

EXECUTIVE ORDERS

Executive Order No. 130A

Amending Executive Order 130 by Correcting the Legal Description of the River Corridor and Adding Two Sections.

I, Wendell R. Anderson, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order.

WHEREAS, a correction is necessary in the ninth paragraph of Appendix A, the Legal Description of the River Corridor; and,

WHEREAS, the Standards and Guidelines for Preparing Plans and Regulations, and the Interim Development Regulations were omitted from the original Executive Order:

NOW, THEREFORE, I order that:

1. Paragraph nine of Appendix A be amended to read:

Thence east along the north line of the southeast quarter of the southwest quarter of said Section 29; to the west boundary line of Section 28; (T32N, R25W);

2. The Standards and Guidelines for Preparing Plans and Regulations and the Interim Development Regulations attached are hereby incorporated into Executive Order No. 130.

EXECUTIVE ORDERS

This order shall be effective immediately upon publication in the State Register and shall remain in force until rescinded by the proper authority.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 5th day of November, 1976.

Wendell R. Anderson

Standards and Guidelines for Preparing Plans and Regulations

A. Purpose and responsibility.

1. Purposes. The purposes of the Critical Area designation and the following standards and guidelines are:

a. To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation;

b. To prevent and mitigate irreversible damage to this state, regional, and national resource;

c. To preserve and enhance its natural, aesthetic, cultural, and historical value for the public use;

d. To protect and preserve the river as an essential element in the national, state and regional transportation, sewer and water and recreational systems; and

e. To protect and preserve the biological and ecological functions of the corridor.

2. Responsibility. The standards and guidelines provided herein shall be:

a. Followed by the local units of government when preparing or updating plans, and/or modifying regulations;

b. Followed by state agencies, and regional agencies for permit regulation and in developing plans within their jurisdiction;

c. Followed by the Metropolitan Council for reviewing plans, regulations, and development permit applications;

d. Followed by the Council for approving plans, regulations, and development permit applications.

B. General guidelines for preparing plans and regulations.

1. The Mississippi River Corridor shall be managed as a multiple-purpose resource by:

a. Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and the riverfront.

b. Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.

c. Providing for the continuation of the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.

d. Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.

2. In order to manage the river corridor consistent with its natural characteristics and its existing development, the following guidelines are established for each corridor district:

a. Rural open space district. The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.

b. Urban diversified district. The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential, and public uses of the lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.

c. Urban developed district. The lands and waters within this district shall be maintained largely as residential

EXECUTIVE ORDERS

areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.

d. Urban open space district. The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.

3. The Mississippi River Corridor shall be managed in accordance with the Metropolitan Council's Development Guide Chapter, Critical Areas Act of 1973, and the Minnesota Environmental Policy Act of 1973, and other applicable state laws, and federal laws.

C. Specific standards and guidelines for preparing plans and regulations.

1. Each local unit of government within the river corridor shall prepare plans and regulations to protect environmentally sensitive areas in accordance with the following guidelines.

a. Each local unit of government shall, with the assistance of the Metropolitan Council and state agencies:

(1) Identify and prepare an inventory of:

(a) floodplains,

(b) wet lands,

(c) slopes from 12% to 18% and over 18%,

(d) soils not suitable for urban development on-site waste disposal

(e) significant vegetative stands, and

(f) natural drainage routes.

(2) Prepare a floodplain ordinance if it does not have a floodplain ordinance in effect;

(3) Prepare plans and regulations to protect wetlands;

(4) Prepare plans and regulations to protect bluffs greater than 18% and to provide conditions for the development of bluffs between 18% and 12% slopes;

(5) Prepare plans and regulations to minimize direct overland runoff and improve the quality of runoff onto adjoining streets and watercourses;

(6) Prepare plans and regulations to minimize site alteration and for beach and riverbank erosion control;

(7) Prepare regulations for management of vegetative cutting; and

(8) Prepare criteria for control of noise in open space and recreational areas with assistance of the PCA.

2. Each local unit of government and state agency shall prepare plans and regulations to protect and preserve the aesthetic qualities of the river corridor, which provide for the following considerations:

a. Site plans. Site plans shall be required to meet the following guidelines:

(1) New development and expansion shall be permitted only after the approval of site plans which adequately assess and minimize adverse effects and maximize beneficial effects.

(2) Site plans shall be required for all developments for which a development permit is required, except for the modification of an existing single-family residential structure or the construction of one single-family residence.

(3) Site plans shall include, but not be limited to, the submission of an adequate and detailed description of the project, including activities undertaken to ensure consistency with the objectives of the Designation Order; maps which specify soil types, topography, and the expected physical changes in the site as a result of the development; the measures which address adverse environmental effects.

(4) Site plans shall include standards to ensure that structure, road, screening, landscaping, construction placement, maintenance, and storm water runoff are compatible with the character and use of the river corridor in that district.

(5) Site plans shall provide opportunities for open space establishment and for public viewing of the river corridor whenever applicable, and shall contain specific conditions with regard to buffering, landscaping, and re-vegetation.

b. Structures. Structure site and location shall be regulated to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.

EXECUTIVE ORDERS

c. Clustering. The clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality shall be encouraged. The location of clustered high-rise structures may be proposed where public services are available and adequate and compatible with adjacent land uses.

d. Access routes. Commercial and industrial developments adjacent to roadways shall be required to provide off-street parking, service roads and limited controlled access points to highways. (Except in cases of extreme hardship, highway access for any development within 250 feet of a bridge or bridge ramp shall be prohibited.)

e. Existing development. Local plans and regulations shall include provisions to:

(1) Retain existing vegetation and landscaping;

(2) Amortize non-conforming uses;

(3) Prohibit the reconstruction of non-conforming uses which are 50% market value destroyed;

(4) Provide for the screening of existing development which constitutes visual intrusion, wherever appropriate.

f. Signs. Local units of government shall adopt ordinances for the amortization and removal of non-conforming general advertising signs, and to prohibit the visibility of advertising signs from the river, except in urban diversified districts.

3. Local units of government shall develop plans and regulations to ensure that developments shall not be undertaken prior to the provision of metropolitan public facilities in adopted metropolitan plans, in accordance with the following guidelines:

a. Developments in areas not scheduled for the provision of municipal or metropolitan sanitary sewers shall comply with adequate onsite sewage disposal system regulations.

b. The density of development outside the metropolitan urban service area shall be limited to ensure that there is no need for the premature provision of local and metropolitan urban services and facilities.

4. Local units of government shall develop plans and provide guidance to ensure that the surface uses of the river is compatible with the characteristics and use of the districts in accordance with the following guidelines:

a. The present 9-foot navigation channel shall be maintained.

b. Provision shall be made for the use of the river for water transportation which is consistent with adopted state and regional policies and regulations and applicable federal laws and to minimize any adverse effects associated with such facilities.

c. Local plans shall identify areas physically suitable for barge slips and barge fleeting, based on such considerations as safety, maneuverability, operational convenience, amount of construction and/or excavation required, and environmental impacts; and

d. Local plans shall specify which of those areas found physically suitable may be used for barge slips and barge fleeting areas in the future. Preference should be given to those areas where new barge slips and associated facilities can be clustered, where required metropolitan services are already available, and where use of the river-front for barge slips and fleeting areas, and access to them, is compatible with adjacent land use and public facilities.

e. Local plans shall identify, whenever practicable, locations where river dredge spoil can be utilized consistent with natural geological appearances or processes and adjacent land uses.

f. Where there is potential conflict of surface use, state and local governments shall enact appropriate water surface use regulation.

g. The Minnesota Energy Agency shall be responsible for recommending to the EQC a strategy for the development of a coal transportation plan for the metropolitan area.

5. Local units of government shall develop plans and regulations for industrial and commercial developments in the River Corridor in accordance with the following guidelines:

a. Areas for new or expanded industrial and commercial developments, where urban services are available, and the premature expansion or upgrading of the metropolitan systems will not be required, shall be identified.

b. The existing industrial waste discharge points, sanitary, and storm water discharge points shall be identified.

c. Local plans should give consideration to providing for future industrial and commercial uses that require water access including, but not limited to such uses as, transportation, water supply and waste discharge. This does not preclude the locating of non-water related uses within the Corridor.

d. The impact of potential mining and extraction sites or other incompatible uses shall be minimized.

EXECUTIVE ORDERS

e. Land reclamation and reforestation of the mining site shall be regulated.

6. Local units of government and regional and state agencies shall develop plans and regulations to maximize the creation and maintenance of open space and recreational potential of the Corridor in accordance with the following guidelines:

a. Existing and potential sites for the following uses shall be identified and inventoried.

(1) Neighborhood, municipal, county and regional parks;

(2) Scenic overlooks, scenic views, and public observation platforms;

(3) Protected open space areas, including islands, gorges, wildlife preservation areas, and natural areas;

(4) Beaches and undeveloped river frontage on backwaters, which are suitable for recreation purposes;

(5) Commercial marinas and boat launching facilities;

(6) Public access points to the river;

(7) Historic sites and districts.

b. The Metropolitan Council shall prepare a general trailway plan for the entire length of the River Corridor which links regional parks.

c. Local units of government shall identify the potential location of trails within their jurisdictions, including related problems and proposed solutions.

d. Plans and programs to acquire sites for public access to the river and to protect open space areas shall be developed.

e. Programs to acquire and manage undeveloped islands in their natural state and to encourage the restoration of other islands for recreation open space uses shall be adopted.

f. In the development of residential, commercial and industrial subdivisions, and planned development, a developer shall be required to dedicate to the public reasonable portions of appropriate riverfront access land or other lands in interest therein.

g. In the event of practical difficulties or physical impossibility, the developer shall be required to contribute an equivalent amount of cash to be used only for the acquisi-

tion of land for parks, open space, storm water drainage areas or other public services within the River Corridor.

7. Local units of government and state agencies shall develop plans and regulations for transportation and public utilities developments in accordance with the following guidelines:

a. Existing and potential utility and transportation facility crossings shall be identified and river crossings shall be minimized and concentrated at existing crossings where possible.

b. The Corridor shall not be used merely as a convenient right-of-way and new or modified transportation and utility facilities shall complement the planned land and water uses and shall not stimulate incompatible development.

c. In planning and designing the construction or reconstruction of all public transportation facilities which occur within the river corridor, consideration shall be given to the provision of scenic overlooks for motorists, safe pedestrian crossings and facilities along the River Corridor, access to the riverfront in public ownership and reasonable use of the land between the river and the transportation facility.

8. Local units of government and regional and state agencies shall develop capital improvement programs which are consistent with the following guidelines:

a. A five year capital improvement program or public facilities program shall be developed which covers all public projects to be sited in the corridor.

b. The capital improvement program or public facilities program shall specify the sequence of actions to be undertaken by each public agency and shall be consistent with the Standards and Guidelines in sections B and C.

9. Local units of government shall reassess all lands in the River Corridor in accordance with the following guidelines:

a. Local units of government shall send copies of adopted plans and regulations and amendments of plans and regulations to appropriate municipal and county assessors within 30 days after adoption.

b. Municipal and county tax assessors shall reassess all lands in the Mississippi River Corridor for consistency with adopted plans and regulations within one year of receipt of adopted plans from local units of government.

10. Local units of government and regional and state agencies shall prepare plans and regulations in accordance

EXECUTIVE ORDERS

with the natural characteristics and the character of existing development in the River Corridor in accordance with the following guidelines:

a. Local units of government and regional and state agencies shall prepare plans and regulations using the district boundaries as described in the Interim Development Regulations as guidelines, in accordance with the purpose of each district as described in the General Guidelines section B.

b. The City of St. Paul shall prepare plans and regulations to balance open space use and industrial and commercial developments for the Pig's Eye Lake area.

c. Local units of government may prepare modifications of the use districts boundaries as described in the Interim Development Regulations if local units of government demonstrate to the EQC in plans and supporting documents the consistency of the proposed modification with the General Guidelines.

11. Local units of government, regional agencies and state agencies shall provide adequate opportunities for public participation in the preparation of plans and regulations.

D. Reviewing plans and regulations.

1. The Metropolitan Council shall be the lead agency to coordinate the preparation, submission, review and modification of land use plans, zoning ordinances, zoning amendments, capital improvement programs and other regulations, specified in section C, which are prepared by local units of government, regional and state agencies.

2. Local units of government and regional agencies shall submit existing, modified or prepared plans and regulations that comply with the Designation Order to the Metropolitan Council within six months of notice of the Order of Designation. The EQC shall review the state plans and regulations and forward the appropriate sections to the Metropolitan Council.

3. The Metropolitan Council shall review the plans, regulations, and capital improvement programs prepared by local units of governments, regional and state agencies for consistency with regional objectives and with the Order of Designation. Within 45 days of receiving the plans and regulations, the Metropolitan Council shall submit its written evaluation to the EQC. Upon a request from the Metropolitan Council, the EQC may grant 30 days time extensions when the EQC determines that the Metropolitan Council has satisfactorily demonstrated that it requires more time for review.

4. The EQC shall review all plans and regulations prepared for the Mississippi River Corridor, within 45 days of

receiving the plans and regulations from the Metropolitan Council. The EQC shall determine whether they are consistent with the provisions of the Order of Designation. When the EQC has completed the review, it shall either:

a. Approve the plans and regulations by a written decision and notify the local units of government and regional and state agencies, and the Metropolitan Council; or

b. Return them to the local units of governments, regional and state agencies, and the Metropolitan Council for modification with a written explanation of the need for modification.

5. Within 45 days of EQC's approval of the plans and regulations, local units of government, regional and state agencies shall adopt the approved plans and regulations, and shall notify the EQC.

E. Updating and re-evaluation of plans and regulations.

1. Local units of government or regional and state agencies may amend their plans and regulations that have been approved by the EQC by resubmitting the plans and regulations with any recommended changes thereto, to the EQC for consideration.

2. Two years after EQC's initial approval of the plans and regulations, local units of government and regional and state agencies shall resubmit their plans and regulations with any recommended changes thereto, for review and approval by the EQC.

3. Amendments to plans and regulations shall become effective only upon the approval thereof by the EQC in the same manner as for approval of the original plans and regulations as stated in section D.

F. Development permits.

1. If no plans and regulations have been adopted under the provisions of section D, local units of government and regional and state agencies shall grant a development permit only if:

a. The development is specifically permitted by the Interim Development Regulations;

b. The development is essential to protect the public health, safety, or welfare because of an existing emergency; or

c. The registration, recordation, permit, or authorization of the development was issued prior to the date of legal notice of the EQC public hearing provided in MEQC 53(3).

EXECUTIVE ORDERS

2. When plans and regulations have been adopted under the provisions of section D, local units of government, regional and state agencies shall permit development only in accordance with those plans and regulations.

G. Notification of the development permits to the EQC.

1. Local units of government, and regional and state agencies shall prepare administrative procedures for permit notification as a part of their plans and regulations. The local units of government, regional and state agencies shall notify the EQC of all the developments requiring discretionary actions under their rules and regulations at least 30 days before taking action on the application, unless the EQC informs the local unit of government and regional and state agencies in writing that the EQC need not be notified of certain types of applications.

2. Local units of government and regional and state agencies shall prepare procedures to notify the EQC of their final action on the development permits which require discretionary action.

H. Judicial proceedings. If the EQC determines that the administration of the local plans and regulations is inadequate to protect the state or regional interest, the EQC may institute appropriate judicial proceedings to compel proper enforcement of the plans and regulations.

Interim Development Regulations for the Mississippi River Corridor Critical Area

A. General provisions.

1. Authority. These procedures are prescribed by the Minnesota Environmental Quality Council (Council) pursuant to authority granted to the Council in Minn. Stat. §§ 116G.01 to 116G.14 (1974).

2. Purpose. The purposes of these regulations are:

a. To protect the public health, safety, comfort, convenience and general welfare;

b. To promote orderly development of the residential, commercial, industrial, recreational and public areas within the corridor;

c. To conserve the natural and scenic beauty of the river corridor;

d. To conserve and develop the natural resources of the river corridor; and

e. To provide for the compatibility of different land uses and the most appropriate use of land throughout the river corridor.

3. Scope.

a. These Interim Development Regulations shall apply to public and private lands and waters within the Mississippi River Corridor, as set forth and legally described in Appendixes A and B of the recommendation for designation of the Mississippi River Corridor as a critical area.

b. The Interim Development Regulations shall govern; but wherever there is a conflict between the Interim Development Regulations and existing laws, regulations, ordinances, or other provisions of the Interim Development Regulations, the more restrictive provision shall apply.

c. The Interim Development Regulations should not be used as a complete model ordinance for adoption by local units of government. At the options of local units of government, they may be used as guidance for the preparation of plans and regulations.

d. The Interim Development Regulations shall remain in effect from the date of issuance of the Governor's designation order for each local unit of government in the critical area until it adopts plans and regulations approved by the Council.

e. State and regional agencies and local units of government shall approve development only in conformance with these Interim Development Regulations until the adoption of plans and regulations approved by the Council.

f. Development which was approved by a state or regional agency or a local unit of government, after April 25, 1975 shall be subject to these Interim Development Regulations and subsequently adopted plans and regulations only to the extent provided in MEQC 57.

g. State and regional agencies and local units of government shall be responsible for the administration and enforcement of the Interim Development Regulations as of the effective date of the Governor's Designation Order.

h. Any regulations or procedure not specified in these Interim Development Regulations shall follow the applicable local unit of government regulations or the appropriate state and regional agency's rules and regulations.

B. Use district designations.

1. Because the river should be managed as a multiple-purpose resource, and it possesses a variation in

EXECUTIVE ORDERS

both natural characteristics and types of urban development, the Corridor has been segmented into the following four districts which shall be applied throughout the Interim Period as described in Appendixes A and B of the recommendation for designation of the Mississippi River Corridor as a critical area.

- a. Rural open space districts
- b. Urban diversified districts
- c. Urban developed districts
- d. Urban open space districts

2. During the interim period, no changes shall be made of the district boundaries set forth by these Interim Development Regulations.

C. Permitted uses.

1. Any land or water use development which is in conformance with the standards and guidelines of the Interim Development Regulations shall be permitted.

2. During the interim period, no changes shall be made of the permitted uses allowed by these Interim Development Regulations.

3. Residential development. Residential development shall be permitted in all the districts. All structures and accessory uses or appurtenances of residential development shall be subject to the Dimensional Standards and Criteria in section F of these Interim Development Regulations.

4. Commercial and industrial uses.

a. In rural open space districts and urban developed districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted if:

(1) it does not require expansion or upgrading of metropolitan systems prior to the schedule set forth in adopted metropolitan plans;

(2) it meets the Dimensional Standards and Criteria in section F;

(3) it will not encroach upon future local or regional parks and recreation open space identified in the Metropolitan Council's Development Guide/Policy Plan for Recreation Open Space or in local plans and programs.

b. In urban open space districts, the development of new and expansion of existing commercial and industrial uses and development shall be permitted on lands which are

on the landward side of all blufflines, if it meets the Dimensional Standards and Criteria in Section F.

c. In urban diversified districts, new and expansion of existing industrial and commercial developments shall be allowed, if it meets the Dimensional Standards and Criteria in Section F.

d. Rosemount and Inver Grove Heights urban diversified district, new and expansion of existing industrial and commercial development shall be permitted, if it does not require premature expansion of metropolitan public services.

5. Agricultural uses. All agricultural uses except new feedlots may be permitted in all the districts.

6. Mining and extraction.

a. In rural and open space, urban developed, and urban diversified districts,

(1) new mining and extraction may be permitted and shall be subject to the Dimensional Standards and Criteria in section F;

(2) new and, where practicable, existing extraction uses shall be appropriately screened from view of the river by establishing and maintaining natural screen devices;

(3) The unscreened boundaries of mining and extraction areas shall be limited to only the loading area;

(4) existing and future extractive uses shall be required to submit land reclamation and reforestation plans compatible with these Interim Development Regulations; and

(5) only one barge loading area which shall be limited to the minimum size practicable shall be permitted for each mining or extraction operation.

b. In urban open space districts, new mining and extraction operations shall not be permitted.

7. Recreational uses.

a. In all districts, recreational uses and structures and accessory uses or appurtenances shall be permitted and shall be subject to the Dimensional Standards and Criteria in section F. Water-related commercial recreation uses shall not be subject to the Dimensional Standards and Criteria in section F.

b. Within urban open space districts, recreation uses on islands and lands between the river and blufflines

EXECUTIVE ORDERS

shall be only for public recreation uses, historic preservation, and wildlife preserves.

8. Signs.

a. In rural open space, urban developed, and urban open space districts:

(1) general advertising signs not visible from the river are permitted;

(2) all other general advertising signs shall be prohibited.

b. In urban diversified districts, general advertising signs are permitted.

D. Permitted public facilities.

1. Transmission services. In all the districts, the construction of new and reconstruction of existing transmission services shall meet the following standards.

a. The Department of Natural Resources (DNR) in reviewing permit applications for all transmission service crossings on the Mississippi River, Minnesota River, or of State lands requiring a permit from the DNR pursuant to Minn. Stat. §§ 84.415 or 105.42 shall give primary consideration to crossings that are proposed to be located within or adjacent to existing right-of-ways for public facilities, such as railroads, roadways, bridges, and existing transmission services.

b. Transmission services of under 200 kilovolts, which cross lands within the River Corridor shall require a special use permit from the local unit of government. Local units of government shall apply the standards set forth in sections D.1.c. through h. when processing applications for a special use permit.

c. When routing transmission services of under 200 kilovolts, the following shall be avoided where practicable:

(1) steep slopes;

(2) scenic intrusions into streams, valleys, and open exposures of water;

(3) scenic intrusions into areas such as ridge crests and high points;

(4) creating tunnel vistas by, for example, building deflections into the route;

(5) wetlands;

(6) forests by running along fringe rather than

through them. If necessary to route through forests, utilize open areas in order to minimize cutting;

(7) soils susceptible to erosion, which would create sedimentation and pollution problems;

(8) areas of unstable soils which would be subject to extensive slippages;

(9) areas with highwater tables, especially if construction requires excavation;

(10) open space recreation areas.

d. Transmission services shall be subject to the Dimensional Standards and Criteria in section F, except at crossing points.

e. Structure design of transmission services. With regard to locating the utility, overhead or underground:

(1) primary considerations shall be given to underground placement in order to minimize visual impact. When considering overhead placement, the proposers shall explain the economic, technological or land characteristic factors which make underground placement infeasible. Economic considerations alone shall not justify overhead placement.

(2) if overhead placement is necessary, the crossing should be hidden from view as much as practicable;

(3) with regard to the appearance of the structures, they shall be made as compatible as practicable with the natural area with regard to: height and width, materials used, and color;

(4) with regard to the width of the right-of-way, the cleared portion of the right-of-way should be kept to a minimum.

f. In the construction of transmission services, the following guidelines shall be applied whenever practicable:

(1) construction in wetlands shall minimize damage to vegetation, prevent erosion and sedimentation;

(2) construction shall be undertaken at times when local fish and wildlife are not spawning or nesting;

(3) effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and adjacent lands.

g. Safety considerations. Developers must adhere to applicable Federal and State safety regulations, both with

EXECUTIVE ORDERS

regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill clean-up).

h. Right-of-way maintenance.

(1) If possible, natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way;

(2) 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;

(3) 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, regulations, and other requirements of all state and federal agencies with authority over the use.

2. Sewage treatment plants — sewage outfalls, water intake facilities.

a. In rural open space, urban developed and urban diversified districts the provision of sewage treatment plants, sewage outfalls and water intake facilities:

(1) wherever practicable, shall conform with the Dimensional Standards and Criteria in section F;

(2) shall dedicate the unused river frontage after construction, for public access or recreation open space use;

(3) shall not include new combined storm and sanitary sewer outfalls.

b. In urban open space district:

(1) no new sewage treatment plants shall be permitted in this district. However, the Metropolitan Waste Control Commission may expand the Metropolitan Wastewater Treatment Plant at the Pig's Eye Lake area, if the expansion plans are approved by the Metropolitan Council and they are consistent with the City of St. Paul's riverfront plan approved by the Council under section D of the Standards and Guidelines for Preparing Plans and Regulations;

(2) no new water intake facilities shall be permitted;

(3) no new combined storm water and sanitary sewer outfalls shall be permitted.

3. Essential services and public safety facilities. Essential services and public safety facilities are permitted in all the districts, subject to Regulation D(1).

4. Transportation facilities. The construction or reconstruction of all transportation facilities shall be permitted in all the districts, subject to the following standards and criteria:

a. The following guidelines shall be applied whenever practicable in selecting routes for transportation facilities:

(1) careful consideration should be given to the provision of scenic overlooks for motorists, safe pedestrian crossing and safe pedestrian pathways along the river;

(2) if possible, provide access to the riverfront in public ownership, and allow reasonable public use of the land between the river and the transportation facility;

(3) steep slopes shall be avoided;

(4) scenic intrusion into stream, valley and open exposures of water shall be avoided;

(5) scenic intrusion into areas such as ridge crests and high points shall be avoided

(6) wetlands shall be avoided;

(7) run along fringes of forests rather than through them. But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest;

(8) soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction shall be avoided;

(9) areas of unstable soils which would be subject to extensive slippage shall be avoided;

(10) areas with highwater tables, especially if construction requires excavation, shall be avoided;

(11) locate new roads to avoid cuts and fills so as to blend into the natural terrain so that it appears to be a part of the natural landscape;

(12) open space recreation areas shall be avoided.

b. Transportation facilities shall be subject to the Dimensional Standards and Criteria in section F, except at crossing points.

c. The following guidelines shall be applied when practicable in constructing transportation facilities:

EXECUTIVE ORDERS

(1) reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect on the natural beauty and environment of the river;

(2) effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of the river and its adjacent lands;

(3) construction across wetlands shall take place in a manner which minimizes damage to vegetation, and in a manner preventing erosion and sedimentation;

(4) construct at times when local fish and wildlife are not spawning or nesting.

d. Safety considerations. Developers must adhere to applicable Federal and State safety regulations with regard to new road construction or reconstruction of an existing road.

e. The following guidelines shall be applied when practicable for right-of-way maintenance:

(1) if possible, natural vegetation of value to fish or wildlife, and which does not pose a safety hazard, shall be allowed to grow in the roadside right-of-way;

(2) where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees shall be planted and maintained on the roadside right-of-way;

(3) chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all State and Federal agencies with authority over their use.

5. Barge facilities.

a. In rural open space and urban developed districts, the following standards shall apply:

(1) the expansion of existing barge slips within these districts shall be permitted;

(2) no new barge slips shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in MEQC 55(c).

b. In urban open space districts, the following standards shall apply:

(1) no new barge slips shall be permitted;

(2) no barge fleeting areas shall be permitted until local riverfront plans and regulations have been reviewed by the Metropolitan Council and approved by the Council according to the procedures in MEQC 55(c).

c. In urban diversified districts all barge facilities are permitted.

E. Earthwork and vegetation.

1. Grading and filling. In all districts, the following provisions shall apply to grading and filling:

a. Grading, filling, excavating, or otherwise changing the topography landward of the ordinary high water mark shall not be conducted without a permit from the local authority. A permit may be issued only if:

(1) earthmoving, erosion, vegetative cutting, and the destruction of natural amenities is minimized;

(2) the smallest amount of ground is exposed for as short a time as feasible;

(3) temporary ground cover, such as mulch, is used and permanent ground cover, such as sod is planted;

(4) methods to prevent erosion and trap sediment are employed; and

(5) fill is established to accepted engineering standards.

b. A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a building site, essential services, sewage disposal systems, and private road and parking areas undertaken pursuant to a validly issued building permit.

2. Vegetation management.

a. In rural open space, urban developed and urban open space districts, the following standards shall apply:

(1) on developed islands, public recreation lands, the slope or face of bluffs within 200 feet of the normal high water mark of the river, and within the area 40 feet landward from blufflines, clear cutting shall not be permitted;

(2) on all other lands within these districts, clear cutting shall be guided by the following provisions:

(a) clear cutting shall not be used where soil, slope, or other watershed conditions are fragile and subject to injury;

(b) clear cutting shall be conducted only where clear

EXECUTIVE ORDERS

cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain;

(c) the size of clear cut blocks, patches, or strips shall be kept at the minimum necessary;

(d) where feasible all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area where feasible, replanting shall be performed in the same spring, or the following spring.

(3) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

b. In urban diversified district:

(1) on the slope or face of bluffs and within areas 40 feet landward from established blufflines, clear cutting shall not be permitted;

(2) the selective cutting of trees greater than 4" in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

c. These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of essential services and utility transmission services which are permitted uses.

F. Dimensional standards and criteria.

1. Objectives. The objectives of Dimensional Standards and Criteria are: to maintain the aesthetic integrity and natural environment of certain districts, to reduce the effects of poorly planned shoreline and bluffline development, to provide sufficient setback or sanitary facilities, to prevent pollution of surface and ground water, to minimize flood damage, to prevent soil erosion, and to implement Metropolitan Plans, Guides and Standards.

2. Substandard lot. The local unit of government may approve any proposed new structure or changes to existing structure when the following findings are made:

a. The lot was recorded in the Office of the County Register of Deeds (or Registrar of Titles) prior to the date of legal notice of the EQC public hearing, April 25, 1975.

b. The lot was in separate ownership from all abutting land on April 25, 1975.

c. The proposed use is consistent with the provisions of the Interim Development Regulations and local ordinance.

d. It can be demonstrated that a proper and adequate sewage disposal system can be installed according to interim regulations, Health Department's and PCA's regulations.

e. The lot size is within sixty (60) percent of the size required in the Interim Development Regulations.

3. Lot size.

a. In the rural open space and urban developed districts, the following minimum lot sizes shall be required:

(1) in unsewered areas, the minimum lot size shall be five acres per single family unit;

(2) in sewerred areas, the minimum lot size shall be consistent with the local zoning ordinance.

b. In the urban open space and urban diversified districts, the minimum lot size shall be consistent with the local zoning ordinance.

4. Structure setback.

a. All required setbacks shall be applicable to each bluffline proceeding landward from the river.

b. All new structures and roads shall meet the following minimum setbacks:

(1) in the rural open space district, no structure or road shall be placed less than 200 feet from the normal highwater mark, and no less than 100 feet from blufflines;

(2) in the urban developed district, and urban open space district, the structure or road shall be placed no less than 100 feet from the normal highwater mark of the river, and no less than 40 feet from blufflines;

(3) in the urban diversified district, the structure or road shall be placed no less than 40 feet from the bluffline.

c. Exceptions to setback provisions shall be:

(1) public safety facilities, public bridges and their roadway approaches, railroad sidings, minor public and private roadways serving water-related uses on the riverfront;

EXECUTIVE ORDERS

(2) public recreation facilities, scenic overlooks, public observation platforms, and the regional trail system, docks, boat launching facilities;

(3) approved river crossings of essential service, and essential services distribution systems which are primarily underground except for terminal and metering devices not exceeding six feet in height, and supporting structures for transmission crossing spans;

(4) the construction of above-ground pumping stations for sewer lines which shall be screened from view of the river;

(5) the reconstruction or restoration of historical structures or sites on the inventory of the State Historical Society or the National Register of Historic Places.

5. Height of structures.

a. In the rural open space, urban developed and urban open space districts:

(1) new structures and additions to existing structures shall be limited to a maximum of 35 feet;

(2) the following exceptions to height limits shall be permitted:

(a) expansion of existing industrial complexes, such as refineries and storage areas;

(b) barns, silos and similar farm structures;

(c) essential service distribution systems;

(d) bridges, bridge approach roadways, and transmission services;

(e) restoration or reconstruction of historical structures and sites on the inventory of the State Historical Society or the National Register of Historic Places.

b. In the urban diversified district, there are no restrictions on the height of structures.

6. Placement of structures.

a. The following standards shall apply in any district:

(1) no new structures shall be placed on slopes which are 18 percent or greater;

(2) structures may be permitted on slopes which are greater than 12 percent, but less than 18 percent, when the following conditions are met:

(a) the developer can prove that the development on the slope can be accomplished without increasing erosion;

(b) the soil types and the geology are suitable for slope development;

(c) there is proper management of vegetation to control runoff.

(3) when an approved floodplain ordinance exists, structure placement shall be governed by that ordinance. Where an approved floodplain ordinance does not exist, the elevation at which the lowest floor of a structure, including basement, may be placed shall be consistent with the Minnesota statewide standards and criteria for management of floodplain areas;

(4) in rural open space, urban developed and urban open space districts no development shall be permitted on presently undeveloped islands, except those developments specifically related to wildlife preservation and recreation open space uses, and bridge piers when other considerations dictate that bridge crossing alignment;

(5) in urban diversified districts, the development on islands related to recreation open space uses and historical preservation of sites and areas on the Inventory of the Minnesota State Historical Society and the National Register of Historic Places shall be permitted. New industry, commercial, residential and other uses shall be permitted on islands if they are consistent with local zoning ordinances and with the historical character.

7. Line of sight. In rural open space districts, urban developed districts, and urban open space districts, the development of new and expansion of existing industrial and commercial uses and development shall be permitted, if it cannot be seen from the normal highwater mark on the opposite side of the river. Water-related commercial and industrial uses shall not be subject to this requirement.

G. Sanitary standards and criteria.

1. The following standards shall apply to all districts:

a. All parts of on-site sewage disposal systems shall be located at least 75 feet from the normal highwater mark.

b. No on-site sewage disposal system shall be placed within designated floodplains.

H. Non-conforming uses and structures.

1. Any structure or use existing upon the effective date of these Interim Development Regulations which does not conform to the use restrictions of a particular use district of

EXECUTIVE ORDERS

the Interim Development Regulations shall automatically continue as a non-conforming use or structure.

2. Whenever a non-conforming building or structure has been damaged by fire, flood, explosion, earthquake, war, riot, or other disaster, it may be reconstructed to its prior use when the damage to the building or structure is fifty percent (50%) or less of its fair market value. Where the damage is fifty percent (50%) or more, reconstruction shall not be permitted for any structure that does not meet the minimum required standards.

3. When any non-conforming use of a building or structure has been changed to a conforming use, it shall not be changed to a non-conforming use.

4. If a non-conforming use is discontinued for 6 consecutive months, any future use of the building or premises shall conform to the Interim Development Regulations.

I. Administration.

1. Local units of government and regional and state agencies shall notify the Council of the following types of proposed development within the Mississippi River Corridor:

a. Development permit applications for the development of a new or major expansion of an industrial, commercial facility in the rural open space, urban developed and urban open space districts.

b. All government developments.

c. Inside the 1975 Metropolitan Urban Service Area (MUSA), development permit applications for the development of:

(1) 50 or more dwelling units in a multi-family project;

(2) 25 or more lots in a mobile home court;

(3) 25 or more lots in a residential project.

d. Outside the MUSA, development permit applications for the development of:

(1) 25 or more dwelling units in a multi-family project;

(2) 10 or more lots in a mobile home court;

(3) 10 or more lots in a residential project;

(4) any residential developments in Rural Open Space Districts.

e. Any development on or involving the alteration of:

(1) a wetland;

(2) a floodplain;

(3) an island;

(4) a slope of greater than 12 percent;

(5) the removal of 5 contiguous acres or more of vegetative cover;

(6) the grading or filling of 20 contiguous acres of land;

(7) the deposit of dredge spoil;

(8) more than 50 linear feet of a riverbank.

f. Any development involving the establishment of a public or private structure, facility or other which crosses the river.

g. The development or expansion of any commercial harbor or barge loading or fleeting area.

h. Any development which would result in the discharge of water into or withdrawal of water from the Mississippi River which would require a state permit.

i. Any developments within the historical districts established by the State Legislature.

j. Development for which Metropolitan Council review is requested by:

(1) the local unit of government with jurisdiction;

(2) resolution from two or more local units of government adjacent to the local units of government within which the proposed development is sited.

k. Any development which requires a rezoning or compatible use permit.

2. Procedures for reviewing proposed development.

a. Local units of government and regional and state agencies shall notify the Council in writing of any proposed development listed in section I.1, at least 30 days before the local units of government and regional and state agencies take final action to approve or deny the development. In the event the Metropolitan Council elects to hold a hearing under section I.2.e., no final action to approve or deny the proposed development may be taken until 15 days after the

EXECUTIVE ORDERS

Council receives the Metropolitan Council recommendation.

b. The Council shall send a copy of the proposed development to the Metropolitan Council for review no later than 2 days after the date of the Council's receipt of the application.

c. The Metropolitan Council shall review the proposed development and transmit a written recommendation with reasons for approving, modifying, or denying the proposed development to the Council no later than 18 days after the Metropolitan Council's receipt of the application, except when a public hearing is required by the Metropolitan Council, in which case, sections I.2.e(1) and (2) shall be followed.

d. Other local units of government and regional and state agencies may transmit to the Council their written comments on the proposed development published in the EQC Monitor, within 15 days of date of the publication.

e. When the Metropolitan Council decides to hold a public hearing on a proposed development application, the public hearing shall be conducted in accordance with the Metropolitan Council's statutory requirements, and notice of the hearing shall be filed with the Council and affected municipalities, counties, and applicants.

f. The Metropolitan Council shall submit its final recommendation on the proposed development to the Council within 30 days of closing date of the hearing record. The Council shall accept or modify the Metropolitan Council's recommendations and shall consider the comments of the local units of government and regional and state agencies and transmit the recommendation to the local unit of government and regional and state agencies no later than 10 days after the date of receipt of the Metropolitan Council's recommendation.

g. The Council may extend the 30 days time for a particular proposed development if the Metropolitan Council, the developer, any local unit of government and regional and state agencies with jurisdiction agree to the extension.

h. Failure of the Council to act on the notice of a proposed development within the prescribed period of time shall constitute acceptance by the Council of the final action on the proposed development by the local unit of government, regional or state agency.

i. Within 30 days after the final action, local units of government and regional and state agencies shall notify the Council of the final action on all proposed development listed in section I.1, or of emergency actions approved under the provisions of section I.5.

j. When the Council has recommended to a local government unit, regional or state agency to modify or to deny a proposed development, and that recommendation is not followed, the proposed development shall not be approved for 30 days after the Council receives notice of final action. If the Council appeals the decision to district court, the appeal shall be made within 30 days of receipt notice of final action. When an appeal is made, the development shall not be approved until the appeal process is scheduled.

3. Dimension variance.

a. Local units of government may grant a dimension variance from strict compliance with the setback, or height restrictions, or lot size or line of sight requirement contained in the Interim Development Regulations after an administrative hearing that shall be conducted according to the regulations of the local unit of government.

b. A dimension variance may be granted only when the following findings are made:

(1) the strict enforcement of the setback or height restrictions, or lot size or line of sight will result in unnecessary hardship. "Hardship" as used in the consideration of a dimension variance means that the property in question cannot be put to a reasonable use under the dimension provisions of these Interim Development Regulations;

(2) there are exceptional circumstances unique to the property that were not created by a landowner after April 25, 1975;

(3) the dimension variance does not allow any use that is not a compatible use in the land use district in which the property is located;

(4) the dimension variance will not alter the essential character of the locality as established by these Interim Development Regulations;

(5) the dimension variance would not be contrary to the intent of the Order.

4. Compatible use permit.

a. Local units of government may grant a compatible use permit after an administrative hearing that shall be conducted according to the regulations of the local unit of government for conditional or special use permits.

b. A compatible use permit may be granted for a proposed development only when the following findings are made:

(1) it is consistent with the intent of the Order,

EXECUTIVE ORDERS

and the adopted policies of the Metropolitan Council and the Environmental Policy Act; and

(2) it is compatible with uses in the immediate vicinity; and

(3) it is permitted by the ordinances of the local unit of government.

5. Emergency actions. In accordance with the Act, local units of government, regional and state agencies may grant a development permit when certified in writing by the local unit of government, regional and state agencies, or the County Zoning Administration with the existing authority that the development is essential to protect the public health, safety or welfare in an existing emergency and that a local ordinance or state regulation was in effect immediately prior to April 25, 1975 and a development permit would have been granted thereunder.