

DENMARK TOWNSHIP
Washington County, Minnesota

Ordinance No. _____

MISSISSIPPI RIVER CORRIDOR ORDINANCE,
an ordinance amending the Denmark Township Zoning Ordinance.

The Board of Supervisors of the Denmark Township, Washington County, Minnesota
ordains as follows:

SECTION 1.
TITLE

- 1.01 Ordinance No. adopted October 4, 1982, entitled "Zoning Ordinance, Denmark Township, is hereby amended by adding the provisions of this ordinance which shall be known as, the "Mississippi River Corridor Ordinance." This is an Ordinance promoting the health, safety, and welfare of the citizen's of Denmark Township, Minnesota by adopting this ordinance, creating a critical area overlay district to the current zoning map, and creating a site planning requirement therein.

SECTION 2.
INTENT AND PURPOSE

- 2.01 **Findings.** The Township finds that the Mississippi River Corridor within the Metropolitan Area and the Township is a unique and valuable local, state, regional and national resource. The river is essential to local, regional, state, and national transportation, sewer and water, recreation, industry and also serves important biological and ecological functions. The prevention and mitigation of irreversible damage to this resource and the preservation and enhancement of its natural, aesthetic, cultural, and historic values is consistent with community goals and the health, safety, and general welfare of the Township.
- 2.02 **Purpose and Intent.** It is the purpose and intent of this ordinance to prevent and mitigate irreversible damage to this unique state, local, regional, and national resource, to preserve and enhance its values to the public and protect and preserve the system as an essential element in the Township's transportation, sewer and water, recreation and industry in accordance with the following policies:
- A. The Mississippi River Corridor shall be managed as a multi-purpose public resource by continuing use of the river channel for transportation, conserving the scenic, environmental, recreational, industrial, economic, cultural, and historic resources and functions of the river corridor, and providing for the continuation of development of a variety of uses within the river corridor.

- B. The Mississippi River Corridor shall be managed in a manner consistent with its natural characteristics, its existing development, and the rural character of the community.
- C. The Mississippi River Corridor shall be managed in accordance with the Critical Areas Act of 1973, the Minnesota Environmental Policy Act of 1973, Executive Order No. 79-19, dated February 26, 1979, and pursuant to Minnesota Statutes, Chapter 116G.
- D. Designation of suitable land use districts along the bluff land and shoreland of the Mississippi River.

2.03 **Establishment of Critical Area Overlay District.** A critical area overlay district is established and shall overlay the zoning districts established by the Denmark Township Zoning Ordinance, so that any parcel of land lying in the overlay district shall also lay in one or more of the underlying established zoning districts. Territory within the overlay district shall be subject to the requirements established in this Ordinance as well as restrictions and requirements established by other applicable ordinances and regulations of the Township. Within the overlay district, all uses shall be permitted in accordance with the regulations for the underlying zoning district(s) and this Ordinance.

2.04 **District Boundaries.** This overlay ordinance shall apply to the critical area district, which is specially delineated on the Comprehensive Plan, Critical Area Plan, and official zoning map of the Township. For purposes of determining the application of this ordinance to any particular parcel of land, the above referenced map shall be on file in the office of the Township Clerk.

2.05 **Definitions.** For the purpose of this ordinance, certain phrases and words are hereby defined as follows:

“Accessory Use” means a use subordinate to and serving the principal use on the same lot and customarily incidental thereto, such as vegetative cutting and grading and filling.

“Act” means the Critical Areas Act of 1973, Minn. Stat. Sections 116G.01 to 116G.14 (Supp. 1974).

“Adjacent” means having a boundary that physically touches or adjoins.

“Barge Loading Facility” means a facility and related equipment located on the riverfront for the loading or unloading of a barge, either as part of trans-shipment of goods or related specifically to a product manufactured, stored, excavated, or utilized at the site.

“Barge Slip” means a basin, usually adjacent to a wharf, jetty, dock or other cargo handling facility, where barges are brought for the purpose of loading or unloading cargo.

“Bluff line means a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent. More than one bluff line may be encountered proceeding landward from the water. All Setbacks required herein shall be applicable to each bluffline.

“Board of Supervisors” means the Board of Supervisors of Denmark Township.

“Clear Cutting” means the removal of an entire stand of trees and shrubs.

“Comprehensive Management Plan” means the MNRRA management plan, prepared by the Mississippi River Coordinating Commission and the National Park Service.

“Corridor” means the Critical Area.

“Critical Area” means the area known as the Mississippi River Corridor Critical Area designated by Executive Order No.79-19 dated February 26, 1979.

“Essential services” means underground or overhead gas, electrical, steam, or water distribution systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, and other similar equipment and accessories in conjunction therewith, but not including buildings or transmission services.

“Flood fringe” means the portion of the floodplain outside of the floodway.

“Floodplain” means the areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.

“Floodway” means the channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

“Harbor” means a portion of a body of water along or landward of the natural shoreline deep enough for recreational watercraft navigation, and so situated with respect to shoreline features as to provide protection from winds, waves, ice, and currents. Natural harbors consist of bays and estuaries, while artificial harbors are constructed by dredging.

“Industrial Use” includes without limitation, factory, office building, warehouse, elevators, material transfer site, pipeline, conveyor, refuse and material storage areas, oil refining and chemical processing.

“Lift Station” means a facility, usually including pumping facilities, for the lifting of sewage or storm-water runoff to a higher sewage facility or storm-water runoff facility.

“Marina” means an area of concentrated small craft mooring, where ancillary facilities may be provided for some or all of such services as fueling, sewage pump-out, boat launching, boat repair, and boat storage; except that marina does not mean temporary docks associated with riparian residential development if the mooring area is of a size not to exceed the resource limitations of the site and the needs of the residents of the development.

“Mississippi River Corridor” means that area within the boundaries of the Mississippi River Corridor Critical Area and as shown on the official zoning map.

“Mississippi National River Recreation Area (MNRRA)” means a unit of the national park

system, established by Public Law 100-696, November 18, 1988.

“Natural Rate of Absorption” means the amount of storm-water absorbed into the soil during a storm of once in twenty year occurrence.

“Normal High Water Mark” means a mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape. The normal high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the normal high water mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water.; the main channel, adjoining side channels, backwaters, and sloughs.

“Ordinary High Water Level (OHWL)” means the boundary of water basins, watercourses, public waters, and public waters wetlands, and:

the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;

for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and

for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summary pool.

“Pipeline” means a line of pipe either above ground or under ground including associated pumps, valves, control devices, and other structures utilized for conveying liquids, gases, sewage or other finely divided solids from one point to another.

“Planning Commission” means the Planning Commission of Denmark Township.

“Pleasure Craft” means a boat or yacht used primarily for recreational activity.

“Public Safety Facilities” means hydrants, fire alarm boxes, streetlights, railway crossing signals, and similar facilities and accessories, but not including buildings.

“Regional Flood” means a flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.

“Retaining Wall” means a structure utilized to hold a slope in a position in which it would not naturally remain.

“Riverfront” means every lot or parcel of land that is immediately adjacent to the Mississippi River.

“Selective Cutting” means the removal of single scattered trees or shrubs. Selective cutting shall not be construed to mean the removal of all trees or shrubs in a given area resulting in the clearing of the land.

“Septic Tank” means any device for the treatment and disposal of human waste, which utilizes the percolation of the liquid portion of the waste into the soil including all portions of, said system which are not contained inside a building.

“Shoreland” means land located within the following distances from the ordinary high water elevation of public waters:

land within 1,000 feet from the normal high watermark of a lake, pond, or flowage; and

land within 300 feet of a river or stream or the landward side of a floodplain delineated by ordinance on the river or stream, whichever is greater.

“Slope” means the inclination of the natural surface of the land from the horizontal.

“Structure” means anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures.

“Substandard Lot” means any lot which does not meet the minimum lot area, length, depth, width, or other dimensional standards of the ordinance.

“Town Board” means the Board of Supervisors of Denmark Township.

“Transmissions Services” means electric power, telephone, and telegraph lines, cables, or conduits that are used to transport large blocks of power between two points. In the case of electrical power, this will generally mean 69 kilovolts or more. For mains or pipelines for gas, liquids, or solids in suspension, this means those that are used to transport large amounts of gas, liquids, or solids in suspension between two points.

“Utility Facility” means physical facilities of electric, telephone, telegraph, cable television, water, sewer, solid waste, gas and similar service operations.

“Variance” means the modification or variation of the requirements of this Ordinance where it is determined that, because of hardships, strict enforcement of the Ordinance is impractical.

“Water Body” means any lake, stream, pond, wetland or river.

“Water Related Use” means uses which in order to exist or function require a location on or use of the riverfront including, but not limited to: barge loading and barge fleeting areas, marinas, industries which receive or ship goods or materials by water as an essential part of their operation, boat and barge construction, dismantling and repair, riverfront recreation, intakes and outfalls, and water monitoring and measuring facilities.

“Wetlands” means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

1. have a predominance of hydric soils;
2. are inundated by surface or ground water at a frequency and duration sufficient to

- support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
3. under normal circumstances support a prevalence of such vegetation.

“Wetlands” does not include public waters wetlands as defined in M.S. § 103G.005, subd.15a.

SECTION 3. SITE PLANNING REQUIREMENTS

- 3.01 **Site Plan Required.** No building permit, zoning approval or subdivision approval permit or certificate shall be issued for any action located in an area covered by this ordinance until a site plan has been prepared and approved in accordance with the provisions of this ordinance.
- 3.02 **Exceptions.** The Denmark Township Planning Commission may waive certain requirements of Section 3.04 of this Ordinance if portions are not applicable to the proposed action.
- 3.03 **Site Plan Application.** A written application for site plan approval shall be filed with the Town Clerk containing evidence adequate to show that the proposed use will conform to the standards set forth in this Ordinance. Fifteen sets of clearly legible drawings and required information shall be submitted. Fees for the application shall be established by resolution of the Town Board.
- 3.04 **Site Plan Contents.**
 - A. Site plans shall be prepared to a scale appropriate to the size of the project and suitable for the review to be performed.
 - B. The following information shall be provided either on or with the site plan:
 4. location of the property including such information as the name and numbers of adjoining roads, railroads, existing subdivisions, or other landmarks.
 5. the name and address of the owner(s) or developer(s), the section, township and range, north point, date and scale of drawing, and number of sheets.
 6. existing topography as indicated on a contour map a having a contour interval no greater than two (2) feet per contour; the topography map shall also clearly delineate any bluffline, all streams, including intermittent streams and swells, rivers, waterbodies, and wetlands located on the site, including depth of water, bottom slope, a description of body materials and all vegetation which may be found in the waterbody, a statement of water turbidity, a statement of water quality, and a classification given to the waterbody by the Minnesota Department of Natural Resources. The topography map shall indicate the floodway and flood fringe lines

and shall indicate the ordinary high water level of the river if the property fronts on the river.

7. a plan delineating existing drainage of the water setting forth in which direction the volume and at what rate stormwater is conveyed from the site and setting forth those areas of the site where stormwater collects and is gradually percolated into the ground or slowly released to stream or lake.
8. a plan describing the ponds required for treating water prior to release, the design of which is consistent with the National Urban Runoff Program (NURP) standards.
9. a description of the soils of the site including a map indicating soil types.
10. a description of any features, buildings or areas which are of historic significance.
11. a map indicating proposed finished grading showing contours at the same intervals as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features.
12. a plan illustrating the site erosion and sedimentation control methods to be used in any soil disturbance activities, the design of which is consistent with the Minnesota Pollution Control Agency's (MPCA) "Protecting Water Quality in Urban Areas" publication, commonly referred to as "best management practices".
13. a landscape plan drawn to an appropriate scale, including dimensions and distances and the location, type, and description of existing vegetation, clearly locating and describing vegetation proposed for removal and proposed landscape materials which will be added to the site as part of the development.
14. a proposed drainage plan of the developed site delineating in which direction, the volume, and at what rate stormwater will be conveyed from the site and setting forth the areas of the site where stormwater will be allowed to collect and gradually percolate into the ground, or be slowly released to stream or lake.
15. the proposed size, alignment, height, and intended use of any structures to be erected or located on the site.
16. a clear delineation of all areas which shall be paved or surfaced including a description of the surfacing material to be used.
17. a description of the method to be provided for vehicular and pedestrian access to the proposed development and public access to the river and/or public river view opportunities both before and after development; a description of the development's impact on existing views of and along the river.
18. a description of all parking facilities to be provided as part of the development of the site including an analysis of parking needs generated by the proposed development.

19. a description of all individual or collective sewage treatment facilities to be provided, as part of the development of the site, including an analysis of sewage treatment needs generated by the proposed development.
20. a delineation of any potential area or areas to be dedicated for public use.
21. a delineation of the location and amounts of excavated soils to be stored on the site during construction.
22. other information pertinent to the particular project which in the opinion of the Township or applicant is necessary or helpful for the review of the project.

3.05 Site Plan Approval Standards. Site plans shall meet the following standards for approval:

- A. Dredging and filling of waterbodies shall be permitted only when there is no adverse effect on the ecological and hydraulic characteristics of the waterbody, unless no other feasible alternative exists for the removal or replacement of dredge soils or fill and the activity is consistent with the Mississippi River Corridor Critical Area Plan. The Town Board shall rely on the Department of Natural Resources to advise the Township on this matter.
- B. Development shall be permitted on land having a slope before alteration in excess of 12 percent but not greater than 18 percent if the applicant meets the following conditions:
 1. the foundation and underlying material of any structure, including private roads, shall be adequate for the slope condition and soil type.
 2. adequate controls and protections exist uphill from the proposed development such that there is no danger of structures or roads being struck by falling rocks, mud, uprooted trees, or other materials
 3. the proposed development presents no danger of falling rock, mud, uprooted trees, or other materials to structures downhill.
 4. the view of the developed slope from the river and opposite riverbank shall to the maximum extent possible be consistent with the natural appearance of the undeveloped slope, consistent with any historic areas nearby, compatible with surrounding architectural features. To the maximum extent possible, the use of natural devices, including vegetation management shall be preferred over the construction of artificial devices, including culverts, holding ponds, walls, and terracing.
 5. all structures other than buildings, warehouses, pipelines, conveyors, transmission services, utility facilities, storage tanks, and roadway surfaces, but including retaining walls shall meet the following design requirements:
 - a. retaining walls or terrace contours shall not exceed five feet in height
 - b. the minimum space in between terraces and retaining walls shall be twenty feet;

- c. construction shall be of native stone or wood, however, in those situations where the use of metal pilings, metal tiebacks, metal retaining walls, and pre-cast or cast in place concrete retaining walls is necessary, they shall not be exposed;
 - 6. no septic tank shall be placed on a slope of greater than 12%. The natural slope may not be altered in any way where the septic tank system or part thereof is to be located. The drain lines shall be located parallel to contour lines.
 - 7. in no case shall slopes with a natural slope in excess of 18% be developed, except for conveyors, pipelines and transmission services.
-
- C. Wetlands and other waterbodies shall not be used as primary sediment traps during or after construction. Wetlands shall be protected and managed in a manner consistent with the Wetland Conservation Act.
 - D. The proposed development will not result in an increase in the natural rate of runoff leaving the site and minimize any decrease in the natural rate of absorption of stormwater.
 - E. The development is consistent with the reasonable preservation of the view of the river corridor from other properties and by the public and the walling off of views of the river corridor from other properties and public rights of way has been minimized.
 - F. Erosion and sedimentation controls shall make maximum use of natural in-place vegetation rather than the placing of new vegetation on site as erosion control facilities. The use of natural erosion control devices shall be preferred to the maximum extent over the construction of artificial drainage devices including culverts, holding ponds, and ditches. Erosion and sedimentation controls shall not be inconsistent with MPCA best management practices.
 - G. The development shall be located in such a manner as to minimize the removal of vegetation and alteration of the natural topography.
 - H. The grades of streets shall not exceed eight (8) percent.
 - I. The applicant shall demonstrate that there are no feasible or prudent alternatives to cutting trees on the site; and if trees are cut, the density of trees shall be restored to that which existed before development. The applicant shall demonstrate that all grading which takes place will be conducted in a manner that preserves the root zone, aeration and stability of existing trees and provides an adequate watering area equal to at least one-half (1/2) of each tree's crown cover.
 - J. The applicant shall demonstrate that the types and densities of land use proposed shall be suited to the site and soil conditions and shall not present a threat to the maintenance of the groundwater quality, a potential increase in maintenance cost of roads, and shall not be subject to problems due to soil limitations, including, but not limited to soil bearing

strength, shrink/swell potential, and excessive frost movement.

- K. The quality of water runoff and water infiltrated to the water table or aquifer shall be undisturbed after development to the maximum extent practicable.
- L. The proposed development shall be consistent with local and regional transportation systems.
- M. The proposed development shall not lessen existing public access to and along the riverbank, nor shall it lessen public opportunity to view the river from within the corridor.
- N. Adequate parking facilities shall be provided to service the proposed development. The construction of said parking facilities shall be consistent with the character of the river corridor screened from river view by natural vegetation, and not in excess of that reasonably foreseen to be required by the development proposal.
- O. The conduct of all grading, landscaping, structure placement, and street routing shall be consistent with and to the maximum extent in furtherance of the goals and policies for the development of the river corridor in the Mississippi River Critical Area Plan.

SECTION 4.

RURAL OPEN SPACE OVERLAY DISTRICT DESIGNATION

- 4.01 **Rural Open Space Overlay District Established.** That portion of the Mississippi River Corridor located in Denmark Township is hereby established as an overlay district and will be regulated consistent with the performance standards in Executive Order No. 79-19 as Rural Open Space.
- 4.02 The boundaries of the Mississippi River Corridor and the rural open space district include all of the land riverward of the boundary line described in Executive Order No. 70-19 and as shown on the map designated as the official zoning map for the Township.
- 4.03 Boundaries of the Mississippi River Corridor and the rural open space district on the map designated as the official zoning map for the Township is made a part of this ordinance and is on file with the Town Clerk.

SECTION 5.

OVERLAY DISTRICT DIMENSIONAL REQUIREMENTS

- 5.01 **Objectives.** In addition to the general purpose of this Ordinance, the objectives of Dimensional Requirements are: to maintain the aesthetic integrity and natural environment of certain districts, to reduce the effects of poorly planned shoreline and bluffline development, to provide sufficient setback for sanitary facilities, to prevent pollution of surface and ground water, to minimize flood damage, to prevent soil erosion, and to

implement local and regional development guidelines in the Corridor.

5.02 **Substandard lot.** A proposed new structure or changes to an existing structure on a substandard lot maybe approved when the following findings are made:

- A. The lot was recorded in the Office of the County Recorder prior to the effective date of Executive Order No. 130, November 23, 1976, designating the Mississippi River Corridor Critical Area.
- B. The lot was in separate ownership from all abutting land on November 23, 1976.
- C. The proposed use is consistent with the provisions of this Ordinance and other Township ordinances.
- D. It can be demonstrated that a proper and adequate individual sewage treatment system can be installed according to MPCA rules Chapter 7080.
- E. The lot size is within sixty (60) percent of the size required in the Denmark Township Zoning Ordinance.

5.03 **Lot size.** The minimum lot size and density in the rural open space district shall be consistent with the Denmark Township Zoning Ordinance.

5.04 **Structure setback.**

- A. All new structures and roads shall be setback a minimum of 200 feet from the ordinary high water line of the Mississippi River and a minimum of 100 feet form the bluffline.
- B. Exceptions to setback provisions shall be:
 - 1. public safety facilities, public bridges and their roadway approaches, railroad sidings, barge facilities , minor public and private roadways serving water related uses on the riverfront;
 - 2. public recreation facilities, scenic overlooks, public observation platforms, and the regional trail system, docks, boat launching facilities;
 - 3. approved river crossings of essential service, and essential services distribution systems which are primarily underground except for terminal and metering devices not exceeding six feet in height, and supporting structures for transmission crossing spans;
 - 4. the construction of aboveground pumping stations for sewer lines which shall be screened from view of the river;
 - 5. the reconstruction or restoration of historical structures or sites on the inventory of the State Historical Society or the National Register of Historic Places.

- 5.05 Heights of structures.** New structures and additions to existing structures shall be limited to a maximum of 35 feet, with exception to the following:
- A. Barns, silos and similar farm structures;
 - B. Essential service distribution systems;
 - C. Bridges, bridge approach roadways, and transmission services;
 - D. Restoration or reconstruction of historical structures and sites on the inventory of the State Historical Society or the National Register of Historic Places.
- 5.06 Placement of structures.** Unless otherwise indicated, the following standards shall apply to the placement of structures.
- A. No new structures except conveyors, pipelines and transmission services shall be placed on slopes which are 18 percent or greater;
 - B. Structures may be permitted on slopes in excess of 12 percent, but not greater than 18 percent, when the conditions of Section 3 of this ordinance are met.
 - C. Structure placement shall also be governed by the Washington County floodplain ordinance and Shoreland Management Ordinance.
 - D. No development shall be permitted on presently undeveloped islands, except those developments specifically related to wildlife preservation, recreation open space uses and other water related uses.
- 5.07 Line of Sight.** The development of permitted uses shall be allowed if not be seen from the ordinary high water level on the opposite side of the Mississippi River. Water related uses shall not be subject to this requirement.

SECTION 6.

PERMITTED USES IN RURAL OPEN SPACE OVERLAY DISTRICT

- 6.01 Residential development.** Residential development shall be permitted consistent with the underlying zoning district regulations and other requirements of this ordinance.
- 6.02 Commercial and Industrial uses.** Commercial and industrial uses shall be permitted consistent with the underlying zoning district regulations and other requirements of this ordinance; provided further that, such uses do not require any premature extension so metropolitan services or infringe on regional parks or open spaces.
- 6.03 Agricultural uses.** Agricultural uses, except new feedlots, shall be permitted.

- 6.04 **Recreational uses.** Recreational uses shall be permitted consistent with underlying zoning district regulations and the requirements of this ordinance.
- 6.05. **Signs.** All signs shall be regulated according to the Denmark Township Zoning Ordinance, provided that no general advertising sign may be seen from the river.
- 6.4 **Mining and extraction.** Mining and extraction shall not be permitted in the Corridor.

SECTION 7. SPECIFIC PERMITTED PUBLIC FACILITIES

- 7.01 **Transmission Services.** The construction of new and reconstruction of existing transmission services shall meet the following standards:
- A. Transmission services of under 200 kilovolts, which cross lands within the River Corridor shall meet the standards set forth in this section.
 - B. When routing transmission services of fewer than 200 kilovolts, the following shall be avoided where practicable:
 - 1. steep slopes;
 - 2. scenic intrusions into streams, valleys, and open exposures of water;
 - 3. scenic intrusions into areas such as ridge crests and high points;
 - 4. creating tunnel vistas by, for example, building deflections into the route;
 - 5. wetlands;
 - 6. forests by running along fringe rather than through them. If necessary to route through forests, utilize open areas in order to minimize cutting;
 - 7. soils susceptible to erosion, which would create sedimentation and pollution problems;
 - 8. areas of unstable soils which would be subject to extensive slippage
 - 9. areas with high-water tables, especially if construction requires excavation;
 - 10. open space recreation areas.
 - C. Transmission services shall be subject to the Dimensional Standards and Criteria in Section 5, except at crossing points.
 - D. Structure design of transmission services. With regard to locating the utility, overhead

or underground:

1. primary considerations shall be given to underground placement in order to minimize visual impact. When considering overhead placement, the proposers shall explain the economic, technological or land characteristic factors which make underground placement infeasible. Economic considerations alone shall not justify overhead placement.
 2. if overhead placement is necessary, the crossing should be hidden from view as much as practicable;
 3. with regard to the appearance of the structures, they shall be made as compatible as practicable with the natural area pertaining to structure height and width, materials used, and color;
 4. with regard to the width of the right of way, the cleared portion of the right of way should be kept to a minimum;
 5. the location shall be in or adjacent to existing transmission service corridors whenever practicable.
- E. In the construction of transmission services, the following guidelines shall be applied whenever practicable:
1. construction in wetlands shall minimize damage to vegetation, prevent erosion and sedimentation;
 2. construction shall be undertaken at times when local fish and wildlife are not spawning or nesting;
 3. effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and adjacent lands;
 4. the location shall be in or adjacent to existing transmission service corridors whenever practicable.
- F. Developers must adhere to applicable Federal and State safety regulations; both with regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill clean-up).
- G. Government employees and private contractors shall maintain public rights-of-way in the following manner:
1. If possible, natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way;

2. Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and low growing trees, shall be planted and maintained on the right of way;
3. Chemical control of vegetation should be avoided when practicable, but where such methods are necessary, chemicals used and the manner of their use must be in accordance with rules, regulations, and other requirements of all state and federal agencies with authority over the use.

7.02 **Pipelines.** Pipeline facilities shall be permitted, subject to the following standards:

- A. All pipelines and underground facilities shall be subject to the site planning requirements set forth in Section 3 and other requirements of this Ordinance.
- B. The facilities shall be located so as to minimize damage to wetlands, vegetation, and woodlands, and prevent soil erosion and sedimentation.
- C. All underground placing of facilities and pipelines shall be followed by revegetation and rehabilitation to the conditions that existed on site prior to development.
- D. All pipelines shall be located in or adjacent to existing pipeline corridors whenever practicable.

7.03 **Essential Services and Public Safety Facilities.**

- A. Essential services and public safety facilities are permitted subject to the site planning requirements set forth in Section 3 and other requirements of this Ordinance.
- B. New essential services and public safety facilities shall be compatible in height, scale, building materials and landscaping with the natural environment in the Mississippi River Corridor.

7.5 **Transportation Facilities.** The construction or reconstruction of all public transportation facilities and railroads shall be permitted in both districts, subject to the following standards and criteria:

- A. The following guidelines shall be applied whenever practicable in selecting routes for public transportation facilities and railroads:
 1. careful consideration should be given to the provision of scenic overlooks for motorists, safe pedestrian crossing and safe pedestrian pathways along the river;
 2. if possible, provide access to the riverfront, in public ownership, and allow reasonable public use of the land between the river and the transportation facility;
 3. steep slopes shall be avoided;

4. scenic intrusion into stream, valley, and open exposures of water shall be avoided;
 5. scenic intrusion into areas such as ridge crests and high points shall be avoided;
 6. wetlands shall be avoided;
 7. run along fringes of forests rather than through them and utilize open areas in order to minimize clear cutting;
 8. soils whose high susceptibility to erosion shall be avoided;
 9. areas of unstable soils which would be subject to extensive slippage shall be avoided;
 10. areas with high water tables, especially if construction requires excavation, shall be avoided;
 11. locate new roads to avoid cuts and fills and blend into the natural terrain so that it appears to be a part of the natural landscape;
 12. open space recreation areas shall be avoided.
- B. Public transportation facilities and railroads shall be subject to the Dimensional Standards and Criteria in Section 5, except at crossing points.
- C. The following guidelines shall be applied when practicable in constructing public transportation facilities and railroads:
13. Reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect on the natural beauty and environment of the river;
 14. Effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of the river and its adjacent lands;
 15. Construction across wetlands shall take place in a manner consistent with the Wetland Conservation Act and which minimizes damage to vegetation, and in a manner preventing erosion and sedimentation;
 16. Construct at times when local fish and wildlife are not spawning or nesting.
- D. Developers must adhere to applicable Federal and State safety regulations with regard to new public road construction or reconstruction of an existing public road.
- E. The following guidelines shall be applied when practicable for right of way maintenance:
1. if possible, natural vegetation of value to fish or wildlife, and which does not pose a safety hazard, shall be allowed to grow in the roadside right of way;

2. where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees shall be planted and maintained on the road side right of way;
3. chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all State and Federal agencies with authority over their use.

7.07 **Barge facilities.** No new barge slips or barge fleeting areas shall be permitted.

SECTION 8. EARTHWORK AND VEGETATION

8.01 **Grading and Filling.** The following provisions shall apply to grading and filling:

- A. Grading, filling, excavating, or otherwise changing the topography landward of the ordinary high water level shall not be conducted without a permit. All grading and filling activities requiring a permit shall comply with the site planning standards in Section 3 of this Ordinance.
- B. A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a building site, essential services, sewage disposal systems, and private road and parking areas undertaken pursuant to a validly issued building permit.

8.02. **Vegetation Management.**

- A. On developed islands, public recreation lands, the slope or face of bluffs, within 200 feet of the ordinary high water level of the river, and within the area 40 feet landward from bluff-lines, clear cutting shall not be permitted;
- B. On all other lands, clear-cutting shall be guided by the following provisions:
 1. clear-cutting shall be conducted only where clear cut blocks, patches or strips are, where practicable, shaped and blended with the natural terrain;
 2. the size of clear cut blocks, patches, or strips shall be kept at the minimum necessary;
 3. 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.

- C. The selective cutting of trees greater than 6" in diameter is permitted when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.
- D. These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of facilities, essential services and utility transmission services which are permitted uses.

SECTION 9. GENERAL PROVISIONS

9.1 Non-conforming Uses and Structures.

- A. Any structure or use existing upon the effective date of this Ordinance which does not conform to the restrictions of a particular use district shall automatically continue as a non-conforming structure or use.
- B. Whenever a non-conforming building or structure has been damaged by fire, flood, explosion, earthquake, war, riot, or other disaster, it may be reconstructed when the damage to the building or structure is fifty percent (50%) or less of its fair market value. Where the damage is more than fifty percent (50%), reconstruction shall not be permitted for any structure that does not meet the minimum required standards of this ordinance.
- C. When any non-conforming use of a building or structure has been changed to a conforming use, it shall not be changed to a non-conforming use.
- D. If a non-conforming use is discontinued for six (6) consecutive months, any future use of the building or premises shall conform to this Ordinance.

9.2 Sanitary Standards and Criteria. The following standards shall apply:

- A. All parts of individual sewage treatment systems shall be setback at least 75 feet from the ordinary high-water level.
- B. No individual sewage treatment systems shall be placed within designated floodplains.
- C. No person, firm or corporation shall install, alter, repair or extend any individual sewage treatment system without first obtaining a permit from the Township for the specifically approved installation, alteration, repair or extension.

9.03 Marinas and Boat Launching Ramps

- A. Boat launching ramps shall be permitted subject to the following:
 - 1. boat launching ramps may be located only where access streets are adequate to

handle the traffic load generated by the facility.

2. shared or joint use accessory parking will be preferred. Loading will be permitted only at ramps. Parking areas must be screened from the river and adjoining residential property and located at least 25 feet from the ordinary high-water level.
3. the impact of the accessory parking must not adversely effect the environmental quality of the site or the surrounding land uses.
4. boat launching ramps and minor accessory buildings and haul-off facilities must be in character and scale with the surrounding land uses and intent of the Mississippi River Corridor designation.

B. Public marinas shall be permitted subject to the following:

1. the marina must have approved lavatory facilities, adequate to serve the marina clientele.
2. off street parking areas should be provided in accordance with the requirements set for boat launching ramps.
3. areas for the winter storing of boats should be naturally screened from view from the river and from upland lots.
4. the marina shall be designed for and used only by pleasure craft.
5. maximum height of any buildings or structures shall be 35 feet.
6. Accessory uses customarily incidental to public marinas including fueling stations may be permitted providing they are consistent in scale and intensity with the marina and surrounding uses and meet required standards of the Department of Natural Resources, Pollution Control Agency and the U.S. Army Corps of Engineers.

9.04 **Riverfront Uses.** Riverfront uses shall be preferred in the following order:

- A. Water related;
- B. Non-water related with public pedestrian access;
- C. Non-water related without public pedestrian access.

9.05 **Pilings, Dredging, and Filling.** No pilings shall be driven into the riverbed except as is necessarily incident to water dependent uses. Landfill and dredging shall not be permitted except as incident to a water-dependent use when no feasible alternative exists. Dryland disposal of dredge spoils shall be authorized only on shore sites that contain no unique or valuable resources. Dryland disposal of dredge spoils shall be subject to the site planning requirements set forth in Section 3 and permitting of State and federal agencies.

SECTION 10. SUBDIVISIONS

- 10.1 **Land Suitability.** No land shall be subdivided which is found by the Township to be unsuitable for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewer disposal 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. The Township in applying the provisions of this section shall in writing cite the particular features upon which it bases its conclusions that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a public hearing. Thereafter the Township may affirm, modify, or withdraw its determination of unsuitability.
- 10.02 All subdivision of property shall comply with the applicable provisions of the underlying zoning district standards and subdivision regulations of the Township.
- 10.03 The minimum density for residential development shall be consistent with the Denmark Township Comprehensive Plan and Critical Area Plan.

SECTION 11. ADMINISTRATION

- 11.01 **Procedures.** In addition to applicable administrative procedures set forth in the Denmark Township Zoning Ordinance, the following procedures shall be implemented with respect to land use, subject to this ordinance.
- A. A public hearing shall be held by the Township for all underlying zoning district amendments, Critical Area Corridor district amendments, plats, conditional uses, and variances.
- B. The Township shall notify the Department of Natural Resources (DNR) of applications for developments filed with the Township for the following:
1. Application for the amendment of the Corridor district boundary.
 2. An amendment to this Ordinance.
 3. Any action in the Critical Area Corridor requiring a condition use permit (CUP).
 4. Any development financed at least fifty percent (50%) or more by any governmental unit.
 5. Any development that is inconsistent with the Denmark Township Comprehensive Plan, Critical Area Plan, Zoning Ordinance and this Ordinance.

6. Any development involving the alteration of:
 - a. a wetland;
 - b. a floodplain;
 - c. an island;
 - d. a slope greater than twelve percent (12%);
 - e. the removal of five (5) contiguous acres or more of vegetative cover;
 - f. the grading or filling of twenty (20) contiguous acres or more of land;
 - g. the deposit of dredge spoil;
 - h. more than fifty (50) linear feet of a riverbank.
 7. Any structure or facility that crosses the river.
 8. Any development requiring a permit for discharge into or withdrawal of water from the Mississippi River.
 9. Any development involving a formal Metropolitan Council review.
- C. The Town Board shall withhold any action for thirty (30) days to give due consideration to the comments received from the DNR, concerning the application, in making its decision.
 - D. Within 10 days after the final action, the Town Board shall notify the DNR of its final action on the application.
 - E. The applicant for any permit or action requiring a public hearing shall submit to the Township at least 30 days prior to such hearing, an abstract or certificate showing the names and addresses of all property owners within 300 feet of the property.
 - F. Notice of the purpose, time, and place of any such public hearing shall be mailed to all property owners by the Township at least ten (10) days prior to the date of the hearing.
 - G. Notice of the purpose, time and place of any such public hearing shall be published in the official newspaper at least ten (10) days prior to the date of the hearing and posted at the Town Hall.

11.02 **Variances.**

- A. Variances shall only be granted where there are particular hardships that make the strict enforcement of this Ordinance impractical. Hardship means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this Ordinance; the plight of the landowner is due to circumstances unique to his property, not created by the landowner after the adoption of this Ordinance; the variance, if granted, will not alter the essential character of the locality; and the variance is not inconsistent with the intent of this Ordinance. In addition, no variance shall be granted that would permit any use that is specifically prohibited in this Ordinance. Conditions may be imposed in the granting of a variance

to insure compliance and to protect adjacent properties and the public interest, especially in regard to the view from the river.

- B. The formal procedure and public hearing for a variance shall be met as established in the Zoning Ordinance.

11.03 **Conditional Uses.**

- A. Conditional uses may be considered when the proposed use is consistent with the Denmark Township Comprehensive Plan and Critical Area Plan; the proposed use is compatible with the existing uses in the immediate vicinity; the use is a conditional use in the underlying district regulations of the Zoning Ordinance; and the use is not inconsistent with the intent of this Ordinance.
- B. The formal procedure and public hearing for a conditional use shall be met as established in the Zoning Ordinance.

11.04 **Requirements of the Applicant for a Public Hearing.**

- A. The applicant shall submit sufficient copies of the following information and additional information as requested to the Township thirty (30) days prior to the public hearing on the application for a variance platting of property, and rezonings:
 - a. Property survey showing the property location, boundaries, dimensions, elevations, blufflines, utility and roadway corridors, the ordinary high water mark, floodway and floodplain.
 - b. The most recent aerial photo of the property with property lines drawn in.
 - c. Location of existing and proposed structures including height and setback dimensions.
 - d. Location of existing and proposed alterations of vegetation and topography.
 - e. Adjoining water related uses.
 - f. Suitability of the area for individual sewage disposal. Type, size, and location of the system shall be indicated.
- B. **Factors to be Considered.** When considering a proposal or zoning amendment within the Mississippi River Corridor, the Township shall address the following items in making its decisions:
 - 1. Preserving the scenic and recreational resources of the Mississippi River Corridor, especially in regard to the view from and use of the river.
 - 2. The maintenance of safe and healthful conditions.
 - 3. The prevention and control of water pollution, including sedimentation.
 - 4. The location of the site with respect to flood-ways, floodplains, wetlands, slopes, and bluff-lines.

SECTION 12.
VIOLATIONS AND PENALTIES

- 12.01 Any person who violates or fails to comply with any provisions of this ordinance shall be guilty of a misdemeanor and upon conviction may be punished by the maximum fine and imprisonment allowed by law. For each day the violation continues, a separate offense shall be declared.
- 12.02 In the event of a violation or threatened violation of this Ordinance, the Township may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations and it is the duty of the Township Attorney to institute such action.

SECTION 13.
VALIDITY

- 13.01 Should any section, subdivision or provision of this ordinance be declared by the Court to be invalid such decision shall not affect the validity of this ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION 14.
EFFECTIVE DATE

- 14.01 This ordinance shall take effect on its adoption and publication.

Adopted this _____ day of _____, 1999.

DENMARK TOWNSHIP

BY:

Kathy Higgins, Chair

ATTEST:

Helen Schneider, Clerk