adds a definition for “shore impact zone” based on MRCCA Model Ordinance</li><li>• Adds a definition for “shoreline facilities” based on MRCCA Model Ordinance</li><li>• Adds a definition for “sign” referencing Signs chapter.</li><li>• Adds a definition for “steep slope” based on Chapter 208.</li><li>• Adds a definition for “stormwater management facilities” based on the MRCCA Model Ordinance</li><li>• Adds a definition for “structure” based on the MRCCA Model Ordinance</li><li>• Adds a definition for “subsurface sewage treatment</li></ul>
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# SUMMARY OF MRCCA CHANGES



		<p>system" based on the MRCCA Model Ordinance</p> <ul style="list-style-type: none"> <li>• Removes the definition for terrace</li> <li>• Adds a definition for "transmission service" based on the MRCCA Model Ordinance</li> <li>• Adds a definition for "transmission service" based on the MRCCA Model Ordinance</li> <li>• Adds a definition for "treeline" based on the MRCCA Model Ordinance</li> <li>• Removes the definition of "utility facility" in lieu of "public utilities"</li> <li>• Adds a definition for "variance" based on MRCCA Model Ordinance</li> <li>• Adds a definition for "water access ramp" based on the MRCCA Model Ordinance</li> <li>• Adds a definition for "water oriented accessory structure" based on the MRCCA Model Ordinance</li> <li>• Adds a definition for "water quality impact zone" based on the MRCCA Model Ordinance</li> <li>• Changes the definition for "wetland" to reference on State Statute</li> </ul>
205.28.04.01	205.28.06 specifies actions that require a permit	Adds permit trigger which create the need for a new permit, removes the explicit exemption for single family homes to submit a site plan if needed; however, 205.28.04.05 provides the discretion to determine that application materials would not be required.
205.28.04.02	None	<ul style="list-style-type: none"> <li>• Requires that variances consider the impacts on primary conservation areas, public river corridor views, mitigate for these potential impacts, and make written findings that the variance is consistent with the purpose of the chapter.</li> <li>• <i>Adds consideration of impacts on wildlife using the Mississippi Flyway and public access as a requirement when reviewing variances at the recommendation of the Minneapolis Audubon Chapter</i></li> <li>• <i>Requires that written findings for the variance determine that the variance is consistent with the City's MRCCA Plan</i></li> <li>• <i>Requires that the variance is consistent with the character and management purposed of the MRCCA District</i></li> </ul>
205.28.04.03	None	<ul style="list-style-type: none"> <li>• Requires that special use permits consider the impacts</li> </ul>

# SUMMARY OF MRCCA CHANGES



		<p>on primary conservation areas, public river corridor views, mitigate for these potential impacts, and make written findings that the special use is consistent with the purpose of the chapter.</p> <ul style="list-style-type: none"> <li>• Adds consideration of impacts on wildlife using the Mississippi Flyway and public access as a requirement when reviewing variances at the recommendation of the Minneapolis Audubon Chapter</li> </ul>
205.28.04.4	None	<i>Provides guidance on how negative impacts may be mitigated</i>
205.28.04.5	205.28.07 outlined site plan requirements	Adds mapping of primary conservation areas, public river corridor views as site plan requirements
205.28.4.6	None	<p>Specifies treatment of nonconformities including:</p> <ul style="list-style-type: none"> <li>• Allowing the lateral expansion of legally nonconforming structures provided that the expansion does not extend further into the required setback and the expansion is consistent with the original structure and surrounding development</li> </ul>
205.28.04.7	205.28.08.C.4 requires the DNR and EQB to be notified of variance requests to setback requirements	<ul style="list-style-type: none"> <li>• Expands notification to be for all public hearings to any discretionary action as well as for final decisions</li> <li>• Expands notification to the DNR and NPS as well as adjoining local governments when the discretionary action is related to building height</li> <li>• Establishes provisions to change the MRCCA boundary</li> <li>• Removes notification requirement to the EQB</li> </ul>
205.28.04.8	None	Allows for accommodations under the Americans with Disabilities Act through an administrative permit
205.28.05	None	Describes MRCCA districts and management purposes
205.28.06.1	205.28.05 specifies what uses are excluded	<ul style="list-style-type: none"> <li>• Clarifies that soil preparation and peat extraction is only allowed as necessary for development</li> <li>• Reiterates that new subsurface sewage treatment systems are not allowed</li> </ul>
205.28.06.2	None	<p>Requires river dependent uses to:</p> <ul style="list-style-type: none"> <li>• Not be readily visible except for those structures listed as exempt</li> <li>• Be designed in a compact fashion</li> <li>• References state and federal rule with regards to dredging material</li> </ul>
205.28.06.3	None	Requires new or modified wireless communication towers

# SUMMARY OF MRCCA CHANGES



		<p>installed in the MRCCA after approval of this ordinance must receive a special or interim use permit. The special use permit requires:</p> <ul style="list-style-type: none"> <li>• Demonstration the tower can't be moved or lowered</li> <li>• Is not located in a bluff impact zone or shore impact zone if a freestanding tower</li> <li>• Placement of the tower minimizes public river corridor views</li> <li>• Complies with design standards for public facilities</li> </ul>
205.28.07.01	205.28.08.B specifies that building height would be defined by the underlying zoning	<ul style="list-style-type: none"> <li>• Caps ROS district building height at 35 feet (this is the islands, currently zoned P)</li> <li>• Caps SR district building height as the underlying zoning as long as that is consistent with the mature tree height (underlying zoning height ranges up to 65 feet)</li> <li>• Caps UM district building height as 65 feet with an emphasis on tiering away from the river except for with a Special Use Permit</li> <li>• Specifies conditions for allowing a variance or special use for building height</li> </ul>
205.28.07.02	None	<ul style="list-style-type: none"> <li>• Outlines criteria on granting variance requests for building height</li> <li>• <i>Adds potential mitigation measures for height variances. Measures 3-5 are optional</i></li> </ul>



# SUMMARY OF MRCCA CHANGES



<p>205.28.07.03</p>	<p>205.28.08.C:</p> <ul style="list-style-type: none"> <li>• Prohibits structures and uses within 40 feet of a bluffline in all areas</li> <li>• Prohibits structures and uses within 100 feet of the OHWL</li> </ul>	<ul style="list-style-type: none"> <li>• Prohibits structures and impervious surface in shore impact zone (50% of the required structure setback from the OHWL) and bluff impact zone (within 20 feet of bluffline) unless specified for an exemption. While the setbacks of 40 feet from the bluffline and 100 feet from the OHWL are inclusive of these zones, this section has different setback requirements</li> <li>• Increases the structure setback to 200 feet in the ROS neighborhoods</li> <li>• Increases the setback for structures, impervious surfaces, and facilities to 200 feet of bluffline in ROS neighborhood (islands)</li> <li>• Reduces the UM setback to 50 feet</li> <li>• Adds shoreland overlay restriction on impervious surface coverage</li> <li>• Adds shoreland setbacks for creeks</li> <li>• There is an opportunity to allow for setback averaging based on adjacent principal structure that staff is not recommended to protect the river.</li> </ul>
<p>205.28.07.5</p>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Requires lots in the ROS district to be at least 200 feet</li> <li>• Requires all new lots to have adequate buildable area to comply with the setback requirements without a variance</li> </ul>
<p>205.28.08</p>	<ul style="list-style-type: none"> <li>• Did not specifically call out design standards for private roads, driveways, parking areas, access paths/ramps, accessory structures decks, patios, signs, and lighting</li> <li>• 205.28.08.D</li> </ul>	<ul style="list-style-type: none"> <li>• Requires that design takes advantage of natural vegetation and topography for screening purposes</li> <li>• Limits access paths to eight feet wide in the SIZ and four feet wide in the BIZ</li> <li>• Adds reference to state statute for private water access ramps</li> <li>• Limits the width of stairways and lifts on residential lots to four feet in width and 32 feet in area</li> <li>• Prohibits canopies on land-based stairways, lifts, or landings</li> <li>• Allows one water-oriented accessory structures near the water (ex: gazebos) and sets design specifications for water oriented accessory structures</li> <li>• Allows decks to encroach into OHWL and bluffline setback areas provided they meet certain specifications</li> </ul>

# SUMMARY OF MRCCA CHANGES



	contained preservation of line of site for all properties	<ul style="list-style-type: none"> <li>• Did not reference off-premise or directional signage; however signs are regulated under the sign code</li> <li>• <i>Requires lighting to be fully shielded and prohibits uplighting in the shore impact zone order to preserve dark skies and minimize impacts to wildlife (this is an optional requirement recommended by the Audubon Society)</i></li> <li>• <i>Limits the line of site requirement to private facilities; line of site maintenance is optional but included in previous versions of the code</i></li> </ul>
205.28.09.1	Did not provide specific design requirements for public facilities	<ul style="list-style-type: none"> <li>• Requires minimum visibility from the river consistent with the purpose of the facility</li> <li>• Requires projects to avoid primary conservation areas unless no alternatives exist</li> <li>• Requires projects to minimize disturbance of spawning and nesting times of wildlife where feasible when there is potential for conflict.</li> </ul>
205.28.09.2	205.28.12 provides requirement for right of way maintenance	<ul style="list-style-type: none"> <li>• Requires vegetation currently in a natural state to be maintained to the extent feasible</li> <li>• Limits the replacement with native plants to only areas in which native plants have been removed</li> </ul>
205.28.09.3	Not referenced, but included in state statute	<ul style="list-style-type: none"> <li>• Provides state statute stating that crossing of any land controlled by the DNR must be approved by DNR commissioner</li> </ul>
205.28.09.4	205.28.10.A regulates transmission and essential services	<ul style="list-style-type: none"> <li>• Adds references to applicable state statute</li> </ul>
205-28.09.5	205.08.10.B regulates transportation facilities	<ul style="list-style-type: none"> <li>• Requires public transportation facilities to meet structure setbacks unless no alternative exists</li> </ul>
205.28.09.6	<ul style="list-style-type: none"> <li>• 205.28.08.C.3 listed public recreational facilities as exempt to setbacks</li> <li>• 205.28.09.E.3 requires structures, trails,</li> </ul>	<ul style="list-style-type: none"> <li>• Restricts placement of roadways from the BIZ and SIZ unless no alternative exists</li> <li>• Allows hard surface trails in BIZ and SIZ if following best practices</li> <li>• Requires trails, paths, and viewing areas to minimize visibility and disturbance to primary conservation areas</li> <li>• Allows hard surface trails on slopes between 18-30%. Allows natural surface trails on slopes with higher grades.</li> <li>• Requires trails and paths to be designed to minimize</li> </ul>

# SUMMARY OF MRCCA CHANGES



	and roadways to be sited to minimize impacts for soil compaction and loss of vegetation cover	<p>impacts</p> <ul style="list-style-type: none"> <li>References state statute for public water access facilities comply with state</li> <li>Allows public signs and kiosks in the BIZ and SIZ if proper guidelines are followed</li> <li>Sets guidelines for public stairways, lifts and landing.</li> </ul>
205.28.10	205.28.11 provides requirements for public access	<ul style="list-style-type: none"> <li><i>Eliminates requirement that the public access be specifically for pedestrians in order to include bicycles</i></li> <li><i>Expands requirement from providing right-of-way to providing physical access</i></li> <li><i>Updates referenced plan from an "overall plan of the city for pedestrian movement within the district" to "part of a city plan" to encompass roadway specific plans or park plans.</i></li> <li><i>Changes requirements for where access will not be provided from specific instances to "where feasible"</i></li> </ul>
205.28.11	205.28.09 provides requirements for vegetative management including a requirement to replace any trees >4" removed for development	<ul style="list-style-type: none"> <li>Requires a permit and an approved restoration plan for intensive vegetation plan within priority zones including shore impact zones, bluff impact zones, areas within 50 feet of wetland or drainage route, areas of native plant communities, and significant existing vegetative stands           <ul style="list-style-type: none"> <li>Exceptions are provided for maintenance of existing lawns, right of way maintenance, selective removal of trees provided that the trees are replaced in conformance with the tree replacement requirement <i>and the view from the river remains consistent, due to the importance of maintaining the viewshed from the river.</i></li> </ul> </li> <li><i>Expands replacement requirement for removal of trees greater than 4" (except for removal of diseased and damaged trees) to all tree removals, not just removals related to the development within the priority zone. Removes the requirement for replacement for trees removed due to development to trees outside of the priority zones. Removes the exception for removals of diseased or damaged trees from the replacement requirement due to the impact of removing all ash trees from the MRCCA without replacement.</i></li> </ul>

# SUMMARY OF MRCCA CHANGES



		<ul style="list-style-type: none"> <li>• Requires and provides guidelines for the vegetation restoration plan               <ul style="list-style-type: none"> <li>◦ <i>Requires that vegetation restoration plans prepared in response to habitat or erosion control be prepared by a qualified or city-approved individual</i></li> </ul> </li> <li>• <i>Changes the required restoration amount from density to quantity for clarity</i></li> <li>• <i>Adds a date that restoration must be completed by</i></li> <li>• <i>Establishes a fee-in lieu program where tree replacement is not feasible.</i></li> </ul>
205.28.12.1.A	205.28.08 limits development within 40 feet of the bluff except by exception	<ul style="list-style-type: none"> <li>• Limits land alteration within the bluff impact zone except as allowed by exception</li> </ul>
205.28.12.1.B	205.28.09.A does not specify a minimum threshold of grading	<ul style="list-style-type: none"> <li>• Sets thresholds permits within the water quality impact zone at a lower amount than the traditional land alteration permit</li> </ul>
205.28.12.2	205.28.09.C establishes thresholds for retaining walls and erosion control structures	<ul style="list-style-type: none"> <li>• Requires the city engineer or designee determines there is an erosion control problem prior to permitting</li> <li>• Reduces the minimum horizontal distance between retaining walls to 10 feet</li> <li>• Requires all riprap be below the regulatory floodline</li> <li>• Requires that riprap and retaining walls be sized to the minimum amount necessary</li> <li>• Explicitly allows repair of retaining walls and riprap provided there is no land alteration without a permit</li> </ul>
205.28.12.3	Does not provide restrictions on stormwater management facilities	<ul style="list-style-type: none"> <li>• Includes design restrictions on stormwater management facilities within the bluff impact zone</li> <li>• Requires permit for impervious surface within the water quality impact zone</li> <li>• Requires that stormwater run off be directed away from the bluff impact zone or unstable areas</li> </ul>
205.28.12.4	205.28.08.D provides guidelines for development on steep slopes	Allows development on steep slopes if development can occur without increasing erosion
205.28.12.5	None	Provides requirements for land alteration permit
None	205.28.08.E specifies	This section was removed due to inability to track and

# SUMMARY OF MRCCA CHANGES



	limits to amount of gross soil loss	enforce
205.28.13	None	<ul style="list-style-type: none"> <li>• Provides design standards for subdivisions</li> <li>• Requires conservation of primary conservation areas based on district type</li> <li>• Encourages alternative design standards</li> </ul>
205.28.14	205.28.08.C.3 lists Exceptions to setback requirements shall include public safety facilities, public bridges and approaches, public roadways, public recreation facilities, scenic overlooks, regional and local trails; docks and boat launching facilities, approved river crossings of essential services and distribution services and historical sites designated by the National and State Register of Historic Places.	<ul style="list-style-type: none"> <li>• Public safety facilities are considered essential services which are exempt, except from placement in the BIZ unless no other options are available</li> <li>• Public roadways are no longer listed as exempt from height requirements</li> <li>• Some public recreational facilities are not exempt from the BIZ and SIZ setbacks</li> </ul>

MRCCA Update Example Scenarios

The following are hypothetical examples of how updates to the Critical Area District Chapter will impact property owners. These examples do not consider existing regulations from the Shoreland Overlay or Floodplain Overlay that have not been changed.

1) Property A, Hartman Circle Addition and Landscaping Project



The property owner is proposing to build a two story addition on the back of the house. Additionally, they would like to build a detached patio with steps down to the river and remove some trees to open up the viewshed. The property is within the River Neighborhood District.

Component	Old Rules	New Rules
Addition	Height is governed by the underlying zoning (30 feet); The addition must be set back 100 feet from the OHWL and 40 feet from the top of the bluff	Height is limited to 35 feet or the underlying zoning; The addition must be setback 100 feet from the OHWL and 40 feet from the top of the bluff

<p>Detached Patio</p>	<p>Setbacks are currently applied to "structures and uses". There is not a definition provided for "uses". The City does not issue permits for patios, so this portion of the project would not be regulated.</p>	<p>There appears to be a bluff on the property that will need to be surveyed; The property owner will need to apply for a Critical Area permit.</p> <p>If the detached patio is a water-oriented accessory structure, it could be built within the shore impact zone since the property doesn't already have a water-oriented accessory structure. It would need to meet the following standards:</p> <ul style="list-style-type: none"> <li>○ Not be within the bluff impact zone</li> <li>○ Not exceed 12 feet in height;</li> <li>○ Not exceed 120 square feet in area; and</li> <li>○ Be placed a minimum of 10 feet from the ordinary high water level.</li> </ul> <p>Stairs must be less than four feet wide and cannot be covered.</p>
<p>Vegetation Removal</p>	<p>Clear cutting is prohibited;</p>	<p>Intensive vegetative removal within a primary conservation area, such as the shore impact zone (within 50 feet of the river) is not allowed except the minimum required for the installation of the patios and stairs. If tree removal within a primary conservation area is needed as part of the project, a vegetation restoration plan will be needed as part of the Critical Area permit. All trees removed within the shore impact zone or existing significant vegetative stands will need to be replaced.</p>

2) Sanitary Sewer Lift Station with freestanding cell tower and free standing sign  
 A public utility is considering building a sanitary sewer lift station on a riverfront property. They would also like to lease a portion of the land to host a freestanding cell tower and freestanding, off premise advertising sign. The property is located within the River Neighborhood district.

Component	Old Rules	New Rules
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<p>Lift Station</p>	<p>Essential services are generally considered exempt from the rules; however, this is not clear in the current language</p>	<p>Essential services are exempt from setbacks, shore impact zone restrictions, and bluff impact zone restrictions where feasible;          Avoid primary conservation areas where feasible;          Limit impacts on public river corridor views;          Minimize disturbance of native vegetation;          Replace disturbed native vegetation with native vegetation</p>
<p>Cell Tower</p>	<p>The project will need to be in a location approved under the Telecommunications Chapter and meet relevant standards;          Setbacks are currently applied to "structures and uses". There is not a definition provided for "uses". If a cell tower is interpreted to be a use, it will need to be 40 feet away from the bluffline or 100 feet away from the river;</p>	<p>The project will need to be in a location approved under the Telecommunications Chapter and meet relevant standards;          The applicant will need a special use permit;          The tower cannot be in a bluff or shore impact zone;          The applicant will need to demonstrate that functional coverage cannot be provided through co-location, at a lower height, or at a location outside the MRCCA;          Placement must minimize impacts on public river corridor views;          Avoid primary conservation areas where feasible;</p>
<p>Free Standing Sign</p>	<p>The Chapter does not cover signs. The sign would need to meet the design guidelines within the Sign Chapter</p>	<p>The sign would need to meet the design guidelines within the Sign Chapter;          The sign cannot be readily visible from the river;          The sign will be limited based on the MRCCA District;</p>



		<p>The sign cannot be placed in the shore or bluff impact zone;                  The sign must be setback 40 feet from the bluff and 100 feet from the river</p>
<p>Public Access</p>	<p>Public pedestrian access shall be provided to the riverfront of developments on publicly owned and publicly controlled riverfront property. Access will not be provided where:</p> <ol style="list-style-type: none"> <li>1. Unavoidable hazards exist to the public.</li> <li>2. Public pedestrian access at a particular location cannot be designed or developed to provide a pleasant view or recreational experience.</li> </ol>	<p>Public river access shall be provided to the riverfront of developments on publicly owned and publicly controlled riverfront property where feasible</p>

3. Multi-family building, Anna Ave

The property owner is proposing to demolish and reconstruct the existing multi-family building. The property is within the Urban Mixed District



Component	Old Rules	New Rules
Building	<p>The building will need to be 100 feet back from the OHWL and 40 feet back from the bluffline;                      Height will be determined by the underlying zoning</p>	<p>The building will need to be 50 feet back from the OHWL and 40 feet back from the bluffline;                      Height is limited to 65 feet or underlying zoning. If the underlying zoning is higher than 65 feet, this may be allowed with a special use permit if mitigated for.</p>
Public Access	<p>Public pedestrian right-of-way including river access shall be provided for any new development that is adjacent to or part of an overall plan of the city for pedestrian movement within the district.</p>	<p>Public river access to and along the river shall be provided for any new development that is adjacent to or part of a city plan.</p>



June 8, 2023

Rachel Workin  
Environmental Planner  
City of Fridley  
7071 University Ave. NE  
Fridley, MN 55432

**Re: Conditional Approval of Fridley's MRCCA and Shoreland Ordinances**

Dear Ms. Workin:

Thank you for sending your proposed Mississippi River Corridor Critical Area (MRCCA) ordinance (received May 10, 2023 as well as June 5, 2023 with additional content) and the proposed changes to your shoreland ordinance (received April 24, 2023) to address administrative overlap between the two sets of regulations.

We have found that the MRCCA ordinance is substantially consistent with Minnesota Statutes, §116G and Minnesota Rules, chapter 6106 and that the Shoreland ordinance is substantially consistent with Minnesota Rules, chapters 6120.2500 to 6120.3900. I am pleased to inform you that the proposed MRCCA and Shoreland ordinances are hereby approved, provided all of the conditions of approval in this letter are met. The City may now adopt the ordinances. Minnesota Rules 6106.0070 Subp.3.G. require local governments to adopt the MRCCA ordinance within 60-days of DNR approval.

**Conditions of Approval**

The following conditions must be met before the DNR will issue final approval:

1. Please submit the MRCCA administrative checklist (attached) and related documents.

**Next Steps**

Following are the steps for completing and receiving final DNR approval for your ordinances:

1. Address the item under conditions of approval.
2. The City Council adopts the ordinances.
3. Email TWO completed Ordinance Processing Checklists (attached), one each for the MRCCA and shoreland ordinance adoptions AND the MRCCA administrative checklist (attached) and the documents identified on the two checklists within 10 days of City Council adoption to:
  - a. Wes Saunders-Pearce, Area Hydrologist
  - b. [Ordinance.review.dnr@state.mn.us](mailto:Ordinance.review.dnr@state.mn.us)

4. We will review the two ordinances adopted by the City Council for consistency with the ordinances that received conditional approval. We will also send a copy of the MRCCA ordinance to the National Park Service and the Metropolitan Council as required by rule.
5. If the adopted ordinances are consistent, I will send you a “final approval” letter. Under Minnesota Statutes, §116G Subd. 8 (e), only ordinances receiving final approval from the commissioner have the force and effect of law.

A MRCCA ordinance is an important land use regulation that helps to protect surface water quality, near shore habitat, and scenic character of the MRCCA. We appreciate your efforts to protect these resources for all present and future Minnesotans. Wes Saunders-Pearce is available to assist with ordinance technical guidance and to consult with you on other land and water-related projects.

Sincerely,



Megan Moore,  
EWR Central Region south District Manager

Attachments:

Proposed MRCCA Ordinance with DNR Comments  
Proposed Shoreland Ordinance  
Ordinance Processing Checklist  
MRCCA Administrative Checklist

c: Wes Saunders-Pearce, DNR Area Hydrologist  
Raya Esmaeili, Metropolitan Council  
Adam Muilenburg, National Park Service  
[Ordinance.review.dnr@state.mn.us](mailto:Ordinance.review.dnr@state.mn.us)

Fridley City Code  
Section 205.28. O-2 Critical Area District Regulations

205.28.01 Purpose and Intent

The Mississippi River Corridor Critical Area (MRCCA) Chapter is adopted pursuant to the authorization and policies contained in Minnesota Statutes (M.S.) Chapter [116G](#), Minnesota Rules Parts [6106.0010 - 6106.0180](#), and the planning and zoning enabling legislation in M.S. Chapters [462](#) and [473](#).

The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of designated critical areas and thus preserve and enhance the quality of important historic, cultural, aesthetic values, and natural systems and provide for the wise use of these areas.

205.28.02 General Provisions

1. Jurisdiction. The provisions of this Chapter apply to land within the O-2 District, which is land within the river corridor boundary as described in the State Register, volume 43, pages 508 to 519 and shown on the City zoning map.
2. Severability. If any section, clause, provision, or portion of this Chapter is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
3. Abrogation and Greater Restrictions. It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail. All other Chapters inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.
4. Underlying Zoning. Use and standards of underlying zoning apply except where standards of this overlay district are more restrictive.
5. Enforcement. The City is responsible for the administration and enforcement of this Chapter. Any violation of its provisions or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants of variances or special uses constitutes a misdemeanor and is punishable as defined by law. Violations of this Chapter can occur regardless of whether or not a permit is required for a regulated activity listed in Section 205.28.04.01.

205.28.03 Definitions

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted to give them the same meaning they have in common usage and to give this Chapter its most reasonable application. For the purpose of this Chapter, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

Access path: An area designated to provide ingress and egress to public waters.

Adjacent: Having a boundary that physically touches or adjoins.

Agricultural use: A use having the meaning given under M.S. § [40A.02](#).

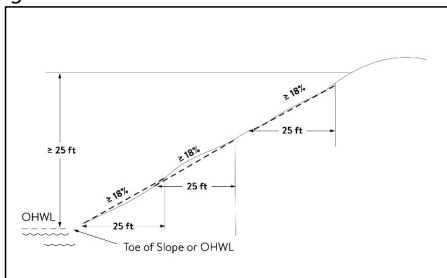
Alternative design: Subdivision design methods such as conservation design, transfer of development density, or similar zoning and site design techniques that protect open space and natural areas.

Biological and ecological functions: The functions of vegetation in stabilizing soils and slopes, retaining and filtering runoff, providing habitat, and recharging groundwater.

Bluff:

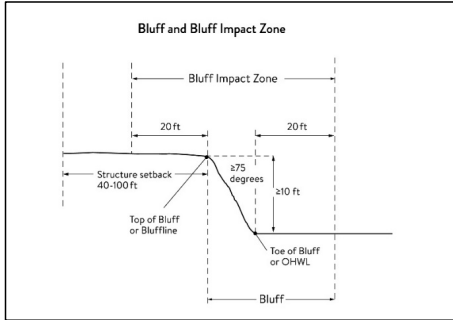
1. A slope that rises at least 25 feet where the grade of the slope averages 18% or greater, measured over any horizontal distance of 25 feet, from the toe of the slope to the top of the slope. Where the slope begins below the ordinary high water level, the ordinary high water level is the toe of the slope. See Figure 1; or

Figure 1: Bluff



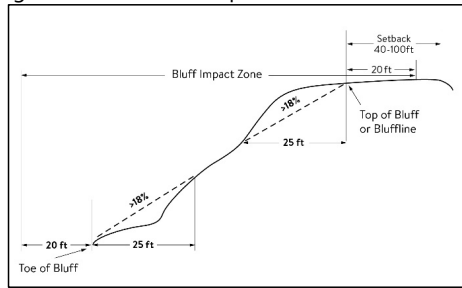
2. A natural escarpment or cliff with a slope that rises at least ten feet above the ordinary high water level or toe of the slope, whichever is applicable, to the top of the slope, with a slope of 75 degrees or greater. See Figure 2.

Figure 2. Natural Escarpment Bluff and Bluff Impact Zone



Bluff impact zone (BIZ): A bluff and land located within 20 feet of the bluff. See Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Figure 3. Bluff Impact Zone, Bluffline, Toe of bluff, and Top of Bluff



Bluffline: A line delineating the top of the bluff. More than one bluffline may be encountered proceeding landward from the river. See Figure 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Bluff, Toe of: A line along the bottom of a bluff, requiring field verification, such that the slope above the line exceeds 18 percent and the slope below the line is 18 percent or less, measured over a horizontal distance of 25 feet. See Figures 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

Bluff, Top of: A line along the top of a bluff, requiring field verification, such that the slope below the line exceeds 18 percent and the slope above the line is 18 percent or less, measured over a horizontal distance of 25 feet. See Figures 2 for natural escarpment or cliff example and Figure 3 for more common bluff example.

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

**Building:** A structure with two or more outside rigid walls and a fully secured roof and affixed to a permanent site.

**Commissioner:** The Commissioner of the Minnesota Department of Natural Resources.

**Conservation design:** A pattern of subdivision that is characterized by grouping lots within a portion of a parcel, where the remaining portion of the parcel is permanently protected as open space.

**Conventional subdivision:** A pattern of subdivision that is characterized by lots that are spread regularly throughout a parcel in a lot and block design.

**Deck:** A horizontal, unenclosed, aboveground level structure open to the sky, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

**Developer:** Having the meaning given under M.S. § [116G.03](#).

**Development:** Having the meaning given under M.S. § [116G.03](#).

**Discretionary action:** An action under this Chapter related to land use that requires a public hearing by local ordinance or statute, such as preliminary plats, final subdivision plats, planned unit developments, special use permits, interim use permits, variances, appeals, and rezonings.

**Dock:** Having the meaning given under Minnesota Rules Chapter [6115](#).

**Electric power facilities:** Equipment and associated facilities for generating electric power or devices for converting wind energy to electrical energy as identified and defined under M.S. § [216E](#).

**Essential services:** Underground or overhead gas, electrical, communications, steam, sanitary sewer, or water distribution, treatment, collection, supply, or disposal systems, including storm water. Essential services include poles, wires, mains, drains, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, navigational structures, aviation safety facilities, lift stations, stormwater management facilities, or other similar equipment and accessories in conjunction with the systems. Essential services do not include buildings, treatment works as defined in M.S. § [115.01](#), electric power facilities or transmission services.

**Floodplain:** Having the meaning given the meaning given under Minnesota Rules Chapter [6120](#).



Fully reconstructs: The reconstruction of an existing impervious surface that involves site grading and subsurface excavation so that soil is exposed. Mill and overlay and other resurfacing activities are not considered fully reconstructed.

Hard-surface trail: A trail surfaced in crushed aggregate, asphalt, or other hard surface, for public use, as determined by local, regional, or state agency plans.

Historic property: An archaeological site, standing structure, site, district, or other property that is:

1. Listed in the National Register of Historic Places or the State Register of Historic Places or locally designated as a historic site under Minnesota Statutes Chapter [471](#);
2. Determined to meet the criteria for eligibility to the National Register of Historic Places or the State Register of Historic Places as determined by the Director of the Minnesota Historical Society; or
3. An unplatted cemetery that falls under the provisions of Minnesota Statutes Chapter [307](#), in consultation with the Office of the State Archaeologist.

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

Intensive vegetation clearing: The removal of all or a majority of the trees or shrubs in a contiguous patch, strip, row, or block.

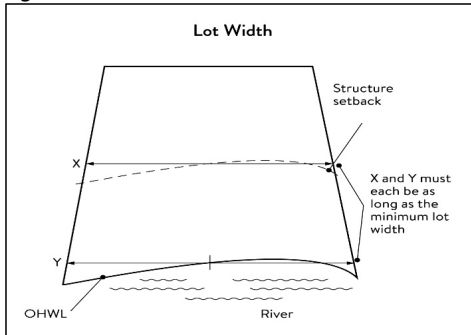
Interim use: A use having the meaning given under Minnesota Statutes Chapters [394](#) and [462](#).

Land alteration: An activity that exposes the soil or changes the topography, drainage, or cross section of the land, excluding gardening or similar minor soil disturbances. Also referred to as "grading".

[Lift: A tram or other accessible means to get up and down steep slopes.](#)

Lot width: The shortest distance between lot lines measured at both the ordinary high water level and at the required structure setback from the ordinary high water level. See Figure 4.

Figure 4. Lot Width



Marina: Having the meaning given under Minnesota Rules Chapter [6115](#).

Mississippi Flyway: A major North American bird migration corridor that encompasses all MRCCA districts.

Mooring Facility: Having the meaning given under Minnesota Rules part [6115.0170](#).

Native plant community: A plant community identified by the Minnesota Biological Survey or biological survey issued or adopted by a local, state, or federal agency.

Natural-surface trail: A trail composed of native soil and rock or compacted granular stone, primarily intended for hiking, equestrian, or mountain bike use, as determined by local, regional, or state agency plans.

Natural vegetation: Any combination of ground cover, understory, and tree canopy that, while it may have been altered by human activity, continues to stabilize soils, retain and filter runoff, provide habitat, and recharge groundwater.

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

Off-premise advertising signs: Those signs that direct attention to a product, service, business, or entertainment venue that is not exclusively related to the premises where the sign is located.

Ordinary high water level (OHWL): Having the meaning given under M.S. § [103G.005](#).

Parcel: Having the meaning given under M.S. § [116G.03](#).

Patio: A constructed hard surface located at ground level with no railings and open to the sky.

Picnic shelter: A roofed structure open on all sides, accessory to a recreational use.

Planned Unit Development: A method of land development that merges zoning and subdivision controls, allowing developers to plan and develop a large area as a single entity, characterized by a unified site design, a mix of structure types and land uses, and phasing of development over a number of years. Planned unit development includes any conversion of existing structures and land uses that utilize this method of development.

Plat: Having the meaning given under M.S. § [505](#) and [515B](#).

Primary conservation areas (PCAs): Key resources and features, including shore impact zones, bluff impact zones, floodplains, wetlands, gorges, areas of confluence with tributaries, natural drainage routes, unstable soils and bedrock, native plant communities, cultural and historic properties, and significant existing vegetative stands, tree canopies, and other resources identified in local government plans.

Private facilities: Private roads, driveways, and parking areas, private water access and viewing structures, decks and patios in setback areas, and private signs.

Public facilities: Public utilities, public transportation facilities, and public recreational facilities.

Public recreation facilities: Recreational facilities provided by the state or a local government and dedicated to public use, including parks, scenic overlooks, observation platforms, trails, docks, fishing piers, picnic shelters, water access ramps, and other similar water-oriented public facilities used for recreation.

Public river corridor views (PRCVs): Views toward the river from public parkland, historic properties, and public overlooks, as well as views toward bluffs from the ordinary high water level of the opposite shore, as seen during the summer months and documented in the MRCCA Chapter of the comprehensive plan.

Public transportation facilities: All transportation facilities provided by federal, state, or local government and dedicated to public use, such as roadways, transit facilities, railroads, and bikeways.

Public utilities: Electric power facilities, essential services, and transmission services.

Public waters: Having the meaning given under M.S. § [103G.005](#).

**Readily visible:** Land and development that are easily seen from the ordinary high water level of the opposite shore during summer months.

**Resource agency:** A federal, state, regional, or local agency that engages in environmental, natural, or cultural resource protection or restoration activities, including planning, implementation, and monitoring.

**Retaining wall:** A vertical or nearly vertical structures constructed of mortar and rubble masonry, rock, or stone, vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials that in combination exceed four vertical feet.

**Rock riprap:** Natural coarse rock placed or constructed to armor shorelines, streambeds, bridge abutments, pilings and other shoreline structures against scour, or water or ice erosion.

**River corridor boundary:** The boundary approved and adopted by the Metropolitan Council under M.S. § [116G.06](#), as approved and adopted by the legislature in M.S. § [116G.15](#), and as legally described in the State Register, volume 43, pages 508 to 518.

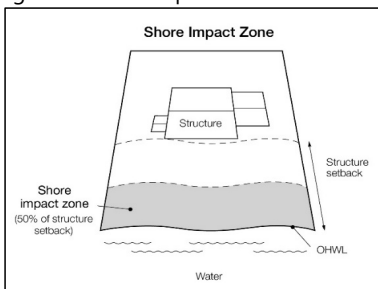
**River-dependent use:** The use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.

**Selective vegetation removal:** The removal of isolated individual trees or shrubs that are not in a contiguous patch, strip, row, or block and that does not substantially reduce the tree canopy or understory cover.

**Setback:** A separation distance measured horizontally.

**Shore impact zone (SIZ):** Land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50% of the required structure setback or, for agricultural use, 50 feet landward of the ordinary high water level. See Figure 5.

Figure 5. Shore Impact Zone



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

Sign: See definition in the Signs Chapter.

Steep slope: Any slope steeper than 15% fifteen percent (15 feet of rise for every 100 feet horizontal run).

Storm water management facilities: Facilities for the collection, conveyance, treatment, or disposal of storm water.

Structure: A building, sign, or appurtenance thereto, except for aerial or underground utility lines, such as sewer, electric, telephone, or gas lines, and utility line towers, poles, and other supporting appurtenances.

Subsurface sewage treatment system. Having the meaning given under Minnesota Rules Part [7080.1100](#).

Transmission services: Electrical power lines, cables, pipelines, or conduits that are:

1. Used to transport power between two points, as identified and defined under M.S. § [216E.01, Subd. 4](#); or
2. For mains or pipelines for gas, liquids, or solids in suspension, used to transport gas, liquids, or solids in suspension between two points; and
3. Telecommunication or electric lines, cables, pipelines, or conduits.

Treeline: The more or less continuous line formed by the tops of trees in a wooded area when viewed from a particular point. The treeline is determined during all seasons as if under full foliage.

Variance: Having the meaning given under M.S. § [394.22](#).

Water access ramp: A boat ramp, carry-down site, boarding dock, and approach road, or other access that allows launching and removal of a boat, canoe, or other watercraft with or without a vehicle and trailer.

Water-oriented accessory structure: A small building or other improvement, except stairways, fences, docks, and retaining walls, that, because of the relationship of its use to public waters, needs to be located closer to public waters than the normal structure setback. Examples include gazebos, screen houses, fish houses, pump houses, and detached decks and patios.

Water quality impact zone: Land within the shore impact zone or within 50 feet of the OHWL of the river, whichever is greater, and land within 50 feet of a public water, wetland, or natural drainage route.

Wetland: Having the meaning given under M.S. § [103G.005](#).

#### 205.28.04 Administration

1. Permits. A permit is required for the construction of buildings, building additions, and structures (including construction of decks and signs), vegetation removal consistent with Section 205.28.11 and land alteration consistent with Section 205.28.12.

2. Variances. Variances to the requirements under this Chapter may only be granted in accordance with M.S. § [462.357](#) and must consider the potential impacts on primary conservation areas, public river corridor views, birds and other wildlife using the Mississippi Flyway through habitat loss, collision threats or light pollution, and other resources identified in the MRCCA plan. In reviewing the variance application, the following shall be considered:

(a) Impacts to the resources listed above. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts consistent with Section 205.28.04.04; and

(b) Make written findings that the variance is consistent with the purpose of this Chapter as follows:

(1) - The extent, location and intensity of the variance will be in substantial compliance with the MRCCA Plan; and

(2) The variance is consistent with the character and management purpose of the MRCCA district in which it is located.

3. Special and interim use permits. All special and interim uses, required under this Chapter, must comply with M.S. § [462.3595](#) and must consider the potential impacts on primary conservation areas, public river corridor views, birds and other wildlife using the Mississippi Flyway through habitat loss, collision threats or light pollution, public access, and other resources identified in the MRCCA plan. In reviewing the application, the following shall be considered:

(a) Impacts to the resources listed above. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts consistent with Section 205.28.04.04; and

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(b) Make written findings that the special and interim use permit is consistent with the purpose of this Chapter as follows:

(1) The extent, location and intensity of the variance will be in substantial compliance with the MRCCA Plan; and

(2) The variance is consistent with the character and management purpose of the MRCCA district in which it is located.

4. Mitigation of impacts. Negative impacts to primary conservation areas, public river corridor views, and other resources identified in the MRCCA Plan occurring due to variances, special use permits, or interim use permits must be mitigated for in a way that is related to and proportional to the impacts. Mitigation may include:

- (a) Restoration of vegetation;
- (b) Implementation of animal habitat support as outlined in the most recent version of the [Minnesota B3 Guidelines](#);
- (c) Increasing and/or improving habitat for pollinators, birds, and other wildlife using native trees, shrubs, and vegetation;
- (d) Expansion of public access;
- (e) Preservation of existing vegetation;
- (f) Storm water runoff management;
- (g) Reducing impervious surface;
- (h) Increasing structure setbacks;
- (i) Wetland and drainage route restoration and/or preservation;
- (j) Limiting the height of structures;
- (k) Modifying structure design to limit visual impacts on public river corridor views; and
- (l) Other conservation measures.

5. Application materials. Applications for permits and discretionary actions required under this Chapter must submit the following information unless the City Manager or their designee determines that the information is not needed.

- (a) A detailed project description; and

(b) Scaled maps and plans, dimensional renderings, maintenance agreements, and other materials that identify and describe:

- (1) Primary conservation areas;
- (2) Public river corridor views;
- (3) Buildable area;
- (4) Proposed size, alignment, height, and intended use of any structure to be erected or located on the site;
- (5) A delineation of the location and amounts of excavated soils to be stored on the site during construction;
- (6) Existing and proposed topography and drainage patterns;
- (7) Proposed storm water and erosion and sediment control practices;
- (8) Existing and proposed vegetation to be removed and established;
- (9) Ordinary high water level, blufflines, and all required setbacks;
- (10) Existing and proposed impervious surfaces as well as surfacing to be used; and
- (11) Any other information pertinent to the particular project which in the opinion of the City or applicant is necessary or helpful for the review of the project.

#### 6. Nonconformities

(a) All legally established nonconformities as of the date of adoption of this Chapter may continue consistent with M.S. § [462.357, Subd. 1e](#).

(b) Site alterations and expansion of site alterations that were legally made prior to the effective date of this ordinance are conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements.

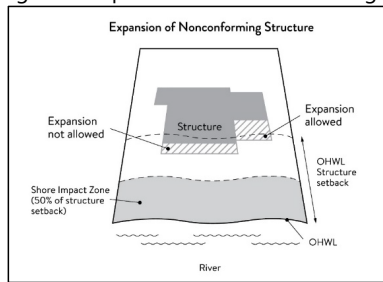
(c) Legally nonconforming principal structures that do not meet the setback requirements of Section 205.28.07.03 may be expanded laterally provided that:

- (1) The expansion does not extend into the shore or bluff impact zone or further into the required setback than the building line of the existing principal structure (See Figure 6); and



(2) The expanded structure's scale and bulk is consistent with that of the original structure and existing surrounding development.

Figure 6. Expansion of Nonconforming Structure



## 7. Notifications

(a) Amendments to this Chapter and to the MRCCA plan must be submitted to the Commissioner of the Department of Natural Resources (DNR) as provided in Minnesota Rules Part 6106.0070, Subp. 3, Items B – I.

(b) Notice of public hearings for discretionary actions, including special and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, and PUDs, must be sent to the following entities at least 10 days prior to the hearing:

(1) The Commissioner of the DNR in a format prescribed by the DNR;

(2) National Park Service; and

(3) Where building heights exceed the height limits specified in Section 205.28.07.01 as part of the special use or variance process, adjoining local governments within the MRCCA, including those with overlapping jurisdiction and those across the river.

(c) Notice of final decisions for actions in Section 205.28.04.07.B, including findings of fact, must be sent to the Commissioner of the DNR, the National Park Service, and adjoining local governments within the MRCCA within ten (10) days of the final decision.

(d) Requests to amend district boundaries must follow the provisions in Minnesota Rules Part 6106.0100, Subp. 9, Item C.

8. Accommodating disabilities. Reasonable accommodations for ramps or other facilities to provide persons with disabilities access to the persons' property, as required by the federal

Americans with Disabilities Act and the federal Fair Housing Act and as provided by Minnesota Rules Chapter 1341, must:

- (a) Comply with Sections 205.28.07-205.28.14; or
- (b) If Sections 205.28.07-205.28.14 cannot be complied with, ramps or other facilities are allowed with a Reasonable Accommodation License provided:
  - (1) The license terminates on either a specific date or upon occurrence of a particular event related to the person requiring accommodation; and
  - (2) Upon expiration of the permit, the ramp or other facilities must be removed.

#### 205.28.05 MRCCA Districts

1. District description and management purpose. The MRCCA within Fridley is divided into the following MRCCA districts:

(a) Rural and Open Space (ROS)

The Rural and Open Space District is characterized by rural and low-density development patterns and land uses and includes land that is riparian or visible from the river, as well as large, undeveloped tracts of high ecological and scenic value, floodplain, and undeveloped islands. Many primary conservation areas exist in the district.

The Rural and Open Space District must be managed to sustain and restore the rural and natural character of the corridor and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas.

(b) River Neighborhood (RN)

The River Neighborhood District is characterized by primarily residential neighborhoods that are riparian or readily visible from the river or that abut riparian parkland. The district includes parks and open space, limited commercial development, marinas, and related land uses.

The River Neighborhood District must be managed to maintain the character of the river corridor within the context of existing residential and related neighborhood development, and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas. Minimizing erosion and the flow of untreated storm water into the river and enhancing habitat and shoreline vegetation are priorities in the district.

(c) Separated from River (SR)

The Separated from River District is characterized by its physical and visual distance from the Mississippi River. The district includes land separated from the river by distance, topography, development, or a transportation corridor. The land in this district is not readily visible from the Mississippi River.

The Separated from River district provides flexibility in managing development without negatively affecting the key resources and features of the river corridor. Minimizing negative impacts to primary conservation areas and minimizing erosion and flow of untreated storm water into the Mississippi River are priorities in the district. The SR district must be managed in a manner that allows continued growth and redevelopment in historic downtowns and more intensive redevelopment in limited areas at river crossings to accommodate compact walkable development patterns and connections to the river. Minimizing erosion and the flow of untreated storm water into the river, providing public access to and public views of the river, and restoring natural vegetation in riparian areas and tree canopy are priorities in the district.

## 2. Urban Mixed (UM)

The Urban Mixed District includes large areas of highly urbanized mixed use that are a part of the urban fabric of the river corridor, including institutional, commercial, industrial, and residential areas and parks and open space.

The Urban Mixed District must be managed in a manner that allows for future growth and potential transition of intensely developed areas that does not negatively affect public river corridor views and that protects bluffs and floodplains. Restoring and enhancing bluff and shoreline habitat, minimizing erosion and flow of untreated storm water into the river, and providing public access to and public views of the river are priorities in the district.

## 3. MRCCA district map

The locations and boundaries of the MRCCA districts established by this Chapter are shown on the Critical Area Overlay District Map, which is incorporated herein by reference. The district boundary lines are intended to follow the centerlines of rivers and streams, highways, streets, lot lines, and municipal boundaries, unless a boundary line is otherwise indicated on the map. Where district boundaries cross unsubdivided property, the district boundary line is determined by use of dimensions or the scale appearing on the map.

### 205.28.06 Special Land Use Provisions

1. Uses excluded. The following uses are excluded from the MRCCA:
  - (a) Any use that is excluded within the underlying zoning district;

- (b) Any barge fleeting or barge loading;
  - (c) Any solid waste storage use or treatment facilities;
  - (d) Any mining or extraction uses other than the soil preparation or peat removal necessary for construction;
  - (e) The construction of new subsurface sewage treatment systems;
  - (f) Agricultural use unless perennial ground cover is provided within at least 50 feet of the ordinary high water level and within the bluff impact zone; and
  - (g) Tree harvesting and biomass harvesting within woodlands, and associated reforestation, unless it is conducted consistent with recommended practices in [Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota](#).
2. River-dependent uses. River-dependent uses must comply with the following design standards:
- (a) Structures and parking areas, except shoreline facilities and private roads and conveyances serving river-dependent uses as provided in Section 205.28.14, must meet the dimensional and performance standards in this Chapter, must be designed so that they are not readily visible, and must be screened by establishing and maintaining natural vegetation;
  - (b) Shoreline facilities must comply with Minnesota Rules Chapter [6115](#) and must:
    - (1) Minimize the shoreline area affected in so far as feasible; and
    - (2) Minimize the surface area of land occupied in relation to the number of watercrafts to be served;
  - (c) Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.
3. Wireless communication towers
- (a) Wireless communication towers that existed in the MRCCA prior to the adoption of this Chapter are considered legally nonconforming.
  - (b) A new wireless communication towers or the physical modification of an existing wireless communication tower that results in an increase in the intensity of the nonconforming use requires a special use permit and is subject to the following design standards:

- (1) The applicant must demonstrate that functional coverage cannot be provided through co-location, a tower at a lower height, or a tower at a location outside of the MRCCA;
- (2) Freestanding towers must not be located in a bluff or shore impact zone;
- (3) Placement of the tower must minimize impacts on public river corridor views; and
- (4) Comply with the general design standards in Section 205.28.09.01.

#### 205.28.07 Structure Height, Placement, and Lot Size

1. Structure height. Structures and facilities must comply with the following standards or the underlying development standard, whichever is lesser, unless identified as exempt in Section 205.28.14. Height is measured on the side of the structure facing the Mississippi River:

- (a) River and Open Space District: 35 feet.
- (b) River Neighborhood District: 35 feet.
- (c) Separated from River District: Height is determined by underlying development standard, provided the allowed height is consistent with that of the mature treeline, where present, and existing surrounding development, as viewed from the OWHL of the opposite shore.
- (d) Urban Mixed District: 65 feet, provided tiering of structures away from the Mississippi River and from blufflines is given priority, with lower structure heights closer to the river and blufflines, and that structure design and placement minimize interference with public river corridor views. Structures over 65 feet are allowed as a Special Use according to Section 205.28.07.02.

2. In addition to the variance or special use requirements of Section 205.28.04.04, criteria for considering whether to grant a variance or special use permit for structures exceeding the height limits must include:

- (a) Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;
- (b) Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as:
  - (1) Placing the long axis of the building perpendicular to the river;

- (2) Stepping back of portions of the facade;
- (3) Lowering the roof pitch or use of a flat roof;
- (4) Using building materials or mitigation techniques that will blend in with the natural surrounds;
- (5) Implementation of animal habitat support as outlined in the most recent version of the [Minnesota B3 Guidelines](#);
- (6) Narrowing the profile of upper floors of the building;
- (7) Increasing the setbacks of the building from the Mississippi River or blufflines; or
- (8) Opportunities for creation or enhancement of public river corridor views.

### 3. Structure and impervious surface placement.

(a) Structures and impervious surface must not be placed in the shore or bluff impact zones unless identified as an exemption in Section 205.28.14.

(b) Structures, impervious surfaces, and facilities must comply with the following OHWL setback provisions unless identified as exempt in Section 205.28.14:

- (1) Rural and Open Space District: 200 feet from the Mississippi River.
- (2) River Neighborhood District: 100 feet from the Mississippi River.
- (3) Urban Mixed District: 50 feet from the Mississippi River.

(c) Structures, impervious surfaces, and facilities must comply with the following bluffline setback provisions unless identified as exempt in Section 205.28.14:

- (1) Rural and Open Space District: 100 feet.
- (2) River Neighborhood District: 40 feet.
- (3) Separated from River District: 40 feet.
- (4) Urban Mixed District: 40 feet.
- (5) Oak Glen Creek, Rice Creek, Springbrook Creek, Stonybrook Creek: 50 feet.

(d) Impervious surface lot coverage must not exceed 35% on any lot within the Shoreland Overlay District except as a variance which shall comply with the following standards:

- (1) All structures, additions or expansions shall meet setback and other requirements of this Code;
- (2) The lot shall be served with municipal sewer and water;
- (3) The lot shall provide for the collection and treatment of stormwater in compliance with Stormwater Management and Erosion Control Chapter of the Code; and
- (4) Measures shall be taken for the treatment of stormwater runoff and/or prevention of stormwater from directly entering a public water.

#### 4. Lot size and buildable area.

(a) The width of lots abutting the Mississippi River in the ROS District must be at least 200 feet, unless alternative design methods are used that provide greater protection of the riparian area.

(b) All new lots must have adequate buildable area to comply with the setback requirements of Sections Section 205.28.07.01 and Section 205.28.07.03 so as to not require variances to use the lots for their intended purpose.

#### 205.28.08 Performance Standards for Private Facilities

1. General design standards. All private facilities must be developed in accordance with the vegetation management and land alteration requirements in Sections 205.28.11 and 205.28.12.

2. Private roads, driveways, and parking areas. Except as provided in Section 205.28.14, private roads, driveways and parking areas must:

- (a) Be designed to take advantage of natural vegetation and topography so that they are not readily visible from the river;
- (b) Comply with structure and impervious surface setback requirements according to Section 205.28.07.03; and
- (c) Not be placed within the bluff impact zone or shore impact zone, unless exempt under Section 205.28.14 and designed consistent with Section 205.28.09.01.

#### 3. Private water access and viewing facilities.

(a) Private access paths must be no more than:

- (1) Eight feet wide, if placed within the shore impact zone; and
  - (2) Four feet wide, if placed within the bluff impact zone.
- (b) Private water access ramps must:
- (1) Comply with Minnesota Rules Parts [6115.0210](#) and [6280.0250](#); and
  - (2) Be designed and constructed consistent with the applicable standards in the most current version of the Design Handbook for Recreational Boating and Fishing Facilities.
- (c) Design and construction of private stairways, lifts, and landings located above the OHWL are subject to the following standards:
- (1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be approved for commercial properties and residential facilities held in common;
  - (2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet area may be approved for commercial properties and residential facilities held in common;
  - (3) Canopies or roofs are prohibited on stairways, lifts, or landings;
  - (4) Stairways, lifts, and landings must be located in the least visible portion of the lot whenever practical; and
  - (5) Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities are allowed for achieving access to shore areas according to Section 205.28.08.3.C 1-4, and as provided under Section 205.28.04.08.
- (d) One water-oriented accessory structure is allowed for each riparian lot or parcel less than 300 feet in width at the ordinary high water level, with one additional water-oriented accessory structure allowed for each additional 300 feet of shoreline on the same lot or parcel. Water-oriented accessory structures are prohibited in the bluff impact zone and must:
- (1) Not exceed 12 feet in height;
  - (2) Not exceed 120 square feet in area; and
  - (3) Be placed a minimum of 10 feet from the ordinary high water level.



3. Decks and patios in setback areas. Decks and at-grade patios may encroach into the required setbacks from the ordinary high water level and blufflines without a variance, when consistent with Sections 205.28.11 and 205.28.12, provided that:

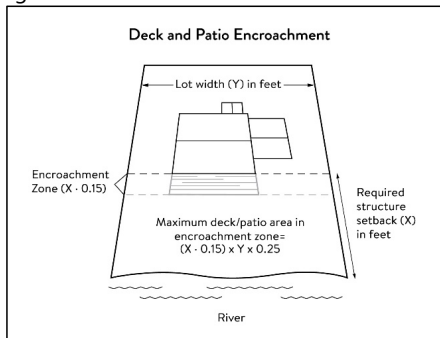
(a) The encroachment of the deck or patio into the required setback area does not exceed 15% of the required structure setback;

(b) The area of the deck or patio that extends into the required setback area occupies no more than 25% of the total area between the required setback and the 15% using the formula:

Required setback depth (feet) x 0.15 x lot width at setback (feet) x 0.25 = maximum total area.

(c) The deck or patio does not extend into the bluff impact zone. See Figure 7.

Figure 7. Deck and Patio Encroachment



#### 4. Off-Premise and Directional Signs

(a) Off-premise advertising signs must:

(1) Meet required structure height and placement standards in Sections 205.28.07.01 and 205.28.07.03.

(2) Not be readily visible from the river

(b) Directional signs for patrons arriving at a business by watercraft must comply with the following standards:

(1) They must be consistent with M.S. § [86B.115](#).

(2) Only convey the location and name of the establishment and the general types of goods and services available, if located in a shore impact zone.

(3) Be no greater than ten feet in height and 32 square feet in surface area; and

(4) If illuminated, the lighting must be shielded and directed downward to prevent illumination out across the river or to the sky.

5. Lighting. Within the Shore Impact Zone:

(a) Lighting shall be fully shielded and directed away from the river.

(b) Uplighting is prohibited.

6. Line of Sight. The development of new, or the expansion of existing structures, shall be placed so that the development is consistent with the preservation of the view of the river corridor from other properties on both sides of the river and by the public. The walling off of views of the river corridor from other properties and public right-of-ways shall be prohibited.

205.28.09 Performance Standards for Public Facilities

1. General design standards. All public facilities must be designed and constructed to:

(a) Minimize visibility of the facility from the river to the extent consistent with the purpose of the facility;

(b) Comply with the structure placement and height standards in Section 205.28.07, except as provided in Section 205.28.14;

(c) Be consistent with the vegetation management standards in Section 205.28.11 and the land alteration and storm water management standards in Section 205.28.12, including use of practices identified in [Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001](#), where applicable; and

(d) Avoid primary conservation areas, unless no alternative exists. If no alternative exists, then disturbance to primary conservation areas must be avoided to the greatest extent practicable, and design and construction must minimize impacts.

(e) Where feasible, minimize disturbance of spawning and nesting times by scheduling construction at times when local fish and wildlife are not spawning or nesting in areas where this activity is known to occur.

2. Right-of-way maintenance standards. Right-of-way maintenance must comply with the following standards:

- (a) Vegetation currently in a natural state must be maintained to the extent feasible;
  - (b) Where vegetation in a natural state has been removed, native plants must be planted and maintained on the right-of-way; and
  - (c) Chemical control of vegetation must be avoided when practicable, but when chemical control is necessary, chemicals used must be in accordance with the regulations and other requirements of all state and federal agencies with authority over the chemical's use.
3. Crossings of public water or public land. Crossings of public waters or land controlled by the commissioner are subject to approval by the commissioner according to M.S. § [84.415](#) and [103G.245](#).
4. Public utilities. Public utilities must comply with the following standards:
- (a) High-voltage transmission lines, wind energy conversion systems greater than five megawatts, and pipelines are regulated according to Minnesota Statutes Chapter [216E](#), [216F](#), and [216G](#) respectively;
  - (b) Primary consideration shall be given to underground placement of facilities in order to minimize aesthetic, environmental and public safety aspects. When considering overhead placement, the developer must show the reasoning that makes underground placement unfeasible;
  - (c) If underground placement is unfeasible, visibility of the facility from the river must be minimized as much as practicable; and
  - (d) The appearance of structures must be as compatible as practicable with the surrounding area in a natural state with regard to height and width, materials used, and color.
5. Public transportation facilities. Public transportation facilities shall comply with structure placement and height standards in Section 205.28.07 except as provided in Section 205.28.14. Where such facilities intersect or abut two or more MRCCA districts, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:
- (a) Providing scenic overlooks for motorists, bicyclists, and pedestrians;
  - (b) Providing safe pedestrian crossings and facilities along the river corridor;
  - (c) Providing access to the riverfront in public ownership; and

(d) Allowing for use of the land between the river and the transportation facility.

6. Public recreational facilities. Public recreational facilities must comply with the following standards:

(a) Buildings and parking associated with public recreational facilities must comply with the structure placement and height standards in Section 205.28.07, except as provided in Section 205.28.14;

(b) Roads and driveways associated with public recreational facilities must not be placed in the bluff or shore impact zones unless no other placement alternative exists. If no alternative exists, then design and construction must minimize impacts to shoreline vegetation, erodible soils and slopes, and other sensitive resources;

(c) Trails, access paths, and viewing areas associated with public recreational facilities and providing access to or views of the Mississippi River are allowed within the bluff and shore impact zones if design, construction, and maintenance methods are consistent with the best management practice guidelines in [Trail Planning, Design, and Development Guidelines](#):

(1) Hard-surface trails are not allowed on the face of bluffs with a slope exceeding 30%. Natural surface trails are allowed, provided they do not exceed eight feet in width.

(2) Trails, paths, and viewing areas must be designed and constructed to minimize:

((a)) Visibility from the river;

((b)) Visual impacts on public river corridor views; and

((c)) Disturbance to and fragmentation of primary conservation areas.

(d) Public water access facilities must comply with the following requirements:

(1) Watercraft access ramps must comply with Minnesota Rules Chapters [6115.0210](#) and [6280.0250](#); and

(2) Facilities must be designed and constructed consistent with the standards in the most recent version of the Minnesota DNR's Design Handbook for Recreational Boating and Fishing Facilities.

(e) Public signs and kiosks for interpretive or directional purposes are allowed in the bluff or shore impact zones, provided they are placed and constructed to minimize disturbance to these areas and avoid visual impacts on public river corridor views; and

(f) Public stairways, lifts, and landings must be designed as provided in Section 205.28.08.03.C.

#### 205.28.10 Public Access

1. Public river access to and along the river shall be provided for any new development that is adjacent to or part of a city plan including public access.
2. Public river access shall be provided to the riverfront of developments on publicly owned and publicly controlled riverfront property where feasible.

#### 205.28.11 Vegetation Management

1. Applicability. This section applies to:

- (a) Shore impact zones;
- (b) Areas within 50 feet of a wetland or natural drainage route;
- (c) Bluff impact zones;
- (d) Areas of native plant communities; and
- (e) Significant existing vegetative stands identified in the MRCCA plan

2. General performance standards for vegetation management. The general performance standards for vegetation management are as follows:

- (a) Development must be sited to minimize removal of or disturbance to natural vegetation;
- (b) Soil, slope stability, and hydrologic conditions are suitable for the proposed work as determined by the City Manager or their designee
- (c) Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views;
- (d) Vegetation removal activities must be conducted so as to expose the smallest practical area of soil to erosion for the least possible time; and
- (e) Grading must be conducted in a manner that preserves the root zone aeration and stability of existing trees and provides an adequate watering area equal to at least one-half of each tree crown. If this is not possible, a replacement tree must be provided in conformance with Section 205.28.11.07.

3. Activities allowed without a permit:

- (a) Maintenance of existing lawns, landscaping, and gardens;
- (b) Removal of vegetation in emergency situations as determined by the City Manager or their designee;
- (c) Right-of-way maintenance for public facilities meeting the standards Section 205.28.09.02
- (d) Agricultural and forestry activities meeting the standards of Sections 205.28.06.01.F and 205.28.06.01.G;
- (f) Selective vegetation removal of trees provided that vegetative cover as viewed from the river remains consistent with the management purpose of the MRCCA district and trees are replaced in conformance with Section 205.28.11.06.

4. Activities allowed with a permit. Only the following intensive vegetation clearing activities are allowed with a permit, all other forms of intensive vegetation clearing are prohibited:

- (a) Clearing of vegetation that is dead, diseased, dying, or hazardous;
- (b) Clearing to prevent the spread of diseases or insect pests;
- (c) Clearing to remove invasive non-native species;
- (d) Clearing for habitat restoration and erosion control management activities consistent with an approved plan;
- (e) The minimum necessary for development that is allowed with a building permit or as an exemption under Section 205.28.14.

5. Vegetation restoration plan. Development of a vegetation restoration plan and reestablishment of natural vegetation is required in the following circumstances:

- (a) For any vegetation removed with a permit under Section 205.28.11.04;
- (b) Upon failure to comply with any provisions in this Section; or
- (c) As part of the planning process for subdivisions as provided in Section 205.28.13.

6. Vegetation Restoration Plan Performance Standards. The vegetation restoration plan must satisfy the application submittal requirements in Section 205.28.04.05, and:

(a) Vegetation must be restored in one or more of the following restoration priority areas:

(1) Stabilization of erodible soils including with soils showing signs of erosion, especially on or near the top and bottom of steep slopes and bluffs;

(2) Restoration or enhancement of shoreline vegetation including shoreline areas within 25 feet of the water with no natural vegetation, degraded vegetation, or planted with turf grass;

(3) Revegetation of bluffs or steep slopes visible from the river; and

(4) Other approved priority opportunity area, including priorities identified in the MRCCA plan, if none of the above exist.

(b) Include vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities and by [Native Vegetation Establishment and Enhancement Guidelines](#);

(c) Any highly erodible soils disturbed during removal and/or restoration must be stabilized with deep-rooted vegetation with a high stem density;

(d) Vegetation removed must be restored with natural vegetation to the greatest extent practicable. The area (square feet) of the restored vegetation should be similar to that removed to the greatest extent practicable;

(e) For restoration of removed native plant communities, restored vegetation must also provide biological and ecological function equivalent to the removed native plant communities;

(f) Be prepared by a qualified individual except for:

(1) Vegetation plans required in response to Section 205.28.11.04.D which must be prepared by a professional ecologist, landscape architect, or person with demonstrable experience and knowledge related to vegetation management as accepted and approved by the City; and

(g) Include a maintenance plan that includes management provisions for controlling invasive species and replacement of plant loss for three years.

## 7. Tree Removal and Replacement

(a) Except for tree removal conducted in accordance with Section 205.28.04.D with an approved vegetation restoration plan, any trees over four inches diameter at breast height that are removed shall be restored with an equal number of trees to that which existed before cutting by September 30 of the subsequent year. If insufficient space is available for tree replanting as determined by the City, a monetary fee may be provided in lieu of tree replanting, as outlined in the Fees Chapter of the Code.

## 205.28.12 Land Alteration and Stormwater Management

### 1. Land alteration

(a) Within the bluff impact zone, land alteration is prohibited, except for the following, which are allowed with a permit:

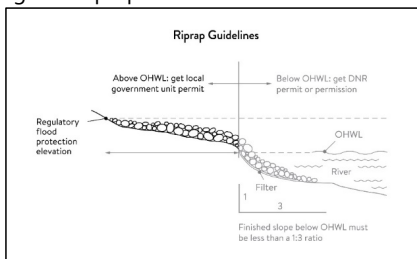
- (1) Erosion control consistent with a plan approved by the City Manager or their designee;
- (2) The minimum necessary ~~for development~~ that is allowed as an exception under Section 205.28.14; and
- (3) Repair and maintenance of existing buildings and facilities.

(b) Within the water quality impact zone, land alteration that involves more than ten cubic yards of material or affects an area greater than 1,000 square feet requires a permit.

### 2. Rock riprap, retaining walls, and other erosion control structures

(a) Construction, repair, or replacement of rock riprap, retaining walls, and other erosion control structures located at or below the OHWL must comply with Minnesota Rules Part [6115.0215, Subp. 4, item E](#), and [6115.0216, Subp. 2](#). Work must not proceed until necessary approvals by the Commissioner, the US Army Corps of Engineers as necessary, and any other required permits are obtained. See Figure 8.

Figure . Riprap Guidelines





(b) Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and the water quality impact zone are allowed with a permit consistent with provisions of Section 205.28.12.5 provided that:

(1) If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project;

(2) The structures are used only to correct an established erosion problem as determined by the City Engineer or their designee;

(3) The size and extent of the structures are the minimum necessary to correct the erosion problem and are not larger than the following, unless a professional engineer determines that a larger structure is needed to correct the erosion problem:

((a)) Retaining walls must not exceed four feet in height;

((b)) Retaining walls must be placed a minimum horizontal distance of twenty feet apart; and

((c)) Riprap must not exceed the height of the regulatory flood protection elevation.

(c) Repair of existing rock riprap, retaining walls, and other erosion control structures above the OHWL does not require a permit provided it does not involve any land alteration.

### 3. Storm water management.

(a) In the bluff impact zone, storm water management facilities are prohibited, except by permit if:

(1) There are no alternatives for storm water treatment outside the bluff impact zone on the subject site;

(2) The site generating runoff is designed so that the amount of runoff reaching the bluff impact zone is reduced to the greatest extent practicable;

(3) The construction and operation of the facility does not affect slope stability on the subject property or adjacent properties; and

(4) Mitigation based on the best available engineering and geological practices is required and applied to eliminate or minimize the risk of slope failure.

(b) In the water quality impact zone, development that creates new impervious surface, as allowed by exemption in Section 205.28.14, or fully reconstructs existing impervious

surface of more than 10,000 square feet requires a permit. Multipurpose trails and sidewalks are exempt if there is down gradient vegetation or a filter strip that is at least five feet wide.

(c) In all other areas, storm water runoff must be directed away from the bluff impact zones or unstable areas.

4. Development on steep slopes.

Construction of structures, impervious surfaces, land alteration, vegetation removal, or other construction activities are allowed on steep slopes if:

(a) The development can be accomplished without increasing erosion or storm water runoff;

(b) The soil types and geology are suitable for the proposed development; and

(c) Vegetation is managed according to the requirements of Section 205.28.11.

5. Conditions of land alteration permit approval within the Critical Area

(a) Temporary and permanent erosion and sediment control measures retain sediment onsite consistent with best management practices in the [Minnesota Stormwater Manual](#);

(b) Natural site topography, soil, and vegetation conditions are used to control runoff and reduce erosion and sedimentation;

(c) Construction activity is phased when possible;

(d) All erosion and sediment controls are installed before starting any land alteration;

(e) Erosion and sediment controls are maintained during construction to ensure effective operation;

(f) The proposed work is consistent with the vegetation standards in Section 205.28.11; and

(g) Best management practices for protecting and enhancing ecological and water resources identified in [Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001](#).

6. Compliance with other plans and programs. All land alteration must:

- (a) Be consistent with Minnesota Statutes Chapter [103B](#), and local water management plans completed under Minnesota Rules Chapter [8410](#);
- (b) Meet or exceed the wetland protection standards under Minnesota Rules Chapter [8420](#);
- (c) Comply with the Floodplain Management Overlay District Chapter; and,
- (d) Comply with the Stormwater Management and Erosion Control Chapter.

#### 205.28.13 Subdivisions

1. The design standards in this Section apply to subdivisions, planned unit developments and master- planned development and redevelopment of land involving ten or more acres for contiguous parcels that abut the Mississippi River and 20 or more acres for all other parcels within the MRCCA, including smaller individual sites within the these developments that are part of a common plan of development that may be constructed at different times.

2. The following activities are exempt from the requirements of this Section:

- (a) Minor subdivisions consisting of three or fewer lots;
- (b) Minor boundary line corrections;
- (c) Resolutions of encroachments;
- (d) Additions to existing lots of record;
- (e) Placement of essential services; and
- (f) Activities involving river-dependent commercial and industrial uses.

3. Project information listed in Section 205.28.04.05 must be submitted for all proposed developments.

4. Design standards.

(a) Primary conservation areas, where they exist, must be set aside and designated as protected open space in quantities meeting the following as a percentage of total parcel area:

- (1) CA-ROS District: 50%;
- (2) CA-RN District: 20%;

(3) CA-UM: 10%; and

(4) CA-SR District: 10% if the parcel includes native plant communities or provides feasible connections to a park or trail system, otherwise no requirement.

(b) If the primary conservation areas exceed the amounts specified in Section 205.28.13.04, then protection of native plant communities and natural vegetation in riparian areas shall be prioritized.

(c) If primary conservation areas exist but do not have natural vegetation (identified as restoration priorities in the MRCCA Plan), then a vegetation assessment must be completed to evaluate the unvegetated primary conservation areas and determine whether vegetation restoration is needed. If restoration is needed, vegetation must be restored according to Section 205.28.11.04.

(d) If primary conservation areas do not exist on the parcel and portions of the parcel have been identified in the MRCCA plan as a restoration area, vegetation must be restored in the identified areas according to Section 205.28.11.04, and the area must be set aside and designated as protected open space.

(e) Storm water treatment areas or other green infrastructure may be used to meet the protected open space requirements if the vegetation provides biological and ecological functions.

(f) Land dedicated under the Subdivision Chapter for public river access, parks, or other open space or public facilities may be counted toward the protected open space requirement.

(g) Protected open space areas must connect open space, natural areas, and recreational areas, where present on adjacent parcels, as much as possible to form an interconnected network.

5. Permanent protection of designated open space

(a) Designated open space areas must be protected through one or more of the following methods:

(1) Public acquisition by a government entity for conservation purposes;

(2) A permanent conservation easement, as provided in Minnesota Statutes Chapter 84C;

(3) A deed restriction; or

(4) Other arrangements that achieve an equivalent degree of protection.

(b) Permanent protection methods must ensure the long-term management of vegetation to meet its biological and ecological functions, prohibit structures, and prohibit land alteration, except as needed to provide public recreational facilities and access to the river.

6. Alternative design standards. Applicants are encouraged to propose alternative design methods that achieve better protection or restoration of primary conservation areas. Methods may include protection and restoration of continuous vegetation, preventing the fragmentation of vegetation, concentration of density in exchange for higher levels of open space protection, or other zoning and site design techniques.

205.28.14 Exemptions

1. Applicability

(a) Uses and activities not specifically exempted must comply with this Chapter. Uses and activities exempted under shore impact zone and bluff impact zone must comply with the vegetation management and land alteration standards in Sections 205.28.11 and 205.28.12.

(b) Uses and activities in this Section are categorized as:

(1) Exempt – E. This means that the use or activity is allowed;

(2) Exempt if no alternative - (E). This means that the use or activity is allowed only if no alternatives exist; and

(3) Not exempt - N. This means that a use or activity is not exempt and must meet the standards of this Chapter.

2. Use and activity exemptions classification.

(a) General uses and activities.

<b>Use or Activity</b>	<b>Set backs</b>	<b>Height Limits</b>	<b>SI Z</b>	<b>BI Z</b>	<b>Applicable standards with which the use or activity must comply</b>
Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers)	N	E	N	N	Structure design and placement must minimize interference with public river corridor views.
Barns, silos, and farm structures	N	E	N	N	
Bridges and bridge approach roadways	E	E	E	(E)	Section 205.28.09

<b>Use or Activity</b>	<b>Set backs</b>	<b>Height Limits</b>	<b>SI Z</b>	<b>BI Z</b>	<b>Applicable standards with which the use or activity must comply</b>
Wireless communication towers	E	E	N	N	Section 205.28.06.03
Chimneys, religious spires, flag poles, public monuments, and mechanical stacks and equipment	N	E	N	N	
Historic properties and contributing properties in historic districts	E	E	E	E	Exemptions do not apply to additions or site alterations

(b) Public utilities.

<b>Use or Activity</b>	<b>Set backs</b>	<b>Height Limits</b>	<b>SI Z</b>	<b>BI Z</b>	<b>Applicable standards with which the use or activity must comply</b>
Electrical power facilities	E	E	E	(E)	Section 205.28.09
Essential services (other than storm water facilities)	E	E	E	(E)	Section 205.28.09
Storm water facilities	E	N	E	(E)	Section 205.28.12
Wastewater treatment	E	N	E	N	Section 205.28.09
Public transportation facilities	E	N	(E)	(E)	Section 205.28.09

(c) Public recreational facilities.

<b>Use or Activity</b>	<b>Set backs</b>	<b>Height Limits</b>	<b>SI Z</b>	<b>BI Z</b>	<b>Applicable standards with which the use or activity must comply</b>
Accessory structures, such as monuments, flagpoles, light standards, and similar park features	E	E	(E)	(E)	Section 205.28.09; within BIZ, only on slopes averaging less than 30%. Exemptions do not apply to principal structures.
Picnic shelters and other open-sided structures	E	N	(E)	N	Section 205.28.09
Parking lots	(E)	N	(E)	(E)	Section 205.28.09; within BIZ, only within 20 feet of toe of bluff; not on face of bluff; and must not affect stability of bluff
Roads and driveways	(E)	N	(E)	(E)	Section 205.28.09
Natural-surfaced trails, access paths, and viewing areas	E	N	E	E	Section 205.28.09

<b>Use or Activity</b>	<b>Set backs</b>	<b>Height Limits</b>	<b>SI Z</b>	<b>BI Z</b>	<b>Applicable standards with which the use or activity must comply</b>
Hard-surfaced trails and viewing platforms	E	N	E	(E)	Section 205.28.09; within BIZ, only on slopes averaging less than 30%
Water access ramps	E	N	E	(E)	Section 205.28.09
Public signs and kiosks for interpretive or directional purposes	E	N	E	(E)	Section 205.28.09

(d) River-dependent uses.

<b>Use or Activity</b>	<b>Set backs</b>	<b>Height Limits</b>	<b>SI Z</b>	<b>BI Z</b>	<b>Applicable standards with which the use or activity must comply</b>
Shoreline facilities	E	N(	E	(E)	Section 5.25. Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility. River-dependent commercial, industrial, and utility structures are exempt from height limits only if greater height is required for operational reasons.
Private roads and conveyance structures serving river-dependent uses	E	N	E	(E)	Section 5.25; River-dependent commercial, industrial, and utility structures are exempt from height limits only if greater height is required for operational reasons.

(e) Private residential and commercial water access and use facilities.

<b>Use or Activity</b>	<b>Set backs</b>	<b>Height Limits</b>	<b>SI Z</b>	<b>BI Z</b>	<b>Applicable standards with which the use or activity must comply</b>
Private roads serving 3 or more lots	(E)	N	N	(E)	Section 205.28.08; in BIZ, only on slopes averaging less than 30%. Exemption does not apply to private roads serving fewer 3 lots or to private driveways and parking areas
Access paths	E	N	E	E	Section 205.28.08
Water access ramps	E	N	E	N	Section 205.28.08
Stairways, lifts, and landings	E	N	E	E	Section 205.28.08
Water-oriented accessory structures	E	N	E	N	Section 205.28.08
Patios and decks	E	N	N	N	Section 205.28.08.04
Directional signs for watercraft (private)	E	N	E	N	Section 205.28.08.05; exemption does not apply to off-premise advertising signs
Temporary storage of docks, boats, and other equipment during the winter months	E	N	E	N	
Erosion control structures, such as rock riprap and retaining walls	E	N	E	(E)	Section 205.28.12.2
Flood control structures	E	N	E	(E)	Section 205.28.12



**CITY OF FRIDLEY ZONING CODE**  
**CHAPTER 205.32 O-7. SHORELAND OVERLAY DISTRICT**  
**(Ref 1224)**

**205.32 O-7 SHORELAND OVERLAY DISTRICT**

1. PURPOSE AND INTENT

- A. The unregulated use of shorelands in the city affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise use and development of shorelands of public waters.
- B. Statutory authorization. These shoreland regulations are adopted pursuant to the authorization and policies contained in Minn. Stat. Ch. 103F, Minnesota Regulations, Parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in Minn. Stat. Ch. 462.
- C. Jurisdiction. The provisions of this Code shall apply to shorelands of the public water bodies as classified in Section 205.32.4.B of this Code except for those properties that are also under the jurisdiction of the Critical Area Chapter for which only the Critical Area Chapter will apply. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Code.
- D. Compliance. 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 grading and filling of any shoreland area; and the cutting of shoreland vegetation shall be in full compliance with the terms of this Code and other applicable regulations.
- E. District application. The shoreland overlay district shall be superimposed (overlaid) upon all the zoning districts as identified in Chapter 205 of this Code as existing or amended by the text and map of this Code. The regulations and requirements imposed by the shoreland overlay district shall be in addition to those established by the base zoning district which jointly apply. Under joint application of the districts, the more restrictive requirements shall apply.
- F. Exemption. A structure or use which was lawful before adoption of this Chapter, but which is not in conformity with the provisions of the shoreland overlay district, may be continued subject to Section 205.04.3 of this Code.

2. DISTRICT BOUNDARIES

- A. The boundaries of the shoreland permit overlay district within the city consists of the first tier of riparian lots abutting a protected lake or tributary identified in Section 205.32.4.B of this Code. The specific boundaries of the shoreland permit overlay district are shown on the official Fridley Shoreland Overlay District Map in the Fridley Zoning Code.
- B. For those properties that are also within the jurisdiction of the Critical Area Chapter, only the provisions of the Critical Area Chapter shall apply as shall be exempt from the Shoreland Chapter per M

### 3. DEFINITIONS

For the purpose of this Chapter certain terms and words are hereby defined: Words used in the present tense shall include the future; words in the singular include the plural, and the plural the singular; the word “building” shall include the word “structure”; and the word “lot” shall include the word “plot”; and the word “shall” is mandatory and not directory; and the word “including” shall mean “including, but not limited to”.

For the purpose of this district the following definitions shall apply:

- A. Accessory Building.  
A subordinate building or use which is located on the same lot as the principal building or use and is necessary or incidental to the conduct of the principal building or use.
- B. Bluff.  
Those steep slopes lying between the ordinary high water mark and the River Corridor boundary having an angle of ascent from the river of more than twelve percent (12%) from the horizontal.
- C. Bluffline.  
A line delineating the top of the bluff connecting the points at which the angle of ascent becomes less than twelve percent (12%). More than one (1) bluffline may be encountered.
- D. Bluff Impact Zone  
The area between the Bluffline and forty (40) feet inland from the bluff.
- E. Commission.  
The City of Fridley Planning Commission.
- F. Commissioner.  
The Commissioner of the Department of Natural Resources of the State of Minnesota.
- G. Council.  
The Fridley City Council.
- H. Critical Area.  
The area known as the Mississippi River Corridor Critical Area designated by the Governor in the Executive Order No. 130.
- I. Development.  
The making of any material change in the use or appearance of any structure or land including reconstruction; alteration of the size of any structure; alteration of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples); mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; the dividing of land into two (2) or more parcels.

J. Impervious Surface.

A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

K. Lot Coverage.

The amount of impervious surface on a lot.

L. Ordinary High Water Level.

Minnesota State Statute 103G.005, subdivision 14 defines ordinary high water level as the boundary of waterbasins, watercourses, public waters, and public waters wetlands, and:

- (1) the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- (2) for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- (3) for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

M. Shoreland

Shoreland means land located within the following distances from the ordinary high water elevation of public waters:

- (1) land within 1,000 feet from the normal high watermark of a lake, pond, or flowage; and
- (2) land within 300 feet of a river or stream or the landward side of a floodplain delineated by ordinance on the river or stream, whichever is greater.

N. Shore Impact Zone

The area between the ordinary high water mark and fifty (50) feet inland from the ordinary high water mark.

O. Structure.

Anything constructed or erected which requires location on or underground or attachment to something having location on or underground. This includes an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, whether of a temporary or permanent character.

4. SHORELAND CLASSIFICATION SYSTEM

- A. Public waters. The public waters of Fridley have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the DNR Protected Waters Inventory Map for Anoka County, Minnesota.



C. Notifications to the Department of Natural Resources.

- (1) *Public hearings.* Copies of all notices of any public hearings to consider variances, amendments, or special uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- (2) *Approval.* A copy of approved amendments and subdivisions/plats, and final decisions granting variances or special uses under local shoreland management controls must be sent by the City to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

6. LAND USE DISTRICT DESCRIPTIONS

Allowed land uses within the shoreland district shall be determined by the underlying zoning district, as listed within Chapter 205 of City Code.

7. LOT AREA AND WIDTH STANDARDS

Lot area and width standards for residential development shall be regulated per the underlying zoning district in Chapter 205 of City Code.

8. PLACEMENT, DESIGN, AND HEIGHT OF STRUCTURES

A. Placement of structures on lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure 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. Structures shall be located as follows:

- (1) *Required setbacks.* All required rear yard, side yard and front yard setbacks shall be met per the underlying zoning district.
- (2) *Ordinary high water level setback.* Structure setbacks (in feet) from the ordinary high water level.

<u>Classes of Public Waters</u>	<u>Structure Setbacks</u>
General Development Lake	50 feet
Natural Environment Lake	150 feet
Recreational Development Lake	75 feet
River	100 feet
Tributary Stream	50 feet

- (3) *Required bluff setback.* The following setback shall be applied, regardless of the classification of the water body:

<u>Classes of Land</u>	<u>Structure Setback</u>
Top of Bluff	40 feet

- (4) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- (5) *Height of structures.* Maximum allowable height for all structures shall be regulated per underlying zoning district in Chapter 205 of City Code.
- B. 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 alteration.* Removal or alteration of vegetation is allowed subject to the following standards:
- a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
  - 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, 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 and the removal of plants deemed noxious under the Minnesota Noxious Weed Law.
- (2) *Building permit.* Grading and filling and excavations necessary for the construction of structures and driveways under validly issued building permits for these facilities do not require the issuance of a separate shoreland grading and filling permit.
- (3) *Land alteration permit.* Notwithstanding (2) above, a land alteration permit will be required for:
- a. The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones.
  - b. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

- (4) *Conditions.* The following considerations and conditions must be adhered to during the issuance of building permits, land alteration permits, special use permits, variances and subdivision approvals:
- a. Grading or filling in any type 2-8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland (This evaluation shall 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 Minnesota Department of Natural Resources, or the United States Army Corps of Engineers):
    - ((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, or others.
  - 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 create finished slopes of less than 3:1 slope.
  - 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 Minn. Stat. § 103G.245.
  - j. Alterations of topography must only be allowed if they are accessory to permitted or special uses and do not adversely affect adjacent or nearby properties.

- k. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within ten feet of the ordinary high water level, and the height of the rip rap above the ordinary high water level does not exceed three feet. Must be done in accordance with other State and Federal regulations. Permit from DNR is required.
- (5) *Connections to public waters.* Excavations where the intended purpose is connection to a 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 written authorization has been obtained from the Minnesota Department of Natural Resources approving the proposed connection to public waters.
- C. Stormwater management. The following general and specific standards shall apply:
- (1) *General standards.*
    - a. When possible, existing natural drainage-ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
    - b. 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 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.
    - c. 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 manmade materials and facilities.
  - (2) *Specific standards.*
    - a. Impervious surface lot coverage shall not exceed 35 percent of the lot area, except as a variance, which shall comply with the following standards:
      - ((i)) All structures, additions or expansions shall meet setback and other requirements of this Code.
      - ((ii)) The lot shall be served with municipal sewer and water.
      - ((iii)) The lot shall provide for the collection and treatment of stormwater in compliance with Chapter 208 of City Code if determined that the site improvements will result in increased runoff directly entering a public water. All development plans shall require review and approval by the city engineer and the underlying watershed district.
      - ((iv)) Measures to be taken from the treatment of stormwater runoff and/or prevention of stormwater from directly entering a public water. The measures may include, but not be limited to the following:



- (A) Appurtenances as sedimentation basins debris basins, desilting basins, or silt traps.
  - (B) Installation of debris guards and microsilt basins on storm sewer inlets.
  - (C) Use where practical, oil skimming devices or sump catch basins.
  - (D) Direct drainage away from the lake and into pervious, grassed, yards through site grading, use of gutters and down spouts.
  - (E) Construction sidewalks of partially pervious raised materials such as decking which has natural earth or other pervious material beneath or between the planking.
  - (F) Use grading and construction techniques which encourage rapid infiltration, e.g., sand and gravel under impervious materials with adjacent infiltration swales graded to lead into them.
  - (G) Install berms, water bars, or terraces which temporarily detain water before dispersing it into pervious area.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
  - c. New constructed stormwater outfall to public waters must provide for filtering or settling of suspended solids and skimming or surface debris before discharge.
- (3) *Nonconformities*. All legally established nonconformities as of the date of this section may continue, but they will be managed according to section 205.32.5.B of this Code with the following exceptions:
- a. Decks are allowed as a conforming use provided all of the following criteria and standards are met:
    - ((i)). The principle structure existed on the date the structure setbacks were established.
    - ((ii)). No other reasonable location for a deck exists.
    - ((iii)). The deck encroachment toward the ordinary high water level maintains a minimum setback in accordance with applicable code sections and a maximum encroachment of 10 feet into the Bluff Impact Zone or Shore Impact Zone.
    - ((iv)). The deck is framed construction, and is not roofed or screened.

#### 9. PUBLIC NUISANCE: PENALTY

- A. Any person who violates any provisions of this district or fails to comply with any of its terms or requirements shall be guilty of a misdemeanor punishable by a fine of not more than \$500 or imprisoned for not more than ninety (90) days, or both, and in addition shall pay all costs of prosecution and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- B. Every obstruction or use placed or maintained in the Preservation District in violation of this Chapter is hereby declared to be a public nuisance and creation thereof may be enjoined and the maintenance thereof abated by appropriate judicial action.
- C. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent, remedy or remove any violation.



101 East Fifth Street  
Suite 2000  
Saint Paul, MN 55101

651-222-2193  
www.fmr.org  
info@fmr.org

June 14, 2023

Dear Councilmembers and Planning Commissioners:

Thank you for the opportunity to comment on Fridley's proposed Mississippi River Corridor Critical Area (MRCCA) ordinance.

Friends of the Mississippi River (FMR) is a non-profit organization with a mission to engage community members and other stakeholders to protect, restore and enhance the Mississippi River and its watershed in the Twin Cities Region. We represent thousands of people in the metropolitan area who care deeply about the river, including a growing membership of over 2,700 people and more than 3,200 volunteers and 2,000 advocates engaged each year.

The Mississippi River is a natural, cultural and historic wonder that helps define our metro area. In recognition of this, its 72-mile stretch through the Twin Cities is not only a state-designated Critical Area but also a national park afforded special protective policies.

The MRCCA ordinance adoption process is an important opportunity for communities to define their goals and expectations for years to come. A successful ordinance will guide riverfront use in a way that reflects the city's environmental, development, and recreational priorities while providing clarity for landowners and developers.

We're pleased with Fridley's draft MRCCA ordinance. One of the ordinance's strongest points is the inclusion of clear, strong standards to ensure that variances and CUPs do not negatively harm the river or its important features. Including this level of detail in the ordinance makes it easier to consistently apply when projects arise.

If it's possible within the city's processes, FMR recommends lengthening the DNR/National Park Service notification periods for discretionary actions and public hearings. The state requires ten days' advance notice, but in FMR's experience this short notice period often means that agency input is received very close to, or even during, planning commission meetings.

When complex MRCCA questions are involved, receiving this technical and legal guidance so late in the process makes public hearings more confusing and reduces the likelihood that the commission is prepared to vote at that meeting. A longer notification period makes the process smoother for all

parties by reducing the likelihood of technical or compliance concerns being raised last-minute and improving the commission's ability to make fully informed, timely decisions.

Please don't hesitate to contact me at [ctoberman@fmr.org](mailto:ctoberman@fmr.org) or 651-222-2193 x29 to discuss any of our comments further. FMR also has extensive MRCCA ordinance resources (including videos, handouts, and interactive maps) available at [www.fmr.org/river-rules](http://www.fmr.org/river-rules).

Thank you for your time and consideration.

For the river,

A handwritten signature in black ink that reads "Colleen O'Connor Toberman". The signature is written in a cursive, flowing style.

Colleen O'Connor Toberman  
Land Use & Planning Director



## Fridley Civic Campus

7071 University Ave N.E. Fridley, MN 55432  
763-571-3450 | FAX: 763-571-1287 | [FridleyMN.gov](http://FridleyMN.gov)

### PUBLIC HEARING NOTICE

Dear Fridley Property Owner,

The City of Fridley (City) is proposing changes to the Critical Area District Chapter of City Code which regulates properties within the Mississippi River Corridor Critical Area (MRCCA). The MRCCA is a stretch of land near the river that has been granted special protection by the State of Minnesota (the State) due to the river's natural, cultural, and scenic value. The Critical Area District Chapter has been in place since 1983 and includes setbacks from the shoreline and bluffs, vegetation management, and other provisions. In 2017, the State adopted revised MRCCA regulations. The City is now in the process of updating the City Code for consistency with these changes, and a public hearing has been scheduled in front of the City Council.

You are receiving notice of this hearings because your property has been identified to likely contain a newly designated "primary conservation area". Future projects on properties with a newly designated primary conservation area may be impacted by these changes or need a Critical Area permit before proceeding. Additional information is available at [FridleyMN.gov/CriticalArea](http://FridleyMN.gov/CriticalArea). If you have questions on how these proposed changes may impact your property, please contact Rachel Workin, Environmental Planner at 763-572-3594 or [rachel.workin@fridleymn.gov](mailto:rachel.workin@fridleymn.gov).

Date of Hearing: City Council Meeting, Monday, July 10, 2023 at 7:00 p.m.  
The Council meeting is televised live the night of the meeting on Channel 17.

Location of City Council Meeting: Meetings will be held in person at Fridley Civic Campus located at 7071 University Avenue NE.

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How to Participate:

1. You may attend the public hearing in person and testify.
2. You may submit a letter in advance of the meeting to Rachel Workin, Environmental Planner at the address above or by email at [rachel.workin@fridleymn.gov](mailto:rachel.workin@fridleymn.gov)

*\*If you require auxiliary aids or services to participate to communicate in the meeting, please contact Roberta Collins at 763-572-3500 or [roberta.collins@fridleymn.gov](mailto:roberta.collins@fridleymn.gov) no later than June 30, 2023 for the City Council meeting. The TDD # is: 763-572-3534.*

## Mississippi River Corridor Critical Area (MRCCA) Rule Changes

Zoning regulations specific to the MRCCA have been part of the Fridley City Code since the adoption of the Critical Area District Chapter in 1983. Additional regulations within the new MRCCA Rules may apply to your property if it contains a newly designated primary conservation area. Primary conservation areas are key natural and cultural resources identified as important in the 2017 MRCCA Rules. A map of primary conservations can be found at [FridleyMN.gov/CriticalArea](http://FridleyMN.gov/CriticalArea). Primary Conservation Areas include:

- Bluff: A natural feature with an average slope exceeding 18% with a height over 25 feet over a distance of 25 feet
- Bluff Impact Zone: Area within 20 feet of the top of a bluff
- Shore Impact Zones: Area within 50% of the required structure setback from the river equaling 25 feet- 50 feet from the ordinary high water line of the river depending on the MRCCA district. This includes properties directly along the river.
- Natural Drainage Route: Properties directly along Springbrook Creek, Stonybrook Creek, Oak Glen Creek, or Rice Creek
- Significant Existing Vegetation Stands: Largely intact and connected plant communities along the river or natural drainage routes. This includes vegetated areas adjacent to the river and Riverview Heights Park.

If a newly designated primary conservation area exists on your property, the following projects may be subject to new standards and will need to be permitted by the City following the adoption of the proposed rules:

- Construction or replacement of structures and additions including buildings, building additions, decks, patios, gazebos or access paths to the river
- Intensive vegetation clearing or tree removal within a primary conservation area
- Land alteration within the bluff impact zone or shore impact zone including construction or replacement of rock riprap, retaining walls, and other erosion control structures

The proposed City Code, Frequently Asked Questions, and summary sheets related to setbacks, vegetation management, and land alteration can be found [FridleyMN.gov/CriticalArea](http://FridleyMN.gov/CriticalArea). Permit application materials will become available following the adoption of the new City Code. Projects completed prior to the adoption of the new City Code do not need to obtain a Critical Area permit but must follow current Critical Area District Chapter rules.

### Questions?

Please contact Rachel Workin, Environmental Planner at 763-572-3594 or [Rachel.Workin@FridleyMN.gov](mailto:Rachel.Workin@FridleyMN.gov)

WINTER, TYLER 100 TALMADGE WAY NE FRIDLEY MN 55432 CURRENT RESIDENT 12 TALMADGE WAY NE FRIDLEY MINNEAPOLIS 55432	MAERTENS JOSEPH D & IRENE M 1113 GUAVA ISLE FT LAUDERDALE FL 33315 KAM, SAMANTHA 120 TALMADGE WAY NE FRIDLEY MN 55432	SPINELLI, ALICIA D 115 GLEN CREEK RD NE FRIDLEY MN 55432 BYRNE, MARY ANN 130 TALMADGE WAY NE FRIDLEY MN 55432
MARTIN CHARLES W & MARY J 133 STONYBROOK WAY NE FRIDLEY MN 55432 KING AARON 139 GLEN CREED RD NE FRIDLEY MN 55432 CURRENT RESIDENT 144 RIVER EDGE WAY NE FRIDLEY MINNEAPOLIS 55432	CALDWELL CHRISTOPHER 136 71ST WAY NE FRIDLEY MN 55432 GONSALVES SARA G 140 RIVER EDGE WAY NE FRIDLEY MN 55432 COLLINS CHERYL B & CRAIG E 144 TALMADGE WAY NE FRIDLEY MN 55432	JENSEN OLIVIA YANG 136 RIVERS EDGE WAY NE FRIDLEY MN 55432 KRAVIK DAVID & KATHLEEN 140 TALMADGE WAY NE FRIDLEY MN 55432 CAMPBELL THOMAS & BERGSETH B 146 71ST WAY NE FRIDLEY MN 55432
HOGLUND TIMOTHY & SUSAN 148 RIVER EDGE WAY NE FRIDLEY MN 55432 ROELOFS ROGER L & MARILYN A 150 TALMADGE WAY NE FRIDLEY MN 55432 ENNENGA, CAROL J 155 STONYBROOK WAY NE FRIDLEY MN 55432	PECKELS, SHARON 148 TALMADGE WAY NE FRIDLEY MN 55432 SMITH, JACOB W 151 GLEN CREEK RD NE FRIDLEY MN 55432 ULRICH, DAVID G 157 HARTMAN CIR NE FRIDLEY MN 55432	HARRINGTON DANA 149 HARTMAN CIR NE FRIDLEY MN 55432 KIMLINGER, PAUL 153 HARTMAN CIR NE FRIDLEY MN 55432 CURRENT RESIDENT 158 71ST WAY NE FRIDLEY MINNEAPOLIS 55432
DYMOND MARK WILLIAM 159 LOGAN PKWY NE FRIDLEY MN 55432 ZELENY, KATHLEEN 161 HARTMAN CIR NE FRIDLEY MN 55432	KOOLMAN AMANDA ELLA PEARL 160 CRAIGBROOK WAY NE FRIDLEY MN 55432 SIMMELINK TRUSTEE KATHLEEN A 165 HARTMAN CIR NE FRIDLEY MN 55432	CAMPBELL, GREGOR 160 TALMADGE WAY NE FRIDLEY MN 55432 RINGSTAD, REECE R 165 STONYBROOK WAY NE FRIDLEY MN 55432

NELSON BRUCE I & JEANINE M	LEHR TRUSTEE, KENNETH D	SEURER, RICHARD
168 71ST WAY NE	168 TALMADGE WAY NE	169 HARTMAN CIR NE
FRIDLEY MN 55432	FRIDLEY MN 55432	FRIDLEY MN 55432
CURRENT RESIDENT	GAROFANO J A & CAVANAUGH T G	IH2 PROPERTY ILLINOIS LP
170 CRAIGBROOK WAY NE	170 TALMADGE WAY NE	1717 MAIN ST STE 2000
FRIDLEY MINNEAPOLIS 55432	FRIDLEY MN 55432	DALLAS TX 75201
NAWROCKI, DALE	BERGLIN, PETER	ANDERSON HAYLEY E
173 HARTMAN CIR NE	175 LOGAN PKY NE	177 HARTMAN CIR NE
FRIDLEY MN 55432	FRIDLEY MN 55432	FRIDLEY MN 55432
HELMER, ANTHONY	BEINE JUDITH C	GUDDING TRUSTEE JOYCE M
180 71ST WAY NE	180 TALMADGE WAY NE	181 HARTMAN CIR NE
FRIDLEY MN 55432	FRIDLEY MN 55432	FRIDLEY MN 55432
ELFORD, CHRISTOPHER J	DUNN, JAMES J	DELP KIRSTIN A & DONALD R JR
184 71ST WAY NE	185 HARTMAN CIR NE	187 STONYBROOK WAY NE
FRIDLEY MN 55432	FRIDLEY MN 55432	FRIDLEY MN 55432
ROLLAND ALLAN I & ELFRIEDE M	BOELTER PHILLIP	G FERREIRA JR AND C JIMINEZ
188 71ST WAY NE	189 LOGAN PKWY	190 CRAIGBROOK WAY NE
FRIDLEY MN 55432	FRIDLEY MN 55432	FRIDLEY MN 55432
ST PAUL BRD OF WATER COMM	SAGDALEN, TROY	ANOKA, COUNTY OF
1900 RICE ST	191 HARTMAN CIR NE	193 HARTMAN CIR NE
ST PAUL MN 55113	FRIDLEY MN 55432	FRIDLEY MN 55432
CURRENT RESIDENT	MATTHEWS DANIEL S	CURRENT RESIDENT
200 CHARLES ST NE	200 LOGAN PKWY NE	210 CRAIGBROOK WAY NE
FRIDLEY MINNEAPOLIS 55432	FRIDLEY MN 55432	FRIDLEY MINNEAPOLIS 55432
ANOKA COUNTY OF	HANLEY, SUZANNE L	HEIN, MARIA C
2100 3RD AVE	211 LOGAN PKWY NE	211 STONYBROOK WAY NE
ANOKA MN 55303	FRIDLEY MN 55432	FRIDLEY MN 55432
ANDERSON, KERRY ANN	BETZLER KEN & HETMAN DANIEL	NELSEN MARC & SANDRA M
219 LOGAN PKWY NE	230 CRAIGBROOK WAY NE	235 LOGAN PKY NE
FRIDLEY MN 55432	FRIDLEY MN 55432	FRIDLEY MN 55432

CHA AMY 24 TALMADGE WAY NE FRIDLEY MN 55432	PORTLANCE, JONATHAN A 245 STONYBROOK WAY NE FRIDLEY MN 55432	CURRENT RESIDENT 25 37TH AVE NE FRIDLEY MINNEAPOLIS 55421
ST PAUL BRD OF WATER COMM 25 W 4TH ST ST PAUL MN 55102	RONNINGEN GERALDINE A 250 CRAIGBROOK WAY NE FRIDLEY MN 55432	RIVERWOOD RENTALS LLC 2505 SILVER LN MINNEAPOLIS MN 55421
SALMONSON CHRISTY L 265 STONYBROOK WAY NE FRIDLEY MN 55432	BERTRAND SHAWN M 270 CRAIGBROOK WAY NE FRIDLEY MN 55432	WESTERHAUS-RAUWORTH CASSIE 289 STONYBROOK WAY NE FRIDLEY MN 55432
GROSS BERNARD L & NANCY A 290 CRAIGBROOK WAY NE FRIDLEY MN 55432	JOHNSON, DAVID C 2916 SILVER LAKE CRT ST ANTHONY MN 55421	ANDERSON JOSHUA 309 LOGAN PKWY NE FRIDLEY MN 55432
POTASEK GREGORY D & CLUDIA 310 62ND WAY NE FRIDLEY MN 55432	GUENTHER JUSTIN 323 LOGAN PKWY NE FRIDLEY MN 55432	ANOKA COUNTY 325 EAST MAIN ST ANOKA MN 55303
MINNEAPOLIS CITY OF 350 S 5TH ST MINNEAPOLIS MN 55415	MINNEAPOLIS CITY OF 350 SOUTH 5TH ST RM 203 MINNEAPOLIS MN 55415	HOME SFR BORROWER LLC 3505 KOGER BLVD STE 400 DULUTH GA 33096
HUBRED, NICHOLAS 36 TALMADGE WAY NE FRIDLEY MN 55432	METROPOLITAN COUNCIL 390 ROBERT ST N SAINT PAUL MN 55101	MISKOWIEC LAWRENCE & P D 440 ELY ST NE FRIDLEY MN 55432
KEDROWSKI BRANDON 450 LIBERTY ST NE FRIDLEY MN 55432	CURRENT RESIDENT 4500 MARSHALL ST NE FRIDLEY MINNEAPOLIS 55421	GREENHILL, KATELYN 455 LONGFELLOW ST NE FRIDLEY MN 55432
SWANN, CHRISTINE J 465 LIBERTY ST NE FRIDLEY MN 55432	LEE, MALY Y 467 LONGFELLOW ST NE FRIDLEY MN 55432	FROST, DEBRA 468 LONGFELLOW ST NE FRIDLEY MN 55432
MACK JOEL W & DENNY DENISE L 470 ELY ST NE FRIDLEY MN 55432	MORGAN WILLIAM A & CYNTHIA M 479 79TH WAY NE FRIDLEY MN 55432	BADER, SHANE N 48 TALMADGE WAY NE FRIDLEY MN 55432



MCAULIFFE, CATHERINE 500 DOVER ST NE FRIDLEY MN 55432	LAFRANCE, LOUIS E 501 79TH WAY NE FRIDLEY MN 55434	CURRENT RESIDENT 5100 EAST RIVER RD NE FRIDLEY MINNEAPOLIS 55421
MAST PROPERTIES LLC 514 2ND ST SE STE 200 MINNEAPOLIS MN 55414	HALDORSON VERN A & DIANNE 514 DOVER ST NE FRIDLEY MN 55432	WRIGHT JOHN D JR & SUSAN A 520 DOVER ST NE FRIDLEY MN 55432
SERIE, PATRICIA ALICE 530 DOVER ST NE FRIDLEY MN 55432	BALAFAS, DINO K 5316 BLAKE ROAD SOUTH EDINA MN 55436	SURYADHAY, KRIS S 540 DOVER ST NE FRIDLEY MN 55432
JOHNSON ROBERT 540 ELY ST NE FRIDLEY MN 55432	CURRENT RESIDENT 541 79TH WAY NE FRIDLEY MINNEAPOLIS 55432	BROS TARA JADE 541 DOVER ST NE FRIDLEY MN 55432
CURRENT RESIDENT 555 79TH WAY NE FRIDLEY MINNEAPOLIS 55432	FLIEGEL, ABIGAIL W 567 ELY ST NE FRIDLEY MN 55432	CURRENT RESIDENT 5680 EAST RIVER RD NE FRIDLEY MINNEAPOLIS 55432
CURRENT RESIDENT 5760 EAST RIVER RD NE FRIDLEY MINNEAPOLIS 55432	CURRENT RESIDENT 580 FAIRMONT ST NE FRIDLEY MINNEAPOLIS 55432	STORLA, RICHARD A 5837 ARTHUR ST NE FRIDLEY MN 55432
CURRENT RESIDENT 5860 EAST RIVER RD NE FRIDLEY MINNEAPOLIS 55432	HAMM, SETH 590 FAIRMONT ST NE FRIDLEY MN 55432	MILLER TIMOTHY 591 DOVER ST NE FRIDLEY MN 55432
CURRENT RESIDENT 5980 ANNA AVE NE FRIDLEY MINNEAPOLIS 55432	DUFFY, JAMES DOUGLAS 60 TALMADGE WAY NE FRIDLEY MN 55432	IND SCHOOL DISTRICT #14 6000 W MOORE LAKE DR FRIDLEY MN 55432
HILDRETH BRETT ROBERT 6066 SHINGLE CREEK PKWY STE 1166 MINNEAPOLIS MN 55430	CURRENT RESIDENT 6080 EAST RIVER RD NE FRIDLEY MINNEAPOLIS 55432	HARRIS TRUSTEE, LAUREL A 6200 RIVERVIEW TER NE FRIDLEY MN 55432
ENROOTH, RONALD C 6210 RIVERVIEW TER NE FRIDLEY MN 55432	ANDERSON, LUDMILA B 6230 RIVERVIEW TER NE FRIDLEY MN 55432	DELANEY JULANN M 6250 RIVERVIEW TER NE FRIDLEY MN 55432

BIGLOW LARRY Y 6270 RIVERVIEW TER NE FRIDLEY MN 55432	KIRCHBERG, PATRICK 6290 RIVERVIEW TER NE FRIDLEY MN 55432	TAYLOR, BECKY JO 6300 RIVERVIEW TER NE FRIDLEY MN 55432
TAYLOR, MEGAN E 6320 RIVERVIEW TER NE FRIDLEY MN 55432	CORRIGAN, REBEKAH 6336 RIVERVIEW TER NE FRIDLEY MN 55432	FLANDERS ALVIN E & NELLIE J 6350 RIVERVIEW TER NE FRIDLEY MN 55432
CURRENT RESIDENT 6416 RIVERVIEW TER NE FRIDLEY MINNEAPOLIS 55432	LESHKOVICH, IGOR 6418 RIVERVIEW TER NE FRIDLEY MN 55432	MOHAMED HAMZA S 6434 RIVERVIEW TER NE FRIDLEY MN 55432
MARQUETTE JOEL ANTHONY 6438 RIVERVIEW TER NE FRIDLEY MN 55432	JENSEN TRUSTEE ROBERT J 6454 RIVERVIEW TER NE FRIDLEY MN 55432	ZWICKY, MICHELLE M 6470 RIVERVIEW TER NE FRIDLEY MN 55432
WILLIAMS, SCHARMIN 6482 RIVERVIEW TER NE FRIDLEY MN 55432	CURRENT RESIDENT 6490 RIVERVIEW TER NE FRIDLEY MINNEAPOLIS 55432	BIZAL, VINCENT 6492 RIVERVIEW TER NE FRIDLEY MN 55432
FREYINGER RIVERROAD PROPERTIES 6540 E RIVER RD FRIDLEY MN 55432	FREYINGER RIVERROAD PROPERTIES 6540 E RIVER RD NE FRIDLEY MN 55432	CURRENT RESIDENT 6540 EAST RIVER RD NE FRIDLEY MINNEAPOLIS 55432
PETERSON RALF M 6652 E RIVER RD NE FRIDLEY MN 55432	CURRENT RESIDENT 6666 EAST RIVER RD NE FRIDLEY MINNEAPOLIS 55432	LILLION, RYAN 6668 E RIVER RD NE FRIDLEY MN 55432
CURRENT RESIDENT 6900 EAST RIVER RD NE FRIDLEY MINNEAPOLIS 55432	MCCARTHY M J & BURTON S M 7100 RIVERVIEW TER NE FRIDLEY MN 55432	WEAVER TRUSTEE, LAWRENCE C 7110 RIVERVIEW TER NE FRIDLEY MN 55432
VERANT, KATHY J 7120 RIVERVIEW TER NE FRIDLEY MN 55432	FREDERICK, JOSEPH J 7130 RIVERVIEW TER NE FRIDLEY MN 55432	MC CARRA WANDA LOUISE 7132 RIVERVIEW TER NE FRIDLEY MN 55432
KNUTSEN PAUL D 7138 RIVERVIEW TER NE FRIDLEY MN 55432	BOONE MICHAEL ALAN BELL 7144 RIVERVIEW TER NE FRIDLEY MN 55432	ANDERSON, DAVID TODD 7154 RIVERVIEW TER NE FRIDLEY MN 55432

HAWKINSON THOMAS 7158 RIVERVIEW TER NE FRIDLEY MN 55432	MOORE, LEWIS 7162 RIVERVIEW TER NE FRIDLEY MN 55432	CURRENT RESIDENT 7170 RIVERVIEW TER NE FRIDLEY MINNEAPOLIS 55432
BERG, MARGARET T M 7170 RIVERVIEW TERR FRIDLEY MN 55432	FALLON, JAMES 7180 RIVERVIEW TER NE FRIDLEY MN 55432	NELSEN, NICOLE M 7190 RIVERVIEW TER NE FRIDLEY MN 55432
WEGLER DONALD E JR 7356 E RIVER RD NE FRIDLEY MN 55432	CURRENT RESIDENT 7504 ALDEN WAY NE FRIDLEY MINNEAPOLIS 55432	BAHLS TRUSTEE, JEROLD O 7514 ALDEN WAY NE FRIDLEY MN 55432
ST HILAIRE MARCIA A 7516 ALDEN WAY NE FRIDLEY MN 55432	NEU, KATHERINE M 7524 ALDEN WAY NE FRIDLEY MN 55432	KLOIBER JOSEPH P 7534 ALDEN WAY NE FRIDLEY MN 55432
HAUGSTAD JEFFREY D & JULIE ANN 7540 ALDEN WAY NE FRIDLEY MN 55432	SCOTT, STEVEN G 7544 ALDEN WAY NE FRIDLEY MN 55432	CURRENT RESIDENT 7548 ALDEN WAY NE FRIDLEY MINNEAPOLIS 55432
WILLMAN JESSICA 7580 ALDEN WAY NE FRIDLEY MN 55432	DUFFY, KATHRYN A 7598 ALDEN WAY NE FRIDLEY MN 55432	VIERKANT GWEN 7610 ALDEN WAY NE FRIDLEY MN 55432
GAMMELGAARD, JAMES F 7650 ALDEN WAY NE FRIDLEY MN 55432	GEISLER BENJAMIN 7680 ALDEN WAY NE FRIDLEY MN 55432	RASMUSSEN TRUSTEE, BELVA H 77 BROADWAY ST NE MINNEAPOLIS MN 55413
SCHMITT KRIS J 7736 ALDEN WAY NE FRIDLEY MN 55432	JENSEN ABIGAIL 7776 ALDEN WAY NE FRIDLEY MN 55432	CURRENT RESIDENT 7806 ALDEN WAY NE FRIDLEY MINNEAPOLIS 55432
SALLMAN DAVID H & WENDY K 7812 ALDEN WAY NE FRIDLEY MN 55432	SCHURR TRUSTEE, DANA K 7818 ALDEN WAY NE FRIDLEY MN 55432	JOHNSEN DANNY T & PERIHAN J 7824 ALDEN WAY NE FRIDLEY MN 55432
ST. CLAIR, DARLENE 7830 ALDEN WAY NE FRIDLEY MN 55432	MEISNER ROSS M 7836 ALDEN WAY NE FRIDLEY MN 55432	BASS JOHN L 7842 ALDEN WAY NE FRIDLEY MN 55432

CHRISTENSEN RICHARD & AMY	SCHEIDNES, JAMES	PHELAN, ROSS
7846 ALDEN WAY NE	7854 ALDEN WAY NE	7860 ALDEN WAY NE
FRIDLEY MN 55432	FRIDLEY MN 55432	FRIDLEY MN 55432
NGUYEN, KHAI TUAN	JOHNSON, THOMAS MARTIN	BOMMER MARY K
7866 ALDEN WAY NE	7868 ALDEN WAY NE	7874 ALDEN WAY NE
FRIDLEY MN 55432	FRIDLEY MN 55432	FRIDLEY MN 55432
HRENCHYSHYN MYRA	HEADLEY JON R & TERESA M	CALDWELL, BRUCE E
7880 ALDEN WAY NE	7886 ALDEN WAY NE	7892 ALDEN WAY NE
FRIDLEY MN 55432	FRIDLEY MN 55432	FRIDLEY MN 55432
KELLER RICHARD MERLIN	LAGESSE GARLAND C JR & JANE	COPELAND, DAVID O
7898 ALDEN WAY NE	7951 BROAD AVE NE	7981 BROAD AVE NE
FRIDLEY MN 55432	FRIDLEY MN 55432	FRIDLEY MN 55432
HOLMQUIST GREGORY	ZAWORSKI CHRISTOPHER M	ZHANAY, JASMINE
7995 BROAD AVE NE	8000 E RIVER RD	8020 E RIVER RD NE
FRIDLEY MN 55432	FRIDLEY MN 55432	FRIDLEY MN 55432
STEVENSON NICHOLAS	BREYFOGLE THOMAS J	FREYINGER RIVERROAD PROPERTIES
8051 BROAD AVE NE	8081 BROAD AVE	8100 12TH AVE S STE 200
FRIDLEY MN 55432	FRIDLEY MN 55432	BLOOMINGTON MN 55425
WESTBY, PAUL	ANOKA COUNTY	NORTHERN STATES POWER CO
8320 BROAD AVE NE	ATTN PARKS DEPT	ATTN TAX DEPT
FRIDLEY MN 55432	ANOKA MN 55303	MINNEAPOLIS MN 55401
GRUNWALD, FLORENCE E	STERLING GEORGETOWN LLC	MINNEAPOLIS CITY OF
PO BOX 123	PO BOX 2108	PO BOX 211208
FOREST LAKE MN 55025	FARGO ND 58107	EAGAN MN 55121



# AGENDA REPORT

**Meeting Date:** July 10, 2023

**Meeting Type:** City Council Meeting

**Submitted By:** Beth Kondrick, Deputy City Clerk  
 Ryan George, Director of Public Safety  
 Melissa Moore, City Clerk/Communications Manager

## Title

Ordinance No. 1411, Public Hearing and First Reading Authorizing a Study and Imposing a Moratorium on the Establishment and Operation of Cannabis Businesses within the City of Fridley

## Background

At the June 26, 2023 City Council Meeting, City Attorney Sarah Sonsalla recommended an interim ordinance that supplements Interim Ordinance 1408 that will be related to businesses selling cannabis (i.e., non-hemp) THC products. As a result, staff drafted Interim Ordinance No. 1411 and have begun licensing framework for a Hemp THC Products Shop license.

Interim Ordinance No. 1411 will place a moratorium on Cannabis Businesses in the City of Fridley (City). Secondly, staff are directed to conduct a study regarding the adoption or amendment of reasonable restrictions on time, place, and manner of operation for any Cannabis Businesses. Staff will report to Council any potential regulation of Cannabis Business. The study may also include a review of any model ordinances that the Office of Cannabis Management (OCM) is directed to draft.

This moratorium does not apply to established businesses as part of the Medical Cannabis Program administered by the Minnesota Department of Health or certain edible cannabinoid products and nonintoxicating cannabinoids pursuant to the Hemp THC Products Chapter of the Fridley City Code (Code).

If the City Council approves a first reading at this evening's meeting and a second reading at its meeting on July 24, the ordinance will be published in the July 27 edition of the Official Publication and become effective on August 11, 2023.

## Financial Impact

None.

## Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

**Recommendation**

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Staff recommend the Council open the public hearing, take comment, then close the public hearing.

Staff recommend the Council approve a first reading of Ordinance No. 1411.

**Focus on Fridley Strategic Alignment**

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- |  |   |
|--|---|
| <input type="checkbox"/> Vibrant Neighborhoods & Places              | <input type="checkbox"/> Community Identity & Relationship Building           |
| <input type="checkbox"/> Financial Stability & Commercial Prosperity | <input checked="" type="checkbox"/> Public Safety & Environmental Stewardship |
| <input type="checkbox"/> Organizational Excellence                   |   |

**Attachments and Other Resources**

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- Ordinance No. 1411

**Vision Statement**

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

## Interim Ordinance No. 1411

### **Authorizing a Study and Imposing a Moratorium on the Establishment and Operation of Cannabis Businesses Within the City of Fridley**

The City Council of the City of Fridley does ordain, after review, examination and staff recommendation that a moratorium on cannabis businesses be enacted as follows:

#### **Section 1. Legislative Findings and Authority**

1. The Minnesota Legislature recently enacted, and the Governor signed, 2023 Minnesota Session Laws, Chapter 63 – H.F. No. 100 (Act), which is comprehensive legislation relating to cannabis including, but not limited to, the establishment of the Office of Cannabis Management (OCM), legalizing and limiting the possession and use of cannabis and certain hemp products by adults, providing for the licensing, inspection, and regulation of cannabis and hemp businesses, taxing the sale of cannabis flower, cannabis products, and certain hemp products, establishing grant and loan programs, amending criminal penalties, providing for expungement of certain convictions, and providing for the temporary regulation of Edible Cannabinoid Products and Nonintoxicating Cannabinoids.

2. The Act provides local units of government certain authority related to Cannabis Businesses, including the authority to (i) require local registration of certain Cannabis Businesses operating retail establishments, (ii) adopt reasonable restrictions on the time, place, and manner of the operation of Cannabis Businesses, provided that such restrictions do not prohibit the establishment or operation of a Cannabis Business, (iii) limit the number of certain Cannabis Businesses based on the population of the community, and (iv) prohibit the operation of a Cannabis Business within 1,000 feet of a school, or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.

3. The Act requires the OCM, which was established effective July 1, 2023, to work with local governments to develop model ordinances for reasonable restrictions on the time, place, and manner of the operation of Cannabis Businesses. The Act also requires the OCM to establish additional rules and regulations relating to the operation of Cannabis Businesses. It is anticipated that the City of Fridley (City) will benefit from reviewing and analyzing the OCM's model ordinances, rules and regulations before making any decisions related to the regulation of Cannabis Businesses in the City.

4. The Act (Minnesota Statutes (M.S.) § 342.13(e)) expressly allows a local unit of government that is conducting studies or has authorized a study to be conducted or has held or scheduled a hearing for the purpose of considering adoption or amendment of reasonable restrictions on the time, place and manner of the operation of Cannabis Businesses to adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety, and welfare of its citizens. The interim ordinance may regulate,

restrict, or prohibit the operation of Cannabis Businesses within the jurisdiction or a portion thereof until January 1, 2025.

5. Given the uncertainty regarding the model ordinances to be developed by the OCM and the broad scope of the changes to Minnesota law brought about by the Act, the Fridley City Council (Council) desires to adopt an interim ordinance for the purpose of protecting the planning process and the health, safety, and welfare of its citizens.

6. The Council desires to conduct a study for the purpose of considering the adoption or amendment of reasonable restrictions on the time, place and manner of the operation of Cannabis Businesses as well as the other regulations local units of government may adopt under the Act.

7. On July 10, 2023, after providing at least 10 days published notice, the Council held a public hearing regarding the consideration and adoption of an interim ordinance prohibiting the operation of Cannabis Businesses within the City until January 1, 2025.

## **Section 2. Definitions**

Act: 2023 Minnesota Session Laws, Chapter 63 (H.F. No. 100).

Cannabis Business: the meaning given the term in M.S. § 342.01, subd. 14.

City: City of Fridley, a Minnesota municipal corporation.

Edible Cannabinoid Product: has the meaning given the term in M.S. § 151.72, subd. 1(f).

Nonintoxicating Cannabinoid: has the meaning given the term in M.S. § 151.72, subd 1(k).

OCM: the Office of Cannabis Management, established as set forth in M.S. § 342.02, subd. 1.

Ordinance: this interim ordinance, which is adopted pursuant to M.S. § 342.13(e).

## **Section 3. Study Authorized**

The Council hereby authorizes and directs City staff to conduct a study regarding the adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of Cannabis Businesses, as well as other potential local regulations allowed under the Act, and report to the Council on the potential regulation of Cannabis Businesses. The study may include a review of any model ordinances that OCM is directed to draft under M.S. § 342.13(d), an analysis of potential setback regulations allowed under M.S. § 342.13(c), and such other matters as staff may determine are relevant to the city council's consideration of this matter. The report may also include City staff's recommendations on whether the Council should adopt regulations and, if so, the recommended types of regulations.



#### **Section 4. Moratorium**

A moratorium is hereby imposed on the operation of any Cannabis Business within the City. During the term of this Ordinance, no business, person, or entity may establish or operate a Cannabis Business within the jurisdictional boundaries of the City. Accordingly, during the period that this Ordinance is in effect, the City shall not accept, process, or act on any application, site plan, building permit, zoning request, or other approval, including any requested confirmation, certification, approval, or other request from the OCM or other governmental entity requesting City review of any application or proposal for a business proposing to engage in the operation of a Cannabis Business. During the term of the moratorium, it is a violation of this Ordinance for any business, person, or entity to establish or operate a Cannabis Business within the City.

#### **Section 5. Exceptions**

The moratorium imposed by this Ordinance does not apply to: (i) the continued operation of a duly established business as part of the Medical Cannabis Program administered by the Minnesota Department of Health; or (ii) the sale of Edible Cannabinoid Products and Nonintoxicating Cannabinoids, provided, however, that nothing in this Ordinance exempts a business, person, or entity from complying with all other requirements and prohibitions of applicable laws and ordinances related to such exceptions. For example, as of the effective date of this Ordinance, the sale of certain cannabinoids is currently prohibited within the City pursuant to Interim Ordinance 1408 and the City requires a license to sell certain Edible Cannabinoid Products and Nonintoxicating Cannabinoids pursuant to the Hemp THC Products Chapter of the Fridley City Code (Code).

#### **Section 6. Enforcement**

Violation of this Ordinance is a misdemeanor. The City may also enforce this Ordinance by mandamus, injunction, or other appropriate civil remedy in any court of competent jurisdiction. A violation of this Ordinance is also subject to the City's general penalties prescribed in the Code and may further result in the City reporting violations to the OCM, if relevant to OCM licensing. The Council hereby authorizes City staff and consultants to initiate any legal action deemed necessary to secure compliance with this Ordinance.

#### **Section 7. Severability**

Every section, provision, and part of this Ordinance is declared severable from every other section, provision, and part. If any section, provision, or part of this Ordinance is held to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision, or part of this Ordinance.

#### **Section 8. Effective Date and Term**

This Ordinance shall become effective on August 11, 2023. This Ordinance will remain in effect until January 1, 2025, or until the Council expressly repeals it, whichever occurs first.

**Passed and adopted by the City Council of the City of Fridley the 24<sup>th</sup> day of July, 2023.**

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Scott J. Lund, Mayor

Attest:

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Melissa Moore, City Clerk

Public Hearing: July 10, 2023

First reading: July 10, 2023

Second reading:

Publication:

Effective: