

**MARINE ON ST. CROIX CITY CODE**  
**City of Marine on St. Croix**  
**State of Minnesota**

**Compiled and Published by Authority**  
**Of the Mayor and Council of the**  
**City of Marine on St. Croix**

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**Marine on St. Croix City Code**

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## **EXPLANATION OF MARINE ON ST. CROIX CITY CODE**

**CHAPTER 1. GENERAL PROVISIONS** primarily consists of new administrative provisions. This chapter provides general definitions and procedures. The code format is specified as well as procedures for adding new ordinances to the code. Section 1.05 is a penalty provision applying throughout the code, thus codifying Ordinance Number 35, fixing the penalty for violation of any ordinance. Another new ordinance, Section 1.07, provides for the historical preservation of ordinances and documents.

**CHAPTER 2. CITY ADMINISTRATION** codifies as Section 2.01, Bonds of City Officers, a version of the ordinance dated February 24, 1913, Fixing Penalty of Official Bonds of Village Officers. All bonds are eliminated except those currently required. Section 2.02, Planning Commission, codifies Ordinance Number 34.

**CHAPTER 3. FIRE/RESCUE DEPARTMENT** codifies as Section 3.01, Fire Department Organization and Regulation, Ordinance Number 33. Section 3.02, Prevention of Wood and Grassland Burning, codifies Ordinance Number 2A-1959.

**CHAPTER 4. STREETS, ALLEYS AND SIDEWALKS** codifies as same. Street assessment policy rescinded on 1/11/1990. Ordinance Number 133, amended to add 4.04 Subdivision 1. September 29, 2008

**CHAPTER 5. DOGS AND OTHER ANIMALS** codifies as Section 5.01, Dogs, Licensing and Other Provisions, Ordinance Number 23, Licensing and Regulation Dogs and Ordinance Number 28, Providing for Impounding and Destruction of Dogs Running at Large and Ordinance Number 48, Changing Licensing Issuance Date and Fee Schedule. 5.02 Chickens on Parcels Less than 5 Acres, codifies Ordinance Number 143.

**CHAPTER 6. GARBAGE AND RUBBISH** codifies as Section 6.01, Garbage and Refuse Collection and Disposal, Ordinance Number 32 covering the same matter.

**CHAPTER 7. OFFENSES AGAINST THE PUBLIC** codifies as Section 7.01, Disturbing the Peace and Other Offenses, the ordinance regulating the same date February 24, 1913.

**CHAPTER 8. NUISANCES** codifies as same, the ordinance regulating the same dated June 11, 1981. Ordinance Number 142, amending subd.4,(1)Regulating Snow Removal and Placement in Streets and Sidewalks. December 12, 2012.

**CHAPTER 9. LICENSES, PERMITS AND PROHIBITIONS** codifies as Section 9.01, Firearms, Use and Unlawful Discharge, Ordinance 1-A-59, Relating to Firearms. Section 9.02, Licensing of Bowling Alleys and Billiard Halls, codifies the Ordinance, dated February 24, 1913, Relating to Bowling Alleys and Billiard Halls. Section 9.03, Licensing of Amusements, codifies the Ordinance to License Amusements dated February 24, 1913.

**CHAPTER 10. LIQUOR** codifies as Section 10.01, Licensing and Regulating Liquor Sales and Consumption, Ordinance Number 30 of the same name. Ordinance Number 139, amending Section 10.03. March 31, 2010.

**CHAPTER 11. CITY PROPERTY** codifies as Section 11.01, Oakland Cemetery, the Ordinance of February 24, 1913 relating to the Village Cemetery.

**CHAPTER 12. ELECTIONS** codifies as Section 12.01, Registration of Voters, Ordinance Number 31, Providing for Registration Voters. Section 12.02 codifies Ordinance Number 37, Providing for Even Year Elections Regulating Initial Terms of Office.

**CHAPTER 13. TRAFFIC** codifies as Section 13.01, Minnesota Highway Traffic Regulation Act Adopted, Ordinance Number 22, Regulating Use of Highways within the Village. One change has been made to provide for future amendments to the State Act to be incorporated by reference into the City Ordinance by changing two words, “as amended by the Laws of 1967” to “as subsequently amended.” Section 13.02, Unreasonable Acceleration, adds a new provision to the code.

**CHAPTER 14. SNOWMOBILES** codifies as Section 14.01, Snowmobile Regulations, Ordinance Number 25, Regulating the Operation and Use of Snowmobiles and Penalty thereof.

**CHAPTER 15. BUILDING REGULATION** codifies as Section 15.01, Building Code, Ordinance Number 40, Adopting State Building Code.

**CHAPTER 16. TREES** codifies as Section 16.01, Shade Tree Program, Ordinance Number 42, Establishing a Shade Tree Program, and Regulation of Certain Diseases Affecting Trees.

**CHAPTER 17. DEVELOPMENT CODE** codifies the same, thus providing a Zoning Ordinance, a Subdivision Ordinance, a Sewer System Ordinance, and a Bluffland and Shoreland Ordinance.

**CHAPTER 18. OFFENSES AGAINST HEALTH & SAFETY** codifies as Section 18.01, Leghold Trap Regulation, Ordinance Number 42a, regulating the use of leghold traps and trapping with same.

**CHAPTER 19. SEWER USE** codifies as same, Ordinance Number 49, thus regulating the use of public and private sewers and drains and regulates private sewage disposal; regulates the installation and connection of building sewers, provides and regulates for the discharge of waste into the public sewer system; provides for the operation and maintenance of the community sewage facilities; provides for the levying of charges for wastewater services and provides penalties for the violation of the ordinance.

**CHAPTER 20. SEWER RATE** codifies as same, Ordinance Number 50, thus regulate the rate of charges for Wastewater Services.

**CHAPTER 21. FLOOD PLAIN ORDINANCE** codifies as same, Ordinance Number 51. This ordinance defines and delineates the Flood Plain, and provides for limitations on and for the regulation of activities, uses and building that can take place or be constructed on the flood plain. This ordinance contains zoning and subdivision controls within the flood plain, and provides that the penalty for violation of the flood plain ordinance is a misdemeanor. Ordinance Number 138 amending Chapter 21 February 5, 2010.

**CHAPTER 22. PERSONNEL POLICY ORDINANCE** Codifies as same, Ordinance Number 114, establishing a uniform system of personnel administration for employees of the City.

**CHAPTER 23. CURFEW ORDINANCE** codifies as same Ordinance Number 69, setting curfew hours for minors under the age of eighteen (18).

**CHAPTER 24. WINTER ON STREET PARKING** codifies as same, Ordinance Number 71, setting on street parking restrictions.

**CHAPTER 25. ADULT USES** codifies as same, Ordinance Number 111, for the purpose of setting regulations for businesses or commercial enterprises, which operate adult uses.

**CHAPTER 26. OUTDOOR ENTERTAINMENT** codifies as same, Ordinance Number 126, setting permit requirements and application procedures for outdoor entertainment activities.

**CHAPTER 27. WATER REGULATIONS** codifies as same, Ordinance Number 134. November 27, 2008

**CHAPTER 28. City Right of Ways** codifies as same, Ordinance Number 136. August 10, 2009

**CHAPTER 29. Trails** codifies as same, Ordinance Number 137.

## **CHAPTER 1 GENERAL PROVISIONS**

### **1.01. CITY CODE.**

Subd. 1. **HOW CITED.** This Code of ordinances shall be known as the Marine on St. Croix City Code and may be so cited.

Subd. 2. **ADDITIONS.** New Ordinances proposing amendments or additions to the code shall be assigned appropriate code numbers and shall be incorporated into the code as of their effective date. Reference or citation to the code shall be deemed to include such amendments or additions. When an ordinance is integrated into the code, there may be omitted from the ordinance the title, enacting clause, numbers, definitions of terms identical to those contained in the ordinance, the clause indicating date of adoption and validating signatures and dates. In integrating ordinances into the code, the clerk, in cooperation with the city attorney, may correct obvious grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, subdivisions and chapters; substitute figures for written words and vice versa; substitute dates for the words "the effective date of this ordinance"; and perform like actions to insure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.

Subd. 3. **NUMBERING.** Each section number of this code consists of two component parts separated by a decimal. The first digit of the number refers to the chapter number and the digits after the period refer to the position of the section within the chapter.

Subd. 4. **COPIES.** Copies of this code shall be kept in the office of the clerk for public inspection or sale for a reasonable charge.

### **1.02. DEFINITIONS.**

Subdivision 1. **GENERAL.** Unless the context indicates otherwise, the following words and phrases have the meaning given them in this section.

Subd. 2. **CITY.** "City" means City of Marine on St. Croix.

Subd. 3. **STATE.** "State" means State of Minnesota.

Subd. 4. **COUNCIL.** "Council" means the City Council.

Subd. 5. **CLERK.** "Clerk" mean the City Clerk.

Subd. 6. **PERSON.** "Person" means any natural individual, firm, partnership, association, or corporation. As applied to partnership or association, the term includes the partners or members; as applied to corporations the term includes the officers, agents or employees.

### **1.03. STATUTORY RULES ADOPTED.**

The definitions and rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in Minnesota Statutes, chapter 645 are adopted by reference and made a part of this code. As so adopted, references in that chapter to laws and statutes mean provisions of this code and reference made by this code. As so adopted, reference in that chapter to laws and statutes mean provisions of this code and reference to the legislature mean the Council.

### **1.04. EXISTING RIGHTS AND LIABILITIES.**

The repeal of prior ordinances and the adoption of this code are not to be construed to affect in any manner rights and liabilities existing at the time of repeal and the enactment of this code. Insofar as provisions in this code are substantially the same as pre-existing ordinances, they shall be considered as continuations thereof and not as new enactments. Any act done, offense committed, or right accruing, or liability, penalty, forfeiture or punishment incurred or assessed prior to the affective date of this code is not affected by the enactment of the code.

### **1.05. PENALTIES.**

Subdivision 1. **PETTY MISDEMEANOR.** Whenever an act or omission is declared by this code to be a petty misdemeanor, any person violating the provision shall, upon conviction be subject to a fine of not more than \$100.00.

Subd. 2. **MISDEMEANOR.** "Misdemeanor" means a crime for which a sentence of not more than 90 days or a fine of not more than \$500, or both, may be imposed. Unless another penalty is expressly provided in this code, any person violating any provision of this code, or any rules or regulation adopted in pursuance thereof, or any other provision of any code adopted in this code by reference, including any provision declaring any act or omission to be a misdemeanor, shall upon conviction, be subject to the above misdemeanor penalty.

Subd. 3. **SEPARATE VIOLATIONS.** Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.

Subd. 4. **APPLICATION TO CITY PERSONNEL.** The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation unless a penalty is specifically provided for such failure.

### **1.06. SEPARABILITY.**

If any ordinance or part thereof in the Marine on St. Croix City Code or hereafter enacted is held invalid or suspended, such invalidity or suspension shall not apply to

any other part of the ordinance or any other ordinance unless it is specifically provided otherwise.

**1.07. PRESERVATION OF ORDINANCES.**

Subdivision 1. **PURPOSE.** The purpose of this ordinance is to preserve documents belonging to the City of Marine on St. Croix for their historical significance.

Subd. 2. **CITY CLERK.** It shall be the duty of the City Clerk of the City of Marine on St. Croix to preserve, where feasible, originals and copies of the ordinances and other significant documents of the City of Marine on St. Croix, regardless of the current operability, when the Clerk deems said items to be of historical significance.

## **CHAPTER 2 CITY ADMINISTRATIONS**

### **2.01. BONDS OF CITY OFFICERS.**

Subdivision 1. The City Council of Marine on St. Croix requires the City Clerk and the Treasurer to furnish a bond conditioned for the faithful exercise of their respective duties and the proper applications of, and payment upon demand of, all money officially received by the officer.

Subd. 2. The amount of the bond for the City Clerk shall be \$2,000.00. The amount of the bond for the Treasurer shall be \$3,000.00.

Subd. 3. Payment of the premium on the official bonds of the City Clerk and the Treasurer shall be from city funds.

Subd. 4. The bonds furnished by the City Clerk and the Treasurer pursuant to this selection shall be corporate surety bonds.

### **2.02. PLANNING COMMISSION.**

Subdivision 1. A Planning Commission is established (4/25/1974) whose members shall be appointed by the City Council.

Subd. 2. The Planning Commission shall consist of not less than 5 nor more than 9 members who shall serve without compensation.

Subd. 3. Members of the Planning Commission shall be appointed for a term of three (3) year except that the term may be reduced to one (1) or two (2) years at the time of initial appointment so that not more than three (3) members shall be appointed in any one year.

Subd. 4. A. In the event a vacancy in the Planning Commission shall occur for any reason, such vacancy may be filled by the Council in which event the member so appointed shall serve for the unexpired term of the member replaced.

B. Absence from any three (3) consecutive regular scheduled meetings or four in a year constitutes a vacancy if declared so by the City Council. In the event of any vacancy, the mayor, with the approval of the council, may appoint a person to complete the unexpired term.

Subd. 5. It shall be the function and duty of the Planning Commission to review the comprehensive zoning plan of the city and recommend amendments or additions thereto for adoption by the City Council whenever changed conditions or further study by the commission indicates that amendments or additions are necessary; to hear and make recommendations upon violations for the strict application of this ordinance, requests for variance or special use permits, proposed plats or amendments of existing

plat; to review matters relating to buildings, street vacations or arrangements of streets and improvements, public utilities services, parks and playgrounds, use of property, density of population, and the orderly development of residential, business, industrial, recreational and public lands in the city and such other and similar matters related to the orderly development of the city.

Subd. 6. The Planning Commission shall serve as an Historic District Board under the provisions of the Minnesota Historic District Act of 1971 to hear and report to the Council on matters pertaining to the control and maintenance of historic districts within the limits of the city.

## **CHAPTER 3 FIRE AND EMERGENCY MEDICAL RESPONSE**

### **3.01 DEPARTMENT ORGANIZATION AND REGULATION.**

Subdivision 1. **DEPARTMENT.** The citizens of Marine on St. Croix have long benefited from a volunteer Fire Department and emergency medical response capabilities.

Subdivision 2. **APPOINTMENTS.** A City Council Member shall be appointed annually in January by the City Council to act as Chair of the City Council's Emergency Management or Fire/Rescue Committee. Qualifications shall be experience in management, and the Chair shall not have been a member of the Department within the last five years, unless all Council members have served on the Department within the last five years.

Each September the Council Chair of the Fire/Rescue Committee shall schedule a meeting of the Department; meeting notices shall be mailed to each member at least thirty days before the meeting. The purpose of the meeting shall be to elicit feedback from members on any topic of interest to the Department.

The Chief of the Fire/Rescue department shall be appointed by the City Council in December of even numbered years to serve the following two calendar years. Qualifications of the Department Chief shall be: Over five years of Department experience, or approved outside experience in leadership roles in fire/rescue organizations; Demonstrated leadership abilities; Firefighter 1 and 2 trained; Minimum MN First Responder trained, with two years experience in EMR issues; Fire Engineer trained; Fire Officer trained; Completed most current NIMS training; HIPPA compliance trained. City Council may adjust the criteria to meet the needs of the department and available candidates.

Deputy Chief(s) shall be appointed by the Department Chief, subject to confirmation by the City Council, and shall serve a two year term ending on December 31 of odd numbered years. Qualifications shall be: Minimum five years Department experience, at least three of which on the Fire Department; Firefighter 1 and 2 trained; Fire Engineer trained; Fire Officer trained; NIMS trained; Minimum EMR qualification of MN First Responder; Demonstrated leadership abilities, HIPPA compliance trained. City Council may adjust the criteria to meet the needs of the department.

The volunteers shall be able-bodied and not less than eighteen (18) years of age. The department shall follow the city hiring process for entry level positions. This may include, written application, oral interview, background check, physical and psychological exam, etc.

Upon successful completion, applicants may be appointed by the Department Chief, subject to confirmation by the council. Prior to completion of probationary period, volunteers must have the minimum qualifications required by state law and meet city

requirements.

Subdivision. 3. **DUTIES OF FIRE MARSHALL.** The Department Chief and the Deputy Chief(s) shall act as the City Fire Marshall, unless the Department Chief requests appointment of a Fire Marshall by the Council. The term of an appointed Fire Marshall shall be concurrent with the Department Chief. Duties of the Fire Marshall shall be enforcement of all ordinances aimed at fire prevention, and shall have full authority to inspect all premises and to cause the removal or abatement of all fire hazards.

Subdivision . 4. **DUTIES OF THE FIRE DEPARTMENT CHIEF.** The Fire Department Chief shall directly manage the Deputy Chief(s) to attain the Department goals of 1) Protection of Department Personnel; 2) Aid to Victims; and 3) Protection of Property. In concert with the Deputy Chiefs the Fire Department Chief shall report at least semiannually to the City Council. In addition the Department Chief shall monitor, report, and explain the financial status of the department, and recommend capital and operating budgets in accordance with City procedures. The Department Chief shall be proactively involved in all communications or coordination with outside departments, training organizations or regulatory bodies.

Subdivision . 5. **DUTIES OF DEPUTY CHIEF.** The Deputy Chief(s) shall have control of all the equipment, building, and shall be solely responsible for its care and condition. The Deputy Chief(s) shall make a report, with the Fire Department Chief, semiannually, to the council at its meeting in July and December, as to the condition of the equipment and needs of the fire department. The Chief or Deputy Chief(s) may submit additional reports and recommendations at any meeting of the Council. The Deputy Chief(s) shall be responsible for the proper training and discipline of the members of the fire squad, and shall report each suspension promptly to the Fire Chief.

Subdivision 6. **RECORDS OF THE DEPARTMENT.** The Deputy Chief(s) shall keep in convenient form a complete record of all calls. Such a record shall include the time of the alarm, location of call, time of call, response times, cause of event (if known), type of building, name of owner and tenant, purpose for which occupied, value of building and contents, members of the department responding to the alarm, name of victims, treatment given, and such other information as may be deemed advisable or as may be required from time to time by the Council, State Insurance Department, or State Fire Marshall's office.

Subdivision 7. **PRACTICE DRILLS.** It shall be the duty of the Department Chief to coordinate two monthly practice drills of at least one hour's duration for the purpose of fire and medical training, and to arrange for all volunteers to receive instruction in approved methods appropriate to their role. The Deputy Chief(s) may hold additional drills as appropriate.

Subdivision 8. **FIRE DEPARTMENT CHIEF REPLACEMENT.** In the absence or disability of the Fire Department Chief, the Deputy Chief with the longest years of

service to the department shall perform all the functions and exercise all of the authority of the Department Chief.

Subdivision 9. **ADDITIONAL REQUIREMENTS.** In addition the Department will establish requirements for their respective volunteers, as enumerated in the bylaws, which insure volunteers meet all minimum standards required by law or any entity having jurisdiction.

Subdivision 10. **LOSS OF MEMBERSHIP.** Volunteers absent from three consecutive drills unless excused by a Deputy Chief shall be subject to forfeit of membership in the department or separation of membership by the City Council or other disciplinary action.

Subdivision 11. **RELIEF ASSOCIATION.** The members and officers of the Fire Department may organize themselves into a fire volunteers Relief Association.

Subdivision 12. **INTERFERENCE WITH DEPARTMENT.** It shall be unlawful for any person to give or make, or cause to be given or made, an alarm of fire, law enforcement, or medical call without probable cause, or to neglect or refuse to obey any reasonable order of a Chief or incident commander at a fire or medical call, or to interfere with the department in the discharge of its duties; and any person convicted of violating this section shall be guilty of a misdemeanor.

### **3.02. PREVENTION OF WOOD AND GRASSLAND BURNING.**

Subdivision 1. It shall be unlawful within the corporate limits of Marine on St. Croix to start or have any open fire except for domestic purposes or any backfire without written permission of the Fire Chief or his Assistant Fire Chief, unless a firebreak sufficient to check the spread of the fire shall have been freshly made or plowed around the place or are wherein the fire is set.

Subdivision 2. The Fire Chief or the Assistant Fire Chief may at their discretion refuse, revoke or postpone use of permits when such use may endanger the City, property or life.

Subdivision 3. Any person burning, having or starting, an open fire shall have the written permit on his person while burning.

Subdivision 4. Any person violating the provisions of the ordinance, upon conviction, shall be guilty of a misdemeanor.

### **3.03 False Alarms**

#### **Subdivision 1. Definitions.**

The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (a) **Alarm System** means an assembly of equipment and devices (or single device such as a solid state unit which plugs directly into a one-hundred-ten volt AC line) arranged to signal the presence of a hazard requiring urgent attention and to which public safety personnel are expected to respond.
- (b) **Audible Alarm** means a device designed for the detection of unauthorized entry on premises, and which, when actuated, generates an audible sound on or near the premises.
- (c) **Criminal Activity** means entrance upon or into the property of another, taking the property of another, or damaging the property of another without permission. Criminal activity includes burglary, robbery, assault, theft, damage to property, or other crimes as defined by State law.
- (d) **False Alarm** means any alarm system triggered by some reason other than the activity the alarm is designed to detect. It does not include activation of the alarm by acts of God or by utility company power outages.
- (e) **Public Safety Personnel** means any law enforcement officer, fire department member, emergency medical response personnel, or other individuals responding in the aid of public safety or rescue.

**Subdivision 2. Response to False Alarms,**

- (a) A fee, as established by Council Ordinance, shall be paid to the City for the fourth response and each subsequent response by the City's public safety personnel within one (1) calendar year to a false alarm.
- (b) The City may collect such fee by whatever means necessary, including the institution of a civil action against the person responsible for the payment of such fee or certifying the fee on the property tax.

**Subdivision 3. False Alarm Reports.**

- (a) The City Clerk, the Sheriff, the Fire Chief and/or Fire Marshall may require the person in control of the alarm system to submit a written report after any false alarms. The report shall contain information specified by the person making the request.
- (b) The City Clerk, the Sheriff, the Fire Chief and/or Fire Marshall may excuse false alarms associated with their respective departments when there is evidence that they are the result of an effort or order to upgrade, install, or maintain an alarm system if one (1) or more false alarms result from the same malfunction with a seven (7) day period.

**Subdivision 4. Audible Alarm Requirements.**

- (a) All audible alarms shall meet the requirements of this Section.
- (b) Every person maintaining an audible alarm shall post a notice containing the name and telephone number of the persons to be notified to render repairs or service during any hour of the day or night that the alarm sounds. Such notice shall be posted at the main entry to such premises or near the alarm in such a position as to be legible from the ground level adjacent to the building or kept currently corrected on file with the City Clerk, the Sheriff's Office, and/or the Fire Marshal's Office.
- (c) Audible alarms that sound like police and fire sirens are forbidden.
- (d) Audible alarms shall have an automatic shut-off which will silence the audible alarm within a period not to exceed twenty (20) minutes and such alarms shall not sound for more than twenty (20) minutes during any hour.

**Subdivision 5 Dishonored Checks.**

In addition to the requirements of Minnesota Statutes Section 609.535 pertaining to the issuance of dishonored checks, whenever restitution is made by the issuer by means of a dishonored check, after service of Notice of Dishonor by the City, an

administrative fee, as established by Ordinance, shall be paid to the City of Marine on St. Croix by cashier's check or money order, made payable to the City of Marine on St. Croix.

**Subdivision 6. Current Fee Rates.**

***False Fire Alarms (per calendar year):***

	<b><u>Commercial</u></b>	<b><u>Residential</u></b>
Alarms: 1-3	No Charge	No Charge
Alarms: 4+	Actual cost of response	Actual cost of response

**Response Fee Schedule:**

Pumper Unit Responding:	\$250.00 per hour
Tanker Unit Responding:	\$150.00 per hour
Grass Fire Unit Responding:	\$100.00 per hour
Personnel Costs:	Hourly rate times number of personnel
Minimum Charge:	\$150.00
Maximum Charge:	\$400.00

***Other False Alarms (per calendar year):***

	<b><u>Commercial</u></b>	<b><u>Residential</u></b>
Alarms: 1-3	No Charge	No Charge
Alarms: 4-7	\$60.00 each	\$50.00 each
Alarms: 8+	\$100.00 each	\$75.00 each

**Dishonored check fee:** \$25.00 per check

**Subdivision 7. Effective Date,**

This Ordinance shall be in full force and effect from and after its passage and publication according to law.

**CHAPTER 4 STREETS, ALLEYS AND SIDEWALKS**

**4.01. OBSTRUCTIONS OF STREETS AND PUBLIC GROUND.**

Subdivision 1. It shall be unlawful for any person to encroach upon, obstruct or encumber, the streets, sidewalks, alleys, public places or any public ground with any vehicle, automobile, railroad car, locomotive, lumber, firewood, boxes, any substance or material, rubbish, ashes, waste materials or any other encumbrance.

Subdivision 2. Any person violating any of the provisions of this ordinance shall upon conviction be guilty of a misdemeanor.

**4.02. SIDEWALKS.**

Subdivision 1. All sidewalks laid in the City of Marine on St. Croix shall be constructed according to specification provided by a City Engineer. Such Engineer may be hired by the City Council for this limited purpose, as the council may deem necessary.

Subd.2. The City Council may keep public inspection, those specifications which may be promulgated pursuant to this ordinance (Section 4.02) for future sidewalk construction.

Subd.3. The materials used in the construction of any sidewalk shall be subject to inspection by the Engineer, who shall have the power to reject the material if it does not in the City Engineer's judgment conform to the Engineer's specifications.

Subd. 4. Any person violating any of the provisions of this ordinance shall upon conviction be guilty of a misdemeanor.

#### **4.04 Streets Alleys and Sidewalks**

Subdivision 1. No person shall moor, tie or secure any boat to the shore of the terminus of the following city streets: Walker Street, Berkey Street, Wilke Street, Maple Street, Mill Street, Oak Street, Pine Street, Cherry Street, and Spruce Street, unless they are issued and display upon the boat a permit issued in conformation with City regulations. The mooring of boats is defined as placing, storing or resting a boat on shoreland for a period of time greater than four hours.

**2. No obstruction of city streets.** No person shall place, store, or maintain a boat upon the above-referenced city streets in a way which obstructs the free passage of pedestrians or boats over those city streets.

**3. No vehicular launching.** No person may launch a boat using a trailer or motorized vehicle from and over those identified city streets.

4. No person shall place, store or maintain any boat on those identified City streets during the period of November 1 through fishing opener of the following year. A person may request in writing permission to place, store or maintain a boat on those identified City streets outside of this named period, as long as the request includes a specific starting and ending date for use of the City street. The Mayor is authorized to respond to any such requests.

5. Any person violating any of the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor.

6. No person receiving a boat moorage permit may assign or transfer the permit to another person.

7. This ordinance shall be in force and effect from and after its passage and publication

according to law and adopted by the City Council of the City of Marine on St. Croix, Minnesota

## **CHAPTER 5 DOGS AND OTHER ANIMALS**

### **5.01. DOGS, LICENSING AND OTHER PROVISIONS.**

#### Subdivision 1. **DEFINITIONS.**

- (1) **“OWNER”** means any person, firm or corporation owning, or harboring, or keeping a dog.
- (2) **“AT LARGE”** means off the premises of the owner and not under the control of the owner or custodian and restricted at all times by a suitable leash.

Subd. 2. **LICENSE REQUIRED.** No dog owner shall keep any dog over 6 months of age unless a license therefore has been first secured. Licenses shall be issued by the

city clerk in which the fee for the license shall be set by resolution by the city council annually. In addition to other penalties imposed herein, for each day or fraction thereof which elapses after which a license must be secured as herein provided, the license fee herein specified will be increased \$.50 up to an accrued maximum of \$25.00. Every application for a license shall be accompanied by a certificate from a qualified veterinarian showing that the dog to be licensed has been given a vaccination against rabies in compliance with subdivision 15. An application for a license for a spayed female dog shall present a statement from a qualified veterinarian indicating that the dog has been spayed and giving the date of operation. Licenses shall expire on the 15th day of April next following their issuance.

Subd. 3. **DATE OF PAYMENT.** It shall be the duty of each owner of a dog over 6 months of age to pay the license fee imposed in Subdivision 2, to the City Clerk on or before the 15th day of April in each year, except as provided in Subdivision 2 for the year in which this ordinance becomes affective, or within 30 days of acquiring ownership or possession of any dog over 6 months of age or within 30 days of establishing residence in the City. In the case of a dog 6 months or younger, the license must be secured within 30 days after such dog attains the age of 6 months and one day. The clerk shall cause a notice of the necessity of paying such license fee to be displayed in a conspicuous public place one time before the 15th day of March in each year.

Subd. 4. **RUNNING AT LARGE PROHIBITED.** No dog shall be permitted to run at large within the limits of the City.

Subd. 5. Any dog found running at large in violation of any provision of this ordinance may be captured and impounded by a peace officer of the City or by a party designated by resolution of City Council. Such peace officer or designee is authorized to go on private property other than into dwelling house to effect such capture. If not claimed within five (5) calendar days after capture and impounding, the peace officer or designee is authorized to destroy the impounded dog in a humane manner. An impounded dog may be claimed by the owner within five days after the capture and impounding by paying the boarding fee, animal control officer fee, license fee due under this ordinance, including a penalty for late issuance of license, and handling fee to the City of ten dollars (\$10.00). The impoundment fee shall be \$175.00. The foregoing fees are in addition to and not in lieu of the general liability of the dog owner under Subd. 16 of this ordinance as amended. No animal shall be retrieved from impound without proof of current rabies vaccination.

Subd. 6. **DOGS ON LEASH; SANITATION.** Persons shall be permitted to take dogs onto public streets, sidewalks, trails and parks (other than areas clearly marked by signs bearing the words ("Dogs not permitted in the area")) provided such dogs are under the control of the owner or custodian and restricted at all times by a suitable leash. Any person having the custody or control of a dog off the premises of the owner shall have the duty to immediately remove any feces left by such animal and to dispose of such

feces in a sanitary manner. It shall furthermore be the duty of each such person having control of any dog off the premises of the owner to have in such person's possession a device or means for the picking up and removal of animal feces.

Subd. 7. **RECEIPTS AND TAGS.** Upon the payment of the license fee, the clerk shall execute a receipt in duplicate. The clerk shall deliver the original receipt to the person who pays the fee, retaining the duplicate. The clerk shall also procure a sufficient number of suitable metallic tags, and shall deliver one appropriate tag to the owner when the fee is paid.

Subd. 8. **AFFIXING TAGS.** The owner shall cause said tag to be affixed by a permanent metal fastening to the collar of the dog so licensed in such a manner that the tag may be easily seen by the officers of the City. The owner shall see that the tag is constantly worn by such dog.

Subd. 9. **DUPLICATE TAGS.** In case any dog tag is lost, a duplicate may be issued by the clerk upon presentation of a receipt showing payment of the license fee for the current year. A charge of One Dollar (\$1.00) shall be made for each such duplicate tag.

Subd. 10. (A) **DISTURBING PEACE AND QUIET.** It is a nuisance for any animal to habitually or frequently bark, howl, bay, yelp, cry or make any noise causing a disturbance to any resident of the City. No person owning, operating, having charge of, or occupying any building or premises shall harbor, keep or allow to be kept any animal which shall, by any noise unreasonably disturb the peace and quiet of any person in the vicinity. The phrase "unreasonably disturb the peace and quiet" shall include, but is not limited to, the creation of any noise by any animal which can be heard by any person, including, without limitation, the law enforcement officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a ten minute period of time with one minute or less lapse of time between each animal noise during the ten minute period or which animal noise repeatedly occurs at any time.

(B) **COMPLAINT.** Any person may call or deliver a complaint to any law enforcement officer stating the facts and circumstances of an alleged violation of this subdivision. Such complaints shall be investigated by the County's law enforcement officer. If a violation occurs in the presence of a law enforcement officer, a summons may be immediately issued. If the violation does not occur in the presence of a law enforcement officer, all reports, witness statements and evidence may be submitted to the City Clerk or the Prosecuting Attorney for the City for a formal complaint.

(C) **INVESTIGATION AND ENFORCEMENT.** To investigate any complaint made under this subdivision or to enforce this subdivision, the law enforcement officer may enter upon private property where there is reasonable cause to believe that there is an animal on the premises in violation of this subdivision. Interference with, hindering or molesting an officer in the performance of his or her duty shall constitute an additional

offense in violation of this chapter.

Subd. 11. **OFFENSES INVOLVING TAGS.** It is unlawful to counterfeit or attempt to counterfeit the tags provided for in Subd. 7 of this ordinance or take from any dog a tag legally placed on it by its owner with the intent to place it upon another dog, or to place such tag on another dog.

Subd. 12. **TAGS NOT TRANSFERABLE.** Dog tags are not transferable and no refunds shall be made on any dog license fee because of leaving the village or death of the dog before the expiration of the license period.

Subd. 13. **MUZZLING PROCLAMATION.** Whenever the prevalence of hydrophobia renders such action necessary, to protect the public health and safety, the council shall issue a proclamation ordering every person owning or keeping a dog to confine it securely on their premises unless it is muzzled so that it cannot bite. No person shall violate such proclamation, and any un-muzzled dog running at large during the time fixed in the proclamation shall be killed by the police or constable without notice to the owner.

Subd. 14. **KENNELS.** The keeping or harboring of more than three dogs over the age of three months is prohibited unless the person, firm, corporation or other entity keeping or harboring the dogs has been issued a license to operate a kennel. The license fee for the operation of a kennel shall be as determined by the City Council from time to time and as on record in the City offices. A kennel license shall be issued only if a Conditional Use Permit allowing the operation of a kennel on the property has been granted to the requesting property owner. The City Council shall take into consideration the kind and number of animals to be kept on the property, the size of the property, the facilities to be constructed and maintained for the care and keeping of the animals, the effect of the animals and the operation of the kennel on the neighboring properties and their residents, and the general public health and welfare in determining whether to grant a Conditional Use Permit for the operation of a kennel to any applicant. All persons or entities issued a kennel license under this subdivision shall comply with the conditions of Subdivision 10 of this chapter regarding the prohibition against nuisance and unreasonable disturbance of peace and quiet.

Subd. 15. **VACCINATION.** No license shall be granted for a dog which has not been vaccinated against rabies as provided in this subdivision during the 90-day period preceding the making of an application for such license except that when a dog is first licensed for an entire year hereafter, the license may be issued if the dog has been vaccinated within a period of six months preceding the application for a license. Vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog is vaccinated. A veterinarian who vaccinates a dog to be licensed in the City shall complete in triplicate a certificate of vaccination. One copy shall be issued to the dog owner for affixing to the license application, one shall be sent to the Minnesota State Live Stock Stationary Board, and one copy shall be retained in

the veterinarian's files.

Subd. 16. **PENALTY.** Any person, firm or corporation violating any provision of this ordinance is guilty of a misdemeanor.

## **5.02 Chickens on Parcels Less than 5 Acres**

### **Subdivision 1. DEFINITIONS**

(1) "**OWNER**" means any person, firm or corporation owning, or harboring, or keeping chickens.

### **Subd. 2. PERMIT REQUIRED.**

(1) No person shall, on any lot less than 5 acres anywhere in the city keep, harbor, or maintain care, custody, or control over any chicken, without obtaining a permit issued by the City of Marine.

(2) The permit shall be subject to all terms and conditions of this Section and any additional conditions deemed necessary by the City to protect the public health, safety, and welfare. The necessary permit may be obtained from the City Clerk.

### **Subd. 3. APPLICATION.**

Included with the information required prior to issuance of the permit must be a scaled diagram that indicates the lot size, the number of chickens, the location of any chicken coop and run, which includes the distance from dwelling units on the parcel and abutting properties and the approximate size of the chicken coop and run. All setbacks for accessory buildings in that zoning area will be complied with for placement of coop. If the coop exceeds 120 square feet a building permit will be required.

### **Subd. 4. NUMBER ALLOWED.**

(1) For parcels that are less than one-half (1/2) acre the maximum number of chickens is five (5). For every additional one (1) acre of land an additional five (5) chickens may be kept.

Subd. 5. **CONFINEMENT STANDARDS.** Every person who owns, controls, keeps, maintains or harbors chickens by permit must keep them confined on the premises at all times. If confinement is in a chicken coop or chicken run the following standards apply:

1. The coop shall be kept at least 10 feet from any residential structure or wells.
2. All chicken coops and runs must be located within the rear yard.
3. Chicken feed must be kept in metal, predator proof containers.
4. The run shall be kept at least 10 feet from property line unless adjoining property owner agrees to lesser setback.

Subd. 6. **CONDITIONS AND INSPECTION.** No person who owns, controls, keeps, maintains or harbors chickens shall permit the premises where the chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property.

Subd. 7. **PROHIBITED USES.** The following uses are not allowed as they pertain to this Section:

1. Roosters
2. Breeding, raising or slaughtering of chickens for a commercial purpose
3. Odors, solid matter or noise of such quality or quantity as to be reasonably objectionable at any point beyond the lot line of the site on which the use is located.

Subd. 8. **PUBLIC NUISANCE.** Failure to comply with this ordinance constitutes a public nuisance and is subject to the revocation of the permit, issuance of fines and assessment of costs related to ensure compliance with this section.

## **CHAPTER 6 GARBAGE AND RUBBISH**

### **6.01. GARBAGE AND REFUSE COLLECTION AND DISPOSAL.**

Subdivision 1. It shall be unlawful for any person, firm, or corporation to not dispose of garbage and refuse which accumulates upon their property at least once a week. Every householder, occupant, and owner of any dwelling, boarding house, apartment building, or any other structure utilized for dwelling purposes shall use the garbage and refuse collection as provided by the City of Marine on St. Croix.

Subd. 2. **DEFINITIONS.** For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein:

- (1) **Garbage:** Waste foodstuffs or table wastes of vegetables or animal origin, together with other incidental admixtures. Dead animals weighing less than 10

pounds shall be classified as garbage.

(2) **Refuse:** This shall include all inorganic and organic matter such as tin cans, glass, paper, ashes, sweepings, leaves, grass, etc. Stones, sod, earth, concrete, contractor's building materials, large automobile parts, large appliances, inflammable liquids, tree trunk sections over four inches in diameter, animal wastes except when adequately wrapped, or articles so heavy or bulky that they cannot be easily lifted by one man shall not be considered refuse.

Subd. 3. Every householder, occupant and owner of any dwelling, boarding house, apartment building, or any other structure utilized for dwelling purposes and any restaurant, industrial or commercial establishments that accumulates garbage shall provide one or more fly-tight metal "garbage" containers of 30 or 32 gallon capacity to contain all garbage which accumulates between collections. Metal "garbage" containers of less capacity and plastic containers may be used until they become unserviceable after the effective date of this ordinance. No such container shall weight in excess of seventy-five (75) pounds when full.

Subd. 4. All accumulations of garbage must be put in the containers as provided herein. Tree limbs under four inches in diameter and in three foot lengths tied in bundles, leaves, grass, or other refuse in acceptable plastic waterproof bags, magazines ties securely in bundles weighing less than 20 pounds, and Christmas trees up to six feet in length shall be placed on pickup day at the location specified by Subd. 8(3).

Subd. 5. All garbage and refuse accumulated in the City shall be collected, conveyed and disposed of under supervision of the City Council. The City Council shall have the authority to make rules and regulations concerning days of collection, type and location of waste containers and such other matters as may be deemed necessary provided that such are not contrary to the provisions of this ordinance.

Subd. 6. It shall be the responsibility of every resident to notify the City and hauler at least one (1) week in advance of starting or discontinuance of service.

Subd. 7. All waste materials not disposed of through the refuse collection system such as stones, sod, earth, concrete, contractor's building materials, refuse from fires, large auto mobile parts, appliances, large tree trunk sections over four inches in diameter, animal wastes, or heavy articles shall be disposed of according to the rules and regulations of Washington County and the State Pollution Control Commission at the expense of the property owner, using trash haulers licensed in Washington County if necessary.

Subd. 8. Persons accumulating garbage or refuse shall comply with the following requirements:

(1) Refuse in Street: No person shall place any garbage or refuse in any street,

alley, or other public place, or upon any private property whether owned by such person or not, unless it be in proper containers for collection or under express approval granted by the City Council. Nor shall any person throw or deposit any refuse in any stream or body of water.

- (2) Scattering of Refuse: No person shall cast, place, sweep, or deposit any garbage or refuse in such a manner that it may be carried or deposited by the elements off his property within the City.
- (3) Placement of Container: Location of refuse and garbage on the day set for collection shall be set by resolution of the City Council after obtaining bids on the service offered. If a base point location is set, individual contracts for additional service may be negotiated between the hauler and the resident.
- (4) Inflammable or Explosive Refuse: Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the Fire Chief at the expense of the owner or possessor thereof.

Subd. 9. **FEES FOR COLLECTION AND DISPOSAL.** The fees for collection and disposal of garbage and refuse for all residential user's shall be determined by contract with the City of Marine on St. Croix plus a reasonable amount for administrative expense. The City shall compute the amount due the City for garbage and refuse collection and render a statement thereof to each residential user. All amounts due here under shall be payable at the office of the City Clerk on the 25th of the month of which the statement is presented. A penalty of 10% shall be added to all bills not paid by the date fixed for final payment and collection may be stopped without notice.

Subd. 10. Reduced rates shall be made available for retired residents over 65 and seasonal residents based on reduced refuse collection and shall be determined by the City Council.

Subd. 11. **CHARGES, A LIEN ON PROPERTY.** Each charge levied by and pursuant to this chapter is hereby made a lien upon the corresponding lot, land or premises served here under and all such charges which are on July 31st of each year more than 30 days past due and having been billed properly to the occupant of the premises served, shall be certified by the City Clerk to the Auditor of Washington County before the 10th day of October of each year and the City Clerk in so certifying such charges to the County Auditor shall specify the amount thereof, the descriptions of the premises served, the name of the owner thereof, and the amount so certified shall be extended by the Auditor on the tax rolls against such premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the City Clerk, along with other taxes.

Subd. 12. The Marine on St. Croix City dump is hereby closed on a date set by the City Council by resolution, and any person guilty of dumping in the City Dump Area shall be guilty of a misdemeanor subject to the usual penalties.

Subd. 13. Violators of the provisions of this ordinance will be guilty of a misdemeanor.

## **CHAPTER 7 OFFENSES AGAINST THE PUBLIC**

### **7.01. DISTURBING THE PEACE AND OTHER OFFENSES.**

Subdivision 1. That if any person or persons within the corporate limits of the City of Marine on St. Croix willfully disturb the peace or quiet of said City by any loud or unusual noise, by singing, hollering, screaming or by using obscene language or conversation or by any device or means whatever or by cruelly beating or abusing an animal, or by quarreling, cursing, threatening, assaulting, striking or fighting under any pretense whatever, or shall discharge or fire off any firearms, such offender shall be deemed guilty of a misdemeanor upon conviction.

Subd. 2. Any person permitting any disturbance as described in subdivision one of this ordinance upon premises owned or occupied by him or them shall upon conviction thereof, be guilty of a misdemeanor.

Subd. 3. Any person disturbing the peace or appearing upon any of the public streets or in a meeting of the citizens or in or about any public place or within any saloon within the corporate limits of the City of Marine on St. Croix, in a state of intoxication, shall be deemed guilty of a breach of this ordinance and of the peace and good of the City of Marine on St. Croix and shall upon conviction thereof, be held to the punishment and penalties provided for in subdivision one of this ordinance.

Subd. 4. Any person who shall inhumanely, unnecessarily, cruelly, or wantonly beat, injure, or in anywise abuse any animal within the City of Marine on St. Croix shall upon conviction be guilty of a misdemeanor.

## **7.02. CITY PROPERTY.**

Subdivision 1. No one shall remove any item from any city property without the express permission of the City Council or designee thereof whether the item is located within a building, above or below the surface of the ground.

## **CHAPTER 8 NUISANCES**

### **8.01. NUISANCES.**

Subdivision 1. **PROHIBITION.** No person, firm, corporation or association shall cause or permit any nuisance as hereinafter defined to exist or to be maintained upon property situated in the whole or in part within the limits of the City of Marine on St. Croix, Minnesota.

Subd. 2. **PUBLIC NUISANCE DEFINED.** A public nuisance is a thing, act, occupation or use of property which shall:

- (1) Annoy, injure or endanger the safety, health, comfort or repose of the public.

(2) Unlawfully interfere with, obstruct or tend to obstruct, or tend to render dangerous for passage, a lake, navigable river, bay, stream, canal or basin, or a public park, square, street, alley or highway.

(3) In any way render the public insecure in life or in the use of property.

Subd. 3. **PUBLIC NUISANCES AFFECTING HEALTH.** The following are declared to be public nuisances affecting health:

(1) All decayed or unwholesome food offered for sale to the public.

(2) All diseased animals running at large.

(3) All ponds or pools of stagnant water.

(4) Carcasses of animals not buried or destroyed within 24 hours after death.

(5) Accumulations of manure or rubbish.

(6) Privy vaults and garbage cans which are not fly-tight.

(7) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, industrial wastes, or other substances.

(8) All noxious weeds and other rank growths upon public or private property.

(9) Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities.

(10) Offensive trades and business and firms as defined by statute or ordinance not licensed as provided by law.

(11) Septic tanks, drain field and private sewage disposal facilities which malfunction, causing overflow and/or offensive odors.

(12) All other acts, omissions of acts, occupations and uses of property which are deemed by the City Council to be a menace to the health of the inhabitants of the City, or a considerable number thereof.

Subd. 4. **PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.** The following are declared to be nuisances affecting public peace and safety:

(1) All snow and ice not removed from public sidewalks by the owner or occupant of any building or lot abutting a public sidewalk 12 hours after the snow and ice has ceased to be deposited thereon, and unless acting under a specific contract with the City or with written special permission from the City, no

owners or occupants of real property, or any person on behalf of any such owner or occupant, shall push, deposit, pile, or otherwise place in any public street, alley, sidewalk, or trail right-of-way, any snow or ice from such private real property or from public boulevards adjoining such private real property.

- (2) All trees, hedges, billboards or other obstruction which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
- (3) All limbs or trees which are less than 8 feet above the surface of any public walkway or 9 feet above the surface of any street.
- (4) All utility wires which are strung less than 15 feet above the surface of the ground.
- (5) All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount other than that provided by law.
- (6) All unreasonable noises and annoying vibrations.
- (7) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under such conditions as provided by the ordinance.
- (8) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the streets or sidewalks, except permitted by the City Council.
- (9) All hanging signs, awnings and other similar structures over streets or sidewalks, or so situated as to endanger public safety, not constructed and maintained as provided by ordinance.
- (10) The allowing of rainwater, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
- (11) Unprotected excavations, pits, or opening located on private property.
- (12) All other conditions or things which are liable to cause injury to the person or property of anyone.
- (13) Improperly maintained or partially erected or demolished buildings not properly protected.

(14) Any living or standing tree or part thereof infected to any degree or infested with any invasive species pest

(15) Any dead tree or part thereof, including logs, branches, stumps, firewood, bark or other tree material from which infected and/or infested part has not been removed and burned or sprayed with an effective pesticide.

Subd. 5. **ABATEMENT.** The City Council shall enforce the provisions of this chapter, and may by resolution delegate to various officers or agencies powers to enforce particular provisions of the chapter, including the power to inspect private premises. Whenever it is determined upon investigation that a public nuisance is being maintained or exists within the City, the City Clerk shall notify in writing the person committing or maintaining such public nuisance and require him to terminate and abate said nuisance and to remove such defects. Said written notice shall be served on the person committing or maintaining said nuisance, in person or by certified mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises, or both, to take reasonable steps within a reasonable time to abate and remove said nuisance, said steps and time to be designated in said notice, but the maximum time for the removal of said nuisance after service of said notice shall not in any event exceed 10 days. Service of notice may be proved by filing an affidavit of service in the office of the clerk setting forth the manner and time thereof. After expiration of the time set forth in said notice, each day of provisions of this ordinance.

In addition, when an order so given is not complied with, such non-compliance shall be reported forthwith to the Council for such action as may be necessary and deemed advisable to abate and enjoin the further continuation of said nuisance. The Council may order the abatement or removal of such nuisance by contract with private parties or otherwise and assess the cost of such abatement or removal on the property on which the nuisance is found or otherwise collect a **fee in the amount of \$40.00 per hour minimum 1 hour** by action against the party creating or maintaining the nuisance.

Subd. 6. **PENALTY.** Any person violating the provisions of this ordinance shall be guilty of a misdemeanor

## 8.02 WEEDS

### Subd.1 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Noxious Weeds* are defined and listed in MN State Statutes 18.75 – 18.91. Noxious Weeds are defined as annual, biennial, or perennial plants that the commissioner designates as having the potential or are known to be detrimental to human or animal health, the environment, public roads, crops, livestock or other property.

*Land management plan* means a written plan relating to the management of the native lawn area. This plan shall include a legal description of the property to be planted in native lawn; a statement of intent and purpose of the lawn, a general description of the vegetation types, plants and plant succession involved; any borders, natural or manmade screens or barriers around the native lawn; the specific management/maintenance techniques to be employed; and a list of all adjoining or certified property owners.

*Native lawn* means a lawn consisting of grasses and flowering plants which are native to, or adapted to, the state, which are commonly found in meadow and prairie plant communities, except noxious weeds. This does not include turf grasses or plantings consisting exclusively of wildflowers, without tall grasses.

*Turf grasses* means grasses that are commonly used in regularly cut lawn areas such as blue grass, fescue, and rye grass blends.

**Subd. 2 Declaration of nuisance and illegality.**

(a) All weeds or grass growing to a greater height than six inches, or weeds or growing grass which have gone or are about to go to seed, existing on any platted lot within the Single Family Urban or St. Croix Urban Residential districts are hereby declared to be a nuisance and are hereby declared to be detrimental to the health, safety and general welfare of the residents of the city.

(b) It shall be unlawful for the owner, lessee, occupant or representative of any such owner, lessee or occupant, of any land described in subsection (a) of this section in the city, to allow, permit, or maintain a nuisance on any such land or along the sidewalk, street or alley adjacent thereto.

**Subd. 3 Notice to abate.**

When the owner, lessee or occupant of any land within the city permits a nuisance to exist in violation of this article, the Clerk Clerk or authorized City

representative, shall cause to be served a notice in writing upon the owner, lessee, or occupant if other than the owner, stating specific instructions and methods when and how the nuisance is to be controlled or eradicated. The notice shall be served personally or by U.S. Certified mail. Service on persons living temporarily or permanently outside the city, whose property is vacant or unoccupied, may be made by sending the notice by U.S. Certified mail to the last known address of such person, to be ascertained, if necessary, from the last tax list in the county treasurer's office. The notice shall order that the nuisance be abated within ten days after service of such notice. The notice shall also state that in the event of failure to comply, the nuisance will be abated by the city at the expense of the owner of the property.

For second and subsequent violations of this article within the same calendar year, notice shall be made by posting of the order in a clearly visible and conspicuous location at the property or structure. The notice shall order that the nuisance be abated within 10 (ten) days after posting of such notice. The notice shall also state that in the event of failure to comply, the nuisance will be abated by the city at the expense of the owner of the property.

**Subd. 4      Exceptions.**

(a)

*For native lawns.* The owners or their assigned managers of residential property within the city may seek approval of a land management plan to convert a portion of their property to a native lawn, one where the grasses and other growth may exceed six inches in height, provided that such land management plan shall provide such plantings shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on the public ways, not present a hazard to structures on such affected land, and further, shall be maintained as to enhance the appearance of the property on which located. Those seeking approval to convert a portion of their property to natural lawn must submit, with their land management plan, a form provided by the city bearing the signatures of at least 51 percent of the adjoining property owners. If the majority of the adjoining property owners do not sign the form stating that they have no objections to the native lawn, the application will be denied. The term "adjoining property owners" are defined as any landowner whose property lines touch those of the applicant for a natural lawn. The City Clerk or designated noxious weed inspector, as authorized by the City Council, shall review the lawn management plan. The following guidelines shall be

used for review:

- (1) The native lawn shall not contain any plants classified as noxious weed.
- (2) The native lawn shall not encroach upon the public right-of-way or street.
- (3) The property owner shall maintain at least a five-foot setback from all property lines, unless waived in writing by the owner of the abutting property on the side so affected. A five-foot setback shall be maintained from all buildings on site.
- (4) Native lawn areas shall be located in the rear yard only.  
If within one year after receiving approval of a natural lawn management plan, the plan has not been put into effect, the approval for the plan is considered null and void. The city reserves the right upon approval of a plan to inspect the premises to ensure compliance with the provisions of this section.

b) *Other exceptions.* Other exceptions to the tall grass and weed restrictions may include the following:

- (1) Any designated wetland or floodplain .
- (2) A drainage pond or ditch which stores or conveys stormwater.
- (3) State Highway Rights of Way
- (4) City owned public rights of way
- (5) Publicly owned property which is being maintained in its natural state.
- (6) Slopes over 18% grade.

**Subd. 5 Assessment of abatement cost.**

If such person fails to comply with the notice to abate within the time frame set forth in the notice, the city clerk or authorized representative, shall follow the abatement provisions set forth in Section 8.01, Subd. 5.

Subd. 6. **PENALTY.** Any person violating the provisions of this ordinance shall be guilty of a misdemeanor.

## **CHAPTER 9 LICENSES, PERMITS AND PROHIBITIONS**

### **9.01. FIREARM USE AND UNLAWFUL DISCHARGE.**

Subdivision 1. No person or persons shall fire or discharge any gun, pistol or firearm of any description within the corporate limits of the City of Marine on St. Croix except as hereinafter provided.

Subd. 2. No person shall discharge firearms in any part of the corporate limits of Marine on St. Croix without a written permit from the Mayor. The Mayor may issue permits for firearms hunting only in the Single Family Rural and St. Croix Rural Districts. Citizens denied a permit from the Mayor may appeal the decision to the City Council.

Subd. 3. All firearms hunters who receive a permit must hunt from an elevated stand, at least five feet above the ground. Locations of the stands shall be provided to the City Clerk prior to use. All deer harvested by firearms shall be reported to the City Clerk in a timely manner.

Subd. 4. Any person violating the provisions of this ordinance shall upon conviction, be guilty of a misdemeanor.

## **9.02. LICENSING OF BOWLING ALLEYS AND BILLIARD HALLS.**

Repealed by City Council October 13, 2005. Subdivisions 1,2,3,4 and 5

## **9.03 FEEDING OF DEER PROHIBITED.**

Subdivision 1. **Prohibition.** Deer feeding is prohibited within the corporate limits of the City of Marine on St. Croix except as hereinafter provided. For the purpose of this section, deer feeding shall mean the provision of one-half cubic foot or more of grain, fruit, vegetables, nuts, hay, salt, salt block or other edible material, on the ground or at a height of less than five feet above the ground, or in any manner that attracts deer on a regular basis. Living food sources, such as fruit trees and other live vegetation, shall not be considered deer feeding for purposes of this section. This prohibition shall not apply to veterinarians, City animal warden and park maintenance staff or county, state or federal game officials who in the course of their duties have deer in their custody or under their management.

Subdivision 2. **Penalty.** Any person violating the provisions of this ordinance shall upon conviction, be guilty of a misdemeanor.

## **9.04 MOTION PICTURE PRODUCTIONS**

Subdivision 1. **Permit Required.**

- (a) No person shall advertise, engage in, participate in, or start any motion photography production within the city unless a production permit shall first have been obtained from the City.
- (b) A "motion photography production" shall include professionally done feature films, television movies and television commercials.

Subdivision 2. **Application.**

- (a) Any person seeking the issuance of a production permit shall file an application in the office of the city Clerk on forms provided by the City. The applications shall be filed not more than 180 days before, and not less than 5 working days before the commencement of production. The application shall be signed, under oath, by an authorized representative of the applicant.
- (b) The application shall contain the following information:
- (1) Locations of the production.
  - (2) Hours of operation.
  - (3) Duration and type of the production.
  - (4) Proof of general liability insurance coverage in the amount of at least three million dollars with the City names as an additional insured.
  - (5) Proposed use of city resources.
  - (6) Necessary closures of public streets or sidewalks.
  - (7) A person designated as responsible to fulfill the obligations of the applicant and authorized to accept service of process by mail for the applicant in the State of Minnesota.

Subdivision 3. **Restoration.** If some or all of a production is to take place on public or private property not at a studio and the production involves the erection of temporary structures or temporary modification of an existing structure or the introduction of an object or substance onto the property, the applicant for the production permit shall be required to restore the property to the condition existing prior to the production. In addition, the City shall require that the applicant provide a performance bond in an amount to be determined by the city, to insure the restoration. All restoration work shall be performed by contractors duly licensed and approved by the City of Marine on St. Croix.

Subdivision 4. **Costs for Extraordinary Services** The City shall recover direct costs for extraordinary services rendered in connection with a production. Such costs shall include, but not be limited to, charges for personnel and equipment committed in support of the production which are outside the normal scope of government services. Based on the information contained in the permit application, an estimate of these costs will be provided to the applicant prior to issuance of the permit. The City may require prepayment of all or a portion of these estimated costs prior to issuance of the permit. At the conclusion of the production, actual costs below or in excess of the estimates will be refunded by the City or paid by the applicant, respectively. The City is under no obligation to provide City personnel or equipment, and such shall be provided only if the City Council approves. The City Council may set a basic charge to cover its costs by resolution.

Subdivision 5. **Denial or Revocation** All permit applications shall be reviewed and decisions thereon made by City Council or its designee with 10 days of the City's receipt of the fully completed permit application and required submittals and shall be denied if,

after due consideration by City Council or its designee, the applicant does not meet the requirements of this ordinance. An approved permit may be revoked by action of the City Council, after notice and a hearing upon a finding of non-compliance with conditions of a permit. In the event that the permit application is denied or the City Council or its designee approves and the City Council subsequently revokes a permit, the applicant may seek prompt judicial review of the denial or revocation of the permit.

Subdivision 6. **Temporary Permits** Notwithstanding any provision of the Ordinance to the contrary, the City Clerk of the City is authorized to issue temporary permits upon such compliance with the terms of this Ordinance as the City Clerk deems necessary to protect the safety and welfare of the City.

Subdivision 7. **Additional Information** The City Council of Marine on St. Croix or its designee reserves the right to review the script of the story so as to determine the extent to which the City may need to supply personnel, equipment, and services to support the production.

Subdivision 8. **Violations** . Violation of this ordinance shall be a misdemeanor

## **CHAPTER 10 LIQUOR**

### **LICENSING AND REGULATING LIQUOR SALES AND CONSUMPTION.**

#### **Section 10.01. ADOPTION OF STATE LAW BY REFERENCE**

The provisions of the Minnesota Statutes, Chapter 340A, as they may be amended from time to time, relating to the definition of terms, licensing, consumption sales, conditions

of bonds of licenses and all other matters pertaining to the retail selling, distribution and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full. It is the intention of the City Council that all future amendments to Minnesota Statutes Chapter 340A are hereby adopted by reference as if they had been in existence at the time this ordinance is adopted.

**Section 10.02      MORE RESTRICTIVE THAN STATE LAW**

The City Council is authorized by the provisions of Minnesota Statutes Section 340A.509 to impose and has imposed in this ordinance additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in Minnesota Statutes Chapter 340A.

**Section 10.03. LICENSES.**

- (1) General Requirement: No person, except a wholesaler or manufacturer, to the extent authorized under state license, shall, directly or indirectly, deal in, sell, exchange, barter, dispose of, or keep for sale in the City of Marine on St. Croix any intoxicating liquor without a license as provided by this ordinance.
- (2) Kinds: Licenses shall be of four kinds, “on sale 3.2 percent malt liquor”, “on sale wine”, “Sunday on sale” and combination “on sale-off sale”.
- (3) Number: No more than one (1) of any kind of liquor license shall be issued by the City during any calendar year provided, however, that the City shall have discretion to issue an additional liquor license to one (1) particular location not previously issued. A license for an on-sale wine license and a 3.2% beer license shall comprise one license for purposes of this Ordinance.
- (4) Duration: Licenses shall be issued for one (1) year, except where circumstances require a shorter period, and shall expire on the last day of December in each year. No license is transferrable.
- (5) Residency: No license shall be issued to any person does not either reside within the City limits of Marine on St. Croix or within a one hundred (100) mile radius of the City limits for the past two (2) years.
- (6) Fitness: No license shall be issued to any person who is not a citizen of the United States and who is not of good moral character and repute nor to any person who has been convicted of any willful violation of any law of the United States or the State of Minnesota or any ordinance with regard to the manufacture, sale, distribution or possession for sale of intoxicating liquor nor to any person whose license under this ordinance shall have been revoked for any such willful violation of such laws or ordinances.

- (7) Location: No license shall be issued for any premise outside the central business district of the city.
- (8) Experience: Owner of business desiring a license must have a minimum of five (5) years in substantive experience in restaurant and alcohol serving.
- (9) Delinquent Taxes and Charges: No license shall be issued for any premise on which taxes or assessments or other financial claims of the city are delinquent and unpaid.
- (10) Parking: A business applying for a license with inside seating capacity of more than seventy-five (75) must provide off street parking for all patrons.

**Section 10.04. APPLICATION:**

- (1) Form: Every person desiring a license shall file certified application therefore in writing with the Clerk of the City on a form prescribed by the Commissioner of Public Safety with such additional information as the council may require.
- (2) Insurance: No license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by the requirements of Minnesota Statutes regarding the sale of intoxicating liquors. This subdivision does not prohibit the city council from requiring higher insurance or bond coverage or a larger deposit of cash or securities than is required by the Minnesota Statutes and if higher than statutory minimum requirements are required by the city they may establish these requirements yearly as a condition of renewal by resolution.
- (3) Investigation: The Council shall investigate all representations set forth in the application. The Council shall hear all persons for or against the granting of an initial, renewal or modification of any license and shall grant or refuse such license in its discretion.

**Section 10.05. LICENSE FEES:** No license may be issued, maintained or renewed unless the annual fee is submitted either with the application for a license or with an application for license renewal. This license fee shall be set by the city council annually for the following year, by Resolution.

**Section 10.06. HOURS:** No sale of intoxicating liquor, 3.2 percent malt liquor or wine shall be made after 1:00 A.M. on Sunday nor until 8:00 A.M. on Monday nor between the hours of 1:00 A.M. and 8:00 P.M. on the day of any statewide election. No "on sale" shall be made between the hours of 1:00 A.M. and 8:00 A.M. on any weekday. No "off sale" shall be made before 8:00 A.M. or after 10:00 P.M. on any day nor on New Year's Day, January 1; Thanksgiving Day or Christmas Day, December 25th. However, on the evenings preceding such days, if the sale of liquor is not otherwise prohibited on such

evenings. "Off sales" may be made until 10:00 P.M. except that no "off sale" shall be made on December 24th after 8:00 P.M. Each license shall list the hours of operation approved by the City.

**Section 10.07. INSPECTIONS:** The premises from which the sale of intoxicating beverages is licensed shall be open to inspection by any peace officer, health inspector, or by any other properly designated officer or employee of the City, at any time during business hours.

**Section 10.08. COMPLIANCE:** Every licensee and the premises from which the sale of intoxicating liquor is made shall comply with all sanitary and health conditions imposed by law.

**Section 10.09. SUSPENSION AND REVOCATION:** The Council may revoke any liquor license for violation of any law or ordinance relating to the sale of intoxicating liquor, 3.2 percent malt liquor or wine or may suspend the license for a period not exceeding 60 days if revocation is mandatory. Before revocation or suspension, the license shall be granted a hearing on not less than ten (10) days notice, except where mandatory revocation is required by law.

**Section 10.10. RESTRICTIONS ON PURCHASE AND CONSUMPTION:** It shall be unlawful for any person or persons to mix or prepare liquor for consumption, or to permit the consumption thereof, in any public place of business where no "on sale" license is held, nor shall any person consume any intoxicating liquor upon a public highway, public park or other public place. License holders shall agree to ensure this ordinance is enforced any violation can result in the immediate suspension or revocation of the license. In the event of a violation, the licensee shall be granted a Public Hearing with not less than ten (10) days notice.

**Section 10.11. PENALTY:** Any person violating any provision of this ordinance is guilty of a misdemeanor.

**Section 10.12. SETUPS/BYOB:** A 'Consumption and Display' permit from the Department of Public Safety is required by any establishment not holding a liquor license where liquor will be consumed and/or displayed.

## **CHAPTER 11**

### **11.01. OAKLAND CEMETERY.**

Subdivision 1. That the City cemetery belonging to the City of Marine on St. Croix shall be known as Oakland cemetery and shall be for the use of the inhabitants of said city and such other persons as may acquire title to lots in said cemetery, as hereinafter provided.

Subd. 2. That said cemetery shall be under the immediate control and supervision of the city council of said city and it shall be the duty of said city council to enforce all rules and regulations and ordinances enacted for the preservation and proper care of said cemetery and the use thereof, and may for that purpose appoint a suitable person to watch and care for said cemetery, and to fix his compensation and define his duties, who shall hold his place during the pleasure of the council.

Subd. 3. It shall be the duty of the City Clerk to keep record of all lots sold, and to whom sold and conveyed and also a record of all interments in which he shall enter as carefully and correctly as possible the name, age, sex, nativity, cause and date of death and date of burial of each and every person interred in such cemetery, and also the number of the lot in which such interment is made, which fact he shall procure from the relatives and friends of said deceased, and such record of interments, shall be open to the public inspection at all reasonable times.

Subd. 4. The City Council of the City of Marine on St. Croix shall sell and convey the lots as designated on the plat of said cemetery on file and of record in the office of Register of Deeds in and for Washington County, Minnesota, upon such terms and subject to such conditions and restrictions to be inserted in the conveyance thereof as the city council shall prescribe. Every conveyance of any such lot or lots shall be expressly for burial purposes and for no other and shall be in the corporate name of said City of Marine on St. Croix signed by the mayor and clerk of said city.

Subd. 5. The city council shall fix the price at which lots may be sold and the proceeds arising from such sales shall be paid into the city treasury. The city treasurer and the city clerk shall each keep a separate account of all money received from the sale of such lots, which money shall be applied to the payment of any debts incurred by said city for such cemetery in fencing, grading, improving and embellishing such grounds, the streets and avenues therein and in defraying the necessary expenses in the care and management of the same and for no other purpose: such money is to be paid out by the city treasurer only on the order of the mayor duly countersigned by the recorder of said city and each such order shall state that it is drawn on the cemetery fund and also for what purpose issued.

Subd. 6. The city clerk shall at each annual meeting of the electors of said city, make a detailed and itemized report in writing containing a true statement of the receipt and expenditures of the city council for and on account of such cemetery for the fiscal year then ending, which report shall be posted with the annual statement of such clerk of the financial condition of said city as now provided by law.

Subd. 7. All applications for purchases of lots in said cemetery shall be made to the clerk of said city or to the city council. All payments for lots shall be made to the clerk who shall deliver to each purchaser a proper deed of conveyance and the amount thereof he shall forthwith pay into the city treasury taking the city treasurer's receipt

thereof.

Subd. 8. Any lot owner is hereby forbidden to plant upon such lot any trees so large as to injure an adjoining lot, and all lot owners are also forbidden to plant upon any lot any tree known as box elder, poplar or cottonwood, and in case such lot owner shall plant any such tree upon such lot as herein forbidden, it shall be the duty of the actuary to remove the same.

Subd. 9. Whenever an interment is to be made in said cemetery, timely notice thereof must be given to either the person having such cemetery in charge, or to the city clerk and the person so applying shall give the name, age, place of nativity, date of death and interment, cause of death and upon whose lot to be buried.

Subd. 10. An annual charge of Ten (\$10.00) dollars per lot per year, shall be assessed, payable in advance, against all lot owners not under perpetual care, and that charges for opening and closing a grave shall be set by city council. A perpetual care charge set by city council per lot may be paid, payable in advance, instead of the annual lot charge. All cemetery income shall be paid to the city treasurer and all disbursements are to be made by the city treasurer.

Subd. 11. The cemetery shall be closed and no person shall, without authorization, enter or remain in the cemetery between the hours of sunset to 6:00am. Persons violating the provisions of this ordinance, upon conviction, shall be guilty of a misdemeanor.

## **CHAPTER 12 ELECTIONS**

### **12.01. REGISTRATION OF VOTERS.**

Subdivision 1. **REGISTRATION SYSTEM ADOPTED.** The system for the permanent registration of voters provided for by Minnesota Statutes, chapter 201, is hereby adopted for the City of Marine on St. Croix.

Subd. 2. **VOTERS MUST BE REGISTERED.** No person shall be permitted to vote at any election in the City of Marine on St. Croix unless he is registered as provided by Minnesota Statutes.

## **12.02. ELECTION DATES AND TERMS OF OFFICE.**

Subdivision 1. **DATE OF ELECTION.** The regular city election shall be held biennially on the first Tuesday after the first Monday in November in every even-numbered year beginning with the 1976 election.

Subd. 2. **EXTENSION OF TERMS OF COUNCIL MEMBERS.** The terms of the mayor and the councilman whose current terms will expire on the first business day of January, 1976, are extended to the first business day of January, 1977, and those offices shall be filled at the 1976 city election.

Subd. 3. **TERMS AND TRANSITION.** Two council members shall be elected for four-year terms at each biennial election commencing in 1978. Two councilmen shall be elected for a four-year term at the 1976 city election. Of the three councilmen to be elected at the 1976 election, the two candidates receiving the highest number of votes shall serve for terms of four years and the one receiving the third highest number of votes shall serve for a term of two years. The mayor shall be elected for a two-year term at each such election commencing in 1976.

## **CHAPTER 13 TRAFFIC**

### **13.01. MINNESOTA HIGHWAY TRAFFIC REGULATION ACT ADOPTED.**

Subdivision 1. The regulatory provisions of the Minnesota Highway Traffic Regulation Act, M.S.A. chapter 169, as subsequently amended, are hereby adopted as a traffic ordinance regulating the use of highways, streets and alleys within the City of Marine on St. Croix and are hereby incorporated in and made a part of this ordinance as

completely as if set out here in full.

Subd. 2. Any person found violating the provisions of this act, upon conviction, will be guilty of a misdemeanor.

**13.02. UNREASONABLE ACCELERATION.**

Subdivision 1. No person shall start or accelerate any motor vehicle with an unnecessary exhibition of speed on any public or private way within the City limits. Prima facie evidence of such unnecessary exhibition of speed shall be unreasonable squealing or screeching sound emitted by the tires or the throwing of sand or gravel by the tires of said vehicle or both.

Subd. 2. Any person violating the provisions of this ordinance, upon conviction, shall be guilty of a misdemeanor.

**13.03. NO PARKING**

Subdivision 1. Parking is not permitted on any public streets within the Jackson Meadow Development, except along the west side of Jackson Trail between Blue Heron and Sand Piper Lanes. The City may post signs accordingly.

Subd. 2. Violation of this Section 13.03 shall constitute a petty misdemeanor.

**CHAPTER 14 SNOWMOBILES**

**14.01. SNOWMOBILE REGULATIONS.**

Subdivision 1. **PURPOSE.** The purpose of this ordinance is to regulate the operation and use of snowmobiles in the City of Marine on St. Croix.

Subd. 2. **DEFINITIONS.**

- (1) For the purpose of this ordinance the terms defined herein shall have the meaning ascribed to them as hereinafter set forth:
- (2) "Person" includes an individual firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not, and with respect to acts prohibited or required herein shall include employees and licenses.
- (3) "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice or a natural terrain steered by wheels, skis or runners.
- (4) "Owner" means a person, other than a lien holder, having the property in or title to a snowmobile entitled to the use or possession thereof.
- (5) "Operate" means to ride in or on and control the operation of a snowmobile.
- (6) "Operator" means every person who operates or is in actual physical control of a snowmobile.
- (7) "Register" means the act of assigning a registration number to a snowmobile by the Commissioner of Conservation.
- (8) "Commissioner" means the Commissioner of Conservation acting directly or through his authorized agent.
- (9) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel.
- (10) "Street" or "Highway" shall mean the entire width between the boundary lines of way or place when any part thereof is open to the use of the public in the City of Marine on St. Croix, as a matter of right, for the purpose of vehicular traffic.
- (11) "Daylight" hours shall mean any time except from a half hour after sunset to a half hour before sunrise and at any time when there is not sufficient light to render clearly discernible persons and vehicles at a distance of 500 feet.

Subd. 3. **LAMPS AND BRAKES REQUIRED.** No snowmobile shall be operated upon a public street or highway unless it is equipped with at least one headlamp and one tail lamp and with brakes, which conform to the requirements of Subd. 5 hereof.

Subd. 4. **OPERATION GENERALLY.** It shall be unlawful for any person to drive or operate a snowmobile in the following unsafe or harassing ways:

- (1) At a rate of speed greater than reasonable or proper under all the surrounding

circumstances, and in no event at a rate of speed greater than 15 miles an hour;

- (2) In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto;
- (3) While under the influence of intoxicating liquors or narcotics or habit forming drugs;
- (4) Without a lighted head and tail light when required for safety;
- (5) In any tree nursery or any shrub or tree planting, in a manner which damages or destroys growing stock, or landscaping on private or public property.
- (6) Without coming to a complete stop and visual checking of the roadway in both directions before entering or crossing such roadway.

Subd. 5. **EQUIPMENT REQUIRED.** No person shall operate a snowmobile within the right of way limits of a street or highway unless it is equipped with:

- (1) Brakes adequate to control the movement of and to stop and to hold such vehicle under any conditions of operation.
- (2) At least one headlamp so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead during hours of darkness under normal atmospheric conditions. Such headlamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming driver.
- (3) At least one rear lamp exhibiting a red light plainly visible from a distance of five hundred (500) feet to the rear during hours of darkness under normal atmospheric conditions.
- (4) Standard mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle, and no person shall use a muffler cut-out, by-pass, or similar device on said vehicles.
- (5) A safety or so called "deadman" throttle in operating condition; a safety or "dead man" throttle is defined as a device which when pressure is removed from the accelerator or throttle, causes the motor to be disengaged from the driving track.

Subd. 6. **UNATTENDED SNOWMOBILE ON PUBLIC PROPERTY PROHIBITED.** It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property, streets or highways while the motor is running or with the keys to start same in the ignition switch.

Subd. 7. **INGRESS AND EGRESS TO AND FROM PRIVATE PROPERTY.** No person shall operate a snowmobile on private property within the city limits of the City of Marine on St. Croix, without permission of the private property owner or lessee, if there be one. Additionally, snowmobiles are permitted to make direct crossings of highways and municipal streets in the manner provided in Minn. Statutes 84.87, subd. 1 (b).

Subd. 8. **PUBLIC LANDS.** Snowmobile operation on any publicly owned lands, including but not limited to schools, park property, playgrounds, recreation areas and golf courses, within the city limits of the City of Marine on St. Croix, is restricted to the following areas: along the shoulder of County Road 7 from the western city limits to State Highway 95; from that point, along the existing paved path on the west shoulder of State Highway 95 to Maple Street (also referred to as County Road 4); on the improved and unimproved portions of Maple Street from State Highway 95 to the St. Croix River. Access to the filling station on Judd Street will be for fueling purposes only. Snowmobile operation and parking is allowed within the State Highway 95 right of way commonly referred to as the rest area parking lot, which is located behind the bank building.

Subd. 9. **MINORS, PARENTS WRITTEN PERMISSION.** No person under the age of eighteen (18) years of age shall operate a snowmobile without having in his possession written permission to operate snowmobiles, signed by a parent or legal guardian.

Subd. 10. **PASSENGERS AND TOWING.** No person shall operate a snowmobile and no person shall ride as a passenger at any time when three or more persons shall be upon such snowmobile provided however, snowmobiles shall be allowed to tow.

Subd. 11. No person shall operate a snowmobile which has not been registered as required by the State of Minnesota Statutes Section 84.82 as subsequently amended, or without registration numbers as assigned by the Conservation Department securely fixed on each side of the forward half of the snowmobile in such position as to provide clear legibility for identification; provided however this provision shall not apply to the operation of a snowmobile on the private property of an owner by the owner or a member of his immediate family or to duly authorized police officers or other officers, employees or agents of political subdivisions of the State of Minnesota while in the performance of their duties.

Subd. 12. **HOURS.** Snowmobile operation is permitted between the hours of 7:00 a.m. to 10:00 p.m. on Sunday through Thursday and between the hours of 7:00 a.m. to 12:00 midnight on Friday and Saturday, and is prohibited at all times not permitted.

Subd. 13. **YIELDING OF RIGHT OF WAY.** The operator of a snowmobile shall yield the right-of-way to all traffic including pedestrian and vehicular traffic.

Subd. 14. The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of public roads or streets or other city property within the City of Marine on St. Croix, when in the opinion of the City council the public safety and welfare so requires.

Subd. 15. **PENALTY.** Any person violating the provisions of this ordinance shall be guilty of a misdemeanor.

## **CHAPTER 15 BUILDING REGULATION**

### **15.01 BUILDING CODE**

#### Subd. 1. CODES ADOPTED BY REFERENCE

The Minnesota State Building Code, as adopted by the Commissioner of Administration

pursuant to Minnesota Statutes chapter 16B.59 to 16B75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standard Division is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in the ordinance. The Minnesota State Building Code is hereby incorporated I this ordinance as if fully set out herein.

**Subd . 2. APPLICATION, ADMINISTRATION AND ENFORCEMENT.**

The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statute 16B.62 Subdivision 1 when so established by this ordinance.

The code enforcement agency of this municipality is called the City of Marine on St. Croix.

This code shall be enforced by the Minnesota Certified Building Official designed by this Municipality to administer the code (Minnesota statute 16B.65) subdivision 1.

**Subd . 3. PERMITS AND FEES.**

The issuance of permits and the collection of fees shall be as authorized in Minnesota Statute 16B.62 subdivision 1.

Permits fees shall be assessed for work governed by this code in accordance with fee schedule adopted by the municipality in the City of Marine on St. Croix. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota statute 16B.70.

**Subd . 4. VIOLATIONS AND PENALTIES.**

A violation of the code is a misdemeanor (Minnesota Statute 16B.69).

**Subd . 5. BUILDING CODE.**

The Minnesota State Building Code, established pursuant to Minnesota Statutes 16B.59 to 16B.75 is hereby adopted as the building code for this jurisdiction. The code is hereby incorporated in this ordinance as fully set out herein.

A. The Minnesota State Building Code includes the following chapters of Minnesota Rules:

1. 1300 Minnesota Building Code
2. 1301 Building Official Certification
3. 1302 State Building Construction Approvals
4. 1303 Minnesota Provisions
5. 1305 Adoption of the 2000 International Building Code
6. 1306 Special Fire Protection Systems
7. 1307 Elevators and Related Devices
8. 1309 Adoption of the 2000 International Residential *Code*
9. 1311 Adoption of the 2000 Guidelines for the Rehabilitation of Existing Builders.
10. 1315 Adoption of the 2002 National Electrical Code
11. 1325 Solar Energy Systems
12. 1330 Fallout Shelters
13. 1335 Flood proofing Regulations
14. 1341 Minnesota Accessibility Code
15. 1350 Adoption of the Minnesota State Mechanical Code
16. 1346 Manufactured Homes
17. 1360 Prefabricated Buildings
18. 1361 Industrialized/Modular Buildings
19. 1370 Storm Shelters (Manufactured Home Parks)
20. 4715 Minnesota Plumbing Code
21. 7670, 7672, 7674, 7676 and 7678, Minnesota Energy Code

B. This municipality may adopt by reference and or all of the following optional chapters of the Minnesota Rules: Chapter 1306, Special Fire Protection Systems; and Chapter 1335 Flood proofing Regulations, parts 1335.0600 to 1335.1200.

C. This municipality may adopt by reference appendix Chapter K (grading), of the 2001 Supplements to the International Building Code.

1. 1335 Floodproofing Regulations

**TABLE 1-A – BUILDING PERMIT FEES**

TOTAL VALUATION	FEE
\$1.00 to \$500.00	\$21.00
\$501.00 to \$2,000.00	\$21.00 for the first \$500.00 plus \$2.75 for each additional \$100.00 or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$62.25 for the first \$2,000.00 plus \$12.50 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$349.75 for the first \$25,000.00 plus \$9.00 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$574.75 for the first \$50,000.00 plus \$6.25 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$887.25 for the first \$100,000.00 plus \$5.00 for each additional \$1,000.00 or fraction thereof
\$500,001.00 to \$1,000,000.00	\$2,887.25 for the first \$500,000.00 plus \$4.25 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
\$100,000,001.00 and up	\$5,012.25 for the first \$1,000,000.00 plus \$2.75 for each additional \$1,000.00 or fraction thereof
Other Inspections and Fees:	
1. Inspections outside of normal business hours _____ (minimum charge – two hours)	\$42.00 per hour*
2. Reinspection fees assessed under provisions of Section 305.8 _____	\$42.00 per hour*
3. Inspections for which no fee is specifically indicated _____ (minimum charge – one-half hour)	\$42.00 per hour*
4. Additional plan review required by changes, additions or revisions to plans _____ (minimum charge – one-half hour)	\$42.00 per hour*
5. For use of outside consultants for plan checking and inspections, or both _____	Actual costs**

\* Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

\*\* Actual costs include administrative and overhead costs.

## CHAPTER 16 TREES

### 16.01. CITY FORESTRY ORDINANCE.

Subdivision 1. REGULATIONS BY REFERENCE. Sections 1.0109 through 1.0111 of 3 Minnesota Code of Agency Rules, Department of Agriculture, Shade Tree Program (1978 Edition) together with amendments thereof to date, are hereby adopted by reference and made a part of this ordinance as if set out here in full, except as hereinafter provided. A copy of said agency rules herewith incorporated is on file in the office of the City Clerk.

The following regulations are in addition to and subject to applicable regulations contained in the Zoning Code of the City of Marine on St Croix (City), especially the Tree and Woodland Preservation portion of the Code (Section 405.7) and the Lower St. Croix River Overlay District (Section 510).

**Purpose and Intent.** It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, protection, and removal of trees, shrubs, and other woody vegetation within the City to the extent found by the City Council to be practical within available resources. The provisions of this ordinance are enacted to implement the City's Comprehensive Plan, the City Forestry Plan, and to:

- A. Establish and maintain a sustainable amount of tree cover on public and private lands in the City;
- B. Maintain trees in a healthy and non-hazardous condition through good arboricultural practices; and
- C. Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable community forest.

Be it ordained by the City Council of the City of Marine on St. Croix, Minnesota

#### **1. Definitions**

- 1.1. **Community Forest:** Trees and shrubs living within the City boundaries.
- 1.2. **Disease:** Either an infection or an infestation.
- 1.3. **Heritage Tree:** Any public or private tree that is designated in the Forestry Plan as significant due to its size or age; because it provides aesthetic value or is of curious growth form; because it is an outstanding example of its species; or because it is connected to a historical date, event, person, or City landmark.
- 1.4. **Infection:** A tree that is: (1) contaminated with pathogenic microorganisms; (2) being parasitized; (3) a host or carrier of an infectious, transmissible, or

contagious pest; or (4) so exposed to a tree listed in clause (1), (2), or (3) that one of those conditions can reasonably be expected to exist and the tree may pose a risk of contamination to other trees or the environment.

- 1.5. **Infestation:** A tree that has been overrun by pests.
- 1.6. **Invasive Species:** Any invertebrate animal, plant pathogen, parasitic plant, or similar or allied organism that can cause a tree to be diseased and is determined by either the Minnesota commissioners of the Department of Agriculture or the Department of Natural Resources to be a pest causing economic or environmental harm and disease to trees in Minnesota.
- 1.7. **Nuisance Trees:** Any public or private tree or shrub, or part thereof that a) has an infectious or destructive disease, insect problem, or other pestilence that endangers the growth, health, life, or wellbeing of trees in the City, or that threatens to or is capable of causing a spread of a disease, pestilence, or insect infestation; b) is dead, dying, broken, or decayed.
- 1.8. **Park Trees:** Trees and shrubs in public parks and all areas owned by the City or to which the public has free access as a park.
- 1.9. **Pest:** Any living agent capable of reproducing itself that causes or may potentially cause economic or environmental harm to trees through infection and/or infestation.
- 1.10. **Private Trees:** All trees and shrubs growing on private property within the City limits.
- 1.11. **Prohibited Species:** Prohibited species that shall not be planted within the City are identified in the City Forestry Plan.
- 1.12. **Public Property:** Any area or building owned by the City including, but not limited to boulevards, parks, playgrounds, parkways, streets, sidewalks, alleys, and public parking lots.
- 1.13. **Public Right-of-Way:** Portion of property reserved for public use and accepted for such use by the City to provide circulation and travel to abutting properties, including, but not limited to streets, boulevards, alleys, sidewalks, provisions for public utilities, and cut and fill slopes.
- 1.14. **Public Trees:** All trees and shrubs growing on any public property or public right-of-way controlled by the City.
- 1.15. **Street Trees:** Trees and, shrubs on public land lying between private property lines on either side of all public streets, avenues, or rights-of-way within the City.
- 1.16. **Tree Topping:** The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

## 2. Forestry Advisory Committee

There is hereby created and established a three member Forestry Advisory Committee for the City that shall consist of residents of the City who shall be appointed by the Mayor with the approval of the City Council.

### 2.1. Term of Office

The term of the three persons to be appointed by the Mayor shall be three years except that the term of one of the members appointed to the first committee shall be for only one year and the term of two members of the first committee shall be for two years. In the event that a vacancy shall occur during the term of any member, their successor shall be appointed for the unexpired portion of the term.

## **2.2. Compensation**

Members of the Forestry Advisory Committee shall serve without compensation.

## **2.3. Duties and Responsibilities**

It shall be the responsibility of the Forestry Advisory Committee to advise the Mayor and the City Council regarding the administration of this City Forestry Ordinance. Furthermore, the Forestry Advisory Committee shall develop, update annually, and administer a written City Forestry Plan for the care, preservation, pruning, planting, replanting, and removal or disposition of trees in parks, along streets, and in other public and private areas. Such plan will be updated and presented annually to the Mayor and City Council and upon their acceptance and approval shall constitute the official City Forestry Plan. Standards and best practices contained in the City Forestry Plan are incorporated by reference into this ordinance. The Forestry Advisory Committee, when requested by the City Council, shall consider, investigate, make findings, report, and recommend upon any special matter of question coming within the scope of its work.

## **2.4. Operation**

The Forestry Advisory Committee shall be appointed by the City Council and keep a record of its proceedings. A majority of the members shall be a quorum for the transaction of business.

## **3. Tree Planting**

The Forestry Advisory Committee shall make recommendations within the City Forestry Plan designed to maintain and increase the population and diversity of public and private trees in the City's community forest. The City shall utilize the 5-10-15 guide to increase species diversity. The guide suggests the City forest population should include no more than 5% of any one species, 10% of any one genus, or 15% of any family.

### **3.1. Species to be Planted**

The Forestry Advisory Committee shall develop and maintain a list of suitable tree species and cultivars that constitutes the official Street Tree species for the City. The list shall be included in the City Forestry Plan. No species other than those included in this list may be planted on public property or right-of-way. This section does not prohibit the planting of Street Trees by adjacent property owners provided that the selection and location of said trees are in accordance with the City Forestry Plan and this ordinance.

### **3.2 Prohibited Species**

The Forestry Advisory Committee shall develop and maintain a list of tree species that

are unsuitable for planting and include them in the City Forestry Plan. These trees may be on the Minnesota Native Plant Society or University of Minnesota Extension Service “Invasive” or “Species of Concern” lists.

### **3.3. Planting Spacing**

The spacing of Street Trees will be in accordance with the species size classes defined in the City Forestry Plan.

### **3.4. Distance from Street Corners and Fire Hydrants**

No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. All plantings shall be consistent with the sight triangle setback provisions in the Zoning Code (Section 403.5). No Street Tree shall be planted closer than 10 feet of any fire hydrant.

### **3.5 Utilities**

No Street Trees other than those species listed as approved Small Trees in the City Forestry Plan may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

### **3.5 Donated trees**

Donation of trees by residents for planting on City property shall be limited to suitable tree species and cultivars identified in Street Tree species list as defined in Section 3.1. Any donation of trees shall include a plan and funding to assure initial establishment. Any tree being donated shall include a 2 year warrantee for survival or replacement. The planting location of donated trees shall be consistent with the City’s Forestry Plan.

## **4. Care of Public Trees**

### **4.1. Conformance with Standards and Best Management Practices**

All tree-related services and work including planting and pruning performed by any person, firm, or City department performed on any Street Tree, Park Tree, or other tree on public property shall conform with industry standard ANSI A300 and associated Best Management Practices by the International Society of Arboriculture, and shall be reflected in the City Forestry Plan.

### **4.2. Tree Topping**

It shall be unlawful as a normal practice for any person, firm, or City department to top any Street Tree, Park Tree, or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section of the ordinance at the determination of the City.

### **4.3 Heritage Trees**

The Forestry Advisory Committee shall create a process to identify trees on public and

private property that have special significance to the City, and designate these trees as Heritage Trees in the City Forestry Plan.

#### **4.4. Nuisances**

The following things are public nuisances whenever they may be found within the City and recognized as such by a resolution of the City Council:

1. Any living or standing tree or part thereof infected to any degree or infested with any invasive species pest; or
2. Any dead tree or part thereof, including logs, branches, stumps, firewood, bark or other tree material from which the infected and/or infested part has not been removed and burned or sprayed with an effective pesticide.

#### **4.5. Nuisance prohibited**

It is unlawful for any person to permit any public nuisance as defined in Section 4.4. to remain on any premises owned or controlled by said person within the City. Such nuisance may be abated in the manner described in this ordinance.

#### **4.6. Infections and Infestations**

The Forestry Advisory Committee shall maintain within the City Forestry Plan state-of-the-art management practices and policies for addressing infections and infestations on public and private property within the City.

### **5. Dead or Diseased Tree Removal on Private Property**

#### **5.1. Inspections and Right to Enter**

All premises and places within the City shall be inspected by employees or agents of the City as often as practicable to determine whether any condition described in Section 4.4. exists therein. All reported incidents of an infection or infestation by an invasive species tree pest shall be investigated. Said employees or agents of the City may make entry upon private premises with the owner's consent for the purpose of carrying out any of the duties and responsibilities under this ordinance.

Upon finding conditions indicating an invasive species tree pest infection and/or infestation, appropriate specimens or samples shall be taken and sent to the Minnesota Commissioner of Agriculture for analysis. No action to remove infected or infested trees or wood shall be taken until positive diagnosis of the disease has been made.

#### **5.2. Abatement on Private Property**

Whenever it is found with reasonable certainty that the infection and/or infestation defined in Section 4.4 exists in any tree or wood located on private property, outside of any public way in the City, the owner or person in occupancy or control of such property on which the nuisance is found shall be notified by personal delivery or first class mail of the infection and/or infestation, and be directed that the infection and/or infestation shall be removed and burned, or otherwise effectively treated by such

owner or person in occupancy or control within ten days after receipt of such notice. The notice shall also state that if such nuisance shall not have been abated by the owner or person in control of the property within the time provided, the owner or person in charge may be charged with a violation of this ordinance for maintaining a nuisance and that the nuisance may be abated by the City and the costs of such abatement assessed against the property.

### **5.3. Collection of Assessment**

The cost of the abatement of any such nuisance done by the City or its agents shall be reported to the City and the City shall assess and levy and cause to be collected the amount of such cost as a special assessment upon and against said premises and property.

### **6. Interference with City Tree-Related Activities**

It shall be unlawful for any person to prevent, delay, or interfere with the City or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized in this ordinance.

### **7. Alternative Compliance**

The City Council may approve or recommend the City approve alternatives and variations of the standards and best practices in this ordinance and in the City Forestry Plan upon finding the following:

1. The alternative meets the intent of this ordinance and the City Forestry Plan; and/or
2. Strict adherence to the requirements is impractical because of site location or conditions.

### **8. Penalty**

Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$1,000.00.

## **CHAPTER 17 DEVELOPMENT CODE**

### **17.01 MARINE ON ST. CROIX ZONING ORDINANCE.**

Subdivision 1. That part of the development code referred to as the Zoning Ordinance shall be attached hereafter this Section.

Subd. 2. The Zoning Ordinance may have its own separate numbering system, contrary to section 1.01, City Code, Subd. 3, Numbering. Section 17.02 shall be used as the reference number for the Zoning Ordinance.

### **17.02 SUBDIVISION REGULATIONS.**

Subdivision 1. That part of the Development Code referred to as the Subdivision Regulations shall be attached hereafter this section.

Subd. 2. The Subdivision Ordinance may have its own separate numbering system, contrary to Section 1.01, City Code, Subd. 3, Numbering

### **17.03 DEVELOPMENT CODE, GENERALLY.**

Subdivision 1. A separate index may be maintained for the Development Code.

Subd. 2. Except as provided in chapter 17, all other provisions of the Marine on St. Croix City Code apply to chapter 17, Development Code.

Subd. 3. The Chapter 17, Development Code, is an enactment to the Marine on St. Croix City Code, and its sections, 17.01, 17.02, and 17.03 are ordinances of the same. This chapter should not be considered an incorporation by reference. Any copy of the City Code sold or represented to be a complete copy shall contain the Sections of Chapter 17 set out completely as it contains all other ordinances of general applicability.

### **17.04 CONSULTANT AND ADMINISTRATIVE FEES.**

Subdivision 1. **DEFINITIONS.**

- (1) **“Owner”** means any person, firm, or corporation.
- (2) **“Consultant Fees”** means any charges billed to the City of Marine on St. Croix for services performed by the City of Marine on St. Croix planner, engineer, and attorney; exclusive of services performed as part of the consultant’s normal retainer or by special agreement between the City of Marine on St. Croix and its consultants.

(3) **"Development"** means any rezoning, subdivision, special use permit variance, building addition, or change in the site plan; or proposed rezoning, subdivision, special use permit, variance building addition, or change in site plan.

Subd. 2. **ESTABLISHMENT OF FEES.** Any owner that causes the City of Marine on St. Croix to expend monies for consultant fees on behalf of or on account of, that owner, associated with a development or proposed development, shall reimburse the City of Marine on St. Croix for the actual consultant fees expended by the City on behalf, or on account of, said owner.

Subd. 3. Any person violating the provisions of this ordinance shall be guilty of a misdemeanor.

## **CHAPTER 18 OFFENSES AGAINST HEALTH AND SAFETY**

### **18.01 LEGHOLD TRAP REGULATION.**

Subdivision 1. **PURPOSE.** It is the purpose of this chapter to preclude the potential harm that may be inflicted upon people, particularly children, and to prevent the maiming, unselective catching, and destruction of wildlife and domestic animals that may come into contact with traps.

Subd. 2. **DEFINITIONS.** As used in this section, the following terms shall have the following meanings:

- (1) **Leghold Trap.** Any mechanical devise consisting of two metal jaws which lay horizontally to form a circle or circular shape when the trap is set, or a trap which is similar to the above in design and which is intended to catch and secure animal by the leg or paw. Such a devise may also be referred to as a “steel-jaw(ed)”, “foothold”, “foot”, or “leg” trap or similar name.
- (2) **“Trapping”** The setting or laying, or other use of a leghold trap with the intent of capturing or killing an animal.

Subd. 3. **VIOLATIONS.**

- (1) Trapping using leghold traps is prohibited.
- (2) The sale of leghold traps by any person, wholesale or retail establishments is hereby prohibited.

Subd. 4. **Exceptions.**

- (1) The provisions of this ordinance do not apply to representatives of City, County, or State who may in the course of their duties be required to use a trap, to catch, trap, snare, kill or otherwise restrain the free movement of any animal, wildlife or birds for humane or other authorized purposes, or does not apply to scientists intending to identify animals, wildlife, or birds and then returning them to their natural environment.
- (2) The provisions of this ordinance do not apply to the use of any trap specifically designed to kill rats, mice, gophers, or moles, if such traps are set in homes or buildings by the owners or occupant of said homes or buildings and if such traps are set and tended in a manner so as not to endanger the health and safety of people who may use said premises.
- (3) Residents with specific animal nuisance problems may apply for a special use permit from the City Council which they may issue for a limited duration if such use is not inconsistent with the purpose of this section.

Subd. 5. Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor.

## **CHAPTER 19. SEWER USE**

### **Section 1. Title**

- 101. Short Title.** This Ordinance shall be known, cited and referred to as the Sewer Use Ordinance, except as referred to herein, where it shall be known as “this Ordinance”.

### **Section 2. Intent and Purpose**

- 201.** This Ordinance is adopted for the purpose of:
- (1) Assuring that the City is in compliance with the requirement of Minnesota Statutes Section 115.55, Subd. 2 that its Sewer Use Ordinance be at least as strict as Washington County’s.
  - (2) Protecting the health, safety, and welfare of the residents of the community, present and future and in accordance with the City’s SDS, and where applicable, NPDES Permit.
  - (3) Regulating the discharge of Sewage and Other Wastes into soil treatment units and associated collection systems which would have an adverse affect on the operation and maintenance of the Community and Individual Sewage Treatment Systems in the City.
  - (4) Regulating the location, design, installation, use and maintenance of individual sewage treatment systems so as to prevent contamination of the surface and ground waters of the City.
  - (5) Protecting individual water supply wells of the City from contamination by inadequate, improperly designed, located, installed or maintained individual sewage treatment systems.
  - (6) Providing for the orderly development of areas of the City which are not served by community public waste treatment systems and reducing the need to install community public systems in areas where they are not currently planned.

### **Section 3. Rules and Definitions**

#### **301. Rules**

301.01 In the event of conflicting provisions in the text of this Ordinance, Washington County Ordinance #179 (Codified as Chapter Four of the Washington County Development Code entitled “Individual Sewage Treatment System Regulations”) as it now

exists or may later be amended, and/or other ordinances, the more restrictive provision shall apply. The City Clerk/Administrator shall determine which is more “restrictive” and appeals from such determination shall be made in the manner provided herein.

301.02 Words used in the present tense shall include the past and future tenses; the singular includes the plural and the plural includes the singular. The word “shall” is mandatory, and the word “may” is permissive.

301.03 Wherever any reference is made to a particular statute, regulation, code or ordinance, such reference shall include any successor or amendments thereto.

## **302. Definitions**

302.01.1 For the purpose of this Ordinance, certain terms, words and phrases are hereby defined as follows:

- (1) **Active Maintenance Program.** A maintenance program for Individual Sewage Treatment Systems Program whereby the property owner has complete responsibility for effective operation, maintenance and replacement (OM&R) in a manner acceptable to the City.
- (2) **BOD. Biochemical Oxygen Demand.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C expressed milligrams per liter. Laboratory procedures shall be in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.
- (3) **Building Drain.** That part of the lower horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the Building Sewer which begins at least one foot outside the building line.
- (4) **Building Sewer.** That part of the drainage system which extends from the Building Drain and conveys its discharge to either a public sewer, a sewer tank, pumping chamber, or an Individual Sewage Treatment System.
- (5) **City** The area within the boundaries of the City of Marine on St. Croix. The term “City” when used herein may also be used to refer to the City Council and its authorized representatives.
- (6) **Community Sewage Treatment System.** A sewage treatment system which collects sewage from two or more residences or other buildings, consisting of: collector lines, pumps, sewage tanks, and soil treatment unit. Also known as a cluster system or collector system.
- (7) **Easement.** A legal transfer of rights, privileges or uses of private property.

- (8) **Garbage.** Solid waste resulting from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage, or sale of meat, fish, fowl, fruit or vegetables and condemned food.
- (9) **Individual Sewage Treatment System.** A sewage treatment system connecting to a single dwelling or other buildings consisting of: soil treatment unit, sewage tanks, and associated systems.
- (10) **Individual Wastes.** The solid, liquid or gaseous waste resulting from industrial or manufacturing processes, trades or businesses, or from the development, recovery or processing of natural resources.
- (11) **Industry.** Any nongovernmental or nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, categorized in Divisions A, B, D, E and I.
- (12) **NPDES Permit.** National Pollutant discharge Elimination System Permit means the permit establishing the system for issuing, conditioning and denying permits for the discharge or pollutants from point sources into the navigable waters, the contiguous zone, and the oceans by the Environmental Protection Agency pursuant to the Federal Water Pollution Control Act of 1972, Sections 402 and 405.
- (13) **Natural Outlet.** Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.
- (14) **Normal Domestic Strength Wastes.** Wastewater that is primarily produced by Residential Users, with BOD5 concentrations or approximately 200 mg/1 and Suspended Solids concentrations of approximately 225mg/1.
- (15) **Operations and Maintenance.** Activities required to provide for the dependable and economical functioning of the treatment system, throughout the useful life of the treatment system, and at the level of performance for which the treatment system was constructed. Operation and Maintenance includes replacement.
- (16) **Other Wastes.** Garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, oil tar, chemicals, offal, and all other substances except Sewage or Industrial Wastes.
- (17) **Passive Maintenance Program.** A maintenance program for Community Sewage Treatment Systems whereby the City is responsible for conducting operation and Maintenance and Replacement in a manner acceptable to the City.
- (18) **Person.** Any individual, firm, company, association, society, municipal

corporation, governmental unit, or group.

- (19) **PH.** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- (20) **Public Sewage Treatment System.** Any sewage treatment system owned or operated by a unit or agency of government.
- (21) **Replacement.** The obtaining and installing of equipment, accessories or appurtenances which are necessary during the useful life of the Wastewater Facilities to maintain the capacity and performance for which such facilities were designed and constructed. The term "Operation and Maintenance" includes Replacement.
- (22) **Sanitary Sewer.** A sewer which carries sewage and to which storm, surface, and groundwater are not intentionally discharged.
- (23) **Sanitary Waste.** The liquid and water carried wastes discharged from sanitary plumbing facilities.
- (24) **Sewage or Wastewater.** The water carried waste products from residences, commercial buildings, public buildings, institutions, industrial establishments or other buildings including the excrementitious or other discharge from bodies of human beings or animal, together with such ground, surface, and storm waters as may be present.
- (25) **Sewer.** A pipe or conduit for carrying Sewage, Industrial Wastes or other wastes.
- (26) **Sewer System.** Pipelines or conduits, pumping stations, force mains, and all other devices and appliances appurtenant thereto, used for collecting or conducting sewage, Industrial Wastes or Other Wastes to a point of ultimate.
- (27) **"Slug"** Any discharge of water, wastewater or Industrial Waste which in concentration of any given constituent, or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times during the average twenty-four (24) hour concentration or flow during normal operation.
- (28) **State Disposal System (SDS) Permit.** Any permit including any terms, conditions and requirements thereof issued by the MPCA pursuant to Minnesota Statutes 115.07 for a disposal system as defined by Minnesota Statutes 115.01, Subdivision 8.
- (29) **"Suspended Solids.** Solids that either float on the surface or are in suspension in

water, Sewage, or other liquids and which are removable by laboratory filtering in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.

- (30) **Toxic Pollutant.** The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse affects as defined in standards adopted pursuant to Section 307 (a) of the Clean Water Act.
- (31) **Unpolluted Water.** Clean water uncontaminated by Industrial Wastes, Sewage, other wastes, or any substance which renders such water unclean or noxious or impure so as to be actually or potentially harmful or detrimental, or injurious to public health, safety, or welfare; to domestic commercial, industrial or recreational uses; or to livestock, wild animals, birds, fish or other aquatic life.
- (32) **Washington County Ordinance.** Washington County Ordinance #128 effective as of October 20, 1997 (Codified as Chapter Four of the Washington County Development Code and entitled "Individual Sewage Treatment System Regulations") as amended from time to time.
- (33) **Wastewater Facility.** The structures, equipment, or processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

#### **Section 4. Use of Public Sewage Treatment Systems**

##### **401. General Requirements**

**401.01. Unlawful Surface Discharge.** It shall be unlawful to discharge to any Natural Outlet, the ground surface or to surface water within or under the jurisdiction of the City and Sewage or other polluted waters, except as permitted in this Ordinance.

**401.02. Unlawful Connection to Public Sewage Treatment System.** It shall be unlawful for any Person to connect a Building Sewer to any Public Sewer Treatment System without first obtaining a permit from the City. The City shall permit new connections and flow increases only if there is additional available capacity in the particular Public Sewage Treatment System being considered.

**401.03. Lawful Connections to Community Sewage Treatment System.** New connections will be allowed, with a City Permit, according to the following conditions.

- (1) Where an existing Individual Sewage Treatment System is failing and where the property in question has frontage on the Public Sewage Treatment System, a new connection may be permitted if capacity is available on all components of the Public Sewage Treatment System.

- (2) New connections to the Community Sewage Treatment Systems will be permitted for new construction if capacity is available in the particular Community Sewage Treatment System over what is needed to accommodate all the existing structures whether currently connected or not, and structures for which permits have been previously issued, and the property owner or developer has shown that a working Individual Sewage Treatment System could be installed on the property.
- (3) New connection shall be constructed according to the specifications of the City's Permit for said connection. The permit conditions for new Building Sewer connections to Public Sewage Treatment Systems shall be as follows:
- (a) Applications for permits shall be made by the owner or authorized agent and shall state the location, name owner, street number of the building to be connected, and how such building is or will be occupied.
  - (b) There shall be two (2) classes of building sewer permits: (i) for residential and commercial service and (ii) for service to establishments producing Industrial Wastes. In either case, the application shall be supplemented by any plans, specifications, or any other information considered pertinent in the judgment of the City. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.
  - (c) All costs and expenses incidental to the installation and connection of the Building Sewer including the costs and expenses incurred by the City, plus a sewer connection borne by the owner (s).The owner (s) shall indemnify the City from any loss or damage that may be directly or indirectly occasioned by the installation of the Building Sewer.
  - (d) A separate and independent Building Sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can without undue hardship be constructed to the rear building through an adjoining alley, court, yard, driveway, or where all buildings are on the same lot or on contiguous lots and the property owners have agreed in writing that the lot will not be split or the buildings sold to separate owners unless a separate new sewer connection is made for each building. The Building Sewer from the front building may, upon approval by City, be extended to the rear building and the whole considered one Building Sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.
  - (e) Old Building Sewers may be used in connection with new buildings only

when they are found, on examination and test by the City, to meet all requirements of this ordinance.

- (f) The size, slopes, alignment, materials of construction of a Building Sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the State of Minnesota Building and Plumbing Code and other applicable rules and regulations of the State, County and City. In the absence of code provisions or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and SMCF Manual of Practice No. 9, shall apply.
  - (g) Whenever possible, the Building Sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any Building Drain is too low to permit gravity flow to the public sewer, Sewage carried by such Building Drain shall be lifted by an approved means and discharged to the Building Sewer. The property owner shall provide and maintain such lifting mechanism as required at no expense to the City.
- (4) The fee for new connections shall be established by the City from time to time by resolution. The fee may vary based on the costs and individual circumstances of the requested new connection.

**401.04 Unlawful Discharges.** Sewage, sewage tank effluent, or seepage from a soil treatment system shall not be discharged into any well or boring as defined in Minnesota Rules Chapter 4725 or into any other excavation in the ground. No person shall discharge or cause to be discharged directly or indirectly any waste which, by volume or strength or nature, may harm the Wastewater Facility to which it is discharged, cause obstruction to the free flow in Sewers, endanger life or health, or cause a nuisance. Without limiting the foregoing:

- (1) No person shall discharge or cause to be discharged directly or indirectly any storm water, groundwater, roof runoff, subsurface drainage, sewage or wastewater unpolluted cooling or processing water to any Sanitary Sewer except as permitted by the City.
- (2) Storm water and all other Unpolluted Water shall be discharged to a storm sewer if available or to the ground surface. Unpolluted cooling or processing water may be discharged to a storm sewer to Natural Outlet upon issuance of a discharge permit by the MPCA.
- (3) No person shall discharge or cause to be discharged directly or indirectly to any treatment system the following substances:
  - a. Any liquids, solids, or gases which by reason of their nature or quantity are,

or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the treatment system. Prohibited materials include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

- b. Any water or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a nuisance, or create any hazard in the treatment system.
- c. Any water or waste having a ph lower than 5.5 or having any other corrosive properties capable of causing damage or hazard to structures, equipment, animals or humans.
- d. Solid or viscous substances, either whole or ground, in quantities or of such size capable of causing obstruction to the flow in the Sewers, or other interference with the proper operation of the Wastewater Facilities such as, but not limited to, ashes, cinders, disposable diapers, glass grinding or polishing wastes, stone cuttings or polishing wastes, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshings, entrails, sanitary napkins, tampons, paper dishes, cups, milk containers, and other paper products.
- e. Noxious or malodorous liquids, gases, or substances which either singly or by interaction with other wastes are sufficient to create a nuisance or hazard to life or are sufficient to prevent entry into the Sewers for their maintenance or repairs.
- f. Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, including wastes which may adversely effect the permeability of soils, such as dairy products and blood.
- g. Chemically treated hot tub or pool water.
- h. Products containing hazardous waste and hazardous substances other than in amounts normally found in household products and cleaners designed for household use.
- i. Solvents, pesticides, flammables, photo finishing chemicals and dry cleaning chemicals.

- (4) No person shall discharge or cause to be discharged directly or indirectly the following described substances to any Sewage Treatment System unless in the opinion of the City such discharge will not harm the Wastewater Facilities, nor cause obstruction to free flow in Sewers, nor otherwise endanger life, limb or public property, nor constitute a nuisance. In forming its opinion as to the acceptability of the wastes, the City may give consideration to such factors as the materials or construction of the Sewers, nature of the sewage treatment process, capacity of the Sewage Treatment System, the City's SDS permit, and other pertinent factors. The City may make such determination either on a general basis or as to discharges from individual users or specific discharges, and may prohibit certain discharges from individual users because of unusual concentrations or combinations, which may occur.

The substances prohibited are:

- a. Any liquid or vapor having a temperature in excess of one hundred fifty (150) degrees F. [Sixty-five (65) degrees C.]
- b. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F. [Zero (0) and sixty-five (65) degrees C.]
- c. Any Garbage that has been ground or comminuted to such degree that all particles will be carried freely in suspension under flows normally prevailing in the public sewers, with no particles prevailing in the public sewers, with no particles greater than one-half (1/2) inch in any dimension.
- d. Any water or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not.
- e. Any water or wastes containing phenols or other taste or odor producing substances which constitute a nuisance or hazard to the structures, equipment, or personal operating or maintaining the Sewage Treatment System, or which interfere with the treatment required to meet the requirements of the State or Federal Government, or any other public agency with proper authority to regulate the discharge from the Sewage Treatment System.
- f. Any radioactive wastes or isotopes of such half-life or concentration that they are not in compliance with regulations issued by the appropriate authority having control over their use or may cause damage or hazards to the Sewage Treatment System or personnel operating it.
- g. Any water or wastes having a ph in excess of 9.5

- h. Materials which exert or cause:
  - 1. Unusual concentrations of suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
  - 2. Excessive discoloration (such as, but not limited too, dye wastes and vegetable tanning solutions).
  - 3. Unusual BOD or chemical oxygen demand in such quantities as to constitute a significant load on the Wastewater Facilities.
  - 4. Unusual volume of flow or concentration of waste constituting a Slug.

**401.04(5) Unlawful Discharges.** Dwellings and other buildings and structures, which require sump pumps or footings tiles shall have a permanently installed discharge line, which shall not at anytime discharge water into the sanitary sewer system. A permanent installation that provides for year round capability to the outside of the dwelling, building or structure, and consisting of a discharge line, without valving or quick connections, for altering the path of discharge.

Any person not currently in compliance with this ordinance, or any future connections to the city collector system shall be subject to the following:

- a. Before adoption of the this ordinance, any person, firm or corporation having a roof surface, groundwater sump pump, footing tile, swimming pool, cooling water or unpolluted industrial process water now connected and/or discharging into the sanitary sewer system, shall disconnect or remove same. And, any disconnects or openings in the sanitary sewer system shall be closed or repaired in an effective, workman like manner.
- b. Every person owning improved real estate that discharges into the city's sanitary system shall allow the city or a designated representative of the city to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. In lieu of having the city inspect the property, any person may furnish a city inspection report from a city approved, licensed plumber to certify that the property is in compliance with this section.
- c. Any property with a sump pump found not in compliance with this section, but subsequently verified as compliant, shall be subject to an annual re-inspection to confirm continued compliance. Any property found not to be in compliance upon re-inspection, or any persons refusing to allow their property to be re-inspection, or any person refusing to allow their property to be re-inspected, within thirty (30) days after receipt of mailed written notice fro the city of the re-inspection, shall be subject to the non-refundable penalty set forth in subsection

(e) below.

- d. All new dwellings, buildings or structures for which a building permit is Issued following the date of the adoption of this ordinance, and which requires a sump pump, must be in full compliance with this ordinance prior to receiving a Certificate of Occupancy.
- e. A non-refundable fee of \$100 per month shall be imposed and placed on the sewer bill of all property owners not in compliance with this section of the ordinance, or who have refused to allow their property to be inspected to determine compliance.

**401.05 Pretreatment, Control and Refusal of Extraordinary Wastes.** If any water or wastes are discharged, or are proposed to be discharged, directly or indirectly to the Treatment System, which water or wastes do not meet the standards set out in or promulgated under this Subsection, or which In the judgment of the City may have a deleterious effect upon the Facilities, processes, equipment, or receiving eaters or which otherwise create a hazard to life, or constitute a nuisance, the City may take all or any of the following steps:

- Refuse to accept the discharges.
- Require control over the quantities and rates of discharge.
- Require pretreatment to an acceptable condition for the discharge to the Sewage Treatment System.
- Require payment to cover the added cost of handling or treating the wastes.

The design and installation of a plant or equipment for pretreatment of equalization of flows shall be subject to the review and approval of the City, and subject to the requirements of 40 CFR 403, entitled "Pretreatment Standards", and the requirements of the Minnesota Pollution Control Agency.

- (1) Grease, oil, and mud interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Subdivision 401.04 (4) b of this Ordinance, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located so as to be readily and easily accessible for cleaning and inspection.
- (2) Where preliminary treatment, flow equalization, or interceptor equipment is required for any water or waste, it shall be effectively operated and maintained

continuously in satisfactory and effective condition by the owner at his or her expense and shall be available for inspection by the city at all reasonable times.

- (3) When required by the City, the owner of any property serviced by a Building Sewer carrying Industrial Wastes shall install a suitable control structure together with such necessary meters and other appurtenances in the Building Sewer to facilitate observation, sampling, and measurement of the wastes. Such structure and equipment, when required, shall be constructed at the owner's expense in accordance with plans approved by the City and shall be maintained by the owner so as to be safe and accessible at all times.
- (4) All measurements, tests, and analyses of the characteristics of water and waste to which reference is made in this Ordinance shall be determined in accordance with 40 CFR 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants" and the latest edition of Standard Methods for the Examination of Water and Wastewater and shall be determined at the control structure provided, or upon suitable samples taken at said control structures. In the event that no special control structure has been required, the control structure shall be considered to be the nearest downstream manhole in the public Sewer from the point at which the Building Sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effluent constituents and their effects upon the Sewage Treatment System and to determine the existence of hazards to life, health and property. Sampling methods location, times, duration's, and frequencies are to be determined on an individual basis subject to approval by the City.
5. The owner of any property serviced by a Building Sewer carrying Industrial Wastes shall, at the direction of the City, be required to provide laboratory measurements, tests and analyses of waters or wastes to demonstrate compliance with this Ordinance and any special conditions for discharge established by the City or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the City. The owner must supply a complete analysis of the constituents of the wastewater discharge or assure that compliance with the Federal, State, and local standards are being met. The owner shall bear the expense of all measurements, analysis and reporting required by the City. At such times as deemed necessary the City reserves the right to take measurements and samples for the analysis by an outside laboratory and the Owner shall reimburse the City for any costs incurred by it in doing so.
- (6) New connections to the Community Sewage treatment System shall be prohibited unless sufficient flow capacity is available in all downstream Wastewater Facilities.

(7) No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an Industrial Waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the industrial concern, providing that National Categorical Pretreatment Standards and the City's NPDES and/or State Disposal System Permit limitations are not violated.

#### **401.06 Other Prohibitions**

(1) No privy shall be allowed in the City without a permit. Permits shall be issued only in case of hardship and where use is temporary and on account of the unavailability of running water to the property served. Any permitted privy shall be installed over a concrete vault, which shall be cleaned at regular intervals so as to not constitute a nuisance.

### **Section 5. Use of Individual Sewage Treatment Systems**

#### **501. General Requirements**

**501.01. Mandatory Sewage Treatment.** Where access to the Community Sewage treatment system is not available under the provisions of Section 4, the Building Sewer shall be connected to an Individual Sewage Treatment System complying with the rules and regulations of the City, with Minnesota Rules, Chapter 7-14 of Washington County Ordinance #178, which Chapters are incorporated into this Ordinance as provided in Section 8, below. Cesspools, seepage pits, dry wells and leaching pits shall not be installed and shall not remain in operation.

**501.02.** Installation of individual sewage treatment systems into low swampy areas, drainage swales, floodplains or other areas subject to recurrent flooding is prohibited. Notwithstanding the foregoing, individual sewage treatment systems in existence as of the date this Ordinance becomes effective may continue in use if they are repaired and maintained in conformity with the requirements of this Ordinance, and maybe replaced if normal repairs and maintenance to the existing system would not reasonably be expected to permit such system to operate in conformity with the requirements of the Ordinance.

**501.03.** Individual Sewage Treatments Systems shall not be located within utility or drainage easements nor within dedicated public or private rights-of -way without proper approvals.

**501.04** Uncontaminated clear wastewater from geothermal heat pump installations shall not be introduced into individual sewage treatment systems. Such waste may be discharged to the ground surface or to a body of water; however, in no case shall surface discharge be permitted where such discharge encroaches on adjoining property or public way. Where subsurface disposal is provided, such installation shall be

separated from the required sewage treatment site and shall be designed and sized as prescribed for standard soil treatment systems.

**501.05** New Installation. No new Individual Sewage Treatment System or extensions thereof shall be constructed within the City without first obtaining a permit for said system or extension from the City or its authorized agent. The City hereby adopts, and incorporates by reference into this Ordinance subject to the following:

- (1) The reference in Section 5.5 thereof to the “department” shall be replaced by a reference to the “City”.
- (2) The reference in Section 5.8 thereof to “this Chapter” shall be replaced by a reference to “this Ordinance”.

**501.06** Unlawful Discharge in Individual Sewage Treatment System. It shall be unlawful to discharge such wastes as are prohibited by Section 401.04 of this Ordinance to an Individual Sewage Treatment System.

## **SECTION 6. MAINTENANCE**

### **601. Mandatory Maintenance**

**601.01.** (1) All Sewage Treatment Systems constructed, in whole or part, with state and federal “201” grant assistance shall be maintained according to the provisions of the Passive Maintenance Program as provided in Section 601.02, below.

(2) All other Sewage treatment Systems shall comply with the provisions of the Active Maintenance Program as provided in Section 601.03, below.

**601.02.** Passive Maintenance Program. All homeowners and users who are connected to a sanitary sewer improvement and which was constructed in whole or in part with state and federal “201” grant assistance shall be required to participate and comply with the provisions of the Passive Maintenance Program.

(1) Via this maintenance program, the City shall be responsible for operation, maintenance and replacement of all publicly owned components of the Community Sewage Treatment System.

- a. Public ownership shall include all components of a sewage treatment system, which are purchased and constructed, in whole or part, with state and federal grant assistance. Unless otherwise prescribed, public ownership shall begin at the end of the Building Sewer and shall include all components to and including the soil treatment unit.

- b. The City shall be responsible for Operation and Maintenance and replacement of such publicly owned components including: inspections, tank pumping, sewer line repair and cleaning, pump maintenance and operation, maintenance and monitoring of the soil treatment system.
  - c. The City shall establish a system of sewer user charges to support this operation, maintenance and replacement effort
- (2) Property owners shall be responsible for Operation and Maintenance and Replacement of all plumbing lines and components that lie within the walls of the structure they service. It is also the property owner's responsibility to maintain the Building Sewer which extends from the building to the sewage tank, pump chamber or public sewer. The property owner shall also be responsible for paying for the cost of electricity for operating the effluent pump for his sanitary improvement.
- a. The property owner shall be responsible for maintaining the ground surface on his or her property which overlies the sewer system.
  - b. The property owner shall inform the City of any sewage system problems.
  - c. The property owner shall make timely payments of the user charges established by the city.
  - d. The owner or occupant of a property shall be responsible to provide access, at reasonable times, to the City or its agents, for the purpose of performing inspections and Operation and Maintenance and Replacement required under this Ordinance.

**601.03.** Active Maintenance Program. Each Individual Sewage treatment System not installed with state or federal "201" grant assistance shall be operated, maintained, and replaced according to the provisions of this section.

- (1) Responsibility for proper operation, maintenance, and replacement of Individual Sewage Treatment Systems shall be as follows:
- a. The owner of each dwelling unit or other building served by an Individual Sewage Treatment System shall be responsible for the proper functioning and Operation and Maintenance and Replacement of the system.
  - b. The City shall take reasonable steps to assure, through a biennial return mail reporting system, routine periodic monitoring, investigation of complaints, and other appropriate means, that corrective action is ordered

to protect the health, safety, and welfare of the community in the event that the responsible owner is negligent or fails to take action as required by this Ordinance and by the applicable NPDES/SDS Permit(s).

- c. When it has been determined that maintenance and replacement is necessary on an Individual Sewage Treatment System (apart from Septic Tank Pumping addressed below), such maintenance and replacement shall be accomplished as provided in this Ordinance and as reasonable approved by the City.
- (2) Maintenance inspections should be performed annually by the owner or an individual or firm certified and licensed to provide maintenance services. Maintenance inspections shall be performed biennially by a certified and licensed professional who shall submit a written, signed report of such inspection and/or maintenance to the City. Such inspection shall include, but is not limited to:
- a. Measurement of accumulated sludge and scum in the septic tank.
  - b. Inspection of effluent levels in soil treatment systems which are equipped with inspection wells.
  - c. Inspection of pumps and pump stations when included as part of the system.
  - d. Inspection of distribution devices, valve boxes and drop boxes.
- (3) The owner of a septic tank or the owner's agent must arrange for the removal and proper disposal of septage from all tanks or compartments in which the top of the sludge layer is less than 12 inches below the bottom of the outlet baffle or whenever the bottom of the scum layer is less than three inches above the bottom of the outlet baffle.
- (4) All accumulations of sludge, scum and liquids must be removed through the maintenance hole. The owner or the owner's agent shall install maintenance holes in tanks in accordance with Section 11.3 (1) to allow for the maintenance to take place through the maintenance hole.
- (5) Individual sewage additives must not be used as a means to reduce the frequency of proper maintenance and removal of septage from the septic tank.
- (6) Individual sewage treatment system additives which contain hazardous substances must not be used in individual sewage treatment systems.

**602. Sewage Management.**

**602.01** Any accumulation of solids in pump stations, distribution devices, valve boxes, or drop boxes shall be considered septage. Whenever inspection of pump stations, distribution devices, valve or drop boxes indicates accumulation of solids, such device shall be promptly cleaned.

- (1) Pumping of sewage tanks and other components of Individual Sewage Treatment Systems shall be performed only by contractors licensed by Washington County to provide such services.
- (2) Septage shall be disposed of only in accordance with state, federal and local requirements. Subject to the foregoing, septage shall be disposed of as follows: by approved means as follows:
  - a. Into a municipal sewage treatment system capable of treating such wastes and as authorized in writing by the owner of the accepting facility and the Metropolitan Waste Control Commission.
  - b. At a land disposal site approved by the Minnesota Pollution Control Agency (MPCA).
  - c. In no case shall septage be discharged to any body of water or to the ground surface at locations which have not been approved by the MPCA for surface application.
- (3) Licensed contractors shall maintain accurate records of pumping activity and shall report such data annually to the Washington County Department of Health, Environment and Land Management on forms provided by the Department.
- (4) Any maintenance activity used to increase the acceptance of effluent to a soil treatment system must:
  - a. Not be used on failing systems;
  - b. Not decrease the separation to the saturated soil or bedrock;
  - c. Not cause preferential flow from the system bottom to the saturated soil or bedrock; and
  - d. Be conducted by a qualified employee or under an installer license.

## **Section 7. APPLICABILITY AND INSPECTIONS**

## **701. Applicability**

- 701.01** This Ordinance shall apply and be in effect for the stated purposes in the City.
- 701.02** All individual sewage treatment systems installed after the effective date of this Ordinance and all alterations, extensions, modifications or repairs to existing systems irrespective of the date of original installation shall be regulated in accordance with all the requirements of this Ordinance.
- 701.01** Any existing system which is a cesspool or leaching pit or which shows evidence of sewage discharge to surface water, sewage discharge to ground surface, sewage backup, or any other situation with the potential to immediately and adversely affect or threaten public health or safety is hereby declared to be a public health nuisance and shall be considered to be an imminent threat to public health and safety and be repaired, ungraded, replaced or its use discontinued within thirty (30) days after notice and order to comply by the City. Any further discharge of effluent must be stopped immediately (by such methods as reducing or stopping all water use or pumping the tank as necessary) until such time as the system is corrected
- 701.02** Any individual sewage treatment system or component thereof, irrespective of the date of original installation, which is not located, constructed, installed or maintained in accordance with the provisions of this Ordinance shall be replaced or otherwise brought into compliance within ninety (90) days of notice and order to comply by the by the City. An existing system that is not otherwise considered an imminent threat to public health and which was constructed under a permit need not be upgraded, repaired, replaced or its use discontinued notwithstanding the fact that at the time of a compliance inspection, there appears to be less than the required three foot separation between the system bottom and mottled soil.
- 701.02.1** Industrial Wastewater systems and individual sewage treatment systems serving more than twenty (20) persons (1200 gallons per day) are regulated by the United States Environmental Protection Agency as Class V infection wells under Code of Federal Regulations Title 40 Part 144.
- 701.03** When a single individual sewage treatment system or group of individual sewage treatment systems, is located on adjacent properties and under single ownership, the owner or owners shall make application for and obtain a state disposal system permit from the Minnesota Pollution Control Agency if the individual sewage treatment system or group of systems is designed to treat an average design flow of greater than 10,000 gallons per day.
- 701.04** Any individual sewage treatment system requiring approval by the State of

Minnesota shall also comply with this Ordinance.

## **702 Inspections**

**702.1** Inspections as required to determine compliance with this Ordinance shall be performed by the Clerk/Zoning Administrator or his/her authorized agent under the following circumstances:

- (1) Site inspections to verify and evaluate soil and site conditions and to determine the suitability of soils and system design.
- (2) Necessary investigation to determine compliance of existing systems at the time of remodeling, alteration or additions.
- (3) For all new individual sewage treatment system construction or replacement.
- (4) Mound systems require a minimum of three construction inspections:
  - a. When the original soil under the mound has been roughened, but prior to the placement of the sand fill. Enough of the proposed sand fill must be present to be viewed.
  - b. After placement of rock and piping, but prior to cover.
  - c. When the job is completed.
- (5) Installation in sections shall be made prior to any work having been covered by backfill. Work which is backfilled prior to required inspection may be ordered uncovered whenever necessary to determine compliance with this Ordinance.

**702.02** The licensed installer shall be responsible to notify the City a minimum of twenty-four (24) hours prior to the time work is ready for inspection or reinspection.

**702.03** If upon inspection any part of the system is determined not to be in compliance with this Ordinance, written notice shall be provided by the City identifying the deficiencies and the required corrections. Deficiencies identified in the notice shall be properly corrected and reinspected before any other work on the project is continued.

**702.04** No system shall be placed or replaced in service until final inspection has been completed and the system installation has been approved.

**702.05** The licensed installer shall, upon completion of installation, file with the City as

built drawings indicating the location of system components dimensioned from a permanent reference point.

- 702.06** Duly authorized employees or agents of the City shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. Those employees or agents shall have no authority to inquire into processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries except as is necessary to determine the kind and source of the discharge to the sewage treatment system.
- 702.07** The owner or occupant of a property shall be responsible to provide access at reasonable times, to the Clerk/Zoning Administrator or his/her agent, for the purpose of performing inspections required under this Ordinance.
- 702.08** While performing the necessary work on private property as referred to in Subdivision 1 of this Subsection, the authorized employees or agents of the City shall observe all safety rules applicable to the premises.
- 702.09** Fees for inspections, maintenance, or other services rendered under this Ordinance shall be as set by resolution of the City Council from time to time.

## **SECTION 8. INCORPORATION OF CERTAIN PROVISIONS OF THE WASHINGTON COUNTY ORDINANCE**

- 801.01** Sections 7 (General Requirements), 8 (Site Evaluation), 9 (Soil Testing), 10 (Sewage Flow Determination), 11 (Sewage Tanks), 12 (Distribution of Effluent), 13 (Dosing of Effluent), 14 (Final Treatment and Disposal) and 18 (System Abandonment) of the Washington County Ordinance are hereby incorporated in their entirety into and made part of this Ordinance as if fully set forth herein except to the extent such sections are inconsistent with the other provisions of this Ordinance.
- 801.02** Sections 15.1, 15.2, 15.4, 15.6, and 15.8 of the Washington County Ordinance are hereby incorporated in their entirety into and made part of this Ordinance as if fully set forth herein except to the extent such sections are inconsistent with the other provisions of this Ordinance.
- 801.03** Collector systems may be allowed to be installed within the Single Family Rural zoning district of the City where the system is intended to service a planned unit development and such development is designed so as to reduce the size of building lots and increase the amount of common open space within the development. Collector systems will not be allowed for the purpose of making otherwise unbuildable lots buildable. For the purpose of implementing these

policies of the City, Sections 15.7 (2) -15.7 (5) of the Washington County Ordinance are hereby incorporated in their entirety into and made part of this Ordinance as if fully set forth herein except to the extent such sections are inconsistent with the other provisions of this Ordinance.

**801.04** To the extent necessary to interpret and implement the foregoing sections of the Washington County Ordinance, the definitions contained in Section 2 of the Washington County Ordinance are hereby incorporated in their entirety into and made part of this Ordinance as in fully set forth herein except to the extent such definitions are inconsistent with the definitions set forth in Section 3 of this Ordinance.

## **SECTION 9. EXPERIMENTAL SYSTEMS**

**901.01** Systems deemed to be “experimental” by the Minnesota Pollution Control Agency which utilize innovative techniques and methods may be permitted by the City under the following conditions:

- (1) The Minnesota Pollution Control Agency has issued a permit for the experimental system;
- (2) The Minnesota Pollution Control Agency and City have approved the permit applicant’s plan for monitoring system performance, including but not limited to metering water use, regularly monitoring effluent quality, periodically system inspection and regular maintenance;
- (3) The Minnesota Pollution Control Agency and City have approved the permit applicant’s mitigation plan. Such plan must include a thorough description of the planned corrections and/or means of system replacement, an agreement making the applicant or another person or entity acceptable to the City responsible for paying the cost of mitigation, and an agreement to indemnify and hold the City harmless from any damages arising out of the design, operation or failure of the system.
- (4) Reasonable assurance of satisfactory system performance has been presented to and accepted by the Minnesota Pollution Control Agency and the City;
- (5) Use of the proposed system at the site is supported by engineering data deemed adequate by the Minnesota Pollution Control Agency and the City;
- (6) The proposed system shall comply with all other applicable Minnesota Pollution Control Agency rules and regulations. Proposed experimental systems which do not provide the three(3) foot minimum separation are permitted only if the applicant obtains a variance from the Minnesota

Pollution Control Agency as required by Rule 7080.0305, subd. 3.

**901.02** Without limiting the foregoing, experimental systems will not be allowed in areas where installation of a new system or modification to a the proposed system in the event the experimental system fails are not feasible or would not be permitted under this Ordinance. Adequate land area for long-term sewage treatment by suitable soils, as required for standard systems, shall be designated in the permit application and, if the permit is granted, set aside in appropriate covenants or agreements approved by the City which rum with the land and which are recorded in the Washington County land records.

**901.02** The City may require discontinuance of the use of any experimental system which fails to properly treat waste to a standard equivalent to a standard drain field system until modifications are made to the system allowing it to meet such standard or the experimental system is replaced with a standard system.

## **SECTION 10 . ENFORCEMENT**

### **1001.01 Responsibility for Enforcement**

- (1) The City Clerk/Zoning Administrator or his/her agent shall be responsible for administration and application and enforcement of this Ordinance
- (2) The City Clerk/Zoning Administrator or his/her agent shall be qualified and certified by MPCA as competent in the design, evaluation and inspection of individual on-site sewage treatment systems, and shall carry a current Individual sewage Treatment System Certificate and a current Class D Operators Certificate.

### **1001.02 Appeals and Variance Requests**

- (1) If the City Clerk/Zoning Administrator or his/her agent finds that, by reason of exceptional circumstances, the strict enforcement of any provision of the Ordinance would cause undue hardship or that strict conformity with the standards would be unreasonable, impractical, or not feasible under the circumstances, the City Clerk/Zoning Administrator may recommend to the City Council that variances be granted subject to conditions he/she may prescribe for prevention, control or abatement of pollution.
- (2) Any appeal of an administrative decision or determination may be filed by any person, department, bureau, town, city, county, or state which is aggrieved by the decision or determination.
- (3) The City Council shall hear and decide appeals of any order, decision or determination made by the City Clerk/Zoning Administrator regarding the

application and enforcement of this Ordinance.

- (4) The City Council shall hear and act upon all rate adjustments and requests for variances from the requirements of this Ordinance. Pursuant to Minnesota Rule 7080.0305, variances to decrease the three (3) feet of vertical separation required beneath the distribution medium and the saturated soil or bedrock must be approved by the Commissioner of the MPCA in accordance with Minnesota Rule 7080.0305, subd. 3.

### **1001.03      Violations and Penalties**

- (1) It is hereby declared unlawful for any person to violate any term or provision of this Ordinance. Violation hereof shall be a misdemeanor and on conviction thereof, the violator shall be fined in an amount prescribed by resolution adopted from time to time by the City. Each day that a violation is allowed to continue shall constitute a separate offense.
- (2) In the event of a violation or a threatened violation of this Ordinance, the Clerk/Zoning Administrator, in addition to other remedies, may request appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened actions or proceedings. In addition, written notice in the form of a license complaint may be made to the Commissioner of the Minnesota Pollution Control Agency
- (3) In cases where a public health nuisance has been determined to exist, the Clerk/Zoning Administrator may institute enforcement action under the Local Public Health Act, Minnesota Statutes Chapter 145A
- (4) Any person found to have violated any provisions of this Ordinance shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall within the time period stated in such notice permanently cease all violations and complete all required corrective actions.
- (5) Where work requiring a permit under this Ordinance has commenced without first having obtained a permit, work shall be ordered to stop immediately until all permit requirements have been met and a permit for installation of a system has been approved.
- (6) Any person violating any of the provisions of this Ordinance shall be liable to the City for any expense, loss or damage incurred by the City by reason of such violation.

### **SECTION 11.      SEPARABILITY**

**1101.01** It is hereby declared that the several provisions of this Ordinance are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
- (2) If any court of competent jurisdiction shall adjudge invalid the application of any portion of this Ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

## **CHAPTER 20 SEWER RATE**

### **SECTION 1. TITLE**

- 101. Short title.** This Ordinance shall be known, cited and referred to as the Wastewater Services Charge Ordinance, except as referred to herein, where it shall be known as, “this Ordinance”.

### **SECTION 2. INTENT AND PURPOSE**

- 201.** This Ordinance is adopted for the purpose of:
- (1) Setting forth the requirements for accruing revenues to enable the City of Marine on St. Croix to comply with State and Federal laws and to provide sufficient revenues to financially balance expenditures for the maintenance of the Community Sewage Treatment Systems and those Individual Sewage Treatment systems within the City of Marine on St. Croix constructed with Federal and State grant funds.
  - (2) Assessing those Users of the Community Sewage Treatment System and Individual Sewage Treatment Systems within the City of Marine on St. Croix, which are constructed with Federal and State grant funds, User Charges based on the User’s proportionate contribution to the total wastewater loading from all users.

### **SECTION 3. RULES AND DEFINITIONS**

#### **301. Rules**

- 301.01** In the event of conflicting provisions in the text of this Ordinance, and/or other ordinances, the more restrictive provisions shall apply. The City Clerk/Administrator shall determine which is more “restrictive” and appeals from such determination shall be made in the manner provided herein.
- 301.02** Words used in the present tense shall include the past and future tense; the singular includes the plural and the plural includes the singular. The word “shall” is mandatory and the word “may” is permissive.
- 301.03** Wherever any reference is made to a particular statute, regulation, code or ordinance, such reference shall include any successor or amendments thereto.

## 302. Definitions.

302.01 For the purpose of this Ordinance, certain terms, words and phrases are hereby defined as follows:

- (1) **Administrative Costs.** Those fixed costs attributed to administration of the Wastewater Treatment Facilities, including but not limited to; billing, bookkeeping and accounting functions.
- (2) **Biochemical Oxygen Demand (BOD5).** The quantity of Oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days to 20 degrees C, expressed in milligrams per liter.
- (3) **City.** The City of Marine on St. Croix, Minnesota.
- (4) **Community Sewage Treatment System.** A sewage treatment system which collects sewage from two or more residences or other buildings, consisting of: collector line, pumps, sewage tanks, and soil treatment unit. Also known as a cluster system.
- (5) **Commercial User.** Any non-residential User which discharges Sanitary wastes as distinct from Industrial Wastewater.
- (6) **County** The area within the boundaries of Washington County. The term "County" when used herein may also be used to refer to the County Board and its authorized representatives.
- (7) **Equivalent Residential Unit (ERU)** A unit of wastewater volume of 200 gallons per day and a theoretical strength of 200 mg/l of BOD and 225 mg/l of total Suspended Solids.
- (8) **Extra Strength Waste.** Wastewater having a BOD and/or Suspended Solids greater than Normal Domestic Strength Wastewater as defined in (15) below, and not otherwise classified as an incompatible waste.
- (9) **Governmental User.** Users which are agencies or instrumentality's of federal, state, or local government discharging Normal Domestic Strength Wastewater.
- (10) **Incompatible Waste.** Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a nuisance, or creates any hazard in the receiving waters of the Wastewater Treatment Facilities.

- (11) **Individual Sewage Treatment System.** A sewage treatment system connecting to a single dwelling or other building, consisting of: soil treatment unit, sewage tanks, and associated systems
- (12) **Industrial Wastewater.** The liquid processing wastes from an industrial manufacturing process, trade, or business including but not limited to all Standard Industrial Classification Manual Division A, B, D, E, and I manufacturers as distinct from domestic wastewater.
- (13) **Institutional User.** Users which are social, charitable, religious, and educational organizations and agencies such as: schools, churches, hospitals, nursing homes, penal institutions.
- (14) **Monitoring and Inspection Costs.** Expenditures for monitoring and inspecting Wastewater Treatment Facilities, which are operated and maintained according to a passive maintenance system adopted in accordance with Ordinance #72.
- (15) **Normal Domestic Strength Wastewater.** Wastewater that is primarily produced by Residential Users, with BOD5 concentrations of approximately 200 mg/l and Suspended Solids concentrations of approximately 225 mg/l.
- (16) **Operation and Maintenance Costs.** Expenditures for activities required to provide for the dependable and economical functioning of the Wastewater Treatment Facilities, throughout the useful life of the Wastewater Treatment Facilities, and at the level of performance for which the Wastewater Treatment Facilities were constructed. Operation and Maintenance costs include, but are not limited to: monitoring and inspection of systems, septic tank pumping, and administration. Operation and Maintenance also includes Replacement Costs and Administrative Costs.
- (17) **Public Sewage Treatment System.** Any sewage treatment system owned or operated by a unit or agency of government.
- (18) **Replacement Costs.** Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the design or useful life, whichever is longer, of the Wastewater Treatment Facilities to maintain the capacity and performance for which such facilities were designed and constructed.
- (19) **Residential User.** The Users of structures which are residential in nature and distinct from industrial, commercial, or institutional users. For the purposes of this Ordinance, residential waste shall be considered to have the following: BOD5 of less than 200 mg/l., suspended solids of less than 225 mg/l.

- (20) **Sanitary Waste.** The liquid and water carried wastes discharged from sanitary plumbing facilities.
- (21) **Suspended Solids.** Solids that are filterable and in suspension in the liquid; the quantity being determined by the filterable residue test as described in “Standard Methods for the Examination of Water and Wastewater”.
- (22) **Toxic Pollutant.** The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse affects as defined in standards adopted pursuant to Section 307(a) of the Clean Water Act.
- (23) **User Charge, also known as Wastewater Service Charge.** Charges to Users of Wastewater Treatment Facilities for the costs of Operation and Maintenance, Replacement, monitoring and inspection, septic tank pumping and administration.
- (24) **User Charge System, also known as Wastewater Service Charge System.** A system based on estimated use of Wastewater Treatment Services where each User (or User class) pays its proportionate share of Operation and Maintenance costs of the facilities, based on the User’s (or User classes) proportionate contribution to the total Wastewater loading from all users (or user class). To insure a proportional distribution of Operation and Maintenance Costs to each User (or User class), the User’s contribution may be based on factors such as strength, volume, and delivery flow rate characteristics.
- (25) **Users.** Those residential, commercial, and industrial establishments which are connected to the public sewer collection system.
- (26) **Wastewater.** The spent water of a User. From the standpoint of source, it may be a combination of the liquid and water carried wastes from residences, commercial buildings, and institutions, together with any groundwater, surface water, and stormwater that may be present.
- (27) **Wastewater Service Charge, also known as User Charge.** Charges to Users of Wastewater Treatment Facilities for Operation and Maintenance costs, Replacement costs, costs of monitoring and inspection, costs of septic tank pumping and administrative costs.
- (28) **Wastewater Treatment Facilities.** An arrangement of devices and structures used for treating wastewater which have been constructed with State and Federal grants.

## SECTION 4. REGULATIONS

### 401. Wastewater Service Charge System.

- 401.01 The city hereby establishes a Wastewater Service Charge System whereby revenue collected from Users of the Wastewater Treatment Facilities will be used to offset all expenditures incurred for administration, annual operation and maintenance, and replacement of such facilities.
- 401.02 All users of the Wastewater Treatment Facilities of the City shall be classified as permanent users.
- 401.03 Wastewater Service Charges will be established based on Equivalent Residential Units (ERU). One ERU is defined as a unit of Wastewater volume of 225 gallons per day with a theoretical waste strength of 200 mg/l of BOD and 225 mg/l of total Suspended Solids. The assignment of ERUs will be made by the City.
- (1) Equivalent Residential Units at a volume of 225 gallons per day Normal Domestic Strength Wastewater will be assigned by the City on the basis of one ERU per house or in the case of a house or building containing more than one dwelling unit, per dwelling unit connected to the Public Sewage Treatment System.

Non-Residential Users shall be assigned ERUs according to ESTIMATES OF COMMERCIAL, INDUSTRIAL, AND RECREATIONAL WASTEWATER FLOWS as printed in the On-Site Sewage Treatment Manual, which is printed annually by the University of Minnesota Agricultural Extension Service and the Minnesota Pollution Control Agency.

- (2) Users may appeal the number of ERUs assigned to a particular connection by installing and maintaining, at their own expense, water meters of a type approved by the City. Such meters shall be equipped with remote, registering recorders located at an accessible site on the property.
- (3) The City may, at its discretion require Non-Residential Users to install water meters for the purpose of determining Wastewater volume. The City may require Residential Users to install water meters as part of a comprehensive program to install meters throughout the City's water system. When so required, such meters shall be of a type approved by the City and equipped with remote registering recorders, and located at an accessible site on the property.
- 401.04 In accordance with Federal and State requirements, each User will be notified annually at the beginning of each calendar year of the User Charge payable for services provided during each year.

401.05 In accordance with Federal and State requirements, the City Clerk will be responsible for maintaining all records necessary to document compliance with the Wastewater Service Charge System adopted.

## **SECTION 5. DETERMINATION OF WASTEWATER SERVICE CHARGE**

501. **Recovery of Costs.** It is the intent of this Ordinance that the Wastewater Service Charges shall cover the costs of operating and maintaining the Wastewater Treatment Facilities, and that costs are recovered from all Users in a proportionate manner. The City shall maintain a proper system of accounts suitable for determining the Operation and Maintenance Costs of the collection and Wastewater Treatment Facilities. These costs shall be reviewed at regular annual intervals. The City shall determine whether or not sufficient revenue is being generated for the effective operation and maintenance and management of the Facilities, and that User Charges are being distributed proportionately to all Users. Any inequities and/or shortages shall be corrected by adjusting the rates by resolution of the City.

502. **Determination of User Charge.** All Users shall be charged an annual Wastewater Service Charge in accordance with the Methodology described below:

$$\text{Cs per ERU} = \frac{\text{Com}}{\text{Total No. of ERU's Processed by the Wastewater Treatment Facilities}}$$

Where Cs = Wastewater Service Charge per year  
Com = Operation and Maintenance and Replacement Cost per year

503. **Annual Fees and Payments.** All users of the Wastewater Treatment Facilities shall be billed quarterly for sewer service based on the number of equivalent residential units assigned to each. Payment shall be rendered in full with 30 days of billing date.

504. **Septic Tank Effluent Pumping Surcharge.** An additional fee may be charged to Users of the Public Sewage Treatment System, for whatever reason, require septic tank pumping more frequently than once in two years. The surcharge for such more frequent pumping shall be at the same rate, either per tank or per gallon, as established by contract for the routine pumping of each septic tank on the Public Sewage Treatment System.

505. **Fees for Extra Strength Wastes.** If a user discharges Toxic Pollutants or Wastes of unusual strength or character to the Wastewater Treatment Facilities which, in the reasonable determination of the City, cause or increase the Operation and Maintenance Costs, he/she shall be ordered at the direction of the City either to install pretreatment facilities or pay for the extra cost of treating the wastes. This decision will be made by the City at the time the User begins to discharge Extra Strength Wastes.
506. **Toxic or Incompatible Waste Clean-up** Any additional costs caused by discharges to the Wastewater Treatment Facilities of toxics or other Incompatible Wastes, including the costs of restoring wastewater treatment services and facilities, clean-up and restoration of ground and surface water and environs, and sludge disposal, shall be borne by the discharger(s) of said wastes, at no expense to the city.
507. **Establishment of Special Account.** The City hereby establishes a Wastewater Service Fund into which all revenue collected from Users will be deposited for disbursements into the general operating fund and the replacement fund. For the purpose of community and cost accounting records, this fund is designated as an income account. Revenue sufficient to insure adequate replacement shall be held in the replacement fund separate from the operation and maintenance fund. Separate accounting shall insure the integrity of these funds and that interest accrues proportionately to each fund.

## **SECTION 6. DETERMINATION OF WASTEWATER COMMUNITY SEWER CONNECTION CHARGE**

### 601. Recovery of Costs

- 601.01 It is the intent of this Ordinance that charges for connections to the Community Sewage Treatment System shall be sufficient to enable the City to recover all applicable costs. These charges shall be set from time to time by the city council by resolution. The charge may vary based on the individual circumstances of each proposed new connection. Relevant factors include, but are not limited to, the following:
- (1) The actual costs of connection, including but not limited to labor, materials, engineering, legal and administration;
  - (2) The portion of the community drainfield that will be used; and
  - (3) The common community sewage treatment infrastructure that will be used by the new connection.

## **SECTION 7. ADMINISTRATION**

### **701. Applicability.**

**701.01** This Ordinance shall apply and be in effect for the stated purposes within the "201" study areas in the City, which areas are identified in the files of the City Clerk and are available for inspection during ordinary office hours of the City.

### **701.02 Enforcement.**

- (1) The City Clerk or his/her agent shall be responsible for administration and enforcement of this Ordinance.
- (2) The City Clerk or his/her agent shall be qualified and certified by the MPCA as competent in the design, evaluation and inspection of individual on-site sewage treatment systems, and shall carry a current Individual Treatment System Certificate and a current Class D operators certificate.

### **701.03 Appeals and Variances.**

- (1) The City Council shall hear and decide appeals and review any order, decision or determination made by the City Clerk regarding the enforcement of this Ordinance.
- (2) The City Council shall hear and act upon all rate adjustment and variance requests.
- (3) Any appeal of an administrative decision or determination may be filed by any person, department, bureau, town, city, county, or state which is aggrieved by a decision.

## **SECTION 8. ENFORCEMENT**

### **801. Violations and Penalties.**

**801.01** Any User Charge not paid thirty (30) days after date of billing shall be declared delinquent and a 10% late payment fee shall be added thereto. Should a User Charge and late payment fee still be delinquent after one hundred twenty (120) days, the city may elect to take any of the following actions:

- (1) Certification to County Auditor. Amounts due shall be certified to the County Auditor for inclusion with the following year's tax statement.

- (2) Lien. The City shall have a Lien upon the real estate to which sewer service is supplied for the entire amount due. Statements rendered for such charge shall be deemed notice to all parties, whether or not the person charged with the statement is the owner of the property served. The claim for lien shall be made in the form of a statement setting fourth:
- (a) A description of the real estate, sufficient for the identification thereof, upon or for which the sewage service was supplied:
  - (b) the amount of money due for such sewage service, including late payment fees; and
  - (c) the date or dates when such amount or amounts became delinquent.

If all amounts shown due remain unpaid after recording as provided by state statutes, the City may foreclose the lien in the same manner and with the same effect as the foreclosing of mortgages on real estate.

- (3) Civil Action. File suit in a civil action to collect such amounts as are delinquent and due against the occupant or User of the real estate and collect, as well, all reasonable attorney's fees incurred by the City in prosecuting the action. Such attorney's fees shall be fixed by order of the court.

801.02 In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being served by the Wastewater Treatment Facilities shall be liable for interest upon all unpaid balances at the rate of twelve percent (12%) per annum.

801.03 The City reserves the right to revoke discharge permits and to disconnect service to any user whenever User Charges becomes delinquent.

## **SECTION 9. EFFECTUATION**

### **901. Separability**

901.01. It is hereby declared to be the intent that the several provisions of this Ordinance are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.

(2) If any court of competent jurisdiction shall adjudge invalid the application of any portion of this ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

## **CHAPTER 21. FLOOD PLAIN MANAGEMENT ORDINANCE**

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**FLOOD PLAIN MANAGEMENT ORDINANCE  
THREE DISTRICT - ONE-MAP FORMAT<sup>1</sup>**

*<sup>1</sup>A Flood Insurance Rate Map has been published for the community and the Regulatory Floodway boundary is shown on this map. A separate Flood Boundary and Floodway Map has not been published.*

**SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE**

1.1 Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and the City of Marine Zoning Code delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Marine on St. Croix, Minnesota does ordain as follows:

1.2 Findings of Fact:

- 1.21 The flood hazard areas of the City of Marine on St. Croix, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- 1.22 Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
- 1.23 National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

1.3 Statement of Purpose: It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by provisions contained herein.

**SECTION 2.0 GENERAL PROVISIONS**

2.1 Lands to Which Ordinance Applies: This Ordinance shall apply to all lands within the jurisdiction of the City of Marine on St. Croix shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts. These shall be overlay districts.

2.2 Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study for the City of Marine on St. Croix prepared by the Federal Emergency Management Agency dated February 3, 2010, and the

Flood Insurance Rate Map dated February 3, 2010 therein. The Official Zoning Map shall be on file in the Office of the City Clerk and the Building Inspector.

***(Note: For future annexation of floodplain lands, it is a requirement of the National Flood Insurance Program that a community legally apply the provisions of its floodplain ordinance to the annexed land on the date of annexation (see Section 2.9 that follows). The flood insurance rate map panels adopted into Section 2.2 above must be inclusive enough so that they encompass all of the unincorporated area of the county that may be annexed into the city into the foreseeable future. This may mean that a city will need to adopt flood insurance rate map panels in addition to those flood map panels that contain the current corporate boundaries of the city.)***

2.3 Regulatory Flood Protection Elevation: The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

#### 2.4 Interpretation:

2.41 In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

2.42 The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

2.5 Abrogation and Greater Restrictions: It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

2.6 Warning and Disclaimer of Liability: This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Marine on St. Croix or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

2.7 Severability: If any section, clause, provision, or portion of this Ordinance is adjudged

unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

2.8 Definitions: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

2.811 Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

2.812 Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

2.813 Conditional Use - means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

(a) Certain conditions as detailed in the zoning ordinance exist.

(b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

2.814 Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

2.815 Flood - a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

2.816 Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

2.817 Flood Fringe - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City of Marine on St. Croix.

2.818 Flood Plain - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

2.819 Flood Proofing - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

2.820 Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

2.821 Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building

access, or storage in an area other than a basement area, is not considered a building's lowest floor.

- 2.822 Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."
- 2.823 Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- 2.824 Principal Use or Structure - means all uses or structures that are not accessory uses or structures.
- 2.825 Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- 2.826 Recreational Vehicle - a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.
- 2.827 Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.
- 2.828 Regulatory Flood Protection Elevation - The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- 2.829 Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 9.31 of this Ordinance and other similar items.
- 2.830 Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

2.831 Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (b) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this Ordinance, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

2.832 Variance - means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

2.9 Annexations: The Flood Insurance Rate Map panels adopted by reference into Section 2.2 above may include floodplain areas that lie outside of the corporate boundaries of the City of Marine on St. Croix at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Marine on St. Croix after the date of adoption of this ordinance, the newly annexed floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of annexation into the City of Marine on St. Croix.

## **SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS**

### **3.1 Districts:**

- 3.11 Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 2.2.
- 3.12 Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe District shall include those areas shown on the Flood Insurance Rate Map as adopted in Section 2.2 as being within Zones AE, A0, or AH but being located outside of the floodway.
- 3.13 General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A or Zones AE, A0, or AH without a floodway on the Flood Insurance Rate Map adopted in Section 2.2.

3.2 Compliance: No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Sections 4.0, 5.0 and 6.0 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

- 3.21 New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 9.0.
- 3.22 Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 11.0.
- 3.23 As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 10.0 of this Ordinance.

## **SECTION 4.0 FLOODWAY DISTRICT (FW)**

### **4.1 Permitted Uses:**

- 4.11 General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- 4.12 Industrial-commercial loading areas, parking areas, and airport landing strips.
- 4.13 Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- 4.14 Residential lawns, gardens, parking areas, and play areas.

### **4.2 Standards for Floodway Permitted Uses:**

- 4.21 The use shall have a low flood damage potential.
- 4.22 The use shall be permissible in the underlying zoning district if one exists.
- 4.23 The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

#### 4.3 Conditional Uses:

4.31 Structures accessory to the uses listed in 4.1 above and the uses listed in 4.32 - 4.38 below.

4.32 Extraction and storage of sand, gravel, and other materials.

4.33 Marinas, boat rentals, docks, piers, wharves, and water control structures.

4.34 Railroads, streets, bridges, utility transmission lines, and pipelines.

4.35 Storage yards for equipment, machinery, or materials.

4.36 Placement of fill or construction of fences.

4.37 (suggest deleting).

4.38 Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

#### 4.4 Standards for Floodway Conditional Uses:

4.41 All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

4.42 All floodway conditional uses shall be subject to the procedures and standards contained in Section 10.4 of this Ordinance.

4.43 The conditional use shall be permissible in the underlying zoning district if one exists.

##### 4.44 Fill:

- (a) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
- (b) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
- (c) As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

4.45 Accessory Structures:

- (a) Accessory structures shall not be designed for human habitation.
- (b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
  - (1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
  - (2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- (c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:
  - (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
  - (2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
  - (3) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

4.46 Storage of Materials and Equipment:

- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

4.47 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

4.48 A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

## SECTION 5.0 FLOOD FRINGE DISTRICT (FF)

5.1 (suggest deleting. Replace with "this section be reserved for future use)

### 5.2 Standards for Flood Fringe Permitted Uses:

- 5.21 All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
- 5.22 As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with Section 4.45 (c).
- 5.23 The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section 5.21 of this ordinance.

**(Note: This is an optional provision. If a community wishes to delete this provision, please leave the numbering the same and insert the replacement wording "This section reserved for future use.")**

- 5.24 The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
- 5.25 The provisions of Section 5.5 of this Ordinance shall apply.

5.3 Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Section 5.21 - 5.22 and or any use of land that does not comply with the standards in Section 5.23 - 5.24 shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 5.4-5.5 and 10.4 of this Ordinance.

### 5.4 Standards for Flood Fringe Conditional Uses:

- 5.41 Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

- (a) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
- (b) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
  - (1) A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and
  - (2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

5.42 Basements, as defined by Section 2.812 of this Ordinance, shall be subject to the following:

- (a) Residential basement construction shall not be allowed below the regulatory flood protection elevation.
- (b) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Section 5.43 of this Ordinance.

5.43 All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

5.44 When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control

works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

**(Note: This is an optional provision. If a community wishes to delete this provision, please leave the numbering the same and insert the replacement wording “This section reserved for future use.”)**

5.45 Storage of Materials and Equipment:

- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

5.46 The provisions of Section 5.5 of this Ordinance shall also apply.

5.5 Standards for All Flood Fringe Uses:

5.51 All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

**(Note: This is an optional provision. If a community wishes to delete this provision, please leave the numbering the same and insert the replacement wording “This section reserved for future use.”)**

5.52 Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

5.53 Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 5.52 above. In considering permit applications, due consideration shall be given to needs of an industry whose

business requires that it be located in flood plain areas.

- 5.54 Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- 5.55 Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- 5.56 Standards for recreational vehicles are contained in Section 9.3.
- 5.57 All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

## **SECTION 6.0 GENERAL FLOOD PLAIN DISTRICT**

### **6.1 Permissible Uses:**

- 6.11 The uses listed in Section 4.1 of this Ordinance shall be permitted uses.
- 6.12 All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 6.2 below. Section 4.0 shall apply if the proposed use is in the Floodway District and Section 5.0 shall apply if the proposed use is in the Flood Fringe District.

### **6.2 Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District.**

- 6.21 Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.
  - (a) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
  - (b) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

- (c) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
- (d) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

6.22 The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

- (a) Estimate the peak discharge of the regional flood.
- (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
- (c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

6.23 The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 4.0 and 5.0 of this Ordinance.

## **SECTION 7.0 SUBDIVISIONS**

7.1 Review Criteria: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

7.2 Floodway/Flood Fringe Determinations in the General Flood Plain District: In the General Flood Plain District, applicants shall provide the information required in Section 6.2 of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

7.3 Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

## **SECTION 8.0 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES**

8.1 Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

8.2 Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 4.0 and 5.0 of this Ordinance. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

8.3 On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

## **SECTION 9.0 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES.**

9.1 New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 7.0 of this Ordinance.

9.2 The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 5.0 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 5.51, then

replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

- 9.21 All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

9.3 Recreational vehicles that do not meet the exemption criteria specified in Section 9.31 below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 9.33-9.34 below.

- 9.31 Exemption - Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 9.32 below and further they meet the following criteria:

- (a) Have current licenses required for highway use.
- (b) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
- (c) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

- 9.32 Areas Exempted For Placement of Recreational Vehicles:

- (a) Individual lots or parcels of record.
- (b) Existing commercial recreational vehicle parks or campgrounds.
- (c) Existing condominium type associations.

- 9.33 Recreational vehicles exempted in Section 9.31 lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 4.0 and 5.0 of this Ordinance. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

- 9.34 New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

- (a) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 5.51 of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

- (b) All new or replacement recreational vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of 10.4 of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 9.31 (a) and (b) of this Ordinance will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8.3 of this Ordinance.

## **SECTION 10.0 ADMINISTRATION**

10.1 Zoning Administrator: A Zoning Administrator or other official designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 12.0 of the Ordinance.

### 10.2 Permit Requirements:

10.21 Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

10.22 Application for Permit. Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

10.23 State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

10.24 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.

10.25 Construction and Use to be as Provided on Applications, Plans, Permits, Variances

and Certificates of Zoning Compliance. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 12.0 of this Ordinance.

- 10.26 Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect.
- 10.27 Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.
- 10.28 Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- 10.29 Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

### 10.3 Board of Adjustment:

- 10.31 Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.
- 10.32 Administrative Review. The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.
- 10.33 Variances. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided

for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- (a) Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (b) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

10.34 Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

10.35 Decisions. The Board of Adjustment shall arrive at a decision on such appeal or variance within 120 days. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

10.36 Appeals. Appeals from any decision of the Board of Adjustment may be made, and as specified in this community's official controls and also by Minnesota Statutes.

10.37 Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a

structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The City shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

10.4 Conditional Uses. The City Council and Planning Commission shall hear and decide applications for conditional uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning Commission and, later, City Council for consideration.

10.41 Hearings. Upon filing with the Planning Commission an application for a conditional use permit, the City Clerk shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

10.42 Decisions. In granting a conditional use permit the \_\_\_(Designated Body)\_\_\_ shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

10.43 Procedures to be followed by the City Council and Planning Commission in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.

- (a) Require the applicant to furnish such of the following information and additional information as deemed necessary by the City for determining the suitability of the particular site for the proposed use:
  - (1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and
  - (2) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- (b) Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
- (c) Based upon the technical evaluation of the designated engineer or expert, the City Council and Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

10.44 Factors Upon Which the Decision of the City Council and Planning Commission Shall Be Based. In passing upon conditional use applications, the City Council and Planning Commission shall consider all relevant factors specified in other sections of this Ordinance, and:

- (a) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
- (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (e) The importance of the services provided by the proposed facility to the community.
- (f) The requirements of the facility for a waterfront location.
- (g) The availability of alternative locations not subject to flooding for the proposed use.
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (i) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (l) Such other factors which are relevant to the purposes of this Ordinance.

10.45 Reserved for future use.

10.46 Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the City Council and Planning Commission shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- (a) Modification of waste treatment and water supply facilities.
- (b) Limitations on period of use, occupancy, and operation.
- (c) Imposition of operational controls, sureties, and deed restrictions.
- (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (e) Flood proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

## SECTION 11.0 NONCONFORMING USES

11.1 A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2.831(b) of this Ordinance, shall be subject to the provisions of Sections 11.11 – 11.15 of this Ordinance.

11.11 No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.

11.12 Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 11.13 and 11.16 below.

11.13 Reserved for future use.

***(Note: This cumulative tracking over time provision of this section is optional. If a community wishes to delete this cumulative tracking provision, please contact the respective DNR Waters' area hydrologist for replacement wording.)***

11.14 If any nonconforming use is abandoned for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been abandoned for a period of 12 months.

11.15 If any nonconforming use or structure is substantially damaged, as defined in Section 2.830 of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 4.0, 5.0 or 6.0 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

11.16 If a substantial improvement occurs, as defined in Section 2.831 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 4.0 or 5.0 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

## SECTION 12.0 PENALTIES FOR VIOLATION

12.1 Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with

grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

12.2 Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

12.21 In responding to a suspected Ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The Community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

12.22 When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

12.23 The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

12.24 If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

### **SECTION 13.0 AMENDMENTS**

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

**CHAPTER 22. PERSONNEL  
AN ORDINANCE RELATING TO CITY PERSONNEL  
AND ESTABLISHING A BASIC PERSONNEL POLICY**

**Repealed**

## **CHAPTER 23. CURFEW ORDINANCE**

### Subdivision 1. Restrictions on Minors:

It shall be unlawful for any minor under the age of sixteen (16) years to loiter, idle, wander, stroll, or play in or out of an automobile, in or upon the streets, highways, roads, alleys, parks, playgrounds, public places and public buildings, places of entertainment and amusement, vacant lots, and other unsupervised places in the City of Marine on St. Croix between the hours of 10:00 p.m. and five o'clock a.m. the following day. It shall be unlawful for any minor who is 16 or 17 years of age to loiter, idle, wander, stroll or play, in or out of an automobile in or upon the streets, highways, roads, alleys, parks, playgrounds, public places and public buildings, places of entertainment or amusement, vacant lots and other unsupervised places of the City of Marine on St. Croix between the hours of twelve o'clock midnight and five o'clock the following morning. Provided, however, that the provisions of the section do not apply to a minor accompanied by his or her parent, guardian, or other adult person having the care and custody of the minor, to a minor who is upon an emergency errand, or other legitimate business directed by his or her parent, guardian, or other adult person having the care and custody of the minor, or where the presence of said minor in said place or places is connected with and required by some legitimate business, trade, profession or occupation in which said minor is permitted by law to be engaged. Provided, further, however, that nothing herein shall restrict or prevent a minor of any age from traveling to and from a definite point of designation and departure so long as the minor does not loiter, idle, wander, stroll, or play in the places during the hours set fourth in this Subdivision 1.

### Subdivision 2. Duties of Parents or Guardians.

It shall be unlawful for the parent, guardian, or adult person having charge of a minor under the age of eighteen (18) years to permit such minor to engage in the activities prohibited by this ordinance.

### Subdivision 3. Duties of Police Officers.

Each member of the police force while on duty is hereby authorized and instructed to arrest, without warrant, any person violating the provisions of Subdivision 1 of this ordinance. The person or persons so arrested shall, for a first violation of this ordinance, be taken or sent by the officer to their homes and their parents or guardians notified of

such violation of this ordinance.

Subdivision 4. Penalty.

Upon a subsequent violation any person violating and provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$100.00 or by imprisonment not to exceed ninety (90) days.

## **CHAPTER 24. WINTER ON STREET PARKING**

### Subdivision 1. **PARKING:**

It shall be unlawful for anyone to park motor vehicles, equipment or structures on a street or alley in the city between the hours of 2:00 a.m. and 6:00 a.m. between November 15 and April 1 of the following year, those date inclusive.

### Subdivision 2. **PENALTY:**

Any person violating the provisions of this ordinance shall pay for the cost of removal and storage of motor vehicle, equipment or structures and any penalty that may be established by the council by resolution.

## **CHAPTER 25. ADULT USES**

The City Council of the City of Marine on St. Croix, Washington County, Minnesota, ordains as follows:

### **Section 1. Statement of policy**

The City Council of the City of Marine on St. Croix deems it necessary to provide for the special and express regulation of businesses or commercial enterprises which operate adult uses, such as adult body painting studios, adult bookstores, adult cabarets, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades or theaters, adult novelty businesses, adult saunas and similar adult oriented services operating under different names in order to protect the public health, safety and welfare, and to guard against the inception and transmission of disease. The City Council finds that commercial enterprises such as the types described above and all other similar establishments whose services include sessions offered to adults conducted in private by member of the same or opposite sex, and employing personnel with no specialized training, are susceptible to operation in a manner contravening, subverting or endangering the morals of the community by being the site of acts of prostitution, illicit sex and occasions of violent crimes, and thus requiring close inspection, licensing and regulation.

The City Council also finds that control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the Sheriff's Department and other departments and personnel of the city. As a consequence, the concentrated use of city services detracts from and reduces the level of service available to the rest of the community and thereby diminishes the ability of the city to promote the general health, welfare, morals and safety of the community. In consideration for the necessity on the part of the City to provide numerous services to all segments of the community without a concentration of public services in one area working to the detriment of the members of the general public, it is hereby decided that businesses with the above described uses should be limited to the Village Center district as a conditional use, requiring the issuance of a Conditional Use Permit and should require the issuance of an adult use license.

### **Section 2. Definitions**

As used in this Ordinance, the following words and terms shall have the meaning ascribed to them in this section.

**Adult uses.** Adult uses include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bath-

house/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sports clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction, or description of “specified sexual activities” or “specified anatomical areas” which are capable of being seen by members of the public. Activities classified as obscene as defined by Minnesota Statutes section 617.241 are not lawful and are not included in the definition of adult uses.

**Adult uses – accessory.** The offering of goods and/or services which are classified as adult uses, but which are offered on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such item include, without limitation, adult magazines, adult movies, adult novelties, and the like.

**Adult uses – principal.** The offering of goods and/or services, which are classified as adult uses as a primary or sole activity of a business or establishment, and include but are not limited to the following:

- (1) **Adult body painting studio.** An establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the body of a patron when such body is wholly or partially nude in terms of “specified anatomical areas”.
- (2) **Adult bookstore.** A business engaging in the barter, rental, or sale of items consisting of printed materials, pictures, slides, records, audiotapes, videotapes, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to one (1) or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas”.
- (3) **Adult cabaret.** An establishment which provides dancing or other live entertainment if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction, or description of “specified sexual activities” or specified anatomical areas”.
- (4) **Adult companionship establishment.** A companionship establishment if such establishment excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

- (5) **Adult Entertainment.** Adult bookstores, adult motion pictures theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty business, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios, and other adult establishments.
- (6) **Adult establishment.** A business engaging in any of the following activities or which utilizes any of the following business procedures or practices; either:
- a. Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage either by law or by the operators of such business; or
  - b. Any other business which offers its patrons goods, services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas. Adult establishments include, but are not limited to, adult bookstores, adult motion picture arcade theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.
- (7) **Adult hotel or motel.** Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented or available to patrons which depicts, describes or relates to specified sexual activities or specified anatomical areas.
- (8) **Adult massage parlor, health club.** A massage parlor or health club which restricts minors by reason of age and which provides the services of massage, where the service relates to specified sexual activities or specified anatomical areas.
- (9) **Adult mini-motion picture theater.** A business premises within an enclosed building with a capacity for less than fifty (50) persons used for presenting visual media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for viewing by patrons therein.
- (10) **Adult modeling studio.** An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation of sexual gratification to such customers and who engage in

specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

**(11) Adult motion picture arcade.** Any place to which the public is permitted or invited wherein coin, slug or electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specific anatomical areas”.

**(12) Adult Motion Picture Theaters.** A business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons.

**(13) Adult Novelty Business.** A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

**(14) Adult Sauna.** A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

**(15) Special Use Permit.** A permit granted pursuant to this ordinance which is for a specific length of time and is required to be renewed on an annual basis.

**(16) Specified anatomical areas.** Anatomical areas consisting of:

- a) Less than completely and opaquely covered human genitals, public region, buttock, anus, or female breast(s) below a point immediately above the top of the areola, and
- b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**(17) Specified sexual activities.** Activities consisting of the following:

- (a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of

- excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquierism sapphism, zooerasty; or
- (b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
  - (c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
  - (d) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or
  - (e) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint or any such persons; or
  - (f) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
  - (g) Human excretion, urination, menstruation, vaginal or anal.

### **Section 3. Licenses**

- (a) **License required.** No person, firm, corporation, or other entity shall operate an adult use in the City of Marine on St. Croix with out having first secured a license as hereinafter provided. Licenses shall be one (1) of two (2) types:
  - (1) Adult use, principal;
  - (2) Adult use, accessory.
- (b) **Applications.** Information requested in the application for an adult use license shall include, without limitation:
  - (1) The name, residence, phone number and birth date of the applicant, if an individual; and if a corporation, the names, residences, phone numbers and birthdates of those owners holding more than five (5) percent of the outstanding stock of the corporation.
  - (2) The name, address, phone number and birth date of the manager of such operation, if different from the owners;

- (3) The address of the premises where the adult use is to be located;
- (4) A statement detailing each gross misdemeanor or felony whether or not relating to a sex offense or the operation of adult uses and related activities of which the applicant or, in the case of a corporation, the owners of more than five (5) percent of the outstanding stock of the corporation, have been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in another community.
- (5) The activities and types of business to be conducted, and a building plan of the premises locating the described internal operations and activities;
- (6) The hours of operation of the business;
- (7) The provisions made to restrict access to the premises by minors

(c) **License fees.**

- (1) Each application for a license shall be accompanied by a receipt from the City Clerk for payment in full of the required fee for the license as established by City Council Resolution from time to time. All fees shall be paid into the general fund of the City. Upon rejection of any application for a license, the City Clerk shall refund the amount paid.
- (2) All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any un-expired fraction of a month shall be counted as one (1) month.
- (3) The annual fee for an adult use license shall be as established by City Council resolution from time to time.
- (4) No part of the fee paid for any license issued under this article shall be refunded except in the following instances upon application to the city administrator within thirty (30) days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one (1) month before expiration of the license because of:
  - a. Destruction or damage of the licensed premises by fire or other catastrophe;

- b. The licensee's illness;
- c. The licensee's death;
- d. A change in the legal status making it unlawful for the licensed business to continue.

(d) **Granting of license.**

- (1) The City shall investigate all facts set out in the application including conducting a background check on the licensee and all shareholders of the licensee. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and a public hearing, the City Council shall grant or refuse the application.
- (2) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the City Council.

(e) **Persons ineligible for license.** No license shall be granted or held by any person:

- (1) Under twenty-one (21) years of age;
- (2) Who has been convicted of a felony or of violating any law of this state or local ordinance relating to sex offenses and/or adult uses
- (3) Who is not the proprietor of the establishment for which the license is issued;
- (4) Who has been declared ineligible for an adult use license in the City of Marine on St. Croix in the previous twelve (12) months

(f) **Places ineligible for license.**

- (1) No license shall be granted for adult uses on any premises where a licensee has been convicted of violation of this Ordinance, or where any license hereunder has been revoked for cause, until one (1) year has elapsed after such conviction or revocation.
- (2) Except for uses lawfully existing at the time of adoption of this article, no license shall be granted for any adult use which is not in compliance with the City's zoning regulations.

- (g) **Nonconforming uses.** Any adult use existing on the effective date of the adoption of this ordinance may be continued subject to the following provision:
- (1) No such adult use shall be expanded or enlarged except in conformity with the provisions of this ordinance;
  - (2) A nonconforming adult use shall be required to apply for and receive an adult use license. No public hearing shall be required prior to the issuance of the license for the nonconforming adult use.

#### **Section 4. Conditions of license, generally.**

- (a) Every license shall be granted subject to the conditions in the following subsections and all other provisions of this Ordinance, and of any applicable sections of other Ordinances of the City or State law.
- (b) All licensed premises shall have the license posted in a conspicuous place at all times.
- (c) Any designated inspection officer or law enforcement officer of the City shall have the unqualified right to enter, inspect, and search the premises of a licensee during business hours within a search and seizure warrant
- (d) Every licensee shall be responsible for the conduct of his or her place of business and shall comply with all provisions of this ordinance.
- (e) City of Marine on St. Croix will issue one (1) adult use license per year.
- (f) Adult use licenses shall only be issued to a business owner within the Village Center.

#### **Section 5. Conditions of License, adult use--principal.**

**Adult use – principal** businesses shall be permitted in the Village Center district subject to the issuance of a special use permit, the requirements of this ordinance, and subject to the following requirements:

- (a) An adult use – principal business shall not be allowed within sixty (60) feet of another existing adult use measured in a straight line from the closest point between the buildings.
- (b) An adult use—principal business shall not be located within sixty (60) feet

measured in a straight line from the closest point between the buildings, of any building located in any Residential district in the City of Marine o St. Croix.

- (c) An adult use – principal business shall not be located within sixty (60) feet measured in a straight line from the closest point between the buildings, of existing library, daycare center, park, youth recreation center or place of worship.
- (d) An adult use – principal business shall not sell or dispense non-intoxicating or intoxicating liquors nor shall it be located in a building, which contains a business that sells or dispenses non-intoxicating or intoxicating liquors.
- (e) No adult use – principal business entertainment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment which is prohibited by any ordinance of the City of Marine on St. Croix, the laws of the State of Minnesota, or the United States of America. Nothing in this article shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.
- (f) No adult use – principal business shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing or related to “specified sexual activities” or “specified anatomical areas” by any visual or auditory media, including display, declaration, sign, show window, sound transmission or other means.
- (g) All adult use – principal businesses shall prominently display a sign at the entrance and located within two (2) feet of the door-opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states:  
  
“This business sells or displays material containing adult themes. Persons under age 18 years of age shall not enter.”  
  
Said sign shall have letters at least three-eighths-inch in height and no more than 2 inches in height.
- (h) No person under the age of eighteen (18) shall be permitted on the premises of an adult entertainment establishment.
- (i) No person under the age of eighteen (18) shall be permitted access to material displayed or offered for sale or rent by an adult use principal business

establishment.

- (j) Adult use – principal businesses shall not be open between the hours of 1:00 a.m. and 10:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday.

### **Section 6. Conditions of license, adult use – accessory.**

**Adult use – accessory** licenses may be issued to businesses located in the Village Center district subject to the following requirements:

- (a) The adult use – accessory shall comprise no more than ten (10) percent of the floor area of the establishment in which it is located.
- (b) Display areas for movie rentals or other similar products shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the person responsible for the operation of the business.
- (c) Magazines and publications or other similar products classified or qualified as adult uses shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any materials other than the publication title.
- (d) Adult use – accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

### **Section 7. Revocation, suspension or non-renewal of license**

The license may be revoked, suspended, or not renewed by the City Council, when it is determined that the licensee, its owners, managers, employees, agents or any other interested parties have engaged in any of the following conduct.

- (1) Fraud, deception or misrepresentation in connection with the securing of the license.
- (2) Habitual drunkenness or intemperance in the use of drugs including, but not limited to, the use of drugs defined in Minnesota Statutes, section 618.01, barbiturates, hallucinogenic drugs, amphetamines, Benzedrine, Dexedrine or other sedatives, depressants, stimulants or tranquilizers.
- (3) Engaging in conduct involving moral turpitude or permitting or allowing others within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees in engaging in conduct

involving moral turpitude.

- (4) Failure to fully comply with any requirements of the ordinances of the City of Marine on St. Croix regarding sanitary and safety conditions, zoning requirements, building code requirements or ordinances, the violation of which involves moral turpitude, or failure to comply fully with any requirements of this article.
- (5) Conviction of an offense involving moral turpitude.

The certificate holder may appeal such suspension, revocation or non-renewal to the City Council. The council shall consider the appeal at a regularly scheduled public hearing on or after ten (10) days from service of the notice of appeal to the City Clerk. At the conclusion of the hearing, the council may order:

- (1) That the revocation, suspension or non-renewal be affirmed.
- (2) That the revocation, suspension or non-renewal be lifted and that the certificate be returned to the certificate holder
- (3) The City Council may base either suspension or issuance of the certificate upon any additional terms, conditions, and stipulations, which they may, in their sole discretion, impose.

### **Section 8. Penalty for violation**

Any person violating any provision of this article is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

## APPENDIX A. SPECIAL ORDINANCES

ORDINANCE NO. 12, June 26, 1950, Relating to Change of Village Name.

NOTICE OF HEARING. September 30, 1959, on Vacation of Lohman Street.

ORDINANCE NO. 19-A/ORDINANCE NO. 55. August 11, 1988, An Ordinance granting permission to Northern States Power Company, A Minnesota Corporation, its successors and assigns, to construct, operate, repair, and maintain, in the City of Marine on St. Croix, Minnesota, and electrical distribution system and transmission lines, including necessary poles, pole lines, and fixtures and appurtenances, for the furnishing of electrical energy to the City and its inhabitants, and others, and transmitting electric energy into and through the City and to use the streets, alleys, and public grounds of said City for such purposes.

ORDINANCE NO. 58. April 13, 1989. An Ordinance granting to Northern States Power Company, a Minnesota Corporation, its successors and assigns, permission to erect a gas distribution system for the purpose of installing, enlarging, operating, repairing and maintaining in the City of Marine on St. Croix, Minnesota, the necessary gas pipes, mains and appurtenances for the transmission or distribution of gas to said city and its inhabitants and others and transmitting gas into and through said city, and to use the public ways and public grounds of said city for such purpose.

ORDINANCE NO. 60 & 95. February 8, 1990. An Ordinance granting a nonexclusive franchise to operate and maintain a cable television communications system within the City of Marine on St. Croix.

ORDINANCE NO. 94. September 10, 1998. An Ordinance relating to the sale, possession and use of Tobacco, Tobacco Products and Tobacco Related Devices in Washington County and to reduce the illegal sale, possession, and use of such items to and by minors as adopted by the Washington County board on June 2, 1998, and published on June 17, 1998, except as follows: Section 4 to Read: "Section 4 Fees No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The license fee will be established annually by the City Council. Section 10.5 Illegal Sales by minor. It shall be a violation of this ordinance:

- (1) For any person under the age of 16 to sell Tobacco, Tobacco Products or Tobacco Related Devices.
- (2) For a licensee to cause or permit a person under the age of 16 to sell Tobacco, Tobacco Products or Tobacco Related Devices."

## **Chapter 26 Outdoor Entertainment**

Section 1 **Purpose and Intent.** It is the purpose and intent of this Chapter to protect the public's health, safety and welfare through the issuance of permits for outdoor entertainment activities conducted within Village Center; and by regulating outdoor entertainment in all districts located within the City of Marine on St. Croix.

Section 2 **Definitions.** As used in this Chapter, the following words and terms shall have the meaning ascribed to them in this Section:

Subd 1. **Applicant.** Applicant shall mean any person or organization who seeks an outdoor entertainment permit to conduct or sponsor an outdoor entertainment event within the City.

Subd 2. **Outdoor Entertainment.** Outdoor entertainment shall mean a specific event or activity held within the Village Center or any commercial district located within the City of Marine on St. Croix in the open and not within an enclosed structure including but not limited to events held outdoors or in temporary structures such as tents, sound stages, pavilions, open garages, and amphitheaters during which sound waves are produced and amplified artificially.

Subd 3. **Person.** Person means an individual, firm, partnership, corporation, trustee, association, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, person shall include employees and licensees.

Subd 4. **School.** School means an institution or place for instruction or education where twenty-five or more persons receive a full course of educational instruction with an organized body of teachers associated for pursuit and dissemination of knowledge.

Subd 5. **Church.** Church means a place of workshop used for religious services.

Subd 6. **Permittee.** Permittee shall mean a person to whom an outdoor entertainment permit is issued.

Section 3. **Permit Required.** Any person desiring to conduct or sponsor an outdoor entertainment activity in the Village Center or any commercial district located within the City of Marine on St. Croix shall obtain a permit from the City Clerk.

Section 4. **Permit – Application – Requirements.**

Subd 1 Filing of Application – Any person conducting or sponsoring an outdoor entertainment activity shall make application for a permit by filing a completed application with the City Clerk at least ten days in advance of the date on which the event is to occur. The application shall require the following information:

- a. The name and address of the person or organization conducting the event and the names and dates of birth of the persons or of the managers and officers of the organization.
- b. The date, time, and place of the event to be held.
- c. Whether the persons conducting the event sponsoring the event are over eighteen (18) years of age.
- d. The approximate number of persons expected to attend the event.
- e. A description of the type of outdoor entertainment to be conducted.
- f. The name, address and telephone number of the entity providing the entertainment.
- g. Whether amplified or non-amplified music or singing will be provided.
- h. The number of security personnel to be employed together with their names and address.
- i. The steps taken to minimize the noise and nuisance.
- j. Such other information as the City Clerk shall require.

**Section 5 Investigation** The application shall be referred to the City’s Public Safety Department for investigation into the contents of the application and for recommendation as to matters of public safety.

**Section 6 Permit Conditions.** The Mayor may issue the permit with such conditions and requirements as are necessary to protect the safety and rights of the public including the requirement that private security personnel be employed by the permittee in the conduct of the event. At the Mayor’s discretion, the application may be referred to the City Council for approval. Mayoral refusal to approve may be appealed to the City Council.

**Section 7 Permit Fees.** A permit fee in an amount established by a duly adopted resolution of the City Council shall be paid with the application.

Section 8 **Denial of Application.** A permit may be denied based upon a determination that:

- a. The event would seriously endanger public safety;
- b. The event would seriously inconvenience the general public;
- c. The event would unreasonably infringe upon the rights of other property owner;
- d. The event would conflict with another proximate event or interfere with construction or maintenance work;
- e. There is no sufficient security personnel;
- f. The applicant failed to complete the application form after being notified of the additional information required;
- g. The applicant cannot meet, is unwilling to meet, or has a history of not meeting, all of the requirements of this ordinance;
- h. Other issues in the public interest were identified by the City Clerk;
- i. Failure to prepay expenses.

Section 9 **Exemption from Permit** The City, its boards and agencies, schools, and churches as defined herein shall be exempt from the requirements of this ordinance.

Section 10 **Restrictions on Outdoor Entertainment Events in all Zoning Districts.** Sunday through Thursday, no outdoor entertainment shall be held or conducted between the hours of 10:00 o'clock p.m. and 12:00 noon. On Friday and Saturday, no outdoor entertainment shall be held or conducted between the hours of 12:00 o'clock midnight and 12:00 noon, except as exempted in Section 9.

Section 11 **Noise Regulation** Each person who is issued an outdoor entertainment permit shall comply in all respects with all applicable noise and nuisance provisions of the City Code. Additionally, the noise produced by the outdoor entertainment event shall not exceed 65 dBA as measured on the property line of the Village Center or commercial district located closest to the location of the entertainment.

Section 12 **Revocation of Permit** Any outdoor entertainment permit issued by the City may be suspended or revoked upon a finding that the permittee, during the term of the permit, failed to comply with any provision of this ordinance, any directive or

order issued by a law enforcement officer, any condition imposed upon the issuance of the permit, any term or provision stated upon the permit, or any applicable federal or state statute, administrative rule, or city or county ordinance. If the permittee has secured permits for future events and fails to comply with this ordinance prior to the occurrence of any permitted event, the City may suspend or revoke all permits that have been granted for the future events.

**Section 13 Penalty.** Any person who violates any provision of this Chapter is guilty of a misdemeanor and shall, upon conviction thereof, be punished according to law. Each act of violation and each day a violation occurs or continues constitutes a separate offense. In all cases the City shall be entitled to collect the cost of prosecution to the extent outlined by law, the Rules of Criminal Procedure, and the Rules of Court.

## CHAPTER 27: WATER REGULATIONS

### Section

#### *General Provisions*

- 27.01 General operation
- 27.02 Use of water service
- 27.03 Use to circumvent chapter prohibited
- 27.04 Damage to water system
- 27.05 Water deficiency, shut off and use restrictions

#### *Water Regulations*

- 27.25 Supply from one service
- 27.26 Tapping of mains restricted
- 27.27 Repairs
- 27.28 Abandoned or unused services
- 27.29 Disconnection permit
- 27.30 Service pipes
- 27.31 Excavation and construction requirements
- 27.32 Connection to other water supplies restricted
- 27.33 Water connections; applications and other charges
- 27.34 Location of curb stop box
- 27.35 Water meters
  
- 27.50 Water unit
- 27.51 Rates, fees and charges generally
- 27.52 Water service billing; change of address
- 27.53 Water rates
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#### *Administration and Enforcement*

- 27.70 Supervision by Utilities Superintendent; licensing
- 27.71 Powers and authority of inspectors
- 27.72 Discontinuance of service
- 27.73 Authorized employees to turn water on and off
- 27.74 Liability for expense, loss or damage

#### ***Cross-reference:***

*Assessable current services, see '92.01*

## *General Provisions*

### **'27.01 GENERAL OPERATION**

The City of Marine on St. Croix does hereby make provision for the establishment of a municipal water system (hereinafter called the water system) to be operated as a public utility.

### **'27.02 USE OF WATER SERVICE**

No person other than a city employee shall uncover or make or use any water service installation connected to the city water system except in the manner provided by this chapter. No person shall make or use any installation contrary to the regulatory provisions of this chapter.

Penalty, see '10.99

### **'27.03 USE TO CIRCUMVENT CHAPTER PROHIBITED.**

No person shall permit water from the water system to be used for any purpose to circumvent this chapter.

Penalty, see '10.99

### **'27.04 DAMAGE TO WATER SYSTEM**

(A) No unauthorized person shall remove or damage any structure, appurtenance, or part of the water system or fill or partially fill any excavation or move any gate valve used in the water system.

(B) No person shall make any connection of an electrical welder to the city water main, appurtenance or service or use an electric welder for the purpose of thawing frozen water mains, appurtenances or services.

Penalty, see '10.99

### **'27.05 WATER DEFICIENCY, SHUT OFF AND USE RESTRICTIONS**

The city shall not be liable for any deficiency or failure in the supply of water to consumers, whether occasioned by shutting the water off for the purpose of making repairs or connections or from any other cause whatsoever. In case of fire, or alarm of fire, or in making repairs of construction of new works, water may be shut off without notice at any time and kept off as long as necessary. In addition, the City Council shall have the right to impose reasonable restrictions on the use of the city water system in emergency situations. For non-payment of charges, water service may be discontinued according to the procedures established in '27.72.

## **'27.25 SUPPLY FROM ONE SERVICE.**

No more than one housing unit or building shall be supplied from one service connection except by permission of City Council. Each unit served shall have a separate water meter.

Penalty, see '10.99

## **'27.26 TAPPING OF MAINS RESTRICTED**

No person, except persons authorized by the City Council, shall tap any distributing main or pipe of the water supply system or insert stopcocks or ferrules therein.

Penalty, see '10.99

## **'27.27 REPAIRS**

(A) *Determination of need for repairs.* Based on the information supplied by the property owner or available to the city, the city will make a determination whether a problem exists in that portion of the service which is the city's responsibility. If the problem appears to exist in the areas for which the city has no responsibility, the private owners will be responsible for correction of the problem.

(B) *Thawing of water services.* The city will attempt to thaw water services on request of the resident. If the problem is found within that portion of the service for which the private owner is responsible, the private owner thereafter will be responsible for thawing the service and correction of the problem.

(C) *Excavation or repair of water service.*

(1) The city will arrange for the investigative digging up and repair of any water service where the problem apparently exists within that area for which the city has responsibility.

(2) Unless it is clearly evident, however, that the problem is the responsibility of the city, the excavation and repair will not be made until the property owner requests the city in writing to excavate or repair the service and agrees to pay the cost.

(3) The owner further agrees to waive public hearing and be special assessed the cost of the excavation and repair if the problem is found to be other than the city's responsibility. The city will make the determination for responsibility of the cost of investigation or repair.

(4) The matter of whether the dig up is done by city forces or contracted would depend on the urgency or need of repair and the availability of city forces to do the work.

Recovery by the city for faulty construction will depend upon the circumstances and the decision of the City Attorney on the likelihood of recovery.

- (D) *Failure to repair.* In case of failure upon the part of any consumer or owner to repair any leak occurring in his or her service pipe within 24 hours after verbal or written notice thereof, the water may be turned off by the city and shall not be turned on until the leak has been repaired and a fee pursuant to '27.51 has been paid to the city.

Penalty, see '10.99

## '27.28 ABANDONED OR UNUSED SERVICES

- (A) If the premises served by water have been abandoned, or if the service has not been used for one year, then the service shall be shut off at the curb stop box by the city and the water meter will be removed.
- (B) When new buildings are erected on the site of old ones, and it is desired to increase or change the old water service, no connections with the mains shall be made until all the old service has been removed and the main taps plugged or yoked connections installed by the city at the owner's expense.

Penalty, see '10.99

## 27.29 DISCONNECTION PERMIT

A permit must be obtained to disconnect from the existing water service leads at the curb stop box. The fee for the permit shall be set pursuant to '27.51

Penalty, see '10.99

## 27.30 SERVICE PIPES

Every service pipe shall be laid so as to allow at least one foot or extra length in order to prevent rupture by settlement. The service pipe must be placed no less than seven feet below the ground and in a manner as to prevent rupture by freezing. Service pipes must extend from the curb stop box to the inside of the building, or if not taken into the building, then to the hydrant or fixtures which it is intended to supply. *Type K copper tubing shall be used. All services over two inches shall be ductile or cast iron. All underground joints are to be mechanical, except joints under floors shall be silver soldered, unless otherwise approved by the Utilities Superintendent. Joints of copper tubing shall be kept, to a minimum, with not more than one joint used for service for each 70 feet in length. Splicing may be approved with three-piece unions only. All joints and connections shall be left uncovered until inspected by the Utilities Superintendent and tested at normal water line pressure. Unions must be tree-part type. All services over two inches shall be cast iron. Connections with the mains for domestic supply shall be at least three-quarter inch up to the curb stop box.*

Penalty, see '10.99

### **'27.31 EXCAVATION AND CONSTRUCTION REQUIREMENTS**

- (A) No excavation shall be made until a permit for the connection has been issued by the city.
- (B) No water service pipe or water connection shall be installed in the same trench or closer than ten feet horizontally to a sewer trench or drain laid, or to be laid, either in the street or in private property, except that the water pipe on private property may be in a common trench with a sewer drain which is of a material that is in conformance with the *current Minnesota Plumbing Code, Minn. Rules Ch. 4715*, as it may be amended from time to time.
- (C) Where it is desired to lay the water service pipe and the building sewer pipe in the same trench or in separate trenches less than ten feet apart, the water service pipe shall be above the sewer pipe unless approved by the City Engineer. It shall be placed at least one foot above the sewer and on a solid shelf excavated at one side of the trench. The sewer pipe shall be of a material that is in conformance with Minnesota Plumbing Code with tested watertight joints. The water service pipe shall be watertight and corrosion resistant. Copper pipe and ductile or cast iron water pipe with specially protected joints is acceptable for this construction. Cast iron pipe shall conform to the American Water Works Association specifications for this pipe. Bell joint clamps with rubber gaskets are provisionally acceptable as extra protection for the joints on cast iron water pipe. In all cases, precautions shall be taken to assure a firm foundation for the pipes. The intervening space between the pipes shall be backfilled with compacted earth.
- (D) In case the installation is on a surfaced street, the following shall apply: All backfill materials shall be mechanically compacted in 12-inch layers to the density of the adjacent material in the roadway area and to the existing street grades in accordance with the Minnesota Department of Transportation Standards. Complete surface restoration shall be made.

Penalty, see '10.99

### **'27.32 CONNECTION TO OTHER WATER SUPPLIES RESTRICTED**

No water pipe of the water system shall be connected with any pump, well, tank, or piping that is connected with any other source of water supply except to service municipal systems.

Penalty, see '10.99

### **'27.33 WATER CONNECTION; APPLICATIONS AND CHARGES**

(A) *Connection applications.*

- (1) All applications for service installations and for water service shall be made to the City Clerk. All applications for service installations and water service shall be made by the owner or agent of the property to be served and shall state the size and location of service connection required. The applicant shall, at the time of making application, pay to the city the amount of fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to '30.11 of this code, as that ordinance may be amended from time to time or deposit required for the installation of the service connection as hereinafter provided. Applications for services larger than one inch shall be accompanied by two sets of plans or sketches indicating preferred location of service pipe and size of service based on building demand.
- (2) The size of the water service connections and meter (provided by the city) shall be subject to approval of the City Engineer.
- (3) Water billing shall start at the time of installation of the water meter.

(B) *Connection charges.*

- (1) A permit must be obtained to connect to the existing water service leads at the curb stop box. The fee for the permit shall be set pursuant to '27.51. The city shall install or have installed all service connections from the water main to the curb stop box including the stop box. Payment for service connections must be made before the work is started and should be based upon 12 times the estimate of costs provided by the City Engineer. Any excess deposit shall be returned to the applicant.
- (2) There shall be connection charge pursuant to '27.51 levied by the city to contribute to the payment of the costs of the Public Water System Facilities. The City Council shall set by resolution the charges to be made for nonresidential installations.
- (3) When water services have been stopped because of a violation of this chapter, the city shall collect the fee established pursuant to '27.51 before service is recommenced.

**'27.34 LOCATION OF CURB STOP BOX**

Curb stop boxes will be installed on the right-of-way line or easement limits at a location as determined by the City Engineer to be best suitable to the property and shall be left in a vertical position when back filling is completed. Curb stop boxes will be installed at an approximate depth of seven feet below the finished ground elevation and the top of the curb stop box shall be adjusted to be flushed with the finished ground elevation. Curb stop boxes must be firmly supported masonry block. No person shall erect any fence or plant any tree or other landscaping that would obstruct, or place a structure on, park a motor vehicle on, or otherwise obstruct the use of the curb stop box, or cause damage to the same.

Penalty, see '10.99

## '27.35 WATER METERS

(A) *Generally.* Except for extinguishment of fires, no person, unless otherwise authorized by the City Council or Public Utilities Department, shall use water from the water system or permit water to be drawn there from unless the same be metered by passing through a meter supplies or approved by the city. No person not authorized by the City Council or Public Works Supervisor shall connect, disconnect, take apart, or in any manner change or cause to be changed or interfere with any meter or the action thereof, or break any meter or valve seal.

- (1) A Charge established pursuant to '27.51 shall be paid by customers to the city for water meters including installations and check valves and payment for same shall be made at the time of water service application. This payment shall be made only once, subject to the following.
- (2) The city shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them if necessary. When replacement, repair, or adjustment of any meter is rendered by the act, neglect (including damage from freezing or hot water backup) or carelessness of the owner or occupant of the premises, any expense caused the city thereby shall be charged against and collected from the water consumer.
- (3) A consumer may, by written request, have his or her meter tested by depositing the amount established pursuant to '27.51. In case a test should show an error of over 5% of the water consumed, a correctly registering meter will be installed, and the bill will be adjusted accordingly and the testing deposit refunded. This adjustment shall not extend back more than one billing period from the date of the written request.
- (4) All water meters and remote readers shall be and remain the property of the city.
- (5) Authorized city employees shall have free access at reasonable hours of the day to all parts of every building and premises connected with the water system for reading of meters and inspections.
- (6) It shall be the responsibility of the consumer to notify the city to request a final reading at the time of the customer's billing change.

(B) *Water meter setting.* All water meters hereafter installed shall be in accordance with the Minnesota Plumbing Code and any standards established by resolution of the City Council.

Penalty, see '10.99

## ***RATES AND CHARGES***

### **'27.50 WATER UNIT**

A water unit (hereinafter called unit) shall be one residential equivalent connection based on usage of 100,000 gallons per year or portion thereof.

### **'27.51 RATES, FEES AND CHARGES GENERALLY**

The City Council shall establish a schedule of all water rates, fees and charges for permits or services in the Ordinance Establishing Fees and Charges adopted pursuant to '30.11 of this code, as that ordinance may be amended from time to time.

### **'27.52 WATER SERVICE BILLING; CHANGE OF ADDRESS**

All bills and notices shall be mailed or delivered to the address where service is provided. If nonresident owners or agents desire personal notice sent to a different address, they shall so note on the water service application. Any change or error in address shall be promptly reported to the City Clerk.

### **'27.53 WATER RATES**

- (A) The rate due and payable by each user within the city for water taken from the water system shall be established pursuant to '27.51.
- (B) In case the meter is found to have stopped, or to be operating in a faulty manner, the amount of water used will be estimated in accordance with the amount used previously in comparable periods of the year.
- (C) The minimum rates established pursuant to '27.51 shall begin to accrue after connection of the service pipe with the curb stop box.
- (D) *A meter shall be installed on the water valve in the house and a remote register outside regardless of whether inside piping is connected.*
- (E) In the event a water customer elects to discontinue the use of the municipal water, the regular or minimum charge shall continue.

Penalty, see '10.99

### **'27.54 PAYMENT OF CHARGES; LATEPAYMENT; COLLECTION**

(A) Any prepayment or overpayment of charges may be retained by the city and applied on subsequent quarterly charges.

*(B) If a quarterly service charge is not paid when due, then a penalty of 10% shall be added thereto.*

(C) In the event a user fails to pay his or her water user fee within a reasonable time following discontinuance of service (a time period not to exceed 90 days), the fee shall be certified by the City Clerk and forwarded to the County Auditor for collection as provided for in Chapter 54.

Penalty, see '10.99

## **'27.70 SUPERVISION BY UTILITIES SUPERINTENDENT; LICENSING**

(A) All piping connections from the curb stop box to house supply piping shall be made under the supervision of a licensed plumber subject to inspection by the Public Works Supervisor. The piping connection made to the curb stop box on the house side shall be inspected by the public works. The water meter installation shall be inspected, tested and the meter sealed by the Public Works.

(B) No person, firm or corporation shall engage in the business of altering, repairing, installing or constructing municipal water connections within the city without first obtaining a license to carry on the occupation from the city. A master plumber licensed by the state under the provisions of M.S. '326.40, as it may be amended from time to time, is exempt from the provisions of this section. A person in the ditch installing the pipe who has a card showing that they have completed a program of training that incorporates the Plumbing Code installation requirements, issued by the Associated Builders and Contractors, Laborers-Employers Cooperation Educational Trust, or Minnesota Utility Contractors Association, is not subject to the licensing requirements of this section.

(1) The applicant shall file with the City Clerk evidence of public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. Evidence of insurance required pursuant to M.S. '326.40 Subd. 2, as it may be amended from time to time, shall satisfy this requirement.

(2) The applicant shall file with the City Clerk a surety bond guaranteeing the conformance and compliance of work with this chapter. The bond shall be in the amount of \$2,000. The city shall hold the bond for one year following the license period. Failure to comply with provisions and requirements of this chapter shall result in forfeiture of the bond. The applicant may comply with the requirements of M.S. 326.40 Subd. 2, as it may be amended from time to time, shall satisfy this requirement.

- (3) Applications for licenses shall be filed with the City Clerk and shall be reviewed and subject to approval of the city.
- (4) Any installation, construction, alteration of a water connection by a license in violation of any provision of this chapter or refusal on the part of a licensee to correct the defective work shall be cause for revocation of or refusal to renew a license. This license may be revoked or refused for renewal by the city at any time for cause which shall be documented in writing.
- (C) All licenses required I this section shall be renewable annually. Applications for licenses shall be made annually on a form furnished by the City Clerk. Licenses shall be in effect from January 1 to December 31 of the same year. The license fee shall be established pursuant to '27.51.
- (D) Before any license issued under the provisions of this section may be revoked or its renewal refused, the licensee shall be given a hearing by the City Council to show cause why the license should not be revoked or refused. Notice of the time, place and purpose of the hearing shall be in writing.

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#### **'27.71 POWERS AND AUTHORITY OF INSPECTORS**

The Public Works department and other duly authorized employees of the city, upon proper identification, are authorized, with the permission of the licensee, owner, resident or other person in control of property within the city, to enter upon all properties for the purpose of inspections, observation and testing in accordance with the provisions of this chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city shall obtain an administrative search warrant as provided for in '10.20 before entering the property, except in emergency situations.

#### **'27.72 DISCONTINUANCE OF SERVICE**

Water service may be shut off at any connection as provided for in Chapter 54 of this code.

#### **'27.73 AUTHORIZED EMPLOYEES TO TURN WATER ON AND OFF**

No person, except an authorized city employee, shall turn on or off any water supply at the curb stop box.

Penalty, see '10.99

#### **'27.74 LIABILITY FOR EXPENSE, LOSS OR DAMAGE**

Any person violating any of the provisions of this chapter shall become liable to the city for

any expense, loss or damage occasioned by the city by reason of the violation.

## **Chapter 28: City Right-of-Ways**

### **CHAPTER 1**

#### **Right-of-Way Management**

##### **Sec. 1.01. Findings, Purpose, and Intent.**

To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, and city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

Accordingly, the city hereby enacts this new chapter of this code relating to right-of-way permits and administration. This chapter imposes reasonable regulation of the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to compliment the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from person using the public rights-of-way.

This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minnesota Statutes Section 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and other laws governing applicable rights of the City and users of the right-of-way. This chapter shall also be interpreted consistent with Minnesota Rules 8919.0050-7819.9950 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and policy powers of the City to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

##### **Sec. 1.02 Election to Manage the Public Rights-of-Way.**

Pursuant to the authority granted to the City under state and federal statutory, administrative and common law, the City hereby elects pursuant Minn. Stat. 237-163, Subd.2(b), to manage rights-of-ways within its jurisdiction.

##### **Sec. 1.03 Definitions.**

The following definitions apply in this Chapter of this Code. References hereafter to "sections" are, unless otherwise specified, references to sections in this Chapter. Defined terms remain defined terms whether or not capitalized.

"Abandoned Facility" means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries services. A facility is not abandoned unless declared so by the right-of-way user.

"Applicant" means any person requesting permission to excavate or obstruct a right-of-way.

"City" means the City of Marine on St. Croix, Minnesota. For purposes of Section 1.28, City means its elected officials, officers, employees and agents.

"Commission" means the State Public Utilities Commission.

"Congested right-of-way" means a crowded condition on the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes, Section 216D.04, Subd. 3, over a continuous length in excess of 500 feet.

"Construction Performance Bond" means any of the following forms of security provided at permittee's option:

- A. Individual project bond;
- B. Cash deposit;
- C. Security of a form listed or approved under Minn. Stat. Sec. 15.73, Subd. 3;
- D. Letter of Credit, in a form acceptable to the City;
- E. Self-insurance, in a form acceptable to the City;
- F. A blanket bond for projects within the City, or other form of construction bond, for a time specified and in a form acceptable to the City.

"Degradation" means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

"Degradation cost" subject to Minnesota Rules 7819.1100 means the cost necessary to achieve a level of restoration as determined by the Local Government Unit at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13 set forth in Minnesota Rules Parts 7819.990 to 7819.9950.

"Degradation Fee" means the estimated fee established at the time of permitting by the City to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

"Department Inspector" means any person authorized by the City to carry out inspections related to the provisions of this Chapter.

"Delay Penalty" is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

"Emergency" means a condition that (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

"Equipment" means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

"Excavate" means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

"Excavation Permit" means the permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An Excavation Permit allows the holder to excavate that part of the right of way described in such permit.

"Excavation Permit Fee" means money paid to the City by an applicant to cover the costs as provided in Section 1.12.

"Facility or Facilities" means any tangible asset in the right-of-way required to provide utility service.

"Five-Year Project Plan" shows projects adopted by the City for construction within the next five years.

"High Density Corridor" means a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

"Hole" means an excavation in the pavement, with the excavation having a length less than the width of the pavement.

"Local Representative" means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this Chapter.

"Management Costs" means the actual costs the City incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects, maintaining, supporting, protecting, or moving user facilities during right-of-way work determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the public right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997 Chapter 123; Minnesota Statutes Section 237.162 or 237.163 or any ordinance enacted under those sections, or the

City fees and costs related to appeals taken pursuant to Section 1.30 of this Chapter.

"Obstruct" means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

"Obstruction Permit" means the permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way for the duration specified therein.

"Obstruction Permit Fee" means money paid to the City by a Permittee to cover the costs as provided in Section 1.12.

"Patch" means a method of pavement replacement that is temporary in nature. A patch consists of (1) the compacting of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet (2) beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the City's five year project plan.

"Pavement" means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

"Permit" has the meaning given "right-of-way" in Minnesota Statutes, Section 237.162.

"Permittee" means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the City under this Chapter.

"Person" means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

"Probation" means the status of a person that has not complied with the conditions of this chapter.

"Probationary Period" means one year from the date that a person has been notified in writing that they have been put on probation.

"Registrant" means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

"Restore or Restoration" means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

"Restoration Cost" means the amount of money paid to the City by a permittee to achieve the level of restoration according to plates 1 to 13 of Exhibit A. See degradation cost.

"Public Right of Way" means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

"Right-of-Way Permit" means either the excavation permit or the obstruction permit, or both, depending on the context, required by this Chapter.

"Right-of-Way User" means (1) a telecommunications right-of-way user as defined by Minnesota Statutes, Section 237.162, Subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

"Service" or "Utility Service" includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, Subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications system as defined in Minn. Stat. Chapter 238; (4) natural gas or electric energy or telecommunications services provided by the City; (5) services provided by a cooperative electric association organized under Minn. Stat. Chapter 308A; and (6) water, sewer, steam, cooling or heating services.

"Supplementary Application" means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

"Temporary Surface" means the compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the City's two year plan in which case it is considered full restoration.

"Trench" means an excavation in the pavement with the excavation having a length equal to or greater than the width of the pavement.

"Telecommunication Rights-of-Way User" means a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. Chapt. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. Sec. 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453 and 453A, or a cooperative electric association organized under Minn. Stat. Chapt. 308A, are not telecommunications right-of-way users for purposes of this chapter.

"Two Year Project Plan" shows projects adopted by the City for construction within the next two years.

#### **SEC. 1.04 Administration.**

The Director is the principal official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The director may delegate any or all of the duties hereunder.

#### **SEC. 1.05 Utility Coordination Committee.**

The City may create an advisory utility coordination committee. Participation on the committee is voluntary. It will be composed of any registrants who wish to assist the City in obtaining information and by making recommendations regarding use of the right-of-way to improve the process of performing construction work therein. The City may determine the size of such committee and shall appoint members from a list of registrants who have expressed a desire to assist the City.

#### **SEC. 1.06 Registration and Right-of-Way Occupancy.**

**Subd. 1. Registration.** Each Person who occupies, uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the City. Registration will consist of providing application information and paying a registration fee.

**Subd. 2. Registration Prior to Work.** No Person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the City.

**Subd. 3. Exceptions.** Nothing herein shall be construed to repeal or amend the provisions of a City ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Chapt. 216D, Gopher One Call Law.

#### **Sec. 1.07. Registration Information.**

**Subd. 1. Information Required.** The information provided to the City at the time of registration shall include, but not be limited to:

1. Each registrant's name, Gopher One-Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.
2. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designed shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at

the time of registration.

3. A certificate of insurance or self-insurance.

- a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or a form of self insurance acceptable to the City:
- b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the 1) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and (2) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property.
- c) Naming the City and its Agents as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;
- d) Requiring that the City be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term;
- e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established in amounts sufficient to protect the City and carry out the purposes and policies of this Chapter.

4. The City may require a copy of the actual insurance policies.

5. If the person is a corporation, a copy of the certificate required to be filed under Minn. Stat. §300.06 as recorded and certified to by the Secretary of State.

6. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.

**Subd. 2. Notice of Changes.** The registrant shall keep all of the information listed above current at all times by providing to the City information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

### **Sec. 1.08. Reporting Obligations.**

**Subd. 1. Operations.** Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the City. Such plan shall be submitted using a format designated by the city and shall contain the information

determined by the City to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of right-of-way.

The plan shall include, but not be limited to, the following information:

- a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and
- b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five year project").

The term "project" in this section shall include both next-year projects and five-year projects.

By January 1 of each year the City will have available for inspection in the City's office a composite list of all projects of which the City has been informed in the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1, each registrant may change any Project in its list of next-year projects, and must notify the City and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

**Subd. 2 Additional Next-year Projects.** Notwithstanding the foregoing, the City will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

### **Sec. 1.09. Permit Requirement**

**Subd. 1. Permit Required.** Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the City to do so.

- a. Excavation permit.** An excavation permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing facilities described therein, to the extent and for the duration specified therein.
- b. Obstruction permit.** An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

**Subd. 2. Permit Extensions.** No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person (1) makes a supplementary application for another

right-of-way permit before the expiration of the initial permit, and (2) a new permit or permit extension is granted.

**Subd. 3. Delay Penalty.** In accordance with Minnesota Rule 7819.1000 Subd. 3 and notwithstanding Subd. 2 of this Section, The City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patch, or restoration. The delay penalty shall be established from time to time by City Council resolution.

**Subd. 4. Permit Display.** Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the City.

### **Sec. 1.10. Permit Applications**

Application for a permit is made to the City Clerk. Right-of-way permit applications shall contain and will be considered complete only upon compliance with the requirements of the following provisions.

1. Registration with the City pursuant to this Chapter.
2. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed Facilities.
3. Payment of money due the City for:
  - a. permit fees, estimated restoration costs and other management costs;
  - b. prior obstructions or excavations;
  - c. any undisputed loss, damage, or expense suffered by the City because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the City;
  - d. franchise fees or other charges, if applicable.
4. Payment of disputed amounts due the City by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.
5. Posting an additional or larger construction performance bond for the additional facilities when applicant requests an excavation permit to install additional facilities, and the City deems the existing construction performance bond inadequate under applicable standards.

### **Sec. 1.11. Issuance of Permit; Conditions.**

**Sub. 1. Permit Issuance.** If the Applicant has satisfied the requirements of this chapter, the City shall issue a permit.

**Sub. 2. Conditions.** The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare, or when necessary to protect the public right-of-way and its current use.

**Sub. 1. Excavation Permit Fee.** The City shall establish an excavation permit fee in an amount sufficient to recover the following costs:

- a. City management costs;
- b. Degradation costs, if applicable.

**Sub. 2. Obstruction Permit Fee.** The City shall establish an obstruction permit fee which shall be in an amount sufficient to recover the City management costs.

**Sub. 3. Payment of Permit Fees.** No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit. The City may allow applicant to pay such fees within thirty (30) days of billing.

**Sub. 4. Non refundable.** Permit fees that were paid for a permit that the City has revoked for a breach as stated in Section 1.22 are not refundable.

**Sub. 5. Application to Franchises.** Unless otherwise agreed to in a franchise, management cost may be charged separately from, and in addition to, the franchise fees imposed on a right-of-way user in the franchise.

### **Sec. 1.13 Right-of-Way Patching and Restoration**

**Sub. 1. Timing.** The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed with the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee, or when work was prohibited as unseasonal or unreasonable under Section 1.16.

**Sub. 2. Patch and Restoration.** Permittee shall patch its own work. The City may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

**a. City Restoration.** If the City restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the City, within thirty (30) days of billing, the cost of repairing said pavement.

**b. Permittee Restoration.** If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota rule 7819.3000.

**c. Degradation Fee in Lieu of Restoration.** In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and degradation fee shall not include the cost to accomplish these responsibilities.

**Sub. 3. Standards.** The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the City, and shall comply with Minnesota Rule 7819.1000.

**Sub. 4. Duty to Correct Defects.** The permittee shall correct defect in patching, or restoration performed by permittee or its agents. Permittee upon notification from the City, shall correct all restoration work to the extent necessary, using the methods required by the City. Said work shall be completed within five (5) calendar days of the receipt of the notice from the City, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under Section 1.16.

**Sub. 5. Failure to Restore.** If the permittee fails to restore the right-of-way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City at its option may do such work. In that event the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the City may exercise its rights under the construction restoration bond.

#### **Sec. 1.14. Joint Applications**

**Sub. 1. Joint Application.** Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

**Sub. 2. Shared Fees.** Registrants who apply for permits for the same obstruction or excavation, which the City does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

**Sub. 3. With City Projects.** Registrants who join in a scheduled obstruction or excavation performed by the City, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the obstruction and degradation portions of the permit fee, but a permit will be required.

#### **Sec. 1.15. Supplementary Applications.**

**Sub. 1. Limitation on Area.** A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated before working in that greater area (1) make application for a permit extension and pay any additional fees required thereby, and (2) be granted a new permit or permit extension.

**Sub. 2. Limitation on Dates.** A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be done before the permit end date.

### **Sec. 1.16. Other Obligations**

**Sub. 1. Compliance With Other Laws.** Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the City or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including Minn. Stat. §§ 216D.09-09 (Gopher One Call Excavation Notice System). A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

**Sub. 2. Prohibited Work.** Except in an emergency, and with the approval of the City, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

**Sub. 3. Interference with Right-of-Way.** A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

### **Sec. 1.17. Denial of Permit**

The City may deny a permit for failure to meet the requirement and conditions of this chapter or if the City determines that the denial is necessary to protect the health, safety, and welfare of when necessary to protect the right-of-way and its current use.

### **Sec. 1.18. Installation Requirements.**

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 and other applicable local requirements, insofar as they are not inconsistent with the Minnesota Statutes Secs. 237.162 and 237.163.

### **Sec. 1.19. Inspection**

**Sub. 1. Notice of Completion.** When the work under any permit hereunder is completed, the permittee shall furnish a Completion Certificate in accordance with Minnesota Rule 7819.1300.

**Sub. 2. Site Inspection.** Permittee shall make the work site available to the City and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

**Sub. 3. Authority of Director.**

(a) At the time of inspection the City may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(b) The City may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the City that the violation has been corrected. If such proof has not been presented within the required time, the City may revoke the permit pursuant to Sec. 1.22.

**Sec. 1.20. Work Done without a Permit**

**Sub. 1. Emergency Situations.** Each registrant shall immediately notify the City of any event regarding its facilities which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the registrant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

If the City becomes aware of an emergency regarding a registrant's facilities, the City will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the City may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

**Sub. 2. Non-Emergency Situation.** Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for said permit, pay double all the other fees required by the City Code, deposit with the City the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

**Sec. 1.21. Supplementary Notification**

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the city of the accurate information as soon as this information is known.

**Sec. 1.22. Revocation of Permits.**

**Sub. 1. Substantial Breach.** The City reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (a) The violation of any material provision of the right-of-way permit;
- (b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (c) Any material misrepresentation of fact in the application for a right-of-way permit;
- (d) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
- (e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an Order issued pursuant to Sec. 1.19.

**Sub. 2. Written Notice of Breach.** If the City determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the City shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City, at their discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

**Sub. 3. Respond to Notice of Breach.** Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the City with plan, acceptable to the City, that will cure the breach. Permittee's failure to so contact the City, or the permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to contact the City, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one (1) full year.

**Sub. 4. Cause for Probation.** From time to time, the Director may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year; such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit.

**Sub. 5. Automatic Revocation.** If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.

**Sub. 6. Reimbursement of City.** If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

## **SEC. 1.23. Mapping Data**

**Sub. 1. Information Required.** Each registrant and permittee shall provide mapping information required by the city in accordance with Minnesota Rule 7819.4000 and 7819.4100.

## **Sec. 1.24. Location and Relocation of Facilities.**

**Sub. 1. Undergrounding.** Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

**Sub. 2. Corridors.** The City may assign specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the City expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

Any registrant whose facility is in the right-of-way in a position at variance with the corridors established by the City shall, no later than at the time of the next reconstruction or excavation of the area where its facility is located, move the facility to its assigned position within the right-of-way, unless this requirement is waived by the City for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

**Sub. 3. Nuisance.** One year after the passage of this chapter, any facility found in a right-of-way that has not been registered shall be deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facility and restoring the right-of-way to a useable condition.

**Sub. 4. Limitation of Space.** To protect health, safety, and welfare or when necessary to protect the right-of-way and its current use, the Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decision, the City shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's need for the particular utility service, the condition of the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

## **Sec. 1.25. Pre-Excavation Facility and Facilities Location.**

In addition to complying with the requirements of Minn. Stat. §§ 216D.01.09 ("One Gopher Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and approximate vertical placement of all said facilities. Any registrant whose facilities is less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to

establish the exact location of its facilities and the best procedure for excavation.

**Sec. 1.26. Damage to Other Facilities.**

When the City does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the City shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registration and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

**Sec. 1.27. Right-of-Way Vacation.**

**Reservation of Right.** If the City vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

**Sec. 1.28. Indemnification, Liability, and Insurance.**

By registering with the city, or by accepting a permit under this chapter, a registrant or permitted agrees to defend and indemnify the City and its agents in accordance with the provisions of Minnesota Rule §7819.1250.

**Sec. 1.29. Abandoned and Unusable Facilities.**

**Sub. 1. Discontinued Operations.** A registrant who has determined to discontinue its operations in the City must provide information satisfactory to the City that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.

**Sub. 2. Removal.** Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation or construction, unless this requirement is waived by the City.

**Sec. 1.30 Appeal.**

A right-of-way user that (1) has been denied registration; (2) has been denied a permit; (3) has had permit revoked; or (4) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

**Sec. 1.31. Severability.**

If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction,

such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion thereof. Nothing in this chapter precludes the City from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

**Sec. 1.32. Effective Date.**

This Ordinance shall be in full force and effect from and after its passage of publication according to law.

## Chapter 29: Trails

1. The Public Works Director is hereby authorized to post public trails to:
  - a. Limit or prohibit use of the trails by recreational vehicles, snowmobiles, horses or bicycles.
  - b. Limit, gate or prohibit other use of the trails when the uncontrolled use of them is contrary to the general welfare or when conditions are conducive to damage, erosion, fire or other harm.
2. The Public Works Director shall post signs at the ordinary ingress and egress of each trail stating the type of travel or vehicle not allowed. Such signs shall state one or more of the following:
  - “Recreational Vehicles Permitted”
  - “Bicycles Prohibited”
  - “Snowmobiles Prohibited”
  - “Motorcycles Prohibited”
  - “Horses Prohibited”
  - “Pedestrian Traffic Prohibited”

Or shall contain pictorial depiction of the prohibited travel.
3. It is unlawful for any person to travel on or use a trail in a manner contrary to the restrictions posted for that trail. Trail signs shall be obeyed.
4. It is unlawful for a person to mutilate, destroy, damage or remove any sign or barrier placed upon or near any public trail by the City or to damage any trail or vegetation in it.
5. In any event, motorized vehicle travel, including but not limited to, motorcycles, ATV’s, RTV’s snowmobiles and go carts are prohibited on all public trails.
6. A violation of this Ordinance shall be a petty misdemeanor and punishable according to law.
7. Nothing in this Ordinance shall limit the City of Marine on St. Croix’s right to bring a civil action for damages to the public trails.
8. This Ordinance shall be effective after its passage and publication according to law.