

CARLTON CITY CODE (2016)

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CHAPTER 1. GENERAL PROVISIONS

100.01. City Code.

Subd. 1. **How cited** this code of ordinances shall be known as the Carlton City Code and may be so cited.

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

Subd. 3. **Numbering.** Each section number of this code consists of two component parts separated by a decimal. The first digit of the number refers to the chapter number and the digits after the period refer to the position of the section within the chapter. If the chapter is divided into parts, the figure immediately to the left of the decimal corresponds to the part number.

Subd. 4. **Title headings;** cross references. Chapter, part, section, subdivision, and other titles shall not be considered part of the subject matter of this code but are intended for convenience only and not necessarily as comprehensive titles.

Subd. 5. **Copies.** Copies of this code shall be kept in the office of the clerk for public inspection or sale for a reasonable charge.

100.02. Definitions.

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

Subd. 2. **City.** "City" means City of Carlton.

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

Subd. 4. **Council.** "Council" means the city council.

Subd. 5. **Clerk.** "Clerk" means the city clerk.

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

100.03. Statutory rules adopted.

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

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

100.05. Hearings.

Subdivision 1. **General.** Unless otherwise provided in this code, or by law, every public hearing required by law, ordinance, or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this section.

Subd. 2. **Notice.** Every hearing shall be preceded by 10 days mailed notice to all persons entitled thereto by law, ordinance, or regulation unless only published notice is required. The notice shall state the time, place, and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this subdivision.

Subd. 3. **Conduct of hearing.** At the hearing, each party in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceeding. The council may adopt rules governing the conduct of hearings, records to be made, and such other matters as it deems necessary.

Subd. 4. **Record.** Upon the disposition of any matter after hearing, the council shall have prepared a written summary of its findings and decisions and enter the summary in the official council minutes.

100.06. Penalties.

AN ORDINANCE ESTABLISHING STANDARD PENALTIES FOR ALL CITY ORDINANCES PUNISHABLE AS MISDEMEANORS

The City Council of the City of Carlton, Minnesota does ordain as follows:

Subd. 1. All violations of City Ordinances that are punishable as misdemeanors shall carry the penalties provided by State Law for the misdemeanor offenses.

Subd. 2. All prior inconsistent ordinances or provisions of ordinances are hereby amended or repealed.

Subd. 3. Pursuant to the provisions of Minnesota Statutes, this ordinance shall not become effective until it's publication in the Official City Newspaper.

100.07 Separability. If any portion of this code or part thereof hereafter enacted is held invalid or suspended, such invalidity or suspension shall not apply to any other part of the code unless it is specifically provided otherwise.

CHAPTER 2. ADMINISTRATION

Part 1. The Council

201.01. Meetings.

Subdivision 1. **Regular meetings.** Regular meetings of the council shall be held on the second Wednesday of each calendar month at 6:00 PM. Any regular meeting falling upon a holiday shall be rescheduled and be held at the same time and place. All meetings, including special and adjourned meetings, shall be held in the city hall unless the council decides otherwise at a prior meeting, or meeting in the city hall is impossible.

Subd. 2. **Special meetings.** The Mayor or any two members of the Council may call a special meeting of the council upon at least 24 hours written notice to each member of the council. This notice shall be delivered personally to each member or shall be left at the member's usual place of residence with some responsible person. Notice to the public shall be given in accordance with state law.

Subd.3. **Initial meeting.** At the first regular council meeting in January of each year the council shall:

Designate the depositories of city funds;

Designate the official newspaper;

Choose one of the Council Members as acting Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the City or, in case of a vacancy in the office of Mayor, until a successor has been appointed and qualifies;

Appoint such officers and employees and such members of boards, commissions, and committees as may be necessary;

Establish and appoint Council Members to such council committees as are deemed appropriate for the efficient and orderly management of the City.

Subd. 4. **Public meetings.** All council meetings, including special and adjourned meetings and meetings of council committees, shall be conducted in accordance with the Minnesota Open Meeting Law.

201.02. Presiding officer.

Subdivision 1. **Who presides?** The Mayor shall preside at all meetings of the council. In the absence of the Mayor, the acting Mayor shall preside. In the absence of both, the clerk shall call the meeting to order and shall preside until the council members present at the meeting choose one of their number to act temporarily as presiding officer.

Subd. 2. **Procedure.** The presiding officer shall preserve order, enforce the rules of procedure herein prescribed, and determine without debate, subject to the final decision of the council on appeal, all questions of procedure and order. Except as otherwise provided by statute or by these rules, the proceedings of the council shall be conducted in accordance with Robert's Rules or Order Revised

Subd. 3. **Appeal procedure.** Any member may appeal to the council a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain the ruling, but no other council member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present including the presiding officer.

201.03. Minutes.

Subdivision 1. **Who keeps?** Minutes of each council meeting shall be kept by the Clerk or, in the Clerk's absence, by the Deputy Clerk. In the absence of both, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions, and claims need not be recorded in full in the minutes if they appear in other permanent records of the clerk and can be accurately identified from the description given in the minutes.

Subd. 2. **Approval.** The minutes of each meeting shall be reduced to typewritten form, shall be signed by the clerk, and copies thereof shall be delivered to each council member as soon as practicable after the meeting. At the next regular council meeting following such delivery, approval of the minutes shall be considered by the council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection, the council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

201.04 Order of business.

Subdivision 1. **Order established.** Each meeting of the council shall convene at the time and place appointed there for. Council business shall be conducted in the following order unless varied by the presiding officer:

- a. Call to order
- b. Roll call
- c. Approve Agenda
- d. Consent agenda
- d. Public Hearings/Planning Commission Meeting
- e. Petitions, Communications & Correspondence
- f. Ordinances, Resolutions and Policies
- g. Project Updates
- h. Unfinished Business
- i. New Business
- j. Staff and Committee Reports and Recommendations
- k. Recap Action Items
- l. Upcoming Meeting and Events
- m. Adjournment

Subd. 2. **Petitions and agenda.** Petitions and other papers addressed to the council shall be read by the clerk upon presentation of the same to the council. All persons desiring to present new business before the council shall inform the clerk thereof at least 72 hours before said new business is to be heard. The clerk may prepare an agenda of said new business for submission to the council on or before the time of the next regular meeting.

201.05 Voting.

The votes of the members on any question may be taken in any manner which signifies the intention of the individual members, and the votes of the members on any action taken shall be recorded in the minutes. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute. If any member is present but does not vote, the minutes, as to his name, shall be marked "Abstained."

201.06. Ordinance, resolutions, motions, petitions, and communications.

Subdivision 1. **Signing and publication proof.** Every ordinance and resolution passed by the council shall be signed by the Mayor, attested by the Clerk, and filed by the Clerk in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.

Subd. 2. **Repeals and amendments.** Every ordinance or resolution repealing a previous ordinance or resolution or section or subdivision thereof shall give the number, if any, and the title or the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution

amending an existing ordinance or resolution or part thereof shall set forth in full each amended section or subdivision as it will read with the amendment.

201.07. Suspension or amendment of rules. These rules may be suspended only by a two-thirds vote of the members present and voting.

201.08 Salaries of Mayor and Council Members.

The City Council of the City of Carlton, Minnesota does ordain as follows:

Subd. 1. That after the next General City Election, and specifically on January 1st, 2015, the Salaries of the Mayor and City Council members of the City of Carlton shall be as follows:

Mayor - \$225.00 per month
Council Members - \$150.00 per month
No additional compensation will be added for special meetings.

Subd. 2. All prior inconsistent Ordinances are hereby amended or repealed.

Subd. 3. Pursuant to the provisions of Minnesota Statutes, this Ordinance shall not become effective until after the next Regular City Election and its publication in the Official City Newspaper.

Dated Passed by the City Council – September 9, 2014
Date Published – September 18th & September 25th, 2014

201.09 Clerk-Treasurer

The Village Council of the Village of Carlton does ordain as follows:

Subd. 1. That pursuant to the provisions of the Laws of Minnesota for 1965, Chapter 417, Section 12, Subdivision 2, M.S.A. 412.591, Subd. 2, effective August 1, 1972, the offices of Carlton City Treasurer and Carlton City Clerk shall be, and they thereby will, combined into one office to be held by one person who shall be then immediately appointed by the City Council to serve annual terms to be appointed at the first regular meeting of the City Council of the City of Carlton of each successive year.

Subd. 2. It is further ordained that the salary of the Clerk-Treasurer of the City of Carlton shall be established by Resolution of the City Council upon his initial appointment and thereafter upon such annual appointment at the first regular meeting of the City Council of each successive year.

Part 2 Police Department

Part 3 Fire Department

203.01 Establish and Regulate a Volunteer Fire Department for the Village of Carlton

The Village Council of the Village of Carlton do ordain as follows:

Subd. 1. There is hereby established a Volunteer Fire Department for the City of Carlton, designated as Carlton Volunteer Fire Department.

- Subd. 2. The Fire Department shall consist of twenty-five (25) members, from which members a fire chief and two assistant fire chiefs and three (3) captains shall be elected as hereinafter set forth and there shall also be a waiting list of five reserves, all of which members shall be elected by the department, subject to the approval of the City Council and all of whom shall be at least eighteen (18) years of age. The Fire Chief and Assistant Chiefs will be elected for three (3) year terms. The five captains shall be elected for a term of two years. The department shall appoint a secretary and treasurer for the Relief Association and the Fire Department from the members, to hold office for two years.
- Subd. 3. The Fire Board shall consist of The City of Carlton Council, Twin Lakes Township Board and a designated Representative for Sawyer. The Fire Board shall meet annually.
- Subd. 4. The names of persons elected to Officer Positions shall be presented to the Carlton City Council for approval.
- Subd. 5. Any member of the department who has reached the minimum retirement qualification may retire from service with the consent of the City Council and in like manner any member who shall become physically unfit for service.
- Subd. 6. The Fire Department Officers are authorized and empowered from time to time to adopt by-laws and rules for the control, management and government of the department and for the regulating of the proceedings and business of said board, which by-laws and rules after adoption by said board shall not be affective until approved by the City Council. Such by-laws and rules shall not conflict with this ordinance.
- Subd. 7.
- Subd. 8. The Fire Department Officers shall devise forms and methods of keeping records and cause to be made a record of all fires and fire alarms, time spent on fires or alarms, cause of fires, if known, names of owners or tenants, type of buildings and occupancy, members responding to alarms and such other information as they deem advisable or as may be required by the City Council or the State Insurance Department. They shall cause to be kept a complete inventory of all fire equipment, including hose, hose appliances, all minor equipment, condition of hydrants and see that all equipment is kept in proper condition.
- Subd. 9. It shall be the duty of said department as often as any fire shall break out to go immediately, upon the alarm thereof, to the fire station and to take the fire equipment to the place of the fire, unless otherwise directed by the chief or other officer who may be in charge and upon such direction they shall return the equipment well washed and cleansed to the respective places of keeping.
- Subd. 10. The chief shall have the general supervision of the department when it is not in actual duty at a fire, which supervision shall be subject to and not in conflict with such rules and by-laws as may from time to time be adopted by the Fire Department.
- Subd. 11. In all cases of fire, the chief, or in his/her absence, an assistant fire chief shall have full power, control and command and cause all equipment and apparatus to be used in the most advantageous manner. Should the chief and the assistant chiefs be absent from a fire, the highest ranking member first arriving shall have charge of the apparatus and equipment and shall assume the duties of the chief until the arrival of the chief or his assistant.
- Subd. 12. It shall be the duty of the chief to report semi-annually and oftener if required, to the City Council the condition of the various pieces of apparatus and equipment, the number of fires, their location and cause, the date and loss occasioned by same, the number of members in the department and the resignations and expulsions passed upon by the

Department Officers. The Officers are responsible for reporting to the Minnesota Fire Incident Reporting System (MFIRS).

- Subd. 13. The Incident Commander is hereby given full authority at any fire and the authority to require and secure the removal of any and all obstructions from in front of and around hydrants and for such purpose are authorized to call upon the head of any of the City departments for aid and assistance in the removal of such obstructions.
- Subd. 14. It shall be the responsibility of the Fire Department members to see that all hose is thoroughly washed and dried after use at fires and drills and to see that no wet or dirty hose is placed on the apparatus.
- Subd. 15. It shall be the duty of the Officers of the Fire Department to keep a record of the fire and drill service of each member of the department.
- Subd. 16. No member of the department, except on alarm of fire, shall drive any motor vehicle or remove from the fire hall any fire apparatus unless directed to do so by the fire officers, which direction may be given in case of emergency. Nor shall any member be permitted to tamper with or fix or repair any of the apparatus unless he has been directed so to do by the fire officers.
- Subd. 17. All request for repairs, equipment or supplies for the department shall be presented to the council when they exceed \$2,500.00, but in case any apparatus or equipment shall be so disabled that immediate repairs are necessary the chief is hereby authorized to have the same repaired at once.
- Subd.18. The City Council shall compensate the members of the City fire department for each fire run or ambulance run that the members of the department are called upon to make according to the current pay scale and the current incentive pay formula.
- Subd. 20. That all ordinances and parts of ordinances in conflict here with are hereby repealed.
- Subd. 21. This ordinance shall take effect and be in force from and after its passage and publication.

Passed this 13th day of March, 1939 - Published March 17, 1939

Attest: Charles Bellingham
Village Clerk

J.H. Johnson
President of Village Council

Part 4 Planning Commission

Part 5 Miscellaneous

205.01 Age of Majority

The Village Council of the Village of Carlton does ordain as follows:

- Subd 1. That all of the Ordinances of the City of Carlton which provide applicability in reference to the age of majority of persons to be 21 years be, and they hereby are, amended and modified pursuant to the provisions of recent Minnesota State Statutes, to provide that the age of majority be 18 years.
- Subd 2. This ordinance shall take effect and be enforced from and after the passage of State Legislation pertaining thereto.

205.02 Abandoned Property

Subd.1. **Procedure.** All other property lawfully coming into the possession of the city shall be disposed of as provided in this section.

Subd. 2. **Storage.** The department of the city acquiring possession of the property shall arrange for its storage. If city facilities for storage are unavailable or inadequate, the department may arrange for storage at privately owned facilities.

Subd. 3. **Claim by owner.** The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.

Subd. 4. **Sale.** If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the sheriff's department after two weeks' published notice setting for the time and place of the sale and property to be sold.

Subd.5. **Disposition of proceeds.** The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

CHAPTER 3 – PUBLIC WORKS/STREETS

Part 1 Streets and Avenues

The Village Council of Carlton, Minnesota, ordains:

That henceforth all streets in the City of Carlton running North and South shall be named “Streets”, and that all streets running East and West in the City of Carlton shall be named “Avenues”, with the exception of streets known as “Drive”.

Part 2 Street, Park, Public Property and Improvements

302.01. Permit required. No person, except an authorized city employee or a contractor performing work under a contract with the city, shall make any excavation in a street, alley, sidewalk, or public ground without first having secured a permit there for from the permit director. The fee for such permit shall be determined by the fee schedule for each location covered by the permit, but no fee shall be required for an excavation made pursuant to a permit for sewer or water construction.

302.02. Application and regulation. The permit director shall prepare the necessary application forms, and permits required under section 302.01. The permit director shall also prepare such rules and regulation with respect to excavations as the council finds necessary to protect the public from injury, prevent damage to public or private property, and minimize interference with the public use of streets, alleys, sidewalks, and public grounds. Any person making an excavation covered by this section shall comply with such rules and regulations.

302.03. Bond. Any permittee, except a public utility corporation or a bonded plumber, shall file with the permit director a corporate surety bond, cash deposit, or a certified check in the amount of \$2000.00, conditioned that the permittee will perform work in connection with the excavation In accordance with applicable ordinances and regulations; indemnify the city and hold it harmless from all damage caused in the execution of such work; and pay all costs and damages suffered by the city by reason of the failure of the permittee to observe the terms of applicable ordinances and regulations or because of negligence in the execution of the work; The bond shall be approved as to form and legality by the city attorney. Any permittee except a public utility corporation shall furnish proof that the permittee has in existence an insurance policy protecting the permittee from liability to the public, including the city, to an amount equal to the maximum claim the city might be required by pay under Minn. Stat., Chapter 466.

302.04. Permit denial. Failure to comply with the condition of this part of the code shall be grounds for denial of future permits.

302.05. General regulations for excavations. Street openings shall be made in a manner that will cause the least inconvenience to the public. Provision shall be made for the passage of water along the gutters and at least one-half of the traveled portion of the street shall be left open and in good condition for the safe passage of vehicles. Open excavations shall be guarded with substantial barriers and marked with red flags and at night with red lights or flashing devices. Pipes or mains exposed to freezing temperatures shall be protected so as to prevent freezing. Any person responsible for exposing a city main or pipe so that it might be damaged by freezing shall be liable to the city for all damages caused by such freezing and all damages sustained by others by such freezing for which the city may be liable.

302.06. Refilling excavations. Every street excavation shall be refilled as soon as possible after the work is completed and paving, sidewalks, and appurtenances shall be replaced in at least as good condition as before, the excavation to the satisfaction of the City of Carlton. All dirt and debris shall be removed immediately. Any person who fails to comply with these requirements within 24 hours after notice from the city shall be liable to the city for the full cost incurred by the city in remedying the defect and restoring the street, side alley, or public ground to its proper condition. The cost shall be an obligation of the surety on the bond of the permittee.

302.07. Map of subsurface installations. The City of Carlton shall maintain a map showing the location of all City owned utility beneath the surface of any public street, grounds, or right-of-way. Any new underground City owned facilities shall be recorded on the map as soon as practicable upon completion of underground installations. Permittee must call Gopher State One Call to locate all other subsurface utilities.

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 sixty (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 ($\frac{1}{2}$) 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 5, 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 3.1 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 Energy Group, 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:

City. The City of Carlton, County of Carlton, State of Minnesota and the corporate limits thereof on the Effective Date and as they may be adjusted from time to time hereafter.

City Utility System. Facilities used for providing public utility service owned or operated by the City or agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals.

Commission. The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate electric retail rates now vested in the Minnesota Public Utilities Commission.

Company. Minnesota Power, an operating division of ALLETE, Inc., its successors and assigns including all successors or assignees that own or operate any part or parts of the Electric Facilities subject to this Franchise.

Company Service Area. Those areas within the City to which the Company has been assigned the right to provide electric service, as in effect on the Effective Date or as may be hereafter revised.

Council. The City Council of the City of Carlton as from time to time constituted.

Effective Date. The effective date of this Ordinance.

Electric Facilities. Electric transmission and distribution substations, towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by the Company for the purpose of providing electric energy for public or private use.

Extension Rules. The rules adopted from time to time by the Company governing its extension of Electrical Facilities.

Franchise. The grant of rights made by the City to the Company in this Ordinance, subject to its terms and conditions.

Notice. A writing served by any party or parties on any other party or parties at the following addresses:

If to the City: City of Carlton
P.O. Box 336
Carlton, MN 55718
Attn: Clerk/ Treasurer

If to the Company: Minnesota Power
30 West Superior Street
Duluth, MN 55802
Attn: Vice President of Marketing

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.

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Part 1 Licenses and Permits, General Rule

501.01. Licenses and permits. Subdivision 1. General rule. Except as otherwise provided in this code, all licenses and permits granted by the city shall be governed by the provisions of this part.

Subd. 2, **Acts prohibited.** No person shall conduct any activity or use any property for which a license or permit is required by law or this code without a currently valid license or permit for such activity or use.

Subd. 3. **Application.** Every application for a license shall be made to the clerk on a form the clerk provides. It shall be accompanied by payment to the clerk of the prescribed fee. If, after investigation, the clerk is satisfied that all requirements of law and this code have been met, the clerk shall present the application to the council for action or, if the license or permit does not require council approval, the clerk shall issue the license or permit.

501.02. Not transferable. No license issued by the city may be transferred from one person to another without permission of the council. When the council permits the transfer of a license, it may waive any residency requirement, but only for the required term of the license.

501.03. Revocation. Any license may be revoked by the council for a violation of the section or chapter under which it is issued. However, the revocation must follow any procedure provided in the section or chapter in question.

501.04. Appeal. Any person who has made application which has been denied or not acted upon within 30 days after the application may apply directly to the council for a license. The application to the council shall contain the same information required in the original application, plus any additional information that the council may require or that the applicant may feel is pertinent. The council may grant the license, after hearing, if the requirements of this code are substantially complied with, and in the opinion of the council granting the license would be in the best interests of the public

PART 2 Peddlers

502.01. License required. No solicitor, peddler, hauler, or transient vendor of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants shall enter a private residence of the city for the purpose of soliciting orders for the sale of goods, wares, and merchandise, or for the purpose of disposing of or peddling or hauling the same, without first obtaining a license there for, excluding schools, fire department, churches, or bonafide organizations.

502.02. Application. Before any license shall be issued to any person to vend, sell, hawk, or peddle goods, the person desiring such license shall file a written application with the clerk. Said application shall show:

The name of the applicant and the persons associated with the applicant in the business;

Type of business for which the license is desired;

The length of time for which said license is to be desired;

A general description of the thing or things to be sold;

The present place of business of the applicant.

502.03. Issuance fee. Every application for a license under this ordinance shall bear the written approval of the sheriff's department or mayor after an investigation of the moral character of the applicant. When the applicant presents to the clerk an application in proper form for any business not prohibited by law, the applicant shall pay a fee as set in the fee schedule to cover the cost of said application.

502.04. Exclusion by placard. Any resident of the city who wishes to exclude peddlers or solicitors from premises the resident occupies may place upon or near the usual entrance to such premises a printed placard or sign bearing the following notice: "Peddlers and Solicitors Prohibited." Such placard shall be at least

three and three-quarters inches long and three and three-quarters inches wide and the printing thereon shall not be smaller than 48-point type. No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises, where such placard or sign is placed and maintained.

502.05. Defacing placard. No person other than the person occupying such premises shall remove, injure, or deface such placard or sign.

Part 3 Regulating and Keeping of Dogs

Minnesota Statutes applicable to the control of health measures for animals are hereby adopted by reference and are as enforceable as if recited in full.

503.01. Definitions. The following definitions shall apply in the interpretation and application of this ordinance and the following words and terms, whenever they occur in this ordinance are defined as follows:

- a. **Dog** shall mean animal of genus “Canine” or allied genera.
- b. **Owner** shall mean any person, firm or corporation who shall own, harbor, or have custody of the dog, or the parents or guardians of a person under the age of 18 years of age who shall own, harbor, keep or have custody of said dog.
- c. **Animal Control Officers** including all city staff and local law enforcement.
- d. **Animal Shelter** is any premises designated by the City for the purpose of impounding and caring for a dog held under authority of this ordinance.
- e. **Sterilizing** means neutered in the case of male dogs, and spayed in the case of female dogs.
- f. **Dog Licensing** is the process of registering a dog with the City Administrator’s Office and obtaining a metallic tag bearing a registration number and is issued to the owner of the dog upon proof of updated rabies vaccination, documentation of sterilization and payment of the licensing fee.
- g. **At large** means off the premises of the owner and not on a leash, cord or chain of not more than six (6) feet in length and not under the direct control of the owner or his agent.
- h. **Restrain.** An animal is considered to be under restraint when it is on the premises of the person harboring or keeping it and all exits are restrictive from the dogs escape from within; or is controlled by a leash not exceeding six feet in length in the hands of one competent to control the dog.
- i. **Leash** means a cord, thong or chain not exceeding six (6) feet in length by which an animal is controlled by the person accompanying it.

503.02. Keeping of dogs limited. It shall be unlawful for any person to keep, harbor or have custody or control at any one time of more than two (2) dogs over the age of six months old in any residential dwelling unit or upon such person’s premises, whether owned, leased or otherwise occupied or possessed by such person.

503.03. Appointments. The City may appoint such person, or persons, as deemed necessary and advisable as the Animal Control Officer, for enforcement of this ordinance of the City of Carlton.

The City shall appoint an Animal Shelter for the City for the purpose of impounding and caring for animals held under authority of this ordinance.

503.04. Licensing Requirements. Every owner of any dog more than six (6) months old shall obtain from the City Clerk's Office a license tag and registration number in such form as the City Council shall prescribe. Said license tag shall be firmly attached to the dog's collar at all times. The initial and thereafter two_year licensing fee shall be determined by resolution of the City Council according to its current fee schedule. -License fees shall be paid to the City Clerk's Office who shall issue new dated license tags

Subd. 1. **Tag and Collar.** Upon payment of the license fee, the City Clerk shall issue to the owner a receipt and a metallic tag for each dog license. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In the event a dog tag is stolen, lost or destroyed, a duplicate tag will be issued by the Clerk with the replacement fee determined by resolution of the City Council according to its current fee schedule. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee for any reason.

Subd. 2. **Documentation Requirements.** No License shall be granted for any dog that has not been vaccinated against rabies. Said vaccination must have been administered to said dog prior to the issuance of the license, and must still be valid through the expiration date of the license to be issued. The vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog is vaccinated. A veterinarian who vaccinates a dog to be licensed in the City shall complete a certificate of vaccination. A copy of the certificate must be presented to the City Clerk upon licensing each dog.

Along with documentation of rabies vaccination, documentation of sterilization is required for any dog being licensed that has undergone a sterilization procedure.

503.05. Running at Large. It is unlawful for any person who is the owner, or other person in possession of a dog to permit such dog to run at large within the limits of the City. Such running at large shall be deemed prima facie evidence that the owner of any animal is in violation of this ordinance.

503.06. Impounding. The Animal Control Officer, Law Enforcement or any City Staff may take up and impound any dog requiring licensing, found in the City without a tag; or any dog that is in violation of this ordinance. Animals shall be impounded and confined in a humane manner at a designated animal shelter. Impounded animals shall be kept for not less than five (5) business days, unless reclaimed by their owners. If by a licensed tag or other means, the dog owner can be identified reasonable attempts will be made to return the dog to the owner prior to impounding. Notwithstanding the provisions of this ordinance, if a violation has occurred, the City Clerk may proceed against the owner for payment of fines and penalties.

Subd 1. **Enforcement.** To enforce this ordinance, the Animal Control Officer, Law Enforcement or any City Staff may enter upon private property where there is reasonable cause to believe that a dog is on the premises and is not licensed as required by ordinance, or that there is a dog on the premises not confined, restrained, or is creating a nuisance.

Subd. 2. **Treatment during Impoundment.** Any dog impounded in the animal shelter shall be kept in a humane manner and comfort. If the dog is not known or suspected of being diseased and has not bitten a person, it shall be kept for five (5) business days, unless it is sooner reclaimed by its owner.

Subd. 3. **Notice of Impounding.** Upon impoundment of a dog, the Animal Control Officer will post within 24 hours a Notice of Impounding upon the front doors of the Civic Center located at 310 Chestnut Avenue. The Notice of Impounding shall specify breed/color and gender of the dog; the redemption period for claiming said dog; the date, time, and location of said violation, and a description of the violation.

Subd 4. **Redemption of Impounded Animal** The City shall collect the fines for any ordinance violations as well as the impounding and boarding fees for the animal shelter. Upon payment

the owner shall receive a receipt from the City stating that all fees and fines have been collected. This receipt shall be taken by the owner to the animal shelter where the impounded dog maybe claimed.

Subd. 5. **Failure to Pick Up Animal.** Any person, who fails to pick up an impounded dog owned by him/her, shall be in violation of this ordinance. Said owner will be responsible for all charges incurred by his/her animal.

Subd. 6. **Disposal of Unredeemed.** The City shall make a reasonable effort to contact the owner of any dog which has been impounded. If at the end of the impoundment period, no claim of ownership has been received, the unclaimed dog shall be deemed abandoned and shall be disposed of in a humane manner.

503.07. Dog Creating Nuisance. The owner or custodian of any dog shall prevent the dog from committing in the City, any act which constitutes a nuisance. A nuisance is defined as any dog that habitually or frequently barks, howls, or cries; is known for biting, snarling, growling or chasing; known for frequenting school grounds, play grounds, playing field, parks; or known to damage, defile, or destroy public or private property. Failure of the owner or custodian of dog to prevent the animal from committing such a nuisance is a violation of this ordinance. The owner or custodian will be subject to fees determined by resolution of the City Council according to its current fee schedule. Any dog which repeatedly is a nuisance maybe impounded and disposed of in a humane manner.

503.08. Owner Obligation for Proper Care. No owner shall fail to provide any dog with sufficient good wholesome food, water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care treatment. No person shall beat, treat cruelly, torment or otherwise abuse any dog, or cause or permit any dog fight. No owner of a dog shall abandon such animal.

Subd. 1. **Sanitation.** The owner of any dog shall be responsible for the sanitation of that dog whether on his/her property, private property of others, or public property. No person shall permit any dog under his/her care to defecate upon any park or public grounds unless said person shall promptly clean up such waste and deposit same in adequate sanitary facilities. All animal waste shall be removed daily so as to keep the surrounding area free from obnoxious odors.

503.09. Penalties. Violation of any section of this Ordinance shall constitute a misdemeanor. Each individual violation of a section shall constitute a separate violation. Whoever does any act which constitutes a violation may be sentenced as provided by State Law for a misdemeanor violation.

503.10. Separability of Provisions. It is the intention of the City Council that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is furthers the intention of the City Council that if any provision of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

Part 4 Gambling Licensing and Regulations

504.01. Purpose. Purpose. The purpose of this ordinance is to closely regulate and control the conduct of gambling.

504.02. Provisions of State Law Adopted. Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 349, and Laws of Minnesota, 1978 Chapter 507 relating to the definition of terms, licensing and restrictions of gambling are adopted and made a part of this ordinance as if set out in full.

504.03. License Requirement. License Requirement. No person shall directly or indirectly operate a gambling device or conduct a raffle without license to do so as provided in this ordinance.

- 504.04.** Persons Eligible For License. A license shall be issued only to fraternal, religious and veterans' organizations, or any corporation, trust, or association organized exclusively for scientific, literary, charitable, educational or artistic purposes, or any club which is organized and operated exclusively for pleasure or recreation. Such organization must have been in existence for at least three (3) years and shall have at least 30 active members.
- 504.05.** Application Procedure. Application for a license shall be made upon a form prescribed by the Council. No person shall make a false representation in an application. The Council shall act upon said application within 180 days from the date of application, but shall not issue a license until at least 30 days after the date of application.
- 504.06.** Profits. Profits from the operation of gambling devices or the conduct of raffles shall be used for proper purposes only.
- 504.07.** Conduct of Gambling.
- Subd. 1. Gambling Manager. All operation of gambling devices and the conduct of raffles shall be under the supervision of a single gambling manager to be designated by the organization. The gambling manager shall be responsible for gross receipts and profits from gambling devices and raffles and for their operation. The gambling manager shall be responsible for using profits for proper purpose.
- Subd. 2. Bond. The gambling manager shall provide a fidelity bond in the sum of \$10,000.00 in favor of the organization conditioned on the faithful performance of his duties.
- Subd. 3. Qualifications of gambling manger. The gambling manager shall be an active member of the organization, and shall qualify under state law.
- 504.08.** Compensation. No compensation shall be paid to any person in connection with the operation of a gambling device or the conduct of a raffle by a licensed organization. No person who is not an active member of an organization, or the spouse or surviving spouse of an active member, may participate in the organization's operation of a gambling device or conduct of a raffle.
- 504.09.** Reporting Requirements.
- Subd. 1. Gross Receipts. Each organization licensed to operate gambling devices shall keep records of its gross receipts, expenses and profits for each single gathering or occasion at which gambling devices are operated or a raffle conducted. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchase item or service or other reason for the deduction, and the recipient. The distribution of profits shall be itemized as to payee, purpose, amount and date of payment.
- Subd. 2. Separation of funds. Gross receipts from the operation of gambling devices and the conduct of raffles shall be segregated from other revenues of the organization, and placed in a separate account. The person who accounts for the gross receipts, expenses and profits from the operation of gambling devices or the conduct of raffles shall not be the same person who accounts for other revenues of the organization.
- Subd. 3. Monthly Reports. Each organization licensed to operate gambling devices or to conduct raffles shall report monthly to its membership, and to the City Clerk, its gross receipts, expenses and profits from gambling devices and raffles, and the distribution of profits. The licensee shall preserve records for three years.

504.10. Eligible Premises. Gambling devices shall be operated and raffles conducted by a licensed organization only upon premises which it owns or leases, except that tickets for raffles may be sold off the premises. Leases shall be in writing and shall be for a term of at least 12 months. No lease shall provide that rental payments be based on a percentage of receipts. A copy of the lease shall be filed with the City Clerk.

504.11. Prizes. Total prizes from the operation of paddle wheels, tipboards and raffles shall not exceed the limits set by the Minnesota Gambling Control Board

504.12. Bingo. Nothing in this ordinance shall be construed to authorize the conduct of bingo without acquiring a separate bingo license.

504.13. Penalties.

Subd. 1. Criminal Penalty. Violation of any provision of this ordinance shall be a misdemeanor. A person convicted of violating any provision of this ordinance shall be subject to a as set in the Fine Schedule and/or imprisonment not to exceed the maximum as set by Minnesota Statute.

Subd. 2. Suspension and revocation. Any license may be suspended or revoked for any violation of this ordinance. A license shall not be suspended or revoked until the procedural requirements of subdivision 3 have been complied with, provided that in cases where probable cause exists as to an ordinance violation, the City may temporarily suspend upon service of notice of the hearing provided for in subdivision 3. Such temporary suspension shall not exceed 2 weeks.

Subd. 3. Procedure. A license shall not be suspended under subdivision 2 until notice and an opportunity for a hearing have first been given to the licensee. The notice shall be personally served and shall state the ordinance provision reasonably believed to be violated. The notice shall also state that the licensee may demand a hearing on the matter, in which case the license will not be suspended until after the hearing is held. If the licensee requests a hearing, one shall be held on the matter by the City Council at least one week after the date on which the request is made. If, as a result of the hearing, the City Council finds that an ordinance violation exists, the Council may suspend or terminate the license.

Part 5 Ten (10) Percent Charitable Gambling Contribution Fund

AN ORDINANCE TO ESTABLISH A 10 PERCENT CHARITABLE GAMBLING CONTRIBUTION FUND UNDER MINNESOTA STATE STATUTES SECTION 349.213, SUBDIVISION 1.

THE CITY COUNCIL OF THE CITY OF CARLTON DOES HEREBY ORDAIN:

505.01. The City of Carlton does hereby establish a fund to be known as the Lawful Gambling 10 Percent Contribution Fund to be administered by the City of Carlton. Pursuant to Minn. Stat. 349.213, Subd. (1), all organizations conducting lawful charitable gambling within the city limits of the City of Carlton are hereby required to contribute 10 percent of the net profits derived from such lawful gambling activities conducted at premises within the city limits of the City of Carlton to such fund. The City shall from time to time disburse the funds for either (a) lawful purpose as defined in Minn. Stat. 349.12, Subd. 25, or (b) police, fire, or other emergency or public safety related services, equipment, and training, excluding pension obligations.

The fund to be established by the City shall be a separate fund within its own financial records that will account exclusively for all receipts and expenditures under this ordinance. The receipts and expenditures will not be commingled with other city funds. The City will submit an annual report to the Charitable Gambling Control Board and shall submit such other forms as may be required from time to time. All such organizations conducting

charitable gambling within the city limits of the City of Carlton shall keep monthly financial records of gambling proceeds and disbursements and shall submit copies of same to the City of Carlton at the same time that the organization remits the amount due to the City. Each organization shall also submit to the City copies of all records required to be submitted to the State of Minnesota Gambling Control Board.

- 505.02.** Upon request by the City of Carlton, all organizations conducting lawful charitable gambling within the City of Carlton must provide the City with all relevant records, books, and other documents to insure compliance with this ordinance.
- 505.03.** The deadline for submission of such reports and for remitting funds due under this ordinance shall be the last day of the month following the month in which the proceeds were earned.
- 505.04.** This ordinance shall take effect commencing with the month of January 2002.
- 505.05.** The City shall establish by resolution a committee of persons who will recommend expenditures of funds collected under this ordinance. The committee's recommendations regarding the expenditure of funds shall be advisory, but shall not be binding upon the City Council for the City of Carlton. Final approval of expenditures shall be made by the City Council for the City of Carlton. The expenditure of funds received by the City under this ordinance shall be made within a reasonable time following receipt of such funds.
- 505.06.** A copy of this ordinance shall be filed with the State of Minnesota Gambling Control Board.
- 505.07.** Violation of this ordinance may be grounds for revocation of an organization's license to conduct lawful gambling activities within the city limits of the City of Carlton.
- 505.08.** The provisions of this ordinance are deemed to be separable, and in the event that any provision is deemed to be invalid by a court of competent jurisdiction, the remaining provisions of the ordinance shall be deemed to continue to full force and effect.

Part 6 Lawful Gambling Pull-Tabs

506.01. Pull-tabs.

Subd. 1. **Scope.** This article shall regulate all pull-tab games operated pursuant to Minnesota Statutes Chapter 349.

Subd. 2. **State Regulations Adopted.** Chapter 7861 of Minnesota rules is hereby incorporated by reference into this section, provided that nothing in said rules shall be deemed to amend or change any provision of the City of Carlton Ordinances. No person shall violate any provision of Chapter 7861 of Minnesota rules or any amendments thereto.

Subd. 3. **Age Restrictions.**

- (a) No person under the age of eighteen (18) may conduct or participate in the playing of the game of pull-tabs.
- (b) No person shall sell pull-tabs to any person under the age of eighteen (18).
- (c) Proof of age for purchasing pull-tabs may be established only by a valid driver's license or Minnesota identification card or in the case of a foreign national by a valid passport.

Subd. 4. **Sale of Pull-Tabs.**

- (a) In the playing of pull-tabs, no person shall sell or purchase pull-tabs except on a cash basis. Checks and credit cards and all other forms of consideration shall not be allowed.
- (b) A seller may refuse to sell pull-tabs to any person if the seller believes such sale would be in violation of any law or regulation.
- (c) The seller shall hand the pull-tabs that are purchased to the player. A player shall never be allowed to reach into the container to select pull-tabs.
- (d) Under no circumstances shall a seller assist a player in the opening of pull-tabs.
- (e) No person shall evade or circumvent or attempt to evade or circumvent any of the provisions of this article, or of any State law or regulation, by having someone else purchase pull-tabs for such person.
- (f) No seller or other gambling employee of the organization operating the gambling shall either orally, in writing or otherwise provide any information to any other person about total number of winners played or the number or denominations of winners left in the container, except that the seller may post publicly in clear legible type the number of winners played and the number of winners left in the container.
- (g) No single deal of pull-tabs which had been taken out of play shall thereafter be returned to play.
- (h) In licensed liquor establishments, sale of pull-tabs must cease at least fifteen (15) minutes before sales of alcoholic beverages are required by law to cease.

506.02. Expenditures and Profits from Pull-tabs.

Subd. 1. **Required Expenditures.** A licensed Organization conducting lawful gambling within the city limits of the City of Carlton must expend 75% of all of its quarterly expenditures of gross profits for lawful purposes on lawful purposes conducted or located within the City of Carlton's trade area.

Subd.. **"Trade Area" Defined.** For the purposes of this Ordinance the City of Carlton's trade area shall be defined as the legal city limits of the City of Carlton and the legal limits of the Township of Twin Lakes.

Subd. 3. **Required Donation.** Ten percent (10%) of the net profits from the operation of the gambling equipment in the City of Carlton by charitable organizations shall be donated to the City of Carlton in accordance with Chapter 5, Part 9. The donations from monthly profits from each licensee shall be made in a check payable to the City of Carlton and delivered to the City on or before the last day of the following month. This donation shall be included in the computation of the 75% required expenditures under Subdivision 1, Section 2 of this ordinance.

Subd. 4. **Records and Reports.** All qualified organizations operating gambling equipment in the City of Carlton shall keep monthly financial records of gambling proceeds and disbursements in the defined trade area and shall submit copies of same to the City monthly.

Subd. 5. **Donation Effective Date.** The provisions of this Ordinance shall take effect for all proceeds from gambling equipment beginning with the month of January 2005.

506.03. Rent Limitations for Lease Premises.

Subd. 1. **Leased Premises.** “Leased Premises” means a building or place of business, or a portion of a building or place of business not owned by a gambling organization that is leased in its entirety by a gambling organization for the use by the organization and its members, which use may include lawful gambling.

Subd. 2. **Annual Rentals.** No licensed gambling organization may pay an annual rental to the lessor of leased premises in excess of the State of Minnesota rules and regulations establishing fair rentals for such leased premises.

506.04. General Provision

Subd. 1. **Background Information.** A copy of all applications and reports required by and submitted to the Minnesota Gambling Control Board shall also be submitted to the City of Carlton within seven (7) days after they are submitted to said Board.

Subd. 2. **Filing of Lease Agreement.** Any organization requesting a license for charitable gambling shall file with the City of Carlton a copy of its signed lease agreement prior to or at the same time as filing its request for a gambling license with the State of Minnesota.

Subd. 3. **Limitation of Gambling Licenses.** No organization shall be permitted to conduct gambling in more than two (2) establishments within the City of Carlton.

Subd. 4. **Disapproval.** Nothing contained in this Ordinance shall be deemed to limit the City Council’s authority to disapprove a license for lawful gambling.

Subd. 5. **Filing with Gambling Control Board.** This Ordinance shall be filed with the Minnesota Gambling Control Board.

Subd. 6. **Penalties.** Violation of any section of this Ordinance shall constitute a misdemeanor. Each individual violation of a section shall constitute a separate violation. Whoever does any act which constitutes a violation may be sentenced for as provided by State Law for a misdemeanor violation.

Part 7 Disposal of Garbage and Rubbish

The Village Council of the Village of Carlton does ordain:

507.01. It shall be unlawful for any person, firm, or corporation to fail to dispose of garbage and rubbish which may be or may accumulate upon property owned or occupied by such person, firm, or corporation, at least as often as provided in Section 2 hereof.

507.02. All garbage and rubbish located on any property owned or occupied by any person, firm, or corporation, shall be removed from said property at least and not less than once every week.

507.03 The word “garbage” as used herein shall include only organic refuse resulting from the preparation of food and decayed and spoiled food from any source.
The word “rubbish” as used herein shall include all inorganic refuse matter such as tin cans, glass, paper, sweepings and ashes.

507.04. Every householder or occupant of any dwelling house, boarding house, restaurant or any place of business having garbage to dispose of, who does not otherwise provide for the disposal of such garbage in a sani-manner and in accordance with Section 2 hereof, shall

provide himself with one or more fly tight cans sufficient to receive all garbage and rubbish which may accumulate between the time of collection or disposal. Each residential can shall have a capacity of not to exceed thirty-three (33) gallons and shall be provided with a bail or handles and a tight fitting cover. All such cans shall at all times be kept clean and in a good state of repair.

- 507.05.** All garbage must be place in an approved container and no liquids shall be placed in cans unless enclosed in a closed container.
- 507.06.** It shall be unlawful for any person, firm or corporation to expose garbage or rubbish or other offensive matter, in a manner which would cause the premises to become unclean, unhealthy or offensive.
- 506.07.** It shall be unlawful for any person, firm or corporation to burn or dispose of any garbage or rubbish within the corporate limits of the City of Carlton.
- 507.08.** Any person, firm or corporation violating any of the provisions of this ordinance, shall, upon conviction thereof, be subject to a fine as set in the Fine Schedule.

Part 8 Diseased Trees on Private Property

AN ORDINANCE RELATING TO THE REGULATION OF THE TREATMENT, TRIMMING, AND REMOVAL OF UNSAFE OR DISEASED TREES ON PRIVATE PROPERTY WITHIN THE CITY OF CARLTON

The City Council of the City of Carlton, Minnesota Ordains as Follows:

- 508.01.** The Public Works Superintendent shall have the authority, and it shall be his duty to order the trimming, treatment or removal of trees, shrubs or plants upon private property when he shall find such action necessary to public safety or to prevent the spread of disease of insects to trees, shrubs or plants located within the city.
- 508.02.** All orders to trim, remove or treat trees, shrubs or plants given pursuant to this section shall be in writing and shall be served by mail upon the owner of the property where such trees, shrubs or plants are located. Such orders shall give the owner of the property not more than twenty days from the date of mailing of such notice to comply with such orders.
- 508.03.** The procedures for the removal and disposal of diseased trees, shall be in direct accordance with those established by the Public Works Superintendent.
- 508.04.** Trees, shrubs or plants which are not removed or treated by the owner within the specified time shall be declared a public nuisance and removed by the City with the costs being borne by the property owner. If not voluntarily paid by such owner, the costs of such trimming, treatment or removal may be recovered by the City by special assessment upon the property of said owner.
- 508.05.** The Public Works Superintendent or his duly authorized agents, in particular the City Tree Inspector, may enter upon private premises at any reasonable time for the purpose of inspecting any trees, shrubs or plants which might harbor such disease or insects.
- 508.06.** It is unlawful for any person to transport within the City any bark-bearing elm or diseased wood other than for the direct purpose of authorized disposal.

Part 9 Shade Tree Program

AN ORDINANCE OF THE CITY OF CARLTON, MINNESOTA, ESTABLISHING A SHADE TREE PROGRAM, PROVIDING REGULATION FOR THE CONTROL OF CERTAIN DISEASES AFFECTING TREES, INCORPORATING AGENCY RULES AND REGULATIONS, AND PROVIDING FOR PENALTY FOR VIOLATION THEREOF

The City Council of the City of Carlton, Minnesota Ordains as follows:

- 509.01.** Regulations Adopted By Reference. Sections 1.0109 through 1.0111 of Minnesota Code of Agency Rules, Department of Agriculture, Shade Tree Program (1978 Edition) together with amendments thereof to date, are hereby adopted by reference and made a part of this Ordinance as if set out here at in full, except as hereinafter provided. A copy of said agency rules herewith incorporated is on file in the Office of the City Clerk.
- 509.02.** The stockpiling of bark bearing elmwood within the city limits of the City of Carlton shall be permitted during the period from September 15th through April 1 of any given year. Any such wood not utilized by April 1 of any year must then be removed and disposed of as provided by this ordinance and the regulations incorporated thereby.
- 509.03.** Where the provisions of this ordinance conflict or are inconsistent with any other ordinance of the City, the provisions of this ordinance shall supersede except in instances where one regulation is more restrictive than another in which case the more restrictive shall apply and control.
- 509.04.** Any person who shall violate any provisions of this ordinance shall be, upon conviction thereof, guilty of a misdemeanor, and shall be subject to a fine as set in the Fine Schedule, not to exceed the maximum as set by Minnesota Statutes.

Part 10 Curfew

AN ORDINANCE TO REGULATE THE PRESENCE AND CONDUCT OF JUVENILES ON STREETS, PUBLIC PLACES AND ESTABLISHMENTS, WITHIN THE LIMITS OF THE CITY OF CARLTON, DEFINING DUTIES OF PARENTS OR OTHERS IN CHARGE OF JUVENILES, PROVIDING FOR PROCEDURES AND PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, The City Council has determined that there has been an increase in juvenile criminal activity and violence, and in potentially gang related activity by persons under the age of 18 in the City of Carlton and,

WHEREAS, Persons under the age of 18 are particularly susceptible as a result of their lack of maturity and experience to participation in unlawful and gang-related activities and are also more likely to be victims of older perpetrators of crime, and

WHEREAS, The City of Carlton has an interest and obligation in providing for the protection of juveniles from other persons, in the enforcement of parental control over and responsibility for children, in the reduction of the incidence of juvenile criminal activities and in protecting its citizenry; and

WHEREAS, A curfew for those under the age of 18 would be in the best interest of the public health, safety, and general welfare and will help diminish the undesirable impact of such conduct on the citizens of Carlton,

The City Council of the City of Carlton Minnesota hereby Ordains:

510.01.

Definitions

- (a) CURFEW HOURS MEAN:
 - (1) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, until 6:00 a.m. of the following day, and
 - (2) 11:00 p.m. on any Friday and Saturday until 6:00 a.m. the following day.

- (b) EMERGENCY means an unforeseen combination of circumstance or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

- (c) ESTABLISHMENT means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

- (d) GUARDIAN means;
 - (1) A person who, under court order, is the guardian of the person of a juvenile; or
 - (2) A public or private agency with whom a juvenile has been placed by a court of law.

- (e) JUVENILE means any person under 18 years of age.

- (f) OPERATOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

- (g) PARENT means a person who is;
 - (1) A natural parent, adopted parent, or step-parent of another person, or
 - (2) A person at least 18 years of age and authorized in writing by a parent or guardian to have the care and custody of a juvenile.

- (h) PUBLIC PLACE means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, churches, apartment houses, office buildings, transport facilities, and shops.

- (i) REMAIN means to;
 - (1) Linger or stay; or
 - (2) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

510.2.

Restrictions

- (a) It shall be unlawful for any juvenile to remain in any public place or on the premises of any establishment within the City during curfew hours.

- (b) it shall be unlawful for any parent or guardian of a juvenile to knowingly permit, or by insufficient control allow, the juvenile to remain in any public place or on the premises of any establishment within the City during curfew hours. The term “knowingly” includes knowledge with a parent or guardian should reasonably be expected to have concerning the whereabouts of a juvenile in the legal custody of the parent or guardian.

(c) It shall be unlawful for any owner, operator, or any employee of an establishment to knowingly allow a juvenile to remain upon the premises of the establishment during curfew hours.

510.03. Exceptions

(a) The following shall constitute valid exceptions to the operation of the curfew. That the juvenile was:

- (1) Accompanied by the juvenile's parent or guardian; or
- (2) An errand at the direction of juvenile's parent or guardian, without any detour or stop, or
- (3) In a motor vehicle involved in interstate travel; or
- (4) Engaged in an employment activity, or going to or returning home from employment activity, without any detour or stop; or
- (5) Involved in an emergency; or
- (6) On the sidewalk or curb abutting the juvenile's residence or abutting the residence of a next-door neighbor who did not complain to the police department about the juvenile's presence; or
- (7) With the consent of parent or guardian is attending an official school, religious, or other recreational activity supervised by adults or sponsored by the City of Carlton, a civic organization, or another similar entity that takes responsibility for the juvenile, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults or sponsored by the City of Carlton, or civic organization, or another similar entity that takes responsibility, or
- (8) Is married or had been married and/or legally emancipated.

(b) It is a defense to prosecution under Section 2 that the owner, operator, or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.

510.04. Enforcement

Before taking any enforcement action under this section, a police officer is authorized and shall ask the apparent offender's age and reason for being in a public place. The officer shall not issue a citation or make an arrest under the section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception listed in Section 3 is applicable.

510.05. Penalties

(a) A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted.

(b) Any juvenile who is convicted of a violation of this ordinance after the case has been referred for prosecution in the trial court under Minnesota Statute § 260.15 and any adult persons having the care and custody of such minor, is guilty of a petty misdemeanor and shall be punished by a fine as set in the Fine Schedule, not to exceed the maximum as set by Minnesota Statutes.

510.06 Severability

That the terms and provisions of this ordinance are severable. If any provision of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. It is intended that the Curfew Ordinance is to be held inapplicable in such cases, if any, where its application would be unconstitutional.

Part 11 Skateboard/Recreational Devices

AN ORDINANCE REGULATING THE USE OF SKATEBOARDS, ROLLER BLADES, ROLLER SKATES/SKIES, OR OTHER RECREATIONAL DEVICES WITHIN THE CITY OF CARLTON

- 511.01.** **Purpose.** The purpose of this ordinance is to protect the public health and safety arising out of the use of skateboards, roller blades, roller skates, roller skies, or other recreational devices within the City of Carlton.
- 511.02.** **Definitions.** The following terms as used in this ordination, shall having meanings stated:
- A. “OPERATE” To ride on or upon or control the operation of skateboards, roller blades, roller skates, roller skies, or other recreational devices.
 - B. “OPERATOR” Every person who operates or is in actual physical control of skateboards, roller blades, roller skates, roller skies, or other recreational devices.
 - C. “Roller blades/roller skates” A shoe with wheels attached or a device with wheels which is designed to be attached to a shoe.
 - D. “Skateboard” A device for riding upon, usually standing, consisting of a piece of material mounted on wheels, usually oblong, mounted on wheels.
 - E. “Roller Ski” A device for riding upon, usually by standing, consisting of a piece of material mounted on wheels, normally operated in pairs, which simulates cross country skiing.
 - F. “Other recreational devices” Any additional devices used as a mode of transportation that are propelled by the operator.
- 511.03.** **Observation of Rules of the Road.** Any person who operates skateboards, roller blades, roller skates, roller skies, or other recreational devices on streets, roadways or highways within the city must observe the same rules of the road as required of bicycles pursuant to Minn. Stat. 169.222, Subdivisions 1,2,3,4 and 8.
- 511.04.** **Rule of Operation.** It shall be unlawful for any person to operate skateboards, roller blades, roller skates, roller skies, or other recreational devices under the circumstances set forth hereafter:
- A. On real property of another without the prior expressed permission to do so by the owner or lawful occupant of said property; or
 - B. In a careless, reckless, or negligent manner so as to cause or likely cause:
 - 1) a nuisance; or
 - 2) Endanger the safety of the operator or the safety of another or property; or
 - 3) Harass another person; or
 - 4) Damage the property of another.
 - C. In an aggressive manner on public property defined as:
 - 1) Jumping onto, over or from any fixture; or
 - 2) Performing tricks or acrobatics; or
 - 3) Sliding, as opposed to rolling on the wheels, along the surface or edge of any fixture with any part of the skateboard, roller blades, roller skates, roller skies or other recreational device; or

- 4) Performing any maneuver where the wheels of the skateboard, roller blades, roller skates, roller skies or other recreational device leave the ground, except where necessary to navigate a curb in a crosswalk.
- D. On Chestnut Avenue between the east lot line of 317 Chestnut Avenue and the west lot line of the lot(s) occupied by the Four Seasons Recreational Complex.

511.05.

Violations

- A. Any person who violates any paragraph, provision or subdivision of this Ordinance shall be cited and punished as a petty misdemeanor.
- B. Additionally, any Peace Officer or other person duly authorized by the City of Carlton who observes any person violating any of the provisions of this ordinance is authorized:
 - a) to give such person a verbal warning, and
 - b) Upon a second offense, to seize the offender's skateboard, roller blades, roller skates, roller skies or other recreational device and to hold for twenty-four hours from the time of seizure. In case of a minor offender, the article seized shall be returned only to a parent or guardian of such minor offender after twenty four hours have elapsed since the seizure.
 - c) Upon a third offense, the person violating shall be charged with a petty misdemeanor and the offender's skateboard, roller blades, roller skates, roller skies or other recreational device shall be held until the charge has been resolved by the Court. In a case of a minor offender, the article seized shall be returned only to the parent or guardian of such minor offender.

Any person aggrieved by such seizure may petition the City Council for a release of the recreational device. The City Council may release the device upon showing that the offender is likely to thereafter obey the provisions of this ordinance. The verbal warning described herein may also be given by an adult citizen of the City of Carlton.

CHAPTER 6 – ALCOHOLIC BEVERAGES

Part 1 Licensing and Regulation

- 601.01.** **ADOPTION OF STATE LAW.** Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, relating to the definitions of terms, licensing, consumption, sales, conditions of bonds and licenses, hours of sale, and all other intoxications liquor are adopted and made a part of this Ordinance as if set out in full.
- 601.02.** **CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.** The Council is authorized by the provisions of M. S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this ordinance, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M. S. Chapter 340A, as it may be amended from time to time.
- 601.03.** **DEFINITIONS.** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- ALCOHOLIC BEVERAGE.** “Alcoholic beverage” means any beverage containing more than one-half of one percent alcohol by volume.
- CITY.** “City” means the City of Carlton, Minnesota.
- APPLICANT.** “Applicant” means the person signing the alcoholic beverage license application form and, in the case of a partnership, association, corporation, or other legal entity, includes the business organization or other entity on behalf of which the application is made.
- LICENSE.** “License” means a document issued by the City to an applicant permitting him to carry on and to transact the business stated therein.
- LICENSEE.** “Licensee” means an applicant who, pursuant to the application therefore, holds a valid, current, unexpired, unrevoked license from the City for carrying on the business stated therein.
- LICENSE FEE.** “License fee” means the sum of money paid to the City pursuant to an application for and prior to the issuance of a license to transact and carry on the business stated therein.
- MINOR.** “Minor” means a person under the age of 18 years.
- UNDERAGE PERSON.** “Underage person” means a person under 21 years of age.
- RESTAURANT.** “Restaurant” means traditional or casual restaurant only.
- Traditional restaurant: An eating facility where full table service is provided at the table by wait staff whereupon a customer orders food from printed menus and the main food course is served and consumed while seated at a single location. The restaurants also have dining areas with formal or semi-formal decor and appointments utilizing traditional or reusable food utensils, plates, cups, and glasses. A traditional restaurant may provide additional incidental services such as food delivery and retail over-the-counter prepared food sales. In addition, the restaurant shall not be prohibited by law, private restrictive covenant, or otherwise from obtaining a full liquor license.
- Casual restaurant: An eating facility where some table service may be provided by wait staff, food is prepared after an order is placed by a customer, reusable dinnerware such as utensils, plates, and cups are used. Bussing of the tables is done by the restaurant staff.
- LICENSED PREMISES.** “Licensed premises” means the premises described in the approved license application.
- PUBLIC PLACE.** “Public place” means any land owned by any governmental unit or over which any governmental unit has an easement, including but not limited to, streets, alleys, sidewalks, parks, school grounds and parking areas.
- MOTOR VEHICLE.** “Motor vehicle” means any vehicle which is self-propelled, including cars, pickups, motorcycles, four-wheelers, three-wheelers, ATV’s and scooters. Motor vehicle does not include an electric personal assistive mobility device or a vehicle moved solely by human power.
- MINNESOTA LIQUOR ACT.** “Minnesota Liquor Act” or “Liquor Act” means the provisions contained in Minnesota Statutes, Chapter 340A, as amended.
- OFF-SALE.** “Off-sale” means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

ON-SALE. "On-sale" means the sale of alcoholic beverages for consumption on the licensed premises only.

SUNDAY-SALE. "Sunday-Sale" means the sale of liquor by glass for consumption on the premises on a Sunday in conjunction with the serving of food by the licensee, pursuant to a special license therefore issued by the City as authorized by state law.

LIQUOR LICENSE. "Liquor license" means an off-sale, on-sale or Sunday-sale license (or combination of licenses) for the sale of alcoholic beverages.

PACKAGE. "Package" means a sealed or corked container of an alcoholic beverage.

INTOXICATING LIQUOR. "Intoxicating liquor" means Ethyl alcohol, distilled, and fermented, spirituous, vinous and malt beverages containing more than 3.2% alcohol by weight.

3.2 PERCENT MALT LIQUOR. Malt liquor containing not less than 0.5% alcohol by volume or more than 3.2% alcohol by weight.

WINE. A beverage made by normal alcoholic fermentation of grapes, grape juice, other fruits or honey or a beverage made from other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, and sake, containing not less than 0.5% nor more than 24% alcohol by volume for nonindustrial use.

601.04. POSSESSION, CONSUMPTION OR DISPLAY IN PUBLIC PLACES.

(A) No person shall possess, consume or display any alcoholic beverage in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment and/or designated area licensed under this ordinance, in a municipal liquor dispensary if one exists in the city, or where the possession, consumption and display of liquor is lawfully permitted. This does not prohibit possession, consumption and display in public places where the City has issued a special or temporary permit allowing sale and consumption, or allowing possession, consumption and display.

(B) The City Council may issue a one-day permit for the consumption and display of intoxicating liquor under this section to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization. The permit must be approved by the commissioner and is valid only for the day indicated on the permit. The fee for the permit may not exceed \$25. A city may not issue more than ten permits under this section in any one year, pursuant to Minn.Stat. Sec. 340A.414, Subd. 9.

(C) Temporary on-sale licenses. The Council may issue in its sound discretion to a club or charitable, religious, or other nonprofit organization in existence for at least three years, a temporary license for the on-sale of intoxicating liquor in connection with a social event within the City sponsored by the licensee, pursuant to Minn. Stat. § 340A.404, Subd. 10(a). The license may authorize the on-sale of intoxicating liquor for not more than four consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by any municipality. The licenses are subject to the terms, including a license fee, imposed by the City. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except Minn. Stat. §§ 340A.409 and 340A.504, subd. 3(d), and those laws and ordinances which by their nature are not applicable. Licenses under this subdivision are not valid unless first approved by the commissioner of public safety.

(D) Temporary licenses; restrictions. The Council may not issue more than three four-day, four three-day, six two-day, or 12 one-day temporary licenses, in any combination not to exceed 12 days per year, under the provisions of this section, for the sale of alcoholic beverages to any one organization or for any one location, within a 12-month period, pursuant to Minn. Stat. §340A.410 Subd. 10(a).

(E) Any licensee under a permit or temporary license, for the possession, consumption or display of any alcoholic beverage in a public place, as a condition of receiving said license, shall first provide the City Clerk a certificate of insurance providing proof of liability and dram shop insurance in an amount of Five Hundred Thousand Dollars (\$500,000) per claim and One Million Dollars (\$1,000,000) in aggregate. The City will be added as a named insured on any such certificate, and licensee agrees to defend and

indemnify the city for any claims that arise as a result of such activity or event, and agrees to hold the City harmless regarding the same.

601.05. NUMBER OF LICENSES WHICH MAY BE ISSUED. State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this ordinance is limited to the number of licenses which have issued as of the effective date of this ordinance, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by Minnesota Statutes Chapter 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M. S. § 340A.413, subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that is has available.

601.06. TERM AND EXPIRATION OF LICENSES. Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms.

601.07. LICENSE FEES; PRO RATA.

(A) No liquor license fee or other fee established by the city under this ordinance shall exceed any limit established by M. S. § 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time by ordinance or resolution the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this ordinance. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M. S. § 340A.408, subd. 5.

601.08. LICENSES REQUIRED.

(A) **GENERAL REQUIREMENT.** No person, except manufacturers and wholesalers to the extent authorized under State License, shall directly or indirectly deal in, sell, keep for sale or deliver any in the City any alcoholic beverage without first having received a license to do so as provided in this Ordinance.

(B) **LICENSE TYPES.** Liquor licenses shall be of three (3) kinds: “on-sale”, “off-sale” and Sunday-Sale licenses.

(1) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under Section 7 shall not exceed \$200 or a greater amount which may be permitted by M. S. § 340A.408, subd. 3, as it may be amended from time to time.

(2) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M. S. § 340A.101, as it may be amended from time to time, and this ordinance: hotels, restaurants, bowling centers, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under Section 9 of this ordinance shall not exceed the amounts provided for in M. S. § 340A.408, subd.

2(b), as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M. S. § 340A.404, subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports, convention, cultural facility owned by the city, under the provisions of 340A.404, subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises. An Outside Services Permit is an extension to an On-Sale license and allows for the sale and consumption of alcoholic beverages in a designated “Outside Service Area” as described in Section 8(C)(3) below.

(3) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M. S. § 340A.504, subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant, as defined in Section 3 of this ordinance, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license which shall be established by the Council under the provisions of Section 9 of this ordinance, shall not exceed \$100, or the maximum amount provided by M. S. § 340A.504, subd 3(c) as it may be amended from time to time.

(4) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000 pursuant to M. S. § 340A.406.

(5) Temporary on-sale intoxicating liquor license (see M. S. § 340A.404, Subdivision 10).

(6) Temporary off-sale intoxicating liquor licenses (see M. S. § 340A.405, subdivision 4).

(C) **LICENSING PROCEDURE; RENEWALS.**

(1) Form. Every application for a license issued under this ordinance shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant’s age, representations as to the applicant’s character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(2) Financial responsibility. Prior to the issuance of any license under this ordinance, the applicant shall demonstrate proof of financial responsibility as defined in M. S. § 340A.409, with regard to liability under M. S. § 340A.801. This proof will be filed with the City Clerk and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to the requirements of M. S. § 340A.409. In addition, as a condition of receiving said license, all licensees will provide the City Clerk a certificate of insurance providing proof of liability and dram shop insurance in an amount of Five Hundred Thousand Dollars (\$500,000) per claim and One Million Dollars (\$1,000,000) in aggregate. The City will be added as a named insured on any such certificate and will be given Ten (10) days written notice prior to termination of any such policy. Operation of a business which is required to be licensed by this

ordinance without having on file with the city at all times effective proof of financial responsibility, including proof of liability and dram shop insurance, is cause for revocation of the license.

(3) DESCRIPTION OF PREMISES.

(a) The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk or portion thereof unless blocked off from the general public by a barrier wall or fence which is contiguous with and attached to the premises and which space contained therein is enclosed by said barrier on all sides and comprises an "Outside Smoking Area" or an "Outside Service Area" (defined below), either of which shall be accessible only to patrons of the licensee. Such barrier wall or fence may incorporate an entry/exit door or gate to the outside. Licensee is responsible to properly monitor and control any such entry/exit door or gate to ensure compliance with the provisions of this ordinance, and specifically with regard to Section 8(C)(3)(e) below.

(b) A licensed "on-sale" liquor establishment in the city may provide an area outside their premises (building) where patrons may smoke (Outside Smoking Area). The smoking area must be enclosed on all sides by a wall or fence. The entire designated area must be located at least the distance from the interior portion of the premises prescribed by the County of Carlton. The enclosure must be securely attached to the building. The designated area must not be enclosed across the top. Patrons may carry beverages purchased inside the licensed establishment directly to the smoking area and may consume them once in the designated area. No alcoholic beverages may be sold in the designated smoking area and the license holder may not carry or deliver alcoholic beverages to the designated smoking area, unless an Outside Services Permit has been approved and obtained from the City, specifically describing the exterior addition to the premises and designating it as an "Outside Service Area." The license holder must secure the city's prior approval regarding the location and construction of a designated smoking or service area. A sidewalk or improved walkway must lead directly from a public door in the licensed premises to the designated area. Patrons of the licensed establishments may smoke and consume alcoholic beverages only within a designated outside smoking/service area. Patrons may consume alcoholic beverages only within the licensed premises or within a designated outside smoking/service area.

(c) An outside smoking area will not be approved for use until the licensee provides the City with a valid certificate of liability and dram shop insurance as required in Section 8(C)(2) above, showing approved coverage for the consumption of alcoholic beverages in the outdoor smoking area.

(d) An Outside Services Permit will not be valid for use in an outside service area until the licensee provides the City with a valid certificate of liability and dram shop insurance as required in Section 8(C)(2) above, showing approved coverage for the serving and consumption of alcoholic beverages in the outside service area.

(e) Licensee shall monitor the approved premises, including any outside smoking area or any outside service area, and shall not allow or permit any person to remove from such premises any opened can, bottle, glass or other container in which any amount of alcoholic beverage remains for consumption, nor shall any underage person be allowed entry to the premises for consumption of the same.

(4) RENEWAL APPLICATIONS.

(a) *License period, expiration.* Each renewal license shall be issued for a maximum period of one year. All licenses, except temporary licenses, expire on December 31 of each year. Temporary licenses shall expire according to their terms. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee is guaranteed a license renewal. Failure by the Council to renew a license shall not be grounds for any claim or cause of action against the City.

(b) *Time of making application.* Applications for renewal of an existing license shall be made at least 30 days prior to the date of the expiration of the license, and shall state that everything in the prior applications remains true and correct except as otherwise indicated. The city will mail application forms to existing licensees approximately 60 days prior to expiration of the licenses. If, in the judgment of the Council, good and sufficient cause is shown by any applicant for failure to file for a renewal within the time period provided, the Council may, if the other provisions of this chapter are complied with, grant the application.

601.09. TRANSFER OF LICENSE. No license issued under this ordinance may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is grounds for revocation of the license. Any application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

601.10. INVESTIGATION. *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license.

601.11. HEARING AND ISSUANCE. The Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

601.12. RESTRICTION ON ISSUANCE.

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than one license shall be directly or indirectly issued within the city to any one person, or entity.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges or other financial claims of the city are delinquent or unpaid.

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be granted for use in premises located within 500 feet of any school or church. The distance is to be measured from the closest side of the church or school to the closest side of the structure on the premises within which liquor is to be sold.

601.13. CONDITIONS OF LICENSE. The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) Within 90 days after employment, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. Each licensee shall maintain order and sobriety with in the licensed premises. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises, without a warrant.

(D) Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.

601.14. COUNCIL DISCRETION TO GRANT OR DENY A LICENSE. The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant is guaranteed a license under this ordinance. Failure by the Council to renew a license shall not be grounds for any claim or cause of action against the City.

601.15. SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation or provision of this ordinance relating to liquor, as provided herein. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M. S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for employment of a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M. S. Chapter 340A, as it may be amended from time to time or any rules promulgated under that Chapter as they may be amended from time to time. Revocations shall occur within 60 days following a violation for which the revocation is imposed.

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of § 112.04, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

For the first violation within any three year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.

For a second violation within any three year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

For the third violation within any three year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

For a fourth violation within any three year period, the license shall be revoked.

The council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall cause an immediate suspension of any license issued pursuant to this ordinance or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this paragraph shall continue until the Council determines that the financial responsibility requirements of state law and this ordinance have again been met.

(D) The provisions of Section 15 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this ordinance.

(E) **GAMBLING ENFORCEMENT.** Every liquor license holder hosting a charitable gambling operation, shall include in the rental agreement with such gambling operator a provision to the effect that, if directed by the City of Carlton, such operator's right to operate on the leased premises may be suspended or revoked if the operator violates any applicable statute, ordinance or other applicable regulation. Any rental agreement between a liquor license holder and a charitable gambling operator shall be deemed to include such provision whether or not it is actually set forth in such rental agreement. Failure by a liquor license holder to suspend or revoke the gambling operator's right to operate on the premises, when directed by the City of Carlton to do so, shall be a violation of this ordinance by the liquor license holder which may result in suspension or revocation of the liquor license. If the City of Carlton directs the suspension or revocation of a gambling operator's right to operate, the City of Carlton shall indemnify and defend the liquor license holder from and against any claim of wrongful suspension or revocation of the operator's right to operate.

601.16. PENALTIES.

(A) Any person violating the provisions of this chapter or M.S. Chapter 340A, as it may be amended from time to time or any rules promulgated under that Chapter is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council may impose a civil penalty upon any license holder under the provision M.S. § 340A.415. Any civil penalty shall follow the presumptive civil penalty schedule set forth hereafter:

For the first violation within any three year period, \$500.

For the second violation within any three year period, \$1,000.

For the third and subsequent violations within any three year period, \$2,000 for each violation.

(C) The term "violation" as used in this section and in Section 15 includes any and all violations of the provisions of this ordinance, or of M.S. Chapter 340A, as it may be amended from time to time or any rules promulgated under that Chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three year period.

601.17. HOURS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time.

(B) No on-sale of intoxicating liquor or 3.2% malt liquor shall be made between the hours of 1:00 a.m. and 8:00 a.m., Monday through Saturday inclusive, unless the licensee has been granted the optional 2:00 a.m. liquor license by the City and the Commissioner of Public Safety. Neither shall any sale of such liquor be made on any Sunday between the hours of 1:00 a.m. and 10:00 a.m. (2:00 a.m. and 10:00 a.m. with optional 2:00 a.m. liquor license), nor after 8:00 p.m. on December 24th.

(C) No off-sale of intoxicating liquor shall be made before 8:00 a.m. or after 10:00 p.m.; Monday through Saturday inclusive and is prohibited on Sunday.

(D) No off-sale of intoxicating liquor or 3.2% malt liquor shall be made on New Year's Day, January 1; Thanksgiving Day; or Christmas Day, December 25th. On the evenings proceeding such days, if the sale of intoxicating liquor or 3.2% malt liquor is not otherwise prohibited on such evenings, off-sale of intoxicating liquor or 3.2% malt liquor may be made until 10:00 p.m. except that no off-sale of intoxicating liquor or 3.2% malt liquor shall be made on December 24th after 8:00 p.m.

(E) No person shall consume nor shall any on-sale licensee permit any consumption of any alcoholic beverage in on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(F) No on-sale licensee shall permit any glass, bottle or other container containing any alcoholic beverage to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(G) No person, other than the licensee and necessary employees, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(H) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

601.18. MINORS ON PREMISES.

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which any alcoholic beverages are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which alcoholic beverages are sold at retail on sale.

(B) No person under the age of 18 years may enter or be allowed to remain at a licensed establishment after 10:00 p.m. except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where alcoholic beverage is not sold unless the minor is accompanied by a parent or legal guardian patronizing the establishment for a specific social event. At no time are minors allowed to be seated at the bar or immediate serving area.

601.19. ILLEGAL ACTS OF POSSESSION.

(A) **UNDERAGE PERSONS.** It shall be unlawful for any:

(1) Licensee or employee thereof to sell or serve an alcoholic beverage to any underage person or to permit any underage person to consume an alcoholic beverage on the licensed premises.

(2) Person other than the parent or legal guardian to procure an alcoholic beverage for any underage person.

(3) Person to induce an underage person to purchase or procure an alcoholic beverage.

(4) Person to represent that an underage person is 21 years of age or older for the purpose of inducing any licensee or employee thereof to sell, serve or deliver any alcoholic beverage to the underage person.

(5) Underage person to claim to be 21 years of age or older for the purpose of obtaining alcoholic beverages.

(6) Underage person to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage.

(7) Underage person to purchase, attempt to purchase, or have another purchase for him or her any alcoholic beverage.

(8) Underage person to consume any alcoholic beverage unless in the household of his or her parent or guardian, and with the consent of the parent or guardian.

(9) Underage person to have in his or her possession any alcoholic beverage, with intent to consume same at a place other than the household of his or her parent or guardian. Possession of such alcoholic beverage at a place other than the household of his or her parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of the parent or guardian.

(B) **OPEN BOTTLE.** It shall be unlawful for any:

(1) Person to drink or consume an alcoholic beverage while in a private motor vehicle while said vehicle is upon a street or highway or upon any public land within the City.

(2) Person to have in his or her possession or anywhere within the passenger compartment of a private motor vehicle while said vehicle is upon a street or highway or upon any public land within the City, any bottle or receptacle containing an alcoholic beverage that has been opened, or the seal broken, except when removing the bottle or receptacle from a place within a parked vehicle which is not within the passenger compartment. "Passenger compartment" means the area of a vehicle normally occupied by the driver and passengers and includes any areas which are readily accessible by the driver and passengers sitting therein, including the glove compartment, center console storage area, dash board, front and rear floor areas and under seats. A vehicle's trunk, a pickup's box, or the floor area just

inside a van or SUV's rear hatch or door are not considered to be part of the passenger compartment.

601.20. SEPARABILITY OF PROVISIONS. It is the intention of the City Council that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

Part 2 Synthetic Drugs

AN ORDINANCE AUTHORIZING A STUDY AND IMPOSING A MORATORIUM ON BUSINESSES DEALING IN SYNTHETIC DRUGS IN THE CITY OF CARLTON

Preamble

WHEREAS, on the 19th day of August, 2013, at a regular city council meeting, proper notice (if any) being provided, the issue of whether the City should adopt or amend official controls (as defined in Minnesota Statute §462.352, Subd. 15) to address the zoning, permitting, construction or operation of businesses dealing in synthetic drugs, was introduced; and,

WHEREAS, a study is needed for the purpose of considering adoption or amendment of official controls for promoting the general health, safety and welfare of the people in the City, due to the known serious adverse health effects caused by such drugs, and the general nuisance such businesses and their clientele can create for the public, causing a negative impact on the health, safety, and welfare of the citizens of the City; and,

WHEREAS, the City Council has authority to adopt an Interim Ordinance/moratorium which will allow the City time to conduct a study to consider the possibility of adopting or amending official controls to fulfill the City's legal obligation to promote and protect the health, safety and welfare of its residents, and to protect the planning process:

NOW, THEREFORE, pursuant to Minnesota Statute §462.355, subdivision 4, the City Council of the City of Carlton does hereby ordain, as follows:

602.01. Definitions. Dealing in synthetic drugs means: the sale, trade, barter or exchange of any non-FDA approved chemical compound that mimics the effects of marijuana or the effects of psychoactive drugs with stimulant properties, whether advertised as bath salts, herbal incense, aromatic potpourri or other products labeled not for human consumption, but does not include food ingredients, alcohol, legend drugs, tobacco, or dietary supplements.

602.02 Study. A study is authorized to be conducted by the City Clerk's Office, the City Attorney's Office, and the Planning Department for the purpose of considering the adoption or amendment of official controls relating to the need for additional land use regulations addressing the development and operation of businesses dealing in synthetic drugs.

602.03 Moratorium/Prohibition. To protect the planning process, and to protect the health, safety and welfare of our citizens, the City Council of the City of Carlton hereby adopts an Interim Ordinance to impose a moratorium on businesses dealing in synthetic drugs, within the jurisdictional boundaries of the City of Carlton, prohibiting any such development or use.

602.04. Effective Date. This Interim Ordinance shall be effective August 22, 2013, or as soon thereafter following publication, and shall be in effect for one year or until the final adoption or amendment

of official controls to regulate development and operation of businesses dealing in synthetic drugs in the City of Carlton, whichever occurs first.

602.05. Penalty. A violation of this Ordinance will be considered to create a “public nuisance,” subject to criminal penalties as a misdemeanor and/or injunctive relief. Each day on which a violation occurs or continues shall be considered a separate offense.

PASSED by the City Council of the City of Carlton, Minnesota, August 19th, 2013.

CHAPTER 7 – TRAFFIC CODE

Part 1. Highways/Traffic Regulations

- 701.01. Speed Regulations:** No person shall operate or halt any vehicle upon a street or highway within the City of Carlton, Minnesota, carelessly or heedlessly in disregard of the rights or safety of others or in a manner so as to endanger or to be likely to endanger any person or property.
- No person driving a vehicle within this City of Carlton shall drive the same at a speed greater than is reasonable and prudent, having due regard to the traffic, the surface and the width of the highway, and of any other conditions then existing. Until the streets of this City of Carlton have been zoned as authorized by Chapter 464, Laws of Minnesota 1937, no vehicle shall be driven thereon at a speed in excess of THIRTY (30) MILES PER HOUR. After the streets of said City have been zoned and different speed zones established thereon, and the signs posted pursuant thereto, no vehicle shall be driven upon any street in said City at a speed greater than that indicated on such signs, and driving at any greater speed shall be prima facie evidence that the speed is not reasonable nor prudent and that it is unlawful. No person shall drive a vehicle at such a slow rate of speed or in a manner so as to willfully impede the normal flow of traffic.
- 701.02. Operating and Turning Vehicle:** Upon all highways within the City of Carlton of sufficient width, except upon one-way streets, or except upon those with four or more traffic lanes established and plainly marked thereon, the driver of a vehicle shall drive the same upon the right half of the traveled portion of the highway and shall drive slow moving vehicles as closely as possible to the right-hand edge or the curb of such highway unless it is impracticable to travel on such side of the highway and except when overtaking and passing another vehicle. No person shall stop or turn a vehicle or change from one traffic lane to another unless the same can be done with safety and without interfering with the normal flow of pedestrian and vehicle traffic, and such stop, change of position or turn shall always be indicated by the driver by extending his left arm horizontally to the left from and beyond the vehicle or by using an approved and efficient device to give such warning and by giving an audible warning by sounding the horn if the same is necessary to warn pedestrians at crossings.
- 701.03. Glass and other Injurious Substance on Highways:** No person shall throw or deposit glass, metal, garbage, tin cans, or any other similar substance upon any highway, and anyone who drops or throws, or permits to be dropped or thrown any such destructive or injurious substance shall immediately cause the same to be removed. Any wrecked or damaged vehicle on a street or roadway shall be removed therefrom without unreasonable delay, and pending removal shall be guarded with proper lights, equal in intensity to ordinary parking lights or by red flares; and when removed, no glass or injurious substance shall be left upon the street or roadway by the person removing said vehicle.
- 701.04. Stop Streets:** It shall be unlawful for the driver of any vehicle to fail to bring such vehicle to a full stop before entering any “Thru” street properly designated as such by the action of the City or by its duly authorized representatives.
- 701.05. Driver’s License – Vehicle Ownership:** No person shall drive a vehicle upon the streets of this municipality without having in this possession, as now required by the laws of the State of Minnesota, a State automobile driver’s license or chauffeur’s license. No person shall drive a motor vehicle belonging to another without the owner’s consent.

- 701.06.** It shall be unlawful for any person who is a habitual user of narcotic drugs or any person who is under the influence of intoxicating liquor or narcotic drugs to drive or operate any vehicle upon the streets or highways in the City of Carlton.
- 701.07** **Equipment - Use of:** No person shall drive a motor vehicle on any highway within the City, unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive and unusual noise, and it shall be unlawful to use a “muffler cut-out” on any motor vehicle upon any such highway.
- No vehicle shall be used upon any street in the City without lighting equipment, a windshield wiper, a rear vision mirror, a horn or other warning device, front and rear bumpers, brakes as required by Chapter 464, Laws of Minnesota, 1937. Lamps shall be lighted at all times when any such vehicle is operated upon the street of the City from a half hour after sunset to a half hour before sunrise and at any other time when there is not sufficient light to render persons and vehicles clearly discernible 500 feet ahead upon the highway.
- 701.08.** **Emergency Vehicles:** The provisions of this ordinance shall not apply to vehicles when operated with due regard for safety, under the direction of peace officers in the chase or apprehension of violators of the law or persons charged with or suspected of any such violation, nor to fire departments or fire patrol vehicles when traveling in response to a fire alarm, or to public ambulances in emergency use or service.
- When a fire alarm shall be sounded or when the warning device of any emergency vehicle shall be sounded, all vehicles upon the streets of the City shall draw to the right side of the street and permit such vehicle to pass. No vehicle of any kind shall precede fire apparatus to a fire using the same street that it is using. No vehicle shall follow fire apparatus at less than 500 feet nor be parked within the block where fire apparatus has stopped in answer to a fire alarm.
- 701.09.** **Pedestrians:** Whenever possible, pedestrians shall use the right half of crosswalks in crossing streets. Pedestrians shall cross streets subject to signals at controlled intersections. When traffic at intersections is not controlled, motor vehicles shall yield the right of way to pedestrians by changing their rate of speed or stopping if necessary when such pedestrians are in the intersection, but no vehicle shall pass another vehicle that has slowed down at a crosswalk for a pedestrian to pass. At any other point than a crosswalk, pedestrians shall yield the right of way to motor vehicles. This shall not relive the driver of any motor vehicle of the obligation to use due care. No person shall stand on a street in a roadway for the purpose of soliciting rides. Pedestrians walking upon a street or roadway shall walk near the left side of the roadway, giving way to oncoming traffic.
- 701.10.** **Penalty:** Any person convicted of violating any of the provisions of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine, as set in the Fine Schedule, and/or by imprisonment in the county jail, not to exceed the maximum as set by Minnesota Statutes.
- 701.11.** **Separability:** Every section, provision or part of this ordinance is declared separable from every other section, provision or part, and the holding of any section, provision or part hereof invalid shall not affect any other section, provision or part.

Part 2. Parking Regulations – Adoption of State Traffic Code

AN ORDINANCE REGULATING THE USE OF HIGHWAYS WITHIN THE VILLAGE OF CARLTON, INCORPORATING PROVISIONS OF THE STATE HIGHWAY TRAFFIC REGULATION ACT BY REFERENCE, AND IMPOSING PENALTY FOR THE VIOLATION THEREOF.

The Council of the Village of Carlton do ordain as follows:

- 702.01.** HIGHWAY TRAFFIC REGULATION ACT INCORPORATED BY REFERENCE. The regulatory provisions of Minnesota Statutes 1945, c. 169, as amended by Laws 1947, Chapters 114, 204, 428, 505, are hereby adopted as a traffic ordinance regulating the use of highways, streets and alleys within the City of Carlton and are hereby incorporated in and made a part of this ordinance as completely as if set out here in full.
- 702.02.** PARKING REGULATIONS. Every vehicle parked upon any street where there is a curb SHALL BE PARKED PARALLEL TO THE CURB AND WITH THE RIGHT-HARD WHEELS OF SUCH VEHICLE WITHIN TWELVE INCHES OF THE RIGHT-HARD CURB. On other streets a vehicle shall be parked to the right of the main traveled portion thereof and parallel thereto and in such a manner that it shall not interfere with the free flow of traffic thereon. This shall not apply, however, to any vehicle disabled upon any street, but every police officer of the City is authorized to require the person in charge thereof to move it to a place of safety and upon neglect or failure to do so, or in the case of any motor vehicle being left alone or abandoned in any such position, said officer is authorized to provide for the removal of such vehicle to the nearest convenient garage or other place of safe keeping.

No person shall park a vehicle or permit it to stand, whether attended or unattended, (upon any highway within the City) in any of the following places:

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within fifteen feet of a fire hydrant.
5. On a crosswalk.
6. Within twenty feet of a crosswalk at an intersection.
7. Within thirty feet upon the approach to any flashing beacon, "Stop" sign, or traffic-control signal located at the side of a roadway.
8. Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or marking.
9. Within fifty feet of the nearest rail of a railroad crossing.
10. Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance when properly sign-posted.
11. Alongside or opposite any street excavation or obstruction, when such stopping, standing, or parking would obstruct traffic.
12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
13. Upon any bridge or other elevated structure upon a highway, except as otherwise provided by ordinance.
14. At any place where official signs prohibit stopping.
- 14a. On the westerly side of Second Street from Chestnut Street to Cedar Street.

No person shall, for camping purposes, leave or park a house trailer on any street or the right of way thereof.

No person shall park a commercial vehicle of more than ONE TON capacity upon any of the following streets in said City, to-wit: Second, Third and Chestnut Streets; provided, however, that this shall not prohibit the parking of such vehicles for not more than a period of thirty (30) minutes along any such street for the purpose of having access to any property abutting thereon when such access cannot conveniently be secured from an alley or other side street. No vehicle shall be parked on any street for the purpose of displaying it for sale and no vehicle shall in any case be parked upon any street in any one place for a longer consecutive period than EIGHT (8) HOURS: PROVIDED THAT WHERE SUCH PARKING OCCURS ON A STATE TRUNK HIGHWAY AND AFTER SIGNS HAVE BEEN POSTED PURSUANT THERETO. VEHICLES SHALL NOT BE PARKED IN ANY ONE PLACE FOR A LONGER CONSECUTIVE PERIOD THAN TWO (2) HOURS FROM 8 A.M. TO 6 P.M. ON THE FOLLOWING STREETS, TO-WIT: Chestnut Street between First and Third Streets and on Third Street between North and School Streets.

702.03. **Congested Districts.** The City Council by resolution, or the Mayor in an emergency, may designate certain blocks to be known as congested districts wherein 30 minute, one hour or two hour limited parking zones may be designated and marked by appropriate signs in the zones so established. Such zones shall be established wherever necessary for the convenience of the public or to minimize traffic hazards and to permit a free flow of traffic. No persons shall park any vehicle in any limited parking zone between the hours of 8:00 o'clock a.m. and 6:00 o'clock p.m. on any weekday for a longer period than is specified on the sign marking such zone.

702.04. **Through Streets.** The City Council by resolution, or the Mayor in an emergency, may designate any street as a through street and any intersection as a stop intersection where necessary to preserve the free flow of traffic and to prevent accidents, and appropriate signs shall be posted at the entrance to such streets or intersections, but no trunk highway shall be designated as a through street and no intersection on a trunk highway shall be designated as a stop intersection unless the consent of the Commissioner of Highways to such designation is first secured. Every driver of a vehicle shall bring his vehicle to a full stop before entering any established street or intersection properly designated and posted.

702.05. **One-Way Streets.** The City Council by resolution, or the Mayor in an emergency, may designate one-way streets where necessary to preserve the free flow of traffic and to prevent accidents, and appropriate signs shall be posted at the entrances to such streets indicating in which direction lawful vehicular traffic shall move. No person shall operate any vehicle on a street designated and sign posted for one-way traffic as a one-way street in a direction opposite to that permitted on such street.

702.06. **Winter Parking**

- (1) Enforcement Period.** During the period from November 1 to March 31 of each year, no person, persons, firm or corporation shall park any motor vehicle on the streets, alleys, boulevards, sidewalks or public grounds within the corporate limits of said City between the hours of three (3) o'clock A.M. and six (6) o'clock A.M
- (2) Impoundment.** A motor vehicle found to be in violation of this section is subject to removal to an impound lot at the owner's expense, by a towing authority authorized by the City, an only at the direction of a peace officer who has prepared, in addition to a parking citation, a written towing report describing the motor vehicle and the reasons for towing, in accordance with Minn. Stat. 168B.035. Towing and storage fees are in addition to any fine otherwise imposed for the violation of this section. Such vehicle shall not be released until the fine and the fees for towing and storage are paid.

- 702.07.** PENALTY. Any person, persons, firm or corporation found to be in violation of any of the prohibition contained in these Parking Regulations shall be guilty of an administrative offense payable to the City at City Hall according to the City fine schedule, or if not resolved, to be filed with the District Court as a petty misdemeanor and, upon conviction, shall be punished by a fine up to the maximum provided by Minnesota Statute for petty misdemeanor offenses, together with costs of prosecution and required court fees.
- 702.08.** SEPARABILITY. Every section, provision, or part of this ordinance is declared separable from every other section, provision or part, and the holding of any section, provision or part hereof invalid shall not affect any other section, provision or part.

Part 3. Open Bottle

AN ORDINANCE RELATING TO TRAFFIC REGULATIONS, PROHIBITING THE DRINKING OF INTOXICATING LIQUORS AND NON-INTOXICATING MALT LIQUORS IN MOTOR VEHICLES ON HIGHWAYS, AND PROHIBITING THE CARRYING OF OPEN BOTTLES OR RECEPTACLES IN MOTOR VEHICLES ON HIGHWAYS EXCEPT UNDER CERTAIN CIRCUMSTANCES AND PROVIDING PENALTIES”.

The Village Council of the Village of Carlton do hereby ordain as follows:

- 703.01.** No person shall drink or consume intoxicating liquors or non-intoxicating malt liquors in any motor vehicle when such vehicle is upon a public highway or street within the limits of the City.
- 703.02.** No person shall have in his possession on his person while in a private motor vehicle upon a public highway or street within the limits of the City, any bottle or receptacle containing intoxicating liquor or non-intoxicating malt liquor which has been opened, or the seal broken, or the contents of which have been partially removed.
- 703.03.** It shall be unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or street within the limits of the City, any bottle or receptacle containing intoxicating liquors or non-intoxicating malt liquors which has been opened, or the seal broken, or the contents of which have been partially removed except when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers.
- 703.04.** Whoever violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine as set in the Fine Schedule, and/or imprisonment in the County Jail not to exceed the maximum as set by Minnesota Statutes, plus the costs of prosecution in either case.

Part 4. Exhibition of Speed

AN ORDINANCE REGULATING THE USE OF MOTOR VEHICLES IN THE CITY OF CARLTON

The City Council of the City of Carlton does ordain as follows:

- 704.01.** No person shall start or accelerate any motor vehicle with an unnecessary exhibition of speed on any public or private driveway within the City. Prima Facia evidence of such unnecessary exhibition of speed shall be squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by the tires of said vehicle or both.
- 704.02.** Penalty. Any person violating any provision of this Ordinance shall be guilty of a petty misdemeanor and shall be punished by a fine as set in the Fine Schedule.

Part 5. Trailers on City Streets, Alleys and Thoroughfares

AN ORDINANCE RELATING TO PARKING OF MOTOR VEHICLES, BOATS AND TRAILERS UPON CITY STREETS, ALLEYS AND THOROUGHFARES

The Council of the City of Carlton does hereby ordain:

- 705.01.** The term “semi-truck” shall include any semi-truck, semi-tractor and semi-truck/tractor/trailer combination or any motor vehicle or instrument pushed, pulled or driven by a motor vehicle, the primary use of which is the production of income of its owner, possessor or lessee. Any truck pulling a trailer used for commercial purposes shall be included in the definition of “semi-truck.”
- The term “self-propelled camper” shall include any motor vehicle of any type operated on wheels, which is capable of being self-propelled which is used for temporary or permanent habitation.
- The term “straight truck” shall include any truck used for commercial purposes which is large than a van or pickup truck.
- The term “non-self-propelled camper” shall include pickup campers not mounted on a pickup truck, tent campers and other structures used for temporary or permanent habitation which are not self-propelled campers.
- 705.02.** No semi-truck used for transportation of petroleum products or other hazardous materials shall be parked upon any street, alley or thoroughfare or public ground, except when loading or unloading products being, or to be, transported.
- 705.03.** No semi-truck shall be parked upon any City street, alley, thoroughfare or public ground for more than one hour. A semi-truck normally used for transportation of petroleum products which is empty may also be parked upon any city Street, alley, thoroughfare or public ground for up to one hour.
- 705.04.** Any property owner lawfully parking a semi-truck, on private property, prior to the original date of passage of this ordinance , which said act becomes unlawful because of rezoning of such property shall be entitled to continue such usage during the period of time such property owner continues to own such property. Abandonment of such usage for a continuous period of one year shall terminate the right of such property owner to thereafter continue such usage.

- 705.05.** No semi-truck lawfully parked in the City of Carlton may run its engine, whether or not such engine is used to propel the vehicle, for more than 30 minutes in any three hour period.
- 705.06.** No self-propelled camper may be parked upon any city street, alley or thoroughfare or public ground for more than seven (7) days, or major part thereof, in any calendar year.
- 705.07.** No non-propelled campers, boats or boat trailers may be parked upon any city street, alley, thoroughfare or public ground, except when being loaded or unloaded.
- 705.08.** No truck, care or any vehicle shall be parked upon any public street, alley, thoroughfare or public ground or vacant lot in the City of Carlton for more than 24 consecutive hours, if said vehicle is a “dead storage” vehicle or a vehicle under repair. Dead storage vehicle, for the purpose of this section, is any vehicle absent any major parts or absent a tire or wheel or otherwise disabled.
- 705.09.** No motor vehicle of any kind may be parked upon a sidewalk in the City of Carlton, except for brief periods of time when loading or unloading, and shall be so parked so as not to obstruct pedestrian traffic unnecessarily. Any straight truck or semi-truck may be parked on a City street or thoroughfare at a job site during the duration of a particular job, provided that such vehicle shall be parked in such manner as to not obstruct the orderly flow of vehicular or pedestrian traffic.
- 705.10.** Penalty. Any person, firm or corporation violating this Ordinance shall be guilty of a petty misdemeanor and, upon conviction, shall be punished by the fine provided by Minnesota Statute for petty misdemeanor offenses, together with costs of prosecution.

Part 6. Snowmobiles and All-Terrain Vehicles

AN ORDINANCE REGULATING AND CONTROLLING THE USE OF SNOWMOBILES AND ALL TERRAIN VEHICLES.

The City Council of the City of Carlton Ordains:

- 706.01.** Intent. It is the intent of this ordinance to supplement Minnesota Statutes, Section 84.81 through 84.88 as amended and Minnesota Statutes Chapter 169, with respect to the operation of snowmobiles and all-terrain vehicles. Such statutes are incorporated herein by reference. This section is not intended to allow what the statutes prohibit.
- 706.02.** Definitions.
- Subd. 1. For the purpose of this ordinance, the terms defined herein shall have the meaning ascribed to them.
- Subd. 2. “Person” includes an individual, partnership, corporation, the state and its agencies and subdivision, and any body of persons, whether incorporated or not.
- Subd. 3. “Snowmobile” means a self-propelled vehicle designed for travel on snow or ice, steered by skis or runners.
- Subd. 4. “All Terrain Vehicle” or “ATV” or “Recreational Vehicle” refers to self-propelled vehicles of the kinds known variously as “trail bikes”, “dirt bikes”, “mini bikes”, “three wheelers”, “four wheelers”, amphibious vehicles and similar devices other than snowmobiles used at least partially for travel on natural terrain.

Subd. 5. "Owner" means a person, other than a lien holder having the property in or title to snowmobile or ATV entitled to the use or possession thereof.

Subd. 6. "Operate" means to ride in or on and control the operation of a snowmobile or ATV.

Subd. 7. "Operator" means every person who operates or is in actual physical control of a snowmobile or ATV.

Subd. 8. "Deadman throttle" or "Safety throttle" means a device which when pressure is removed from the engine, accelerator, or throttle, causes the motor to be disengaged from the driving mechanism.

Subd. 9. "Natural Terrain" means areas other than roadways or driveways (private or public), parking lots and other areas the surface of which has been intentionally modified for motor vehicle operation thereon.

706.03.

Except as herein specifically permitted and authorized, it is unlawful for any person to operate a snowmobile or ATV not licensed as a motor vehicle within the limits of the City of Carlton:

- 1) On the portion of any right of way of any public highway, street, road, trail or alley used for motor vehicle travel, except that a snow mobile may operate upon the most right hand lane of a municipal street or alley and may in passing or making a left turn operate on other lanes which are used for vehicle traffic in the same direction. Snowmobiles traveling together or being driven in the same direction must travel in single file. It shall be unlawful for 2 or more snowmobiles to travel abreast on any street within the City of Carlton. Snowmobiles may also be operated upon the ditch bottom or the outside bank of trunk, county state-aid and county highways where such highways are so configured within the corporate limits.
- 2) On a public sidewalk provided for pedestrian travel.
- 3) On boulevards within any public right of way.
- 4) On private property of another without specific permission of the owner or person in control of said property.
- 5) Upon any school grounds except as permission is expressly obtained from responsible school authorities.
- 6) On any other public place or grounds including parks, golf courses, cemeteries, parking lots, airport runways, etc.
- 7) On streets as permitted by this ordinance as a speed exceeding 15 miles per hour.
- 8) During the hours from 10:00 p.m. to 7:00 a.m. unless entering or leaving the City by the most direct route and at a speed not in excess of 15 miles per hour.
- 9) At any place in a careless, reckless or negligent manner or needlessly in disregard of the rights or safety of others, or in a manner so as to endanger

or be likely to endanger or cause injury or damage to any person or property.

- 10) At any place while under the influence of alcohol or drugs as defined in M.S.A. 169.121, which is hereby incorporated herein by reference.

706.04. City traffic ordinances shall apply to the operation of snowmobiles upon streets and highways, except for those relating to required equipment, except for those which by their nature have no application.

706.05. No snowmobile shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right of way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.

706.06. **Persons under 18.**

Subd. 1. No person under 14 years of age shall operate on streets or make a direct crossing of a city street as the operator of a snowmobile. A person 14 years of age or older, but less than 18 years of age, may operate a snowmobile on streets as permitted under this ordinance and make a direct crossing of such streets only if he has in his immediate possession a valid snowmobile safety certificate issued by the commissioner of natural resources as provided by M.S. 84.86.

Subd. 2. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this section.

706.07. It is unlawful for any person to operate a snowmobile within the limits of the City of Carlton:

- 1) So as to tow any person in a public street or highway except through use of a rigid tow bar attached to the rear of the snowmobile.
- 2) Within 100 feet of any fisherman, pedestrian, skating rink or sliding area where the operation would conflict with use or endanger other persons or operation.

706.08. It is unlawful for any person to operate a snowmobile any place within the limits of the City of Carlton unless it is equipped with the following:

- 1) Brakes adequate to control the movement of and to stop and hold the snowmobile under any condition of operation.
- 2) Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, bypass, straight pipe or similar device on a snowmobile or ATV motor.
- 3) A safety or so-called "deadman" throttle in operating condition.
- 4) When operated between the hours of one-half hour after sunset to one-half hour before sunrise or at times of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. Such head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. It shall also be equipped with at least one red tail

lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during hours of darkness and under normal atmospheric conditions, both of which must be operating when the machine is in operation.

- 5) Reflective material at least 16 square inches on each side, forward of the handlebars so as to reflect lights at a ninety degree angle.

706.09. Every person leaving a snowmobile on a public place shall lock the ignition, remove the key and take the same with him.

706.10. **Emergencies.** Notwithstanding the prohibition of operating a snowmobile upon a roadway to the contrary, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time when, at locations where, snow upon the roadway renders travel by automobile impractical.

706.11. **Signal from Officer to Stop.** It is unlawful for a snowmobile operator, after having received a visible or audible signal from any law enforcement officer to come to a stop, to (1) operate a snowmobile in intentional disregard of such signal or (2) interfere with or endanger the law enforcement officer or any other person or vehicle, or (3) increase his speed or attempt to flee or elude the officer.

706.12. **Penalties.** Any person violating any provision of this ordinance shall upon conviction be guilty of a misdemeanor and shall be punishable as provided by law.

706.13. **Separability.** Should any section, subdivision, clause or other provision of this ordinance be held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part held to be invalid.

Part 7. Prohibiting Excessive Vehicle Noise

AN ORDINANCE PROHIBITING EXCESSIVE VEHICLE NOISE, INCLUDING NOISE FROM TRUCKS USING ENGINE RETARDING BRAKES, AND ADOPTING BY REFERENCE MINNESOTA STATUTES SECTIONS 169.69 AND 169.693 AND MINNESOTA RULES PARTS 7030.1000 TO 7030.1050.

The City Council of the City of Carlton ordains:

- 707.01.** **Definition.** For the purposes of this ordinance, the following phrases are defined as follows:
- A. “Engine retarding brake” shall mean a Dynamic Break, Jake Break, and Jacobs Brake, C-Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.
 - B. “Abnormal or excessive noise” shall mean (a) distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property’s value; (b) noise in excess of that permitted by Minnesota Statutes Section 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order, or (c) noise in excess of what permitted by Minnesota Statutes Section 169.693 and Minnesota Rules parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which established motor vehicle noise standards.
- 707.02.** It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.
- 707.03.** It shall be unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.
- 707.04.** Minnesota Statutes Sections 169.69 and 169.693 (motor vehicle noise limits) and Minnesota Rules parts 7030.1000 through 7030.1050, as these statutes and rules may be amended from time to time, are hereby adopted by reference.
- 707.05.** Signs stating “VEHICLE NOISE LAWS ENFORCED” may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this ordinance, except that no sign stating “VEHICLE NOISE LAWS ENFORCED” shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this ordinance are in full force and effect even if no signs are installed.
- 707.06.** It is the intention of the City Council that all future amendments to any statutes and rules referenced or adopted by reference in this ordinance are also referenced or adopted by reference as if they had been in existence at the time this ordinance was adopted.
- 707.07.** Any person, firm or corporation who violates any provision of this ordinance shall, upon conviction, be guilty of a petty misdemeanor and punished by a fine as set forth in the fine schedule, not to exceed the maximum as set by Minnesota Statutes.

Part 8 Abandoned Motor Vehicles

Subd. 1. Impoundment and sale.

The county sheriff's department shall take into custody and impound any abandoned motor vehicle as defined by Minn. Stat., 1688.02,

Subd.2. It shall give notice of the taking as provided by law and if the owner or any lien holder does not reclaim the vehicle within the period provided by law, it shall provide for the sale of the vehicle to the highest bidder at public auction or sale following two weeks' published notice.

Subd. 2. Summary action in certain cases.

When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale under Subdivision 1 and shall not be subject to the notification, reclamation, or title provisions of Minn. Stat. 168B.01 to 168.13.

Subd. 3. Disposition of proceeds.

The proceeds of the sale of an abandoned motor vehicle shall be placed in the general fund of the city. If the former owner or entitled lien holder makes application and furnishes satisfactory proof of ownership or lien interest within 90days of the sale, the former owner shall be paid the proceeds of the sale of the vehicle less the cost of towing, preserving ,and storing the vehicle and all administrative, notice, and publication costs incurred in its handling.

Part 9. Abandoned Property

709.01. Other abandoned property

Subd 1. Procedure.

All other property lawfully coming into the possession of the city shall be disposed of as provided in this section.

Subd. 2. Storage.

The department of the city acquiring possession of the property shall arrange for its storage. If city facilities for storage are unavailable or inadequate, the department may arrange for storage at privately owned facilities.

Subd. 3. Claim by owner.

The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.

Subd. 4. Sale.

If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the sheriff's department after two weeks' published notice setting for the time and place of the sale and property to be sold.

Subd.5. Disposition of proceeds

The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of owner ship within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

CHAPTER 8 – NUISANCES/OFFENSES

Part 1. Nuisances – Weapons – Animals – etc.

AN ORDINANCE DEFINING NUISANCES AND PROVIDING PENALTIES FOR THE COMMISSION THEREOF AND REPEALING INCONSISTENT ORDINANCES.

801.01 Public Nuisances Defined

Whoever by his act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance.

- (1) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (3) is guilty of any other act or omission declared by law or this ordinance to be a public nuisance and for which no sentence is specifically provided.

801.02. Public Nuisances Affecting Health

The following are hereby declared to be nuisances affecting health:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Carcasses of animals not buried or destroyed with 24 hours after death;
- (5) Accumulations of manure, refuse, or other debris;
- (6) Privy vaults and garbage cans which are not rodent free or fly tight or which are so maintained as to constitute a health hazard or emit foul or disagreeable odors;
- (7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- (8) All noxious weeds and other rank growths of vegetation upon public or private property;
- (9) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- (10) Open or controlled burning in violation of State Statutes and Regulations.
- (11) Any offensive trade or business as defined by Statute not approved by the City Council.

801.03. Public Nuisances affecting Peace and Safety

- (1) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;
- (2) All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;
- (3) All wires, limbs of trees which are so close to the surface of the sidewalk or street as to constitute a danger to pedestrians or vehicles;
- (4) All unnecessary noises and annoying vibrations; quiet hours will be begin at 10:00pm Monday thru Thursday and at 11:00pm on Friday and Saturday. A maximum of four (4) exception permits can be requested for special events each year. Special circumstances approved by City Council may allow for more than four (4) events each year.
- (5) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this code or other applicable law;
- (6) Radio aerials or television antennae erected or maintained in a dangerous manner;

- (7) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks;
- (8) All hanging signs, awnings, or other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- (9) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- (10) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or walkway;
- (11) All dangerous, unguarded machinery in any public place or so situated or operated on private property as to attract the public;
- (12) Waste Water or Storm Water cast upon or permitted to flow upon streets or other public property;
- (13) Accumulations, in the open, of discarded or disused machinery, household appliances, automobile bodies, or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or to fire, health or safety hazards from such accumulation or from the rank growth of vegetation among the items so accumulated; The accumulation of dirt, litter, or debris, trash, garbage, packing boxes, lumber, junk, salvage materials, broken or discarded furniture, household equipment and furnishings or shopping carts.
- (14) Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child coming on the premises where it is located;
- (15) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch, with trash or other materials;
- (16) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance;
- (17) The depositing of garbage or refuse or litter on a public right-of-way or on adjacent private property;
- (18) Except for a police officer in the performance of duty, the discharge of any gun, pistol or firearm of any description or the carrying of any such weapon unless it is dismantled or broken apart or carried in a case in such a manner that it cannot be discharged. This subdivision does not prevent the carrying of a handgun within the City under a permit subject to the restrictions imposed by law; ; except hunting is permitted **North** of the Canal during Minnesota legal firearm hunting season in the pursuit of legal game;
- (19) The shooting of a bow and arrow in an R-1 or R-2 Residential District, except on school property by students of an archery class, provided that an adult instructor is present at all times and that proper discretion is used to insure the safety of all concerned;
- (20) The keeping, maintaining or harboring within the City of Carlton, **except** in an R-3 Residential District any of the following animals;
 - A. Any animal or species prohibited by Minnesota or Federal law.
 - B. Any farm animals. "Farm Animals" means cattle, horses, ponies, mules, donkeys, sheep, goats, swine and other animals that are typically or customarily kept for purposes of agriculture and/or farm animal husbandry.
 - C. Any poultry. "Poultry" means chickens (allowed in R1 and R2 with approval from City Council), ducks, geese, pigeons, turkeys, guinea fowl, peafowl, pheasants, quail, emus, ostriches, and all other domestic or non-domestic fowl.
 - D. Any non-domestic animal. Non-domestic is defined as any animal other than house cats (*Felis Domesticus*) dogs (*Canis Familiaris*) or any other creatures generally referred to as domestic pets and which must be kept at all times within the residence, including but not limited to birds, hamsters, lizards, non-poisonous snakes, fish, etc., which are generally docile in nature which can be reasonably expected to be safe to keep and not obviously capable of inflicting serious harm to any person.
 - E. Any domestic/wild Canidae Family crossbreeds, such as crossbreeds between dogs and coyotes, dogs and wolves, etc.
 - F. Any animal of a ferocious or vicious nature, habit or disposition or any animal wild by nature.

- G. Any other animal which is not listed explicitly above but which can be reasonably defined by the terms in the hereby amended subsection 20 A through F.
- 21) The keeping of any dog, cat or other animal in an unsanitary place or condition or in a manner resulting in objectionable odors or in such a way as to constitute a nuisance or disturbance by reason of barking, howling, fighting, or other noise, or in such a way as to permit the animal to annoy, injure or endanger any person or property;
- (22) The keeping of more than 2 dogs or cats over six months of age on anyone premises except at a bona-fide commercial kennel;
- (23) The failure to provide an animal with sufficient and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment;
- (24) All other conditions or things which are likely to cause injury to the person or property of anyone.

801.04. - Public Nuisances Having a Blighting Effect.

It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted or undesirable neighborhoods, so as to be harmful to the public welfare, health and safety.

- (1) In any area, the storage or accumulation of junk, trash, rubbish, or refuse of any kind. The term "junk" shall include parts of machinery or motor vehicles, unused stoves or other appliances, stored in the open, remnants of wood; decayed weathered or broken construction materials no longer suitable for sale, approved building materials; metal or other cast off material of any kind, whether or not the same could be put to any reasonable use.
- (2) In any area the existence of any structure or part of any structure which because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling or useful for any other purpose for which it may have been intended.
- (3) In any area the existence of any vacant dwelling, garage, or other out-building unless such buildings are kept securely locked, windows kept glazed or neatly boarded up or otherwise protected to prevent entrance thereto by vandals, and buildings which are presently occupied or unoccupied which are unpainted or where the paint on the building exterior is mostly worn off.
- (4) Graffiti which remains on the exterior of any building, fence, structure or natural feature for an unreasonable period of time.

801.05 – Public Nuisances Affecting Morals and Decency

- (1) All unlawful and unlicensed gambling devices, slot machines and punch boards;
- (2) Betting through bookmaking and all apparatus used in the operations;
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- (4) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxication liquor, or where intoxication liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place;
- (5) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.
- (6) No manufacture of Synthetic Drugs and/or illegal unlicensed drugs.
- (7) All unlawful and unlicensed gambling devices, slot machines and punch boards;
- (8) Betting through bookmaking and all apparatus used in the operations;
- (9) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- (10) No manufacture of Synthetic Drugs and/or illegal unlicensed drugs.

Part 2. Enforcement, Abatement, Recovery of Cost, Penalties

802.01 - Enforcement

The City Councilor its members, Public Works Superintendent, Carlton County Sheriff's Department, City Clerk, Building Official and Fire Chief shall have the authority to enforce the provisions of this Ordinance. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

802.02 - Abatement

Whenever an officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the officer shall notify in writing the owner and occupant of the premises of such fact and shall order that such nuisance be terminated or abated. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown or his location is not known, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding thirty (30) days, within which the nuisance is to be abated. Additional time may be granted by the enforcement officer when bona-fide efforts to remove or eliminate such nuisance are in progress.

If the notice is not complied with within the time specified, the enforcing officer may provide for abating the nuisance by the City.

802.03 - Recovery of Cost

The owner of the premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official designated by the Council shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

On or before September 1 of each year, the Clerk shall list the total unpaid charges for each abatement, against each separate lot or parcel to which they are attributable under this ordinance. The Council may then spread the charges or any portion thereof against the property involved as a special assessment.

802.04 - Penalties

Any person violating any provision of this ordinance, or any provision of any statute adopted by the ordinance by reference, shall upon conviction be guilty of a misdemeanor and shall be punished as provided by law.

CHAPTER 9 – LAND USAGE

Part 1. Housing Code

HOUSING ORDINANCE REGULATING SUPPLIED FACILITIES, MAINTENANCE AND OCCUPANCY OF DWELLINGS AND DWELLING UNITS WITHIN THE CITY OF CARLTON

An Ordinance establishing minimum standards governing the condition and maintenance of dwellings, establishing minimum standards governing supplied utilities and facilities and other physical things and conditions essential to make dwellings safe, sanitary, and fit for human habitation, establishing minimum standards governing the condition of dwellings offered for rent, fixing certain responsibilities and duties of owners and occupants of dwellings; authorizing the inspection of dwellings and fixing penalties for violations.

WHEREAS, in the City of Carlton, there are, or may in the future be, dwelling structures which are so dilapidated, unsafe, dangerous, unhygienic, or insanitary as to constitute a menace to the health and safety of the people of the City of Carlton;

BE IT THEREFORE Ordained by the City Council of the City of Carlton as follows;

901.01. Definitions

Scope: Unless otherwise expressly stated, the following shall, for the purpose of this code, have the meanings indicated in this section. Where the terms are not defined in this section and are defined in the Carlton Building or Zoning Ordinances, they shall have the meanings ascribed to them as in those ordinances. Where terms are not defined in this section or in the building code, they shall have the meaning ascribed to them by their ordinarily ascribed meanings or such as the context here may imply.

- 1 **Basement** shall mean a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.
- 2 **Building Official** - shall mean the officer or other designated authority charged with the administration and enforcement of this code, or his authorized representative.
- 3 **Cellar** shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.
- 4 **Dwelling** shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants. Provided that temporary housing as hereafter defined shall not be regarded as a dwelling.
- 5 **Dwelling Unit** shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.
- 6 **Extermination** shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination method approved by the building official.
- 7 **Garbage** shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.
- 8 **Habitable Room** shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets, and storage spaces.

- 9 **Infestation** shall mean the presence, within or around the dwelling, of any insects, rodents or other pests.
- 10 **Occupant** shall mean any person, over the age of 1 year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.
- 11 **Operator** shall mean any person who has charge, care, or control of a building, or part thereof, in which dwelling units or rooming units are let.
- 12 **Ordinary Minimum Winter Conditions** shall mean the temperature is 15°F above the lowest recorded temperature for the previous 10-year period.
- 13 **Owner** shall mean any person who, alone or jointly or severally with others:
- (a) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
 - (b) Shall have charge, care or control of a dwelling or dwelling unit as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any such person representing the actual owner shall be bound to comply with the provisions of this ordinance, and the rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.
- 14 **Person** shall mean and include any individual, firm, corporation, association, or partnership.
- 15 **Plumbing** shall mean and include all of the following supplied facilities and equipment: Water heating facilities, water pipes, gas pipes, garbage and disposal units, waste lavatories, bathtubs, shower baths, installed clothes washing machines, or other similarly supplied fixtures together with all connections to water, sewer, gas or vent lines.
- 16 **Rooming House** shall mean any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, sister or brother of the owner or operator.
- 17 **Rooming Unit** shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living, sleeping, but not cooking or eating purposes.
- 18 **Rubbish** shall mean combustible and non-combustible waste materials, except garbage; and the term shall include, but not be limited to the residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, glass crockery, and dust.
- 19 **Supplied** shall mean paid for, furnished, or provided by or under the control of, the owner or operator.
- 20 **Temporary Housing** shall mean any tent, trailer, or other structure used for human shelter which is designated to be transportable and which is not attached to the ground, to another structure, or to any utilities systems on the same premises for more than 30 consecutive days.

901.02. Environmental Requirements

Scope: The provisions of this section shall govern the minimum conditions of property and buildings to be used for human occupancy. Every building or structure occupied by humans, and the premises on which it stands, shall comply with the conditions herein prescribed as they apply thereto.

Subd. 1. Exterior Property Areas

No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling unit for the purpose of living therein; or premises, which does not comply with the following requirements. The building official of the City of Carlton may cause periodic inspections to be made upon request of the occupant, owner, or any other interested person to secure compliance with these requirements.

- a) **Sanitation** - All exterior property areas shall be maintained in a clean and sanitary condition free from the accumulation of garbage or rubbish.
- b) **Grading and Drainage** - All premises shall be graded and maintained, if feasible and practical to do so without undo financial burden, so as to prevent the accumulation of stagnant water thereon, or within any building or structure located thereon.
- c) **Noxious Weeds** - All exterior property areas shall be kept free from species of weeds or plant growth which are noxious or detrimental to the public health.
- d) **Insects and Rodents** - Every owner of a dwelling or multi-family dwelling shall be responsible for the extermination of insects, rodents, vermin, or other pests in all exterior areas of the premises; except that the occupant shall be responsible for such extermination in the exterior areas of single-family dwellings. Whenever infestation exists in the shared or public parts of the premises of other than a single-family dwelling, extermination shall be the responsibility of the owner.
- e) **Accessory Structures** - All accessory structures including detached garages shall be maintained in structurally sound condition and in good repair.

Subd. 2. Exterior Structure

No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling or multi-family dwelling, dwelling unit, rooming house, rooming unit, or portion thereof for the purpose of living therein; which does not comply with the following requirements:

- a) **Foundations, Walls and Roof** - Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition as to exclude rodents.
- b) **Foundations** - The foundation elements shall adequately support the building at all points.
- c) **Exterior Walls** - Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain, or dampness to the interior portion of the walls or interior portion of the building.
- d) **Roofs** - The roof shall be structurally sound, tight and have no defects which might admit rain; and roof drainage shall be adequate to prevent rain water from causing dampness in the walls or interior portion of the building.
- e) **Stairs, Porches and Railings** - Stairs and other exit facilities shall be adequate for safety and shall comply with the following subsections:
 - 1 **Structural Safety** - Every outside stair, every porch, and every appurtenance attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected as required by the building code; and shall be kept in sound condition and good repair.
 - 2 **Handrails** - Where the building official deems it necessary for safety, every flight of stairs, which is more than two (2) risers high shall have a handrail which shall be located

as required by the building code; and every porch which is more than two (2) risers high shall have handrails so located and of such design as required by the building code. Every handrail and balustrade shall be firmly fastened and shall be maintained in good condition.

Subd 3. Windows, Doors and Hatchways

Every window, exterior door, and basement hatchway shall be substantially tight and shall be kept in sound condition and repair.

- a) **Windows to be Glazed** - Every window sash shall be fully supplied with glass window panes or an approved substitute which are without open cracks or holes.
- b) **Windows to be Tight** - Every window sash shall be in good condition and fit reasonably tight within its frame.
- c) **Windows to be Openable** - Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware.
- d) **Door Hardware** - Every exterior door, door hinge, and door latch shall be maintained in good condition.
- e) **Doors to Fit in Frame** - Every exterior door, when closed shall fit reasonably well within its frame.
- f) **Windows and Door Frames to Fit Wall** - Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction so as to exclude rain as completely as possible, and to substantially exclude wind from entering the dwelling or multi-family dwelling.
- g) **Basement Hatchways** - Every basement hatchway shall be constructed and maintained as to prevent the entrance of rodents, rain and surface drainage water into the dwelling or multi-family dwelling.
- h) **Exit Doors** - Every door available as an exit shall be capable of being opened from the inside easily without the use of a key.
- i) **Screening** - Screens shall be supplied for protection against rodents and insects in accordance with the following requirements:
 - 1. **Insect Screens** - From June 1st to October 15th of each year, every door opening directly from any dwelling or multi-family dwelling to the outdoors, and every window or other outside opening used for ventilation purposes, shall be supplied with a screen of not less than sixteen (16) mesh per inch and every swinging screen door shall have a self-closing device in good working condition.

Subd. 4. Interior Structure

No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling, multi-family dwelling, dwelling unit, rooming house, rooming unit or portion thereof, for the purpose of living therein which does not comply with the following requirements.

- a) **Free from Dampness** - In every dwelling, multi-family dwelling, dwelling unit, rooming house, and rooming units, cellars, basements and crawl spaces shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure as required by the building code.
- b) **Structural Members** - The supporting structural members of every dwelling unit and multi-family dwelling used for human habitation shall be maintained in a structurally sound; showing no

evidence of deterioration which would render them incapable of carrying the imposed loads in accordance with the provisions of the building code.

- c) **Interior Stairs and Railings** - Stairs shall be provided in every dwelling, multi-family dwelling, rooming and boarding house as required by the building code.
- d) **Maintained in Good Repair** - All interior stair of every structure used for human habitation shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or are broken, warped or loose. Every inside stair shall be so constructed as to be safe to use and capable of supporting a load as required by the provisions of the building code.
- e) **Handrails** - Every stairwell and flight of stairs which is more than two (2) risers high shall have handrails located in accordance with the provisions of the building code. Every handrail or railing shall be firmly fastened and must be maintained in good condition. Properly balustrade railings, capable of bearing normally imposed loads as required by the building code, shall be placed on open portions of stairs, balconies, landings and stairwells.
- f) **Bathroom Floors** - Every toilet and bathroom floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- g) **Sanitation** - The interior of every dwelling and multi-family dwelling used for human habitation shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. Rubbish, garbage and other refuse shall be properly kept inside temporary storage facilities as required under Section 3-1.9 and 3-2.1 of this code.
- h) **Insect and Rodent Harborage** - Buildings used for human habitation shall be kept free from insect and rodent infestation, and where insects and rodents are found, they shall be promptly exterminated by acceptable processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.
- i) **Extermination from Buildings** - Every owner of a dwelling or multi-family dwelling shall be responsible for such extermination of insects, rodents, vermin, or other pests whenever infestation exists in two (2) or more units of the dwelling, or in the shared or public parts of the structure.
- j) **Extermination from Single Dwelling Units** - The occupant of a dwelling unit in a dwelling or multi-family dwelling shall be responsible for such extermination within the unit occupied by him whenever his dwelling unit is the only unit in the building that is infested.
- k) **Responsibility of the Owner** - Notwithstanding the foregoing provisions, whenever infestation of rodents is caused by failure of the owner to maintain any dwelling or multi-family dwelling in a rodent-proof condition, extermination of such rodents shall be the responsibility of the owner.

901.03. Space and Occupancy Requirements

Scope: No person shall occupy as owner - occupant, or let to another for occupancy, any dwelling unit for the purpose of living, sleeping, cooking, or eating therein which does not comply with the following requirements:

Subd.1. Sanitation Facilities

The following minimum sanitary facilities shall be supplied and maintained in sanitary, safe working condition.

- a) **Water Closet** - Bathroom fixture also known as toilet.

- b) **Lavatory** - Every dwelling unit shall contain a lavatory which, when a closet is required, shall be in the same room as said water closet.
- c) **Bathtub or Shower** - Every dwelling unit shall contain a room which affords privacy to a person in said room and which is equipped with a bathtub or shower.
- d) **Kitchen Sink** - Every dwelling unit shall contain a kitchen sink apart from the lavatory required under Section 3-1.2.
- e) **Water and Sewer System** - Every kitchen sink, lavatory basin, bathtub or shower required under Section 3-1 shall be properly connected either to a public water and sewer system or to an approved private water and sewer system. All sinks, lavatories, bathtubs and showers shall be supplied with hot and cold running water.
- f) **Water Heating Facilities** - Every dwelling unit shall be supplied with water heating facilities which are installed in an approved manner, properly maintained, and properly connected with hot water lines to fixtures required to be supplied with hot water under Section 3-1.1. Water heating facilities shall be capable of heating water to such a temperature as to permit a reasonable amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, shower and laundry facility or other similar units at a temperature of not less than 130° Fahrenheit at any time needed.
- g) **Heating Facilities** - Every dwelling and multi-family dwelling shall have heating facilities and the owner of the heating facilities shall be required to see that they are properly installed, safely maintained, and in good working condition, and that they are capable of adequately heating all habitable rooms, bathrooms, and toilet rooms located therein, to a temperature of not less than seventy degrees (70°) Fahrenheit with an outside temperature of ten degrees (-10°) below zero (0). The owner shall maintain an average room temperature of sixty-five (65°) degrees Fahrenheit in all habitable rooms including bathrooms and toilet rooms when rented, at all times on the basis of ten degrees (-10°) below zero (0) outside.
- h) **Operation of Heating Facilities** - Every heating or water heating facility and shall be installed and shall operate in accordance with the requirements of the building code or air pollution ordinance of the City of Carlton.
- i) **Rubbish Storage Facilities** - Every dwelling, multi-family dwelling and dwelling unit shall be supplied with approved containers and covers for storage of rubbish. The owner operator or agent in control of such dwelling or multi-family dwelling shall be responsible for the removal of such rubbish.
- j) **Garbage Storage or Disposal Facilities** - Every dwelling, or multi-family dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit to be approved by the building official, in the structure for the use of the occupants of each dwelling unit or an approved outside garbage can. *Also, in multi-family dwellings, facilities shall be provided for the separation and temporary storage of recyclables.*

Subd. 2. **Installation and Maintenance**

No person shall occupy as owners - occupant or let to another for occupancy, any dwelling unit for the purpose of living, sleeping, cooking, or eating therein which does not comply with the following requirements:

- a) **Facilities and Equipment** - All required equipment and all building space and parts in every dwelling and multi-family dwelling shall be constructed and maintained so as to properly and safely perform their intended function in accordance with the provisions of the building code.

- b) **Maintained in a Clean and Sanitary Condition** - All housing facilities shall be maintained in a clean and sanitary condition by the occupant so as not to breed insects and rodents or produce dangerous or offensive gases or odors.
- c) **Plumbing Fixtures** - In buildings and structures used for human habitation, water lines, plumbing fixtures, vents and drains shall be properly installed and maintained in working order and shall be kept free of obstructions, leaks and defects and be capable of performing the function for which they are designed. All repairs and installations shall be made in accordance with the provisions of the building code or plumbing code of the City of Carlton.
- d) **Plumbing Systems** - In buildings and structures used for human habitation, every plumbing stack, waste and sewer line shall be installed and maintained as to function properly and shall be kept free of obstructions, leaks, and defects to prevent structural deterioration or health hazards. All repairs and installations shall be made in accordance with the provisions of the building or plumbing codes of the City of Carlton.
- e) **Heating Equipment** - Every space heating, cooking, and water heating device located in a dwelling or multi-family dwelling shall be properly installed, connected and maintained, and shall be capable of performing the function for which it was designed in accordance with the provisions of the building code.
- f) **Electrical Outlets and Fixtures** - Every electrical outlet and fixture, as required in Section 3.3 shall be installed and maintained in accordance with the provisions of the building code or electrical code of the City of Carlton.
- g) **Correction of Defective System** - Where it is found, in the opinion of the building official, that the electrical system in a building constitutes a hazard to its occupants or to the building by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, he shall require the defects to be corrected to eliminate the hazard.

Subd. 3 **Occupancy Requirements**

No person shall occupy as owner - occupant, or let to another for occupancy, any dwelling unit for the purpose of living therein which does not comply with the following requirements:

- a) **Minimum Ceiling Height** - Habitable rooms in existing buildings shall have a clear ceiling height of not less than seven feet four inches (7'-4"), except that in attics or top half-stories the ceiling shall be not less than seven feet four inches (7'-4") of the area used for sleeping, studying or similar activity. In calculating the floor area of such rooms, only the portions of the floor area of a room having a clear ceiling height of five (5) feet or more may be included.
- b) **Required Space in Dwelling Units** - Every dwelling unit shall contain a minimum gross floor area of not less than one hundred fifty (150) square feet for the first occupant, and one hundred (100) square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.
- c) **Required Space in Sleeping Rooms** - In every dwelling unit, every room occupied by one (1) occupant shall have a minimum gross floor area of at least seventy (70) square feet. Every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant thereof.
- d) **Access Limitation of Dwelling Unit to Commercial Uses** - No habitable room, bathroom, or water closet compartment, which is accessory use to a dwelling shall open directly into or shall be used in conjunction with a food store, doctor's or dentist's examination or treatment room, or similar used for commercial purposes.

- e) **Location of Bath and Second Sleeping Room** - No residence building or dwelling unit containing two (2) or more sleeping rooms shall have such room arrangement that access to a bathroom or water closet compartment intended for use by the occupants of more than one (1) sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment. No bathroom shall be so located that access thereto is solely through a kitchen.
- f) **Occupancy of Dwelling Units Below Grade** - No dwelling unit partially below grade shall be used for living unless:
 1. Floors and walls are watertight;
 2. Total window area, total openable area and ceiling height are in compliance with this code; and,
 3. Required minimum window area of every habitable room is entirely above the grade of the ground adjoining such window area.

Subd. 4 **Light and Ventilation**

No person shall occupy as owner - occupant, or let to another for occupancy, any dwelling unit for the purpose of living therein which does not comply with the following requirements:

- a) **Natural light in Habitable Rooms** - Every habitable room shall have at least one (1) window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between the stops, for every habitable room shall be ten (10) percent of the floor area of such room, except in kitchens when artificial light may be provided in accordance with the provisions of the electrical code. Whenever walls or other partitions of a structure face a window of any room and such obstructions are located less than three (<3) feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room, unless the room is supplied with two separate, recognized means of egress.
- b) **Light in Non-Habitable Work Spaces** - Every laundry, furnace room, and all such similar non-habitable work space located in a dwelling or multi-family dwelling shall have one (1) supplied electrical light fixture available at all times.
- c) **Light in Public Hallways** - Every public hall and inside stairway in every dwelling or multi-family dwelling shall be adequately lighted at all times with illumination of at least five (5) lumens per square foot in the darkest portion of the normally traveled stairs and passageways.
- d) **Electrical Outlets Required** - Where there is electric service available to a building or structure, every habitable room of a dwelling or multi-family dwelling shall contain at least two (2) separate and remote outlets, one (1) of which may be a ceiling or wall-type light fixture. In kitchens three (3) separate and remote wall-type convenience outlets and one (1) ceiling or wall-type electric light fixture shall be provided. Every public hall, water closet compartment, bathroom, laundry or furnace room shall contain at least one (1) electric light fixture. In addition to the light fixture, in every bathroom and laundry room, there shall be provided at least one (1) electric outlet.
- e) **Adequate Ventilation** - Every habitable room shall have at least one (1) window which can be easily opened or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least forty-five (45) percent of the minimum window area size required by Section 3-4.1, except where mechanical ventilation is provided.
- f) **Ventilation and Light in Bathrooms and Water Closet Compartment** - Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms as required by Sections 3-4.1 and 3-4.4, except that no windows shall be required in

bathrooms or water closet compartments equipped with an approved mechanical ventilation system.

Subd. 5. **Minimum Requirements for Safety from Fire**

No person shall occupy as owner - occupant or let to another for occupancy, any dwelling unit for the purpose of living, sleeping, cooking, or eating therein which does not comply with the applicable provisions of the fire prevention sections of the building ordinances of the City of Carlton and the following additional requirements for safety from fire.

- a) **Storage of Flammable Liquids Prohibited** - No dwelling, multi-family dwelling, dwelling unit, or rooming unit shall be located within a building containing any establishment handling, dispensing or storing, flammable liquids with a flash point of one hundred ten degrees (110°) Fahrenheit or lower.
- b) **Cooking and Heating Equipment** - All cooking and heating equipment, components, and accessories in every heating, cooking and water heating device shall be maintained free from leaks and obstructions, and kept functioning properly so as to be free from fire, health, and accident hazards. All installations and repairs shall be made in accordance with the provisions of the building code, or other laws or ordinances of the City of Carlton applicable thereto. Portable cooking equipment employing flame is prohibited.

901.04. Responsibilities of Persons

Subd. 1. **Scope:** Occupants of dwellings, multi-family dwellings, and dwelling units, and owners and operators of rooming houses shall be responsible for maintenance thereof as provided in this section.

- a) **Cleanliness** - Every occupant of a dwelling unit shall keep that part of the dwelling unit and premises thereof which the occupant occupies, controls, or uses in a reasonably clean and sanitary condition.
- b) **Disposal of Rubbish** - Every occupant of a dwelling unit shall dispose of all the occupant's rubbish in a clean and sanitary manner by placing it in the rubbish containers required by Section 3-1.9 of this code.
- c) **Disposal of Garbage** - Every occupant of a dwelling unit shall dispose of the occupant's garbage in a clean and sanitary manner by placing it in the garbage disposal facilities, or if such facilities are not available, by removing all non-burnable matter, securing such garbage and placing it in tight metal or plastic storage containers as required by Section 3-1.10 of this code; or by such other disposal method as may be required by applicable laws or ordinances of the City of Carlton.
- d) **Use and Operation of Supplied Plumbing Fixtures** - Every occupant of a dwelling unit shall keep the supplied plumbing fixtures therein in a clean and sanitary condition. Every occupant shall be responsible for the exercise of reasonable care in their proper use and operation.
- e) **Installation and Care of Plumbing Fixtures and Appliances Furnished by Occupant** - Every plumbing fixture and appliance furnished by the occupant of a dwelling unit shall be properly installed and shall be kept clean and sanitary and be free from defects, leaks and obstructions.

Subd. 2. **Inspections; Enforcement; Fee**

- a) For the purpose of attaining uniform acceptable standards in the City of Carlton and enforcing this section, the building official is hereby authorized to enter, examine and survey, between the hours of 8:00 a.m. and 5:00 p.m. all dwellings or multi-family dwellings and premises. The building official, prior to making such inspection, shall inform the occupants of the dwelling or multi-family dwelling to be inspected of the date and time of his inspection by letter postmarked not less than

72 hours prior to the time such inspection is to be made. After such written notice shall have been given, the owner or occupant of such dwelling, multi-family dwelling or the person in charge thereof shall give the building official free access to such dwelling, multi-family dwelling and its premises, during such time for the purpose of such inspection, examination or survey; provided that such inspection, examination and survey shall not have as its purpose the harassment of such owner or occupant, and that such inspection, examination or survey, shall be made so as to cause the least amount of inconvenience to the owner or occupant, consistent with an efficient performance of the duties of the building official; provided that nothing in this section shall be construed to prohibit the entry of the building official:

- (1) At any time when, in the opinion of the health officer, an actual emergency tending to create an immediate danger to public health and safety exists; or
 - (2) At any time when such inspection, examination, or survey may be requested by the owner or occupant.
- b) In the event of an issuance of an order by the building inspector, he is hereby authorized to enter and re-inspect all dwellings, multi-family dwelling units and premises for the purpose of determining compliance with the mandates of such order. The re-inspection shall be made under the direction of the building official, by the building official, or by a team which may be composed of a public health representative, a building department representative and a representative of the Carlton Fire Department. The owner or occupant of the dwelling, multi-family dwelling, or the person in charge thereof, shall give free access to such dwelling, multi-family dwelling and its premises for the purpose of making such inspection, examination or survey. Re-inspection shall be done upon the same notice as is provided for in Section 4-2.1.
- c) Every occupant of a dwelling or multi-family dwelling shall give the owner thereof, or his agent or employee, access to any part of such dwelling or multi-family dwelling or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this section.
- d) Inspection fees shall be set from time to time by resolution of the City Council of the City of Carlton.
- e) If following appropriate notice a property owner fails to take remedial action ordered by the City, fails to cooperate in allowing an inspection of the property, or otherwise causes the City to incur any costs to enforce the provisions of this ordinance the property owner shall be liable for all such costs. Such costs shall include by way of example but not by way of limitation the City's attorney's fees, court filing fees, expert witness fees and the like. Any such costs shall be a judgment personally against the property owner (property owners) and shall constitute a lien against effected the property.

Subd. 3. Condemnation or Vacation

- a) **Hazardous Building or Hazardous Property** - If any building or property because of inadequate maintenance, dilapidation, physical damage, unsanitary condition or abandonment constitutes a fire hazard or a hazard to public safety or health, the building official shall proceed in accordance with the provisions of M.S. § 463.15 through 463.261 as may be amended.
- b) **Structure Unfit for Human Occupancy** - Whenever the building official finds that any dwelling or multi-family dwelling constitutes a hazard to the safety, health, or the welfare of the occupants or to the public because of its lack of maintenance; or is in disrepair, unsanitary, vermin-infested or rodent-infested; or because it lacks the sanitary facilities or equipment, or otherwise fails to comply with the minimum provisions of this code, but has not yet become a hazardous building or hazardous property, he may declare such dwelling or multi-family dwelling as UNFIT FOR

HUMAN HABITATION and order it to be vacated. If any dwelling or multi-family dwelling, or any part thereof, is occupied by more occupants than is permitted under this code, or was erected, altered, or occupied contrary to law, the building official shall order such dwelling or multi-family to be vacated forthwith.

- c) **Notice** - Notice of the building official's order to vacate any building shall be given as provided in the following sections. Notice with respect to a hazardous building or hazardous property shall be given as required by applicable state statute.
- d) **Posting of Notice** - Any dwelling or multi-family dwelling declared UNFIT FOR HUMAN HABITATION, shall be posted with a placard by the building official. The placard shall include the following:
1. Name of the city;
 2. Name of the authorizing department having jurisdiction;
 3. The chapter and section of the code under which it is issued;
 4. An order that the dwelling or multi-family dwelling when vacated, must remain vacated until the provisions of the order are complied with and the order to vacate is withdrawn;
 5. The date the placard is posted;
 6. A statement of the penalty for defacing or removal of the placard.
 7. Notice that the building has been ordered vacated and the reason(s) therefor.
- e) **Form of Notice** - Whenever the building official has declared a dwelling or multi-family dwelling as unfit for human habitation, he shall give notice to the owner of such declaration and placarding of the dwelling or multi-family dwelling as unfit for human habitation. Such notice shall:
1. Be in writing;
 2. Include a description of the real estate sufficient for identification;
 3. Include a statement of reason why it is being issued and the corrective action needed to remedy the defect(s) causing the issuance of the order to vacate;
 4. State the time to correct the condition;
 5. State the time occupants must vacate the dwelling units.
- f) **Service of Notice** - Service of notice to vacate shall be as follows:
1. By delivery to the owner personally, or by leaving the notice at the normal place of abode of the owner with a person of suitable age and discretion; or
 2. By depositing the notice in the United States Post Office addressed to the owner at his last known address with the postage prepaid thereon; or
 3. By posting and keeping posted for twenty-four (24) hours a copy of the notice in placard form in a conspicuous place on the place to be vacated.
- g) **Removal of Placard Notice** - No person shall deface or remove the placard from any dwelling or multi-family dwelling that has been declared or placarded as unfit for human habitation except by authority, in writing, by the building official.
- h) **Vacating of Declared Building** - Any dwelling or multi-family dwelling which has been declared and placarded as unfit for human habitation by the building official, shall be vacated within a reasonable time as required by the building official, and it shall be unlawful for any owner or operator to let to any person for habitation said dwelling, multi-family dwelling unit until authorized to do so by the building official. No person shall occupy any dwelling or multi-family dwelling which has been declared or placarded by the building official as unfit for human habitation after the date set forth in the placard until authorized to do so by the building official.

- i) **Occupancy of Building** - No dwelling or multi-family dwelling which has been declared or placarded as unfit for human habitation shall again be used for habitation until written approval is secured from the building official. The building official shall remove such placard whenever the defect or defects upon which the declaration and placarding action were based have been eliminated.
- j) **Report of Notice to Vacate** - The building official shall furnish a copy of each notice to vacate a building to the City Clerk, the chief of the fire department, and any other designated official of the City of Carlton concerned herewith.

901.05. Violations

Notice of violation shall be served upon the owner of record: provided that such notice shall be deemed to be properly served upon such owner if a copy thereof is delivered to him personally, or if not found by leaving a copy thereof at his usual place of abode with a person of suitable age and discretion who shall be informed of the contents thereof, or by sending a copy thereof by mail to his last known address, or, if the letter with a copy is returned showing it has not been delivered to him by posting a copy thereof in a conspicuous place in or about the dwelling affected by the notice.

Subd 1. **Service of Notice** - Whenever the building official determines that there has been or is a violation, or that there are reasonable grounds to believe that there has been a violation of any provision of this code, he shall give notice of such violation or alleged violation to the person or persons responsible therefor. Such notice shall:

- 1. Be in writing;
- 2. Include a description of the real estate sufficient for identification;
- 3. Specify the violation which exists and the remedial action required;
- 4. Allow a reasonable time for the performance of any act it requires.

Subd. 2. **Prosecution of Violation** - In case any violation order is not promptly complied with, the building official may, in addition to any other lawful action, request the city attorney to institute an appropriate action or proceeding at law or in equity against the person responsible for the violation, ordering him:

- 1. To restrain, correct or remove the violation or refrain from any further execution of work;
- 2. To restrain or correct the erection, installation, or alteration of such building;
- 3. To require the removal of the work in violation;
- 4. To prevent the occupation or use of the building or structure, or part thereof erected, constructed, installed or altered in violation of or not in compliance with the provisions of this code, or in violation of a plan or specification under which an approval, permit or certificate was issued; or
- 5. To enforce the penalty provisions of this code.

Subd. 3. **Penalty for Violation** - Every person, firm, corporation that shall violate any provisions of this code shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided state law.

901.06. Right of Appeal

Any owner, occupant or other interested person who is aggrieved with the ruling or decision of the building official relative to the provisions of this ordinance may appeal the ruling or decision. The appeal shall be as follows:

1. An appeal may be made to the City Council. Such appeal shall be in writing and shall be delivered to the office of the City Clerk within thirty (30) days of the date of the ruling or decision by the building official. Thereafter the City Council shall consider such appeal at a regular or special meeting of the City Council to be held within thirty (30) days of the filing of the notice of appeal. The Council shall hear any testimony presented by the appellant and/or the building official. The Council may sustain, amend or revoke the decision of the building official. The written decision of the City Council shall be personally served or shall be served by mail upon the appellant and the building official.

Any order of the building official which requires vacation of a building under Section 4-3.2 shall remain in full force and effect pending the final decision of the City Council. The City Council may suspend the operation of such order pending its final decision.

2. An owner, occupant or other interested person who is aggrieved by a ruling or decision of the building official under this Ordinance may commence a District Court action seeking review of such decision or seeking review of the final decision of the City Council made under Subparagraph 1. above.

901.07. Validity

- a) **Severability** - If any section, subsection, paragraph, sentence, clause or phrase of this code shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this code which shall continue in force and effect; and to this end the provisions of this code are hereby declared to be severable.
- b) **Saving Clause** - This code shall not affect violations of any other ordinance, code or regulation of the City of Carlton existing prior to the effective date hereof and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, regulations in effect at the time the violation was committed.

901.08. Variance

The City Council may approve a variance from the minimum standards of this Ordinance (not procedural provisions) when, in its opinion, undue hardship may result from strict application of the Ordinance. In considering or granting any variance, the City Council may prescribe any conditions that it deems necessary or desirable. The variance shall be granted only when the City Council finds:

1. That there are special and highly unique circumstances or conditions affecting the particular property which are not common to other properties in the City and that the strict application of the provisions of the Ordinance would result in unusual and unreasonable hardship to the owner thereof.
2. That granting the variance will not be detrimental to the public health or welfare or to the safety of persons occupying or entering such building.

Request for a variance shall be filed with the City Clerk. Such request shall set forth the particular provision of the Ordinance from which a variance is sought, a description of the property affected by the request for a variance, the names and addresses of the owners and all occupants of the property, and a complete description of the reasons for which a variance is sought. Upon receipt of said application, the City Clerk shall schedule a hearing before the City Council on the request for a variance. Notice of the

request for variance shall be served by the person requesting the variance and upon all owners and occupants of the building for which the variance is sought.

Notice of the request for a variance shall also be posted at the City Hall. All such notices shall be served and posted at least ten (10) days prior to the date set for the hearing. Notices given to the owners and occupants of the building for which the variance is sought may be personally served or may be served by certified mail. Proof of service and posting shall be made by the applicant for the variance.

Failure of a property owner or occupant to receive said notice shall not invalidate any proceedings hereunder.

The applicant for a variance and/or the applicant's representative shall appear before the City Council at such meeting to answer questions and to give information regarding the request for variance. The City Council may receive information from any other person including the building official.

Within ten (10) days of the date of such meeting, the City Council shall issue its decision regarding the request for variance, which decision shall be in writing and shall state concisely the City Council's decision and the reasons therefor. A written copy of the City Council's decision shall be mailed to the applicant, the building official, and any other interested person within three (3) working days after the filing of the City Council's written decision.

A variance from the provisions of this Ordinance may be granted only upon majority vote of the City Council.

Part 2 Comprehensive Plan

AN ORDINANCE ESTABLISHING A COMMISSION TO PLAN FOR THE PHYSICAL DEVELOPMENT OF THE VILLAGE OF CARLTON, MINNESOTA, AND TO RECOMMEND A ZONING PLAN.

The Village Council of Carlton, Minnesota, ordains:

902.01 Preparation of City Plan. It shall be the function and duty of the planning commission to prepare and adopt a comprehensive City plan for the physical development of the City, including proposed public buildings, street arrangements and improvements, public utility services, parks, playgrounds, and other similar developments, the use of property, the density of population, and other matters relating to the physical development of the City. Such plan may be prepared in sections, each of which shall relate to a major subject of the plan, as outlined in the commission's program of work.

902.02 Procedure for Adoption of Plan. Before adopting the City plan or any section of it or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given by publication in a newspaper of general circulation at least ten days before the day of the hearing. The adoption of the City plan or of any section or amendment thereof shall be by resolution of the commission, approved by the affirmative votes of not less than five-sevenths of its total membership. The commission may from time to time amend or add to the City plan or section thereof as herein provided for the adoption of the original plan whenever changed conditions or further studies by the commission indicate that such amendment or addition is necessary.

An attested copy of the plan or of any section, amendment or addition to the City plan adopted by the planning commission shall be certified to the City Council.

902.03. Means of Executing Plan. Upon the adoption of the City plan or any section thereof, it shall be the duty of the planning commission to recommend to the City Council reasonable and practicable means for putting into effect such plan or section thereof in order that the

same will serve as a pattern and guide for the orderly physical development of the City and as a basis for the efficient expenditure of the funds thereof relating to the subjects of such City plan.

Such means shall consist of a zoning plan, the control of subdivision plats, a plan of future streets, coordination of the normal public improvements of the City, a long term program of capital expenditures and such other matters as will accomplish the purpose of this section.

902.04. **Zoning Plan.** The planning commission upon its own motion may and upon instructions by the City Council shall prepare a plan of proposed rights of way for future streets or highways, or the future widening of existing streets or highways, or for the reservation of lands for other public purposes.

902.05. **Official Map of Street Extension.** The planning commission with the assistance of the City engineer, may and upon instruction by the City Council, shall prepare an official map of the platted and unplatted portions of the City and adjoining territory, or portions thereof, indicating upon such map the proposed future extension or widening of streets of the City within such existing platted and developed territory or across such unplatted territory.

After such map has been prepared and a hearing on it has been held as provided in 902.04, it shall be submitted to the Council, which shall thereupon consider such map and may adopt it or any part of it with such amendments as it deems advisable. Before such adoption by the Council, a public hearing shall be held upon the proposal at least ten (10) days after a notice thereof has been published in a newspaper published in the City. After such map has been adopted by the Council and filed with the Register of Deeds, whenever any existing street or highway is widened or improved, or any new street is opened, or lands for other public purpose are acquired by action of the City it shall not be required in such proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit after the filing of such a map within the limits of the mapped street, or outside of any building line that may have been established upon the existing street, or within any area thus reserved for public purposes.

902.06. **Plats.** Every proposed plat of land within the City shall be submitted to the City Council before being filed and no plat of land shall be filed unless and until the same shall first have been approved by the City Council.

Any person who violates this provision or who sells land or offers land for sale or contracts for the sale of land by reference to or by other use of any plat before such plat has been approved by the planning commission and the City Council in accordance with the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine, as set in the Fine Schedule, not to exceed the maximum as set by Minnesota Statutes or by imprisonment for not more than ninety days (90). Before acting on such plat the City Council shall submit the same to the planning commission for its recommendations.

The planning commission, within forty (40) days after any such plat has been referred to it by the City Council, shall act on the same and shall make its recommendations with respect thereto. Such recommendations may consist of:

- (a) recommendation that the City Council approve such plat; or
- (b) recommendation that the City Council disapprove such plat, in which case such recommendation shall include a statement of the specific reasons for such recommendation, or

- (c) recommendation that the City Council approve such plat after specified changes or revisions are made therein, which recommendations may include the condition that a revised plat, containing such changes or revisions, be submitted to the planning commission, in which case such revised plat shall be so submitted to the planning commission for its further consideration and recommendations before action thereon by the City Council.

902.07. **Procedure for Changes.** No change shall be made in the zoning plan, future street and public lands plan, or regulations governing the platting of land after such plans or regulations have been adopted by the City Council, until the proposed change has been referred to the planning commission for report thereon and an attested copy of such report has been filed with the Council; and no ordinance or resolution establishing any of such plans or specifications shall be adopted by the City Council until such ordinance or resolution has been referred to the planning commission for a report thereon and an attested copy of such report has been filed with the Council. Failure of the planning commission so to report within forty (40) days or such longer period as may be designated by the Council after such reference shall be deemed to be approved of the proposed change.

902.08. **List of Recommended Public Works.** Each officer, department, board or commission of or in the City whose functions include recommending, preparing plans for, or constructing public works shall, at least three (3) months before the end of each fiscal year, submit to the planning commission a list of the proposed public works recommended by such officer, department, board, or commission for planning, initiation, or constructing during the ensuing fiscal year. The planning commission shall request from the local school district a similar list of its proposed public works. The planning commission shall list and classify all such proposed public works and shall prepare a coordinated program of proposed public works for the ensuing fiscal year. Such program shall be recommended by the commission to the Council and to such other officers, departments, boards, or public bodies as have jurisdiction over the recommending, planning or construction of such public works. A copy of such recommended program of public works shall be included in the annual report of the planning commission provided for in Section 3.

Part 3 Zoning Code

903.01 Purpose

Pursuant to the authority conferred by the State of Minnesota in Chapter 462 of the State Statutes This Ordinance is adopted to:

1. Protect and promote the public health, safety and general welfare of the community.
2. Classify properties into zones and districts reflecting their peculiar suitability for particular uses.
3. Guide future land development to insure a safer, more pleasant and more economical environment of residential, commercial industrial and public activities.
4. Regulate the location, construction alteration and use of buildings, structures and land.
5. Provide for sequential planned development that will allow the efficient and orderly expansion of utility systems without premature urbanization of existing undeveloped land.
6. Preserve the unique character and individuality of the city's historic growth pattern.
7. Conserve the area's unique natural resources and maintain high standards of environmental quality.
8. Conserve the natural and scenic beauty and attractiveness of the roadside areas.
9. Insure adequate light, air, privacy and convenience of access to property.
10. Facilitate adequate transportation, water, sewage disposal, education, recreation and other public facilities and requirements.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARLTON

903.02 Definitions

Section 2.1- Purpose

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows. Words used in the present tense include the future tense. The singular number includes the plural. The word “person” includes a corporation, partnership, association, society or agency, as well as an individual. The word “lot” includes the word “plot” or “parcel.” The term “shall” is always mandatory. The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

Section 2.2 - Definition of Terms

Accessory Use or Structure: A use, building or structure subordinate and incidental to the principal use of the land or a building on the same lot and serving a purpose customarily incidental to the principal use of land or building.

Alley: A public or private thoroughfare, which affords only secondary means of access to abutting property.

Automotive Service Station: Any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and including such products as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, anti-freeze, motor vehicle accessories and other items customarily associated with the sale of such products; and for the rendering of service and making of adjustments and replacements to motor vehicles; as incidental to other services rendered, washing, waxing, and polishing of motor vehicles and making of repairs to motor vehicles except repairs of a major type.

Bed and Breakfast – A facility where for compensation and by prearrangement for definite periods of time not to exceed one (1) week, morning meal and lodging are provided for not more than eight (8) guest rooms.

Billboard: Any sign pertaining to a business, product or event, which is not carried on or manufactured in or upon the premises, upon which it is located.

Buffer Zone: A landscaped area of land intended to separate two or more uses or structures, which are incomparable with each other because of design, function, uses or operations.

Building – Any structure having a roof, which may provide shelter or enclosure of persons, animals or property.

Building Coverage: That percentage of the total area of a lot that is covered by structures.

Building Height: The vertical distance from the grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, height of the ridge for gable, hip, and gambrel roofs.

Building Line: The edge or side of a building nearest a lot line, including where applicable, the outer edge of overhanging eaves, but not steps.

Building Principal: A structure in which the primary use of the lot is situated.

Town Center Business Center: Central Business district.

Commercial Use: A land use for the purpose of commerce or business.

Commission or Planning Commission: The Planning Commission is the City Council of the City of Carlton. The City Council may, by motion, establish a Planning Commission that consists of one or more persons who are not members of the City Council.

Conditional Use: The use of land in a district where such use requires additional controls and safeguards not required of permitted uses.

Condominium: Means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any multi-unit dwelling may be held under multiple ownership.

Council: The City Council of the City of Carlton.

District: A section or sections of the City of Carlton within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.

Dwelling Unit: A structure or portion thereof, providing independent cooking, living, sleeping and toilet facilities for one family.

Dwelling, One Family or Single Family: A detached building designed for or occupied exclusively by one family and constituting one dwelling unit.

Dwelling, Two Families: A detached building designed for or occupied exclusively by two families and constituting two dwelling units.

Dwelling, Multiple Family: A detached building or portion thereof, designed for occupancy by three or more families and constituting at least three dwelling units.

Family: One or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a rooming house, club, fraternity, or hotel.

Flashing sign: A sign, part or all of whose lights go on and off intermittently.

Garages, Private: Residential accessory buildings principally intended for the storage of automobiles.

Grade (Ground Level): The average of the finished ground level at the center of all walls of a building. In case walls are parallel to within five (5) feet of a sidewalk, the above ground level shall be measured at the sidewalk.

Guest Room: Guestroom is any room or rooms used, or intended to be used, by a guest for sleeping purposes. Every one hundred (100) square feet of superficial floor area in a dormitory is a guest room.

Home Occupation: Any gainful occupation or profession conducted within the dwelling or accessory building, by a resident thereof.

Home occupations shall meet the criteria specified below:

1. Only residents residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the main floor area of the dwelling unit shall be permanently set aside to be used in the conduct of the home occupation.
3. There shall be no change to the outside appearance of the premises that would reflect the presence of a home occupation other than one sign, not to exceed two square feet, non-illuminated, and mounted flat against the wall of the principal building.

4. No equipment shall be used in such home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot or in a neighboring dwelling unit. In the case of electrical interference, no equipment shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
5. No home occupation shall be permitted that creates the need for parking which frequently infringes upon the on-street parking in the neighborhood.
6. For uses within the dwelling unit the entrance to the space devoted to such occupation shall be within the dwelling unit.
7. There shall be no exterior storage of equipment or materials used in the occupation.
8. The home occupation must be conducted entirely within a building.
9. Permissible home occupations include, but are not limited to the following: art studio, catering service, dressmaking, carpenter and cabinet-making, home bakery, furniture repairing, upholstery shop, individual doctor's consultation office, special offices of a clergyman, lawyer, architect, engineer, accountant, beautician, professional offices, real estate agent or appraiser, teaching, day care centers, and miscellaneous services, which in the opinion of the City Council are of the same general character as the uses enumerated and designed so as not to change the character of the immediate neighborhood.

Hotel: Any building containing six or more guest rooms intended or designed to be used or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests, whether rent is paid in money, goods, labor, or otherwise.

Incidental: Directly and immediately pertaining to, or involved in, though not an essential part.

Junkyard: Any area where waste, discarded or salvaged materials are stored, bought, sold, exchanged, baled or packaged, disassembled or handled, including house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

Kennel: Any lot or premises, on which four or more dogs, more than six months of age, are kept.

Lot: A parcel of land at least sufficient size to meet minimum zoning requirements for use, coverage and are and to provide such yards, and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and provides that in no case of division or continuation shall any residential lot or parcel be created which does not meet the requirements of this ordinance.

Lot, Corner: A lot abutting the intersection of two or more streets.

Lot, Depth of: The mean horizontal distance between the front and rear lot lines measured in the direction of its side property lines.

Lot Frontage: The front of a lot shall be constructed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, (through lots being those running from street to street), all portions of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yards in this section.

Lot, Interior: A lot other than a corner lot, with frontage only on one street.

Lot Lines: The lines bounding a lot.

Lot of Record: A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of Carlton County, Minnesota.

Lot Width: The mean horizontal distance between side lot lines measured parallel to the street line or its chord if curved.

Mayor: The Mayor of the City of Carlton.

Mobile Home: A structure transportable in one or more sections, which is designed to be used for permanent occupancy as a dwelling and which is not constructed to the standards of the uniform building code:

1. Residential Trailer – A mobile home, which was not, constructed in accordance with federal manufactured housing construction and safety standards (HUD), in effect after June 15, 1976.
2. Manufactured Home – A mobile home constructed in accordance with federal manufactured housing construction and safety standards (HUD code) in effect after June 15, 1976.

Motor Vehicle Dealer: A person engaged in the sales of new and/or used motor vehicles.

Motor Vehicle Repair Garage: Any building used for automobile repairs.

Nonconforming Use: Any usage of land lawful as of the date of enactment of this Ordinance, which does not conform to the regulations of this Ordinance.

Nursery School: A home or institution where care and instruction are provided for four or more non-resident children during the day, including a kindergarten.

Nursing Homes: A home for aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept and provided with food, shelter and care, for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment or care of the sick, injured, mentally ill, inebriate or contagious cases.

Ordinance: This ordinance or any subsequent revisions thereto.

Parking Space, off-street: A permanently surfaced area consisting of an aggregate base, Class 5, bituminous, concrete or other acceptable surface, either within a structure, or in the open, exclusive of driveway or access drives, for the temporary parking of a motor vehicle. Every off-street parking space shall be accessible from a public right of way.

Permitted Uses: Uses permitted under this Ordinance, which require no additional action by the planning commission or the City Council.

Planned Unit Development: A tract of land developed as a unit rather than as individual development, wherein two or more principal buildings are developed or to be developed under unified ownership or control and the development of which may be unique and of a substantially different character than that of the surrounding areas.

Screened: Concealed or cut off from view.

Sign: Any face or any lettered or pictorial device or structure designed to inform or attract attention.

Story – That portion of a building included between the upper surface of any floor and the upper surface of the floor above. The top most floor shall be that portion of a building included between the upper surface of the top most floor and the ceiling above.

If the finished floor level directly above a basement or cellar is more than six (6) feet above grade, the basement shall be considered a story.

Structure – Anything placed, constructed or erected with a fixed location on the ground including portable buildings, mobile homes, signs, playing courts (tennis, basketball, etc.) and swimming pools except that fences, utility poles, lawn lights, antennae and related minor equipment shall not be considered structures.

Variance: Any modification or variations of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.

Yard: An open space between building by any lot line, which is open to sky unobstructed by any permanent or temporary uses or structures.

Yard Front: A yard extending across the entire front of the lot and measured between the front line of the lot and the front line of the building, or any projection thereof other than steps, balconies paved terraces, porches or bay windows.

Yard Rear: A yard extending across the entire rear of a lot and measured between the rear lot line and the rear of the building, or any projection thereof other than steps, balconies, paved terraces, porches or bay window. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard Side: A yard between the building and the side line of the lot extending from the front yard to the rear yard and measured between the sideline of the lot and the side of the building, or any projection thereof other than steps, balconies, paved terraces, porches or bay windows.

Zoning Official: The Zoning Official is the City Clerk unless otherwise designated by the City Council.

Additional Definitions: Additional definitions specific to a zoning district may be found included within the specific zoning district section.

903.03 Official Zoning Map

Subd.1

The City is hereby divided into districts as shown on the Official Zoning Map, which, together with the matter thereon and the certificate attached thereto, is hereby adopted and declared to be a part of this Ordinance as if described in detail herein. The Official Zoning Map shall be prepared and accurately maintained by the City and be displayed at all times in the Office of the City Clerk.

Subd.2

The Official Zoning Map shall bear a certificate with the signature of the Mayor and the certification of the City Clerk and the date of adoption of this Ordinance. If any changes to the map are made by amendment of this Ordinance, such changes shall be made to the Official Zoning Map and signed and certified upon the map or upon materials attached thereto.

Subd.3

In the event that the Official Zoning Map becomes damaged, lost, or difficult to read or interpret because of the number or nature of changes thereto, a new Official Zoning Map shall be prepared by the City and shall be approved for certification by the Council and signed by the Mayor and certified as the Official Zoning Map by the City Clerk.

Subd.4

Where uncertainty exists as to the boundaries of districts as shown on the official Zoning Map, the boundaries shall be interpreted as following the nearest logical line to that shown--where shown as approximately following platted lot lines, it shall be construed as following such lines, where shown as approximately following the City limits, railroad tracks, street centerlines, stream or water centerlines or shorelines, it shall be construed as following such lines. Boundaries indicated as extension of or parallel to such lines shall be so construed. Where distances are not shown on the map, they shall be determined by scale of the map. Where any boundaries seem to conflict with physical features on the land, the Carlton City Council shall interpret such boundaries.

903.04 Application of District Regulations

APPLICATION OF DISTRICT REGULATIONS

Except as hereinafter provided, the regulation set by this Ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land in each district, and particularly:

Subd.1

No structure on land shall hereafter be used or occupied and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless it is in conformity with all of the regulations herein specified for the district in which it is located or is in conformity with Section 6.

Subd.2

No part of any yard, other open space, or off street parking or loading space required in connection with any building or use shall be included as part of a yard, open space, loading or parking space of any other building or use.

Subd.3

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the requirements set forth herein, and all yards or lots created after the effective date of this Ordinance shall meet the minimum requirements of this Ordinance.

Subd.4

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations below eight (8) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street lines and a line connecting them at points fifteen (15) feet from the intersection of the street lines, or in the case of a rounded corner from the intersection of the street property lines extended on streets having an angle of intersection of ninety (90) degrees or more. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such right lines. The same limitations shall apply on a street having an angle of intersection of less than ninety (90) degrees except that the distance back from the point of intersection of the lot lines shall increase ten (10) feet for every ten (10) degrees below ninety (90) degrees.

Subd.5

No accessory building or use shall be permitted in any required front yard and no separate accessory building shall be erected within ten (10) feet of any principal building.

Accessory Building: A subordinate building or structure on the same lot with a principal or main building, or the part of the main building occupied or devoted exclusively to an accessory use.

Subd.6

Sign regulations shall not apply to signs or lights established by a government body for public warning or direction, for safety or for traffic control.

Subd.7

Outdoor storage of salvaged materials from buildings, roadways, transportation ways or other similar uses in any pile in excess of four (4) feet in height, six (6) feet in width and ten (10) feet in length shall not be permitted for periods exceeding 20 days unless adequate screening is provided or they will be utilized on the property for specific building purposes and for which a zoning permit has been applied. This shall apply to all zoning districts.

Outdoor storage of logs, pulp wood and other timber products shall not be permitted in any zoning district unless a conditional use permit is applied for and receives approval in accordance with the zoning ordinance. Except for firewood stored for personal use.

Subd. 8

**AN ORDINANCE OPTING-OUT OF
THE REQUIREMENTS OF
MINNESOTA STATUTES, SECTION 462.3593**

WHEREAS, on May 12, 2016, Governor Dayton signed into law the creation and regulation of temporary family health care dwellings, codified at Minn. Stat. § 462.3593, which permit and regulate temporary family health care dwellings;

WHEREAS, subdivision 9 of Minn. Stat. §462.3593 allows cities to “opt out” of those regulations;
THE CITY COUNCIL OF THE CITY OF CARLTON, ORDAINS as follows:

OPT-OUT OF MINNESOTA STATUTES, SECTION 462.3593:

NOW, THEREFORE BE IT RESOLVED, Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Carlton opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

This Ordinance shall be effective immediately upon its passage and publication.

ADOPTED this 16th day of August, 2016, by the City Council of the City of Carlton.

903.05 Non-Residential Off-Street Parking

Subd.1 - Intent

This section is intended to provide for non-residential off-street parking adequate to each type of development in terms of both amount and location in order to reduce the need for parking on the streets and highways and the traffic congestion and hazards caused thereby.

Subd.2 - Off-Street Parking Design Standards

- a) Required Parking. Off-street parking area of sufficient size to provide parking for residents, patrons, customer's suppliers, visitors and employees shall be provided on the premises of each use. Off-street parking facilities for separate uses may be provided collectively on a separate lot if the total spaces are not less than the total requirements of the separate uses and if other requirements are met.
- b) Size. An off-street parking space shall be at least nine (9) feet in width and at least twenty (20) feet in length, exclusive of access drive and ramps, and have a vertical clearance of at least seven (7) feet. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles it is designed to serve.
- c) Surfacing. Any off-street parking lot for more than five vehicles shall be graded for proper drainage and shall be permanently surfaced.
- d) Screening. All open parking areas with four (4) or more parking spaces adjoining property in a residential district shall be effectively screened by wall, fence, or landscaping. See Landscaping section for additional regulations.
- e) Lighting. Any lighting used to illuminate an off-street parking area shall be indirect or diffused and shall not be directed upon the public right of way or upon nearby adjacent properties.
- f) Access. Every off-street parking area shall be provided with an access way at least sixteen (16) feet in width.
- g) Signs. No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and such signs shall not be a part of the permitted advertising space.
- h) Accessory Locations. Parking spaces may be located on any lot other than that containing the principal use upon the approval of the City Council.

Subd.3 - Number of Off-Street Parking Spaces Required. Minimums listed below:

TABLE 1

Parking Regulations

USES	REQUIRED NUMBER OF SPACES
Bingo Halls	1 for each 1.5 maximum seating capacity
Boarding House	1.5 for each 2 persons sleeping rooms are provided
Bowling Alleys	5 for each lane plus spaces for related uses
Business & Professional Offices	1 for each 250 Sq. Ft. of gross floor area
Churches, theaters, auditoriums,	1 for every 4 seats
Clinics	1 for each doctor or dentist plus 1 for each nurse, technician or professional and 1 for each 200 sq. ft. of gross floor area.
Convenience Stores	1 for each 150 sq. f.t of gross retail sales space plus adequate stacking space for gas pumps and car washes if those uses a part of the same operation,
Day Care, Nursery and Pre-school Facility	1 for each teacher or employee plus 1 for 5 individuals receiving care (design capacity).
Dwelling	2 for each dwelling unit
Motels/hotels	1 for each employee plus 1 for each unit/room
Multiple Occupancy Structure	1 for each space required for each separate use
Business and Industry	1 for each employee on major shift plus 1 for each vehicle used in conducting the business or 1 for each 1000 sq. ft. of floor are whichever is greater.
Recreation Facility	1 for each 1.5 persons at design capacity
Residential Facility or Group Home	1 for every 4 residents plus 1 for each employee on major shifts plus 1 for each on-call medical professional.
Restaurants, Bars	1 for every 100 sq. ft. of floor space
Restaurant, Fast food pick-up window	1 for every 15 sq. ft. of floor space.
Retail Sales	1 for each 200 sq. ft. of gross retail sales floor space.
Schools, Elementary and Middle School	1 for each staff member plus 3 per classroom
Service Station	4 plus 2 for each enclosed bay plus 1 for each employee on peak work shift plus parking and stacking space for patrons at pump islands.

903.06 Nonconformities

Subd.1 - Intent

Within the districts established by this Ordinance there exist lots, structures and uses that were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or its amendments.

It is the intent of this Ordinance to permit these uses to continue until they are removed, but not to encourage their survival. Such uses are declared to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded, extended or used as grounds for adding other prohibited uses. However, nothing in this Ordinance shall be deemed to require a change in plans, construction or designated uses of a building on which actual lawful construction has been begun prior to the effective date hereof.

Subd.2 - Nonconforming Lots of Record

In any district in which single family dwellings are permitted, notwithstanding other limitations imposed by this Ordinance, a single family dwelling and customary accessory buildings may be erected on any single

lot of record on the effective date of this Ordinance. Such lot must be in separate ownership as of the effective date of this Ordinance and not of contiguous frontage with other lots of the same ownership. A lot of record that does not meet lot area or lot width requirements must still meet other requirements of the district in which it is located.

If two or more lots or combinations of lots with contiguous frontage in single ownership are of record at the effective date of this Ordinance, and if all or part of the lots do not meet the requirements for lot area and lot width, the land involved shall be considered to be an undivided parcel and no portion of said parcel shall be used or sold which does not meet lot area and width requirements of the district in which it is located, nor shall any division of the parcel be made which creates lots or portions of lots below such requirements. Shifting of boundary lines between adjacent properties are permitted if they do not create an illegal lot.

Subd.3 - Nonconforming Uses of Land

A lawful use on the effective date of this Ordinance or its amendments which is made no longer permissible by the terms of this Ordinance may be continued if it remains otherwise lawful, subject to the following provisions:

- a) No such use shall be enlarged, increased or extended to occupy a greater area of land than was occupied by such at the effective date of this Ordinance.
- b) No such use shall be moved in whole or in part to any other portion of the lot or parcel being occupied by such use at the effective date of this Ordinance.
- c) If any such nonconforming use ceases for a period of more than sixty (60) days, any subsequent use of the land shall conform to district regulations for the district in which it is located.

Subd.4 - Nonconforming Structures

Where a previously lawful structure exists that could not be built under the terms of this Ordinance, such structure may be continued, so long as it remains otherwise lawful, providing that:

- a) No such structure may be enlarged or altered in any way that increases its nonconformity.
- b) Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- c) Should such structure be moved, it shall thereafter conform to the regulations for the district to which it is relocated.

Subd.5 - Nonconforming Uses of Structures

If a lawful use of a structure or of structures and premises exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, providing that:

- a) No existing structure devoted to a nonconforming use shall be enlarged, extended, reconstructed or structurally altered unless the use is changed to a permitted use.
- b) Any nonconforming use may be extended to any other part of a building designed for such use and in existence of the date of adoption of this Ordinance, but no such use may be extended in any way to occupy land outside the building.
- c) Any structure or structures and land in or on which a nonconforming use is superseded or replaced

by a permitted use shall thereafter conform to the regulations of the district in which it is located, and the nonconforming use may not thereafter be resumed.

- d) Wherever a nonconforming use of a structure or premise is discontinued or abandoned for six (6) consecutive months or for eighteen (18) non-consecutive months during any three (3) year period, the structure or premises shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- e) Where nonconforming use status applies to both structure and land, the removal or destruction of the structure shall eliminate the nonconforming status of the land.
- f) The non-conforming use itself may not be enlarged.

Subd.6 - Repairs and Maintenance

On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing or repair or replacement of nonbearing walls, to an extent not exceeding ten percent (10%) of the replacement value of the building in any one year, provided that such work does not increase the size of the building. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to safe conditions of any buildings or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

Subd.7 - Conditional Uses

A conditional use provided for under Section 15 of this Ordinance shall not be deemed a nonconforming use in the district in which it is permitted.

Subd.8 - Cessation of Junkyards

Any junkyards are declared to be nuisances, and any such activities in existence at the date of the enactment of this Ordinance shall, at the expiration of one (1) year from such date, become a prohibited and unlawful use and shall immediately be discontinued.

Subd.9 – Existing Residential Properties

Existing residential uses in M1, C1 and C2 zoning districts may remain as a non-conforming use upon sale from one owner to another, and may be reconstructed one time by the owner of record at the time of adoption of this Ordinance.

903.07 R-1 Low Density Residential

Subd.1 - Standard Requirements Chart for Residential Districts.

Dimensional and spatial regulations for the Residential Districts are shown on the following Standard Requirements Chart for Residential Districts
Table 2.

**TABLE 2
STANDARD REQUIREMENTS CHART – RESIDENTIAL DISTRICTS
Primary Structure**

	District	R-1	R-2	R-3
	Minimum Requirements			
1.	Lot Area (SF) Single Family Dwelling	5,000	5,000	5 acres

	Lot Area (SF) 2 Family Dwelling	7,5000	7,500	
	Lot Area (SF) Multiple Family	N/A	7,500 + 2,500 for additional units	
2.	Per Unit Square Foot Floor Area (SF)	850 1 st unit, 750 second unit	600 1 st unit and 200 for each additional unit	
3.	Minimum Lot Width	50'	50'	300'
4.	Front Yard Set Back	25'	25'	50'
5.	Side Yard Set Back	10'	10'	50'
6.	Rear Yard Set Back	30'	30'	50'
7.	Corner Side Set Back	15'	15'	50'
8.	Maximum Height	35'/2	35'/3	35'
9.	Building Coverage Percentage	30%	30%	10%

Accessory Structure

DISTRICT		R-1	R-2
1.	Side Yard Setback	4'	4'
2.	Rear Yard Setback	4'	4'
3.	Accessory Building Overhang to Lot Line	2'	2'
4.	Maximum Size	1,000 square feet	1,000 square feet

Subd.2 - Intent

This district is intended to provide for very low density residential development, protected as to its residential quality, values and amenities so as to conform to the system of service available and to provide for such community facilities as will enhance the residential quality of the area.

Subd.3 - Permitted Uses

- a) Single family and two family dwellings
- b) Public and semi-public facilities, such as parks, playgrounds, cemeteries, schools and churches.
- c) Licensed residential facility serving six or fewer persons, a licensed day care center serving twelve or fewer persons and a group family day care facility licensed under Minnesota rules parts 9502.0315 to 9502.0445 to serve fourteen or fewer children.
- d) Private garages and storage sheds.
- e) Public Utility Buildings.

Subd.4 - Conditional Uses

- a) One family farm including truck gardening and plant nurseries.
- b) Hospitals, licensed day care centers, licensed nursing homes, licensed assisted care homes, home based business, excluding any type of automotive business.
- c) Planned unit residential development on site of not less than five (5) acres.
- d) Bed and Breakfast establishments.

- e) Golf courses and other outdoor recreation areas.
- f) Condominiums.

The City Council may consider less restrictive standards on an individual basis for the following items; lot area, lot width, setbacks, building size and attached building appurtenances, and accessory buildings and the like.

Subd.5 - Accessory Uses

- a) Home occupations
- b) Private recreational facilities such as swimming pool and tennis court.

Subd.6 - Minimum Lot Dimensions

- a) Area. Five thousand (5,000 sq. ft.) single-family residence and, ten thousand (10,000 sq. ft.) two-family residence.
- b) Width. Fifty (50) feet.

Subd.7 - Maximum Building Height

1. Maximum Building Height shall be two (2) stories and not over thirty-five (35) feet.
2. Maximum accessory building height shall be fifteen (15) feet.

Subd.8 - Minimum Yard Requirements (Primary Building)

- a) Minimum yard setback shall be provided as follows:
- b) Front Yards... Twenty-five feet (25) feet
- c) Rear Yard.... Thirty (30) feet
- d) Side Yard... Ten feet (10) feet. The side yard of a corner lot facing a street shall be fifteen (15) feet.
- e) Building Coverage may not exceed thirty (30) percent.

Subd.9 – Minimum Yard Requirements (Accessory Building)

- a. Rear Yard – four (4) feet.
- b. Side Yard – four (4) feet.
 - 1) Building Overhang Distance from Side or Rear Yard – two (2) feet.
 - 2) Maximum Building Size – 1,000 square feet.

Subd.10 - Signs

- a) One (1) sign identifying a home occupation, which shall not exceed four (4) square feet in area and shall be placed at least ten (10) feet from any property line.
- b) One (1) sign advertising property for sale, lease or rent, which shall not exceed twelve (12) square feet.
- c) No illuminated, flashing or moving signs are permitted.

Subd.11 – Landscaping

Refer to 903.17 for additional landscaping requirements.

903.08 R-2 Multi-Family District

Subd.1 – Intent

This district is intended to provide for an interesting and pleasant medium-density residential environment close to the town center or other service, retail or public service facilities.

**TABLE 2
STANDARD REQUIREMENTS CHART – RESIDENTIAL DISTRICTS
Primary Structure**

	District	R-1	R-2	R-3
	Minimum Requirements			
1.	Lot Area (SF) Single Family Dwelling	5,000	5,000	5 acres
	Lot Area (SF) 2 Family Dwelling	7,5000	7,500	
	Lot Area (SF) Multiple Family	N/A	7,500 + 2,500 for additional units	
2.	Per Unit Square Foot Floor Area (SF)	850 1 st unit, 750 second unit	600 1 st unit and 200 for each additional unit	
3.	Minimum Lot Width	50'	50'	300'
4.	Front Yard Set Back	25'	25'	50'
5.	Side Yard Set Back	10'	10'	50'
6.	Rear Yard Set Back	30'	30'	50'
7.	Corner Side Set Back	15'	15'	50'
8.	Maximum Height	35'/2	35'/3	35'
9.	Building Coverage Percentage	30%	30%	10%

Accessory Structure

DISTRICT		R-1	R-2
1.	Side Yard Setback	4'	4'
2.	Rear Yard Setback	4'	4'
3.	Accessory Building Overhang to Lot Line	2'	2'
4.	Maximum Size	1,000 square feet	1,000 square feet

Subd.2 - Permitted Uses

- a) Uses permitted in an R-1 District
- b) Multi-family dwellings.
- c) Temporary building for and during construction
- d) Private garages and storage sheds.
- e) Townhouses
- f) Condominiums
- g) Churches

Subd.3 - Conditional Uses

- a) Conditional uses permitted in the R-1 district.
- b) Nursery schools, childcare centers – non-boarding.
- c) Public utility buildings and structures.
- d) Public parking areas if within two hundred (200) feet of a commercial district.
- e) Motels, hotels.
- f) Funeral Homes, mortuaries.
- g) Lodges, fraternal organizations.
- h) Medical clinics, professional offices.
- i) Manufactured homes (subject to Chapter 9, Part 5).
- j) Residential treatment facility.
- k) Greenhouses

The City Council may consider less restrictive standards on an individual basis for the following items; lot area, lot width, setbacks, building size and attached building appurtenances, and accessory buildings and the like.

Subd.4 – Minimum Lot Dimensions. See Table 2

- a) Area: Single family five thousand (5,000) square feet, two (2) family seventy five hundred (7,500) square feet, three (3) family ten thousand (10,000) square feet (twenty five hundred (2,500) square feet for each additional unit after the first). Per Unit Floor Area: Six hundred (600) square feet for first unit and two hundred (200) square feet for each additional unit.
- b) Width Fifty (50) feet.
- c)

Subd.5 - Maximum Building Height

- 3. Maximum Building Height shall be three (3) stories and not over thirty-five (35) feet in height.
- 4. Maximum accessory building height shall be fifteen (15) feet.

Subd.6 - Minimum Yard Requirements (Primary Building)

- a) Front Yard... Twenty-five feet (25) feet.
- b) Rear Yard... Thirty (30) feet.
- c) Side Yard... Ten feet (10) feet. The side yard of a corner lot facing a street shall be fifteen (15) feet.
- d) Building Coverage may not exceed thirty (30) percent.

Subd.7 – Minimum Yard Requirements (Accessory Building)

- a. Rear Yard – four (4) feet.
- b. Side Yard – four (4) feet.

1. Building Overhang Distance from Side or Rear Yard – two (2) feet.
2. Maximum Building Size – 1,000 square feet.

Subd.8 - Signs

As specified in Section 7.10 provided that signs for non-residential uses allowed as conditional uses in the R-2 District shall be non-flashing, non-illuminated and shall have an area of not more than fifteen (15) square feet.

Subd.9 – Additional Requirements

The City may impose additional requirements including but not limited to open space, playgrounds, play areas, parking spaces and the like.

Subd.10 - Landscaping

Refer to Section 17 for additional landscaping requirements.

**TABLE 2
STANDARD REQUIREMENTS CHART – RESIDENTIAL DISTRICTS
Primary Structure**

	District	R-3
	Minimum Requirements	
1.	Lot Area (SF) Single Family Dwelling	5 acres
	Lot Area (SF) 2 Family Dwelling	
	Lot Area (SF) Multiple Family	
2.	Per Unit Square Foot Floor Area (SF)	850 sq. ft
3.	Minimum Lot Width	300'
4.	Front Yard Set Back	50'
5.	Side Yard Set Back	50'
6.	Rear Yard Set Back	50'
7.	Corner Side Set Back	50'
8.	Maximum Height	35'
9.	Building Coverage Percentage	10%

Accessory Structure

DISTRICT		R-3
1.	Side Yard Setback	50'
2.	Rear Yard Setback	50'
3.	Maximum Lot Coverage	10% Coverage

Subd.1 - Intent

This district is intended to provide for an agricultural residential environment.

Subd.2 - Permitted Uses

- a) Uses permitted in an R-1 and R-2 District
- b) Agricultural Uses, such as field crops, truck gardening, berry or bush crops, tree crops, flower gardening.

Subd.3 – Conditional Uses

a) Kennels

The City Council may consider less restrictive standards on an individual basis for the following items; lot area, lot width, setbacks, building size and attached building appurtenances, and accessory buildings and the like.

Subd.4 - Minimum Lot dimensions. See Table Two (2)

- a) Area: Minimum 5 acres.
- b) Width: Three hundred (300) feet.

Subd.5 - Maximum Building Height

- a) Thirty five (35) feet

Subd.6 - Minimum Yard Requirements (Primary Building)

- a) Front Yard.....Fifty (50) feet
- b) Rear Yard.... .Fifty (50) feet
- c) Side Yard..... Fifty (50) feet
- d) Building Coverage may not exceed ten (10) percent.

Subd.7 - Minimum Yard Requirement (Accessory Building)

- a) Rear Yard....Fifty (50) feet
- b) Side Yard.....Fifty (50) feet

Subd.8 - Signs

As specified in Section 7.10 provided that signs for non-residential uses allowed as conditional uses in the R-2 District shall be non-flashing, non-illuminated and shall have an area of not more than fifteen (15) square feet.

Subd.9 – Additional Requirements

The City may impose additional requirements including but not limited to open space, playgrounds, play areas, parking spaces and the like.

Subd.10 - Landscaping

Refer to 903.17 for additional landscaping requirements.

903.10 Planned Unit Development (PUD)

Subd.1 - Purpose

The purpose of the Planned Unit Development (PUD) District is to offer an alternative zone to permit multiple uses within a single use district, which are at variance with the area zoning requirements. This section is intended to permit flexibility of site design, architecture for the conservation of land and open space through clustering of buildings and activities and as an incentive to developers to plan creatively by providing density bonuses. This flexibility can be achieved by waiving provisions of this Ordinance

including uses, setbacks, heights and similar regulations. Planned Unit Developments are characterized by central management, integrated planning and architecture, joint or common use of parking, open space and other facilities, and a harmonious selection and efficient distribution of uses.

Subd.2 - Definition

Planned Unit Developments shall include all development having two or more principal uses or structures on a single parcel of land; and may include town homes, apartments involving more than one building, residential subdivision submitted under cluster zoning provisions, multi-use structures such as an apartment building with retail at ground floor level, commercial development, industrial development, mixed residential and commercial development and similar projects.

Subd.3 - General Requirements and Standards

- a) Ownership: All owners of the land must file an application for PUD approval included in a proposed development. In the case of multiple ownership, the Approved Final Plan shall be binding on all parcels involved. The developer shall have a property interest in the site, which shall consist of a fee simple title, or an option to acquire fee simple title within a specified time period, or a leasehold interest in excess of thirty years.
- b) Comprehensive Plan Consistency: A proposed PUD shall be consistent with the City comprehensive Plan and the intent and purpose of the City Code provisions related to land use and development.
- c) Common Open Space: Common open space at least sufficient to equal the minimum density requirements established in the City Zoning Code shall be provided within the area of the PUD.
- d) Operating and Maintenance Requirements of PUD Common Open Space Facilities: Whenever joint common open space or service facilities for individual owners or users are provided with the PUD, the PUD plan shall provide reasonable assurance of adequate operation and maintenance of such open space and service facilities.
- e) Development Stage: Whenever any PUD is to be developed in stages, no such stage shall, when averaged with all previously completed stages, have a residential density that exceeds one hundred twenty-five percent (125%) of the proposed residential density of the entire PUD.
- f) Urban Development and Availability of Public Service: All development shall be carefully phased so as to ensure that it will not cause a deleterious impact upon the natural environment.
- g) Density: Single purpose Planned Unit Development. The density and intensity of use shall conform to the District in which the land and project are located subject to Subdivision code.
 - A. Mixed Use Unique Purpose Planned Unit Developments. The density and intensity of use shall be determined and regulated by the Planned Unit Development agreement approved by the City council.
 - B. For purposes of density calculations the lot area shall not include road right-of-way or that area of the lot, which is below the normal water level of an adjacent lake. At the discretion of the City, some or all portions of storm water detention basins and wetland area may be used for density calculations.
- h) Site Improvement: All improvements and all engineering and design standards required by the City Subdivision code and all other regulations applicable to the development of land shall be applicable to Planned Unit Developments.
- i) Public Hearings Review and Approval Process: The public hearing, review and approval process for Planned Unit Development projects shall be as required for Conditional Use Permits in section below, except that a 4/5 (four-fifths) vote of the City Council is required for approval of both the Preliminary Development Plan and the Final Development Plan.

Subd.4 - Permitted Uses

The permitted uses may include:

1. Any combination of dwelling units in single family, two-family, town or row houses and apartments.
2. Any non-residential use, to the extent such non-residential use is designed and intended to serve the residents of the Planned Unit Development.
3. Other uses in the zoning district in which the Planned Unit Development is located.

Subd.5 - Special Requirements and Standards

1. Required frontage and minimum project size. The tract of land for which a project is proposed and a permit is requested shall not have less than two hundred feet of frontage on the public right-of-way and a minimum area of five acres.
2. Yards:
 1. The front and side yard restrictions at the periphery of the Planned Unit Development site at a minimum shall be the same, as those required in the Zoning Districts.
 2. No building shall be nearer than its building height to the rear or side property line.
 - a) No building shall be located less than fifteen feet from the back of the curb line along those roadways that are part of the internal street pattern.
 - b) No building within the project shall be nearer to another building than one-half the sum of the building heights of the two buildings.
3. Landscaping. Screening and surfacing
 1. The entire site other than that taken up by structures or landscaping shall be surfaced with a material to control dust and drainage.
 2. Non-residential developments abutting a Residential Use District shall be screened and landscaped as required by this Ordinance.

Subd.6 - Preliminary Development Plan Specifications

An applicant shall submit to the City Clerk, prior to the setting of a public hearing, the preliminary development plan that shall be composed of drawings and a written statement.

- A. The drawings may be in schematic form and must contain the following:
 1. The location, size of site and the proposed land uses of the land to be developed, along with the density of land use to be allocated to the several parts of the site to be developed.
 2. The location and size of all useable open space and all common space and the form of organization that will own and maintain such space.
 3. The use, height, bulk and approximate location of buildings and other structures.
 4. The plans for the distribution of sanitary wastes, storm water and the provisions for other utilities.
 5. The plans for parking of vehicles and the location and width of proposed streets, curb, gutter and landscaping.
 6. A schedule showing the proposed times within which application for final approval for all sections of the Planned Unit Development are intended to be filed.
 7. A topographic map prepared by a Registered Civil Engineer or Registered Land Surveyor covering the entire tract proposed for development.
 8. The written statement must include the following:

- a) A narrative explanation of the general character of the Planned Unit Development, its integration with the surrounding land uses and justification for any requested density bonuses.
- b) A statement identifying the final ownership and describing maintenance of all parts of the development including streets, structures, common spaces and useable open space.
- c) The total anticipated population of the Planned Unit Development, with breakdown as to the estimated number of school age children, adults and families.

Subd.7 - Final Development Plan Specifications

The Final Development Plan filed with the City Clerk shall contain in final form all of the information required in the preliminary development plan. Within six months following the approval of the preliminary development plan by the Planning Commission and the City Council, the applicant shall file with the City Clerk a Final Development Plan containing in final form the information required in the preliminary plan. The Final Development Plan must be approved by the Planning Commission and the City Council. The City Council at its discretion may extend for six months the period for filing of the Final Development Plan.

Subd.8 - Findings Required

The written City Council findings necessary for approval of the Preliminary and Final Development Plans shall be based on the following and shall describe in what respects the plan would or would not be in the public interest:

- A. The Plan is consistent with the Carlton Comprehensive Plan.
- B. The Plan is designed to form a desirable and unified development with its boundaries.
- C. The proposed uses will not be detrimental to present and future land uses in the surrounding area.
- D. Any exceptions to the standard requirements of the zoning and Subdivision Codes are justified by the design of the development.
- E. The plan will not create an excessive burden on parks, schools, streets and other public facilities and utilities that serve or are proposed to serve the Planned Unit Development.
- F. The Planned Unit Development will not have an undue and adverse impact on the reasonable use and enjoyment of neighboring property.

Subd.9 – Landscaping

Refer to 903.17 for additional landscaping requirements.

903.11 C-1 Town Center Commercial

Subd. 1 - Standard Requirements Chart for Commercial/Industrial Districts

Dimensional and spatial regulations for the non-residence districts are shown on the following Standard Requirements Chart for Non-Residential Districts, Table 3.

**TABLE 3
STANDARD REQUIREMENTS CHART COMMERCIAL/INDUSTRIAL DISTRICTS**

DISTRICT		C-1	C-2	M-1	M-2
1.	Minimum Lot Area (SF)	4,000	5,000	15,000	1 acre
2.	Minimum Lot Width	40	50	100	200
3.	Minimum Front Yard	0	25	35	40
4.	Minimum Side Yard	0	0	35	35
	Adjoining an R1/R2 District	15	20	50	50
5.	Minimum Rear Yard	20	20	35	35
6.	Maximum Building Height	35' 2 stories	35' 2½ stories	35' 2½ Stories	40'
7.	Minimum Landscape Area per site	20%	N/A	20%	20%

Subd.2 – Intent of the C-1 District

The intent of this district is to maintain and enhance the existing character of the town center commercial area along Chestnut Avenue and to provide design standards that complement this intent. This district is the community focal point, its retail and service center, its cultural and social center. Permitted uses should serve the retail, service and cultural needs of the community, provide jobs for residents, and provide as well for some tourism opportunities. New development should be compatible in building material, architectural character, massing, scale and height with the existing district character. Pedestrian activities are encouraged throughout the district and second story residential use is permitted. Highway/auto-oriented uses and establishments requiring large sites for outdoor display and sales are excluded because of their incompatibility with the existing character. Landscaping should be used to enhance and delineate the existing downtown environment.

Subd.3 - Permitted Uses

- A. Retail commercial uses conducted entirely within a building.
- B. Personal service shops, such as barber, shoe repair, photography, tailor and laundry.
- C. Business services such as printing and computer services.
- D. Offices of a general nature.
- E. Repair services such as jewelry, radio and television, but not auto repair or machinery repair.
- F. Financial institutions.
- G. Artist’s studio.

- H. Bed and Breakfast establishment.
- I. Theaters, commercial amusement places.
- J. Medical and dental clinics.
- K. Restaurants and Drinking Establishments including both “sit down” and “take out” establishments, but excluding fast food establishments which feature “drive through” window pick-up service.
- L. Lodges, non-profit organizations, fraternal organizations.
- M. Public or semi-public facilities.
- N. Private health club.
- O. Public utility buildings and structures.
- P. Temporary buildings for and during construction.
- Q. Second Story Apartments over business establishments.
- R. Other uses compatible with the general uses described in this section.

Subd.4 - Conditional Uses

- A. Retail sales lots including used cars
- B. Open storage lots included as part of a permitted use
- C. Wholesale and storage establishments
- D. Gasoline service stations and auto repair garages
- E. Residences, if in conjunction with a non-residential establishment
- F. Day Care Center
- G. Multi-family dwelling
- H. Shopping centers
- I. Other uses compatible with the general uses described in this section.

The City Council may consider less restrictive standards on an individual basis for the following items; lot area, lot width, setbacks, building size and attached building appurtenances, and accessory buildings and the like.

Conditions to be considered when reviewing a conditional use include, but are not limited to, the following:

1. The use is not detrimental to public health and welfare.
2. The use does not impair the integrity of the district and the pedestrian-oriented character of the district.
3. The use is sited, oriented, and landscaped to produce a harmonious relationship of buildings and grounds compared to adjacent buildings and properties.
4. The use provides organized vehicular access and parking to minimize traffic congestion in the District.
5. The use conforms to the District and conditional use provisions and all general regulations of this Ordinance.

Subd.5 - Lot Requirements

The lot requirements for permitted uses in the Commercial Town Center are as follows:

- A. Minimum Lot Area: 4,000 square feet
- B. Minimum Lot Width: 40 feet
- C. Minimum Lot Depth: None Required
- D. Maximum Building Height: 35 feet, 2 Stories
- E. Front Yard: 0 feet (in order to maintain a strong sense of streetscape)

- F. Minimum Side Yard: 0 feet unless the side yard abuts a residential district, in which case the side yard shall be a minimum of 15 feet.
- G. Minimum Rear Yard: 20 feet.

Subd.6 - Parking

The parking provisions of the Town Center District shall also follow these requirements.

- A. Location of Parking on the Lot. All off-street parking shall be located behind the building or in the case of an interior lot, in the side yard. Where practical, parking shall be screened from public streets or ways, except alleys.
- B. Required Screening. When screening is required, any off-street parking space or parking lot that abuts a street right-of-way shall be buffered from the right-of-way by a landscaped area no less than four feet wide in which is located a continuous row of shrubs no less than 3.5 feet high, or by a wall no less than four feet and no more than six feet high, in addition to any required shade trees.
- C. Parking areas located adjacent to street intersections shall only be allowed upon approval of the City Council.
- D. On-street parking that fronts each site shall be included in the calculation of the required number of parking spaces required by Section 5, Off-Street Parking.
- E. Off-Site Parking. Public parking areas, structures, ramps may be used to fulfill parking requirements in the C-1 District provided they are located not more than 400 feet from the main entrance to the principal use being served.
- F. Joint use of parking facilities that balance peak and off-peak parking demand and share spaces between adjoining properties shall be encouraged.

Subd.7 - Landscaping and Lighting

- A. It is the intent of this District to provide an attractive downtown area that includes landscaping. The following suggestions apply in this District:
- B. All open areas of properties not used for building, off-street parking, access drives, plazas or storage shall be landscaped with a combination of conifers and/or deciduous trees, shrubs, flowers, ground covers and grass. A minimum of 20 percent of the lot shall be landscaped, if practical. Properties currently without open areas and/or off-street parking shall be exempt from landscaping requirements.
- C. The applicant shall submit to the Planning Commission and City Council, a landscape plan for all site work requiring a building permit. The plan shall identify the location and size of both existing vegetation to be retained and proposed new vegetation, typical planting materials, the phasing of landscape installation, and planting methods. There shall be no minimum amount of green, landscaped area required, nor there a minimum amount of trees required. However, the Planning Commission shall review and the City Council shall approve the landscape plan before a zoning permit can be issued.
- D. The use of window boxes, hanging flower baskets, vines, and other seasonal landscaping is encouraged. Window boxes, hanging baskets and planters should be used around entries; white vines should be used to cover blank walls or their surfaces. The use of native local plants would be the most appropriate choice in selecting landscape materials. Planting areas should be located and designed to avoid visual interference with public signage and private commercial communication.
- E. See 903.17 for additional landscaping requirements.

Subd.8 - Building Materials

It is the intent of this District to provide an attractive town center area that includes exterior building materials that are consistent with the historic character of the area. The following requirements apply in this District:

- A. The use of quality building materials and methods to create an enduring stock of buildings shall be required.
- B. Acceptable materials and methods shall include, but not be limited to:
 - 1. All street abutting building exteriors must be of approved premium quality materials.
- C. Unacceptable building materials in the town center shall include, but not be limited to:
 - 1. Glass curtain walls, ribbed metal panels, concrete block that is not decorative, plywood or oriented strand board.
- D. Planning Commission review. An applicant may appeal to the Planning Commission through the variance procedure for reasonable relief from these building material standards.

Subd.9 – Signs

It is the intent of this Ordinance to allow signs in this District that are consistent with the historic and pedestrian-oriented character of the downtown area. The sign provisions for the town center are as follows:

- A. *Wall sign.* The sign area shall have a maximum allowable area of 15% of the building wall upon which the sign is located.
- B. *Monument sign.* A ground-mounted sign shall have a maximum allowable area of 32 square feet and a maximum height of 6 feet above the ground.
- C. *Projecting sign.* The sign shall provide adequate clear space between the sign and pedestrian traffic and street activity. No projecting sign shall extend more than five feet into the public right-of-way, nor be lower than eight feet above the public sidewalk or project over a public street or alley. The sign shall be no greater than eight (8) square feet in area.
- D. *Portable menu board sign.* The sign is allowed without a permit provided it meets the following conditions:
 - 1. A portable menu board sign is permitted to occupy the public or private sidewalk area within five feet of the entryway to the subject business, provided that such sign allows for a minimum clearance of four feet along the sidewalk to facilitate pedestrian circulation.
 - 2. The size and content of the display message shall relate to pedestrians and not be designed to convey information to vehicular traffic.
 - 3. Sign display is only permitted during the business hours of the subject business.
 - 4. The sign may be no greater than five feet in height and no greater than six square feet in area.
- E. *Awning and canopy signs* are permitted. Plastic signs are not permitted.
- F. *Painted wall sign.* The sign shall have a maximum allowable area of 15% of the building wall upon which the sign is located. A painted wall sign must be maintained in a neat and clean condition, having no chipping or peeling paint.
- G. Prohibited Signs in the Town Center District. In addition to the prohibited signs described above, the following are not permitted:
 - 1. Flashing signs.
 - 2. Signs more than four hundred (400) square feet.

3. Pylon or pole signs.

H. Maximum Number of Signs. No more than two permanent signs identifying any one business shall be displayed. No more than two permanent signs may be displayed per building façade.

Subd.10 - Accessory Uses

- A. Storage within a building, if accessory to a principal use.
- B. Off-street parking spaces and loading berths.
- C. Accessory buildings and uses customarily incidental to the above listed uses.

Subd.11 – Landscaping

See 903.17 for additional landscaping requirements.

903.12 C-2 Highway Commercial

Subd.1 – Intent

**TABLE 3
STANDARD REQUIREMENTS CHART COMMERCIAL/INDUSTRIAL DISTRICTS**

DISTRICT		C-1	C-2	M-1	M-2
1.	Minimum Lot Area (SF)	4,000	5,000	15,000	1 acre
2.	Minimum Lot Width	40	50	100	200
3.	Minimum Front Yard	0	25	35	40
4.	Minimum Side Yard	0	0	35	35
	Adjoining an R1/R2 District	15	20	50	50
5.	Minimum Rear Yard	20	0	35	35
6.	Maximum Building Height	35' 2 stories	35' 2½ stories	35' 2½ Stories	40'
7.	Minimum Landscape Area per site	20%	N/A	20%	20%

This district is intended to provide roadside service for travelers, as well as for residents, and to provide for the development of activities that use land extensively. Such business activities should not be permitted to interfere with the movement of traffic near or within the amenities of the City.

Subd.2 - Permitted Uses

- A. Motels, hotels
- B. Eating and drinking establishments including drive-in restaurants.
- C. Gasoline service stations, truck stops.
- D. Grocery stores
- E. Car washes and repair garages but not including open storage of dismantled vehicles.
- F. Landscape, nursery or garden sales.
- G. Public utility buildings and structures.
- H. Temporary buildings for and during construction.
- I. Other uses compatible with the general uses described in this section.

Subd.3 - Conditional Uses

- A. Auto, truck, trailer, and farm implement sales.
- B. Marine and boat sales.
- C. Bowling alleys, dance halls.
- D. Miniature golf course, golf driving range and other commercial outdoor recreation activities.
- E. Combined business and residential uses.
- F. Planned unit development for retail and service uses on site of four (4) or more acres.
- G. Billboards and outdoor advertising signs not exceeding 600 square feet.
- H. Condominiums.
- I. Multiple Family Dwellings.
- J. Other uses compatible with the general uses described in this section.

The City Council may consider less restrictive standards on an individual basis for the following items; lot area, lot width, setbacks, building size and attached building appurtenances, and accessory buildings and the like.

Subd.4 - Accessory Uses

- A. Storage of goods related to sales establishments.
- B. Off-street parking spaces and loading berths.
- C. Accessory buildings and uses customarily incidental to the above listed uses.

Subd.5 - Minimum Lot Dimensions

- A. Area: Five thousand (5,000) square feet.
- B. Width: Fifty (50) feet.

Subd.6 - Maximum Building Height, Width, and Length

Maximum Building Height shall be two and one-half (2½) stories and not over thirty-five (35) feet.

Subd.7 - Minimum Yard Requirements

- A. Front Yard: Twenty-five (25) feet.
- B. Rear and Side Yards: None required provided that if a property abuts a residential district there shall be a yard of not less than twenty (20) feet provided on the abutting side, which yard shall be screened from view of the residential district.

Subd.8 - Signs

- A. No flashing signs shall be permitted.
- B. A sign of not more than 600 square feet on the facings of all its sides for any one building or for all the uses in the building is permitted.
- C. Signs may not extend over a sidewalk for more than five (5) feet. No sign may project over a public street or alley.

Subd.9 – Landscaping

See 903.17 for additional landscaping requirements.

903.13 M-1 Industrial District

Subd.1 - Intent

**TABLE 3
STANDARD REQUIREMENTS CHART COMMERCIAL/INDUSTRIAL DISTRICTS**

DISTRICT		C-1	C-2	M-1	M-2
1.	Minimum Lot Area (SF)	4,000	5,000	15,000	1 acre
2.	Minimum Lot Width	40	50	100	200
3.	Minimum Front Yard	0	25	35	40
4.	Minimum Side Yard	0	0	35	35
	Adjoining an R1/R2 District	15	20	50	50
5.	Minimum Rear Yard	20	20	35	35
6.	Maximum Building Height	35' 2 stories	35' 2½ stories	35' 2½ Stories	40'
7.	Minimum Landscape Area per site	20%	N/A	20%	20%

It is intended that this Ordinance provide for the activities in this District that give employment to many of the City’s residents. In this area, close to rail and highway transportation, the most advantageous sites for such activities are located. However, uses of land, which adversely may affect the health, or welfare of the people are prohibited.

Subd.2 - Permitted Uses

- A. Gasoline service stations.
- B. Automotive work and repair garages but not including the open storage of dismantled vehicles.
- C. Landscape nursery or garden sales.
- D. Public utility buildings and structures.
- E. Lumberyards, building materials sales yard.
- F. Auto, truck, trailer and farm implement sales.
- G. Marine and boat sales.
- H. Bottling and manufacturing.
- I. Food processing plants.
- J. Storage warehouses and open storage yards.
- K. Transportation and freight terminals.
- L. Contractor’s offices, warehouses, storage yards.
- M. Hay, grain, feed and fuel supply sales and storage.
- N. Monument works.
- O. Temporary buildings for and during construction.
- P. Sexually Oriented businesses in accordance with all the regulations of Sections 12.9, 12.10 below.
- Q. Other uses compatible with the general uses described in this section.

Subd.3 - Conditional Uses

- A. Billboards and outdoor advertising signs not exceeding 600 square feet.
- B. Planned unit industrial development on sites of not less than ten (10) acres.
- C. Any lawful use of land or building not expressly prohibited or provided for and which, by its nature, does not constitute either a public or private nuisance because of noise, dirt, soot, offensive odor or unsanitary condition.
- D. Other uses compatible with the general uses described in this section.

The City Council may consider less restrictive standards on an individual basis for the following items; lot area, lot width, setbacks, building size and attached building appurtenances, and accessory buildings and the like.

Subd.4 - Accessory Uses

- A. Off-street parking spaces and loading berths.
- B. Accessory buildings and uses customarily incidental to the above listed uses.

Subd.5 - Minimum Lot Dimensions

- A. Area: Fifteen thousand (15,000) square feet.
- B. Width: One hundred (100) feet

Subd.6 - Maximum Building Height, Width, and Length

Maximum Building Height shall be two and one-half (2½) stories and not over thirty-five (35) feet.

Subd.7 - Minimum Yard Requirements

- A. Front Yard: Thirty-five (35) feet.
- B. Side Yard: Thirty-five (35) feet provided that where an M-1 Industrial District abuts a residential district a side yard of fifty (50) feet shall be provided on the abutting side, which yard shall be screened from view of the residential district.
- C. Rear Yard: Thirty-five (35) feet provided that where an M-1 Industrial District abuts a residential district a rear yard of fifty (50) feet shall be provided on the abutting side, which yard shall be screened from view of the residential district.

Subd.8 - Signs

- A. No flashing signs shall be permitted.
- B. A sign of not more than six hundred (600) square feet on the facings of all its sides for any one building or for all the uses in the building is permitted.
- C. Signs may not extend over a sidewalk or other public right-of-way.

Subd.9 - Landscaping Area

- A. A landscape plan shall be submitted that shows the location of property boundaries, existing and proposed buildings and parking lots, and the location and size of proposed plant materials.
- B. A minimum of twenty percent (20%) of the lot area shall be landscaped.

- C. All site areas not covered by hard surface coverage shall be covered by sod, seed or an equivalent ground cover approved by the City. This requirement shall not apply to site areas retained in a natural condition.
- D. Refer to Section 17 for additional landscaping requirements.

Subd.10 – Architectural Standards

- A. Architectural plans shall be prepared by an architect or other qualified design professional and shall show the following:
 - 1. elevations of all sides of the building
 - 2. type and color of exterior building materials
 - 3. dimensions of all structures
 - 4. the location and design of all accessory structures including trash and recycling receptacles, and exterior mechanical equipment.
- B. Architectural consistency on all side of the building is required in terms of colors, materials and details.
- C. Unadorned pre-stressed concrete panels, concrete block, unfinished and corrugated metal and pole type building shall not be permitted as exterior building materials.
- D. All rooftop or ground mounted mechanical equipment and exterior trash and recycling storage areas shall be enclosed with materials compatible with the principal structure.

Lighting and Glare

Glare or illumination from any source of lighting for any use shall be aimed or deflected away from adjoining property and public rights-of-way, except street lighting and traffic signals. Reflected glare or spill light shall not exceed five-tenths (5/10) foot candles as measured on the property line when abutting any residential parcel or lot and one (1) foot-candle on any abutting agricultural, commercial or public/institutional parcel or lot.

Parking

The number of required parking spaces has been established for specific uses in the City. The City Council shall determine the required number of parking spaces for uses not specifically listed in this subdivision based upon the characteristics of the use.

Subd.11 – Sexually Oriented Businesses

- A. Location Restrictions. Adult use only bookstores, adult theaters, adult massage parlors, adult conversations/rap parlors, adult saunas, adult entertainment centers, adult cabarets, adult health/sport clubs, adult steam room/bathhouse facilities and other sexually-oriented businesses may be operated or maintained only within the M-1 business district.
- B. Regulated Uses. No adults-only bookstores, adult theaters, adult message parlor, adult conversation/rap parlor, health/sport club, adult steam room/bathhouse facility, or other sexually oriented business shall:

1. Be operated or maintained within 1,000 feet of a residentially (R-1, R-2 or R-3), zoned district;
 2. Be operated or maintained within 1,000 feet of a church, licensed daycare facility, public library, public educational facility which serve persons age 17 or younger, elementary school, high school, place of worship, cemetery or elderly housing facility.
 3. Be operated or maintained within 2,000 feet of another such sexually oriented business.
 4. Only one of the above-regulated uses shall be allowed per block face.
- C. The distance limitations set forth herein shall be measured in a straight line from the main public entrances of said premises or from the lot lines of properties in residentially zoned districts, whichever distance is greater.
- D. No sexually oriented business shall be located in the same building or upon the same property as another such use.
- E. No sexually oriented business shall be located in any place that is also used to dispense or consume alcohol.
- F. Notwithstanding any other provision of this code, a sexually oriented business shall not be permitted more than one sign advertising its business, which shall be an on premise sign only. All such signs:
1. Shall be flat wall signs;
 2. The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on the street;
 3. No merchandise or pictures of the products or entertainment offered on the premises shall be displayed or depicted in window areas or any area of the property where they can be viewed from the sidewalk in front of the building;
 4. Window areas shall be covered or made opaque. No sign shall be placed in any window. A one square foot sign may be placed on the door to state hours of operation and allowing admittance to adults only.
 5. No sign shall contain any flashing lights, moving elements, or mechanically changing messages.
 6. No sign shall contain any depiction of the human form or any part thereof.
 7. No sexually oriented business may have any off-premise sign located within the City of Carlton.

Subd.12 – Definitions of for Sexually Oriented Businesses

- A. Adults-only bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films or other devices for sale or viewing on premises by use of motion picture devices or other coin, currency or credit card-operated means, and other periodicals which are distinguish or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined below, or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein.
- B. Adults-only motion picture theater: An enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation by patrons therein.

- C. Sexually Oriented Massage parlor: A massage parlor that provides the service of “massage,” if such service is distinguished by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- D. Nudity: The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast, with less than a fully opaque covering of any portion thereof below the top of the nipple, or depiction of covered male genitals in a discernibly turgid state.
- E. Sexually Oriented Rap Parlor: A conversation/rap parlor that provides the service of engaging in listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for patrons.
- F. Adult Sauna: An establishment or place primarily in the business of providing (i) a steam bath or hot air bathing, and/or (ii) massage services, where such service is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein for patrons.
- G. Sexual Excitement: The condition of human male or female genitals when in a state of sexual stimulation or arousal.
- H. Sadomasochistic Abuse: Flagellation or torture by or upon a person in the condition of being fettered, bound or otherwise physically restrained for purposes related or partly related to sexual arousal.
- I. Adult Entertainment Center: An enclosed building or a part of an enclosed building, wherein an admission is charged for entrance into the facility, or for food, alcoholic beverages or other beverages intended for consumption within the facility, wherein may be observed or which contains one or more coin, currency or credit card-operated mechanisms which when activated permit a customer to view one or more live persons unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- J. Sexually Oriented Cabaret: A building or portion of a business used for providing dancing or other live entertainment, if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- K. Sexually Oriented Health/Sport Club: A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- L. Sexually Oriented Steam Room/Bathhouse Facility: A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning relaxing or reducing agent, if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on

nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.

M. Sexually-Oriented Business: An adult bookstore, adult theater, sexually oriented massage parlor, sexually oriented conversation/rap parlor, adult sauna, adult entertainment center, sexually oriented cabaret, sexually oriented health/sport club, sexually oriented steam room/bathhouse facility, or any other business whose primary business activity is characterized by emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse as defined herein.

N. Sexual Conduct. Acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person’s unclothed genitals, pubic area, buttocks, or, if such person be a female, her breast.

Subd.13 – Law Enforcement

Law enforcement officials may be allowed to enter the premises of any sexually oriented business unannounced without a search warrant to search for illegal activity or violations of this Ordinance.

Subd.14 – Other

The City may enact other ordinances regulating sexually orientated businesses as defined in this section.

903.14 M-2 Industrial/Commercial Business District

Subd.1 – Intent

**TABLE 3
STANDARD REQUIREMENTS CHART COMMERCIAL/INDUSTRIAL DISTRICTS**

DISTRICT		C-1	C-2	M-1	M-2
1.	Minimum Lot Area (SF)	4,000	5,000	15,000	1 acre
2.	Minimum Lot Width	40	50	100	200
3.	Minimum Front Yard	0	25	35	40
4.	Minimum Side Yard	0	0	35	35
	Adjoining an R1/R2 District	15	20	50	50
5.	Minimum Rear Yard	20	20	35	35
6.	Maximum Building Height	35’ 2 stories	35’ 2½ stories	35’ 2½ Stories	40’
7.	Minimum Landscape Area per site	20%	N/A	20%	20%

The purpose of this district is to provide for commercial and industrial activities that create employment and add economic vitality to the community. All residential land use is prohibited.

Subd.2 - Permitted Uses

A. Automotive works and repair garages but not the open storage of dismantled vehicles

- B. Landscape, nursery and garden sales
- C. Public utility buildings
- D. Building materials sales yards
- E. Auto, truck, trailer and farm implement sales, and service
- F. Marine and boat sales
- G. Bottling and manufacturing
- H. Food processing plants
- I. General warehouses and open storage yards. (Must be screened)
- J. Transportation and freight terminals
- K. Contractor's offices, warehouses, storage yards
- L. Fertilizers, seeds & fuel sales
- M. Monument works
- N. Office Buildings
- O. Wholesale Trade
- P. Temporary buildings for and during construction
- Q. Off street parking
- R. Industrial sales
- S. Veterinary dispensary and small animal hospital
- T. Other uses compatible with the general uses described in this section.

Subd.3 - Conditional Uses

- A. Retail Sales not specifically included in Permitted Uses.
- B. Any use of land not expressly prohibited or provided for which creates employment and economic advantage, for the community, which economic advantage substantially outweighs any disadvantage to the community connected with the use.

The City Council may consider less restrictive standards on an individual basis for the following items; lot area, lot width, setbacks, building size and attached building appurtenances, and accessory buildings and the like.

Subd.4 - Minimum Lot Dimensions

- A. Area: One acre
- B. Width: Two hundred (200) feet.

Subd.5 - Minimum Yard Requirements

- A. Front Yard: Forty (40) feet.
- B. Side Yard: Thirty-five (35) feet provided that where an M-1 Industrial District abuts a residential district, a side yard of fifty (50) feet in width shall be provided on the abutting side, which yard shall be screened from view of the residential district if requested by the affected residential property owner.
- C. Rear Yard: Thirty-five (35) feet. Where the rear yard abuts a residential district the rear yard shall be screened from view of the residential district if requested by an affected residential property owner.

Subd.6 - Landscaping Area

A. A landscape plan shall be submitted that shows the location of property boundaries, existing and proposed buildings and parking lots, and the location and size of proposed plant materials.

B. A minimum of twenty percent (20%) of the lot area shall be landscaped.

1. All site areas not covered by hard surface coverage shall be covered by sod, seed or an equivalent ground cover approved by the City. This requirement shall not apply to site areas retained in a natural condition.

2. Refer to 903.17 for additional landscaping requirements.

Subd.7 - Signs

A. Flashing signs are prohibited.

B. Signs may not extend over the public right-of-way.

Subd.8 – Architectural Standards

A. Architectural plans shall be prepared by an architect or other qualified design professional and shall show the following:

1. elevations of all sides of the building

2. type and color of exterior building materials

3. dimensions of all structures

4. the location and design of all accessory structures including trash and recycling receptacles, and exterior mechanical equipment.

B. Architectural consistency on all side of the building is required in terms of colors, materials and details.

C. Unadorned pre-stressed concrete panels, concrete block, unfinished and corrugated metal and pole type building shall not be permitted as exterior building materials.

D. All rooftop or ground mounted mechanical equipment and exterior trash and recycling storage areas shall be enclosed with materials compatible with the principal structure.

Lighting and Glare

Glare or illumination from any source of lighting for any use shall be aimed or deflected away from adjoining property and public rights-of-way, except street lighting and traffic signals. Reflected glare or spill light shall not exceed five-tenths (5/10) foot candles as measured on the property line when abutting any residential parcel or lot and one (1) foot-candle on any abutting agricultural, commercial or public/institutional parcel or lot.

Parking

The number of required parking spaces has been established for specific uses in the City. The City Council shall determine the required number of parking spaces for uses not specifically listed in this subdivision based upon the characteristics of the use.

903.15 Conditional Uses (CUP)

Subd.1 - Intent

The City Council may grant a Conditional Use Permit in any District. Conditional use permits for uses other than those specifically permitted in each district, are intended to provide for the needs of the community in areas where they may be appropriate, but where special safeguards may be needed to protect other permitted uses from their adverse effects.

Subd.2 - Conditional Use Requirements

- A. No land or structure may be used for any purpose, or designed, constructed or altered for such purpose in a district where such use is not listed as permitted use, unless such use is provided for as a conditional use in this district and a conditional use permit is applied for in writing and granted by the City Council.
- B. A conditional use permit shall only be granted by the City Council based upon a statement of findings by the Planning Commission that:
 - 1. The use conforms generally to the objectives and the intent of the Ordinance, and
 - 2. Such uses will not be detrimental in any substantial way to nearby affected properties or their occupants, and
 - 3. Such uses (except in the case of planned unit development) meet the overall density, coverage, yard, height and all other regulations of the district in which they are located, and
 - 4. A public hearing has been held thereon by the Planning Commission.

Subd.3 - Procedures on Applications for Conditional Use Permit

- A. An application for a conditional use permit shall be filed with the City Clerk.
- B. The City Clerk shall promptly transmit the application to the Planning Commission upon receipt of the application and a list of the record owners of the property for which the conditional use is requested.
- C. The Planning Commission shall set a date for a public hearing on the application for the conditional use permit which hearing shall be held no later than thirty (30) days after receipt of the application from the City Clerk.
- D. The City Clerk shall provide notice by U.S. mail not later than ten (10) days prior to the hearing to the owners of record of all property lying within three hundred fifty (350) feet of the property for which the conditional use is requested. Similar notice shall also be published in the official City Newspaper prior to the hearing, and posted at the City Hall at least ten (10) days prior to the hearing:
- E. The mailed and published notices shall state:
 - 1. The date, times and place of the public hearing.
 - 2. The purpose of the public hearing.
 - 3. The substance of the requested conditional use.
- F. The public hearing shall be held in accordance with the rules adopted by the Planning Commission. At the hearing, the application for conditional use shall be described and all persons wishing to comment on the proposed conditional use shall be heard.

- G. Following public comment at the hearing, the Planning Commission shall make its findings and submit a recommendation to the City Council recommending approval or rejection of the application. The Planning Commission shall specify any conditions that it feels will improve the appearance of the property, to reduce any of its adverse effects on nearby property or its occupants, to preserve the character of the area, to protect or enhance the view from this or other properties or make it more acceptable in other ways.
- H. The Planning Commission shall report its written findings and recommendation to the City Council within ten (10) days after the public hearing and shall send a copy thereof to the applicant.

In the course of its deliberations, the Planning Commission may consult such people as may be deemed helpful or necessary.

Subd.4 - City Council Action

After reviewing the recommendations of the Planning Commission, the City Council shall grant or deny the application.

The City Council may make the granting of a conditional use permit subject to such additional reasonable limitations or conditions as it may impose to enhance the appearance of the property, to reduce any of its adverse effects on nearby property or its occupants, to preserve the character of the area, to protect or enhance the view from this or other properties, or to make it more acceptable in other ways.

Subd.5 - Action Upon Approval

Whenever the City Council approves an application for a conditional use, the Zoning Official, who shall be responsible for determining that the conditions imposed by the City Council are met, thereafter shall issue a permit.

Subd.6 - Failure to Comply with a Conditional Use Permit

- A. Failure to comply with any condition set forth in a conditional use permit shall be a violation of this Ordinance and failure to correct said violation with thirty (30) days of written notice from the City Clerk shall cause the permit to be revoked.
- B. Revocation shall not occur earlier than ten (10) City working days from the time written notice of revocation is served upon the permittee or if a hearing is requested, until written notice of the Planning Commission action has been served on the permittee.
- C. Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis of the revocation, the facts that support the conclusions that a violation or violations have occurred and a statement that if the permittee desires to appeal, he must, with ten (10) working days, exclusive of the day of service, file a request for a hearing.
- D. The hearing request shall be in writing, stating the grounds for appeal and shall be served personally or by registered or certified mail on the Carlton City Council by midnight of the tenth City working day following service. Service upon the City Clerk shall constitute service upon the Carlton City Council.

Following the receipt of a request for hearing, the Carlton City Council shall set a time and place for the hearing. Following the hearing, the City Council may affirm, modify or vacate the revocation.

Subd.7 – Expiration of Conditional Use Permit

A conditional use permit shall expire and be considered null and void one (1) year after it has been issued if no construction has begun or if the conditional use has not been established.

Subd.8 – Records of Conditional Uses

A certified copy of any conditional use shall be filed with the County Recorder or Registrar of Titles.

903.16 **Variances**

Subd.1 - General

The Planning Commission may recommend to the City Council and the City Council may grant variances from the strict application of the provisions of this Ordinance and impose conditions and safeguards in the variance so granted, provided the Planning Commission and City Council make findings that the following conditions exist:

- A. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district which create practical difficulties for a reasonable use allowed within the district without a variance.
- B. The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
- C. The special conditions and circumstances do not result from the actions of the applicant.
- D. Granting the variance requested will not confer on the applicant any special privileges that are denied by this Ordinance to other uses, lands, structures, or buildings in the same district.
- E. The reasons set forth in application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
- F. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

No nonconforming use of neighboring lands, structure or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

Under no circumstances shall the Planning Commission grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

Subd.2 - Procedures for Variances

- A. An application for a variance shall be filed with the City Clerk.
- B. Upon receipt of the application and a list of record owners of the property for which the variance is sought, the City Clerk shall promptly transmit the application to the Planning Commission.
- C. The Planning Commission shall set a date for a public hearing on the application for the variance which hearing shall be held no later than thirty (30) days after receipt of the application from the City Clerk.
- D. The City Clerk shall provide notice by U.S. mail not later than ten (10) days prior to the hearing to the owners of record of all property lying within three hundred fifty (350) feet of the property for which the variance is requested. Similar notice shall also be published in the official City Newspaper prior to the hearing, and posted at the City Hall at least ten (10) days prior to the hearing:
- E. The mailed and published notices shall state:
 - 1. The date, times and place of the public hearing.
 - 2. The purpose of the public hearing.
 - 3. The substance of the requested variance.
- F. The public hearing shall be held in accordance with the rules adopted by the Planning Commission. At the hearing, the variance shall be described and all persons wishing to comment on the proposed variance shall be heard.
- G. Following public comment at the hearing, the Planning Commission shall make its findings and submit a recommendation to the City Council recommending approval or rejection of the application. The Planning Commission shall specify any conditions that it feels will improve the appearance of the property, to reduce any of its adverse effects on nearby property or its occupants, to preserve the character of the area, to protect or enhance the view from this or other properties or make it more acceptable in other ways.
- H. The Planning Commission shall report its written findings and recommendation to the City Council within ten (10) days after the public hearing and shall send a copy thereof to the applicant.

In the course of its deliberations, the Planning Commission may consult such people as may be deemed helpful or necessary.

Subd.3 - Procedure for Appeals

An applicant may request reconsideration by the City Council and/or may take appropriate action in the District Court. Any request for reconsideration by the City Council must be made in writing and served upon the City Clerk within 30 days of the City Council's decision on the variance application.

Subd.4 – City Council Action

After reviewing the recommendations of the Planning Commission, the City Council shall grant or deny the application. The City Council may make the granting of a variance subject to such additional reasonable limitations or conditions as it may impose the enhance the appearance of the property, to reduce any of its adverse effects on nearby property or its occupants, to preserve the character of the area, to protect or enhance the view from this or other properties, or to make it more acceptable in other ways.

903.17 Landscaping

Subd.1 - Purpose

It is the policy of the City of Carlton to preserve its significant natural resources as a complement to its existing and future development. In particular, its woodlands, tree stands, wetlands and slopes and rock outcroppings shall be preserved in their natural state insofar as is practical for the intended use of the property. In addition to preservation of woodland areas, it is the policy of the City to require significant landscaping and planting as a part of land development. Landscaping should be used to enhance pedestrian environments. Landscaping should be used to screen loading areas, storage areas and parking from pedestrian activity.

Subd.2 - General Requirements in All Districts

Required Landscaping: All disturbed areas of developed lots which are not used for placement of structures, off-street parking, loading and driving areas, sidewalks, patios, gardens and similar uses, shall be landscaped. The minimum amount of green space on each site shall be 20% of the total lot area in all districts, unless otherwise specified. Undisturbed areas containing existing viable natural vegetation may be left in their natural state and shall be kept free of litter, debris and noxious or unsightly weeds.

- A. Landscaping shall include trees, shrubs, planted ground cover and other appropriate vegetative material.
- B. Ornamental non-vegetative landscaping material may be used in addition to vegetative materials.
- C. In all zones, all developed uses shall provide a landscaped yard along all streets unless otherwise specified herein.
- D. It shall be the responsibility of the owner to see that the landscaping is maintained in an attractive and well-kept condition and to remove and replace landscaping vegetation that dies.
- E. All vacant lots, tracts, or parcels shall be properly maintained in accordance with their natural or existing character, including required boulevards.
- F. Parking areas that contain more than four (4) parking spaces shall be landscaped and shall have appropriate vegetation planted on the perimeter of the parking area.
- G. A reasonable attempt shall be made to incorporate preservation of existing vegetative species on the site as is practical into a tree preservation plan for the property.
- H. Clear cutting of trees is prohibited, except when no reasonable alternatives exist, except for the removal of dead, diseased and undesirable trees; and the clearance of rights-of-way and easement corridors for the construction of public roadways.

903.18 Administration and Enforcement

Subd.1 - Administration and Enforcement

The City Clerk and such other staff assistance as is provided by the City Council shall administer and enforce this Ordinance.

- A. If the City Clerk shall find that any provision(s) of this Ordinance is being violated he/she shall notify, in writing, the person responsible for such violation and order corrective action(s).

- B. The City Clerk shall order discontinuance of illegal use of land, structures, or buildings. The City Clerk shall order removal of illegal buildings, structures, additions, alterations or structural changes, or discontinuance of any illegal work being done. The City Clerk shall take any other action authorized by this Ordinance to insure compliance to prevent its violation.

Subd.2 - Building Permit Requirement

No building or other structure shall be erected, moved, added to, or structurally altered without a valid building/zoning permit.

Subd.3 - Procedures on Application for Building Permit

- A. No such building permit shall be issued except in conformity with all of the provisions of this Ordinance, except upon issuance of a Variance or Conditional Use Permit recommended by the Planning Commission and approved by the City Council.
- B. An application for a building permit shall be filed with the City Clerk.
- C. All applications for building permits shall be accompanied by building and plot plans in duplicate, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lots of buildings already existing, if any; and the location and dimensions of the proposed building or alteration(s).
- . The application shall include such other information as lawfully may be required, including the existing or proposed building or alteration; existing or proposed use of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other information as may be necessary to determine conformance with and provide for the enforcement of this Ordinance.
- E. The City Clerk shall approve, or disapprove, the application. If approved, the Building Official shall issue a Building Permit. If disapproved, the City Clerk shall notify the applicant by mail of the reason for disapproval. The applicant may appeal the denial of application to the Planning Commission within ten (10) days of the notice of the disapproval.
- F. One copy of the building and plot plan shall be returned to the applicant after such copy either is approved or disapproved. The second copy of the plan, marked approved or disapproved, shall be retained by the City.
- G. The building permit shall be displayed on the premises while construction is in progress.

Subd.4 - Expiration of Building Permits

- A. If the work described in any building permit has not begun within one (1) year from the date of issuance, the said permit shall expire and it shall be canceled and written notice thereof shall be given to the permittee by the City Clerk.
- B. If the work described in any building permit has not been substantially completed within three (3) years of the date of issuance, the said permit shall expire and be canceled and written notice thereof shall be given to the permittee by the City Clerk. Further work, as described in the canceled permit, shall not proceed unless a new building permit has been obtained.

Subd.5 - Conformity of Construction and Use

Building permits issued on the basis of plot plans and applications approved by the City Clerk authorize only the use, arrangement and construction set forth in such plans, and no other use or arrangement. Any

use, arrangement, or construction at variance with the authorized building and plot plan shall be deemed a violation of this Ordinance and is punishable as provided in Section 19 in this Ordinance.

Subd.6 - Duties and Powers of the Planning Commission and the City Council

It is the intent of this Ordinance that the duties of the City Council in connection with this Ordinance shall include hearing and deciding questions of interpretation or enforcement that may arise from time to time. The procedure for deciding questions of interpretation or enforcement issues shall be as set forth in this Ordinance and specifically in this section. Any question of interpretation or enforcement shall be first presented to the City Clerk for decision. Anyone aggrieved by the decision of the City Clerk may then present such questions of interpretation or enforcement to the Planning Commission, which shall make a recommendation to the City Council. The City Council shall then make a final decision upon any such issue.

- A. Under this Ordinance, the City Council shall also have the duties of:
1. Considering and adopting or rejecting proposed amendments to or the repeal of this Ordinance, as provided by law.
 2. Establishment of a schedule of fees and charges as stated in Section 17.7 below.
 3. Approving zoning permits for conditional uses, after hearing thereon and recommendations by the Planning Commission.
 4. Deciding requests for variance from the literal provisions of this Ordinance in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration.
 5. Taking such other action(s) as may be necessary from time to time to properly administer and enforce this Ordinance.

Subd.7 - Schedule of Fees, Charges, Expenses

The City Council by resolution may establish and amend from time to time a schedule of fees, charges, and expenses and a collection procedure for building permits, appeals and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the City Clerk and may be altered or amended only by the City Council.

No permit, certificate, conditional use or variance shall be issued unless or until such costs, charges, fees or expenses have been paid in full nor shall any action be taken on proceedings before the Planning Commission unless or until any preliminary charges and fees have been paid in full.

903.19 Planning Commission

Subd.1 - Establishment and Composition

A Planning Commission composed of the members of the City Council, with the City Clerk and City Engineer as ex-officio members, is hereby established. The City Council may, by motion, establish a Planning Commission that consists of one or more persons who are not members of the City Council. If the City Council elects to appoint a separate Planning Commission, which does not consist of any members of the City Council, the following rules shall apply:

- A. The members shall annually elect one of their members as chairman.

- B. Members shall serve without compensation, but shall be entitled to reimbursement for expenses incurred in performance of their duties.

Subd.2 – Requirements Applicable to the Planning Commission

- A. A majority of the members of the Board shall constitute a quorum for the transaction of business.
- B. The City Clerk shall keep a written record of all its proceedings, which shall include: minutes of its meetings showing the vote of each member or, if absent or failing to vote, an indication of such fact; records of its examinations and official actions; its findings and final orders indicating the action taken on each matter heard by the Planning Commission.
- C. The Planning Commission shall adopt rules for its own proceedings, which shall provide, among other things, for regular or special meetings at the call of the chairman or at the call of two members of the Planning Commission. Such rules shall also provide for a time limit within which appeals may be taken as provided herein.

Subd.3 - Duties

The Planning Commission shall have the following duties:

- A. Review and make recommendations to the City Council regarding building/zoning permits, variances, changes and other necessary items relating to the Zoning Ordinance.
- B. To prepare and recommend to the City Council plans, for specific improvements and to aid the Council in the development and completion of such projects.
- C. To hear, review and offer recommendations to the City Council on applications for conditional uses.
- D. To initiate procedures for changes and amendments to the zoning provisions and to hold the required public hearing, and review and recommend appropriate action to the Council in the manner specified.

903.20 Amendments

Amendments, including changes in the Use District boundaries or in the text of this Ordinance, may be adopted upon a four of five affirmative vote of all of the members of the City Council.

Subd.2 - Initiation of Amendment

Amendments to this Ordinance may be initiated in one of the following manners:

- A. By motion of the City Council.
- B. By motion of the Planning Commission.
- C. By verified petition of one or more persons owning property in the City of Carlton.

Subd.3 - Planning Commission Review

Any amendment not initiated by the Planning Commission shall be referred to it for study and report and shall not be acted upon by the City Council until it has been reviewed by the Planning Commission or until sixty (60) days have elapsed from the date of referral.

- A. Before it makes its recommendation to the City Council, the Planning Commission shall hold at least one (1) public hearing on the proposed amendment.
- B. Notice of the time, date, and purpose of said hearing shall be published at least once in the official newspaper of the City at least ten (10) days before the date of the hearing. Planning commission members shall receive written notice of the public hearing at least ten (10) days prior to the date of the hearing.
- C. Following the hearing, the Planning Commission shall make a written report of its findings and recommendations on the proposed amendment and shall file a copy of the report with the City Clerk for transmittal to the Council.
- D. Failure of the Planning Commission to so report within sixty (60) days, following referral of the proposed amendment to it by the City Council shall be deemed to be a recommendation for approval of the proposed amendment.

Subd.4 - City Council Action

Upon the filing of the report of the Planning Commission or upon expiration of the sixty (60) days, the City Council may hold such public hearings on the proposed amendment as it deems advisable. At the conclusion of the hearings, if any, the Council may adopt the proposed amendment or any part thereof as it deems advisable, or may reject the proposed amendment.

903.21 Violations and Penalties

Subd.1 - Violations

The owner, lessee, or renter of a building or premises in or upon which a violation of any provision of this Ordinance has been committed or shall exist; or the lessee of the entire building or entire premises in or upon which violation has been committed or shall exist; or the owner or lessee of any part of the building or premises in or upon which such violation has been committed or shall exist, shall be served with an order to remove said violation.

Subd.2 - Penalties

If the violator has not complied with the said order within thirty (30) days after being so served, the violator shall be guilty of a misdemeanor.

Subd.3 – Fees

If a building permit has not been applied for prior to commencing work, the fee for said building permit shall be two (2) times the currently scheduled rate, plus actual City costs incurred as a result of not applying for the permit. Such costs may include but not be limited to, attorney fees, City Council meeting fees, investigation fees, consultant fees, building inspection fees, and the like.

903.22 Validity

Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Part 4 Subdivision Platting Regulations

AN ORDINANCE ESTABLISHING COMPREHENSIVE PLATTING REGULATIONS FOR THE LAYING OUT OF STREETS, ALLEYS AND OTHER PUBLIC GROUNDS AND THE SUBDIVISION OF LAND ESTABLISHING THE REQUIREMENTS FOR THE APPROVAL OF SUBDIVISION PLATS WITHIN THE CORPORATE LIMITS OF CARLTON, MINNESOTA, AND WITHIN THE UNINCORPORATED AREA TWO MILES FROM THE CORPORATE LIMITS, IN PURSUANCE OF THE AUTHORITY GRANTED BY STATE LAW.

WHEREAS, The City of Carlton, Minnesota has entered into a comprehensive planning and zoning program under provisions of Chapter 670, Laws of 1965, and

WHEREAS, the following regulations have been recommended by the Carlton Planning Commission after a public hearing for the purpose stated below.

NOW, THEREFORE, BE IT RESOLVED, that the following regulations be adopted:

904.01 GENERAL PROVISIONS

- Subd.1. Short Title. This resolution shall be known as the “Subdivision Platting Regulations of Carlton, Minnesota”.

- Subd.2. Purpose. Each new subdivision becomes a permanent unit in basic physical structure of the City, a unit to which the future community will of necessity be forced to adhere. In order that new subdivisions will contribute toward an attractive, orderly, stable and wholesome community environment, adequate public services, and safe streets, all subdivisions hereafter platted within the City shall fully comply with the regulations hereinafter set forth in this ordinance.

- Subd.3. Interpretation. In the interpretation and application, the provisions of this ordinance shall be the minimum requirements adopted for the protection of the public health, safety and general welfare.

- Subd.4. Scope. This ordinance shall apply and be binding upon all of the area within the corporate limits of Carlton, Minnesota, and within the unincorporated area two miles from the corporate limits of Carlton, Minnesota except if another city lies within 2 mi. of Carlton, the scope shall be 1/2 the distance between the two. Except in the case of re-subdivision, this ordinance shall not apply to any lot or lots forming a part of a subdivision recorded in the office of the Register of Deeds prior to the effective date of this ordinance, nor is it intended by this ordinance to repeal, annul or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by, or in conflict with, this ordinance, or with private restrictions placed upon property by deed, covenant, or other private agreement, or with restrictive covenants running with the land. Where this ordinance imposes a greater restriction upon the land than in imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this ordinance shall control.

- Subd.5. Repeal of Existing Ordinances. All ordinances or parts of ordinances of the City in conflict with the provisions of this ordinance are hereby repealed.

DEFINITIONS

Unless the context indicates a different meaning, for the purpose of this ordinance certain words, phrases and terms shall be construed as follows:

Subd 1. PERSON: Any individual, firm, association, syndicate or partnership, corporation, trust, or any other legal entity.

Subd.2. SUBDIVISION OF LAND AND SUBDIVIDE: The division of a tract of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land; provided that the following shall not be deemed a subdivision:

- A. The division of a tract of land into lots or parcels of five (5) acres or more with a minimum width of 165 feet and not involving a new street.
- B. One (1) division of a tract of land into two (2) lots or parcels in any twelve month period of time provided that the resulting descriptions are approved by the Auditor.
- C. Transfer of interests in land by will or pursuant to court order.

Subd.3. SUBDIVIDER: The owner, agent, or person having control of such land as the term is used in this ordinance.

Subd.4. COMMISSION: The Planning Commission of Carlton, Minnesota.

Subd.5. CITY: Carlton, Minnesota.

Subd.6. CITY COUNCIL: The City Council of Carlton, Minnesota.

Subd.7. OFFICIAL PLAN OR CITY PLAN: The Plan or plans for the orderly growth of Carlton as adopted and amended from time to time by the Planning Commission and the City Council.

Subd.8. STREET: A public way which affords primary means of access by pedestrians and vehicles to abutting properties, whether designated as a street, avenue, highway, road, boulevard, lane, or however otherwise designated.

Subd.9. THOROUGH-FARE: A street of considerable length that carries, or that planning evidence indicates will carry, a large volume of traffic.

Subd.10. COLLECTOR STREET OR ROAD: A street of relatively short length that serves as a connection between a thoroughfare and several minor streets. The term includes the principal entrance streets of a residential development and streets for major circulation within such a development.

Subd.11. MINOR STREET: A street of relatively short length that provides direct access to a limited number of abutting properties.

Subd.12. CUL-DE-SAC: A permanent street terminating at one end without connecting with another street and designed so that it cannot be further extended without condemnation or taking property not dedicated as a street.

Subd.13. MARGINAL ACCESS STREET: A street or service road parallel to and adjacent to a thoroughfare which provides access from the thoroughfare to abutting properties.

- Subd.14. ALLEY: A public way used primarily as a service access to the rear or side of a property which abuts on a street.
- Subd.15. PRIVATE STREET OR RESERVE STRIP: A purported street, way or strip of land reserved for the use of a limited number of persons or purposes as distinguished from a publicly dedicated street.
- Subd.16. BLOCK: The distance as measured along a street between intersecting streets from center line to center line; and where the context requires, it also means the enclosed area within the perimeter of the streets or property lines enclosing it.
- Subd.17. PUBLIC WALKWAY: A public way designed for the use of pedestrian traffic.
- Subd.18. LOT: Any tract, including out lots, within a subdivision marked by the subdivider as a numbered tract.
- Sub.19. LOT WIDTH: The dimension of a lot measured on the building set back line.
- Subd.20. SET BACK: The building set back line or distance as measured from the nearest street, road or water shoreline.
- Subd.21. DRAINAGE COURSE: A water course or indenture for the drainage of surface waters.
- Subd.22. SANITARY SEWER: A constructed conduit connected with a sewer system for the carrying of liquids and solids other than storm waters to a sanitary treatment plant.
- Subd.23. STORM SEWER: A constructed conduit for carrying surface or ground waters to a drainage course.
- Subd.24. PRELIMINARY PLAN: A drawing of a proposed subdivision or greater area prepared in the manner and containing the data, documents and information required by Article III of this resolution.
- Subd.25. FINAL PLAT: The drawing of a subdivision prepared in the manner and containing the data, documents, and information required by Article IV of this resolution.
- Subd.26. ATTORNEY: The City Attorney of Carlton, Minnesota, or his authorized representative.
- Subd.27. CLERK-TREASURER: The City Clerk-Treasurer of Carlton, Minnesota, or his authorized representative.
- Subd.28. ENGINEER: The City Engineer of Carlton, Minnesota, or his authorized representative.
- Subd.29. CLUSTER DEVELOPMENT: A subdivision development planned and constructed so as to group housing units into relatively tight patterns while providing a unified network of open space and wooded areas.
- Subd.30. GROUP HOUSING: A housing project consisting of a group of five or more buildings constructed on a plot of ground three acres or more in size.

PRELIMINARY PLAN

Subd.1. Procedure for Preliminary Plan. In order to familiarize himself with this resolution and related laws and to avoid costly revisions of plans and plats, the subdivider may have a preliminary discussion with the Engineer.

- A. The subdivider shall submit to the Clerk-Treasurer:
 - 1. Three copies of the preliminary plan.
 - 2. A fee, as noted in the fee schedule, payable to the City shall accompany the plan to help defray the expenses of the City in connection with the review of said preliminary plan.
 - 3. Application for approval of a plat, made in writing by the owner or his authorized agent. The application shall specify the location and size of the tract to be platted, the intent as to the character, type and use of the subdivided property and structures to be developed, the deed restrictions proposed, statement of mineral rights, and the extent and character of improvements to be made by the subdivider.
- B. The Clerk-Treasurer shall, upon receipt of preliminary plan, refer two copies to the Planning Commission and one copy to the Engineer.
- C. The Engineer shall within 30 days submit a report to the Commission.
- D. At the first regular meeting following receipt of the above report and application, the Commission shall determine whether such plan conforms to design standards set forth in this ordinance and conforms to adopted City plans. The commission may approve a preliminary plan subject to certain revisions.
- E. Approval of a preliminary plan by the Commission is tentative only; involving merely the general acceptability of the layout. Subsequent approval will be required of the engineering proposals outlined in Article IV.
- F. The action taken by the Commission shall be recorded in the proceedings of the Commission and transmitted to the applicant within ten days.

Subd.2. DATA REQUIRED FOR PRELIMINARY PLAN.

- A. Scale: 1 inch equals 100 feet
- B. Identification and Description:
 - 1. Proposed name of subdivision, which name shall not duplicate or be alike in pronunciation of the name of any plat theretofore recorded in the City. Short names are preferable.
 - 2. A full legal description of the existing property documented by all current land title records.
 - 3. Names and addresses of the owner, subdivider, surveyor and designer of the plan.
 - 4. Graphic scale.

5. North-Point.
- C. Existing conditions in the tract and in a reasonable area surrounding the tract.
1. Property lines.
 2. Districts proposed for non-residential use.
 3. Total acreage of proposed plat.
 4. Platted streets, railroad right-of-way and utility easements.
 5. Permanent buildings or other structures.
 6. Location of existing sewers, water mains, culverts and other underground facilities.
 7. Identify Wetlands from Certified Wetland Delineator
- D. Topography of platted area, showing lakes, water courses, swamp areas, and contours at vertical intervals of not more than two feet unless steep terrain enables five foot contours to adequately portray the land form conditions. Contour lines shall be shown by means of dashed lines on the preliminary plan and where practical shall be numbered to acceptable Federal government datum.
- E. Wood areas in outline only.
- F. Other reasonable information, such as soil tests, if requested by the Engineer in order to make a proper review of the site.
- G. Subdivision Design Features:
1. Layout of proposed streets, showing right-of-way widths and names of streets.
 2. Location and widths of proposed pedestrian ways and utility easements.
 3. Layout, numbers and minimum dimensions of lots.
 4. Areas, other than streets, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.
 5. Minimum front and side-street building set back lines indicating dimensions.
- H. Stage Development: Whenever a portion of a tract is proposed for platting and is intended or of a size for future enlargements of such platted portion, from time to time, a tentative plan for the future subdivision of the entire tract shall be submitted.

Subd.1. Procedure for Final Plat. After the approval and endorsement of a preliminary plan, the following procedure shall be followed:

- A. Unless an extension of time is requested by the subdivider and granted by the Commission, the subdivider shall within one year following approval of the preliminary plan, submit to the Clerk-Treasurer:

One (1) electronic and three (3) mylar prints of the Final Plat, together with an up-to-date Abstract of Title or a Certificate of Title together with a registered Property Certificate. The Final Plat shall be of uniform size 22" in width and 34' in length and shall conform to Minnesota Platting Regulations, Chapter 505, Section 505-08. This Final Plat shall incorporate all changes required by the Commission. Otherwise, it shall conform to the preliminary plan. The Final Plat may constitute only that portion of the preliminary plan which the subdivider proposes to record and develop at the time. The boundary of the land so platted shall be indicated by a heavy, solid, black line. If the Final Plat is not submitted within one year, the approval of the preliminary plan shall be considered void.

- B. An inspection fee as per the fee schedule. This fee will be used to help defray the expenses of the City in connection with the review of the Final Plat and the inspection of improvements.
- C. The Clerk-Treasurer shall refer one paper print of the Final Plat to the Engineer, one to the Planning Commission, and one to the Attorney, together with an up-to-date Abstract of Title or a Certificate of Title together with a Registered Property Certificate and Opinion of Title by the applicant's attorney.
- D. A report of the Engineer, the Planning Commission, and the Attorney shall be submitted to the City Council within thirty days after the submission of the Final Plat. The Engineer shall state whether the Final Plat and the proposed improvements conform to the Engineering Standards and specifications established by state law and this ordinance. The Planning Commission shall state whether the Final Plat conforms to the preliminary plan approved by the Commission. The Attorney shall state whether the fee simple title to the platted property is in the names of the platters.
- E. The Council shall act on the Final Plat within sixty (60) days of the date on which it was submitted to the Clerk-Treasurer. It shall not approve a Final Plat unless it:
1. Conforms to a preliminary plan approved by the Commission.
 2. Meets the design standards and engineering specifications set forth in this ordinance.
 3. Conforms to all Plans as adopted by the Commission and the Council.
 4. Meets all requirements and laws of the State of Minnesota.
- F. When the Final Plat is approved by the Council and certified by the Clerk-Treasurer, the subdivider shall record it with the Register of Deeds.

Subd.2. Date Required for Final Plat.

- A. If applicable, supplementary engineering data may be required on the following:
 - 1. Water supply
 - 2. Sewage disposal
 - 3. Drainage
 - 4. Flood control
 - 5. Soil and percolation tests
- B. Data required under regulation of state laws including accurate angular and lineal dimensions for all lines, angles and curvatures used to describe boundaries, streets, easements, areas to be reserved for public use, and other legal requirements.
- C. An identification system for all lots and blocks.
- D. The dimensions of all lots and building set back lines.
- E. A diagram, drawn to suitable scale, showing that part of the section subdivision necessary to properly determine the boundaries of the platted area. The diagram shall show all survey corners found or restored and used in making said subdivision. All U.S. Government survey corners shown on the Final Plat shall be recorded in the office of the Register of Deeds.
- F. Complete curve data, including radii, central angles, tangent bearings, and lengths of all arcs.
- G. Accurate location of all monuments.
- H. Certification by a licensed land surveyor to the effect that the plat represents a survey made by him and that monuments and markers shown thereon exist as located and that all dimensional and topographic details are correct.
- I. Notarized certification by owner, and by any mortgage holder of record of the adoption of the plat and the dedication of streets and other public areas in the form approved by the Attorney.
- J. Form for endorsement:

904.05

MINIMUM DESIGN STANDARDS

Subd. 1. Application. The following land subdivision principles, standards and requirements will be applied by the Commission in evaluating plans for proposed subdivisions.

- A. The provisions outlined herein shall be considered minimum standards and requirements for the promotion of the public health, safety, morals and general welfare.
- B. Where literal compliance with the standards herein specified is clearly impractical, the Council may modify or adjust the standards to permit reasonable utilization of property while securing substantial conformance with the objectives of these regulations.

Subd. 2. Land Requirements

- A. Land shall be suited to the purpose for which it is to be subdivided. No preliminary plan shall be approved if, considering the best interests of the public, the site is not suitable for plat and development purposes of the kind proposed by reason of potential flooding, swamp conditions, or adverse earth or rock formation. Lots subject to flooding and lots deemed inhabitable because of adverse earth and rock formations shall not be approved by the Commission for residential occupancy, nor for such other uses as may increase danger to health, life or property or such uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions.
- B. Land subject to hazards to life, health or property shall not be subdivided for residential purposes until all such hazards have been eliminated or unless adequate safeguards against such hazards are provided by the subdivision plan
- C. Proposed subdivisions shall be coordinated with existing nearby neighborhoods so that the community as a whole may develop harmoniously.
- D. Proposed Land Uses shall conform to any City Zoning Ordinance in effect.

Subd.3 . Street System

- A. Proposed streets shall be properly related to such street plans or parts thereof as have been officially prepared and adopted by the City.
- B. Proposed streets shall further conform to such City, County and State road and highway plans as have been prepared, adopted and/or filed as prescribed by law.
- C. Access shall be given to all lots and portions of the tract in the subdivision and to adjacent unsubdivided territory unless the topography clearly indicates that such connection is not feasible. Streets giving such access shall be improved to the limits of the subdivision. Reserved strips and landlocked areas shall not be created.
- D. Minor streets shall be laid out to discourage their use by through traffic and where possible, thoroughfares shall be protected for use by through traffic by marginal access streets, through lots or other means.
- E. Half or partial streets of less than 66 ft. width will not be permitted, except where essential to reasonable subdivision of a tract in conformance with the other

requirements and standards of these regulations and where, in addition, satisfactory assurance for dedication of the remaining part of the street can be secured.

- F. Wherever a tract to be subdivided borders an existing half or partial street, the other part of the street shall be plotted within such tract.
- G. Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts, or when designed as cul-de-sac streets.
- H. Private streets and reserve strips shall be prohibited.

Subd. 4. Cul-De-Sac Streets.

- A. Cul-de-sac streets, permanently designed as such, shall not exceed 500 feet in length, except as variances are permitted by the Commission, upon petition presented by the subdivider, which petition may be granted if it can be clearly shown that by reason of unfavorable contours, or the irregular shape of the plat from which the subdivision is being made, that a normal street pattern cannot be established, or that land would be wasted by not granting such a variance.
- B. Cul-de-sac streets shall be provided at the closed end with a turn-around having a minimum radius to the outside edge of the finished street or curb line of not less than fifty (50) feet.
- C. Unless future extension is clearly impractical or undesirable, the turn-around right-of-way shall be placed adjacent to a property line and a right-of-way of the same width as the street shall be carried to the property line in such a way as to permit future extension of the street into the adjoining tract. At such time as such a street is extended, the overage created by the turnaround outside the boundaries of the extended street shall revert in ownership to the property owner fronting on the temporary cul-de-sac turn-around.

Subd. 5. Street Design.

- A. Widths: Minimum widths for each type of public street or road shall be as follows:

<u>Type of Street</u>	<u>Right-of-way Width</u>
Major Thoroughfare	150 ft.
Secondary Thoroughfare	100 ft.
Collector Street or Road	80 ft.
Minor Street	66 ft.
Marginal Access Street or Cul-de-sac	66 ft.
Alley	20 ft.

- B. Where a subdivision abuts or contains an existing street or road of inadequate Width, sufficient additional width shall be required to meet the above standards.
- C. Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use.

Subd. 6. Street Grades. Shall not exceed six (6) percent on thoroughfares, eight (8) percent on collector streets or ten (10) percent on other streets. Street profiles shall be required if grades exceed eight (8) percent.

- Subd 7. Restriction of Access. When a subdivision or portion thereof adjoins a thoroughfare, no lot shall have direct access thereto. Said lots shall be provided with frontage on a marginal access street or street other than a thoroughfare with adequate depth for screen planting of the portion of any such lot contiguous with said major thoroughfare.
- Subd. 8. Horizontal Curves. Where a deflection angle of more than five (5) degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced, to-wit: on streets sixty-six (66) feet or more in width, the center line radius of a curvature shall be not less than three hundred (300) feet.
- Subd. 9. Vertical Curves. All changes in grade shall be connected by vertical curves of minimum length in feet equal to fifteen times the algebraic difference in rates of grade for thoroughfares and one-half this minimum length for other streets. Profiles of all streets showing natural and finished grades drawn to a scale of not less than one inch equals one hundred (100) feet horizontal, and one inch equals twenty (20) feet vertical, may be required by the Engineer if topographic conditions warrant. A 300 foot minimum sight distance shall be provided.
- Subd. 10. Intersections. Street intersections shall be as nearly at right angles as is possible, and no intersection shall be at an angle of less than seventy (70) degrees.
- Subd. 11. Street Jogs. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be allowed.
- Subd. 12. Street Names. A proposed street which is in alignment with and join an existing and named street shall bear the name of the existing street.
- Subd. 13. Alleys. Alleys shall be provided to the rear or side of all lots to be used for commercial or industrial use.
- Subd. 14. Blocks. Blocks shall meet the following standards:
- A. In residential areas, blocks shall not be less than six hundred (600) nor more than thirteen hundred twenty (1320) feet in length measured along the greatest dimension of the enclosed block area unless minor variations are necessitated by topography or conformance with adjoining plat.
 - B. Blocks for commercial and industrial areas may vary from the elements of design contained in this section if the nature of the use requires other treatment. In such cases, off-street parking for employees and customers shall be provided along with safe and convenient limited access to the street system. Space for off-street loading shall also be provided with similar access. Extension of streets, railroad access right-of-way, and utilities shall be provided as necessary.
 - C. In blocks over eight hundred (800) feet in length, the Commission may require one or more public walkways within an easement not less than ten (10) feet in width to extend entirely across the block and at locations deemed necessary at intervals not closer than four hundred (400) feet.
 - D. Blocks shall be wide enough to allow two tiers of lots with a minimum depth of one hundred ten (110) feet except adjoining a lake, stream, railroad or thoroughfare or where one tier of lots is necessary because of topographic conditions.
- Subd. 15. Arrangement of Lots.

- A. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines or radial to lake or stream shores unless topographic conditions necessitate a variation.
- B. Each lot must front upon a public street and said Public Street shall not be less than fifty (50) feet in width.
- C. Through lots or double-frontage lots shall be avoided when possible. Residential lots shall be separated from thoroughfares and railroad rights-of-way by a landscape buffer strip not less than twenty-five (25) feet in width.

Subd.16. Size of Lots. No lot shall have less area or width than is required by zoning ordinance regulations applying to the area in which it is located; unless provided for otherwise by zoning regulations, the provisions of paragraph 518 shall apply.

- A. The lowest level of a structure shall be at least 3' above the ordinary high water elevation.
- B. Lots designed for commercial or industrial purposes shall be adequate for off-the-street service, loading and parking facilities.

Subd. 17. Public Use and Service Areas. Due consideration shall be given to the allocation of areas suitably located and of adequate size for playgrounds and parks for local or neighborhood use as well as public service areas.

- A. Public Open Spaces. Where a proposed highway, school, park, recreation area or public access to water frontage shown on an official City plan is located in whole or in part in the applicant's subdivision, the Council shall require as a condition of final approval that such space within the subdivision be dedicated or reserved. Such land shall not be developed for a period of one year from the date of such final approval so that within said period the appropriate public agency may acquire said land in the manner provided by law and before it is developed for some purpose not conforming to the official plan. If it is not so acquired and no legal action is filed by such public agency within such period, said reservation shall be of no further effect and such lands then may be used for other purposes.
- B. Easements for Utilities. Except where alleys are provided for the purpose, utility easements not less than twenty (20) feet in width across lots or centered on rear or side lot lines shall be provided for use in erecting, constructing and maintaining poles, wires, conduits, storm sewers, sanitary sewers, surface drainage, water mains, electrical lines and other public utilities reasonably required. Such easements shall be placed along rear lot lines wherever possible.
- C. Drainage Courses. Where storm water from adjacent areas naturally passes through a subdivision, adequate provision shall be included in the subdivision for facilities to route the storm water through the subdivision to its natural outlet to maintain or replace the natural water course.

Subd. 18. MINIMUM LOT STANDARDS, STREET AND SANITATION IMPROVEMENTS

	Private Water Supply	Community Water Supply	Community Water Supply and Public Sewage System
Lot Area	21,780 sq. ft. (one-half acre) or more if required as a result of soil percolation tests as provided in paragraph 605-03	14,520 sq. ft. (one-third acre) or more if required as a result of soil percolation tests as 605-03	8,800 sq. ft.
Lot Width	100 ft.	100 ft.	80 ft.
Set back (lake or stream shoreline)	50 ft. or 100 ft. if individual sewage disposal system is to be used	50 ft. or 100 ft. if individual sewage disposal system is to be used	50 ft.
Set back (minor street)	35 ft. from ROW line	35 ft. from ROW line	25 ft. from ROW line
Set back (major thoroughfare)	110 ft. from centerline	110 ft. from centerline	110 ft. from centerline
Set back (secondary thoroughfare)	85 ft. from centerline	85 ft. from centerline	85 ft. from centerline
Street Driving Surface Width	26 ft.	26 ft.	26 ft.
Street Pavement	12" Class 5 Aggregate Base	12" Class 5 Aggregate Base	See paragraphs 603-01 and 604-01
Sanitation	Community or Individual disposal system	Community or Individual disposal system	Community System
Erosion Protection within Construction Limits	Sod or seed	Sod or seed	Sod or seed

Note: All work and improvements of streets to be done in accordance with County Highway Department specifications and shall be subject to the recommendations, supervision and approval of the Engineer.

904.06 IMPROVEMENTS

Before the City Council shall approve a final plat of a subdivision, the subdivider shall provide at his own expense or shall give bond in an amount equal to the Engineer's estimate, or make other financial arrangements acceptable to the City Council to cover the cost of the following public improvements:

Subd. 1. Survey Monuments. All subdivision boundary corners, block and lot corners, street intersection corners and points of tangency and curvature monuments of at least 5/8" diameter. All U.S., state, county and other official bench marks, monuments or triangular stations in or adjacent to the property shall be preserved in precise position.

Subd. 2. Grading. All street grading between the property lines shall be completed to the lines and grades as shown on the grading plans, but in no case less than forty (40) feet in width. Blocks and lots shall be graded to secure proper drainage and to prevent the collection of storm water in pools. The Engineer may require the redistribution of top soil and the stabilization of the same by seeding or planting wherever this shall be necessary as an element of drainage control.

- Subd. 3. Surface Water Drainage. Surface water drainage shall be provided by storm sewers or drainage course adequate to drain surface water from the subdivision and protect roadway pavements.
- A. Curbs and Gutters. Within subdivisions served by community water supply and public sewage system, a suitable curb and gutter shall be constructed along the outside lines of all street pavements. The type of curb and gutter shall be subject to the approval of the Engineer.
- Subd. 4. Minimum Pavement Width and Roadway Surfacing. Shall meet the standards set forth in paragraph 518 and shall be approved after inspection by the Engineer.
- A. Within subdivisions served by community water supply and public sewage system, all streets shall be improved with a durable hard surface. The pavement shall be equal to or superior to a pavement consisting of a base course of thoroughly compacted Class 5 Aggregate not less than twelve inches thick, with a bituminous surface not less than three inches thick. Seal coating and final coating shall meet the City specifications. The surfacing shall be such that it will safely support a nine ton axel load.
- Subd. 5. Sanitation. When located within the service area of a public sanitary sewerage system, sanitary sewers shall be constructed throughout the entire subdivision in such manner as to serve adequately all lots with connection to such public system.
- A. Storm water drainage shall not be permitted to combine with sanitary sewers nor shall sanitary sewerage be permitted in storm water sewers.
- B. Where lots cannot be connected with a public sewerage system, provisions must be made for sanitary sewerage facilities, consisting of a central treatment plant or individual disposal devices for each lot. This does not mean that the subdivider must provide such devices.
- C. Any subdivision or lot not provided with off-site water and off-site sewer facilities shall be subject to soil and percolation tests being made to determine whether or not the lot size proposed will meet minimum standards of health and sanitation. Such tests shall be made at the expense of the subdivider.
- D. All proposed sewage disposal systems shall comply with the regulations of the Minnesota Department of Health.
- Subd. 6. Water Supply. Water supply for all areas shall be designed to meet the regulations of the Minnesota Department of Health.
- A. When the subdivision is located within the service area of a public water supply system, water mains not less than 6 inches in diameter shall be constructed throughout the entire subdivision in such a manner as to serve adequately all lots and tracts with connection to such public system together with shut-off valves and fire hydrants.
- B. Fire hydrants shall be installed throughout the entire system at intervals of not more than six hundred (600) feet if within the service area of a public water supply system.
- Subd. 7. Sidewalks. Concrete sidewalks at least five feet wide and four inches thick shall be constructed on both sides of each street; provided, however, that the Planning Commission may recommend to the Council waiver or reduction of this requirement if it is established

that the reasonably anticipated growth of the area and the probable nature of its development, its distance from concentrated development and developments creating pedestrian travel, and the estimated volume of vehicular travel on the streets make such sidewalks unnecessary for the protection of the public safety and welfare.

- Subd. 8. Street Signs. A four-way metal street sign shall be installed at each street intersection. Street signs shall meet the City specifications.

904.07 **VARIATIONS FROM REQUIREMENTS**

- Subd. 1. The Planning Commission may recommend a variation to the City Council from the requirements of subdivision planning procedure or public improvements in specific cases when the tract to be subdivided is of such unusual size, shape or character or is surrounded by such development or unusual conditions that the strict compliance with the requirements of this article would result in substantial hardship or injustice or when a group housing or cluster development is proposed.

- Subd. 2. The standards and requirements of these regulations may be modified by the City Council in the case of plans which, in the judgment of the Commission, achieve substantially the objectives of this resolution and which are further protected by such covenants or other legal provisions as will assure conformity to and achievement of the plan.

- Subd. 3. Policy. In recommending any variation, the Commission shall take into account the following:

- A. The location of the proposed subdivision, proposed land use, and existing use of land in the vicinity.
- B. The number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.
- C. Those variations that will allow the subdivider to develop his property in a reasonable manner and at the same time preserve the general intent and spirit of this ordinance and protect the public welfare and interests of the City.
- D. In granting variances and modifications, the Commission may impose such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

- Subd. 4. Procedure for Variation. Application for any variation shall be submitted in writing by the subdivider at the time the preliminary plan is filed and shall state fully the grounds for the application and the fact relied upon by the petitioner. The Commission shall consider such application at the meeting on the preliminary plan and give its written recommendations thereon, with the reasons therefor, at the time of its approval or disapproval of said plan. If the Commission refuses to recommend a variation, the subdivider may at once, without preparing a Final Plat, petition the City Council for a review of the decision of application for variation and render final judgment.

904.08 **SEPARABILITY**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

904.09

PENALTY

Any person who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor. Each day that a violation of this ordinance continues shall constitute a separate and distinct offense and may be punishable as such.

904.10

AMENDMENTS

Amendments may be made to this ordinance by the City Council after recommendations of the Commission following the holding of a public hearing with notice given in the official newspaper of the City at least ten (10) days in advance of the hearing.

Part 5 Earth Sheltered, Recreation Vehicles, etc.

AN ORDINANCE ENHANCING AND AMENDING CITY ORDINANCE CHAPTER 9, PART 3 (ZONING ORDINANCE), DEFINING EARTH SHELTERED DWELLINGS, MOBILE HOMES, MANUFACTURED HOUSING AND RECREATIONAL VEHICLES, AND ESTABLISHING STANDARDS FOR SINGLE FAMILY DWELLINGS WITHIN THE RESIDENTIAL ZONES OF THE CITY OF CARLTON.

PURPOSE: The purpose of this ordinance is to maintain property values, and otherwise promote the health, safety, order, convenience and general welfare of the citizens and property owners of the City of Carlton.

905.01 - Definitions

Subd. 1. Mobile Home. A mobile home is a manufactured home that is less than 20 feet wide over at least 30 feet of its length in the erected mode, suitable for year round occupancy and containing the same water supply, waste disposal and electrical conveniences as immobile housing and subject to tax or registration under state law, and having no foundation other than wheels, jacks or skirting. Width measurements shall not take account of overhangs and other projections beyond the principal exterior walls.

Subd. 2. Dwelling - Earth Sheltered. A detached dwelling unit insulated by earth embankment or overburden or both on more than 60% of its outer surface, excluding floor areas, and architecturally designed and landscaped to harmonize with its surrounding naturally existing and man-made features.

Subd. 3. Manufactured Home. "Manufactured Home" means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein: except that the term includes any structure which meets all the requirements and with respect to the manufacturer voluntarily files a certification required by the secretary and complies with the standards established which meets the Manufactured Home Building Code promulgated pursuant to M.S. 327.31, subdivision 3.

Subd. 4. Recreational Travel Vehicle. The words "recreational travel vehicle" or "recreational vehicle" shall mean any of the following:

- A. Travel trailer means a vehicular, portable structure built on a chassis, to be used as a temporary dwelling for travel, recreational, and vacation uses, and permanently identified "Travel Trailer" by the manufacturer of the trailer.
- B. Pick-up coach means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

- C. Motor Home means a portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.
- D. Camping trailer means a folding structure, mounted on wheels and designed for travel, vacation and recreational use.

905.02 - Mobile Homes, General Provisions

Subd. 1. Restricted to Mobile Home Park. No mobile home for residential purposes shall be permitted on any site within the city unless said site is part of a Mobile Home Park approved by the Minnesota Department of Health in accordance with Minnesota Statute 327.14 through 327.34 as amended, and Minnesota Agency Rule 2MCAR 1.90103.

Subd. 2. Existing Mobile Homes - Residential Zones. No mobile home, as defined by this ordinance, shall be continued to a new owner. The present owner of a mobile home may continue to own it and maintain it at its present location, for so long as it is habitable and able to be maintained in a state of reasonable repair, and he may further remove a mobile home and replace it with a manufactured home, as defined in Section I, Subdivision 3, without regard to the size requirements in Section III, Subdivision 5, provided that the same is habitable, and in a state of reasonable repair. Manufactured housing, so placed, or presently existing, may be continued to a new owner. All of the above shall be subject to the general provisions of Chapter 9, Part 3 - the City Zoning Ordinance. Prior to replacing an existing mobile home or manufactured home with a newer manufactured home, the owner must make application for a building permit and zoning compliance.

905.03 - Standards for Single Family Dwellings, Residential Zones (Whether Manufactured Housing, Earth Sheltered or Conventional Site Built)

Subd. 1. Building permits are required for the erection or construction of any single family dwelling in the City of Carlton, and all such dwellings shall comply with the zoning regulations for the zone in which they are to be located.

Subd. 2. Except for permitted earth sheltered structures, no cellar, garage, tent, recreational vehicle or accessory building shall at any time be used as an independent residence or dwelling unit, temporarily or permanently, except in multiple family dwellings with additional dwelling units located above ground, and except that basements may be used as living quarters or rooms as apportion of residential dwellings, and except that a city of Carlton property owner or his/her guests may be allowed to park a recreational vehicle on his/her property for the purpose of seasonally residing therein for a period of up to 30 days per year. Such recreational vehicle shall be parked at least 20 feet from any adjacent residence. If such recreational vehicle is connected to the city sewer and/or water system, the connection shall be of a type approved by the City. Any other recreational vehicle shall be parked in such a manner so as to observe the front yard setback requirements as applicable to buildings under the City Zoning Ordinance; which is Chapter 9, Part 3.

Subd. 3. Tents, play houses or similar structures may be used for play or recreational purposes.

Subd. 4. All Dwellings other than mobile homes in approved mobile home parks, shall be located upon a foundation that meets the requirements of the State Building code. The foundation shall form a complete enclosure under the exterior walls.

Subd. 5. All site built dwellings and manufactured homes, other than mobile homes in an approved mobile home park, shall be no less than 25 feet in length and no less than 20 feet in width over that entire minimum length. Width measurements shall not take account of overhangs and other projections beyond the principal walls. However, all dwelling units shall meet the minimum per-unit floor area as set out in Chapter 9, Part 3.

Subdivision 6. All dwellings shall appear to face the fronting street. Usually, this will mean that the long axis will be parallel to the fronting street.

905.04 Architectural Design.

The architectural design, color, roof pitch, or lack of it, roof overhang, or lack of it, size, placement on lot, and exterior material of all dwellings and accessory buildings shall not be so similar to, or inconsistent with surrounding buildings and area as to constitute a blighting influence.

905.05 Administration

The City Clerk and such other staff assistance as is provided by the City Council shall administer and enforce this Ordinance.

- A. If the City Clerk shall find that any provision(s) of this Ordinance is being violated he/she shall notify, in writing, the person responsible for such violation and order corrective action(s).
- B. The City Clerk shall order discontinuance of illegal use of land, structures, or buildings. The City Clerk shall order removal of illegal buildings, structures, additions, alterations or structural changes, or discontinuance of any illegal work being done. The City Clerk shall take any other action authorized by this Ordinance to insure compliance to prevent its violation.

905.06 Restrictive Covenants

Nothing in this Ordinance shall prevent the regulation of uses of property by means of restrictive covenants which are valid except for this ordinance.

905.07 Penalties

Any person violating any provision of this ordinance shall, upon conviction, be guilty of a misdemeanor. Each day such a violation continues shall constitute a separate offense.

Part 6 Fence Ordinance

AN ORDINANCE REGULATING THE CONSTRUCTION, PLACEMENT, HEIGHT, NATURE AND EXTENT OF FENCES.

The City Council of the City of Carlton does hereby ordain:

906.01. Purpose. The purpose of this Ordinance is to provide for the regulation of fences in the City of Carlton to prevent fences being erected or plantings made that would be a hazard to the public, or an unreasonable interference with the use and enjoyment of neighboring property, and which are compatible with existing uses and other zoning restrictions.

906.02 Definitions.

Subd. 1. "Fence" means any structure, lumber, building blocks, wire or similar materials placed in a fashion which is intended to impede free passage from the fenced area to the outside area or from the outside area into the fenced area.

"Hedge Fence" means any bush-like, growing vegetation placed in a fashion which is intended to impede free passage from the fenced area to the outside area or from the outside area to the fenced area.

Subd. 2 Where a lot is locate at the intersection of two or more streets, there shall be a front yard on each side that abuts a street and a side yard on each side of that lot that does not. The front yard is that portion of the property that extends between the dwelling and the front property line.

906.03. Requirements. Permit: No person shall construct or cause to be constructed any fence in the City of Carlton without first obtaining a building permit from the Building Inspector. All those fences which are existing on July 9, 1991, are permitted even though they may not comply with this ordinance. However, no existing fence in violation of the ordinance will be allowed to be replaced, rebuilt or increased in size or length. Should an existing fence be replaced or rebuilt, it must come under the regulation of this ordinance, including the requirement of a permit.

906.04. Fencing Regulations.

Subd. 1. Height. No person owning or controlling any hedge fence bordering on a street or sidewalk in the City shall permit the same to grow to a height or more than 4 feet, or permit any branches or any part thereof to hang over any sidewalk or sidewalk line. Fences, hedges or walls located in front yards alongside lot lines and within ten feet of the front lot lines as defined herein, shall not exceed a height of 4 feet, and they shall not create a sigh hazard to traffic safety. All other fences shall not exceed 6'6" in height.

Subd. 2. Chain Link. All those fences which are constructed of chain link wire design or very similar design will be allowed throughout the property in a developed area.

Subd. 3. Type of Fence. All fences, except hedge fences, in front yards shall be constructed of chain link, wood fencing or resin fencing. Such materials as wire mesh, hog wire, welded wire and straight wire will not be allowed in front yards. Fencing for the remainder of the yard may be constructed of chain link, wood, hog wire or welded wire. No barbed wire, electric fences or other fences likely to cause harm to persons will be permitted.

Subd. 4. Commercial Fencing. Hazardous fences and walls such as barbed wire, electric fences, fences with security arms and walls with protruding sharp edges, and other fences designed for or likely to cause harm to persons are declared hazardous and are prohibited in the City except as follows: Up to eight foot (8') high chain link fences with top barbs will be permitted in the City for security reasons on commercial property, but only if a special permit is issued by the Building Inspector. Fencing on non-residential property required for screening exterior storage may exceed the limitations herein, but only by a Special permit issued by the Planning Commission.

906.05. General Provisions.

Subd. 1. Construction and Maintenance. Every fence will be constructed straight, true and plumb and in a substantial workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to public safety, health or welfare is a public nuisance and the Building Inspector may commence proper proceedings for the abatement thereof. All fence maintenance is the sole responsibility of the property owner who constructed same and his successors, heirs and assigns.

Subd. 2 Placement. Fences may be placed on the property line

Subd. 3. Nice Side Out. The side of the fence considered to be the face (finished side as opposed to structural support side) shall face the abutting property.

Subd. 4 No fences shall be permitted on public right of ways.

Subd 5. Ingress. In those instances where a fence exists in an enclosure which restricts access from the front to the rear yard, a gate, or other such means of recognizable ingress shall be provided. The location of such ingress shall be positioned on any point paralleling the front lot line, between the side lot property line and the principal structure.

906.06. Variance. If a variance from the above requirements is requested, the variance shall be considered in accordance with the zoning variance procedures and fees as contained in the City Zoning Ordinance, Chapter 9, Part 3.

906.07. Penalties. Any person violating any provisions of this ordinance shall upon conviction be guilty of a misdemeanor and shall be punished as provided by law.

Part 7 CEMETERY – MAINTENANCE AND USE

907.01 Definitions

City. The City of Carlton_Minnesota, owning and controlling the cemetery.

Cemetery. A tract of land used for burials or above-ground interment.

Burial Permit. Legal written permission for burial to occur.

Burial Vault. A container that houses a casket for final interment in the cemetery.

Columbarium. Above-ground hexagonal repository composed of niches to hold cremation urns.

Interment. Disposition of human remains or cremains by burial or entombment.

Monument. A memorial of granite or other approved material that extends above the surface of the lawn.

Marker. A memorial of granite or other approved material that does not extend above the surface of the lawn.

907.02 Establishment

A cemetery has been established and is continued upon land owned by the City of Carlton Minnesota, and described as Hillside Cemetery and 1939 addition, City of Carlton. The plat of the cemetery filed with the county recorder in Carlton County, Minnesota, is adopted as the official plat of the cemetery. No person shall lay out or establish any cemetery, or use any lot of land within this City for the burial of dead except in Hillside Cemetery, or some other tract of land duly designated as a cemetery.

907.03 Sale of Lots

The prices of such lots in the Carlton Hillside Cemetery and 1939 addition thereto as the council shall deem advisable to offer for sale shall be filed with the Cemetery Sexton. Any person paying the price thus fixed for any lot shall be entitled to a deed conveying the same executed by the Mayor and Clerk. Such deed shall forbid the use of the lot for any purpose other than the burial of human bodies, and the purchaser shall expressly agree in the said deed to observe the said restriction, and shall agree also that the planting and decorating of the lot, and of the whole cemetery, the placing of markers, tablets, and of any structure or object on the surface of the ground shall be subject to the general supervision and approval of the City Council and its officers and employees appointed for that purpose, and that his/her rights shall be subject to such reasonable rules and regulations as the City Council shall adopt from time to time relative to the use of the cemetery.

907.04 Conditions of Lot Purchase

All lot agreements are subject to reasonable rules and regulations as the City Council may adopt relative to the use of the cemetery. No lot shall be used for any purpose other than the burial of human remains and the placing of memorials as permitted by this ordinance or any additional regulation that the City Council may provide.

907.05 Handling of Funds

All money received from the sale of lots and other services must be paid to the Cemetery Sexton. No deed to any cemetery lot shall be issued, nor any cemetery service performed until payment in full is received for lot purchases and services to be provided. All money received from the sale of lots and performance of services shall be placed in the cemetery fund. The fund may be used only for payment of the purchase price of grounds, or maintenance and improvements to the cemetery. The Cemetery Sexton shall keep an account of all receipts and disbursements of money belonging to the cemetery fund and shall pay money out of the fund for expenses approved by the Carlton City Council.

907.06 Burial Permits

No interment shall be made unless the Cemetery Sexton is notified and a copy of a disposition permit is filed with the City.

907.07 Internment

Permission in writing from a lot owner must accompany all requests for permission to bury bodies of persons that are not members of the immediate family of the lot owner. All excavations shall be made under the direction of the designated employee. When graves are requested, at least forty-eight (48) hours' notice shall be given, and the outside dimensions of the case to be used and the location shall be specified. No interment may be made in the cemetery unless all laws, ordinances, rules, and regulations regarding interments have been complied with and until purchase price of the lot and all burial fees are paid.

907.08 Burial Vaults

All caskets must be encased in a permanent type burial case or vault. Fiberglass vaults are prohibited.

907.09 Disinterment and Removal

Before any grave may be opened, written permission of the lot owner and the next of kin shall be filed with the Cemetery Sexton, a permit from the county health officer shall be secured and presented, and the required fees paid. This provision does not apply when disinterment is ordered by a duly authorized public authority.

- (a) Removal of a body by the heirs so that the lot may be sold for profit to themselves, or removal contrary to the expressed or implied wish of the original lot owner is forbidden.
- (b) A body may be removed from its original lot to a larger or better lot in the cemetery when there has been an exchange or purchase for that purpose.
- (c) The City shall assume no liability for damage to any casket or burial case in making the disinterment and removal.

907.10 Transfer of Lots

No cemetery lot or fractional lot may be resold or otherwise disposed of, except by will, without the approval of the City Council, in accordance with the procedures outlined in [Minn. Stat. § 306.15](#).

907.11 City Repurchase of Unused Cemetery Lot

A lot owner may sell his or her unused lot back to the City. The City will purchase the lot at sixty-five (65) percent of the original cost.

Note: Repurchase percentage at the discretion of the City.

907.12 Conduct of Persons in the Cemetery

(a) No person may discharge or have possession any firearm within the cemetery grounds, except in a case of military funerals and on Memorial Day, without written permission of the Cemetery Sexton.

(b) No person may remove any object from any place in the cemetery or make any excavation without the written permission of the Cemetery Sexton.

(c) All rubbish, unsightly material, or debris accumulating from any work or any cause, must be removed at once by the person or persons causing its accumulation. All equipment, tools, etc., must also be removed at once and the grounds left in as good condition as found.

(d) No person may obstruct any driveway or path in the cemetery or in any way injure, deface, or destroy any structure, grave, flower, tree, or other thing in the cemetery.

(d) No person may drive any vehicle at a speed exceeding ten (10) miles per hour. All automobiles must be kept off the grass.

(e) No person may disturb the quiet of the cemetery by noise or improper conduct of any kind.

(f) No person may enter or leave the cemetery except at the entrances provided.

(g) No person may use the cemetery grounds or any road therein as a public thoroughfare, nor drive any vehicle through the cemetery grounds except for purposes relating to the cemetery.

(h) Children shall not be permitted to engage in playing within cemetery grounds, and children under ten (10) years of age shall not be admitted to the grounds unless accompanied by an adult, who shall be responsible for their conduct while therein.

(i) Animals must be on a leash and under control at all times.

907.13 Monuments, Markers and Foundations

Monuments any kind shall hereafter not be permitted on the graves of the City Cemetery. Only bronze tablets or stone markers set in a concrete boarder shall be allowed, and they must be set level with the ground at the head or foot of each grave. If any marker or other structure, or any inscription, be placed in or upon any lot, which shall be determined by the Cemetery Sexton to be offensive, improper, or injurious to the appearance of the surrounding lots or grounds, he shall have the right, and it shall be his duty, to enter upon such lot and cause the removal of said offensive or improper object or objects.

907.14 Improvement by Lot (amended May 2017)

A. *With approval of the Cemetery Sexton*, the owner of each lot shall have the right to cultivate trees, shrubs, and plants on the same, so long as they are located within the lot and are of such kinds as do not interfere with the adjoining lots. The Public Works Superintendent shall have the right to enter upon any lot and cut down or remove any tree or shrub or any part thereof which is deemed detrimental to the cemetery, unsightly or inconvenient to the public or adjoining lots; and shall also be authorized to enter upon any lot to make any improvement deemed for the advantage of the grounds. Lot owners shall not change the grade of any lot nor interfere in any way with the general plan of the improvement of the cemetery. No fences or other permanent structures of any kind or material will be permitted within the cemetery.

- B. The City shall not be responsible for damaged, lost or misplaced flower containers.

- C. The City reserves the right to removal all monuments, markers, flowers, plants, trees, decorations, or other similar things without liability to the owner whenever any of these objects become unsafe.

907.15 Installation of Monuments and Markers

Upon placement of an order for a marker, the lot owner or marker salesperson shall furnish the dimensions of the proposed marker to the cemetery sexton, who in turn will authorize the construction of the foundation, and all charges must be paid before the marker is placed thereon. Markers will be placed by the City of Carlton or designated person.

907.16 Columbarium Niches

Each niche may contain two cremation urns of appropriate size. The cost of a niche will not include burial opening and closing costs. Each plaque must be engraved according to cemetery specifications. No other additional ornamentation will be allowed on or in front of the columbarium.

907.17 Hours

The cemetery will be open to visitors during the hours of 8:00 am to 8:00 pm every day.

907.18 Penalty

Any person violating any provision of this ordinance is guilty of a misdemeanor and subject to fines as set by the court.

Part 1 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE**1001.1 Statutory Authorization**

The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Carlton, Minnesota, does ordain as follows.

1001.2 Purpose

1.21 This ordinance regulates development in the flood hazard areas of the City of Carlton. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

1.22 National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

1.23 This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and storm water impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

Part 2 GENERAL PROVISIONS**1002.1 Lands to Which Ordinance Applies**

This ordinance applies to all lands within the jurisdiction of the City of Carlton within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts. The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map, or as modified in accordance with 2.12 below.

2.11 The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.

2.12 Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the flood elevations shall be the governing factor in locating the regulatory floodplain limits.

2.13 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.

1002.2 Incorporation of Maps by Reference

The following maps are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. These maps, together with any other best available floodplain data, shall be used to determine the flood hazard boundaries. Each of the Flood Insurance Rate Map panels or other available floodplain data shall be on file in the City Clerk's Office located at 310 Chestnut Ave. Carlton, MN.

- Flood Insurance Rate Map for Carlton County, Minnesota Uninc. Areas panel 2700390003B, (converted by letter) dated 9/1/1988
- Flood Insurance Rate Map for Carlton County, Minnesota Uninc. Areas panel 2700390006B, (converted by letter) dated 9/1/1988
- Flood Hazard Boundary Map for City of Thomson, Nos. H01 and H02, dated 6/4/1976

1002.3 Abrogation and Greater Restrictions

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

1002.4 Warning and Disclaimer of Liability

This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Carlton or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

1002.5 Severability

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

1002.6 Definitions

Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.

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

2.612 Base Flood – the flood having a one percent chance of being equaled or exceeded in any given year.

2.613 Base Flood Elevation – The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.

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

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

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

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

2.616 Critical Facilities – facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

2.617 Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

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

2.619 Farm Fence – A fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this ordinance.

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

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

2.622 Flood Fringe – the portion of the Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe”.

2.623 Flood Insurance Rate Map – An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

2.624 Flood Prone Area – any land susceptible to being inundated by water from any source.

2.625 Floodplain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

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

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

2.628 Lowest Floor – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

2.629 Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

2.630 New Construction - Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.

2.631 Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

2.632 One Hundred Year Floodplain – lands inundated by the “Regional Flood” (see definition).

2.633 Principal Use or Structure – all uses or structures that are not accessory uses or structures.

2.634 Reach – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

2.635 Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”

2.636 Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

2.637 Regulatory Flood Protection Elevation (RFPE) - an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

2.638 Repetitive Loss: Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

2.639 Special Flood Hazard Area – a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”

2.640 Start of Construction – includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

2.641 Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 10.22 of this ordinance and other similar items.

2.642 Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

1002.7 Annexations

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

Part 3 ESTABLISHMENT OF FLOODPLAIN DISTRICTS

1003.1 Districts

3.11 Floodway District. The Floodway District includes those areas within a flood hazard boundary area, that are determined to be located in the floodway based on the floodway and flood fringe delineation methods outlined in section 7.2. For lakes, wetlands and other basins within a flood hazard boundary area, the Floodway District also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

3.12 Flood Fringe District. The Flood Fringe District includes those areas within a flood hazard boundary area, that are determined to be located outside of the floodway based on the floodway and flood fringe delineation methods outlined in section 7.2. For lakes, wetlands and other basins within a flood hazard boundary area, the Flood Fringe District also includes those areas below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

3.13 General Floodplain District. The General Floodplain District includes those areas within a flood hazard boundary area that does not have a defined floodway and flood fringe.

1003.2 Applicability

Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 5 or 6 will apply, depending on the location of a property. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Section 5 apply unless the floodway boundary is determined, according to the process outlined in Section 7.2.

Part 4 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

1004.1 Permit Required

A permit must be obtained from the Zoning Administrator to verify a development meets the standards outlined in this ordinance prior to conducting the following activities:

4.11 The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.

4.12 The use or change of use of a building, structure, or land.

4.13 The construction of a dam, on-site septic system, or fence, although a permit is not required for a farm fence as defined in this ordinance.

4.14 The change or extension of a nonconforming use.

- 4.15 The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
- 4.16 The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- 4.17 Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
- 4.18 Any other type of “development” as defined in this ordinance.

1004.2 Building Sites

If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

- 4.21 Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 4.22 Constructed with materials and utility equipment resistant to flood damage;
- 4.23 Constructed by methods and practices that minimize flood damage; and
- 4.24 Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

1004.3 Flood Capacity

In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems.

1004.4 The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

1004.5 Critical Facilities, as defined in Section 2.616, are prohibited in all floodplain districts.

Part 5 FLOODWAY DISTRICT (FW)

1005.1 Permitted Uses

The following uses, subject to the standards set forth in Section 5.2, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

- 5.11 General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.
- 5.12 Industrial-commercial loading areas, parking areas, and airport landing strips.
- 5.13 Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
- 5.14 Residential yards, lawns, gardens, parking areas, and play areas.
- 5.15 Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources’ Area Hydrologist is notified at least ten days prior to issuance of any permit.

1005.2 Standards for Floodway Permitted Uses

- 5.21 The use must have a low flood damage potential.
- 5.22 The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.

5.23 Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

1005.3 Conditional Uses

The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 11.4 of this ordinance and further subject to the standards set forth in Section 5.4, if otherwise allowed in the underlying zoning district or any applicable overlay district.

5.31 Structures accessory to the uses listed in 5.11 – 5.13 above and the uses listed in 5.32 - 5.33 below.

5.32 Extraction, fill and storage of soil, sand, gravel, and other materials.

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

5.34 Storage yards for equipment, machinery, or materials.

5.35 Construction of fences that obstruct flood flows. Farm fences, as defined in section 2.619, are permitted uses.

5.36 Travel-ready recreational vehicles meeting the exception standards in Section 10.22.

5.37 Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

1005.4 Standards for Floodway Conditional Uses

5.41 All Uses. A conditional use must not cause any increase in the regional flood elevations or cause an increase in flood damages in the reach or reaches affected.

5.42 Fill; Storage of Materials and Equipment:

(a) *Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.*

(b) *Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City Council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.*

5.43 Accessory Structures. Accessory structures, as identified in Section 5.31, may be permitted, provided that:

(a) *Structures are not intended for human habitation;*

(b) *Structures will have a low flood damage potential;*

(c) *Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;*(d) *Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly flood proofed;*

(e) *Structures must be elevated on fill or structurally dry flood proofed in accordance with the FP1 or FP2 flood proofing classifications in the State Building Code. All flood proofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.*

(f) *As an alternative, an accessory structure may be internally/wet flood proofed to the FP3 or FP4 flood*

proofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

- (1) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
- (2) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

5.44 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.

5.45 A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

5.46 Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

Part 6 FLOOD FRINGE DISTRICT (FF)

1006.1 Permitted Uses

Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Sections 6.2. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

1006.2 Standards for Flood Fringe Permitted Uses

6.211 All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

6.212 Accessory Structures. As an alternative to the fill requirements of section 6.211, structures accessory to the uses identified in Section 6.1 may be permitted to be internally/wet flood proofed to the FP3 or FP4 flood proofing classifications in the State Building Code, provided that:

(a) The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.

(b) All portions of flood proofed accessory structures below the Regulatory Flood Protection Elevation must be: (i) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls, (ii) be constructed with materials resistant to flood damage, and (iii) must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation

(c) Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

(1) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

(2) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

6.213 The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 6.211 of this ordinance, or if allowed as a conditional use under Section 6.33 below.

6.214 The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

6.215 All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.

6.216 All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

6.217 All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the City Council.

.218 Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

6.219 Manufactured homes and recreational vehicles must meet the standards of Section 10 of this ordinance.

1006.3 Conditional Uses

The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section 11.4 of this ordinance.

6.31 Storage of any material or equipment below the regulatory flood protection elevation.

6.32 The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 6.211 of this ordinance.

1006.4 Standards for Flood Fringe Conditional Uses

6.41 The standards listed in Sections 6.214 through 6.219 apply to all conditional uses.

6.42 Residential basements, as defined by Section 2.614 of this ordinance, are not allowed below the regulatory flood protection elevation.

6.43 All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry flood proofed, meeting the FP1 or FP2 flood proofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

6.44 The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

(a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

(b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.

(c) The plan may incorporate alternative procedures for removal of the material from the floodplain

if adequate flood warning time exists.

6.45 Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

Part 7 GENERAL FLOODPLAIN DISTRICT (GF)

1007.1 Permitted Uses

7.11 The uses listed in Section 5.1 of this ordinance, Floodway District Permitted Uses, are permitted uses.

7.12 All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 7.2 below. Section 5.0 applies if the proposed use is determined to be in the Floodway District. Section 6.0 applies if the proposed use is determined to be in the Flood Fringe District.

1007.2 Procedures for Determining Floodway and Flood Fringe Boundaries and Regional Flood Elevations

7.21 Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.

7.22 If regional flood elevation and floodway data are not readily available, or the application involves a project exceeding the lesser of five acres or 50 lots, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in 7.23 below.

7.23 The determination of floodway and flood fringe must include the following components, as applicable:

(a) Estimate the peak discharge of the regional (1% chance) flood.

(b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.

7.24 The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.

7.25 Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Section 5.0 and 6.0 of this ordinance.

Part 8 SUBDIVISION STANDARDS

1008.1 Subdivisions

No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.

8.11 All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

8.12 All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

8.13 For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

8.14 In the General Floodplain District, applicants must provide the information required in Section 7.2 of this ordinance to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

8.15 Subdivision proposals must be reviewed to assure that:

(a) All such proposals are consistent with the need to minimize flood damage within the flood prone area,

(b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and

(c) Adequate drainage is provided to reduce exposure of flood hazard.

Part 9 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

1009.1 Public Utilities

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

1009.2 Public Transportation Facilities

Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 4.0 and 5.0 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

1009.3 On-Site Water Supply and Sewage Treatment Systems

Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

Part 10 MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

1010.1 Manufactured Homes

New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

10.11 Placement or replacement of manufactured home units is prohibited in the Floodway District.

10.12 Placement or replacement of manufactured home units in the Flood Fringe District is subject to the requirements of Section 6 of this ordinance and the following standards.

(a) New and replacement manufactured homes must be elevated in compliance with Section 5 of this ordinance and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(b) New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 8.12 of this ordinance.

1010.2 Recreational Vehicles

New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the requirements below.

10.21 Recreational vehicles are exempt from the provisions of this ordinance if they are placed in any of the following areas and meet the criteria listed in Section 10.22:

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium-type associations.

10.22 Criteria for Exempt Recreational Vehicles:

(a) The vehicle must have a current license required for highway use.

(b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

(c) No permanent structural type additions may be attached to the vehicle.

(d) Accessory structures may be permitted in the Flood Fringe District, provided that they constitute

a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 4.2 and 6.212.

Part 11 ADMINISTRATION

1011.1 Duties

A Zoning Administrator or other official designated by the City Council must administer and enforce this ordinance.

1011.2 Permit Application Requirements

11.21 Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

- (a) *A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.*
- (b) *Location of fill or storage of materials in relation to the stream channel.*
- (c) *Copies of any required municipal, county, state or federal permits or approvals.*
- (d) *Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.*

11.22 Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood proofing measures must be certified by a registered professional engineer or registered architect. Accessory structures designed in accordance with Section 6.212 of this ordinance are exempt from certification, provided sufficient documentation is provided.

11.23 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.

11.24 Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are flood proofed.

11.25 Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

11.26 Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

1011.3 Variances

11.31 Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable State Statutes and Chapter 9, Section 901.08 of the zoning ordinance/code.

11.32 Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

11.33 Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

(a) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(b) Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

11.34 Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

11.35 General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

(a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;

(b) The danger that materials may be swept onto other lands or downstream to the injury of others;

(c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;

(d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

(e) The importance of the services to be provided by the proposed use to the community;

(f) The requirements of the facility for a waterfront location;

(g) The availability of viable alternative locations for the proposed use that are not subject to flooding;

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(i) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(k) *The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.*

11.36 Submittal of Hearing Notices to the Department of Natural Resources (DNR). The City Clerk must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

11.37 Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

11.38 Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

1011.4 Conditional Uses

11.41 Administrative Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Chapter 9, Section 903.15 of the zoning ordinance/code.

11.42 Factors Used in Decision-Making. In passing upon conditional use applications, the Planning Commission/ City Council must consider all relevant factors specified in other sections of this ordinance, and those factors identified in Section 10.35 of this ordinance.

11.43 Conditions Attached to Conditional Use Permits. The Planning Commission/City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

- (a) Modification of waste treatment and water supply facilities.
- (b) Limitations on period of use, occupancy, and operation.
- (c) Imposition of operational controls, sureties, and deed restrictions.

(d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

(e) Flood proofing measures, in accordance with the State Building Code and this ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

11.44 Submittal of Hearing Notices to the Department of Natural Resources (DNR). The City Clerk must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

11.45 Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

Part 12 NONCONFORMITIES

1012.1 Continuance of Nonconformities

A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2.643(b) of this ordinance, are subject to the provisions of Sections 12.11 – 12.16 of this ordinance.

12.11 A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in 12.12 below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

12.12 Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP1 thru FP4 flood proofing classifications) allowable in the State Building Code, except as further restricted in 12.14 below.

12.13 If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.

12.14 If any structure experiences a substantial improvement as defined in this ordinance, then the entire structure must meet the standards of Section 5.0 or 6.0 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. If the current proposal, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map exceeds 50 percent of the market value of any nonconforming structure, the entire structure must meet the standards of Section 5.0 or 6.0 of this ordinance.

12.15 If any nonconformity is substantially damaged, as defined in this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 5.0 or 6.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

12.16 If any nonconforming use or structure experiences a repetitive loss, as defined in Section 2.638 of this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.

Part 13 VIOLATIONS AND PENALTIES

1013.1 Violation Constitutes a Misdemeanor

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

1013.2 Other Lawful Action

Nothing in this ordinance restricts the Carlton from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.

1013.3 Enforcement

Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of Chapter 9, Section 904.09 of the zoning ordinance/code. In responding to a suspected ordinance violation, the Zoning Administrator and City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City of Carlton must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

Part 14 AMENDMENTS

1014.1 Floodplain Designation – Restrictions on Removal

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

1014.2 Amendments Require DNR Approval

All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

1014.3 Map Revisions Require Ordinance Amendments

The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 2.2 of this ordinance.
EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

Adopted by the Carlton City Council

This 10th of May, 2017

Attest: _____, Mayor
Kathleen O’Hara Bureau

Attest: _____, City Clerk
Carol Conway

Stamp with Community Seal: