

Mississippi River Corridor Critical Area – A Brief History and Overview

The Critical Areas Act was enacted in 1973 by the Minnesota State Legislature (Minnesota Statutes, Chapter 116G) to help protect and preserve the historic, cultural and aesthetic values or natural systems that perform functions of greater than local significance that could result in irreversible damage to these resources, decreasing their value and utility for public purposes, or unreasonably endanger life and property. Pursuant to the statutes, the Environmental Quality Board adopted rules to implement the Act (Minnesota Rules, part 4410.8100 – 4410.9910.)

The 72-mile metropolitan Mississippi River and its adjacent corridor was designated a permanent State Critical Area in 1976 by Executive Order of Governor Wendell Anderson and reaffirmed by Governor Albert Quie in 1979 through Executive Order 79-19.

Also in 1979, the Metropolitan Council approved the permanent designation of the Mississippi River Corridor Critical Area.

In 1988 Congress established the Mississippi National River and Recreation Area (MNRRA) with the same boundaries as the Mississippi River Critical Area.

In 1991, the Minnesota Legislature designated the Mississippi National River and Recreation Area (MNRRA) as a state critical area in accordance with the Minnesota Statutes.

In 1995, the Minnesota Environmental Quality Board (EQB) transferred management of the Mississippi River Critical Area Corridor to Minnesota Department of Natural Resources.

Purposes/Intent of the Mississippi River Corridor Critical Area Designation

1. To protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety, and welfare of the citizens for the state, region, and nation.
2. To prevent and mitigate irreversible damage to this state, regional, and national resource.
3. To preserve and enhance its natural, aesthetic, cultural, and historic values for the public use.
4. To protect and preserve the river as an essential element in the national, state, and regional transportation, sewer and water, and recreational systems.
5. To protect and preserve the biological and ecological functions of the corridor.

Corridor Boundary and District Definitions

The Mississippi River Critical Area Corridor extends from the northern borders of the cities of Dayton and Ramsey to the southern boundary of Dakota County on the west/south side of the river and the boundary with the Lower St. Croix National Scenic Riverway on the east/north side of the river. The boundaries of the Mississippi River Critical Area and that of MNRRA are the same.

In order to manage the river corridor consistent with its natural characteristics and its existing development, Executive Order 79-19 established guidelines for four corridor districts:

- **Rural open space district.** The lands and waters within this district shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. Presently undeveloped islands shall be maintained in their existing natural state. The transportation function of the river shall be maintained and preserved.
- **Urban diversified district.** The lands and waters within this district shall be used and developed to maintain the present diversity of commercial, industrial, residential and public uses of lands, including the existing transportation use of the river; to protect historical sites and areas, natural scenic and environmental resources; and to expand public access to and enjoyment of the river. New commercial, industrial, residential, and other uses may be permitted if they are compatible with these goals.
- **Urban development district.** The lands and waters within this district shall be maintained largely as residential areas. The expansion of existing and development of new industrial, commercial, and other non-residential or non-recreational uses shall be limited to preserve and enhance the residential character of this district.
- **Urban open space district.** The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historic resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected.

Preparing Critical Area Plans and Regulations

The Mississippi River Corridor shall be managed as a multiple-purpose resource by:

- Maintaining the river channel for transportation and providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the river and riverfront.
- Conserving the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor.
- Providing for the continuation and the development of a variety of urban uses, including industrial and commercial uses, and residential, where appropriate, within the river corridor.
- Utilizing certain reaches of the river as a source of water supply and as a receiving stream for properly treated sewage and industrial waste effluents.

The critical area program requires local units of governments and state and regional agencies to prepare or modify plans and regulations affecting lands within the critical area corridor.

Consistent with the standards and guidelines in Executive Order 79-19, these must address land use and development, resource protection (especially riverbanks, bluffs, runoff, site alteration, vegetation, water quality, wetlands and floodplains), aesthetic quality protection, surface water uses, open space and recreation, view preservation and erosion.

Applying and Enforcing Critical Area Standards and Guidelines

Local units of government (LGU) and regional agencies are required to adopt critical area plans (CAP) and regulations to be consistent with Executive Order 79-19, and to update their plans every two years. Once plans are approved, LGUs may permit development in the corridor only in accordance with those adopted plans. Prior to adopting a plan, an LGU must comply with the interim development guidelines spelled out in the executive order. LGUs are also required to write ordinances to enforce their critical area plans and to include the adopted standards within their zoning code.

Prior to 1995, plans were reviewed and approved by the EQB. Since the transition to DNR authority, all LGUs within the corridor (except for Cottage Grove) have DNR-approved plans. DNR has authority to approve or deny critical area plans, plan amendments and ordinances.

The DNR, MNRRA and the Met Council provide technical assistance in developing plans, revising plans, and writing ordinances to enforce their adopted plans.

In communities where critical area plans and ordinances have become effective, the LGU must notify the DNR area hydrologist at least 30 days before action is taken for all development applications or variances requiring a public hearing or discretionary action. The DNR (or MNRRA) frequently will testify at these public hearings, but the LGU sometimes chooses not to comply with their recommendations regarding variances. Notice of the final action must be sent to the DNR.

Presently, if an LGU fails to contact DNR regarding public hearings, chooses to ignore comments or objections of DNR regarding variances, or neglects to notify DNR of their final action, the only enforcement option available to the DNR is taking the community to District Court. Any citizen or group with standing can also take the LGU or the DNR to court for failing to uphold state critical area law.

The DNR has the authority to adopt a new Mississippi River Corridor Critical Area rule, which could potentially improve their enforcement ability.