

## CHAPTER 154: WILD AND SCENIC RUM RIVER PROTECTION AREA

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***GENERAL PROVISIONS*****§ 154.001 POLICY AND AUTHORIZATION.**

This is a chapter for the controlling of river land development in order to protect and preserve the outstanding scenic, recreational, natural, historical, and scientific values of the Rum River in the city, in a manner consistent with M.S. §§ 103F.301 through 103F.345, and Minn. Rules, parts 6105.0010 through 6105.0250, parts 6105.1400 through 6105.1500, and parts 6120.2500 through 6120.3900, as these statutes and rules may be amended from time to time, for the Rum River, hereafter referred to as the Rum River Rule.

(Ord. 324, passed 11-16-00)

**§ 154.002 TITLE.**

This chapter shall be known, cited, and referred to as the city's "Wild and Scenic River Ordinance," except as referred to herein, where it shall be known as "this chapter."  
(Ord. 324, passed 11-16-00)

**§ 154.003 PURPOSE.**

This chapter is adopted to achieve the policy of § 154.001, and to:

- (A) Designate land use districts along the shoreline of the Rum River;
- (B) Regulate the area and width of a lot suitable for a building site;
- (C) Regulate the setback of structures and sewage treatment systems for shorelines;
- (D) Regulate alterations of the natural vegetation and topography;
- (E) Maintain property values and prevent poorly planned development;
- (F) Conserve and protect the natural scenic values and resources of the Rum River and maintain a high standard of environmental quality; and
- (G) Comply with Minn. Rules, parts 6105.1400 through 6105.1500, as may be amended from time to time.

(Ord. 324, passed 11-16-00)

**§ 154.004 JURISDICTION.**

The jurisdiction of this chapter shall include all lands designated within the Rum River land use districts within the city as defined in Minn. Rules, part 6105.1480, as amended from time to time.  
(Ord. 324, passed 11-16-00)

**§ 154.005 COMPLIANCE.**

- (A) The use of any land within the Rum River land use district; the size and shape of lots; the use and location of structures on lots; the installation and maintenance of private water supply and sewage

treatment systems; the filling, grading, or dredging of any river area; the cutting of vegetation or alteration of the natural topography within the district; and the subdivision of land shall be in full compliance with the terms of this chapter and other applicable regulations.

(B) Permits from the Zoning Administrator are required by this chapter and/or Chapter 156 for the construction of buildings, private water supply and sewage treatment systems, and the grading and filling of the natural topography within the Rum River land use district(s).

(Ord. 324, passed 11-16-00) Penalty, see § 10.99

#### **§ 154.006 INTERPRETATION.**

(A) It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or land use controls. Where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. In case of conflict between a provision of Minnesota Statutes or Rules the provisions shall apply.

(B) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, and shall not be deemed a limitation or repeal of any powers or rights granted by Minnesota Statutes.

(Ord. 324, passed 11-16-00)

#### **§ 154.007 DEFINITIONS; DISTANCE RULE.**

(A) All distances unless otherwise specified shall be measured horizontally.

(B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACCESSORY USES.** A use subordinate to and serving the principal use on the same lot and customarily incidental thereto, such as vegetative cutting and grading and filling.

**AGRICULTURAL USE.** The use of land for the protection of food or fiber, their storage on the area, and/or the raising thereon of domestic pets and domestic farm animals.

#### ***BLUFF.***

(a) A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

1. Part or all of the feature is located in a shoreland area;
2. The slope rises at least 25 feet above the ordinary high water level of the water body;
3. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
4. The slope must drain toward the water body.

(b) An area with an average slope of less than 18% over a distance of 50 feet or more shall not be considered part of the **BLUFF**.

**BLUFF IMPACT ZONE.** A bluff and land located within 20 feet from the top of the bluff.

**BLUFF LINE.** A line along the top of a slope connecting the points at which the slope becomes less than 13%. This applies to those slopes within the land use district which are beyond the setback provision from the normal high water mark.

**BOATHOUSE.** A structure used solely for the storage of boats or boating equipment.

**BUILDING LINE.** The line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.

**CAMPGROUND.** An area accessible by vehicle and containing campsites or camping spurs for tents and trailer camping.

**CLEAR-CUTTING.** The removal of an entire stand of vegetation.

**COMMISSIONER.** The Commissioner of National Resources.

**CONDITIONAL USE.** A use of land which is permitted only when allowed by the city after a public hearing, if certain conditions are met which eliminate or minimize the incompatibility with other permitted uses of the district.

**ESSENTIAL SERVICES.** Underground or overhead gas, electrical, steam, or water distribution systems; collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in conjunction therewith; but not including buildings or transmission services.

**FARMING OPERATIONS.** The use of residential land of ten acres or more for the protection of food or fiber, their storage on the area, and/or the raising thereon of domestic pets and domestic farm animals.

**FORESTRY.** The use and management, including logging, of a forest, woodland, or plantation and related research and educational activities, including the construction, alteration, or maintenance of wood roads, skid ways, landings, and fences.

**LAND USE DISTRICT.** The lands designated by the Commissioner as the protected land corridor along those rivers or river segments which the Commissioner has designated as components of the state's wild and scenic rivers system.

**LOT.** A parcel of land designated by plat, metes and bounds, registered land survey, auditor's plot, or other accepted means, and separated from other parcels or portions by that description for the purpose of the sale, lease, or separation thereof. For the purposes of these regulations, a **LOT** shall be occupied by no more than one principal structure equipped with sanitary facilities.

**MINING OPERATION.** The removal of stone, sand and gravel, coal, salt, iron, copper, nickel, granite, petroleum products, or other material from the land for commercial, industrial, or governmental purposes.

**NONCONFORMING USE.** Any use of land established before the effective date of this chapter which does not conform to the use restrictions of a particular zoning district. This should not be confused with substandard dimensions of a conforming use.

**OPEN SPACE RECREATIONAL USE.** Recreational use particularly oriented to and utilizing the outdoor character of an area, including hiking and riding trails, primitive campsites, campgrounds, waysides, parks, and recreation areas.

**ORDINARY HIGH WATER LEVEL.** An elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The **ORDINARY HIGH WATER LEVEL** is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the **ORDINARY HIGH WATER LEVEL** is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs.

**PLANNED UNIT DEVELOPMENT.** A pattern of subdivision development which may incorporate a variety of land uses planned and developed as a unit using altered zoning standards, while providing a commonly owned or dedicated open space.

**PRIMITIVE CAMPSITES.** An area that consists of individual remote campsites accessible only by foot or water.

**PUBLIC WATERS.** Any waters as defined in M.S. § 1036.005(15) and (18), as may be amended from time to time.

**RESIDENTIAL PLANNED UNIT DEVELOPMENT.** A use where the nature of residency is nontransient and major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as **RESIDENTIAL PLANNED UNIT DEVELOPMENTS**.

**SCENIC EASEMENT.** An interest in land, less than the fee title, which limits the use of the land for the purpose of protecting the scenic, recreational, or natural characteristics of wild, scenic, or recreational river areas.

**SELECTIVE CUTTING.** The removal of single scattered trees.

**SETBACK.** The minimum horizontal distance between a structure and the ordinary high water level, bluff line, road, or highway.

**SEWAGE TREATMENT SYSTEM.** Any system for the collection, treatment, and dispersion of sewage, including but not limited to septic tanks, soil absorption systems, drain fields, or cluster type **SEWAGE TREATMENT SYSTEM** as described and regulated in Minn. Rules, Chapter 7080, as may be amended from time to time.

**SHALL.** The act referred to is mandatory, not permissive.

**SHORE IMPACT ZONE.** Land located between the ordinary high water level of public water and a line parallel to it at a setback of 50% of the structure setback.

**SINGLE FAMILY DWELLING.** A detached building containing one dwelling unit.

**STRUCTURE.** Any building, sign, or appurtenance thereto, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, or gas lines, including towers, poles, and other supporting appurtenances, and fences used to control livestock or delineate boundaries.

**SUBDIVISION.** Improved or unimproved land or lands which are divided for the purpose of ready sale or lease, or divided successively within a five-year period for the purpose of sale or lease, into three or more lots or parcels of less than five acres each, contiguous in area, and which are under common ownership or control.

**SUBSTANDARD USE.** Any use within the land use district existing prior to the date of enactment of this code which is permitted within the applicable land use district but does not meet the minimum lot area, length of water frontage, structure setbacks, or other dimensional standards of this chapter.

**TOE OF THE BLUFF.** The lower point of a 50-foot segment with an average slope exceeding 18%.

**TOP OF THE BLUFF.** The higher point of a 50-foot segment with an average slope exceeding 18%.

**UNDUE HARDSHIP.** As used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. **UNDUE HARDSHIP** also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth-sheltered construction.

**VARIANCE.** Any modification or variation of official controls where it is determined that by reason of exceptional circumstances the strict enforcement of the official controls would cause unusual hardship.

**WETLAND.** Land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, or marsh.

(Ord. 324, passed 11-16-00; Am. Ord. 483, passed 6-16-21)

#### **§ 154.008 APPLICATION.**

If any court of competent jurisdiction shall adjudge invalid any provision of this chapter or the application of this chapter to a particular property, building, or other structure, that judgment shall not affect any other provision of this chapter or any other property, building, or structure not specifically included in that judgment.

(Ord. 324, passed 11-16-00)

***LAND USE DISTRICTS; DESIGNATION AND USES*****§ 154.020 DESIGNATION OF DISTRICTS.**

(A) In order to preserve and protect the Rum River and its adjacent lands which possess outstanding scenic, recreational, natural, historical, scientific, and similar values, the Rum River in the city has been given the Recreational River classification and the uses and classification of this river and its adjacent lands are hereby designated by land use zoning district, the boundaries of which are based on the Rum River Rule, Minn. Rules, parts 6105.1400 through 6105.1500, as may be amended from time to time.

(B) The boundaries of the Rum River recreational land use district are shown on the map designated as the city's official Zoning Map, which is made a part of this code and is on file with the Zoning Administrator. In case of conflict between the map and the property description in the Rum River Rule, the latter shall prevail.

(C) In accordance with Minn. Rules, part 6105.1440, subpart 1, item B, as may be amended from time to time, if land is annexed, incorporated, or in any other way transferred to the city, a moratorium shall exist on all construction, grading and filling, and vegetative cutting until this zoning chapter is amended. The amended zoning shall meet the provisions of the plan which applied to the land before the transfer.

(Ord. 324, passed 11-16-00)

**§ 154.021 PERMITTED AND CONDITIONAL USES; REGULATIONS.**

(A) Certain of the following uses are subject to the zoning dimension provisions and sanitary provisions of §§ 154.035 *et seq.* and 154.050 *et seq.* All of the following uses are subject to the vegetative cutting and grading and filling provisions of §§ 154.065 and 154.066.

(B) All uses not listed are not permitted or conditional uses and shall not be allowed within the applicable land use districts.

(Ord. 324, passed 11-16-00)

**§ 154.022 PERMITTED USES.**

(A) The following are permitted uses:

(1) Farming operations;

- (2) Essential services;
- (3) Accessory uses;
- (4) Public and parochial schools;
- (5) Single family dwellings;
- (6) Two family dwellings per § 154.035;
- (7) Public buildings; and
- (8) Existing commercial buildings.

(B) The following are permitted uses, subject to management plan specifications and approval by the Commissioner:

- (1) Hiking trails;
- (2) Governmental campgrounds;
- (3) Public accesses, road access type with boat launching facilities;
- (4) Public accesses, trail access type; and
- (5) Other governmental open space recreational uses.

(Ord. 324, passed 11-16-00; Am. Ord. 483, passed 6-16-21)

### **§ 154.023 CONDITIONAL USES.**

(A) The following are conditional uses:

- (1) Home occupations;
- (2) Water recreation and storage;
- (3) Stables and riding academies;
- (4) Multi-family dwellings;

(5) Hotels, motels, and country clubs;

(6) Public roads; and

(7) Utility lines and crossings.

(B) The following are conditional uses, subject to management plan specifications and approval by the Commissioner:

(1) Parks, waysides, and golf courses;

(2) Private campgrounds; and

(3) Other private open space recreational uses.

(Ord. 324, passed 11-16-00)

#### **§ 154.024 CONDITIONAL USE PERMITS; REVIEW CRITERIA.**

The following criteria will be used to review conditional use permits:

(A) It shall be based upon the technical evaluation of a designated engineer or expert;

(B) Water recreation and storage;

(C) The requirements of the facility for its location;

(D) The availability of alternate location;

(E) The compatibility of the proposed use with existing development and anticipated development in the future;

(F) The relationship of the proposed use to the comprehensive plan for the area; and

(G) Other factors which are relevant to the purposes of this chapter.

(Ord. 324, passed 11-16-00)

***ZONING DIMENSIONS*****§ 154.035 MINIMUM DIMENSIONAL REQUIREMENTS.**

The following chart sets forth the minimum lot size and width, setbacks, and other requirements of each district.

<i>Dimension</i>	<i>Unsewered Lots</i>	<i>Sewered Riparian Lots</i>	<i>Sewered Nonriparian Lots</i>
Controlled vegetative cutting area (see § 154.065) from ordinary high water level of Rum River and designated tributaries	100 ft.	75 ft.	75 ft.
Impervious surface setback for roads and parking areas from ordinary high water level	50 ft.	50 ft.	50 ft.
Lot size, minimum, above ordinary high water level	40,000 sq. ft.	20,000 sq. ft.	15,000 sq. ft.
Lot width at building line	150 ft.	80 ft.	80 ft.
Lot width at ordinary high water level	150 ft.	80 ft.	80 ft.
Maximum structure height	35 ft.	35 ft.	35 ft.
Maximum total area of all impervious surfaces on each lot	30%	30%	30%
On-site sewage treatment system from ordinary high water level of Rum River and designated tributaries	75 ft.		
Structure setback from ordinary high water level of Rum River and designated tributaries	100 ft.	75 ft.	75 ft.

<i>Dimension</i>	<i>Unsewered Lots</i>	<i>Sewered Riparian Lots</i>	<i>Sewered Nonriparian Lots</i>
Structure setback from federal, state, or county trunk highway rights-of-way	50 ft.	50 ft.	50 ft.
Structure setback from other road and public street rights-of-way	30 ft.	30 ft.	30 ft.
Two family dwellings, lot area	80,000 sq. ft.	40,000 sq. ft.	30,000 sq. ft.
Two family dwellings, lot width	180 ft.	100 ft.	
Two family dwellings, setback	135 ft.	100 ft.	

(Ord. 324, passed 11-16-00)

### **§ 154.036 FLOOD PLAIN AREAS; REGULATIONS.**

No structures shall be placed in any floodway. Structures proposed within the flood plain shall be consistent with Chapter 153 of this code and/or statewide Standards and Criteria for Management of Flood Plain Areas (Minn. Rules, parts 6120.5100 through 6120.6200, as may be amended from time to time). (Ord. 324, passed 11-16-00) Penalty, see § 10.99

### **§ 154.037 EXCEPTIONS TO STRUCTURE PLACEMENT.**

Exceptions to the placement of structures on lots shall be as follows:

- (A) Boathouses may be located landward of the ordinary high water level as a conditional use, provided they are not used for habitation and they do not contain sanitary facilities.
- (B) Location of piers and docks shall be controlled by applicable state and local regulations.
- (C) In areas where development exists on both sides of a proposed building site, structural setbacks may be allowed to conform to that pattern. This provision shall apply only to lots which do not meet the minimum lot width or depth restrictions of this chapter.

(D) Commercial, industrial, or permitted open space uses requiring location on public waters may be allowed as conditional uses closer to these waters than the setbacks specified in § 154.035.  
(Ord. 324, passed 11-16-00)

**§ 154.038 SUBSTANDARD LOTS OF RECORD.**

Lots of record in the office of the County Recorder on the effective day of enactment of this code which do not meet the dimensional requirements of this chapter shall be allowed as building sites, provided that the proposed use is permitted in the land use district, the lot was in separate ownership on the date of enactment of this code, and all sanitary and dimensional requirements are complied with.  
(Ord. 324, passed 11-16-00)

***SANITARY PROVISIONS*****§ 154.050 WATER SUPPLY.**

Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the State Department of Health and the State Pollution Control Agency and administrative procedures of Chapter 156 of this code. Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the State Department of Health.

(Ord. 324, passed 11-16-00)

**§ 154.051 SEWAGE TREATMENT.**

(A) *Sewage treatment.* Any premises intended for human occupancy must be provided with an adequate method of sewage treatment. Publicly owned sewer systems must be used where available. Where public systems are not available, all private sewage treatment systems must meet or exceed applicable rules of the State Department of Health; the State Pollution Control Agency, specifically Minn. Rules, Chapter 7080, as may be amended from time to time, for individual sewage treatment systems; provisions regarding on-site sewage treatment systems in § 154.035 of this code; and any other applicable local government standards.

(B) *Nonconforming sewage treatment systems.* A nonconforming sewage treatment system not meeting the requirements of division (A) above must be upgraded, at a minimum, whenever a permit

or variance of any type is required for any improvement on, or use of, the property. For the purposes of this division, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level. The governing body of the city must by formal resolution notify the Commissioner of its program to identify and upgrade nonconforming sewage treatment systems.

(Ord. 324, passed 11-16-00)

## **§ 154.052 STORM WATER MANAGEMENT.**

Local governments must consider proper storm water management in all reviews, approvals, and permit issuances under shoreland management controls adopted under Minn. Rules, parts 6120.2500 through 6120.3900, as may be amended from time to time. The following general and specific standards must be incorporated into local government shoreland management controls and their administration.

(Ord. 324, passed 11-16-00)

## ***LANDSCAPE ALTERATIONS***

### **§ 154.065 VEGETATIVE CUTTING.**

(A) The vegetative cutting provisions in division (B) below shall apply to the controlled vegetative cutting areas specified in § 154.035.

(B) General provisions within designated setback areas are as follows:

(1) Clear-cutting, except for any authorized public services such as roads and utilities, shall not be permitted.

(2) Selective cutting of trees in excess of four inches in diameter at breast height is permitted provided cutting is spaced in several cutting operations and a continuous tree cover is maintained, uninterrupted by large openings.

(3) The cutting provisions of divisions (B)(1) and (B)(2) shall not be deemed to prevent:

(a) The removal of diseased or insect-infested trees, or of rotten or damaged trees that present safety hazards; or

(b) Pruning understory vegetation, shrubs, plants, bushes, grasses, or from harvesting crops, or cutting suppressed trees or trees less than four inches in diameter at breast height.

(C) Clear-cutting anywhere else in the designated land use district on the Rum River is subject to the following standards and criteria:

(1) Clear-cutting shall not be used as a cutting method where soil, slope, or other watershed conditions are determined by the Zoning Administrator to be fragile and subject to severe erosion and/or sedimentation.

(2) Clear-cutting shall be conducted only where clear-cut blocks, patches, or strips are, in all cases, shaped and blended with the natural terrain.

(3) The size of clear-cut blocks, patches, or strips shall be kept at the minimum necessary.

(4) 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.

(Ord. 324, passed 11-16-00) Penalty, see § 10.99

#### **§ 154.066 GRADING, FILLING, ALTERATION IN BED OF PUBLIC WATERS.**

(A) Any grading and filling work done within the designated land use district of this chapter shall require a permit and shall comply with the following.

(1) Grading and filling of the natural topography, which is not accessory to a permitted or conditional use, shall not be permitted in the land use district.

(2) Grading and filling of the natural topography, which is accessory to a permitted or conditional use, shall not be conducted without a grading and filling permit from the Zoning Administrator. A grading and filling permit may be issued only if the conditions of divisions (A)(3) and (A)(4) below are properly satisfied.

(3) Grading and filling of the natural topography which is accessory to a permitted or conditional use shall be performed in a manner which minimizes earthmoving, erosion, tree clearing, and the destruction of natural amenities.

(4) Grading and filling in of the natural topography shall also meet the following standards:

(a) The smallest amount of bare ground is exposed for as short a time as feasible.

(b) Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted.

(c) Methods to prevent erosion and trap sediment are employed.

(d) Fill is stabilized to accepted engineering standards.

(B) Any change in the course, current, or cross-section of the Rum River or designated tributary is prohibited unless authorized by a permit from the Commissioner pursuant to M.S. § 103G.245, as may be amended from time to time. Excavations where the intended purpose is connection to public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

(C) Drainage or filling in of wetlands is not allowed within the land use district designated by this chapter.

(Ord. 324, passed 11-16-00)

#### **§ 154.067 UTILITY TRANSMISSION CROSSINGS.**

All utility crossings of the Rum River or state lands with the Rum River land use district require a license from the Commissioner pursuant to M.S. § 84.415, as may be amended from time to time.

(Ord. 324, passed 11-16-00)

#### **§ 154.068 PUBLIC ROADS AND PARKING AREAS.**

(A) In addition to permits as may be required by M.S. § 103G.245, as may be amended from time to time, a conditional use permit shall be required for any construction or reconstruction shall be subject to Minn. Rules, part 6105.0200, as amended from time to time.

(B) Public roads include township, county, and municipal roads, streets, and highways, which serve or are designed to serve flows of traffic between communities or other traffic generating areas. A conditional use permit is not required for minor public streets, which are streets intended to serve primarily as an access to abutting properties.

(C) Where feasible and practical, all roads and parking areas shall meet the requirements for setback from the ordinary high water level established for structures in § 154.035.

(D) Natural vegetation or other natural materials shall be used in order to screen parking areas when viewed from the water.

(Ord. 324, passed 11-16-00) Penalty, see § 10.99

### ***SUBDIVISIONS***

#### **§ 154.080 LAND SUITABILITY.**

(A) No land shall be subdivided which is determined by the local government to be unsuitable because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or the community.

(B) No plat or subdivision shall be approved by a local unit of government until the applicant has proven that every newly platted lot found within the land use district has adequate area and a suitable location for the installation of a conforming sewage treatment system.

(C) The provisions otherwise set forth in this chapter and in Chapter 155 of this code shall apply to all plats except planned cluster developments.

(Ord. 324, passed 11-16-00)

#### **§ 154.081 PLANNED UNIT DEVELOPMENTS.**

Altered zoning standards may be allowed as exceptions to this chapter for planned unit developments provided:

(A) Preliminary plans are approved by the Department of Natural Resources prior to their enactment by the City Council;

(B) Central sewage facilities are installed which meet the standards, criteria, rules, or regulations of the state Department of Health and the state Pollution Control Agency, or the planned unit development is connected to a municipal sanitary sewer;

(C) Open space is preserved through the use of restrictive deed covenants, public dedications, or other equally effective and permanent methods;

(D) There are centralized shoreline recreation facilities;

(E) The following factors are carefully evaluated to ensure that the increased density of development is consistent with the resource limitations of the public water:

- (1) Suitability of the site for the proposed use;
- (2) Physical and aesthetic impact of increased density;
- (3) Level of current development;
- (4) Amount and ownership of undeveloped shoreland;
- (5) Levels and types of water surface use and public access; and
- (6) Possible effects on overall public use.

(F) Any commercial, recreational, community, or religious facility allowed as part of the planned unit development shall conform to all applicable federal and state regulations including, but not limited to, the following:

- (1) Licensing provisions or procedures;
- (2) Waste treatment and disposal regulations;
- (3) Water supply regulations;
- (4) Building codes;
- (5) Safety regulations;
- (6) Regulations concerning the appropriation and use of public waters as defined in M.S. Chapter 103G, as may be amended from time to time; and
- (7) Applicable regulations of the State Environmental Quality Board.

(G) The final plan for a planned unit development shall not be modified, amended, repealed, or otherwise altered, unless approved in writing by the developer, the municipality, and the Commissioner. (Ord. 324, passed 11-16-00) Penalty, see § 10.99

## ***ADMINISTRATION***

### **§ 154.095 ADMINISTRATION AUTHORITY.**

(A) The provisions of this chapter shall be administered by the city Zoning Administrator.

(B) The Board of Adjustments and Appeals of the city shall act upon all questions as they arise in the administration of this chapter, and shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator, who is charged with enforcing this chapter as provided by Minnesota Statutes. Appeals and requests for variances shall be heard in the manner provided in §§ 156.165 *et seq.*

(C) Permit fees, processing fees, and inspection fees as may be established in Chapter 34 shall be collected by the Zoning Administrator.

(Ord. 324, passed 11-16-00)

### **§ 154.096 NONCONFORMING AND SUBSTANDARD USES.**

(A) *Nonconforming uses.*

(1) Uses which are prohibited by this chapter but which are in existence prior to the effective date of this code shall be nonconforming uses.

(2) These uses shall not be intensified, enlarged, or expanded beyond the permitted or delineated boundaries of the use or activity as stipulated in the most current permit issued prior to the adoption of this code.

(B) *Nonconforming sanitary systems.* All sanitary facilities inconsistent with the performance standards of § 154.051(A) shall be brought into conformity or discontinued within five years of the date of enactment of this or other applicable ordinances.

(C) *Substandard uses.*

(1) All uses in existence prior to the effective date of enactment or amendment of this code which are permitted uses within the Rum River land use district, but do not meet the minimum lot area, setbacks, or other dimensional requirements of this chapter are substandard uses.

(2) All substandard uses, except for substandard signs, shall be allowed to continue subject to the following conditions and exemptions: Any structural alteration or addition to a substandard use, which will increase the substandard dimensions, shall not be allowed.

(Ord. 324, passed 11-16-00) Penalty, see § 10.99

**§ 154.097 VARIANCES.**

(A) The grant of a variance from a provision which relates to the zoning dimension provisions requires the presence of the following conditions:

(1) The strict enforcement of the land use controls will result in undue hardship as defined in § 154.007.

(2) Granting of the variance is not contrary to the purpose and intent of this chapter and is consistent with the Rum River Rule, Minn. Rules, parts 6105.1400 through 6105.1500, as may be amended from time to time.

(3) There are exceptional circumstances unique to the subject property, which were not created by the landowner.

(4) Granting of the variance will not allow any use which is neither a permitted or conditional use in the land use district in which the subject property is located.

(5) Granting of the variance will not alter the essential character of the locality.

(B) All variances to the requirements of this chapter must be certified in accordance with § 154.101.  
(Ord. 324, passed 11-16-00)

**§ 154.098 PLATS.**

(A) Copies of all plats within the Rum River land use district shall be forwarded to the Commissioner within ten days of approval by the City Council.

(B) Approval of a plat which is inconsistent with this chapter is permissible only if the detrimental impact of the inconsistency is more than overcome by other protective characteristics of the proposal.

(C) All inconsistent plats approved by the City Council must be certified in accordance with § 154.101.

(Ord. 324, passed 11-16-00)

#### **§ 154.099 AMENDMENTS.**

(A) Requests for amendments of this chapter may be initiated by a petition of affected property owners, the Planning Commission, or by action of the City Council. An amendment not initiated by the Planning Commission may be referred to the Planning Commission for study and report prior to action by the City Council.

(B) An application for an amendment shall be filed with the Zoning Administrator.

(C) Upon the receipt in proper form of the application and other requested materials, a public hearing shall be conducted in the manner prescribed by Minnesota Statutes. Following the public hearing, the City Council may adopt the amendment in the manner prescribed by Minnesota Statutes.

(D) Certification from the Commissioner must be obtained as specified in § 154.101 before the proposed amendment becomes effective. The Commissioner must certify that the amendment complies with the state Wild and Scenic Rivers Act, the statewide Standards and Criteria, and the Rum River Rule.

(Ord. 324, passed 11-16-00)

#### **§ 154.100 CONDITIONAL USE PERMIT APPLICATION REVIEW.**

(A) A copy of all notices of any public hearing, or where a public hearing is not required, a copy of the application to consider issuance of a conditional use permit, shall be sent so as to be received by the Commissioner at least 30 days prior to the hearing or meeting to consider issuance of a conditional use permit. A copy of the decision shall be forwarded to the Commissioner within ten days of action.

(B) Any conditional use permit for § 154.023(A)(1) through (A)(6) requires the approval of the Commissioner in accordance with the procedures in § 154.101(B).

(Ord. 324, passed 11-16-00)

**§ 154.101 CERTIFICATION.**

(A) Certain land use decisions which directly affect the use of land within the designated land use districts and involve any of the following actions must be certified by the Commissioner as complying with the state Wild and Scenic Rivers Act, the statewide Standards and Criteria, and the Rum River Rule, as described in division (B) below:

- (1) Adopting or amending an ordinance regulating the use of land, including rezoning of particular tracts of land;
- (2) Granting a variance from a provision of this chapter, which relates to the zoning dimension provisions of §§ 154.035 *et seq.* and any other zoning dimension provisions established in Minn. Rules, parts 6105.1400 through 6105.1500, as may be amended from time to time; or
- (3) Approving a plat which is inconsistent with this chapter.

(B) The certification procedure is as follows:

(1) A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider zoning amendments, variances, or inconsistent plats under this chapter, shall be sent so as to be received by the Commissioner at least 30 days prior to the hearings or meetings to consider these actions. The notice or application shall include a copy of the proposed ordinance or amendment, or a copy of the proposed inconsistent plat, or a description of the requested variance.

(2) The City Council shall notify the Commissioner of its final decision on the proposed action within ten days of the decision.

(3) The Commissioner shall, no later than 30 days from the time he or she receives notice of the final decision, communicate either certification of approval, with or without conditions, or notice of disapproval.

(4) The action becomes effective when and only when either:

(a) The final decision taken by the City Council has previously received certification of approval from the Commissioner;

(b) The City Council receives certification of approval after its final decision;

(c) Thirty days have elapsed from the day the Commissioner received notice of the final decision, and the city has received from the Commissioner neither certification of approval nor notice of disapproval; or

(d) The Commissioner certifies his or her approval after conducting a public hearing.

(5) In case the Commissioner gives notice of disapproval of an ordinance, amendment, variance, or inconsistent plat, either the applicant or the Zoning Administrator may within 30 days of the notice, file with the Commissioner a demand for hearing. If the demand for hearing is not made within 30 days, the notice of disapproval becomes final.

(a) The hearing will be held in an appropriate local community building within 60 days of the demand and after at least two weeks' public notice.

(b) The hearing will be conducted in accordance with M.S. § 103G.311(2), (6), and (7), as may be amended from time to time.

(c) The Commissioner shall either certify his or her approval or deny the proposed action within 30 days of the hearing.

(Ord. 324, passed 11-16-00)

## § 154.102 PROCEDURES SUMMARY.

The following table summarizes permit, review, and certification procedures within the land use districts designated by this chapter.

<i>Types of Activities</i>	<i>Procedures</i>
Amendments to ordinance	PH, FD, CC
Building permits	LP
Conditional use permits	PH, FD
Grading and filling permits	LP
Inconsistent plats	PH, FD, CC
Planned cluster developments	PH, PA, FD
Plats	FD

<i>Types of Activities</i>	<i>Procedures</i>
Sewage system permits	LP
Sign construction permits	LP
Variances	PH, FD, CC
Water supply permits	LP

**Key:**

CC Action becomes effective only when the Commissioner certifies its compliance with the Act, statewide Standards and Criteria, and the Rum River Rule.

FD Local authority forwards decision to the Commissioner within ten days after taking final action.

LP Permit issued by the local authority in accordance with this chapter and all other local ordinances.

PA Preliminary plans approved by Commissioner prior to their enactment by local authority.

PH Copy of public hearing notice or application sent so as to be received by the Commissioner at least 30 days prior to hearing or meeting.

(Ord. 324, passed 11-16-00)

**§ 154.103 VIOLATIONS; ENFORCEMENT.**

(A) It is declared unlawful for any person to violate any of the terms and provisions of this chapter. Violation thereof shall be a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.

(B) In the event of a violation or a threatened violation of this chapter, the City Council, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, or abate the violations or threatened violations.

(C) Any resident of the city may institute mandamus proceedings in the District Court to compel specific performance by the proper officials or officials of any duty required by this chapter.

(Ord. 324, passed 11-16-00) Penalty, see § 10.99

