

CHAPTER 19 - MISSISSIPPI RIVER BLUFFLAND ZONING CODE

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19.01 - STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE

- (1) **STATUTORY AUTHORIZATION.** This chapter is adopted under the authorization in Ch. 59. Wis. Stats.
- (2) **FINDING OF FACT.** The County Board and Townships of Stockholm and Pepin have recognized uncontrolled use of the blufflands of the Mississippi River within the County could adversely affect the environment, public health, safety and impair the tax base of the County. Having recognized these facts, the County Board has taken the responsibility through this chapter to further the maintenance of safe and healthful conditions; prevent groundwater contamination and soil erosion; control building sites, placement of structures and land uses; protect unique wildlife habitat and natural aesthetics of County bluff area overlooking the Mississippi River.
- (3) **STATEMENT OF PURPOSE.** Through the administration and enforcement of this chapter, the County Board intends to:
 - (a) Further the maintenance of safe and healthful conditions; prevent groundwater contamination and soil erosion by:
 - (1) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 - (2) Establishing minimum lot sizes to provide adequate area for private sewage systems.
 - (3) Control filling and grading to prevent serious soil erosion problems.
 - (b) Control building sites, placement of structures and land uses by:
 - (1) Separating conflicting land uses.
 - (2) Setting minimum lot sizes and widths.
 - (3) Establishing setback requirements for building sites.
 - (c) Protect unique wildlife habitat and natural aesthetics of the bluff area by:
 - (1) Restricting the removal of woody vegetation.
 - (2) Controlling excavation and other earth moving activities.
 - (3) Limiting building and development encroachment upon blufflines.
- (4) **TITLE.** This chapter shall be known as and referred to as the "Mississippi River Bluffland Zoning Ordinance".

19.02 - GENERAL PROVISIONS

- (1) **REGULATED BLUFFLAND AREA.** The provisions of this chapter apply to all lands listed below.

(a) Township of Stockholm:

T24N-R16W		T23N-R16W	
<u>Section 26</u>	<u>Section 35</u>	<u>Section 2</u>	<u>Section 1</u>
NW 1/4, NE 1/4:	NW 1/4, NE 1/4:	NE 1/4, NE 1/4:	SW 1/4, SW 1/4
NE 1/4, NW 1/4:	NE 1/4, NW 1/4:	NW 1/4, NE 1/4:	SE 1/4, SW 1/4
NW 1/4, NW 1/4:	NW 1/4, NW 1/4:	NE 1/4, NW 1/4:	SW 1/4, SE 1/4
SW 1/4, NW 1/4:	SW 1/4, NW 1/4:	SE 1/4, NW 1/4:	SE 1/4, SE 1/4
SE 1/4, NW 1/4:	SE 1/4, NW 1/4:	SW 1/4, NE 1/4:	
NE 1/4, SW 1/4:	SW 1/4, NE 1/4:	SE 1/4, NE 1/4	<u>Section 36</u>
NW 1/4, SW 1/4:	NW 1/4, SE 1/4:	NE 1/4, SE 1/4	SW 1/4, SW 1/4
SW 1/4, SW 1/4:	NE 1/4, SW 1/4:	NW 1/4, SE 1/4	
SE 1/4, SW 1/4:	NW 1/4, SW 1/4:	NE 1/4, SW 1/4	
	SE 1/4, SE 1/4	SE 1/4, SE 1/4	
	SW 1/4, SE 1/4	SW 1/4, SE 1/4	
	SE 1/4, SW 1/4	SE 1/4, SW 1/4	
T23N-R15W			
<u>Section 6</u>	<u>Section 7</u>	<u>Section 12</u>	<u>Section 18</u>
SW 1/4, SW 1/4:	NE 1/4, NW 1/4:	NE 1/4, NE 1/4:	NE 1/4, NE 1/4
SE 1/4, SW 1/4:	NW 1/4, NW 1/4:	NW 1/4, NE 1/4:	NW 1/4, NE 1/4
	SW 1/4, NW 1/4:	NE 1/4, NW 1/4:	SW 1/4, NE 1/4
	SE 1/4, NW 1/4:	SE 1/4, NW 1/4:	SE 1/4, NE 1/4
	NE 1/4, SW 1/4:	SW 1/4, NE 1/4:	NE 1/4, SE 1/4
	NW 1/4, SW 1/4:	SE 1/4, NE 1/4:	SE 1/4, SE 1/4
	SW 1/4, SW 1/4		
	SE 1/4, SW 1/4		
	SW 1/4, SE 1/4		
	SE 1/4, SE 1/4		
<u>Section 8</u>	<u>Section 17</u>	<u>Section 17</u>	<u>Section 20</u>
SW 1/4, SW 1/4:	NE 1/4, NW 1/4:	NW 1/4, SE 1/4:	NW 1/4, NW 1/4
	NW 1/4, NW 1/4:	SE 1/4, SE 1/4:	NE 1/4, NE 1/4
	SW 1/4, NW 1/4:	SW 1/4, SE 1/4:	NW 1/4, NE 1/4
	SE 1/4, NW 1/4:	SE 1/4, SW 1/4:	NE 1/4, NE 1/4
	NW 1/4, SW 1/4:	SW 1/4, SW 1/4:	SE 1/4, NE 1/4
	NE 1/4, SW 1/4		

(b) Township of Pepin:

T23N-R15W			
<u>Section 15</u>	<u>Section 22</u>	<u>Section 23</u>	<u>Section 24</u>
SW 1/4, SW 1/4:	SE 1/4, NE 1/4:	NE 1/4, NE 1/4:	SW 1/4, NE 1/4
	SW 1/4, NE 1/4:	NW 1/4, NE 1/4:	NE 1/4, NW 1/4
<u>Section 16</u>	NW 1/4, NW 1/4:	SW 1/4, NE 1/4:	NW 1/4, NW 1/4
SE 1/4, SE 1/4:	SW 1/4, NW 1/4:	SE 1/4, NE 1/4:	SW 1/4, NW 1/4
	SE 1/4, NW 1/4:	NE 1/4, NW 1/4:	SE 1/4, NW 1/4
<u>Section 21</u>	NW 1/4, SW 1/4:	SW 1/4, NW 1/4:	NE 1/4, SW 1/4
NE 1/4, NE 1/4:	NE 1/4, SW 1/4:	NW 1/4, SW 1/4:	NW 1/4, SW 1/4
SE 1/4, NE 1/4:	NW 1/4, SE 1/4:	NW 1/4, SE 1/4:	SE 1/4, SW 1/4
NW 1/4, NW 1/4:	NE 1/4, SE 1/4:	NE 1/4, SE 1/4:	NE 1/4, SE 1/4
SW 1/4, NW 1/4:			NW 1/4, SE 1/4
			SW 1/4, SE 1/4
			SE 1/4, SE 1/4
T23N-R14W			
<u>Section 19</u>		<u>Section 30</u>	
NW 1/4, SW 1/4		NW 1/4, NE 1/4	
SW 1/4, SW 1/4		NE 1/4, NW 1/4	
SE 1/4, SW 1/4		NW 1/4, NW 1/4	
SW 1/4, SE 1/4			

- (2) **COMPLIANCE.** The use of any land; size, shape and placement of lots; use, size, type and location of structures on lots; installation and maintenance of water supply and waste disposal facilities; filling and grading of lands; cutting of woody vegetation and subdivision of lots, shall be in full compliance with the terms of this chapter and other applicable local, State or federal regulations. (However, see §19.09 for standards applicable to nonconforming uses.) Buildings, signs, sewage disposal systems and changes in land use shall require a permit unless otherwise expressly excluded by a provision of this chapter. Property owners, builders and contractors are responsible for building code and ordinance compliance and reasonable care in construction.
- (3) **STATE AGENCIES AND MUNICIPALITIES REGULATED.** Unless specifically exempted by law, all cities, villages, towns, County and State agencies are required to comply with this chapter and obtain all necessary permits.
- (4) **ABROGATION AND GREATER RESTRICTIONS.**

- (a) Regulations Supersede Other County Land Use Regulations. The regulations contained within this chapter are in addition to regulations which apply to such lands under other applicable town, County, State or federal land use ordinances, administrative codes or laws. If the regulations within this chapter conflict with other regulations, the most restrictive of the conflicting regulations shall apply.
 - (b) Town Board Approval Not Required. Town board approval shall not be required for zoning permit actions or text or map amendments to these regulations. However, the County Board shall consider the towns' opinion and position when deliberating on a conditional use permit, variance or other permits required under this chapter.
 - (c) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- (5) **INTERPRETATION**. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes.
- (6) **SEVERABILITY**. If any portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

19.03 - DIMENSIONS OF BUILDING SITES

- (1) **LOT AREA AND WIDTH.**
- (a) Minimum Area and Width for Each Main Building. The minimum lot area shall be 5 acres and the minimum average lot width shall be 300' with at least 300' of frontage on the bluffline.
 - (b) Side Yards. There shall be a side yard for each main building. The minimum width of one side yard shall be 25'. Side yards for accessory buildings shall be 10'.
- (2) **SUBSTANDARD LOTS**. A substandard lot which is at least 20,000 sq. ft. in area and 100' in width at the bluffline may be used as a building site for a single family dwelling upon issuance of a land use permit by the Zoning Administrator, if it meets all of the following requirements:
- (a) Such use is permitted in the zoning district.
 - (b) The lot was on record in the Register of Deeds office prior to the effective date of this chapter.

- (c) The lot was in separate ownership from abutting lands prior to the effective date of this chapter. If abutting lands and the substandard lot were owned by the same owner as of the effective date of this chapter, the substandard lot shall not be sold or used without full compliance with the terms of this chapter, including minimum area and width requirements found in sub. (1) of this section.
- (d) All the dimensional requirements of this chapter (including side yard and setback requirements) will be complied with in so far as practical.
- (3) **OTHER SUBSTANDARD LOTS.** Except for lots which meet the requirements of sub. (2) of this section, a building permit for improvement of a lot having lesser dimensions than those stated in subs. (1) and (2) above shall be issued only after the issuance of a conditional use permit by the County Zoning Committee.

19.04 - USE REGULATIONS FOR AREAS WITHIN THE JURISDICTION OF THIS CHAPTER

- (1) **DIVISION OF DISTRICTS INTO LAND FORM AREAS.** Use regulations within the district are geared to the slope and location of lands. Subsections (2), (3), (4) and (5) of this section state a brief definition of separate land form areas and list the use regulations which apply to each. Section 19.05 contains more elaborate and precise rules for defining the land form areas.
- (2) **USE RESTRICTIONS IN BLUFF AREAS.** Bluff areas are all lands within the district which have a slope 30% or greater and slope toward Lake Pepin or the Mississippi River.
 - (a) Permitted Uses.
 - (1) Agricultural uses, not including structures.
 - (2) Sustained yield forestry (thinning and selective cutting only).
 - (3) Hiking trails.
 - (4) Nonstructural recreational uses.
 - (5) Soil conservation work which meets Soil Conservation Service standards and specifications.
 - (b) Conditional Uses. Utility transmission services including only lines, cables or conduits used to transport large blocks of power or material or to convey intelligence. In the case of electrical power, this applies only to transmission lines operating at 69,000 volts or more.
 - (c) Special Prohibitions.
 - (1) No use may be established within the bluff area which is not authorized, permitted, or listed as a conditional use.
 - (2) In addition, the following activities are specifically prohibited within the bluff area: any grading or filling or other alteration of the land form which may result in erosion, sedimentation, impairment of the natural ecosystem of bluff except for those listed under subpar. (2)(a)5. above.

- (3) No roads, public or private, local utility lines or services shall be established in bluff areas except as needed to serve structures located in the bluff area on the date this chapter is enacted and then only as a conditional use.
- (4) No signs of any character may be established in bluff areas.
- (3) **BLUFFTOP SETBACK AREA.** Blufftop setback areas are all lands within the district which lie between the bluffline, (which is a line connecting points at which slope of a bluff becomes less than 30%) and a bluffline setback line lying 40' parallel to and inland from the bluffline. Section 19.05(5) specifies how the bluffline setback line shall be determined for each parcel. The use restrictions for the blufftop setback areas shall be as follows:
 - (a) Permitted Uses.
 - (1) Decks less than 400 in total square feet including walkway and less than 7' in total height from original grade to highest structural point including the railing.
 - (2) Agricultural uses, not including structures.
 - (3) Sustained yield forestry. (Thinning and selective cutting only.)
 - (4) Hiking trails.
 - (5) Recreational uses.
 - (6) Soil conservation work which meets Soil Conservation Service standards and specifications.
 - (b) Conditional Uses. Utility transmission services including only lines, cables or conduits used to transport large blocks of power or material or to convey intelligence. In the case of electrical power, this applies only to transmission lines operating at 69,000 volts or more.
 - (c) Special Prohibitions.
 - (1) No use may be established within the bluffline setback area which is not an authorized permitted use or is listed as a conditional use.
 - (2) In addition, the following activities are specifically prohibited within the blufftop setback area: any grading or filling or other alteration of the land form which may result in erosion, sedimentation, impairment of the natural ecosystem of bluff except for those listed under par. (a)6. above.
 - (3) No roads (public or private) or local utility lines or services shall be established in the bluffline setback areas except as needed to serve structures located in the bluff or bluffline setback area on the date this chapter is enacted and then only as a conditional use.
 - (4) No signs of any character shall be established in bluffline setback areas.

- (4) **BUILDABLE BLUFFTOP AREA.** Buildable blufftop areas are all lands within the district which are inland 460' from the bluffline setback line and not included within either the bluff area or the bluffline setback area.

(a) Use Regulations.

- (1) *Permitted Uses.* All uses listed as permitted uses in par. (2)(a) and par. (3)(a) above.
 - (a) Single family residences and uses accessory to single family residential structures which shall be in compliance with a bluffline setback line located 40' from the bluffline.
 - (b) Agricultural structures not used for human occupancy provided that all such structures shall not be located within the blufftop setback area.
- (2) *Conditional Uses.*
 - (a) Utility transmission services as defined and limited in par. (2)(b) and par. (3)(b) above.
 - (b) Single family residences, uses accessory to single family residential structures and agricultural structures not used for human occupancy, when any of such uses are proposed to be located closer than 40' from the bluffline but not closer than 20' from the bluffline.
 - (c) Grading or filling of the natural topography which can be viewed from the river in excess of that normally required for construction of a structure or for normal yard maintenance.
 - (d) Multi-family residences and uses accessory to the multi-family development.

(b) Setbacks.

- (1) No residential structure shall be allowed within the 40-foot bluffline setback area unless a conditional use permit has been issued by the Zoning Committee. In no case shall any residential structure or enclosed structure be located closer than 20' to the bluffline.
- (2) The highway setback provisions of the County Zoning Code shall be maintained.

(c) Height of Residential Structures.

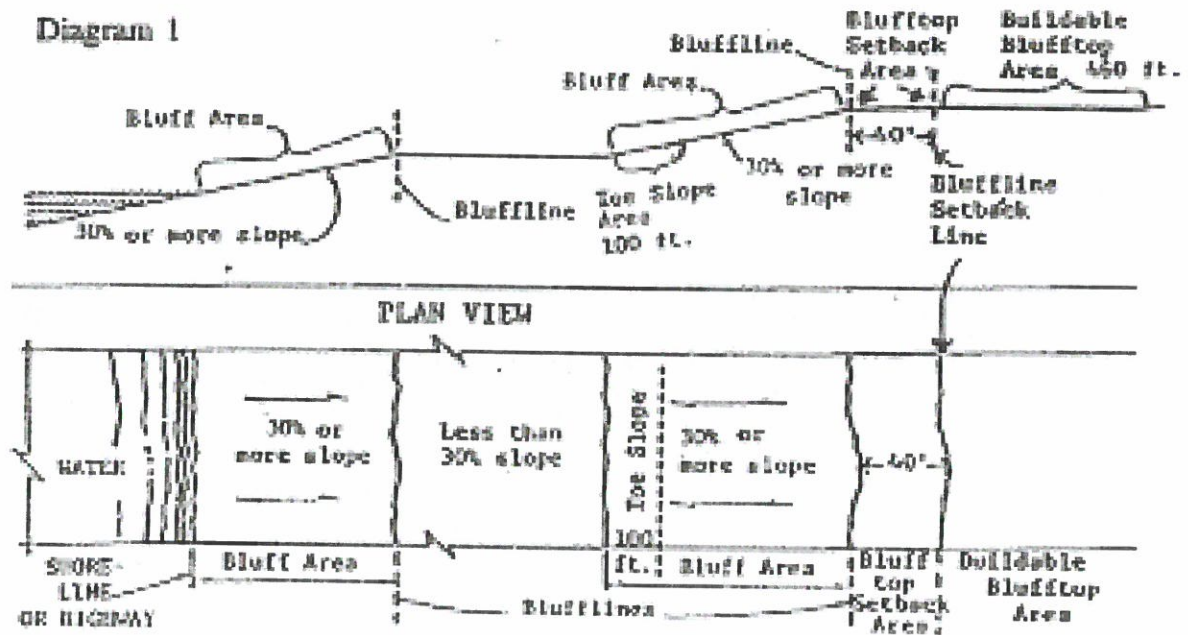
- (1) Residential buildings (single and multi-family) dwellings allowed as permitted uses under this chapter shall be no more than 32' in height, with height measurements commencing at the level of the lowest usable floor.

- (2) Residential buildings (single and multi-family) approved as conditional use or granted variances shall not exceed one story in height, provided that up to 25' in structural height be allowed if measured from the level of a basement floor when at least 50% of the basement story is, for its entire perimeter, below the natural ground level.
 - (d) Color of Structures. The exterior color of structures, including roofs, shall be in earth or summer vegetation tones.
- (5) **TOE SLOPE AREA**. The toe slope of a bluff area is defined as the area of land within 100' of the convex part of the slope where the percent of slope relaxes to less than 30%. The following use restrictions shall apply to this area:
 - (a) Permitted Uses.
 - (1) Agricultural uses, not including structures.
 - (2) Sustained yield forestry. (Thinning and selective cutting only.)
 - (3) Hiking trails.
 - (4) Nonstructural recreational uses.
 - (5) Soil conservation work which meets Soil Conservation Service standards and specification.
 - (b) Conditional Uses.
 - (1) Those conditional uses listed under par. (2)(b) and (3)(b) of this section.
 - (2) The drafters of this chapter recognize permitted uses as allowed under pars. (3)(a) and (4)(a) of this section may be allowed on slopes of greater than 30% at the toe of the slope. It is also recognized that each proposed development at the toe slope of a bluff area must be considered on a case-by-case basis and treated as a conditional use. The Zoning Committee in considering a conditional use permit under this section shall consider, but is not limited to, the following:
 - (a) Topology. Percent, length and direction of slope.
 - (b) Structure Design. Proposed structure's physical characteristics such as overall dimensions and design, siding type and color, roof covering type and color.
 - (c) Visibility. Overall location of structure in respect to the structure visibility.
 - (d) Site Alteration. The extent of alteration of the ground surface which must be completed to physically allow the proposed development to occur and the possibility of erosion. The governing body of this chapter, when considering a conditional use permit under this section, may require the applicant to obtain a construction site erosion plan which must be approved by County staff.

- (e) Vegetation. The alteration, removal or addition of natural vegetation.
- (f) Lighting. The use of artificial lighting in association with the proposed development.
- (3) *Special Prohibitions.*
 - (a) No use may be established within the toe slope area which is not authorized, permitted or listed as a conditional use.
 - (b) No signs of any character may be established in a toe slope area.

19.05 - DETAILED DEFINITIONS AND PROCEDURES FOR ESTABLISHING BLUFFLINE SETBACKS

- (1) **PURPOSE.** This section supplements subs. 19.04(2), (3), (4) and (5) in stating more detailed definitions of the land form sub-areas and setback lines used in this district.

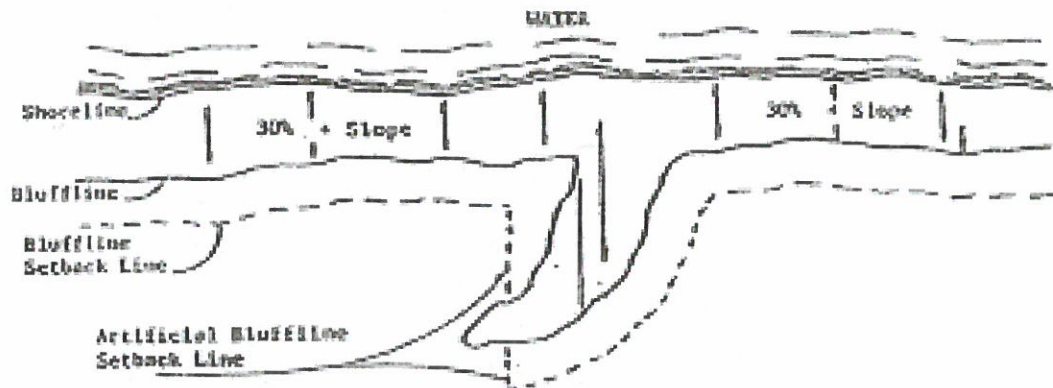


- (2) **BLUFF AREAS DEFINED.** Bluff areas are lands having a slope of 30% or greater and slope toward Lake Pepin or the Mississippi River. There may be more than one bluff area on a parcel of land.
- (3) **BLUFFLINE DEFINED.** Blufflines are lines connecting points along the top edge of a bluff area at which the slope becomes less than 30%.
- (4) **BLUFFTOP SETBACK AREAS DEFINED.** Blufftop setback areas are lands lying between blufflines and bluffline setback lines.

- (5) **BLUFFLINE SETBACK LINE DEFINED.** Bluffline setback lines are lines established parallel to and inland from a specified distance from a bluffline.
- (a) Setback Line Established. Unless a lesser distance of separation between a bluffline and its parallel setback line is ordered under subpars. 1. or 2. below, the bluffline setback line shall be located 40' from a bluffline.
- (1) Following review of a variance application requesting such changes, the Board of Adjustment may direct that a reduced setback distance be applied to a parcel. In no case, however, may the setback be reduced to less than 20' from the bluffline. Reductions for preexisting parcels shall be governed by §19.03(2). Reductions for other parcels may be ordered only upon findings by the Board of Adjustment that:
- (a) To maintain the standard 40-foot setback will produce severe hardship because of unique physical characteristics of the land.
- (b) Construction which would be allowed because of the reduced setback will be no more visually conspicuous as viewed from the water edge 200 yards from the ordinary high watermark under summer vegetative conditions than would a building constructed in compliance with the 40-foot standard setback.
- (c) Structures allowed to be located closer than the 40-foot standards setback shall not exceed one story in height. Reductions in setbacks ordered under the above procedure shall be the minimum amount needed to overcome the hardship if such hardship can be reduced consistent with par. (b) and in no case shall the setback be less than 20' from the bluffline.
- (b) Establishing Bluffline Setback Lines for Areas With Notched Bluffs, Coves and Other Unusual Land Forms. Certain areas within the Mississippi River Bluffline have unusual land forms which are not appropriate to the strict application of the above standards. In areas within this district in which there are notched bluffs, coves, inlets or other similar land forms involving bluffs descending to or near the high water elevation of the Mississippi River but in directions not parallel to the direction of flow of the Mississippi River, an artificial bluffline shall be allowed to be established by the Zoning Administrator. Persons desiring to challenge the lines so established may appeal the determination to the Board of Adjustment, which shall hear the matter under its rules and bylaws and affirm, modify or reject the determination of the Zoning Administrator. Decisions by the Zoning Administrator and the Board of Adjustment on such an artificial line shall be based upon the following standards:
- (1) An artificial bluffline may be established only where use of the bluffline definition provided in sub. (3) would result in buildings being required to be set back far more than is necessary to achieve the purposes of the district.

- (2) Artificial blufflines shall be placed in such a way as to result in a bluffline setback line that will ensure that construction inland thereof will be no more visually conspicuous or capable of erosion or subject to the hazards than would construction that is allowable on nearby lands having unusual land forms; and,
- (3) In no case shall an artificial bluffline be established in a manner which would result in greater restrictions being imposed upon land usage than would application of the standard bluffline.

Diagram 2



- (6) **BUILDABLE BLUFFTOP AREA DEFINED.** Buildable blufftop areas are areas within the district which are not within the bluff areas or the bluffline setback areas. These areas are characterized as "buildable" in the sense that they are outside of the 2 landform areas (bluff and bluffline setback areas) which are subject to special provisions by terms of this chapter. A buildable blufftop area will be truly eligible for new construction only if it meets all terms of this chapter and other County and local ordinances. The buildable blufftop area shall extend 460' inland from the bluffline setback area. Beyond the limits of the buildable blufftop area the provisions of this chapter shall not apply.
- (7) **TOE SLOPE AREA DEFINED.** The toe slope of a bluff area is defined as the area of land within 100' of the convex part of the slope where the percent of slopes relaxes to less than 30%.

19.06 - ADMINISTRATIVE PROVISIONS

- (1) **ZONING ADMINISTRATOR.** The Zoning Administrator shall have the following duties and powers:
 - (a) Advise applicants as to the provisions of this chapter and assist them in preparing permit applications and appeal forms.
 - (b) Issue permits and certificates of compliance and inspect properties for compliance with this chapter.
 - (c) Keep records of all permits issued, inspections made, work approved and other official actions.

- (d) Have access to any property between 8 a.m. and 6 p.m. for purposes of performing these duties with proper notification, if requested.
- (e) Investigate and report violations of this chapter to the appropriate County Zoning Committee and the District Attorney or Corporation Counsel.
- (f) Issue County citations under §25.04(4) of this Code of Ordinances.

(2) **LAND USE PERMITS.**

- (a) When Required. Except where another section of this chapter specifically exempts certain types of use from this requirement, a land use permit shall be obtained from the Zoning Administrator before any new development is initiated. "New development" is defined as any man-made change to improved or unimproved real estate, including but not limited to: construction of buildings, structures or accessory structures; construction of additions or substantial alterations to buildings, structures or accessory structures; placement of mobile homes; filling grading, paving or excavation; and deposition or extraction of earthen materials.
- (b) Application. An application for a land use permit shall be made to the Zoning Administrator upon forms furnished by the County and shall include, for the purpose of proper enforcement of these regulations, the following data:
 - (1) Name and address of applicant and property owner.
 - (2) Legal description of the property and type of proposed use.
 - (3) A sketch of the dimensions of the lot and location of buildings from lot line, centerline of abutting highways and locations of any easements.
 - (4) Location of sanitary system and well on property.
 - (5) Two foot contour map of lot and distances of any structure from 20% slope area. This information may be waived at the discretion of the Zoning Administrator.

19.07 - CONDITIONAL USE

- (1) **APPLICATION.** In addition to requirements otherwise contained in the ordinances of Pepin County, an application for a conditional use permit as listed under this chapter shall include the following if applicable:
 - (a) A plat or map of the property and its immediate surrounding area showing:
 - (1) Location.
 - (2) Boundaries.
 - (3) Dimensions.
 - (4) Utility and roadway corridors.
 - (5) Ordinary high water elevation.
 - (6) Regional flood elevation if within the floodplain district.

- (7) General elevations.
- (8) Specific locations of all blufflines on the property, certified as to accuracy by a registered land surveyor.
- (9) Location of existing or proposed structures.
- (10) Location of existing and identification of proposed alterations of vegetation and topography.
- (11) Adjoining land and water uses.
- (b) Written information on:
 - (1) Soil test/soil profile description for the private sewage system to serve the structure if applicable.
 - (2) Anticipated demand to be generated by the proposed use for services such as police, fire, school and other public services.
- (2) REVIEW AND DECISION ON CONDITIONAL USE.
 - (a) Upon receipt of a completed application and pursuant to procedures of the County Zoning Committee, Zoning Administrator, on behalf of the Board of Adjustment, shall transmit the completed application along with request for comments and recommendations to concerned town boards.
 - (b) The Zoning Committee shall hold a public hearing on the proposed conditional use, under the guidelines. Such hearing shall be held no sooner than 20 days after the mailing of the transmittals provided for under subpar. 1. of this subsection.
 - (c) Following the hearing, the Committee shall issue a decision whether to grant, grant conditionally or deny the application. The decision shall be based upon the following factors and standards which other sections of this chapter require be applied to the proposal:
 - (1) Impact of the proposed use upon the scenic and recreational qualities of the Mississippi River.
 - (2) Prevention of soil erosion based upon consideration of slopes, soil types and vegetative coverage.
 - (3) Ability of existing or future access roads to accommodate traffic demands.
 - (4) Compatibility with uses on adjacent lands.
 - (5) Decisions by the Committee on establishment of bluffline setback lines shall be governed by the standards of §19.05(5)(b).
- (3) GRADING AND FILLING. Applicants for a conditional use permit to allow grading and filling shall submit detailed plans for proposed earth moving activities. Approval of such plans shall be conditioned upon the following:

- (a) No filling or grading shall be allowed on slopes greater than 30% and which fall under the jurisdiction of this chapter except as part of a Soil Conservation Service practice under §19.04(2)(a)5. and (3)(a)6.
- (b) The smallest amount of bare ground shall be exposed for as short a time as possible.
- (c) Temporary ground cover shall be used and permanent ground cover shall be planted as soon as practicable.
- (d) Diversions, settling basins, terraces and other methods to trap sediment shall be used if applicable.
- (e) Fill shall be stabilized according to acceptable engineering standards.
- (f) A site inspection by the Zoning Administrator shall be made prior to the consideration of the application by the Zoning Committee and after completion of grading and filling.

19.08 - VEGETATIVE CUTTING

Tree and shrubbery cutting in a strip paralleling the bluffline shall be limited with the following provisions:

- (1) No more than 20' in any 150' as measured along the bluffline shall be clear cut.
- (2) Natural shrubbery shall be preserved as far as practical and, where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

19.09 - NONCONFORMING USES

- (1) **LAWFUL USE.** The lawful use of a building, structure or property existing at the time this chapter or an amendment to this chapter takes effect, which is not in conformity with the provisions of this chapter, including the routine maintenance of such a building or structure, may be continued subject to the following conditions:
 - (a) No structural alteration or addition to any nonconforming building or structure, over the life of the building or structure, shall exceed 50% of its current estimated fair market value, unless it is permanently changed to a conforming use or falls under the provisions of par. (1)(c)1. or sub. (2) below.
 - (b) No structural alteration or addition to a nonconforming building or structure may encroach further upon the bluff or bluffline than the existing nonconforming building or structure.
 - (c) If the alteration or addition of an existing nonconforming building or structure is prohibited because it is in excess of 50% of the current fair market value, the property owner may still make the proposed alteration or addition if:
 - (1) A building or structure with a nonconforming use is permanently changed to a conforming use;

- (2) The property owner appeals the determination of the Zoning Administrator and the County Board of Adjustment reverses the decision of the Zoning Administrator.
- (2) **DESTRUCTION OR REPAIR OF NONCONFORMING BUILDING OR STRUCTURE.** If nonconforming building or structure is destroyed in excess of 50% of its current fair market value, the structure may be rebuilt subject to the following conditions:
 - (a) The replacement building or structure shall be located in the same location as the original structure or toward the buildable blufftop area if possible.
 - (b) The replacement building or structure shall not exceed 32' in total height.
 - (c) All other provisions of this chapter shall be complied with as applicable.

19.10 - PREEXISTING PARCELS

Parcels of record in the Register of Deeds Office on the effective date of this chapter which do not allow the project to meet the standards of this chapter may be allowed as building sites as a conditional use provided that lands abutting the parcel in question are not under ownership or control of the applicant and the setback from the bluffline, which must be set by the Zoning Committee, will only be reduced if a hardship is found on the parcel. Justification for a relaxation of the standards of this chapter shall be based on limitations imposed by the physical characteristics of the property, not on the economic or other conditions of the applicant.

19.15 - ENFORCEMENT AND PENALTIES

Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this chapter in violation of the provisions of this chapter by any person (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator or the County zoning agency shall refer violations to the District Attorney or Corporation Counsel, who shall expeditiously prosecute violations. Any person who violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture of not less than \$10 nor more than \$200 per offense, together with the taxable costs of action. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the County, the State or any citizen thereof under §87.30(2), Wis. Stats.