

CHAPTER 4 UTILITIES

Part 1 Water/Sewer Rates and Regulations

401.01. Use of water or sewer system restricted. No person other than a city employee shall uncover or make or use any water or sewer service installation connected to the city water or sewer system except pursuant to application and permit as provided in this chapter. No person shall make or use such installation contrary to the regulatory provisions of this chapter.

401.02 Application for Service - Procedure, Water Meters. Application for a water service installation and for water service shall be made to the City Clerk on forms prescribed by the City Council and furnished by the city. By his or her signature, the applicant shall agree to conform to this ordinance and to rules and regulations that may be established by the city as conditions for the use of water and sewer. All property owners shall cooperate with the city to allow installation, service and reading of water meters. The city may refuse further water services to any property owner who fails to cooperate and/or may obtain a district court order to obtain compliance with this paragraph. The property owner shall be liable for all costs incurred by the city, including attorney fees, in obtaining and enforcing such order. For new construction, the fee for the application for water service shall include the cost of an appropriate meter, which will be supplied by the city and installed by the owner to the specifications of the city. The City of Carlton shall continue to own the meter and shall be solely responsible for costs of maintenance and replacement, unless meter is damaged due to negligence.

401.03 Accounts in Name of Owner. All accounts shall be carried in the name of the owner who personally, or by his or her authorized agent shall apply for such service. The owner shall be liable for water and sewer service supplied to the property, whether he or she is occupying the property or not. The owner of rental property agrees, as a condition of receiving service, to be personally liable for water service furnished to tenants, lessees and other occupants of the premises. Unpaid charges that reach termination level may result in termination of service according to the provision of this ordinance, or any unpaid charges may be a lien upon the property, or both at the option of the city.

401.04. Charges for service connections.

Subdivision 1. **Permit and fee.** No connection shall be made to the city water or sanitary sewer system without a permit received from the City Clerk's Office. The fee for each such permit shall be determined by the city council, contact the city clerk for the current permit fee. The applicant shall be required to hire a licensed utility contractor for installation of service lines from the city water and or sewer system to the curb stop.

401.05. Protection of public and city

Subdivision 1. **Permit and bond.**

A permit for construction and connection of the extension between a building drain and the sewer main or stub, herein called the building sewer, or for construction of a water main or stub, shall be issued only upon application by a person who has furnished a bond either to the clerk or to the secretary of state under Minn. Stat. 326.40. The bond shall be in the amount of \$2,000 conditioned so as to secure compliance by the principal with the provisions of this code and to further secure the person's performance of all work undertaken within the city.

Subd. 2. **Liability insurance.** Before undertaking the construction work authorized by the permit, the person shall secure and maintain a policy of insurance against damages to property or injury or death to individuals. The policy shall identify and save harmless the city and its personnel against any claim, damages, or cause of action arising out of the work and from any expenses of defending the same. The property damage insurance coverage shall be in the amount of at least \$200,000 and the public liability

damage for injury or death shall be in the amount of at least \$200,000 per claimant and \$600,000 for any number of claims per occurrence. Proof of such insurance shall be filed with the city prior to construction work and such policy shall provide that the city shall be notified immediately of any termination or modification of such insurance. If the insurance coverage be inadequate in amount, the person shall identify and save harmless the city and its personnel in like manner.

Subd. 3. **Indemnification by owner.** The owner shall bear the costs and expenses incident to the installation and connection of the building sewer or extension of water service to private property. The owner shall identify the city for any loss or damage directly or indirectly caused by its installation. The clerk shall establish rules and regulations for the proper implementation of these requirements which, when approved by the council by resolution, shall govern the installation of building sewers and connections.

401.06 Payment. Statements for total water and sewer charges for the preceding month shall be mailed to each customer at the end of each month of service. The amount listed on the statement shall be due on or before the 25th day of the month following the month of service or the next following working day if the 25th falls on a weekend or legal holiday on which city offices are closed. If payment is not made in full by that date, there shall be added to the amount due a late charge, for each month or fraction thereof that the account remains unpaid. The late fee will be determined per the percentage recorded on the fee schedule.

401.07 Termination of Service for Non-Payment. At any normal monthly billing date, any premises with unpaid charges over 60 days past due, will be considered delinquent. When this delinquent bill is mailed, a shutoff notice shall accompany it. This notice shall specify a date, not less than 10 days after the date of mailing, on which the water supply to the premises will be shut off, unless payment has been made in full or satisfactory arrangements for payment have been made.

The notice shall clearly inform the customer of the available opportunities to present to the city objections to the bill, and shall identify the telephone number, address, and officer or employee who will handle the customer's complaint and who has the authority to review the facts and files, to correct any errors in the billing and to arrange for credit terms. If as a result of the review, the reviewing officer or employee finds that the amount claimed to be owing is actually due and unpaid and that the water supply of the delinquent customer should be shut off in accordance with this ordinance, the city may shut off the supply.

The City will make reasonable efforts to personally notify the occupant before his water is actually shut off. When water service to any premises has been discontinued, service shall not be restored except upon the payment of all delinquent amounts due plus a fee for disconnection and a fee for reconnection, to be determined by City Council Resolution.

The City shall not disconnect the water service of a residential customer if the disconnection affects the primary source of heat for the residential unit when the disconnection would occur during the cold weather period between October 15 and April 15. The disconnection notice shall inform the customer of this city policy, and it shall be the responsibility of the customer to inform the city of the relationship between his water service and primary heat source to keep his or her water service from being terminated. The City shall have the right to enter upon the affected property to verify that termination of the water service will affect the primary heat source, and if said inspection reveals that the termination of water service will not affect the primary heat source, the termination may then proceed as per the provisions of this ordinance as put forth in this section.

401.08 Reconnection. The City shall reinstate service during normal working hours upon full payment of amounts due or shall reinstate service which in any way affects the primary heating source of a residential unit if such service remains disconnected as of October 15th.

401.09 Collection with Real Estate Taxes. The City may prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served. The assessment roll shall be delivered to the council for adoption on or before November 15 of each year. Upon such adoption, the clerk shall certify the assessment roll to the County Auditor for collection along with real estate taxes.

401.10 Meter Tampering - Civil Action for Damages Authorized. The City shall be authorized to recover double the costs of the water service provided, plus the costs and expenses of investigation and related service connections or disconnections by its employees plus attorney fees, trial costs and witness fees, from any person who deliberately commits, authorizes, attempts, solicits, aids or abets meter by passing, tampering, unauthorized connection or unauthorized metering, or from any person who knowingly receives water service as a result of these specific activities.

Part 2 Water System

402.01 Definitions

Subd 1. Back Flow Device is a device designed to restrict water flow into the water system.

Subd 2. Corporation is a device designed to connect a water service sized 2" or smaller to a water main.

Subd 3. Curb Box is a device designed to provide access to a curb stop.

Subd 4. Curb Stop is a device designed to control the flow of water within a service line from a water main.

Subd 5. Meter is a device that records gallons of water used.

Subd6. Tap means to properly access the water main for the installation of a service line.

Subd 7. Meter Main is a pipe, or system of pipes and fittings, designed and used to distribute water to the water service of any customer.

402.02 CONNECTION TO SYSTEM REQUIRED

Subd 1. Except where municipal water is not available, it shall be unlawful to construct, reconstruct or repair any private water system which is designed for, or intended to provide water for human consumption. Private wells providing water for other than human consumption may be constructed, maintained and continued in use after connection is made to the water system; provided there is no means of cross-connection between the private well and the municipal water system at any time.

Subd 2. All new construction shall be required to connect to the municipal water system if municipal water is available to the property. All abutting, as well as non-abutting property which, in the case of residential use is within 400 feet and in the case of business or commercial use is within 600 feet of any water main, the owner shall; at the time municipal water becomes available make a direct connection to the public system within a period of time as determined by the City Council. If the connection is not made pursuant to this ordinance, the property owner will be charged a fine in an amount established in the "Fine Schedule."

402.03 LINE MATERIAL/ INSTALLATION/ EXCAVATION

Subd 1. The lateral service line from the water main to the meter must be copper, type K, or other approved material on all new construction or replacement for up to 2" installations.

- a. Upon payment of the access fee (per: Fee Schedule) the Public Works Department will tap the main. The customer shall be responsible for the entire excavation as well as the installation of the line from the curb stop to the meter. All piping and connections from the curb stop to the building supply piping shall be made under the supervision of a licensed plumber subject to inspection by the Public Works Department. The cost of said inspection shall be established in the Fee Schedule. The city will furnish and install the corporation, curb stop and riser as well as the line between them.
- b. Every service pipe shall be laid so as to allow at least one foot of extra length in order to prevent rupture by settlement. The service pipe must be laid no less than six feet below the ground surface and/or in a manner to prevent rupture by freezing. Joints in copper tubing shall be kept, to a maximum of one every 70 feet in length. Connections with the mains shall be at least three-quarter inch to the meter.
- c. **Bedding and insulating.** All service lines must be laid in such a manner to prevent damage from ground shifting due to hydraulic pressure or any other force. Service lines must be bedded in sand. Insulation is required if frost conditions could occur. Insulating must be done to the City Engineer's standards. A member of the Public Works Department must inspect all installations prior to backfilling.
- d. **Location of curb box.** Curb boxes will be installed on the utility right of way line or easement limits at a location determined by the Public Works Department. The top of the curb box shall be adjusted to be flush with the finished ground elevation. No person shall erect any fence, or plant any tree or other landscaping that would obstruct the use of curb boxes, or cause damage to the same.
- e. **Separate connections and meters.** No more than one housing unit or building shall be supplied from one service connection. Existing connections with two (2) or more parties supplied from one pipe connected with the distribution main must have a separate curb stop, within the City right-of-way and a separate meter for each structure.
- f. **Meter use required.** Except for the extinguishing of fire; no person except authorized city employees shall use water from the water supply system or permit water to be drawn there from unless the same is metered by passing through a meter supplied or approved by the City or at the discretion of the Public Works Department.
- g. **Gopher State One Call required (1-800-252-1166 or 811).** Prior to any excavation for the maintenance, repair, or installation of any water main or service lateral, notice must be given to Gopher State One Call for location of underground utilities.
- h. **Backfilling.** In the event the installation is within a surfaced street, the following shall apply: All back fill 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 Minnesota Department of Transportation Standards. Complete surface restoration is required within the entire Right of Way.
- i. No person, except an authorized city employee, shall turn on or off any water supply at the curb stop.

Subd 2. **Distribution Lines.** The size, material, placement and construction of main lines will be addressed by the City Council, City Engineer and the public works department on a case-by-case basis.

402.04 CONSERVATION

Whenever the City Council shall determine that a shortage of water supply threatens the city, it may, by resolution, limit the time and hours during which water may be used from the water system for lawn and

garden sprinkling, irrigation, car washing and other uses specified therein. Appropriate notice of such limitation shall be given prior to the enforcement thereof.

402.05 ABANDONMENT

Subd 1. All service installations that have not been used for one year will be shut off at the curb stop and the water meter removed. Prior to resuming service a reconnection fee will be required. Services that have become useless for further service must be shut off at the corporation, plugged or yoked at the expense of the property owner.

Subd 2. When new buildings are erected on the sight of old ones and it is desired to increase or make changes to the old water service, no connection with any main shall be made until the old service has been completely removed and shut off at the corporation, plugged or yoked at the expense of the property owner.

402.06

RESPONSIBILITY

Subd 1 The City of Carlton

- a. The city shall maintain ownership of the water main, the corporation, the curb box and the curb stop. In the case of multiple curb stops the city maintains ownership of the curb stop closest to the main.
- b. All residential meters and remote readers shall remain the property of the city.
- c. The replacement or repair of a defective meter shall be performed by the city at its expense.

Subd 2. Property Owner

- a. Property owners shall bear responsibility for their water system beginning at the curb box facing their property line and ending with their home water pipes, including the cost of installation, maintenance, repair, replacement or abandonment.
- b. Installation of the meter shall be performed by a licensed plumber. The cost of the meter and any costs associated with its installation shall be the responsibility of the property owner, including:
 1. Owner shall have approved valves on both sides of the meter.
 2. Any service larger than 1 inch shall be plumbed with a bypass and all necessary valves.
 3. All meters will be mounted horizontally for all services.
- c. The repair or replacement of a damaged meter shall be performed by the city. If a meter, connecting wire or reader is damaged due to owner negligence; the owner will be responsible for all repair and/or replacement costs.
- d. Repair, replacement or abandonment of a water service by a property owner must be performed by a contractor hired or approved by the city. The cost shall be borne by the property owner.
- e. The City shall at all times have the right to inspect, repair or otherwise service the meter, pipes and equipment.
- f. The water availability charge (WAC), or connection charge is set in the Fee Schedule.
- g. It shall be the responsibility of the consumer to notify the city to request a final reading at the time of the consumers billing change.

402.07 MAINTENANCE AND REPAIR

Subd 1. In the case of failure on the part of the property owner to repair any leak occurring in the service line within twenty four (24) hours after verbal or written notice thereof, the water will be shut off and will not be turned on until a reconnection fee is paid and the leak has been properly repaired. When

the waste of water is great, or when damage is likely to result from the leak, water may be turned off immediately pending repairs.

Subd 2. The public works department may discontinue service to any customer of the water system without notice when necessary for emergency repairs. Reasonable attempts will be made to notify customers of service interruption for routine and scheduled maintenance and repairs.

402.08 FIRE HYDRANTS

Subd 1. It shall be unlawful for any person to plant any tree, shrub or bush within eight feet of any fire hydrant or to place or erect any object which would hide or obscure such fire hydrant and prevent it from being seen from the street.

Subd 2. It shall be unlawful for any person to operate a fire hydrant unless such person is a duly authorized city employee, or a member of a fire department in the line of duty.

402.09 DISCLAIMER OF LIABILITY

The City shall not be liable for any deficiency or failure in the supply of water to property owners or users, whether occasioned by shutting the water off for the purpose of making repairs of connections, or for any other cause whatsoever. The City shall not be liable for any damage to a person's property caused in whole or part by the discontinuance of water service.

402.10 PENALTIES

Any person violating any provisions of this ordinance shall be guilty of a petty misdemeanor and shall become liable to the city for any expense, loss or damage occasioned by the city by reason of the violation.

Part 3 Sanitary Sewer System

403.01. Requirements for building sewer and inspection. Building sewer construction shall meet the requirements of the Minnesota building and plumbing codes. The applicant for the building sewer permit shall notify the permit director when the building sewer and connection is ready for inspection. The connection shall be made under the supervision of the permit director or the director's representative. No backfill shall be placed until the work has been inspected and approved.

403.02. Sewer system general regulations.

Subdivision 1. **Discharge of surface water**, etc. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, cooling water, or unpolluted industrial process waters into any sanitary sewer. No rain spout or other form of surface drainage and no foundation drainage shall be connected with any sanitary sewer.

Subd. 2. **Non-acceptable wastes.** No person shall discharge or permit to be discharged into any public sewer any of the following wastes: Any liquid or vapor having a temperature in excess of 180 degrees Fahrenheit; Any water or waste having a five-day biological oxygen demand exceeding 1,000 parts per million by weight as averaged during any 12-month period; Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas; Any garbage that has not been properly shredded; Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, manure, grit, brick, cement, onyx, carbide, or other matter that may interfere with the proper operation of the sewers or sewage treatment plant. If Any water or waste having a pH lower than five and one-half or higher than nine or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewage works; Any water or waste containing a toxic or poisonous substance, whether or

not listed as hazardous waste by Section 7045.0135, Minnesota Rule 1985, in sufficient quantities to constitute a hazard to humans or animals, injure or interfere with sewage treatment, or create any hazard in the receiving waters of the sewage treatment plant; Any noxious or malodorous gas or substance capable of creating a public nuisance.

Subd. 3. **Interceptors.** Must be installed per Chapter 4, Part 9 - Fats,

Subd. 4. **Control manhole required.** The owner of any property served by a building sewer carrying industrial waste shall install a suitable control manhole in the building sewer to facilitate observation and sampling of the waste. The manhole shall be constructed by the owner in accordance with plans approved by the permit director. The owner shall maintain the manhole so as to be safe and accessible at all times.

Subd. 5. **Separate sewers.** A separate and independent sewer shall be provided for every building connected to the sewer system except that the council may waive this requirement where it finds that a separate sewer for a building is impractical.

Subd. 6. **Inspection** The permit director and other authorized employees of the city, bearing proper credentials and identification, shall at reasonable times be permitted to enter upon all properties connected to the city sanitary sewer system for the purpose of inspection, observation, measurement, sampling, and testing. The premises of any property owner or occupant, who refuses entry to a city employee, after a proper request as provided for in this section, shall be terminated from the connection with the city sanitary sewer system. Such termination of connection shall be effected by the city only after a hearing before the city council upon 10 days mailed notice to the owner or occupant concerned. The requirements of the code Section 403.03, for connection to the city sanitary sewer system, shall not be applicable to property disconnected under this section. However, any such property producing sewage shall be equipped with an adequately maintained and liquid tight holding tank.

403.03. Sewer connection required.

Subdivision 1. General requirement.

When property abuts upon any public street or alley along which water and sewer mains have been constructed, the owner of any dwelling or commercial establishment on the property shall install suitable toilet facilities therein and connect them with the sanitary sewer in accordance with the provisions of this ordinance within 90 days after the date of mailing or delivering official notice to do so. The notice shall be given to the owner or occupant in writing by the city clerk on order of the council.

Subd. 2. **Connection by city.** Whenever any owner or occupant fails to comply with such written notice, the council shall by resolution direct that a toilet be installed and connection made with the water and sewer system and that the cost of the installation be paid in the first instance out of the general fund and then assessed against the property benefited.

Subd. 3. **Assessment.** After the installation and connection have been completed pursuant to council resolution, the clerk shall serve a written notice of the assessment upon the owner or the owner's representative directing the owner to pay the assessment to the treasurer within 10 days after the service of the notice. If the assessment is not paid within 10 days, the clerk shall certify the amount to the county auditor for collection in the same manner as other special assessments. The council may by resolution spread the assessment over a three-year period.

403.04. Sewer rates.

Subdivision 1. The owner, lessee, or occupant of each premises connected with the city sewer system shall pay the rates and charges for each month of use thereof single family residences, mobile homes,

industry or business. The sewer rates are computed on a monthly basis at rates established by the **city** council. Inquire with the city clerk for current rates. The current rates and fees are used to maintain adequate operation, equipment replacement, capital improvement, emergency and debt coverage reserves. When a residence or business is unoccupied a base rate will still apply on a monthly basis.

Multiple units. Each unit of a multiple business or dwelling using one sewer connection shall pay a minimum for each unit as a separate user.

Subd. 2. **Required information.** The owner, occupant, or person in charge of any premises shall supply the city with such information as it may reasonably require relating to use of water, use of sewer, or sewer rates. Willful failure to provide such information, willful falsification of such information, or willful failure to comply with any requirement or order issued pursuant to this section constitutes a violation of this section.

Subd. 3. **Disposition of revenues.** All revenues derived from charges imposed under this section shall be credited to the sewer fund.

Part 4 Individual Sewage Disposal Systems

404.01 **Septic Systems.** Carlton County will do all permits for individual sewer disposal systems for the City of Carlton.

Part 5 Disposal of Human Excreta and Sewage

AN ORDINANCE GOVERNING THE DISPOSAL OF SEWAGE AND HUMAN EXCRETA

405.01 DEFINITIONS

Subd 1. Sewage shall mean any water-carried waste, exclusive of footing and roof drainage, of any residence, industry, or commercial establishment, whether treated or untreated, and includes the liquid waste produced by bathing, laundry, culinary operations, and from toilets and floor drains.

Subd 2. Individual sewage disposal system shall mean a sewage disposal system, other than a public or community system, which receives either human excreta or liquid waste, or both, from one premise. Included within the scope of this definition are septic tank-soil absorption systems, privies, chemical type toilets, and any other device that is designed to receive and dispose of sewage of human excreta from one premise.

Subd 3. City Clerk-Treasurer. The Clerk-Treasurer of Carlton, Minnesota, or an authorized representative.

Subd 4. City Inspector. City Inspector appointed by the City Council.

405.02. SANITARY DISPOSAL REQUIRED

Subd 1. No building, structure, area, or premise shall be constructed or maintained for human occupancy, use or assembly without adequate facilities for sanitary and safe disposal of all human excreta, sewage and all liquid wastes that could offer a hazard to the public health or create objectionable nuisance conditions.

Subd 2. No individual sewage disposal system or other means of sewage or excreta disposal shall be maintained or used on property having available a public sanitary sewer main located within 500 feet of the property line.

Subd 3. Where a public sanitary sewer is not available all sewage shall be disposed of in a properly constructed and maintained individual sewage disposal system installed in accordance with the rules and regulations set forth by Carlton County Planning and Zoning

Subd 4. All individual sewage disposal systems shall be so constructed, maintained and operated that there is: (1) no access to sewage by flies, rodents, or other vectors of disease, or by persons or domestic pets; (2) no lawful pollution of any stream or other body of water; (3) adequate isolation to protect wells or other sources of water supply from contamination; and (4) freedom from objectionable nuisance conditions.

Subd 5. All individual sewage disposal systems shall be located wholly upon the property served, except that under certain conditions where suitable executed and recorded easements or right-of-way agreements exist this provision may be waived.

Subd 6. Removal of the contents of a septic system shall be done by pumping the same into a truck so that it may be hauled away to a proper disposal system.

Subd 7. Nothing in this section shall prevent the construction of sewage treatment plants in accordance with approved plans, discharging treated effluent to an approved outlet, and operated in such a manner that there is no menace to the public health, or unlawful pollution of waters of the State.

405.03.

PERMITS

Subd 1. No person, firm, or corporation shall install any new individual sewage disposal system within the city without first obtaining a permit therefore from Carlton County Planning and Zoning Office for the specific installation. For new construction the application shall be submitted prior to any construction on the premises. The requirements of this section shall not apply to a sewage disposal system, the plans for which are reviewed and approved by the Minnesota Department of Health of the Minnesota Pollution Control Agency.

Subd 2. An application for a permit shall be made in accordance with the regulation set forth by Carlton County Planning and Zoning Office. Each application shall state thereon the correct legal description of the property on which the proposed installation is to take place and shall be accompanied by careful sketches or plot plans of the land showing the location of any proposed or existing buildings located on the property with respect to the boundary lines of the property and complete plans of the proposed system with substantiating data, if necessary, attesting to the compliance with the minimum standards of this regulation. A complete plan shall include the location, size and design of all parts of the system to be installed. The water supply facilities for both the applicant's property and adjacent properties. The application shall further list the name

of the person, firm, or corporation who or which is to install the system and shall provide such information as may be required by Carlton County Planning and Zoning Office.

Subd 3. The construction authorized pursuant to the approved application, the accompanying plat or sketch, and the permit therefore shall not be altered or modified in any of the essential details without the written consent of the City Inspector.

405.04. LAND REQUIREMENTS

Subd 4. No new individual sewage disposal system shall be installed on a parcel of land less than one-half (½) acre in size, or the lot size required by the Carlton County Planning and Zoning Office, whichever is the greater.

Subd 2. No new individual sewage disposal system shall be installed on a parcel of land where the soil or ground conditions make the land unsuitable, in the opinion of the Carlton County Planning and Zoning Office, for the proper operation of an individual sewage disposal system; may create a hazard to the public health; or may contaminate the waters of the State. Suitability of soil and ground conditions shall be determined by an adequate number of test holes, as needed due to nature of soil and topography, and testing may include conducting soil percolation tests in a manner approved by the Carlton County Planning and Zoning Office.

405.05. INSPECTIONS

Subd 1. The Carlton County Planning and Zoning Office shall make such inspection or inspections as are necessary to determine compliance with this regulation. No part of any new individual sewage disposal system shall be covered until it has been inspected and accepted by the Carlton County Planning and Zoning Office. It shall be the responsibility of the applicant for the permit to notify the Carlton County Planning and Zoning Office that the job is ready for inspection or re-inspection, and it shall be the duty of the Carlton County Planning and Zoning Office to make the indicated inspection as promptly as possible to determine that construction is being carried out in accordance with the provisions of this regulation.

Subd 2. It shall be the duty of the owner or occupant of the property to give the Carlton County Planning and Zoning Office free access to the property at reasonable times for the purpose of making such inspections.

Subd. 3. If upon inspection the Carlton County Planning and Zoning Office discovers that any part of the system is not constructed in accordance with the minimum standards provided they shall give the applicant written notification describing the defects. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

405.06. VARIANCES

The Carlton County Planning and Zoning Office may grant individual variances from these regulations where it is determined that no substantial health hazard is likely to occur therefrom and where unnecessary hardship might result in strict compliance with these regulations. Requests shall be filed in writing with the Carlton County Zoning Office for such a hearing.

405.07. APPEALS

All appeals for a denied permit shall be directed to the Carlton County Planning and Zoning Office

Such applicant for permit or permittee shall have the further right to appeal to the District Court, Carlton County, State of Minnesota, for hearing on such revocation upon filing said appeal not later than 30 days after receiving such notice from the Carlton County Planning and Zoning Office.

405.08. DESIGN AND CONSTRUCTION STANDARDS

All design and construction specifications for an individual sewage disposal system shall be in conformity with the appropriate standards for such, as adopted and amended from time to time by Carlton County Planning and Zoning

405.09. SEPARABILITY CLAUSE

Should any section, subsection, sentence, clause or phrase of this regulation be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this regulation in its entirety or any part thereof other than that so declared to be invalid.

405.10. PENALTY

Any person who shall violate any provision of this regulation shall, upon conviction, be guilty of a misdemeanor. Each day a violation continues to exist shall constitute a separate offence.

405.11 Licensing

No person, firm or corporation, except plumbers licensed by the State of Minnesota, shall engage for profit in the business of installing, constructing, or excavating for individual sewage disposal systems within Carlton without first obtaining a license to carry on such occupation from the Carlton County Zoning Officer.

Part 6 Regulating the Use of Public Sewers and Private Wastewater Disposal Facilities

Section 1. That the Western Lake Superior Sanitary District Model Ordinance Requiring and Regulating the Use of Public Sewers and Private Wastewater Disposal Facilities dated January 10, 1977, a copy of which is marked as an official copy and kept on file in the office of the City Clerk for use and examination by the public, together with such changes as may be appropriate to vest administration and enforcement in the City of Carlton, is hereby adopted and is effective in the City of Carlton.

Section 2. That the City's Public Works Superintendent is designated as the official to enforce his ordinance as provided by Article II, Sec. 36, of the Western Lake Superior Sanitary District model ordinance.

Part 7 Western Lake Superior Sanitary District (WLSSD) Model Ordinance

WESTERN LAKE SUPERIOR SANITARY DISTRICT - MODEL ORDINANCE REQUIRING AND REGULATING THE USE OF PUBLIC SEWERS AND PRIVATE WASTEWATER DISPOSAL FACILITIES AS ADOPTED BY THE BOARD FOR USE BY LOCAL UNITS OF GOVERNMENT WITHIN THE DISTRICT

ARTICLE I: General Provisions

Section 1. The purpose of this ordinance is to require and regulate the use of public sewers and private wastewater disposal facilities within the City or Town.

Section 2. The provisions of this ordinance so far as they are the same as those of ordinances existing at the time of the effective date hereof shall be considered as continuations thereof and not as new enactments.

Section 3. It is hereby declared to be the intention of the (Town Board) (City Council) that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences; paragraphs and sections of this ordinance.

Section 4. Whenever in this ordinance any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor where no specific penalty is provided therefor, the violation of any such provision of this ordinance shall be punished by a fine not exceeding three hundred dollars (\$300) or imprisonment for a term not exceeding sixty (60) days. Every day any violation of this ordinance shall continue shall constitute a separate offense.

ARTICLE II: Definitions

Section 1. The following words and phrases when used in the definitions in this Section and when otherwise used in this ordinance shall have the meanings ascribed to them in this Article, unless the context otherwise clearly indicates.

Section 2. Bio-chemical oxygen demand (BOD) means the quantity of oxygen utilized in the bio-chemical oxidation of organic matter expressed in milligrams per liter, as determined in accordance with standard laboratory procedures as set out in Standard Methods.

Section 3. (a) Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of a building and conveys it to the building's sewer, beginning five (5) feet (1.5 meters) outside the inner-face of the building wall.

- (b) Building drain–sanitary means a building drain which conveys wastewater only.
 - (c) Building drain–storm means a building drain which conveys storm water or other unpolluted water drainage but no wastewater.
- Section 4.
 - (a) Building sewer means the extension from the building drain to the public sewer or other place of disposal, also called house connection.
 - (b) Building sewer–sanitary means a building sewer which conveys wastewater only.
 - (c) Building sewer–storm means a building sewer which conveys storm water or other unpolluted water drainage but no wastewater.
- Section 5. Capital cost means all reasonable and necessary costs and expenses incurred by the City or Town in planning, designing, financing or constructing wastewater facilities including but not limited to costs and expenses for obtaining necessary permits, licenses, approvals and grants for design and construction, architects’ and engineers’ fees, construction costs, fees for legal and consulting services and that portion of WLSSD capital costs charged by WLSSD to the City.
- Section 6.
 - (a) Classes of user’s means the division of wastewater facility users by waste characteristics, and process or discharge similarities.
 - (b) Domestic user means those users which discharge exclusively domestic strength wastewater or wastewater which contains characteristics so similar to domestic strength wastewater as to be capable of treatment in the same manner as domestic strength wastewater.
 - (c) Non-domestic wastewater user means a user which discharges waste-water other than domestic wastewater.
- Section 7. Debt service means the principal and interest necessary to pay indebtedness of the City and City’s share of the indebtedness of the WLSSD.
- Section 8. Easement means an acquired legal right for the specific use of land owned by others.
- Section 9. Federal Code of Regulations means the United States Government Regulations so entitled.
- Section 10. Floatable oil means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.
- Section 11. Flow means the quantity of wastewater.
- Section 12. Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.
- Section 13. Industrial cost recovery means recovery by the WLSSD from the industrial users of the WLSSD wastewater facilities of the grant amount received by the WLSSD from the United States Environmental Protection Agency allocable to the transmission and treatment of such users’ wastewater in the amount as required by Public Laws 92-500.

- Section 14. Industrial user means any nongovernmental user of the District's wastewater treatment facilities, as is identified in the Standard Industrial Classification Manual (1972), Office of Management and Budget as amended and supplemented, under the following divisions:
- a) Division A - agriculture, forestry and fishing
 - b) Division B - mining
 - c) Division D - manufacturing
 - d) Division E - transportation, communication, electric, gas and sanitary services
 - e) Division I - services
- and otherwise classified as industrial user according to the Federal Water Quality Act Amendments of 1972 and regulations promulgated pursuant thereto.
- Section 15. Industrial waste means the solid, liquid or gaseous wastes resulting from any industrial or manufacturing processes, trade or business or from the development, recovery or processing of natural resources.
- Section 16. Loads means quantities of wastewater characteristics such as BOD, SS, P or other constituents.
- Section 17. May means that the action described is permissive.
- Section 18. National Pollution Discharge Elimination System (NPDES) permit is a permit system of the United States Environmental Protection Agency.
- Section 19. Natural outlet means any outlet into a water course, pond, ditch, lake or other body of surface or ground water.
- Section 20. Peak flow means the maximum instantaneous rate of flow that is discharged by a user into the wastewater facility.
- Section 21. Permit means written authorization from the City or the WLSSD to perform acts allowed or required by this Ordinance.
- Section 22. Person means any individual, firm, company, association, society, corporation (municipal or otherwise), or other group discharging wastewater to the wastewater facilities.
- Section 23. pH Means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight, in grams, of hydrogen ions per liter of solution. Neutral water, for example, as a pH value of 7 and a hydrogen ion concentration of 10^{-7} .
- Section 24. Phosphorous (P) means total phosphorous in wastewater as determined under standard laboratory procedures as set forth in Standard Methods.
- Section 25. Polluted water means water of quality which does not meet the effluent criteria in effect, or water which would cause violation of receiving water quality standards and would be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.
- Section 26. Pretreatment means the treatment of wastewater prior to introduction thereof into the City or the WLSSD wastewater facilities.

- Section 27. Private wastewater disposal system means an arrangement of devices or structures for treating domestic or nondomestic wastewater approved for use by applicable regulations of the State of Minnesota and the County of Carlton.
- Section 28. Properly shredded garbage means the wastes from the preparation, cooking or dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1.27 centimeters) in any dimension.
- Section 29. Public sewer means any sewer owned or operated by the City or the WLSSD.
- Section 30. Sanitary sewer means a sewer which carries wastewater and to which storm, surface and ground water are not intentionally admitted.
- Section 31. Sewer means a pipe or conduit that carries wastewater to storm, surface or ground water.
- Section 32. Shall means that the action described is mandatory.
- Section 33. Slug means any discharge of water or wastewater 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 the average twenty-four (24) hour concentration of flows during normal operation and which may adversely affect the collection system and/or performance of the wastewater treatment works.
- Section 34. Standard Methods means the latest edition of Standard Methods for the Examination of Water and Wastewater published jointly by the American Public Health Association, and the American Waterworks Association and the Water Pollution Control Federation.
- Section 35. Superintendent means the official of the City or his authorized deputy, agent or representative designated to enforce this ordinance.
- Section 36. Suitable wastewater collection facilities means a device(s) adequate to capture all significant wastewater developed or occurring on the premises where such facilities are located.
- Section 37. Suspended solids (SS) means total suspended solids in wastewater as determined under standard laboratory procedures as set forth in Standard Methods.
- Section 38. Unpolluted water means water which meets the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.
- Section 39. User charge means a charge levied on the users of the wastewater facilities for the cost of operation, maintenance, including replacement and debt service.
- Section 40. Wastewater means that portion of the spent water of a community which is polluted water. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions.
- (A) Domestic strength wastewater means wastewater having an average daily suspended solids concentration of not more than 300 mg/l, an average daily BOD of not more

than 300 mg/l, an average daily phosphorous concentration of not more than 15 mg/l, and an average daily hexane soluble matter (grease and oil) concentration of not more than 40 mg/l.

(B) Non-domestic strength wastewater means all wastewater other than domestic strength wastewater.

- Section 41. Wastewater facility means the structures, equipment and process required to collect, carry away and treat domestic and non-domestic wastes and dispose of the effluent and when preceded by the word "District" means the wastewater facilities of the WLSSD and when preceded by the word "City" or "Town" means the wastewater facilities of the City.
- Section 42. Wastewater treatment works means an arrangement of devices and structures for treating wastewater, industrial waste and sludge.
- Section 43. WLSSD means Western Lake Superior Sanitary District, a public corporation and political subdivision of the State of Minnesota established by Chapter 478, Laws of Minnesota, 1971.

ARTICLE III: Use of Public Sewers Required

- Section 1. It shall be unlawful to discharge to any natural outlet within the City or in any area under jurisdiction of the City any wastewater or other polluted waters except suitable treatment has been provided in accordance with the provisions of this ordinance.
- Section 2. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- Section 3. The owner of all houses, buildings or properties of any character wherein or whereon wastewater develops or occurs is hereby required at the owner's expense to install suitable wastewater collection facilities therein or thereon and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance at the time of construction of such facilities in the case of new construction or new use or within ninety (90) days after date of official notice to do so in the case of existing housing, buildings or properties, provided that such public sewer is located within an easement or right-of-way adjoining the property or within such proximity to the property as otherwise determined by the City at the time of adopting this ordinance. (400 - See City Council meeting minutes from April 19, 1977).

ARTICLE IV: Private Wastewater Disposal

- Section 1. Where a public sanitary sewer is not available within the distance prescribed by the provisions of Article III, Section 3, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Article.
- Section 2. Before commencement of construction of a private wastewater disposal system the owner shall first obtain a written permit from the Carlton County Zoning Department. (See City Council minutes from 3/4/98)

- Section 3. The type, capacities, location and layout of a private wastewater disposal system shall comply with all requirements of the ordinances and regulations of Carlton County, Minnesota. No such system shall be permitted to discharge to any natural outlet.
- Section 4. At such time as a public sewer becomes available to a property served by a private wastewater disposal system as prescribed by Article III, Section 3, a direct connection shall be made to the public sewer within ninety (90) days in compliance with this ordinance and any private wastewater disposal system shall be cleaned of sludge and filled with suitable material.
- Section 5. The owner shall operate and maintain the private wastewater disposal system in a manner which complies with applicable state and county regulations at all times and at no expense to the City.
- Section 6. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Minnesota Pollution Control Agency or Carlton County, Minnesota, or the WLSSD.

ARTICLE V: Building Sewers and Connections

- Section 1. Except for City employees acting in the course of employment, no person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.
- Section 2. There shall be three (3) classes of building sewer connection permits: (a) for users discharging domestic strength wastewater to sanitary sewers, and (b) for users discharging non-domestic strength wastewater to sanitary sewers, and (c) for discharge of storm water or other unpolluted drainage to storm sewers. In all cases, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the superintendent. A permit and inspection fee sufficient to defray the cost incidental to the processing of such connection permit including the cost of inspection of connection for each such class shall be established by resolution of the Council and shall be paid to the City at the time the application is filed.
- Section 3. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- Section 4. No building sewer connection permit shall be issued unless the superintendent first determines that all City and WLSSD wastewater facilities have sufficient capacity to accommodate the flow and load to be discharged as a result of such connection.
- Section 5. A separate and independent building sewer shall be provided for every building; except where an existing building stands at the rear of another and no separate sewer has been constructed therefor, such building may continue to be connected to the building sewer of the front building and the whole considered as one building sewer, but the City shall have no obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

- Section 6. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this ordinance.
- Section 7. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City.
- Section 8. 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, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- Section. 9. No person shall make connection of roof downspouts, areaway drains, sump pumps or other sources of unpolluted water such as storm water, ground water, roof runoff, subsurface drainage, unpolluted industrial water or cooling water to a building sewer or building drain which is connected directly or indirectly to a public sanitary sewer. Before June 1st, 1992, every person who owns a building which has roof downspouts, areaway drains, sump pumps or other sources of unpolluted water such as storm water, ground water, roof runoff, subsurface drainage, unpolluted industrial water or cooling water connected to a building sewer or building drain which is connected directly or indirectly to a public sanitary sewer shall disconnect and remove such roof downspouts, areaway drains, sump pumps or other source of unpolluted water in an effective, workmanlike manner, as approved by the superintendent. If such disconnection and removal is estimated to cost more than 5% of the assessed value of such building, disconnection may be exempted by the City, providing the property is landscaped to minimize surface water reaching the footer drains via downward percolation along basement walls, etc., and/or through the carrying out of other reasonable provisions the superintendent may see as being beneficial in keeping surface water from reaching the footer drains.
- Section 10. Connection of the building drain to the building sewer and of the building sewer to the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. All such connections shall be made gastight and watertight and verified with proper testing. The superintendent shall have authority to promulgate rules, regulations, and tests as to the manner in which connection shall be made and such rules, regulations and tests when so promulgated and filed with the City Clerk shall be met.
- Section 11. The applicant for the building sewer connection permit shall notify the superintendent when the building sewer is ready for an inspection and connection to the building drain and public sewer. The connection and testing shall be made under the supervision of the superintendent. No building sewer shall be covered until it has been inspected and tested under the provisions of the superintendent.
- Section 12. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the superintendent.

ARTICLE VI: Use of the Public Sewers

- Section 1. No person shall discharge or cause to be discharged any unpolluted waters such as storm water, groundwater, roof runoff, subsurface drainage, unpolluted industrial process water, or cooling water to any sanitary sewer. Storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by written permission of the superintendent.
- Section 2. Storm water other than that exempted under Section 1, Article VI, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the superintendent. No person shall connect to or otherwise make use of storm sewers without first obtaining a permit as provided in Article V, Section 2.
- Section 3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
- (A) Any gasoline, benzene, naphtha, fuel oil, oil solvent, or other flammable or explosive liquid, solid, or gas.
 - (B) Any waters 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 waste treatment process, or wastewater facilities, to constitute a hazard to humans or animals, to create a public nuisance, or to create any hazard in the receiving waters of the wastewater treatment works.
 - (C) Any waters or wastes having a pH lower than (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater treatment works.
 - (D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other facilities such as, but not limited to, ashes, asphalt, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, disposable diapers, wood, unground garbage, whole blood, paunch manure, hair and fleshing's, entrails and paper dishes, napkins, cups, milk containers, either whole or ground by garbage grinders.
- Section 4. The following described substances, materials, waters or waste shall be limited in discharges to the wastewater facilities to concentrations or quantities which will not harm the wastewater facilities, will not endanger lives, limb, public property, or constitute a nuisance, and which are capable of regular and ordinary treatment at the wastewater treatment works so as to permit discharge therefrom in compliance with the NPDES permit issued to WLSSD. The superintendent and the WLSSD may set limitations different than the limitations established in the regulations below if such further limitations are necessary to meet the above objectives. In making such determination due consideration shall be given to such factors as the quantity of waste in relation to flows and velocities in the sewers, materials of construction of sewers, the wastewater treatment process employed, capacity of the wastewater facility, degree of treatability of the waste in the wastewater facility, and other pertinent factors. Until different limitations or restrictions on materials or characteristics are so established no person shall discharge or cause to be discharged any

of the following-described waters or wastes to any sanitary sewer without the approval of the superintendent.

- (A) Wastewater having a temperature higher than +150° Fahrenheit (65° Celsius).
- (B) Wastewater having a concentration of more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or products of mineral oil origin.
- (C) Wastewater from industrial plants or commercial establishments containing floatable oils, fat or grease.
- (D) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers, provided that no garbage grinders with 3/4 horsepower or greater motor shall be used without the approval of the superintendent.
- (E) Any waters or wastes containing iron, chromium, copper, zinc, lead, mercury, cadmium, organic solvents, non-biodegradables, organic chemicals and similar untreatable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the superintendent for such materials.
- (F) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent.
- (G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
- (H) Quantities of flow, concentration, or both which constitute a “slug” as defined herein.
- (I) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amendable to treatment only to such degree that the wastewater treatment works effluent cannot meet the requirements of the NPDES permit issued to the WLSSD or are amendable to treatment only by the application of extraordinary processes.
- (J) Any water or wastes which, alone or by interaction with other water or wastes in the public sewer system, release noxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

Section 5. If any waters or wastes are discharged or are proposed to be discharge to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this Article, and which in the judgment of the superintendent, or the WLSSD, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the superintendent or the WLSSD may:

- (A) Reject the wastes,
- (B) Require pretreatment to an acceptable condition having in mind the effect on wastewater facilities and the ability of the wastewater treatment works to treat such waste and achieve a discharge in compliance with the NPDES permit.
- (C) Require control over the quantities and rates of discharge,
- (D) Require payment to cover added cost of handling and treating the wastes not covered by existing user charges under the provisions of this Ordinance.

Section 6. Grease, oil, and sand interceptors (sometimes termed traps), shall be provided when, in the opinion of the superintendent, or the WLSSD they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Section 4(c), or any flammable wastes, sand, grit 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 superintendent and the WLSSD, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the superintendent and the WLSSD. Any removal and hauling of the collected materials not performed by owner personnel must be performed by currently licensed waste disposal firms.

Section 7. Where pretreatment or flow equalizing facilities are provided or required for any water or wastes, plans, specifications, and any other pertinent information relating thereto shall be submitted for approval of the City and the WLSSD and no construction of such facilities shall be commenced until approval in writing is granted. Where such facilities are provided, they shall be maintained continuously in satisfactory and effective operating order by the owner at his expense and shall be subject to periodic inspection by the City and the WLSSD to determine that such facilities are being operated in conformance with the applicable federal, state and local laws, regulations and permits. The owner shall maintain operating records and shall submit to the City and the WLSSD a monthly summary report of the character of the influent and effluent to show the performance of the pretreatment facilities, and for comparison against WLSSD and City monitoring records.

Section 8. When required by the superintendent or the WLSSD, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes by the City and the WLSSD. Such structure, when required shall be accessible and safely located and shall be constructed in accordance with plans approved by the superintendent and the WLSSD. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

Section 9. The superintendent and the WLSSD may require a user of sewer services and a person applying for sewer service to provide information needed to determine compliance with this ordinance. These requirements may include:

- (A) Wastewater peak flow and volume over a specified time period.

- (B) Chemical analyses of wastewaters.
- (C) Information on raw materials, processes, and products affecting wastewater volume and quality.
- (D) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- (E) A plot plan of the user's property showing sewer and pretreatment facility or flow equalizing facility location.
- (F) Details of wastewater pretreatment or flow equalizing facility.
- (G) Details of systems to prevent and control the losses of materials through spills to the public sewer.
- (H) Access to users' premises so that City and WLSSD personnel carry out sampling, monitoring and measurement of users' discharge.

Section 10. Users of the wastewater facilities shall immediately notify the superintendent and the WLSSD of any unusual flows of wastes that are discharged accidentally or otherwise to the wastewater facilities.

Section 11. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the provisions set out in Standard Methods.

Section 12. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and the WLSSD, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City and the WLSSD for treatment. Provided that any such agreement shall establish that charges to the user shall be in accordance with the City established user charges.

ARTICLE VII: Damage to Wastewater Facilities Prohibited

Section 1. No person shall maliciously or willfully break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the wastewater facilities. Any person violating this provision shall be guilty of a misdemeanor, shall be subject to immediate arrest, and shall be liable to the City and the WLSSD for the cost of making necessary repairs occasioned by such violation.

ARTICLE VIII: Powers and Authority of Inspectors

Section 1. The superintendent and other duly authorized employees of the City and the WLSSD bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the wastewater facilities in accordance with the provisions of this ordinance.

- Section 2. The superintendent or other duly authorized employees of the City and the WLSSD shall be provided by users with such information concerning industrial processes as have a direct bearing on the kind and source of discharge to the wastewater facilities.
- Section 3. While performing the necessary work on private properties referred to in Article VIII, Section 1, above, the superintendent or duly authorized employees of the City and the WLSSD shall observe all safety rules applicable to the premises established by the owner, and the owner shall be held harmless for injury or death to such employees, and the City and the WLSSD respectively shall indemnify the owner against loss or damage to its property by City and WLSSD employees and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as such may be caused by negligence of the owner or the failure of the owner to maintain safe conditions as required Article VI, Section 8.
- Section 4. The superintendent and other duly authorized employees of the City and WLSSD bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

ARTICLE IX: Enforcement and Penalties

- Section 1. Enforcement. The provisions of the Ordinance and all standards, limitations, orders, schedules of compliance, and all provisions and conditions of any permit issued by the City hereunder shall be enforced by the City by any one or any combination of the following: criminal prosecution; action to recover civil damages; injunctions; action to compel performance; termination of service.
- Section 2. Penalties.
- (a) Any person who willfully or negligently violates any provisions of this Ordinance or any provision of a permit issued by the City hereunder shall be subject to a fine as set in the Fine Schedule, not to exceed the maximum as set by Minnesota Statutes.
 - (b) Any person who continues any violation of any provision of the Ordinance or any provision of a permit issued by the City hereunder beyond the time limit provided for in the superintendent's written notice of violation shall be subject to a penalty as set in the Fine Schedule, not to exceed the maximum as set by Minnesota.
 - (c) Each day in which a violation referred to in either (a) or (b) continues shall be deemed a separate violation.
 - (d) Any person who knowingly makes any false statement or representation in any record, report, applications, plan or other document filed with the City pursuant to the Ordinance, or who falsifies, tampers with, or renders inaccurate any monitoring

device or method required under this ordinance or any permit issued by the City hereunder shall be guilty of a misdemeanor.

Part 8 Wastewater System and User Charges

ARTICLE I DEFINITIONS

Unless the context otherwise clearly indicates, the words and phrases used in this ordinance shall have the meaning ascribed to them in Article II of Chapter 4, Part 6, entitled "Ordinance Requiring and Regulating the Use of Public Sewer and Private Wastewater Disposal Facilities."

ARTICLE II WASTEWATER FACILITIES SYSTEM ESTABLISHED

Section 1. There is hereby established a City wastewater facilities system. Such system shall include all lateral, main, and intercepting sewers, wastewater pumping stations, equipment, and other works and facilities, whether presently existing or hereafter acquired, as are found necessary for completion of such system in first class operating condition adequate to collect and transmit all wastewater of the City which is discharged into the City's wastewater facilities system to the wastewater facilities of WLSSD.

Section 2. It is hereby declared and ordained that the establishment and operation of the City wastewater facilities system is necessary and conducive to the public health, safety, welfare and convenience of the City and its inhabitants, that such system shall constitute and be a public utility plant and convenience from which revenues may and shall be derived, and that service to be rendered to the inhabitants, industries, and properties by the collection of wastewater confers direct and indirect benefits to the inhabitants, industries, and properties of the City for which reasonable rates and charges may be imposed.

Part 9 Minnesota Plumbing Code

AN ORDINANCE ADOPTING THE MINNESOTA STATE PLUMBING CODE BY REFERENCE.

The Village Council of Carlton ordains:

- 409.01. Plumbing Regulations. The Minnesota State Plumbing Code, as amended from time to time by the State of Minnesota, is hereby adopted as the plumbing code of the City for the purpose of regulating the installation of plumbing and plumbing fixtures in all buildings within the City. Every provision contained in this code is hereby adopted and made a part of this Ordinance as if fully set forth herein.
- 409.02. Enforcement and Penalty. The City engineer (or building or plumbing inspector designated by the Council) shall enforce the provisions of this Ordinance. All plumbing work hereafter installed shall be inspected, and if found to be in violation of this Ordinance shall be corrected. Written notice stating the corrections to be made shall be served upon the person doing the installation work, and if such person fails or refuses to comply with such notice, the City engineer or any duly appointed inspector may remove the work and charge the cost thereof to the person installing the same. Any person who covers a plumbing installation before it is inspected or refuses or fails to comply with a correction order or is otherwise guilty of a violation of this Ordinance, upon conviction thereof, shall be punished

by a fine-as set forth in the fine schedule, not to exceed the maximum as set by Minnesota Statutes.

Part 10 Fats, Oils and Grease Reduction (FOG)

410.01. AUTHORITY AND PURPOSE. This Ordinance establishes standards for the reduction of fats, oils and grease by requiring proper grease interceptor design, installation, maintenance, reporting and the enforcement of penalties for failure to comply. This Ordinance will protect the health, welfare and safety of the public and the environmental by requiring provisions for the reduction of fats, oils and grease, minimizing the impact on the Wastewater Collection and Transmission System.

410.02. Definitions.

Subd. 1 “Customer” means any entity which discharges wastewater to the City wastewater conveyance system.

Subd. 2 “Fats, Oils and Grease” (FOG) means material, either liquid or solid, composed primarily of fat, oil and grease from animal, vegetable or mineral sources.

Subd. 3 “Food Service Facility” includes the following types of establishments: full service restaurants, fast food establishments, delicatessens, cafeterias, school cafeterias, church kitchen, hospitals and medical facilities, boarding houses, clubhouses, adult daycare facilities, assisted living facilities, convalescent homes, meat distributors and processing facilities, food processing facilities, grocery stores with food preparation/service areas, bakeries, caterers and or other similar types of operations with commercial kitchen equipment.

Subd. 4 “Grease Interceptor” means a device designed to capture fats, oils and grease prior to discharge to a sanitary sewer. Also termed grease traps or grease recovery devices.

Subd. 5 “City” means the City of Carlton, Minnesota.

410.03. Fats, Oils and Grease Reduction Requirements.

Subd. 1 The installation or upgrade, and maintenance, of grease control equipment at both new and existing FOG generating facilities must meet the following requirements:

- A. Grease Interceptors must be installed at all new FOG generating facilities.
- B. Existing FOG generating facilities must install an approved, properly operated and maintained Grease Interceptor when any of the following conditions exist:

- 1. If the City determines the discharge of grease from the facility to the sewer has or is creating restrictions in the public sewer or is causing additional sewer maintenance costs.
- 2. Issuance of a building permit from the City that authorizes remodeling in a change in operations as defined in 409.02.

- C. Grease Interceptors must be of adequate size and efficiency and at a minimum shall be sized and installed in accordance with the State of Minnesota Administrative Rules, Chapter 4715, Plumbing Code and all applicable municipal plumbing codes.
- D. Grease Interceptors shall be installed in the waste line leading from the sinks, drains or other fixtures where grease may be introduced, and must be readily accessible for cleaning and inspection.
- E. FOG generating facilities must maintain records for all Grease Interceptor cleaning and maintenance activities in a format approved by the City and have such records available for inspection.
- F. FOG generating facilities must regularly clean and maintain the Grease Interceptor and properly dispose of captured material.
 - 1. Each facility must maintain records of the dates and means of disposal.
 - 2. Any removal and hauling of the captured materials not performed by the owner's personnel must be performed in compliance with all applicable laws and regulations by a licensed waste disposal contractor.

Subd. 2 **Variance.** The City may grant a variance or conditional waiver from the minimum requirements in Section 410.03 if the FOG generating facility demonstrates to the satisfaction of the municipality that any FOG discharge is negligible and will have an insignificant impact on the sewer system. At a minimum, the following conditions apply:

- a. The FOG generating facility must demonstrate that the discharge from its activities contains less than 100 mg/l of FOG.
- b. The sampling and testing to demonstrate the concentration of grease in the discharge must be conducted, at the facilities expense, by an independent testing organization in accordance with acceptable industry standards.

Subd. 3 The City will perform periodic and random FOG equipment inspections, including scheduled inspections of known problem areas. Records of the inspections shall be maintained by the City. An authorized agent of the City or employee of the City may at all reasonable hours, enter any private premises for the purpose of inspecting sewer system connections, plumbing, Grease Interceptors and appurtenances to assure compliance with this or other applicable laws, regulations and ordinances.

410.04. Penalties.

Subd. 1 Any person found in violation of any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by penalty established in Minnesota law for a misdemeanor as may be amended from time to time. Any person convicted of a violation of this ordinance shall be required to pay the reasonable costs of prosecution.

Subd. 2 The City may in its discretion, seek any civil remedies available to it including remedies at law, in equity or other relief. In the event that civil remedy is pursued, the City may seek

reimbursement of any and all costs, disbursements, witness or other fees, as well as reasonable attorney's fees expended by the City in order to enforce this Ordinance.

Subd. 3 **Other Remedies.** Each right or remedy accruing to the City under this Ordinance or at law is separate and distinct and may, at the City's discretion, be exercised independently or simultaneously with any other right or remedy.

410.05. Record Retention. Records required to be maintained under Section 3.1 shall be retained for a minimum of seven years from the date of creation of the record. Records include written, photographic, recorded, electronic, or stored data of any kind.

Part 11 Franchise Agreements

411.01 Minnesota Energy Resources

An Ordinance granting Minnesota Energy Resources, a subsidiary of Integrys EnergyGroup, a Delaware corporation, its successors and assigns, a natural gas franchise and the authority to construct, operate, maintain, and extend a natural gas distribution plant and system, and granting the right to use the streets, alleys, and other public places within the present or future corporate limits of the City, of Carlton, Minnesota

Be it ordained by the City Council of the City of Carlton Minnesota, as follows:

FRANCHISE GRANTED

The City of Carlton, Minnesota, (hereinafter referred to as "Grantor") hereby grants a non-exclusive franchise to Minnesota Energy Resources, a subsidiary of Integrys Energy Group, a Delaware corporation, (hereinafter called "Grantee"), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public places as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

TERM

The rights and privileges granted by this Ordinance shall remain in effect for a period of Twenty-five (25) years from the effective date of this Ordinance.

GOVERNING RULES AND REGULATIONS

This Ordinance is granted subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or Federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body, having proper jurisdiction, take any action that precludes Grantee from recovering from its customers any cost associated

with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this Ordinance in accordance with the action taken, so as to allow Grantee to be made whole economically. In determining the rights and duties of the Grantee, the terms of this franchise Ordinance shall take precedence over any conflicting terms or requirements contained in any other Ordinance enacted by the Grantor.

If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

CONSTRUCTION AND MAINTENANCE OF COMPANY FACILITIES

Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and to the general public as is reasonably necessary; and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation.

Grantee agrees that for the term of this grant, it will use its best efforts to maintain facilities and equipment sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations, Grantee shall take immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible.

Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affect Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which this work is to proceed. The notice shall be given to the Grantee a sufficient length of time, considering seasonable working conditions, in advance of the actual commencement of the work to permit the Grantee to make any additions, alterations, or repairs to its facilities.

EXTENSION OF COMPANY FACILITIES

Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

RELOCATION OF COMPANY FACILITIES

If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal is necessary to prevent interference and not merely for the convenience of the Grantor, at the cost and expense of Grantee. If Grantor orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of the Grantor or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. Grantor shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause Grantee unreasonable additional expense in exercising its authority under this section. Grantor shall also provide a reasonable

alternative location for Grantee's facilities. Grantor shall give Grantee written notice of vacating of a public right-of-way. Vacating of a public right-of-way shall not deprive the Grantee of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are first paid to the Grantee.

Any person or corporation desiring to move a building or other structure along, or to make any unusual use of any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the Grantor and the Grantee and pay a sum sufficient to cover the expense and damage incident to the moving of Grantee's facilities and equipment.

CONFIDENTIAL INFORMATION

Grantor acknowledges that certain information it might request pursuant to this franchise may be of a proprietary and confidential nature. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to such proprietary or commercial value, Grantor and its employees, agents, and representatives shall maintain the confidentiality of that information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief. Grantor shall use all reasonable efforts to ensure that the confidentiality of Grantee's confidential information is maintained.

FORCE MAJEURE

It shall not be a breach or default under this franchise if either party fails to perform its obligations hereunder due to Force Majeure. Force Majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, that this provision shall not obligate a party to settle any labor strike.

HOLD HARMLESS

Grantee, during the term of this Ordinance, agrees to save harmless Grantor from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in the constructing, operating, and maintaining of distribution and transmission facilities or appliances of Grantee; provided, however, that Grantee need not save harmless Grantor from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

SEVERABILITY

If any clause, sentence or section of this Ordinance is deemed invalid by any judicial, regulatory or legislative body having proper jurisdiction, the remaining provisions shall not be affected.

NON WAIVER

Any waiver of any obligation or default under this franchise shall not be construed as a waiver of any future defaults, whether of like or different character.

REPEAL CONFLICTING ORDINANCES

This ordinance, when accepted by Grantee as provided below, shall constitute the entire agreement between the Grantor and the Grantee relating to this franchise and the same shall supersede all prior ordinances pertaining to this franchise agreement, and any terms and conditions of such prior ordinances or parts of

ordinances in conflict herewith are hereby repealed. Ordinance No.154 of the City of Carlton Minnesota, is hereby repealed as of the effective date hereof.

EFFECT AND INTERPRETATION OF ORDINANCE

The captions which precede each section of this ordinance are for convenience in reference only and shall not be taken into consideration in the interpretation of any of the provisions of this ordinance.

EFFECTIVE DATE AND ACCEPTANCE

This Ordinance shall become effective and be a binding contract between the Grantor and Grantee, upon its final passage and approval by Grantor, in accordance with applicable laws and regulations, and upon acceptance by Grantee by written instrument within sixty (60) days of passage by the governing body, and filed with the City Clerk of the City of Carlton, Minnesota. The City Clerk shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Grantee. If Grantee does not, within sixty (60) days following passage of this Ordinance express in writing its objections to any terms or provisions contained therein, or reject this ordinance in its entirety, Grantee shall be deemed to have accepted this ordinance and all of its terms and conditions.

411.02 Minnesota Power

AN ORDINANCE GRANTING TO MINNESOTA POWER A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF CARLTON, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF THE CITY FOR SUCH PURPOSES; AND PRESCRIBING CERTAIN TERMS AND CONDITIONS THEREOF.

THE CITY COUNCIL OF THE CITY OF CARLTON, MINNESOTA, DOES FIND AND ORDAIN, AND THE TABLE OF SPECIAL ORDINANCES OF THE CITY CODE OF ORDINANCES IS HEREBY REVISED TO INCLUDE THE FOLLOWING:

SECTION 1. FINDINGS.

1.1 The Council finds that it is in the public interest to require each Utility Service Provider to obtain and maintain a franchise with the City and to provide consideration to the general fund of the City for the rights afforded to it in the franchise.

1.2 In the interest of fairness and comparable treatment, the City finds it necessary and desirable to formalize its rules and regulations and to implement the terms of this Ordinance with respect to Minnesota Power, and, to the extent feasible and practical, with all Utility Service Providers.

1.3 That all previous grants of franchise to Minnesota Power & Light Company to construct and operate an electrical distribution system within the City of Carlton under Ordinance No. 161 and prior (119, 78 renumbered 81, 49 and 33) have expired and are repealed by operation of law.

SECTION 2. DEFINITIONS. For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

Any party may change its respective address for the purpose of this Ordinance by written notice to the other parties.

Person. A natural person or any partnership, joint venture, corporation, cooperative, limited liability company or any public corporation, political subdivision or agency of the State or any other legal entity that may be created by law.

Public Ground. All real property owned by or dedicated to the City with respect to which the City holds the legal right or title to grant or withhold easement, leasehold or occupancy rights or servitudes.

Public Way. Any street, alley and other public rights-of-way within the City.

Utility. Transmitting, furnishing, transporting, distributing, delivering, selling, receiving, importing, manufacturing, or causing to be produced, transmitted, furnished, transported, delivered, sold, received, imported, or manufactured, electric energy, natural gas, mixed gas, heat, light, power, and services provided through a cable communication system.

Utility Service Provider. Any Person who performs any one or more of the activities of a Utility to or for the public or to or for any one or more persons within the corporate limits of the City and may, as contemplated herein, be the ultimate user or consumer of the Utility service provided.

SECTION 3. THE FRANCHISE.

3.1. **Grant of Franchise.** The City hereby grants the Company, for a period of twenty (20) years from the date this Ordinance is passed and approved by the City, the right to transmit and furnish electric energy for any public or private use within and through the Company Service Area. For these purposes, the Company may construct, operate, repair and maintain Electric Facilities in, on, over, under and across the Public Ways and Public Grounds within the Company Service Area, subject to the provisions of this Ordinance. The Company may do all reasonable things necessary or customary to accomplish these purposes, subject however, to all applicable design and safety codes, the provisions of this Ordinance, zoning ordinances, other applicable ordinances, permit procedures and the customary and necessary practices of the City.

3.2 **Not Exclusive.** This Franchise is not exclusive.

3.3. **Effective Date / Expiration.** This Franchise shall be in force and effect from and after the passage of this Ordinance and publication as required by law and upon the Company's duly authorized acceptance below as executed within thirty (30) days after passage and publication of this Ordinance or any amendment thereto, and shall continue for a period of twenty (20) years therefrom, and month to month thereafter until such time as a new grant of franchise is passed by City and accepted by Company in the same manner as stated herein, or until ninety (90) days following written notice by either party that the grant of franchise will be allowed to expire.

SECTION 4. LOCATIONS; CONSTRUCTION; OTHER REGULATIONS.

4.1. **General.** Electric Facilities shall be located, constructed and maintained by the Company: (i) in as safe and secure a condition or manner as reasonably possible, (ii) so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways, and (iii) so as not to disrupt or interfere with the normal use or operation of any Public Ways, Public Ground or the City Utility System. Electric Facilities may only be located on Public Ground as determined by the City in its sole discretion. The Company's construction, reconstruction, operation, repair, maintenance, location and relocation of Electric Facilities shall be subject to the terms of this Ordinance and such other regulations of the City consistent with authority granted the City to manage its Public Ways and Public Grounds under state law, to the extent not inconsistent with a specific term of this Ordinance.

4.2. **Construction; Maintenance; Repairs.** Whenever the Company desires to open or disturb any Public Way or Public Ground for the purpose of constructing, maintaining, or repairing Electric Facilities, it shall give the City reasonable advance Notice, but not less than ten (10) business days, by filing a written Notice with the City Clerk. In any case, the Company shall not commence such work before obtaining any applicable permit for which the City may impose a reasonable fee, or other appropriate written consent from the City. The Company shall not, during the progress of the work, endanger or unnecessarily obstruct the passage of traffic or the normal and customary use of the Public Ways and Public Ground. During the progress of such work, the Company shall keep the affected Public Ways or Public Ground guarded in order to avoid accidents to persons or property. All work performed by the Company shall comply with all applicable federal, state, and local laws, rules, and regulations.

4.3. **Emergencies.** The requirements for obtaining permits from the City pursuant to Section 5.2 shall not apply if (i) an emergency exists requiring the immediate repair of Electric Facilities and (ii) the Company gives telephone notice to the City before, if reasonably possible, commencement of the emergency repair. Within two (2) business days after commencing the repair, the Company shall apply for any required permits and pay any required fees.

4.4. **Restoration.** Following the completion of any work, the Company shall promptly and diligently restore the affected Public Ways and/or Public Ground to as good a condition as before the work commenced. If the Company fails to promptly restore such Public Ways and/or Public Ground within ten (10) days of Notice by the City, the City may engage an independent contractor at the expense of the Company to perform the restoration of the Public Ways and/or Public Ground as required under this Section. The Company shall pay to the City upon demand the cost to the City of affecting such restoration including the City's administrative expenses and overhead.

4.5. **Avoidance of Damage.** The Company must take reasonable measures to prevent the Electric Facilities from causing damage to persons or property. The Company must take reasonable measures to protect the Electric Facilities from damage that could be inflicted on the Electric Facilities by persons, property, or the elements. The Company must take protective measures when the City performs work near the Electric Facilities, if given reasonable Notice by the City of such work prior to its commencement.

4.6. **Field Locations.** The Company shall provide field locations for all its underground Electric Facilities when requested by the City within a reasonable period of time. The period of time will be deemed reasonable if it meets the requirements of the one call excavation notice system as now provided in Minnesota Statutes, chapter 216D (commonly known as of the Effective Date as the "Gopher State One Call" system).

4.7. **Shared Use of Poles; Street Lights.** The Company shall make space available on its poles or towers for City fire, water utility, police or other City facilities whenever such use will not interfere with the use of such poles or towers by the Company or the existing facilities, if any, of another Utility Service Provider. Street name signs, “no parking” signs and other traffic control signs, as requested and provided by the City, may be installed on the electric and street light poles within the Company Service Area. No rental fee or other charge shall be payable by the City for this use; provided, however, that the City will reimburse the Company its actual and reasonable costs incurred by the Company in accommodating such use. The installation and placement of any of the foregoing shall comply with the National Electric Safety Code.

4.8. **Tree Trimming.** Subject to such procedures, regulation and supervision as the Council may establish, and in conformity with the City’s Shade Tree Program (presently established under Chapter 5, Part 8), the Company may, at its cost, trim all trees and shrubs in the Public Ways located within the Company Service Area to the extent the Company finds it necessary to avoid interference with the proper construction, operation, repair and maintenance of any of the Company’s Electric Facilities installed or maintained hereunder, provided that Company shall indemnify and hold the City harmless from any liability arising therefrom.

4.9. **Notice of City Improvements.** The City will give the Company reasonable advance Notice of plans for improvements to Public Ways and Public Ground in the Company Service Area where the City has reason to believe that the Company’s Electric Facilities may affect or be affected by such improvements. The Notice will contain: (i) the nature and character of the improvements, (ii) the Public Ways and/or Public Ground upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Way or parcel of Public Ground is involved, the order in which the work is to proceed.

4.10 **Acquisition.** The City shall have the right to purchase or otherwise acquire the Company’s Electric Facilities or the Company Service Area, or portion(s) thereof, at any time by way of eminent domain under Minnesota Statutes, Chapter 117 or under Minnesota Statutes, Chapter 216B, in either case, as such statutes or amendments to such are in effect on the date the City commences such purchase or acquisition. In that event, the pleading commencing the acquisition proceeding by the City shall be noticed to the Company for it to make any adjustments to its long-range planning for facilities and service for the area affected by the proceeding. Any damages to the Company as a result of such proceeding shall be determined as of the commencement of such proceeding. The Company shall continue to operate the Electric Facilities at the City's sufferance only until such acquisition is completed. The expiration or termination of this Franchise as hereinbefore provided shall not, by itself, be an independent basis of any claim by the Company against the City.

SECTION 5. ELECTRIC FACILITIES RELOCATION.

5.1. **Relocation.** In the event the City reasonably determines that it is necessary for the Company to move any part of its Electric Facilities because the City has determined to change, move or improve its Public Ways or that the Electric Facilities have become or will become a substantial impairment to the existing or imminent public use of Public Ground, upon reasonable Notice by the City to the Company, then the Company will move its Electric Facilities at its sole cost. The City shall consider reasonable alternatives in designing its public works projects so as not to arbitrarily cause the Company unreasonable additional expense in exercising its authority under this Section 5.1. This Section 5.1 shall not constitute a taking by the City nor be construed as a waiver or modification of any easement or

prescriptive rights acquired by the Company independent of and without reliance by the Company on this Franchise.

5.2. **No Release of Liability.** Nothing contained herein shall relieve any third party from liability arising out of their failure to exercise reasonable care to avoid injuring the Company's Electric Facilities while performing any work connected with grading, regarding or changing the line of any Public Way or with any construction on or adjacent to any Public Way; provided, however, this Section 5.2 shall not limit the City's rights to indemnification under Section 6.1 nor shall the City in any way be liable to the Company for claims arising from the negligence of any third party.

SECTION 6. INDEMNIFICATION.

6.1. **Indemnification.** If at any time any claim of any kind is made against the City for injury to persons or property arising from the acts or failure to act by the Company, its agents, servants, or employees in connection with the operations of the Company under and pursuant to this Franchise, the Company shall fully indemnify, defend and hold harmless the City, its agents, servants or employees from any and all such claims, including, but not limited to, reimbursement of any reasonable attorneys' fees and costs and expenses the City may incur in handling, denying, or defending such claims. The Company's obligation to indemnify the City shall not extend to any injury to persons or property caused by the negligent act or failure to act by the City or any actions taken by the Company pursuant to directions of the City if performed within the scope of the City's directions without negligence by the Company. The City shall determine who will defend any such claims arising under this Section 6.1 and the Company will thereafter have complete control of such litigation; provided, however, the Company may not settle any such claims without the prior approval of the City, which approval will not be unreasonably withheld. This Section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City; and the Company, in defending any action shall be entitled to assert every defense or immunity that the City could itself assert in its own behalf. The Company's obligations under this Section shall survive the expiration, amendment, or termination of this Ordinance.

6.2. **Insurance.** Before the Effective Date, the Company shall furnish the City a summary of insurance, if any, carried by the Company, or of its self-insured status, in either case demonstrating adequate protection to the City from any and all obligations, liabilities, or claims of any nature whatsoever, growing out of the operation, construction, and maintenance of its Electric Facilities within the City. The Company shall maintain such insurance coverage at all times during this Franchise.

6.3. **Compliance with Laws; Hazardous Substances.** In its operation under this Ordinance, the Company shall observe all federal, state and local laws, rules, regulations and orders with respect to the transmission, distribution, transformation or furnishing of electric energy and the handling of materials, substances and wastes deemed toxic or hazardous to health, natural resources or the environment (collectively, "Hazardous Substances"). The Company shall remove or remediate any Hazardous Substances located on, in or surrounding its Electric Facilities or caused to be located on, in or surrounding the Public Ways and Public Grounds or elsewhere in the City in compliance with all applicable laws, regulations and lawful government orders, and pay or cause to be paid all costs associated therewith. The indemnification terms and conditions of Section 6.1 shall apply to all claims made against the City by any Person, including any governmental agency, who or which asserts any right to costs, damages or other relief based upon the terms and conditions imposed upon the Company under this Section 6.3 or which arise from or are related to the Company's acts or failure to act in compliance with any law, rule, regulation or lawful order governing Hazardous Substances.

SECTION 7. VACATION OF PUBLIC WAYS. The City will consult with the Company at least four (4) weeks prior to its action on any proposed vacation of a Public Way. Except where ordered pursuant to Section 5.1, the vacation of any Public Way after the installation of Electric Facilities shall not operate to deprive the Company of its rights to operate and maintain such Electric Facilities until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to the Company. However, in no case shall the City be liable to the Company for failure to specifically preserve a Public Way in the exercise of its authority under Minnesota Statutes, Section 160.29.

SECTION 8. ABANDONED FACILITIES. The Company shall comply with City ordinances and Minnesota Statutes, Section 216D.01 et seq., as they may be amended from time to time. The Company shall maintain records describing the exact location of all abandoned and retired Facilities within the City, produce such records at the City's request and comply with the location requirements of Section 216D.04 with respect to all Electric Facilities, including abandoned and retired Electric Facilities.

SECTION 9. RATES AND SERVICE. The electric service provided and the rates charged by the Company for electric service, as of the Effective Date, are subject to the jurisdiction of the Commission as provided in Minnesota Statutes, chapter 216B. In the event the Company shall determine after the Effective Date to change its rates or terms and conditions of electric service, the Company shall provide reasonable advance Notice of such proposed action to the City.

SECTION 10. FRANCHISE FEE.

10.1. **Authority.** The City reserves all rights under Minnesota Statutes, Sections 216B.36 and 301B.01 or other law to require a franchise fee at any time during the term of, and in consideration for, this Franchise. The franchise fee may be expressed (i) as a specified charge per measurable unit of electricity being provided, transported, transmitted, sold, furnished, delivered, or received within the City, or (ii) as a percentage of the Gross Revenues received by the Company for its operations within the City, or (iii) a flat fee per customer based on service to retail customers within the City or on some other similar basis, or (iv) in such other manner or fashion as the City may determine. The method of imposing the franchise fee may differ by customer class, by type of Utility, by particular circumstances of a Utility Service Provider, or by other relevant factor, and may combine the methods described in (i) through (iv) above.

10.2. **Payment of Fee.** The franchise fee shall be payable not less often than quarterly and shall be based on the complete billing month for which payment is due. The payment shall be due forty-five (45) days after the end of the month for which the payment is due. Each payment shall be accompanied by a brief report showing the basis for the computation of the payment and such other relevant facts to support the computation as may be requested by the City from time to time. The Company may, in its sole discretion, impose a surcharge equivalent to the franchise fee in its rates for electric service. The Company shall pay the City the franchise fee based upon the prevailing rate and as billed to the customer, but subject to subsequent adjustment in either of the following events: (i) if any amount so billed subsequently becomes uncollectible after reasonable efforts of collection by the Company or (ii) if the Company shall, after any said billings, retroactively reduce its rates or costs to its retail electric customers so that a refund is due from the Company of an amount previously paid or incurred by the retail electric customers.

10.3. **No Waiver or Release.** No acceptance of any payment shall be construed as an accord that the payment made is in fact the correct amount, nor shall such acceptance of the payment be construed as a release of any claim that the City may have for further sums payable under the provisions of this Ordinance. All amounts paid shall be subject to audit and re-computation by the City. The Company agrees

to make all records necessary to audit the Company's calculation of any payment available for inspection by the City or its designated representative at reasonable times.

10.4. **Separate Ordinance.** Notwithstanding anything to the contrary, the franchise fee may be changed by the City from time to time by separate ordinance; provided, however, such changes shall not occur more often than once in any calendar year and shall be effective upon the earlier of (1) approval by the Commission authorizing the Company to incorporate such fee within its rate schedule, or (2) sixty (60) days after the Company has provided timely notice to the Commission of the ordinance adopting the change. Notice of the proposed change shall be given to the Company not later than the effective date of the ordinance adopting the change.

SECTION 11. DEFAULTS. If the Company shall be in default in the performance of any of the material terms and conditions of this Ordinance, and shall continue in default for more than thirty (30) days (or fails to initiate the cure of the default within said period and diligently pursue said cure, if the cure of the default cannot reasonably be accomplished within said 30 days) after receiving Notice from the City of such default, the City may elect to cure such default and charge the Company for the costs thereof.

SECTION 12. AMENDMENT PROCEDURE. The City reserves the right to amend this Franchise by ordinance. The Company's rights hereunder are subject to the police power of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public, and this Franchise may be amended by the City as deemed necessary or appropriate in the exercise of such power.

SECTION 13. GENERAL PROVISIONS OF ORDINANCE.

13.1. **Governing Law.** This Franchise is granted and is intended to be performed in the State of Minnesota and shall be construed and enforced in accordance with the laws of the State of Minnesota. The Company shall be subject to personal jurisdiction in the State of Minnesota. All actions related to this Ordinance or its enforcement shall be venued in the District Court of the State of Minnesota within which venue the City is located.

13.2. **Right to Repeal.** If this Franchise, having become final and operative as herein provided, shall be declared in any part illegal or void, then the City, in its sole discretion, may repeal the entire or any portion of this Ordinance. If any material portion of this Ordinance is declared void or illegal, then this Ordinance shall be void in its entirety.

13.3. **Limitation on Applicability.** This Ordinance constitutes a franchise between the City and the Company as the only parties and no provision of this Franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

13.4. **Assignment.** The Company may assign this Franchise without the prior approval of, but upon not less than thirty (30) days' prior Notice to, the City. Such Notice shall include the identity of and contact information for, the assignee and the statement of the assignee's plans and intentions for the operation of the Electric Facilities under this Franchise.

SECTION 14. ACCEPTANCE BY THE COMPANY.

14.1. **Acceptance by the Company.** The Company shall, within thirty (30) days after passage and publication of this Ordinance or any amendment thereto, file with the City Clerk in writing its acceptance or rejection as provided in Section 15.2. If such acceptance is not filed or if a rejection is filed within said period, the Company, by its continuing operations, shall be deemed to have accepted the terms and conditions of this Franchise or any amendment hereto, except with respect to such particulars as it may successfully challenge under the procedures specified in Section 14.2.

14.2. **Rejection Procedures.** A rejection of this Franchise or any amendment hereto may be made by the Company only upon the grounds that the terms and conditions hereof or of such amendment exceed the lawful authority of the City under the Constitutions or Laws of the United States or the State of Minnesota or are otherwise unlawful. Any rejection shall be submitted in writing to the City, stating with particularity the points and authorities of law upon which the Company relies. If the City fails to amend this Franchise or otherwise satisfy the Company's objections as stated within thirty (30) days of its receipt of the Company's rejection, the Company shall have the right thereafter to seek appropriate judicial or administrative relief based solely upon those provisions it has alleged are unlawful in its rejection notice. If the Company fails to initiate such legal action within thirty (30) days from the expiration of the aforementioned thirty (30) day period provided for the City's amendment or cure, the Company shall be deemed to have waived its objections and to have accepted the terms of this Franchise or any amendment hereto.