

SECTION 15 - MISSISSIPPI AND RUM SCENIC AND RECREATIONAL RIVER ORDINANCE

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Subdivision 1. Policy and Authorization

An ordinance for the controlling of bluffland and riverland development, in order to protect and preserve the outstanding scenic, recreational natural, historical and scientific values of the Mississippi and Rum River in Sherburne County, Minnesota, as required by Minnesota Statutes, Chapter 103F.301-103F.35, Minnesota Rules, Chapter 6105.0010-6105.0250, the Management Plans for the Mississippi (MR 6105.0800-6105.0960) and Rum (MP 6105.1400-6105.1500) Rivers.

Subdivision 2. Title

1. **Short Title.** This ordinance shall be known, cited and referred to as the County of Sherburne Mississippi and Rum Scenic and Recreational River Ordinance; except as referred to herein, where it shall be known as, "This Ordinance".

Subdivision 3. Purpose

This ordinance is adopted to achieve the policy of Subdivision 1 and to:

1. Designate land use districts along the bluffland and shoreline of the Mississippi and Rum Rivers.
2. Regulate the area of a lot, and the length of the bluffland and water frontage suitable for building sites.

3. Regulate the setback of structures and sanitary waste treatment facilities from blufflines and shorelines to protect the existing and/or natural scenic values, vegetation, soils, water quality, floodplain areas, and bedrock from disruption by man-made structures or facilities.
4. Regulate alterations of the natural vegetation and topography.
5. Maintain property values and prevent poorly planned development.
6. Conserve and protect the natural scenic values and resources of the Mississippi and Rum Rivers and maintain a high standard of environmental quality.

Subdivision 4. General Provisions

1. **Jurisdiction.** The Jurisdiction of this ordinance shall include all unincorporated land designated within the Mississippi River and Rum River land use districts within Sherburne County as shown on the official Sherburne County Zoning Map.
2. **Compliance.** The Use of any land within the Mississippi and Rum Rivers land use districts(s); the size and shape of lots; the use and location of structures on lots; the installation and maintenance of waste disposal facilities; the filling, grading, lagooning, 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 ordinance and other applicable regulations. Permits from the Zoning Administrator are required by this ordinance and the Sherburne County Zoning Ordinance for the construction of buildings, public or private sewage treatment systems, the grading and filling of the natural topography and erection of signs within the Mississippi and Rum Rivers Scenic and Recreational land use district(s).
3. **Rules:**
 - A. It is not intended by this ordinance to repair, abrogate or impair any existing easement, covenants, deed restrictions, or land use controls. Where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail.
 - B. In their interpretation and application, the provisions of this ordinance 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.C. The provisions of this ordinance shall be severable, and the invalidity of any paragraph, subparagraph, or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part. If any court of competent jurisdiction shall adjudge invalid any provision of this ordinance or the application of this ordinance to a particular property, building or other structure, such judgement shall not affect any other provision of this ordinance or any other property, building or structure not specifically included in said judgement.

Subdivision 5. Land Use District Provisions

1. Designation of Districts:

A. In order to preserve and protect the Mississippi and Rum Rivers and their adjacent lands which possess outstanding scenic, recreational, natural, historical, scientific and similar values; the Mississippi and Rum Rivers in Sherburne County have been given the Scenic and Recreational River classifications and the uses and classification of the rivers and their adjacent lands are hereby designated by land use zoning districts, which are shown on the Sherburne County Zoning Map and shall be as follows:

1. Scenic River Management Zone: All lands within the Scenic River District of the Rum River as identified in Minnesota Rule 6105.1400 and all lands along the Mississippi River which are between the State Highway #24 bridge at Clearwater and the St. Cloud City limits as identified in Minnesota Rule 6105.0830.
2. Recreational River Management Zone: All lands along the Mississippi River which are downstream from the State Highway #24 bridge at Clearwater as identified in Minnesota Rule 6115.0950-6105.0960.

2. Minimum area, setbacks and other requirements:

A. The following chart sets forth the minimum area, setbacks, and other requirements on each district:

	<u>Scenic</u>	<u>Recreational</u>
1. Minimum lot size above high water mark	20 acres or 4 acres if platted	20 acres or 2 acres if platted
2. Lot width at building line	250'	200'
3. Lot width at ordinary high water mark	250'	200'
4. Structure setback from ordinary high water mark	150'	100'
5. Structure setback from bluffline	30'	25'
6. On site sewage treatment system setback from ordinary high water mark	100'	75'
7. Maximum structure height*	35'	35'

- 8. Controlled vegetative cutting area (See Subdivision 8)
- 9. Setback from bluffline 30' 25'

* Does not apply to structures used for agricultural purposes.

- 10. Minimum Setbacks, Principal or Accessory Structures:

Front, Unplatted Parcels (from centerline):

- Township Road: 100'
- County Road: 100'
- County State Aid Highway: 130'
- Highways 24 or 25: 150'

Front, Platted Lots (from right-of-way):

- Township Road: 67'
- County Road: 50'
- County State-Aid Hwy: 70'
- Highways 24 of 25: 80'

Platted or Unplatted:

- Side Setbacks: 10'*

*Author's note: If property owner is proposing to go closer than 20' from side lot line, applicant will either need a survey or a signed statement from a neighbor stating they both agree on the property line, then you may be only as close as 10 ft.

- Rear setbacks: 25'
- County Ditch: 50'
(from top of ditch bank)
- Pipeline Easements/Right of Way 50'

When a lot is located at the intersection of two or more roads or highway, there shall be a front yard setback on each road or highway side of the lot.

11. Maximum Building Depth Below Grade:

Set lowest floor at Lowest Floor Elevation (LFE) or minimum one (1) foot above mottling, whichever is higher. If no LFE is established, set lowest floor minimum one (1) foot above mottling.

12. Buildable Area Within a Lot:

No public or shared sewage treatment system 40,000 sq. ft.

13. Housing Density: 1 Single family residence per lot

14. Minimum Lot Depth: 300 ft.

B. No structure shall be placed on any slope greater than 13 % (13 feet vertical rise in 100' horizontal distance).

C. No structure shall be placed in any floodway. Structures proposed within a floodplain shall be consistent with the statewide Standards and Criteria for Management of Floodplain Areas of Minnesota (Minnesota Rules 6120.5000-6120.6200) and Section 13 of the Sherburne County Zoning Ordinance.

3. **Substandard Lots:**

A. Lots of record in the office of the Sherburne County Recorder on the effective day of enactment of this ordinance which do not meet the dimensional requirements of this ordinance shall be allowed as building sites, provided: such use is permitted in the land use district; the lot was in separate ownership on the date of enactment of this ordinance; and all sanitary and dimensional requirements are complied with, as practicable.

B. If in a group of contiguous lots under a single ownership, any individual lot does not meet the lot width minimum requirements of this Ordinance, such individual lot cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land each meeting the lot width requirements of this ordinance, except that such lots which are 50 percent or more of the lot width standards of these regulations may be considered as a separate parcel of land for the purpose of sale or development, if on-site sewage treatment systems can be installed so as to comply with this ordinance.

Subdivision 6. Uses within the Land Use Districts

1. **Purpose:** The purpose of establishing standards and criteria for uses in the Mississippi and Rum River land use district shall be to protect and preserve existing natural, scenic, historical, scientific, and recreational values, to maintain proper relationships between various land use types, and to prohibit new residential, commercial, or industrial uses that are inconsistent with the standards and criteria for Scenic and Recreational Rivers.

2. **Permitted and Conditional Uses:**

A. In the following table of uses "P" means Permitted Use, "C" means Conditional Use and "N" means Nonpermitted Use.

Certain of the following uses are subject to the zoning dimension provisions and sewage treatment system provisions of Subdivisions 5 and 7 of this District. All of the following uses are subject to the vegetative cutting provisions of Subdivision 8 of this District.

Land Use Districts:	<u>Scenic</u>	<u>Recreational</u>
1. Governmental campground, subject to management plan specifications	P	P
2. Private campgrounds, subject to management plan specifications	C	C
3. Public accesses, road access type with boat launching facilities subject to management plan specifications	P	P
4. Public accesses, trail access type, subject to management plan specifications	P	P
5. Temporary docks	C	C
6. Other governmental open space recreational uses, subject to management plan specifications	P	P
7. Other private open space recreational uses, subject to management plan specifications	C	C
8. Agricultural uses	P	P
9. Single family residential uses	P	P
10. Forestry uses	P	P

11.	Essential services	P	P
12.	Sewage disposal systems	P	P
13.	Private roads and minor public streets	P	P
14.	Signs approved by federal state or local government which are necessary for public health and safety and signs indicating areas that are available or not available for public use	P	P
15.	Signs not visible from the river that are not specified in (14). In accordance with Section 17 of Sherburne County Zoning Ordinance	P	P
16.	Governmental resource management for improving fish and wildlife habitat; wildlife management areas; nature areas; accessory roads	P	P
17.	Underground mining that does not involve surface excavation in the land use district	C	C
18.	Utility transmission power lines and pipelines subject to the conditions and criteria of Minnesota Rules 6105.0170	C	C
19.	Public roads, subject to the conditions and criteria of Minnesota Rules 6105.0190 and 6105.0200	C	C
20.	Churches and graveyards	C	C

All uses not listed as permitted or conditional uses shall not be allowed within the applicable land use districts.

B. In addition to uses in Subdivision 6, Subsection 2, the following uses shall be considered conditional uses with the **Mississippi Special Use District** which includes all of the Mississippi River land use district legally described as all of Government Lots 1,2,3,4 of Section 35, Township 33N, Range 28W, and is shown on the Sherburne County Zoning Map.

1. Restaurant, Cafe or Tavern
2. Professional Offices

3. Franchised automobile and farm implement dealers
4. Motel, motor hotel or tourist camp
5. Miniature golf courses or archery or golf driving range
6. Marine and boat sales
7. Landscape nursery, garden store
8. Drive-in restaurants or similar uses that provide goods and services patrons in automobiles
9. Drive-in retail stores or service uses
10. Bowling alleys
11. Automobile service stations
12. Car washes

Subdivision 7. Sewage Treatment Systems

1. Any premises intended for human occupancy must provide for an adequate method of sewage treatment. Public or municipal collection and treatment facilities must be used where available and feasible. Where public or municipal facilities are not available, all on-site individual sewer treatment systems shall conform to the minimum standards and administrative procedures set forth in the Sherburne County Zoning Ordinance (Subdivision 17.5) and the minimum standards of the Minnesota Pollution Control Agency, the Minnesota Department of Health and Subdivision 5, Subsection 2, of this Ordinance.
2. No person, firm, or corporation shall install, alter, repair or extend any individual sewer disposal system without first obtaining a permit for such from the Zoning Administrator for the specific installation, alteration, repair, or extension.

Subdivision 8. Landscape Alterations

1. **Vegetative Cutting:**
 - A. General Provisions, within designated setback areas:
 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 shall be permitted providing cutting is spaced in several cutting operations and a continuous tree cover is maintained.
 3. The cutting provisions of Subdivision 8, Subsection 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.
 - b. Pruning understory vegetation, shrubs, plants, brush, grass, or from harvesting crops, or cutting suppressed trees or trees less than four inches in diameter at breast height.
- B. Clear Cutting: Clear cutting anywhere in the designated land use district on the Mississippi or Rum Rives 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 authority to be fragile and subject to severe erosion and/or sedimentation.
 2. Clearcutting 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 a 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.
 5. Clear cutting, except for public services such as roads and utilities, is not permitted within the following distances from the Ordinary High Water Mark:
 - 150' of the Scenic River District
 - 100' of the Recreational River District
 - 100' of designated tributaries or scenic and recreational rivers identified in the rules.

Clear cutting, except for public services such as roads and utilities, is not permitted within the 30 feet from blufflines in both the Scenic and Recreational River Districts.

2. Grading, Filling, Alterations of the Beds of Public Waters:

- A. Any grading and filling work done within the designated land use districts(s) of this ordinance shall require a permit from the Zoning Administrator 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(s).
 - 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 authority. A grading and filling permit may be issued only if the conditions of Subdivision 8, Subsection 2, are properly satisfied.
 - 3. Grading and filling of the natural topography shall be performed in a manner which minimizes earthmoving, erosion, tree clearing, and the destruction of natural amenities.
 - 4. Grading and filling 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 to trap sediment are employed.
 - d. Fill is stabilized to accepted engineering standards.
- B. Excavation of material from, or filling in a Scenic or Recreational River, or construction of any permanent structures or navigational obstructions therein is prohibited unless authorized by a permit from the Commissioner of DNR pursuant to Minnesota Statutes Section 103G.315.
- C. Drainage or filling in of wetlands is not allowed within the land use district(s) designated by this ordinance.

Subdivision 9. Land Subdivision

1. Land Suitability:

- A. No land shall be subdivided which is determined by the Sherburne County Board of Commissioners to be unsuitable by reason 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. "Within the Rum Scenic River District no plat or subdivision shall be approved unless or until the applicant has proven by all methods required in Subdivision 7 of this ordinance, that each lot in the proposed subdivision has adequate area and a suitable location for a conforming septic tank and soil absorption system"

- B. The provisions otherwise set forth in this ordinance and in the Sherburne County Subdivision Ordinance shall apply to all plats.

Subdivision 10. Administration

1. Organization Provisions:

- A. The provisions of this ordinance shall be administered by the Sherburne County Zoning Administrator.
- B. The Board of Adjustment of Sherburne County shall act upon all questions as they arise in the administration of this ordinance; to hear and decide appeals; and to review any order, requirements, decisions or determination made by the Zoning Administrator, who is charged with enforcing this ordinance as provided by Minnesota Statutes.
- C. Permit fees and inspection fees as may be established by resolution of the Sherburne County Board shall be collected by the Zoning Administrator for deposit with Sherburne County and credited to the appropriate general fund.

2. Nonconforming Uses, Substandard Uses:

- A. Nonconforming Uses. Uses which are prohibited by this ordinance but which are in existence prior to the effective date of this ordinance shall be non-conforming uses. Such uses shall not be intensified, enlarged, or expanded beyond the permitted or delineated boundaries of the use or activity as stipulated in most current permits issued prior to the adoption of this ordinance.
- B. Substandard Uses. All uses in existence prior to the effective date of enactment or amendment of this ordinance which are permitted uses within the newly established land use district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this ordinance are substandard uses. All substandard uses, except for substandard signs, shall be allowed to continue subject to the following conditions and exception:
 - 1. Any structural alteration or addition to a substandard use which will increase the substandard dimensions shall not be allowed.

2. Where a setback pattern from the ordinary high watermark has already been established on both sides of a proposed building site, the setback of the proposed structure may be allowed to conform to that pattern. This provision shall apply to lots which do not meet the minimum lot width requirements (Subdivision 5 of this ordinance).

3. **Plats:**

- A. Copies of all plats within the boundaries of the Mississippi and Rum River Land Use District(s) shall be forwarded to the Commissioner within ten (10) days of approval by Sherburne County.
- B. Inconsistent Plats: Approval of a plat which is inconsistent with this ordinance is permissible only if the detrimental impact of the inconsistency is more than overcome by other protective characteristics of the proposal.

4. **Conditional Use Permit 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 ten (10) days prior to such hearings or meeting to consider issuance of a conditional use permit. A copy of the decision shall be forwarded to the Commissioner within ten (10) days of such action.

5. **Approval by Commissioner:**

- 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 approved by the Commissioner.
 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 ordinance which relates to the zoning dimension provisions of Subdivision 5 of this ordinance.
 3. Approving a plat which is inconsistent with the local land use ordinance.
- B. Review Procedure:
 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 local ordinance shall be sent so as to be received by the Commissioner at least ten (10) days prior to such hearings or meetings

to consider such actions. The notice of application shall include a copy of the proposed ordinances or amendment.

- 2. The action of Sherburne County shall become effective when and only when either:
 - a. The action has previously received approval from the Commissioner.
 - b. Sherburne County receives approval after its final decision; or
 - c. Thirty (30) days have elapsed from the day the Commissioner received notice of the final decision, and no response has been sent by the Commissioner; or
 - d. The Commissioner certifies his approval within 30 days after conducting a public hearing.

6. **Permits:** The following table summarizes the permit and certification process within the land use districts designated by this ordinance.

<u>Scenic and Recreational Land Use District Permits</u>	<u>Action Necessary</u>
Building Permits	LP
Sign Construction Permits	LP
Septic Permits	LP
Grading, Filling Permits	LP
Conditional Use Permits	PH - FD
Amendments to Ordinance	PH - AC
Amendments of District Boundary*	PH - AC
Variances	PH - AC
Plats	PH (Notification not required) - FD

LP: Permit issued by Sherburne County in accordance with this ordinance and all other County ordinances.

AC: Approval by the Commissioner of Natural Resources prior to final local approval.

PH: Public hearing necessary by the local authority giving 10 days notice of the hearing to the Commissioner of Natural Resources.

FD: Sherburne County forwards any decisions to the Commissioner of Natural Resources within 10 days after taking final action.

* Amendments to District Boundary also requires a hearing by the Department of Natural Resources under the authority of Minnesota Statutes Chapter 15.

7. **Enforcement:** In the event of a violation or a threatened violation of this ordinance, Sherburne County or the Commissioner of Natural Resources, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, or abate such violations or threatened violations.