

SECTION 95

⁷ **WSRR, WILD AND SCENIC RECREATIONAL RIVER DISTRICT**

Section

- 20-95-1: Purpose
- 20-95-2: Designation of District
- 20-95-3: District Application
- 20-95-4: Substandard Lots
- 20-95-5: Permitted Uses
- 20-95-6: Conditional Uses
- 20-95-7: Recreational River Land Use Subdistricts - Standards, Lot Dimensions, Setbacks, and Impervious Surface Requirements
- 20-95-8: Building Height
- 20-95-9: Additional Structure and Use Standards
- 20-95-10: Vegetative Cutting
- 20-95-11: Clear Cutting Restrictions
- 20-95-12: Grading and Filling
- 20-95-13: Utility Transmission Lines
- 20-95-14: Public Roads
- 20-95-15: Land Suitability
- 20-95-16: Non-conforming Uses
- 20-95-17: Sewage Treatment
- 20-95-18: Water Supply
- 20-95-19: Plats
- 20-95-20: Planned Cluster or Unit Development
- 20-95-21: Variances
- 20-95-22: Notification of Proposed Zoning Amendments, Variances and Inconsistent Plats

20-95-1: **PURPOSE AND DEFINITIONS:** The purpose of this district is to protect and preserve the scenic, recreational, natural and historical values of the Mississippi River in the City of Otsego by carefully controlling development of this river corridor consistent with the State Wild and Scenic River Act and Minnesota Rules 6105.0010-6105.0250, and 6105.0800-6105.0960.

20-95-2: **DESIGNATION OF DISTRICT:** In order to preserve and protect the Mississippi River and its adjacent land which possess scenic, recreational, natural and historical values, the Mississippi River in the City of Otsego has been given a Recreational River classification and lands adjacent to the river are hereby designated by land use districts, the boundaries of which are based upon the Mississippi River Management Plan, Minnesota Rules 6105.0800-6105.0960.

The boundaries of the Mississippi River WSRR, Wild and Scenic Recreational River District are shown on the Otsego Zoning Map which is made part of the Otsego Zoning Ordinance. In case of conflict between the map and the property

descriptions and boundaries in Minnesota Rules, Parts 6105.0910 and 6105.0950, the latter shall prevail.

20-95-3: **DISTRICT APPLICATION:** The WSRR, Wild and Scenic Recreational River District shall be applied to and superimposed as an overlay upon all zoning districts as contained herein as existing or amended by the Zoning Ordinance text and official zoning map. The regulations and requirements imposed by the WSRR District shall be in addition to those established for the base zoning districts which jointly apply. Under the joint application of standards, the more restrictive requirements shall apply and any person contemplating development in the WSRR or Wild and Scenic River District should review the base district requirements with the Zoning Administrator to determine those which will apply.

⁶⁰ 20-95-4: **SUBSTANDARD LOTS:** Any lot of record established on or before August 1, 1978 that does not meet the dimensional requirements of this Section may be allowed as a building site subject to approval of a conditional use permit, provided that:

- A. The use is allowed in the WSRR District and base zoning district.
- B. If two or more contiguous lots were under common ownership on August 1, 1978, any individual lot that does not meet the minimum lot area or lot width requirements of this Section shall not be considered as a separate lot of record for purposes of sale or development if the total lot area or lot width of two or more abutting lots under common ownership is less than sixty (60) percent of the minimum lot area or lot width requirements of this Section, and the non-conforming lot shall be combined with the abutting lot(s) under the same ownership so that the combination of lots will equal one or more lots each meeting the lot requirements of this Section to the greatest extent practical.
- C. The lot is at least twenty thousand (20,000) square feet in area.
- D. The proposed use shall comply with all applicable setback requirements of the WS District and base zoning district.
- E. Sewage treatment is provided for as required by Chapter 6, Section 3 of the City Code.

20-95-5: **PERMITTED USES:** The permitted uses shall be subject to other more restrictive limitations which may be imposed by this Chapter. The following relate to permitted uses in the WSRR District:

- A. Within the WSRR District within Sections 10, 11, 13, 14, and 15, Township 121 North, Range 24 West and Sections 7 and 18, Township 121 North, Range 23 West, (Subdistrict A) the following are permitted uses:
 - 1. Governmental campgrounds, subject to management plan specifications.

2. Public accesses, road access type with boat launching facilities subject to management plan specifications.
3. Public accesses, trail access type, subject to management plan specifications.
4. Temporary docks.
5. Other governmental open space recreational uses, subject to management plan specifications.
6. Agricultural uses.
7. Single family residential uses.
8. Forestry uses.
9. Essential services.
10. Sewage treatment systems.
11. Private roads and minor public streets.
12. 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.
13. Signs not visible from the river that are not specified in (12).
14. Governmental resource management for improving fish and wildlife habitat; wildlife management areas; nature areas; accessory roads.

If the base zoning is more restrictive, those more restrictive provisions apply. All uses not listed as permitted or conditional uses shall not be allowed.

52

B. Within the WSRR District west of State Highway 101 within Sections 14, 23, 26, and Government Lot 1 and the East 1/2 of the East 1/2 of the Southeast 1/4 of Section 15, Township 121 North, Range 23 West (Subdistrict B), the following are permitted uses:

1. Those permitted and accessory use designations as defined and allowed in the base zoning districts set forth on the Otsego Zoning Map, as amended and classified as B-1, B-2, B-3, B-W, B-C, I-1, I-2, I-3, INS and PUD, established by Section 50 of this Chapter. These land use districts and uses are in conformance with the criteria for Urban river class standards in Minnesota Rules, parts 6120.3100 and 6120.3200.

- C. Within the WSRR District within Sections 10, 14, 15, 16, 17, 23, 25, 26, and 36, Township 121 North, Range 23 West not listed within B. above, and excluding that part of Government lots 1 and 2 of Section 14, Government lot 1 of Section 23, and the southeast quarter of Section 15, Township 121 North, Range 23 West, lying beyond 300 feet of the ordinary high water level of the Mississippi River (Subdistrict C), the following are permitted uses:
1. Those permitted and accessory use designations as defined and allowed in the base zoning districts set forth on the Otsego Zoning Map, as amended and classified as A-1, A-2, R-C, R-1, R-2 and PUD, and in Sections 20-51, 20-52, 20-53, 20-54, and 20-70. These land use districts and uses are in conformance with the criteria for Urban river class standards in Minnesota Rules, parts 6120.3100 and 6120.3200.

20-95-6: **CONDITIONAL USES:** An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Section 4 of this Chapter and subject to other more restrictive limitations which may be imposed by this Chapter. The following uses may be allowed as a conditional use in the WSRR District:

- A. Within the WSRR District within Sections 10, 11, 13, 14, and 15, Township 121 North, Range 24 West and Sections 7 and 18, Township 121 North, Range 23 West, (Subdistrict A) the following are conditional uses:
1. Private campgrounds, subject to management plan specifications.
 2. Other private open space recreational uses, subject to management plan specifications.
 3. Underground mining that does not involve surface excavation in the land use district.
 4. Utility transmission power lines and pipelines subject to the provisions of Section 20-95-13.
 5. Public roads, subject to the provisions in Section 20-95-14.

If the base zoning is more restrictive, those more restrictive provisions apply. All uses not listed as permitted or conditional uses shall not be allowed.

- B. Within the WSRR District west of State Highway 101 within Sections 14, 23, 26, and Government Lot 1 and the East 1/2 of the East 1/2 of the Southeast 1/4 of Section 15, Township 121 North, Range 23 West (Subdistrict B), the following are conditional uses:
1. Those conditional and interim use designations as defined and allowed in the base zoning districts set forth on the Otsego Zoning Map, as amended

and classified as B-1, B-2, B-3, B-W, B-C, I-1, I-2, I-3, INS and PUD, established by Section 50 of this Chapter. These land use districts and uses are in conformance with the criteria for Urban river class standards in Minnesota Rules, parts 6120.3100 and 6120.3200.

49

C. Within the WSRR District within Sections 10, 14, 15, 16, 17, 23, 25, 26, and 36, Township 121 North, Range 23 West not listed within B. above, and excluding that part of Government lots 1 and 2 of Section 14, Government lot 1 of Section 23, and the southeast quarter of Section 15, Township 121 North, Range 23 West, lying beyond 300 feet of the ordinary high water level of the Mississippi River (Subdistrict C), the following are conditional uses:

1. Those conditional and interim use designations as defined and allowed in the base zoning districts set forth on the Otsego Zoning Map, as amended and classified as A-1, A-2, R-C, R-1, R-2 and PUD, and in Sections 20-51, 20-52, 20-53, 20-61, and 20-62. These land use districts and uses are in conformance with the criteria for Urban river class standards in Minnesota Rules, parts 6120.3100 and 6120.3200.

D. Structures associated with permitted or conditional uses, located upon slopes greater than twelve (12) percent, provided that:

1. The structure is screened from view of the river and adjacent shorelands in a manner judged acceptable by the City.
2. An adequate septic system and well can be established on the site and which, if the use is approved, shall be subject to applicable provisions of the City Code.
3. Appropriate erosion control measures are undertaken as determined necessary by the City.
4. If applicable, vegetative and/or clear cutting permits are obtained for the proposed use in accordance with Section 20-95-10 and 20-95-11 of this Chapter.
5. The provisions of Section 20-4-2.F of this Chapter are considered and determined to be satisfied.

20-95-7: **RECREATIONAL RIVER LAND USE SUBDISTRICTS - STANDARDS, LOT DIMENSIONS, SETBACKS, AND IMPERVIOUS SURFACE REQUIREMENTS.**

A. Areas Covered. The following areas of the City of Otsego are covered by this section:

1. All areas of the Wild and Scenic Recreational River District within the City of Otsego.

- B. Underlying Zoning. If more restrictive provisions or performance standards are set forth in any underlying zoning district as delineated on the Otsego Zoning Map, as amended, those more restrictive standards shall apply. For purposes of this section, the following zoning districts are defined as follows:
1. Agricultural-Rural Service Area (A-1) as defined in the Otsego Zoning Ordinance, Section 51.
 2. Agricultural-Long Range Urban Service District (A-2) as defined in the Otsego Zoning Ordinance, Section 52.
 3. Residential-Long Range Urban Service Area (R-1) as defined in the Otsego Zoning Ordinance, Section 61.
 4. Residential-Immediate Urban Service Area (R-2) as defined in the Otsego Zoning Ordinance, Section 62.
 5. Neighborhood Business District (B-1) as defined in the Otsego Zoning Ordinance, Section 75.
 6. Highway Commercial District (B-2) as defined in the Otsego Zoning Ordinance, Section 76.
 7. General Business District (B-3) as defined in the Otsego Zoning Ordinance, Section 77.
 8. Business-Warehousing District (B-W) as defined in the Otsego Zoning Ordinance, Section 78.
 9. Business Campus District (B-C) as defined in the Otsego Zoning Ordinance, Section 79.
 10. Limited Industrial District (I-1) as defined in the Otsego Zoning Ordinance, Section 85.
 11. General Industrial District (I-2) as defined in the Otsego Zoning Ordinance, Section 86.
 12. Special Industrial District (I-3) as defined in the Otsego Zoning Ordinance, Section 87.
 13. Institutional District (INS) as defined in Otsego Zoning Ordinance, Section 90.
 14. Planned Unit Development District (PUD) as defined in the Otsego Zoning Ordinance, Section 91, and per the individual agreement required of such zoning.

C. The WSRR District within Sections 10, 11, 13, 14, and 15, Township 121 North, Range 24 West and Sections 7 and 18, Township 121 North, Range 23 West, (Subdistrict A) shall conform to the provisions of Minnesota Rules, parts 6105.0010 to 6105.0250 and the following standards. Where these standards conflict with the standards of the base zoning districts, the more restrictive standard shall prevail.

1. Lot Requirements:

- a. Lot area: Not less than 2 1/2 acres
- b. Lot width at the water line and building line: 200 feet

2. Principal Structure Setbacks:

- a. Setback from ordinary high water level of Mississippi River: 100 feet
- b. Bluffline: 30 feet

c. Front Yard:

<u>Road Class</u>	<u>Setbacks From Centerline</u>	<u>Setbacks From Right of-Way Lines</u>
State/Federal Highway	130 feet	65 feet
County Road	130 feet	65 feet
Local Road	65 feet	35 feet

Where a lot is located at the intersection of two (2) or more roads or highways which bound two (2) or more sides of the lot, no building shall project beyond the front yard line of either road.

- d. Side Yard: Ten (10) feet.
- e. Rear Yard: Fifty (50) feet.

3. Accessory Structure Setbacks: Accessory structure setbacks as regulated by 16-4 of this Chapter, and the following additional structure setbacks:

- a. Setback from ordinary high water level of Mississippi River: 100 feet

b. Bluffline: 30 feet

52

D. The WSRR District west of State Highway 101 within Sections 14, 23, 26, and Government Lot 1 and the East 1/2 of the East 1/2 of the Southeast 1/4 of Section 15, Township 121 North, Range 23 West (Subdistrict B) shall conform to the provisions and administrative procedures of Minnesota Rules, parts 6105.0010 to 6105.0090; 6105.0100, subparts 1 and 2; Urban river class standards in 6120.3100, 6120.3200, and 6120.3300, subpart 2b; 6120.3300, subparts 7 to 12; 6120.3800; and 6105.0110 to 6105.0250 with the following exceptions to the provisions of these parts. Where these standards conflict with the standards of the base zoning districts, the more restrictive standard shall prevail.

		<u>Non-Sewered</u>	<u>Sewered</u>
1.	Lot Requirements:		
	a. Lot Area:		
	Riparian	1 acre	20,000 SF
	Nonriparian	1 acre	15,000 SF
	b. Lot width at the water line and building line:	150 feet	75 feet
2.	Principal Structure Setbacks:		
	a. Setback from ordinary high water level of Mississippi River:	100 feet	75 feet
	b. Bluffline:	30 feet	30 feet
	c. Front Yard:		
		<u>Setbacks From Centerline</u>	<u>Setbacks From Right of-Way Lines</u>
	<u>Road Class</u>		
	State/Federal Highway	130 feet	65 feet
	County Road	130 feet	65 feet
	Local Road	65 feet	35 feet

Where a lot is located at the intersection of two (2) or more roads or highways which bound two (2) or more sides of the lot, no building shall project beyond the front yard line of either road.

	<u>Non-Sewered</u>	<u>Sewered</u>
d. Side Yard:	10 feet	10 feet
e. Rear Yard:	50 feet	30 feet

3. Accessory Structure Setbacks: Accessory structure setbacks as regulated by Section 20-16-4 of this Chapter, and the following additional structure setbacks:

	<u>Non-sewered</u>	<u>Sewered</u>
a. Setback from ordinary high water level of Mississippi River:	100 feet	75 feet
b. Bluffline:	30 feet	30 feet

4. Impervious Surface Requirements: Impervious surface coverage requirements in Minnesota Rules, part 6120.3300, subpart 11B, may be varied without a variance if all of the following criteria and standards are met:

- a. All structures and impervious surfaces are located on slopes less than twelve (12) percent. The physical alteration of slopes shall not be permitted for the purpose of overcoming this limitation.
- b. The site development is designed, implemented, and maintained using the most applicable combination of comprehensive practices that prevent flooding, pollutant, erosion and sedimentation problems consistent with Protecting Water Quality in Urban Areas, Best Management Practices for Minnesota, Minnesota Pollution Control Agency, October 1989, or as amended, which is incorporated by reference, available at the State Law Library and not subject to frequent change.
- c. A site development, maintenance, and inspection plan incorporating the comprehensive practices in b, above, is submitted and approved by the City of Otsego prior to the issuance of an impervious surfacing permit and the plan is implemented.
- d. An impervious surfacing permit is granted by the City of Otsego which imposes the conditions of Section 74.9.A.3 of this Chapter. The City may impose additional conditions if determined necessary to protect the public health, safety, and welfare.

49

E. The WSRR District within Sections 10, 14, 15, 16, 17, 23, 25, 26 and 36, Township 121 North, Range 23 West not listed in D. above and excluding that part of government lots 1 and 2 of Section 14, Government lot 1 of Section 23,

and the southeast quarter of Section 15, Township 121 North, Range 23 West, lying beyond three hundred (300) feet of the ordinary high water level of the Mississippi River (Subdistrict C), shall conform to the provisions and administrative procedures listed in item D with the following exceptions to the provisions of those parts. Where these standards conflict with the standards of the base zoning districts, the more restrictive standard shall prevail.

		<u>Non-Sewered</u>	<u>Sewered</u>
1.	Lot Requirements:		
a.	Lot Area:	2 1/2 acres	2 1/2 acres
b.	Lot width at the water line and building line:	150 feet	75 feet
2.	Principal Structure Setbacks:		
a.	Setback from ordinary high water level of Otsego Creek (Sec. 17) and Mississippi River:	100 feet	75 feet
b.	Bluffline:	30 feet	30 feet
c.	Front Yard:		
		<u>Setbacks From Centerline</u>	<u>Setbacks From Right of-Way Lines</u>
	State/Federal Highway	130 feet	65 feet
	County Road	130 feet	65 feet
	Local Road	65 feet	35 feet

Where a lot is located at the intersection of two (2) or more roads or highways which bound two (2) or more sides of the lot, no building shall project beyond the front yard line of either road.

		<u>Non-Sewered</u>	<u>Sewered</u>
d.	Side Yard:	10 feet	10 feet
e.	Rear Yard:	50 feet	30 feet

3. Accessory Structure Setbacks: Accessory structure setbacks as regulated by Section 20-16-4 of this Chapter, and the following additional structure setbacks:

Non-sewered Sewered

- | | | | |
|----|---|----------|---------|
| a. | Setback from ordinary high water level of Otsego Creek (sec. 17) and Mississippi River: | 100 feet | 75 feet |
| b. | Bluffline: | 30 feet | 30 feet |
4. Impervious Surface Requirements: Maximum total lot area covered by impervious surface shall be twenty-five percent (25%) and not subject to variability.

20-95-8: **BUILDING HEIGHT:** The following minimum requirements shall be observed in the WSRR District:

- A. The maximum height of principal structures shall not exceed thirty-five (35) feet.
- B. The maximum height of accessory structures shall not exceed thirty-five (35) feet.

20-95-9: **ADDITIONAL STRUCTURE AND USE STANDARDS:**

- A. Placement of Structures: Structures shall not be located on slopes greater than twelve (12) percent except by conditional use permit as provided for in Section 20-95-6.D of this Chapter.
- B. Maximum Density: The maximum density in the WSRR District shall not exceed one dwelling unit per lot.
- C. Multiple Unit Dwelling Structures: Subdivisions of duplexes, triplexes, and quads shall also meet the following standards:
 - 1. Each building must be set back at least 200 feet from the ordinary high water level;
 - 2. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building and;
 - 3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.
- D. Storm Water Management. Subject to other more restrictive limitations which may be imposed by this Chapter or other Chapters of the City Code, the following general and specific standards shall apply:

1. General Standards:

- a. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain storm water runoff before discharge to public waters.
- b. Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and human-made materials and facilities.

2. Specific Standards:

- a. When constructed facilities are used for storm water management, documentation shall be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- b. New constructed storm water outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

E. Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.

1. Standards for Commercial, Industrial, Public, and Semipublic Uses.

- a. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Subject to other more restrictive limitations which may be imposed by this Chapter, those uses with water-oriented needs shall meet the following standards:
 - (1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Chapter, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures;

- (2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- (3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - (a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - (b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They shall only convey the location and name of the establishment and the general types of goods or services available. The signs shall not contain other detailed information such as product brands and prices, shall not be located higher than ten feet above the ground, and shall not exceed 32 square feet in size. If illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination out across public waters; and
 - (c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- b. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Agriculture Use Standards.

- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in

permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the Natural Resources Conservation Service, as provided by a qualified individual or agency.

- b. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level. The bluff impact zone is equal to the bluff and land located within 20 feet from a bluffline.
- c. Animal feedlots shall meet the requirements of this Chapter, as well as the following standards:
 - (1) New feedlots shall not be located in the WSRR District; and
 - (2) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within the bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
- d. Use of fertilizer, pesticides, or animal wastes within the WSRR District shall be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

3. Forest Management Standards.

- a. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."
- b. Use of fertilizer, pesticides, or animal wastes within the WSRR District shall be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

4. Extractive Use Standards.

- a. Site Development and Restoration Plan. An extractive use site development and restoration plan shall be developed, approved, and followed over the course of operation of the site. The plan shall address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during

operation to mitigate adverse environmental impacts, particularly erosion, and shall clearly explain how the site will be rehabilitated after extractive activities end.

b. Setbacks for Processing Machinery. Processing machinery shall be located consistent with setback standards for structures from the ordinary high water level and from blufflines.

5. Mining of Metallic Minerals and Peat. Mining of metallic minerals and peat, as defined in Minnesota Statutes, sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

20-95-10: **VEGETATIVE CUTTING:** Selective cutting of trees in excess of four (4) inches in diameter at four (4) feet height within the WSRR District and within one hundred (100) feet of the ordinary high water level and twenty (20) feet landward of the bluff line shall be subject to the following:

A. Clear cutting, except for any authorized public services such as roads and essential services, shall not be permitted. Clear cutting for essential services, such as telephone lines, substations, and related structures, shall require a special permit issued by the City Council in accordance with Section 33 of this Chapter.

B. Cutting is spaced in several cutting operations and a continuous tree cover is maintained, uninterrupted by large openings. In cases where the existing tree cover has been interrupted by large openings in the past, selective cutting may be performed so as to maintain a continuous tree cover in the remaining wooded areas.

C. The above cutting provisions shall not be deemed to prevent:

1. The removal of diseased or insect-infested trees, or of rotten or damaged trees that present safety hazards.

2. Pruning understory vegetation, shrubs, plants, bushes, grasses, or from harvesting crops, or cutting suppressed trees or trees less than four (4) inches in diameter at four (4) feet height.

D. Except in cases where vegetative cutting has been approved as part of a subdivision or other development, any person proposing vegetative cutting shall apply to the City for a vegetative cutting permit. Application forms for the permit shall be provided by the Zoning Administrator and require the following information:

1. Name and address of applicant.

2. The name and address of the owner of the land.
3. The address and legal description of the land involved.
4. The purpose of the vegetative cutting.
5. A description of the type and amount of vegetation to be cut.
6. The highway, street, or streets, or other public ways in the City upon and along which any material is to be hauled or carried.
7. An estimate of the time required to complete the vegetative cutting.
8. A site plan showing the proposed cutting area.
9. A plan or statement demonstrating that the activity will in no way jeopardize the public health, safety and welfare.
10. A statement that the applicant will comply with all conditions prescribed by the City.

20-95-11: **CLEAR CUTTING RESTRICTIONS:** Clear cutting within the WSRR District shall be subject to the following standards and criteria:

- A. Clear cutting shall not be used as a cutting method where soil, slope, or other watershed conditions are fragile and subject to injury.
- B. Clear cutting shall be conducted only where clear cut blocks, patches, or strips are, in all cases, shaped and blended with the natural terrain.
- C. The size of clear cut blocks, patches, or strips shall be kept at the minimum necessary.
- D. Where feasible, all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area. Where feasible, replanting shall be performed in the same Spring or the following Spring.
- E. Except in cases where clear cutting has been approved as part of a subdivision or other development, any person proposing clear cutting shall apply to the City for a clear cutting permit. Application forms for the permit shall be provided by the Zoning Administrator and require the following information:
 1. Name and address of applicant.
 2. The name and address of the owner of the land.

3. The address and legal description of the land involved.
4. The purpose of the clear cutting.
5. A description of the type and amount of clear cutting to be conducted.
6. The highway, street, or streets, or other public ways in the City upon and along which any material is to be hauled or carried.
7. An estimate of the time required to complete the vegetative cutting.
8. A site plan showing the proposed cutting area.
9. A plan or statement demonstrating that the activity will in no way jeopardize the public health, safety and welfare.
10. A statement that the applicant will comply with all conditions prescribed by the City.

20-95-12: **GRADING AND FILLING:** Any grading and filling conducted within the WSRR District shall require a permit and shall comply with the following:

- A. The provisions of Section 23 and/or 24 of this Chapter are satisfactorily met.
- B. Grading and filling of the natural topography which is not accessory to a permitted or conditional use shall not be allowed.
- C. 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.
- D. Grading and filling of the natural topography which is accessory to a permitted or conditional use shall be performed in a manner which minimizes earth moving, erosion, tree clearing and the destruction of natural amenities.
- E. Grading and filling of the natural topography shall also meet the following standards.
 1. The smallest amount of bare ground is exposed for as short a time as feasible.
 2. Temporary ground cover such as mulch is used and permanent ground cover such as sod is planted.
 3. Methods to prevent erosion and to trap sediment are employed.

4. Fill is established to accepted engineering standards.

F. Excavation of material from, or filling in the river, or construction of any permanent structures or navigational obstructions therein is prohibited, unless authorized by a permit from the Commissioner pursuant to Minnesota Statutes, Section 103G.245.

G. Draining or filling of wetlands as defined by this Chapter shall be expressly prohibited.

20-95-13: **UTILITY TRANSMISSION LINES:** All utility transmission crossings of land within the WSRR District shall require a conditional use permit. The construction of such transmission services shall be subject to the standards and criteria of Minnesota Rules parts 6105.0170 and 6105.0180.

20-95-14: **PUBLIC ROADS:** In addition to such permits as may be required by Minnesota Statutes Section 103G.245, a conditional use permit shall be required for any construction or reconstruction of new public roads within the WSRR District. Such construction or reconstruction shall be subject to the standards and criteria of Minnesota Rules 6105.0190 and 6105.0200. A conditional use permit shall not be required for marginal access streets which are intended to serve primarily as an access to abutting properties.

20-95-15: **LAND SUITABILITY:** No land shall be subdivided which is determined by the City of Otsego or the Commissioner to be unsuitable by reason of flooding, inadequate drainage, soil and rock formation 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 City of Otsego.

20-95-16: **NONCONFORMING USES:** All uses in existence prior to the effective date of enactment of the Wild and Scenic Recreational River District ordinance which are lawfully permitted uses within the Wild and Scenic Recreational River District, but do not meet the minimum lot area, setbacks or other dimensional requirements of this ordinance shall be allowed to continue subject to the following conditions and exceptions:

A. Any structural alteration or addition to a nonconforming use which will increase the substandard dimensions shall not be allowed.

B. Substandard signs shall be gradually eliminated over a period of time not to exceed five (5) years from the date of enactment or amendment of the Wild and Scenic Recreational River Ordinance.

20-95-17: **SEWAGE TREATMENT:**

A. General Provisions:

1. Any premises intended for human occupancy must be provided with an adequate method of sewage treatment.
2. Publicly-owned sewer systems must be used where available.
3. Where public systems are not available, all private sewage treatment systems must meet or exceed applicable rules of the Minnesota Department of Health, the Minnesota Pollution Control Agency, specifically Chapter 7080 for individual sewage treatment systems, and any other applicable City standards.

B. Setbacks: On-site sewage treatment system setbacks from the ordinary high water level of the Mississippi River and Otsego Creek must be a minimum of seventy-five (75) feet.

C. Nonconforming Sewage Treatment Systems: A nonconforming sewage treatment system not meeting the requirements of applicable rules of the Minnesota Department of Health, the Minnesota Pollution Control Agency, specifically Chapter 7080 for individual sewage treatment systems, and any other applicable local government standards shall be brought into conformity or discontinued within five (5) years of the date of enactment of the Wild and Scenic Recreational River District ordinance.

20-95-18: **WATER SUPPLY:** Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency and administrative procedures of this Chapter. 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 Minnesota Department of Health.

20-95-19: **PLATS:** Copies of all plats within the Wild and Scenic Recreational River District shall be forwarded to the Commissioner within ten (10) days of approval by the City. Approval of a plat which is inconsistent with this Section is permissible only if the detrimental impact of the inconsistency is more than overcome by other protective characteristics.

20-95-20: **PLANNED CLUSTER OR UNIT DEVELOPMENT:** A planned cluster development or planned unit development may be allowed only when the proposed clustering provides a better means of preserving agricultural land, open space, woods, scenic views, wetlands, and other features of the natural environment than traditional subdivision development. Smaller lot sizes may be

allowed as exceptions to this ordinance for planned cluster or unit developments provided:

- A. Preliminary plans are approved by the Commissioner prior to their enactment by the City Council.
- B. Central sewage facilities are installed which meet the standards, criteria, rules or regulations of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- C. Open space is preserved. This may be accomplished through the use of restrictive deed covenants, public dedications, granting of scenic easements, or other equally effective and permanent methods.
- D. There is not more than one centralized boat launching facility for each cluster.
- E. The only uses that shall be allowed within the development are those allowed in Section 20-95-5 and 20-95-6 for the applicable geographic subdistrict.
- F. For planned cluster or unit developments within the WSRR District in Sections 10, 14, 15, 16, 17, 23, 25, 26, and 36, Township 121 North, Range 23 West, (Subdistricts B and C), the provisions of Section 20-71-17 shall be satisfied.
- G. Under the joint application of standards, the more restrictive provisions of this Chapter shall apply.

20-95-21: **VARIANCES:** The grant of a variance requires the presence of the following conditions:

- A. The strict enforcement of the land use controls will result in unnecessary hardship.
- B. Granting of the variance is not contrary to the purpose and intent of this ordinance and is consistent with the Minnesota Rules, parts 6105.0010-6105.0250 and 6105.0800-6105.0960.
- C. There are exceptional circumstances unique to the subject property which were not created by the landowner.
- D. 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.
- E. Granting of the variance will not alter the essential character of the locality.
- F. Exception: Where a setback pattern from the ordinary high water level 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 only to lots which do not meet the minimum lot width requirements of this ordinance.

20-95-22: **NOTIFICATION OF PROPOSED ZONING AMENDMENTS, CONDITIONAL USE PERMITS, VARIANCES, AND INCONSISTENT PLATS:**

- A. The City Zoning Administrator shall submit to the Commissioner a copy of any application for a zoning amendment including proposed changes to district lines, conditional use permits, variances, and plats which are inconsistent with the local land use ordinance for certification. A copy of the notice of any public hearing, or where a public hearing is not required, a copy of the application for zoning amendments, variances and inconsistent plats shall be sent so as to be received by the Commissioner at least thirty (30) days prior to such hearing or meeting to consider such action. The notice of application shall include a copy of the proposed ordinances or amendment, or a copy of the proposed inconsistent plat or a description of the requested variances.
- B. The City Zoning Administrator shall notify the Commissioner of its final decision on the proposed action within ten (10) days of the decision.
- C. The ordinance, variance, or inconsistent plat becomes effective upon the happening of any of the following events, whichever first occurs:
 - 1. The final decision taken by the City has previously received certification of approval from the Commissioner.
 - 2. The City receives certification of approval after its final decision.
 - 3. Thirty (30) 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 non-approval.
 - 4. The Commissioner certifies his approval within thirty (30) days after conducting a public hearing.
- D. In case the Commissioner gives notice of non-approval of an ordinance, variance, or inconsistent plat, either the applicant or Zoning Administrator may, within thirty (30) days of said notice, file with the Commissioner a demand for hearing. If the demand for hearing is not made within thirty (30) days, the notice of non-approval becomes final.
 - 1. The hearing shall be held within sixty (60) days of the demand and after at least two (2) weeks published notice.
 - 2. The hearing shall be conducted in accordance with Minnesota Statutes 103G.311, Subd. 2, 6 and 7.

3. The Commissioner shall either certify his approval or disapproval of the proposed action within thirty (30) days of the hearing.
- E. A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider issuance of the conditional use permit shall be received by the Commissioner at least thirty (30) days prior to such hearings or meetings 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.